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**PROSECUTING OFFENCES OF MONEY LAUNDERING &
FINANCING OF TERRORISM AND PROLIFERATION:
PRINCIPLES OF PROPORTIONALITY**

1. As the prosecuting authority for the Isle of Man, the Attorney General publishes these guidelines.
2. This document should be read in conjunction with the Prosecution Policy on Financial Crime : www.gov.iom/media/1359832/prosecution-policy-on-financial-crime.pdf and be considered in light of an increase in anti-money laundering enforcement cases and with an understanding that there are an increasing number of formal financial crime investigations underway which may be considered for referral.
3. With particular regard to financial crime, it is the Attorney General's intention that all decisions on prosecution interventions will be targeted at depriving criminals of the proceeds of crime. This is in line with the Government's commitment in its Programme for Government 2016-2021 to "Maintain our robust, zero tolerance stance" in respect of money laundering and the financing of terrorism and proliferation.
4. This approach will be undertaken in a transparent manner; proportionality will be fully considered, however the over-riding principle will be to ensure that criminals and terrorists do not benefit from financial crime, that there is a clear deterrent factor and that the integrity and reputation of the Isle of Man as a jurisdiction which is hostile for money laundering is maintained and strengthened.
5. The confiscation order regime is a robust regime. As is clear from both statute and authority, the purpose of confiscation orders (and the context of the Attorney General's decision making) is to deprive wrongdoers of the financial benefit obtained from their criminal conduct.
6. In making prosecution decisions, the objective is to ensure that our interventions are effective and efficient and provide the necessary level of deterrence to those who would flout their legal obligations. A risk-based approach is taken to these prosecution interventions and within that context will seek to ensure that we have

the available resources to target such interventions so as to be as robust as necessary to be effective, proportionate and dissuasive.

7. To ensure that prosecution action is both proportionate and effective we will take account of the level of risk and the circumstances of each case including, but not limited to, the following factors:

- Risk of damage to the reputation and integrity of the Island from inaction.
- the direct and indirect risks of taking action bearing in mind the seriousness of any breach of the law and any impact on the effectiveness of the anti-money laundering and terrorist financing regime;
- prospects for confiscation and likelihood of compensation on the Island or elsewhere;
- quantum of alleged money laundering;
- eliminating any financial gain or benefit from the money laundering ;

Furthermore, in the case of prosecuting regulatory matters where a person or business has been used for money laundering, the following will be considered:

- is the intervention necessary?;
- relevant advice and information that has been provided to or been available to any person or business on compliance with statutory requirements and/or the Regulations and whether same advice and information has been adopted;
- information including knowledge of a person's or business's past behaviour;
- complexity and or/ seriousness of the alleged offending, including the resulting vulnerability of the entity being used for money-laundering and for terrorist financing;
- the extent of the person's or businesses' non-compliance with statutory requirements and/or the Regulations;
- the length of time the breaches have been continuing;
- deterring future non-compliance in general.

8. In some circumstances prosecution may follow in the first instance of a breach if it is considered appropriate. We may consider that immediate action is appropriate in circumstances where, for example:

- a person and/or a business does not appear to have taken any or very limited steps to comply with statutory requirements and/or the Regulations;
- there is evidence of, or there is a serious risk of, continuing money laundering or terrorist financing;
- there is a serious breach or breaches of statutory requirements and/or the Regulations; and
- the previously undetected breaches have been continuing for a significant period of time.

9. We seek to promote consistency in enforcement between our law enforcement agencies and this will include working and sharing information with the Isle of Man Constabulary, Financial Intelligence Unit as well as liaison with the Island's Financial Services Authority and the Gambling Services Commission.
10. In carrying out our functions, we will act fairly. This does not mean that we will **always** seek to enforce the law in the same way on apparently comparable cases – we will tailor the prosecution intervention to the individual circumstances. We will assess each case on its own merits, risk and of the need for proportionality, deterrence and achieving high levels of compliance.
11. We are subject to the scrutiny of the Court and relevant tribunals, both under provisions giving rights of appeal against our prosecution actions, and under the administrative law via the mechanism of judicial review as and when invoked.
12. We are, however, subject to disclosure constraints in law and will protect commercial and personal data accordingly.



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