



H.M. Attorney General's Chambers
International Cooperation and Asset Recovery Team

Asset Recovery Policy – January 2017

Introduction & Background

The Programme for Government 2016-2021 (GD 2017/0002) sets out the strategic objectives for the next five years, and which of those are to be prioritised and actioned. Included is the following policy statement:-

"Maintain our robust, zero tolerance stance in relation to anti money laundering and countering the financing of terrorism"

The relevant "Action by Outcome" states that the Isle of Man ("IOM") will *"Consider and respond to issues identified in the international MONEYVAL report on the Isle of Man, prioritising and taking action as required"*.

The Council of Ministers National Strategy Action Plan ("NSAP") Goals on anti-money laundering and combatting the financing of terrorism, require the IOM's authorities to work together to further strengthen the deterrent and response to financially motivated crime, including the financing of terrorist offences. Goal 6 of the NSAP is to *"Promote measures to increase asset forfeiture and recovery, including civil recovery"*.

The lack of proactive use of such measures is highlighted by the low rating for effectiveness in relation to Immediate Outcome 8 – *Proceeds and instrumentalities of crime are confiscated* in the MONEYVAL report.

Establishing a specialised confiscation unit made up of financial investigators and prosecutors is recommended in the 2012 Financial Action Task Force report. The IOM will strive to meet or exceed international standards in anti-money laundering and combatting the financing of terrorism in areas where it does not already do so. It is recognised that a systematic approach to preventing criminals from profiting from their activities, and recovering assets which are (or which represent) the proceeds of crime or unlawful conduct is needed in the IOM.

A comprehensive legislative structure exists, chiefly in the form of the Proceeds of Crime Act 2008 ("POCA") which provides for confiscation, cash forfeiture and civil recovery (i.e. non-conviction based confiscation) and for restraint and freezing of assets. Used to their full potential these are measures which will deprive offenders of the proceeds of their criminal conduct, deter commission of further offences and reduce the funding available for further criminal enterprises. It also means that identified victims can be compensated.

In order to address this important issue, H.M. Attorney General, with the support of the Chief Constable, has established an Asset Recovery Unit ("ARU") within the International Cooperation and Asset Recovery Team ("ICART") of the Attorney General's Chambers ("AGC").

Strategic Aims

The strategic aims of the ICART in relation to asset recovery by the ARU are to ensure that it will:

1. Prioritise identification, restraint and recovery of assets resulting from the serious and organised crime, with particular focus on economic crime, both in the IOM and overseas;
2. Pursue, through all available statutory powers, the assets of all who profit from crime wherever committed, when it is proper to do so;
3. Assist international law enforcement agencies by enforcing asset recovery in the IOM on their behalf and otherwise assist them when necessary; and
4. Improve the enforcement of domestic and international confiscation orders.

Policy Statement

The ICART policy will be to adopt and promote a zero tolerance culture in relation to the financing of terrorism, money laundering and all forms of financial and economic crime. It will be relentless in its pursuit of its broad aim, which is to deter all such criminal activity from using the Isle of Man's financial services and the Island's wider community to support criminal conduct.

The ICART will seek to swiftly deprive persons suspected of criminal activity from being able to use assets and funding streams, so that such criminal activity cannot continue or further develop in the Isle of Man or elsewhere in the world.

The Attorney General's Chambers Business Plan 2016 – 2019, published in August 2016, cites Goal 6 of the NSAP as the first of its priority strategic aims; Objective 1.3 states that AGC will *"Use every opportunity, including civil procedures, to ensure nobody can enjoy, or benefit from, the proceeds of crime"*.

The ICART will work proactively with other international jurisdictions and colleagues in the Financial Intelligence Unit ("FIU"), the IOM Constabulary, the Law Enforcement Section of Isle of Man Customs & Excise and the Income Tax Divisions of Treasury, the Financial Services Authority, the Gambling Supervision Commission, the Prosecutions Division of AGC and with the AML/CFT Strategic Policy Office of the Cabinet Office.

ICART will work with colleagues and contribute positively to the ongoing work to assess risks and to counter any new or emerging threats.

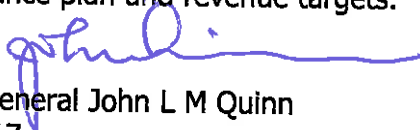
ICART will also ensure that it contributes positively to national efforts to ensure that the Island meets any changing international standards which are adopted in relation to the worldwide challenge to protect communities from criminal activity and terrorism.

Organisational Structure

The ICART, (and therefore the ARU), is part of AGC and its strategic objectives will be set by the Attorney General. Meeting the objectives relating to asset recovery which the ARU will aim to achieve as outlined above are to be the operational responsibility of a Senior Legal Officer, Asset Recovery who will report to the Attorney General. The staff allocation to the ICART will be supplemented by two financial investigators and an administrative officer. The Legal Officer, International Cooperation will continue to deal primarily with international requests for assistance involving asset recovery, as well as other aspects of international cooperation, and will continue to report to the Attorney General.

What the ICART through the ARU will Do:

- Consider intelligence and “no consent” reports referred to it by the Financial Intelligence Unit, and referrals from H M Attorney General and the partner agencies referred to above;
- Conduct parallel financial investigations;
- Make applications to the IOM Courts of Justice to restrain or freeze assets in anticipation of confiscation or civil recovery;
- Make applications to the IOM Courts of Justice to confiscate or recover criminal assets;
- Seek the appointment of management and/or enforcement receivers where necessary;
- Develop confiscation and civil recovery typologies and precedents;
- Consider how relevant legislation may be improved and make recommendations to H.M. Attorney General;
- Work with the IOM’s regulators and government departments to increase awareness of all routes to the recovery of assets;
- Work with international partners to improve our performance on international asset recovery;
- Set out an annual performance plan for the approval of H.M. Attorney General and the FIU Board including a revenue target; and
- Provide H.M. Attorney General and the partner agencies referred to above with a three monthly report as to its measured performance against the approved annual performance plan and revenue targets.



H.M. Attorney General John L M Quinn
26th January 2017