

**MINUTES OF THE MEETING OF THE AML/CFT ADVISORY GROUP
HELD AT 10:30AM-12:00PM, 18TH MAY 2023
IN THE KING ORRY ROOM, CABINET OFFICE, ISLE OF MAN GOVERNMENT**

Present: Kathryn Simms, Head of AML/CFT Policy Office, Cabinet Office (joined part way through meeting)
Paul Heckles, AML/CFT Advisor, Cabinet Office (Chair)
Shannon Reid, AML/CFT Policy Manager, Cabinet Office (Minutes)
Paul Blake, Head of Banking & Fiduciaries, Executive Agency - Finance Isle of Man
Elisabeth Rattigan, Legal Officer, International Co-Operation and Asset Recovery Team, AGC'S
Ashley Whyte, Senior Manager, AML/CFT Division, IOM Financial Services Authority
Clair Barks, Deputy Chief Officer, Department of Home Affairs
Phil Hunkin, Director, Financial Intelligence Unit
Terry Stephen, Supervisor, Financial Intelligence Unit
Emma Wild, Senior Strategic Analyst, Financial Intelligence Unit
Helen Ault, Director, Gambling Supervision Commission
Jed Bibby, Director of PIMLIT, Isle of Man Constabulary (Virtual)
Lucie Kennedy, Team Leader – Legislation & Policy, Customs & Excise (Virtual)
Richard Carter, International Cooperation Officer, Income Tax Division
Kevin Taylor, Chair, Compliance Committee, Manx Insurance Association
Jon Barwood, Representative, Financial Planners & Insurance Brokers Association
Pat Brogan, Chair, Association of Corporate Service Providers
Dougie Elliott, Chair, APSP
Sinead O'Connor, Representative, IoM Captive Association and IOM Law Society
Katherine Garrood, Representative, IOM Wealth & Fund Services Association
Graeme Snape, Alliance of Isle of Man Compliance Professionals
Bill Mummery, Director, Chamber of Commerce
Audrey Butterworth, Representative, Bankers Association
Leslie Foster, Representative, IOM Society of Chartered Accountants (Virtual)
Andrew Gosnell, Senior Risk and Compliance Officer, IOM Post Office (Virtual)
Claire Milne, Representative, Institute of Directors (Virtual)
Katie Errock, Representative, Chartered Institute for Securities & Investment (Virtual)

Apologies: Chris Wilson, Coin Corner
Erica Humphries, Anti-Bribery and Corruption Project Manager, Cabinet Office
Ian Spence, Head of AML/CFT Division, IOM Financial Services Authority

15/23 MINUTES OF AML/CFT ADVISORY GROUP MEETING HELD ON 7TH MARCH 2023

Having been previously circulated, the minutes of the AML/CFT Advisory Group ("the Group") meeting held on 7th March 2023 were agreed and signed by the Chair.

16/23 MATTERS ARISING FROM THE MINUTES

There were no matters arising from the minutes

- a) Countries recently added to the FATF grey-list** – The Chair said that Cambodia and Morocco had come off the grey-list, and Nigeria and South Africa had been added. Nigeria and SA had also been added to the EU's grey-list¹.

¹ High risk third countries and the International context content of anti-money laundering and countering the financing of terrorism

- b) **Industry feedback on grey-listing** – The Director of the FIU asked if feedback had been provided. The Chair said this would be covered a bit later in the meeting.
- c) **Beneficial Ownership** – The Director of the Chamber of Commerce asked if King’s Council had been appointed yet for advice being sought by the three Crown Dependencies. The Chair responded by saying that it hadn’t, but that JACU remained in contact but have not been pressing on the matter.

On a related subject, the Chair said that work continues on the 6th Anti-Money Laundering Directive. He said Transparency International, amongst other civil society organisations had written an open letter to the EU in favour of “legitimate interest”. He referred to Transparency International seeking full access to Beneficial Ownership Registers, but not wanting the entities who are having their information viewed on the Register knowing that a search has taken place. The Cabinet Office continues to monitor developments. The Chair indicated that there may be some pressure from the UK on legitimate interest. He added that legitimate interest is difficult to define and allow access in practical terms so this will take some time. He reiterated that the Isle of Man has made no commitment to this at present.

17/23 **TERMS OF REFERENCE (CO)**

The AML/CFT Policy Manager stated that only minor amendments had been made. Members of the Group confirmed they were content with the document. The IoM Captive Association and IOM Law Society representative queried whether the document could be shared with members of the professional groups in attendance. The AML/CFT Policy Manager confirmed there was no issue with this.

The Director of the Chamber of Commerce also noted that MeGA was no longer an attendee so was to be removed from the membership and the Chamber of Commerce added.

Action: AML/CFT Policy Manager to re-circulate Terms of Reference following discussed amendments being incorporated.

18/23 **MONEYVAL (CO)**

The Chair noted that the Head of the AML/CFT Policy Office joined the Treasury Minister, Dr Allinson MHK at a high level MONEYVAL Ministerial meeting in Warsaw.

He said that in a written declaration, all jurisdictions (from 32 countries as well as international organisations) affirmed their commitment to international and regional efforts to combat money laundering, terrorism financing and the financing of proliferation of weapons of mass destruction. The meeting also provided the opportunity for bilateral meetings with Ministers from the other Crown Dependencies and the United Kingdom to discuss common issues relating to combatting financial crime. The meeting also follows the publication of MONEYVAL’s new Strategy² (2023-2027).

The importance of political commitment and involvement in a country’s AML/CFT framework was discussed, including the fact that during Mutual Evaluation Reports (“MERs”), the first people assessors wish to meet and speak to is the relevant political member(s) i.e. Chief Minister, Treasury Minister.

² <https://www.coe.int/en/web/moneyval/strategy-and-workplan>

The Chair went on to say that the May MONEYVAL Plenary was taking place the following week and Romania and Macedonia's MERs would be put forward.

Dave Baker from the Financial Intelligence Unit would be in attendance and the VASP project he led on presented. It was emphasised that this is a significant contribution to the work of MONEYVAL.

The Director of the FIU further added that the FIU has a member of staff seconded to the MONEYVAL Secretariat and the Island has a number of qualified assessors.

It was agreed by the Group that the Island needs to promote these significant contributions. The AML/CFT Policy Manager noted that a communications plan is being worked on and this will be incorporated.

It was queried whether Finance IOM and other forums should market this work; the Chair said that the VASP typologies report would be published and he would circulate once that's taken place.

With regard to the sequencing of MERs, this was on the agenda at the MONEYVAL Plenary for discussion. He said we currently expect the MER for the IOM to take place circa. 2025.

Practical Impact of Grey-Listing on licensed and regulated businesses

The AML/CFT Policy Manager thanked those who provided feedback on how grey-listing would affect their sectors. She noted that the feedback provided was most useful and would contribute towards ensuring that AML/CFT is a priority for Government. Feedback had been received from the Chamber of Commerce, the Bankers Association and the Isle of Man Insurance Association.

The feedback was in line with what has been discussed within Government; that it could be potentially significant reputational and economic impact; there would be difficulties with services; increased due diligence. The IMF paper on Capital Flows³ highlighted by the FIU in their research was also quoted by industry.

The Director of the Chamber of Commerce added that grey-listing would have a significantly negative impact on the perception of e-Gaming companies seeking commercial agreements.

Other considerations noted were additional challenges from overseas tax authorities and the negative impact on the Isle of Man should Jersey or Guernsey be added to the grey-list, in light of the fact the three Crown Dependencies are often grouped together despite having individual AML/CFT frameworks.

19/23 PUBLIC PRIVATE PARTNERSHIPS (FIU)

The Director of the FIU provided an update on the Island's PPP. Two members of staff had been appointed:

- Senior Manager – Terry Stephen
- Senior Strategic Analyst – Emma Wild

He said that a Steering Group has been established to oversee the establishment of the PPP, starting with the banking sector and gradually developing further. The Steering Group consists of members of a number of banks (HSBC, Lloyds, RBS and Cayman National Bank) as well as the Director of the FIU and the Head of the AML Unit at the IOMFSA.

³ <https://www.imf.org/en/Publications/WP/Issues/2021/05/27/The-Impact-of-Gray-Listing-on-Capital-Flows-An-Analysis-Using-Machine-Learning-50289>

The PPP itself would be formally established once members signed the Memorandum of Understanding; the UK's Joint Money Laundering Intelligence Taskforce would recognise the PPP and share information which will be very advantageous for the IOM.

20/23 TRAVEL RULE⁴ (FSA)

The Senior Manager of the AML/CFT Division (IOMFSA) provided an overview: the matter had been raised at the last meeting and she had suggested a working group to take this forward.

She said that there is a need to implement legislation, likely in the form of a short Code. The FATF have lots of information (Recommendation 16, the interpretive note, guidance etc.)

The working group held its first meeting which was very productive; Isle of Man CVC providers acknowledge the requirement to implement the travel rule and as it's been introduced in the UK, they would have to implement it regardless if they have UK banking partners. She noted that the UK's legislation is likely to be in force around September 2023.

The Senior Manager of the AML/CFT Division also noted that the FSA will be updating the definition of virtual assets within the legislation⁵ from convertible virtual currency to virtual asset service providers in line with international standards. She said there wasn't a set timeframe on when this would be done, but the FSA hoped that they would go out to consultation in the coming months. She added that there are no substantial changes being made, just improving consistency and "tidying up".

There was a query on where Jersey were with their MONEYVAL mutual evaluation. The Chair answered that they have not had their on-site visit yet and this was likely to be September 2023. He said they have submitted questionnaires to MONEYVAL as part of the mutual evaluation process. He added there is a lot of activity in Jersey at present and Guernsey will be undergoing this process soon too.

21/23 PEP THEMATIC REVIEW (FSA)

The Senior Manager of the AML/CFT Division (IOMFSA) provided an overview: the PEP thematic exercise focussed on foreign Politically Exposed Persons ("PEPs"). The exercise had concluded and the findings were published in a report⁶ on the FSA website.

Phase 1 of the exercise saw data collected on 91 firms. Phase 2 saw inspections (on-site and desk-based) taking place and the report details some of the findings. The FSA held a webinar⁷ to discuss the report.

Some of the common themes from the PEP thematic weren't solely relating to PEPs, for example the quality of Business Risk Assessments came up as a common theme. She added that the FSA are currently carrying out a Business Risk Assessment thematic review.

⁴ The Travel Rule, also known as FATF Recommendation 16, is a set of guidelines designed to prevent money laundering and terrorist financing. It applies to financial institutions engaged in virtual asset transfers and crypto companies, collectively known as VASPs. The Travel Rule mandates that VASPs obtain and disclose precise details pertaining to the sender and recipient of a virtual asset transfer to counterpart VASPs or financial institutions, either during the transaction or prior to it.

⁵ Schedule 4 of the Proceeds of Crime Act 2008 and the Anti-Money Laundering and Countering the Financing of Terrorism Code 2019.

⁶ <https://www.iomfsa.im/media/3147/aml-pep-thematic-report-05-05-2023.pdf>

⁷ <https://www.iomfsa.im/fsa-news/2023/may/webinar-to-highlight-pep-review-findings/>

She went on to say that the following day the FSA were holding a seminar on their new supervisory methodology⁸.

It was agreed that at the next AML/CFT Advisory Group the FSA would provide a 20 minute overview of the supervisory methodology.

There was some brief discussion about the FSA's new supervisory methodology and the new risk analysis tool, Strix and how this would assist in providing a more risk based approach to supervision. This will provide a Financial Crime Risk Rating. There was a query about whether firms assigned Financial Crime Risk Rating would be shared with licence holders. The Senior Manager of the AML/CFT Division responded and said that this was internal information for the FSA to form part of a sectoral overview of risk and that the next round of inspections would very much be risk driven and based on themes.

The representative for the IoM Captive Association and IOM Law Society queried whether there were plans to have a risk rating for firms in the legal sector. The Senior Manager of the AML/CFT Division said that previously the challenge was not having the same data sets for designated businesses as financial institutions but going forward this would change once Strix had been implemented.

There was a further query about how the risk rating could be challenged if it was system generated. The Senior Manager of the AML/CFT Division said that the risk rating would be based on the comprehensive data collected from the annual AML/CFT returns but that there was a manual overlay.

The Chair of the Association of Corporate Service Providers commented that the report noted significant contraventions of the Code and queried whether the FSA were aware of the root cause. The Senior Manager of the AML/CFT Division said that the report didn't go into detail on whether contraventions were minor or major, however the firms involved would be aware. She added that the Code and guidance are explicit; the guidance could have been used by said license holders but wasn't. She used procedures and controls as an example; there were instances where procedures and controls were not followed and no accompanying documented justification as to why.

The Chair of the Association of Corporate Service queried whether this signified that there was an issue with the guidance and noted that some things included in the report were not in the Code. The Senior Manager of the AML/CFT Division said that the report included best practice to assist firms to comply with the Code.

The representative for the IoM Captive Association and IOM Law Society queried what could be done to help firms understand their obligations better if there are considerable contraventions. The Senior Manager of the AML/CFT Division said that this has been on-going throughout the duration of the project. She said that the FSA are working closely with firms on remediation.

The representative for the IoM Captive Association and IOM Law Society suggested that industry ensure the findings of the thematic review are reviewed, considered and documented. She added that perhaps there had been a cultural shift in the FSAs thinking which may not have filtered to industry. The Chair of the Association of Corporate Service Providers suggested that the FSA provide training on the subject.

The Senior Manager of the AML/CFT Division said that a decision needed to be made as to whether the Code would be updated at this time and that she would update members later down the line. She noted that she felt that the Code was

⁸ <https://vimeo.com/828419350/85edcf6a02?share=copy>

sufficient for purpose, particularly in areas such as the Business Risk Assessment, Customer Risk Assessment, and Technology Risk Assessment etc.

She added that the thematic report refers to useful sections of the AML/CFT Handbook and directed members to this.

The Head of Banking & Fiduciaries, Finance Isle of Man noted that the contraventions were across the board in terms of sectors i.e. large multinational banks who have the expertise and resources were still contravening the Code.

The Senior Manager of the AML/CFT Division said she had taken the comments received on board and would continue work to address any issues raised. The Director of the Gambling Supervision Commission noted that published findings are looked at favourably by MONEYVAL assessors. She said that looking at progress is important and it is better to address any issues or gaps now rather than later down the line.

The Senior Manager of the AML/CFT Division agreed adding it would be useful to do a similar project in 3-4 years' time to show progress, however resources are limited.

22/23 ANY OTHER BUSINESS

a) Sanctions

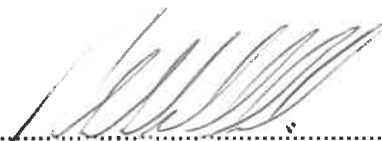
The Team Leader for Legislation & Policy, Customs & Excise provided an update:

- The Sanctions Bill was moving through the House of Keys, adding that it was at the clauses stage the following Tuesday and no issues had been raised thus far.
- A small amendment to Syria sanctions was coming the following day. The amendments aiming to reduce barriers regarding humanitarian aid.
- Regarding Russia, she noted that we are expecting updates regarding legal services to close a loophole where UK and IOM legal service providers will not be able to provide services to third countries having trade dealings etc. with Russia. She added this would be published at the end of the month or June and CED would issue a press release.

23/23 DATE OF NEXT MEETING

Tuesday 18th July 2023 – 10:30am – 12:00pm

The meeting closed at 11:58pm.



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Chair, Cabinet Office

18th July 2023
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Date