

## MINUTES

### MINUTES OF THE MEETING OF THE AML/CFT ADVISORY GROUP HELD AT 10.00, TUESDAY 6 JULY 2021 IN THE KING ORRY ROOM, GOVERNMENT OFFICE

**Present:** Karen Ramsay, Head of AML/CFT Policy, Cabinet Office (Chair)  
Paul Heckles, AML/CFT Advisor, Cabinet Office (Minutes)  
John Atherton, Chair, Association of Corporate Service Providers  
Graeme Snape, Chair, Alliance of IOM Compliance Professionals  
Ashley Whyte, Senior Manager – AML Unit, IOM Financial Services Authority  
Sinead O'Connor, Representative, IoM Captive Association  
Phil Hunkin, Director, Financial Intelligence Unit  
Kevin Taylor, Chair – Compliance Committee, Manx Insurance Association  
Lucie Kennedy, Team Leader – Legislation & Policy, Customs & Excise (Virtual)  
Andrew Gosnell, Senior Risk and Compliance Officer, IOM Post Office  
Katherine Garrod, Chair, IOM Wealth & Funds Services Association  
Lucy Hendy, Assistant Manager – AML Unit, IOM Financial Services Authority  
Linda Watts, Director, International Co-operation & Asset Recovery Team (Virtual)  
Erica Humphries, Anti-Bribery and Corruption Project Manager, Cabinet Office  
A representative from the Gambling Supervision Commission's AML Forum  
Charles Garside, Chair, RICS, IOM Estate Agents Association  
Ben Campbell, Assistant Manager, AML Unit, IOM Financial Services Authority (Virtual)

**Apologies:** Dave Dobbie, Detective Chief Inspector – Economic Crime Unit, IOM Constabulary  
Dougie Elliot, Chair, Association of Pension Scheme Providers  
Helen Ault, Director, Gambling Supervision Commission  
Sean Gavin, AML/CFT Policy Manager, Cabinet Office  
Ian Spence, Head of AML/CFT, IOM Financial Services Authority  
Jon Whiting, IOM Society of Chartered Accountants Representative  
Iain MacMillan, Operations Manager, Financial Intelligence Unit  
Nathan Holden, Committee Member, Chartered Institute and Investment  
Michael Crowe, CEO Finance IOM, Department for Enterprise  
Nic Libreri, Technical Specialist, Gambling Supervision Commission  
Bill Mummery, Director, Chamber of Commerce  
Chris Wilson, CoinCorner  
Audrey Butterworth, Representative, Bankers Association  
Elisabeth Rattigan, Lead Legal Officer, International Cooperation & Asset Recovery Team

### 11/21 MINUTES OF AML/CFT ADVISORY GROUP MEETING HELD ON 12 MAY 2021

Having been previously circulated, the minutes of the AML/CFT Advisory Group ("the Group") meeting held on 12 May 2021 were agreed and signed by the Chair.

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### **12/21 MATTERS ARISING FROM THE MINUTES**

#### **015/20 & 016/20 & 02/21 Beneficial Ownership – Update & International Cooperation (Protection from Liability) Bill 2020.**

Mr Heckles reported that the Beneficial Ownership (Amendment) Bill and the Companies (Amendment) Bill now had Royal Assent. The Beneficial Ownership (Amendment) Act 2021 will come into operation on 1<sup>st</sup> September 2021. An operational date for the Companies (Amendment) Act 2021 has yet to be announced.

### **13/21 AML/CFT ADVISORY GROUP ACTIONS LOG 2021**

The actions log had previously been circulated. There was only one item left on the log regarding the inspection of the FSA by GIFCS. Mrs Whyte spoke to this item. She informed members that the inspection would focus on the supervision of the TCSP sector. The FSA had submitted pre-inspection forms to GIFCS and had been informed that the inspection team would be made up of representatives from the Cook Islands, Gibraltar and 1 other.

The onsite part of the inspection was currently scheduled to take place in August 2021, however, this would likely be put back as it was hoped that if COVID restrictions allowed a physical on-site inspection could take place. At this stage it was not known who in industry GIFCS would like to speak to, so no briefing sessions had been arranged. However, after the meeting, Mrs Whyte circulated copies of the GIFCS inspection reports on the Cayman Islands and Jersey so that members could see what such an inspection entailed.

### **14/21 MLRO ENGAGEMENT**

Mr Hunkin explained that as the FIU's Annual Report was with Tynwald for approval he unfortunately could not circulate a copy of it to members. However, he described that one of the objectives listed in the Annual Report was to undertake measures to improve the interactions between the FIU and MLROs. To that aim the FIU had held a meeting with around 30 selected MLROs at the end of June 2021, which amongst other things, helped to identify some technical operational issues with Themis and areas where more guidance and training could be provided. A follow-up meeting was scheduled to be held on 29 July 2021.

Consideration was now being given to establish a more formal MLRO/FIU group. Mr Hunkin acknowledged that the online gaming sector already had a successful MLRO/GSC group running. He envisaged that rather than have one very large MLRO working group, it might be more practical to have separate smaller sectorial ones along the same lines as the online gaming example.

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### 15/21 PUBLIC/PRIVATE PARTNERSHIPS AND THE FIU ANNUAL PLAN

Mr Hunkin informed the meeting that the latest version of the Financial Crime Strategy was with the Council of Ministers for approval, so not yet a publically available document. Under its auspices the FIU was looking to establish a formal public/private partnership with industry. The intention was to base it along the lines of the UK's Joint Money Laundering Intelligence Taskforce ("JMLIT") which is a partnership between law enforcement and the financial sector to exchange and analyse information relating to money laundering and wider economic threats. It was understood that once the IOM had its own version of JMLIT we would be able to apply to link in with the UK's version.

Mr Hunkin further explained that the JMLIT would have a technical focus, sharing information about crimes and terrorist threats. Then, like with the UK's version, the IOM law enforcement agencies would investigate the intelligence further. To help identify risks work would also be undertaken to help produce relevant typologies.

Mr Snape asked if the initial 30 odd MLRO's which had been selected for the initial MLRO workshops would be the base for the JMLIT to operate or would it be widened further. Mr Hunkin said that membership would be wider and open to all sectors and MLROs.

Mrs Watts supported the proposal. She said how she had recently been part of a FATF project looking at the problems associated with asset recovery. One of its findings was to encourage public/private partnerships going forward.

Mr Atherton pointed out that getting the right people involved would be critical for success of such an arrangement. He therefore asked if the FIU could attend events run by the sector representative bodies to outline the intentions, aims and who the desired membership of such a group might be. Mr Hunkin agreed to this proposal.

**Action Point: Mr Hunkin to contact sector representative bodies and arrange information meetings to industry regarding the proposed IOM JMLIT.**

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### 16/21 BENEFICIAL OWNERSHIP – UPDATE

Mrs Ramsay updated the meeting. The present focus was on tidying up the current Beneficial Owners Register. The government's technical staff were looking at ways to make sure the data entered onto the Register was more accurate. For example, a number of entries currently only showed a partial address. Solutions would be put in place where the person inputting the address would not be able to progress to another feature, until the full address box was completed. Once done, all Nominated Officers would be written to and requested to check and update entries that they are responsible for.

Mrs Ramsay also said that a Beneficial Ownership working group was being set up with Guernsey and Jersey to monitor and share information and issues regarding beneficial ownership, including public registers. Mrs Ramsay noted that the 2019 political commitment was to move towards implementing public registers by the end of 2023. The IoM was continuing a stepped approach, which would include engagement with industry on matters such as verification of identity to ensure that data on the beneficial ownership database was as accurate as possible. A full consultation on legislative proposals would follow in due course.

Mr Atherton asked if there was still a commitment to look at the EU's report on its implementation of beneficial ownership registers. Mrs Ramsay explained that the Isle of Man would look at the report when it is published but would not be bound by it. The Isle of Man was looking at a number of registers in and outside of the EU and how they had been implemented.

Mr Atherton further asked if, as part of the work, the definition of beneficial owners would be looked at and whether corporate directors would still be permitted. Mrs Ramsay confirmed that the definition of a beneficial owner would be reviewed as part of the process and any proposals consulted upon.

### 17/21 FATF PLENARY – UPDATE

Mr Heckles updated the meeting on only three aspects of the recently held FATF Plenary as a summary paper had separately been circulated to members.

The first update was on the rewriting of Recommendation 24 (Transparency and Beneficial Ownership of legal persons). Mr Heckles explained that currently there was a split in the FATF membership on how to treat beneficial owner registers. Some members wanted to make central registers compulsory, whilst as many others wanted them to remain an optional way for the authorities to obtain beneficial ownership details. A separate side issue had also arisen where the concept of a greatly restricted central register, only applicable to certain types of legal entity with large turnovers, had been suggested. Instead of putting out proposals for consultation as expected, FATF had published a white paper seeking public views on the matter.

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Mr Heckles further explained that some FATF members thought that if the FATF did not make a central beneficial ownership register an international requirement, FATF was at risk of losing its position as the international standard setter for AML/CFT. They observed that the UK, EU, UN and G7 had all called for such a measure, as well as NGOs. He emphasised that FATF was currently only talking about central registers and not publically accessible ones.

The second issue Mr Heckles spoke about was Malta going onto the FATF "grey list". He pointed out that there had been many leaks concerning the discussions leading up to the decision on Malta's position, wrongly stating that Romania had also gone onto the list. This was incorrect; Romania had not yet had its mutual evaluation under this round. For the correct details of who was now on the list the meeting was encouraged to check with the updated list on the DHA's website.

The third issue was FATF's review of its high-level strategy and in particular, how the next round of mutual evaluations will be conducted. He explained that because of the COVID pandemic work had not fully progressed on schedule. It was planned that the strategy would be finalised at the FATF plenary scheduled for February 2022. At this stage, it was not possible to give members any idea of when and how the IoM would next be inspected.

### **18/21 UPDATE FROM THE GSC**

As no GSC officers were present, this item was carried over until the next meeting.

### **19/21 PROCEEDS OF CRIME ACT 2008 – REVIEW**

Mrs Ramsay explained that government was looking at amending the Proceeds of Crime Act 2008. Government authorities were discussing areas of POCA that required attention and she invited members of the Advisory Group to consult with their professional and industry colleagues and send their observations to Mr Heckles as required. There was no timetable currently, and agreement would have to be sought to include this work in the government's legislative timetable. Any proposed changes to POCA would be subject to full consultation with industry.

Mr Heckles noted that it had already been suggested that the "consent regime" relating to STR's needed attention, a matter that he believed would also be of interest to industry.

**Action Point: Members to identify and send suggested areas for amendment in POCA to Mr Heckles.**

### **20/21 INDUSTRY ROUND TABLE**

Mr Snape raised the EU's current actions to centralise AML/CFT regulation to a supranational level and change its directives to regulations. Mr Atherton mentioned that there was growing concern that unless the Isle of Man followed the EU's

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requirements future business might be lost due to the EU not allowing access on equivalence grounds. Mrs Ramsay assured members that the government was following the EU developments and consideration would be given as to whether it was prudent for the Isle of Man to adopt certain measures or not.

Ms Garrod asked if it was still the intention to amend legislation so that businesses in the Isle of Man would be able to do business with entities in the recreational cannabis sector. Mr Heckles explained that there was no intention to do so as this would put the IoM in contravention of the Treaty of Vienna, which had been extended to us by the UK at our request. It would also be in breach of FATF Recommendation 36. Business could only be conducted with entities involved in industrial and medicinal cannabis if legal in the other jurisdiction involved, and as long as no recreational production etc. was intermingled. He also highlighted that in the USA recreational cannabis use was only legal in certain states law and that it is still illegal under federal law.

### **21/21 ANY OTHER BUSINESS**

Mrs Whyte updated the meeting regarding the FSA's revised AML/CFT guidance. She said it was currently at the proofreading stage. The intention was to publish on the 23<sup>rd</sup> July 2021, followed on the 30<sup>th</sup> July by the best practice guidance. New sector specific guidance would be issued every Friday and it is hoped that all sectors would be issued by 23<sup>rd</sup> August 2021. Details would be included in a mail-merge message being issued by FSA on 6 July, which would also include details of a webinar to be held on 27<sup>th</sup> July 2021 concerning the new guidance.

Mr Snape asked whether there would be a tracked changed version to aid industry in knowing where changes had been made. Mrs Whyte indicated that there would not, as the new guidance is a total rewrite and in a new style. However, areas, which had changed, would be covered in the Webinar. Industry was asked to look at the new guidance etc. and report to the FSA if they identified any particular issues, which the FSA would then consider and make amendments if necessary.

Ms O'Connor asked when, after publication of the guidance, the FSAs' supervisory teams would start to consider the new guidance when carrying out regulatory inspections. Mrs Whyte replied that the FSA was considering this point.

An action group within the FSA was looking at the whole question of regulatory supervision in connection to the setting up of the new AML/CFT unit. Ms O'Connor further asked if, when published, the FSA could make clear that it had not consulted industry on the drafting of the guidance. This would prevent industry entities from making representation to their association bodies complaining that they had not passed down the appropriate consultation requests. Mrs Whyte agreed to this.

Mrs Whyte explained that the main Handbook only covered Code requirements so should be fit for purpose, as the Code had not recently changed. It was also the

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intention to send the sector specific guidance to industry representative bodies prior to its full publication.

Mr Snape requested that the FSA consider the approach of the GSC, which does consult on its guidance, even if the FSA limited this to a small working group. Mrs Whyte advised that the FSA had not consulted on this round of guidance as it was too large a project and it would have taken too long. Mr Snape felt that it would aid industry, as it would make it less likely that, once policies and procedures had been changed, that they would need to be amended again. Currently there was a risk of the FSA making further changes due to errors being highlighted by industry post-publication. Mrs Whyte expressed the view that it was expected there would be little post publication changes needed to the guidance and that more feedback was expected in the best practice document.

Mrs Whyte also mentioned that there had been a consultation-working group looking at electronic ID. Mrs O'Connor asked if something could be posted about the work of the group, as she did not believe that the membership and remit of that group was widely known. It was difficult to explain to industry members why certain requirements were being implemented if this was not known. Mrs Whyte explained that the working group was not set up to consult on the text but was an information-gathering exercise to understand what electronic ID systems were available to industry. However, Mrs Whyte undertook to draft a standalone document on the working group for publication.

**Action Point: Mrs Whyte to draft and circulate an information document regarding the electronic ID working group.**

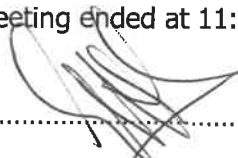
In concluding the meeting, Mrs Ramsay announced to the Advisory Group that she would be leaving her position as Head of AML Policy at the end of September. Recalling some of the challenges that the IoM had faced over the previous 5 years, she thanked the Group for their input and their support during that time.

### DATE OF NEXT MEETING

The date of the next meeting will be 5<sup>th</sup> October 2021

The meeting ended at 11:30am

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(Chair)

 ERICA HUMPHRIES

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28 JANUARY 2022

Date