

## MINUTES

### MINUTES OF THE MEETING OF THE AML/CFT ADVISORY GROUP HELD AT 10.30AM, 7<sup>th</sup> OCTOBER 2022 IN THE KING ORRY ROOM, GOVERNMENT OFFICE

#### Present:

Shannon Reid, AML/CFT Policy Manager, Cabinet Office (Chair)  
Dollin Mercer, External Relations Executive Officer, Cabinet Office (Minutes)  
Helen Ault, Director, Gambling Supervision Commission  
Phil Hunkin, Director, Financial Intelligence Unit  
Ian Spence, Head of AML/CFT, IoM FSA  
Ashley Whyte, Senior Manager, AML/CFT Division, IOM Financial Services Authority  
Elisabeth Rattigan, Legal Officer, International Co-Operation and Asset Recovery Team, AGC'S  
Lucie Kennedy, Team Leader – Legislation & Policy, Customs & Excise  
Sam McCauley, Deputy Chief Executive, Department of Home Affairs  
Paul Blake, Head of Banking & Fiduciaries, Executive Agency - Finance Isle of Man  
Audrey Butterworth, Representative, Bankers Association (Virtual)  
Sinead O'Connor, Representative, IoM Captive Association and IOM Law Society  
Kevin Taylor, Chair, Compliance Committee, Manx Insurance Association (Virtual)  
Leslie Foster, Representative, IOM Society of Chartered Accountants Representative  
Andrew Gosnell, Senior Risk and Compliance Officer, IOM Post Office (Virtual)  
Chris Wilson, Coin Corner  
Claire Milne, Institute of Directors  
Bill Mummery, Director, Chamber of Commerce  
Pat Brogan, Chair, Association Of Corporate Service Providers  
Katie Errock, Representative, Chartered Institute for Securities & Investment  
Tim Boles, CISI (Chartered Institute for Securities and Investment)  
Katherine Garrood, Representative, IOM Wealth & Fund Services Association

#### Apologies:

Kathryn Simms, Head of AML/CFT Policy, Cabinet Office  
Paul Heckles, AML/CFT Advisor, Cabinet Office  
Erica Humphries, Anti-Bribery and Corruption Project Manager, Cabinet Office  
Jed Bibby, Superintendent/Head of Financial Crime, Isle of Man Constabulary

#### 14/22 APOLOGIES / INTRODUCTIONS

The Chair noted the apologies received.

#### 15/22 MINUTES OF AML/CFT ADVISORY GROUP MEETING HELD ON 28<sup>th</sup> JANUARY 2022

Having been previously circulated, the minutes of the AML/CFT Advisory Group ("the Group") meeting held on 28<sup>th</sup> January were agreed by members and signed by the

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Chair. These will be uploaded to the AML/CFT Policy Office page on the IOM Government website in due course.

### **17/22 MATTERS ARISING FROM THE MINUTES**

Nothing was raised from within the minutes.

### **18/22 International updates**

#### **(1) FATF/MONEYVAL updates**

##### FATF/Standards

The Chair referred to the Isle of Man's current ratings against the FATF technical Standards. She noted that the Island has an excellent technical AML/CFT framework with positive markings in 39 out of 40 Financial Action Task Force (FATF) Recommendations. She said that we hope to have the final Recommendation (Recommendation 23 Designated Non-Financial Businesses and Professions (DNFBPs) Other Measures) upgraded to a positive marking soon and that there should be a further update at the next meeting.<sup>1</sup>

She explained that the next round of Mutual Evaluations will focus on the effectiveness of countries' AML/CFT framework, so multi-agency work is underway to ensure we demonstrate effectiveness against the 11 Immediate Outcomes.

She went on to say that there would be no big rewrite of international standards before the next round of evaluations which will be risk-based. This was something for us to consider as for example, there wasn't a big focus on gambling last time around, however IOM now has a very big gambling sector, so it is likely to feature more heavily in the next round).

Finally the Chair advised that Russia had its membership from MONEYVAL removed, and that its FATF participation has been scaled back significantly and membership "under review".

##### FATF Grey-list

The Chair referred to the fact that Malta had been added to grey-list and removed in fairly short time period in comparison to other countries.

There was some discussion about the recent grey-listing of Gibraltar.

In respect of the EU Code of Conduct Group's tax grey-list, the Chair noted that things were quiet on that front. We know they have been considering changing criteria for blacklisting for some time so the Income Tax Division are keeping a close eye on this.

#### **(2) Travel rule**

The Chair noted that the Island is considering how to implement the travel rule. The likely option is to follow suit with Gibraltar who implemented a simple Code

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<sup>1</sup> Since this meeting was held, MONEYVAL have advised that the Island will not be upgraded under Recommendation 23 at this time.

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through secondary legislation. The AML/CFT Policy team and the FSA continue to engage on the matter. She added that currently there is no technological solution for the travel rule, but this is being worked on by industry.

Whilst this matter is not urgent or time sensitive, it needs to be actioned so the Group will continue to be updated.

The representative from CoinCorner noted that the deadline for the UK is August 23<sup>rd</sup> and they are working towards that date.

### **(3) Beneficial Ownership**

The Chair provided an overview of the current position in respect of Beneficial Ownership. The Island continues to work towards the Joint Commitment issued in June 2019:

- Legislation is being worked on to allow the above commitments;
- the Order, giving obliged entities access, to go to Tynwald before the end of 2022
- An amending Bill, giving public access, is to go to Tynwald in 2023;
- The Intention is for the Bill to go out for public consultation soon and its requirements to be in line with the 5<sup>th</sup> Anti-Money Laundering Directive); and
- We continue to engage with Jersey and Guernsey as the intention is still to work in step with them and go live at the same time for a "level playing field" approach.

The Chair spoke about the UK's Economic Crime and Corporate Transparency Bill which has cause renewed and/or increased interest in this policy area. Changes in the EU context have also increased the UK's interest on the matter.

She said it is acknowledged that there have been issues with the interconnection of the Islands' central registers of the beneficial ownership of companies with the registers in the EU, this will not now be happening.

The EU has not yet published its Implementation Review of the 5th Anti-Money Laundering Directive which was anticipated January 2022, which leaves the CDs commitments on Beneficial Ownership unclear in terms of the timing, and also their scope. The Chair said that the Isle of Man, Jersey and Guernsey are in discussions about this.

Finally, the Chair noted that in July 2022, Tynwald passed the Beneficial Ownership (Civil Penalties) Regulations 2022, giving the FSA the authority to impose civil penalties for certain contraventions of the Act, to further encourage compliance. The FSA and Companies Registry continue to work in tandem to ensure data is accurate, up to date and available to the competent authorities; also to encourage compliance with the Act.

The AML/CFT Senior Manager from the IOMFSA noted that Beneficial Ownership is an area where oversight inspections will be increased. The Head of the AML/CFT Division at the IOMFSA said that after three reminders to nominated officers, there are still a large number of entities with issues. He did note however that system updates at the Registries would help the increased quality of the data posted on the Register.

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### (4) Response to Russia

The Chair provided an overview of the Island's response to Russia's invasion of Ukraine:

- In March 2022 Tynwald resolved that it was committed to fully supporting international sanctions against Russia;
- The Island was undertaking a Multi-agency approach in respect of;
  - Implementation of international sanctions;
  - Commitment to facilitate a robust beneficial ownership regime; and
  - Consideration of the introduction of Unexplained Wealth Orders into IOM legislation.
- The Financial Crime Strategic Board continues to meet regularly and since March 2022 have held a number of extraordinary sittings of the Board to specifically discuss the Island's response to Russia. These meetings include the Island's respective registries (shipping, aircraft, companies, land and property);
- Approximately £830,000,000 of assets have been frozen as a result of the sanctions on Russia ; however, the majority of this amount is not held in the Island (i.e. not in IOM bank accounts or IOM property); rather many of the companies that own these assets are incorporated or administered in the Island.

In respect of Sanctions, the Chair noted that the IOM Government policy is to keep the implementation of international sanctions measures in line with those that have effect in the UK – this is done as quickly as practically possible.

She said regulated and non-regulated businesses have been reminded of their obligations via the IOMFSA and IOM Government continues to review links to Russian people/entities (this included registries for aircraft and ships/yachts to understand ownership of assets) and where links are established, we have taken action, including de-registering aircraft/vessels.

The FIU said that numerous reports of suspected ownership of assets, corporate structures owned by sanctioned individual's etc. had been received and thanked industry for passing on those reports. They requested that when notifying the FIU of frozen assets, to please make that clear at top of report as well as value and where they are located.

The Team Leader – Legislation & Policy from Customs & Excise said that a number of sanctions licence applications had been received and issued. She reminded everyone that, if they did think they needed to have one to receive a payment from a sanctioned person, please make sure that's in relation to a sanctioned individual, and they need to be sure of reasons/purpose for requesting it. Details are in sanctions regulations at schedule 5 and in the Sanctions guidance document.

She discussed upcoming measures we're expecting to see – another raft of trade related sanctions against Russia at the end of this month; talk of a ban on export of critical infrastructure goods at the end of October; a ban of export of Russian Oil; a ban expected on services including IT consultancy, advertising, architecture etc.

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Finally, she added that a Sanctions Bill will go out to consultation by the end of this year and welcomed comments through this process.

The Director of the Chamber of Commerce raised concerns about Belarus and Ukraine itself in dealing with insurers in areas of public liability and director's liability. The Chair noted that both Russia and Belarus had been added to the Department of Home Affairs' List B (i) of higher risk jurisdictions and that Ukraine was on List B (ii)<sup>2</sup>.

### **(5) EU Commission public consultation on "tax enablers" (ITD)**

The Chair referred to a consultation issued by the European Commission which details a proposed directive with measures to address the role of enablers in tax evasion or aggressive tax planning. The call for evidence is open for feedback until 12th October 2022<sup>3</sup>. She advised that proposals include:

- due diligence checks to test whether the arrangement meets certain criteria;
- combination of due diligence checks and a requirement for enablers to register in the EU (either mandatory or optional registration that gives access to certain benefits (for example, submitting tax returns on behalf of clients));
- code of conduct for enablers; and
- an annual declaration for EU taxpayers with 25% interests in non-listed companies located outside of the EU (which would exist in addition to the options listed above).

The Chair said that at this stage of the consultation, there are more questions than answers. The document reveals very little detail however the Income Tax Division and AML/CFT Policy Office, will continue to monitor any developments and update the Group accordingly.

### **19/22 Update on MONEYVAL Mutual Evaluation preparation (CO)**

The Chair advised that a cross agency group has been formed with the aim of improving effectiveness of Island's AML/CFT system. The Group meet monthly and aim to undertake a diagnostic exercise by an external firm made up of former MONEYVAL assessors. The firm will provide a report setting out what needs to be done ahead of the next mutual evaluation.

She said that whilst not yet confirmed, we expect that we will be early in the MONEYVAL 6<sup>th</sup> round of evaluations and this could be as soon as 2025 (Jersey and Guernsey having 5<sup>th</sup> round evaluations 2023/2024).

The AML/CFT Policy Office have a lot of work to do, particularly in respect of Immediate Outcome 1, for example updating the National Risk Assessment and formulating a number of strategies. These pieces of work will likely involve industry so she said to watch this space.

### **20/22 ABC Project Update**

<sup>2</sup> <https://www.gov.im/media/1347167/jurisdictions-in-lists-a-b-c-and-d-concerning-aml-october-2022-clean-v6.pdf>

<sup>3</sup> [https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13488-Tax-evasion-aggressive-tax-planning-in-the-EU-tackling-the-role-of-enablers\\_en](https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13488-Tax-evasion-aggressive-tax-planning-in-the-EU-tackling-the-role-of-enablers_en)

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The Chair advised that the Strategy was unanimously approved by Tynwald in July 2022 and a new Ant-Bribery Corruption website and reporting tool are about to be launched shortly.

### **21/22 PMLIT**

The Chair touched on the fact that a dedicated Proactive Money Laundering Investigation Team (PMLIT) has been established within the Isle of Man Constabulary and that the team's objective is to pursue the investigation and prosecution of international money laundering and for securing the forfeiture of criminal assets. This collective approach will ensure the Isle of Man, as it approaches its next mutual evaluation, has sufficient and effective resources to undertake investigations leading to successful prosecutions for cases of 'International Money Laundering'.

She added that the PMLIT will be working closely with partners in the Financial Intelligence Unit and International Co-Operation and Asset Recovery Team.

She went on to say that the Economic Crime Unit continue to investigate domestic fraud and financial crime with partner agencies whilst the PMLIT focus on complex ML investigations.

### **22/22 Public Private Partnerships and the FIU Annual Plan**

The Chair said that the Financial Intelligence Unit are in advanced stages of establishing a Public Private Partnership between law enforcement and the financial sector to exchange tactical intelligence, enhancing the strategic analysis of information relating to money laundering and wider economic crime threats.

The Director of the FIU noted that the Quad Island Forum of Financial Intelligence Units (Gibraltar, Guernsey, IOM and Jersey) recently signed a memorandum of understanding with the UK's National Crime Agency which will further strengthen multi-jurisdictional effectiveness.

He said in respect of the PPP, the biggest challenge will be to get it up and running from a domestic point of view, but once established it will benefit everyone.

### **23/22 Any other business**

The Chair noted that she was working with the One World Centre and the IOMFSA to deliver financial crime awareness training to Non-Profit Organisations on 29<sup>th</sup> November. The representative from the IoM Captive Association and IOM Law Society noted that she recently provided training for an NGO and offered to share her slides with the AML/CFT Policy Office for information.

The representative from the IOM Wealth & Fund Services Association raised two questions, the first about the Cabinet Office's review of the Proceeds of Crime Act; the Chair said that this had not concluded because it is understood the UK is reviewing its own POCA but that the Group would be kept informed.

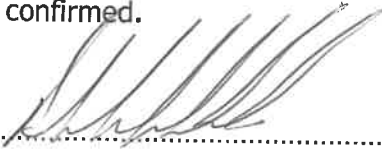
Secondly, she asked about the DHA lists and a request that changes are communicated more effectively; that the website includes a note of changes or a

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tracked changes version of the document. The Chair agreed that this was a good idea.

### 24/22 **Date of next meeting**

To be confirmed.



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(Chair)

7<sup>th</sup> March 2023.  
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Date