



**Isle of Man
Government**

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ISLE OF MAN GOVERNMENT

National Risk Assessment of Money Laundering and the Financing of Terrorism

Cabinet Office

Oik Coonceil ny Shirveishee



Disclaimer

This National Money Laundering and Terrorist Financing Risk Assessment of the Isle of Man has been conducted as a self-assessment by the Manx Authorities, using the National Money Laundering and Terrorist Financing Risk Assessment Tool that has been developed and provided by the World Bank. The World Bank team's role was limited to delivery of the tool; providing guidance on technical aspects of it and review and feedback to assist with the accurate use of it. The data, statistics, and information populated into National Money Laundering and Terrorist Financing Risk Assessment Tool templates, and any other finding, interpretation, and judgment under the scope of National Money Laundering and Terrorist Financing Risk Assessment process completely belong to the Isle of Man and do not reflect the views of World Bank.

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Foreword by the Chief Minister

This is the first National Risk Assessment of money laundering and terrorist financing (NRA) conducted by the Isle of Man, reflecting the Island's continuing commitment to uphold the highest international standards in protecting our economy against criminal abuse.

Money laundering and terrorist financing present global threats, against which all countries have a responsibility to provide robust defences. This is a responsibility that the Isle of Man takes particularly seriously.

As a recognised centre for international business and finance, the Island is home to many successful companies which have a significant presence around the world. We are determined to protect the reputation and integrity of our business community by ensuring that the Isle of Man is not a place where criminals can find a welcome.

Conducting a NRA is a requirement of the Financial Action Task Force which sets the international standards on anti-money laundering and combating the financing of terrorism.

The Isle of Man's NRA was led by a multi-

agency group which included law enforcement, regulators and Government officers, with significant input from representatives of the private sector.

The purpose of the exercise was to achieve a clear understanding of the money laundering and terrorist financing risks faced by the Island, to assess the level of that risk and to identify measures that will help to provide further protection.

The NRA is intended to inform Government policy making and to directly influence the efficient allocation of resources. Its findings will also help industry, providing a national context within which businesses can carry out their own risk based reviews.

Considerable further progress has been made since this National Risk Assessment was finalised in the summer of 2015.

The introduction of the Designated Businesses (Registration and Oversight) Act in October 2015, which is anticipated in this report, represents a major enhancement of the Island's anti-money laundering and combating the financing of terrorism regime.

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We are determined to protect the reputation and integrity of our business community by ensuring that the Isle of Man is not a place where criminals can find a welcome.

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Concerns identified regarding the effectiveness of the Financial Crime Unit are also being addressed. The Financial Intelligence Unit Bill, which is expected to receive Royal Assent shortly, establishes the FIU as a separate legal entity providing a structure which can appropriately prioritise intelligence gathering.

A further piece of legislation, the Terrorism and Financial Crime (Miscellaneous Amendments) Bill, is also due to receive Royal Assent. As well as addressing a number of technical points, this legislation allows the Isle of Man to respond more quickly to international sanctions and will also enable a swifter domestic legislative response in respect of money laundering and terrorist financing.

Another significant milestone was reached in November 2015 with the merger of the Financial Supervision Commission and the Insurance and Pensions Authority to form the Financial Services Authority. This was a planned merger which did not arise out of the NRA; nevertheless I expect that this new regulatory body will provide a co-ordinated and strengthened and approach to anti-money laundering and combating the financing of terrorism and proliferation for the Isle of Man.

Significantly, the work that has taken place and the actions arising from it have now been translated into a National Strategy for Anti-Money Laundering and Combating the Financing of Terrorism. This Strategy, which will set the direction of travel for the Government, will also undoubtedly be informed by the forthcoming MONEYVAL 5th Round assessment in April of this year.

This may be the first NRA for the Isle of Man, but it will not be the last. Evolving international standards, together with our own need to ensure a robust national understanding of risk, requires regular re-examination and, periodically, a full review.

I have been encouraged by the very high level of cooperation and engagement shown by industry representatives in this initial assessment process, and I look forward to a continuation of this positive approach in the future.



Hon. Allan Bell MHK
Chief Minister

1. Isle of Man: The political, economic and international environment

The Isle of Man is a self-governing British Crown Dependency with the HM Queen Elizabeth II as Head of State. It has its own government and laws, and a parliament, Tynwald, recognised as the oldest continuous parliament in the world.

The United Kingdom Government, on behalf of the Crown, is ultimately responsible for the Island's defence and international relations. In recent years the Isle of Man has – in agreement with the UK and its international partners – represented its own interests internationally, notably by concluding a significant number of bilateral tax agreements. The Isle of Man is financially autonomous and receives no financial assistance from either the UK or the European Union. The Isle of Man is not represented in the UK or European Parliaments.

The relationship of the Isle of Man with the EU is set out in Protocol 3 to the UK's Act of Accession (1972), and allows for free trade in agricultural and manufactured products between the Isle of Man and the EU. In essence, the Isle of Man is outside the EU except for EU law and policy on customs matters and the free movement of goods. In all other matters, including direct tax and financial services, the Isle of Man is in the position of a "third country" or non-Member State. However, due to the existence of the Customs and Excise Agreement with the UK, the island is also recognised as an integral part of the EU fiscal (VAT and excise duty) territory.

In addition, due to its inclusion in the customs and fiscal territories of the EU, there exist extensive arrangements for mutual assistance and mutual recovery of VAT and

customs and excise duty debts. The mutual assistance under EU law extends to where the EU has entered into mutual assistance agreements with third countries on customs matters.

The Island has its own legal system and jurisprudence. English law is not directly applicable in general, but the Manx legal system is based on the principles of English common law and is accordingly very similar to English law in areas such as crime, contract, tort and family law. However, in certain areas, although modelled on English law, Manx law has adapted to meet the Island's own special circumstances, particularly with regard to direct taxation, company law and financial supervision. The Island's High Court judges hold the ancient office of Deemster and have jurisdiction over all criminal and civil matters.

Notwithstanding the natural economic disadvantages associated with its small size, geographical location and lack of natural resources, the Island has used its legislative and fiscal autonomy to build a strong, stable economy and political system for the benefit of the Manx people. Traditional industries of farming, fishing and tourism have been joined by sectors such as financial services, e-business, shipping, aviation and high-tech manufacturing to create a diverse economy with an international base centred in a highly responsive and secure jurisdiction.

Under the auspices of the Organisation for Economic Co-operation and Development (OECD), the Island has been at the forefront of the development by small jurisdictions of a network of Tax Information Exchange Agreements (TIEAs).

Following a request from the Isle of Man, the Convention on Mutual Administrative Assistance in Tax Matters, a multilateral agreement providing for tax co-operation between its signatories was extended to the Island in 2013.

The Island has a transparent tax code, and does not have banking secrecy laws. The Island automatically exchanges information on savings income with 28 EU Member States under Directive 2003/48/EEC of the Council of the European Union. In addition, in 2013 the Island signed Intergovernmental Agreements (IGAs) with the United States of America, in order to implement the provisions of their Foreign Account Tax Compliance Act (FATCA), as well as the United Kingdom.

In 2014, the Island also signed the Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information (MCAA) along with 51 other jurisdictions, in order to exchange information based on the Common Reporting Standard (CRS). To date 94 jurisdictions have made a commitment to implement the CRS with 58 of those jurisdictions, including the Isle of Man, intending to make their first exchanges in 2017.

In order to implement the CRS, US and UK IGAs Isle of Man Reporting Entities are required to collect additional information when opening new accounts to undertake detailed due diligence checks of existing accounts in order to identify any reportable financial accounts.

In 2009 the UK extended the United Nations

Convention against Corruption (2003) to the Isle of Man and in 2012 the Palermo Convention against Transnational Organised Crime (2000) was also extended to the Island. The Island continues to pursue a legislative programme to ensure compliance with various international instruments targeting crime, terrorism funding, and international sanctions regimes. The Isle of Man's Financial Intelligence Unit (FIU), which sits within the Financial Crime Unit (FCU), is a member of the Egmont Group, an international grouping of FIUs which seeks to promote the development of FIUs and cooperates in areas including information exchange, training and the sharing of expertise.

In 2010 the Isle of Man underwent a positive comprehensive peer review by the Global Forum on Transparency and Exchange of Information for Tax Purposes (the Global Forum). The general regulatory environment in the Isle of Man was found to be comprehensive and feedback provided by the Isle of Man's information exchange partners was found to be "very positive".

In October 2012, following a formal request for membership, the Council of Europe's Committee of Ministers passed a resolution authorising the voluntary participation of the Isle of Man in the mutual evaluation process and procedures of the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL). The Isle of Man is now participating in MONEYVAL's self and mutual assessment of AML/CFT¹ measures and follow-up procedures.

¹ For the purposes of the NRA, wherever the financing of terrorism is referenced, it should be noted that by inference the term 'terrorism' automatically includes the financing of proliferation

2. Key Findings

The Isle of Man is an international business centre with a broad mixture of mature financial sectors e.g. banking and insurance and newer businesses e.g. online gambling. Each has its own Money Laundering (ML) risks and controls which are discussed in more detail in the individual sector reports. The Isle of Man Government has a stated aim to grow the economy, but has aimed to achieve this goal within a carefully managed and well-regulated environment. The application of recognised international standards is seen as vital for the reputation of the Island and for its continued economic success.

The international nature of business in the Isle of Man means that much of the non-retail financial business is non-face-to-face via intermediaries; there is therefore a higher than normal vulnerability to proceeds of crime generated abroad being handled by such businesses. However, it is important to note that offences will also occur domestically.

Whilst due controls are in place when relying on third parties, there remains a significant residual risk facing the Isle of Man in that it may be involved inadvertently or otherwise

in the layering process. This raises specific challenges; whilst the Isle of Man has been internationally recognised as a cooperative jurisdiction (e.g. by the OECD²), in the fight against predicate crime there have been few investigations into the potential role of Isle of Man based individuals and companies in cases of cross-border ML.

Further work needs to be undertaken as a priority to identify specific ways in which the Island's authorities can follow up domestic involvement in international cases in a more proactive and impactful manner. More work is also required to ensure that information/intelligence is being effectively shared between the police, the regulators and other competent authorities domestically, with additional legal gateways established where required as well as with off-Island partners e.g. via Egmont/Interpol³.

The sharing of intelligence which is generated through international requests made under Tax Information Exchange Agreements (TIEAs) would also be valuable, however there is a legal issue involved over confidentiality as described in more detail later.



The Isle of Man Government has a stated aim to grow the economy, but has aimed to achieve this goal within a carefully managed and well-regulated environment.



² Organisation for Economic Co-operation and Development

³ The Egmont Group is an international group comprising of over 150 FIUs which works to promote international co-operation in anti-money laundering and countering the financing of terrorism

Overall the NRA indicates that the Isle of Man's exposure to high risk jurisdictions is relatively small albeit that data has not been available for some of the Designated Non Financial Businesses and Professions (DNFBP⁴) sectors. The vast majority of financial service activity takes place with low risk, Financial Action Task Force (FATF)⁵ compliant jurisdictions, in particular with the UK. It should be acknowledged however that the risk profile of business via the UK will inevitably be different from and higher than the average UK domestic customers and that FATF compliance cannot be the defining factor.

The Island has a strong legal and regulatory framework to enable action to be taken against ML with which Regulators supervise the most significant areas of financial services. The amalgamation of the Financial Supervision Commission (FSC) and the Insurance and Pensions Authority (IPA) planned for 2015 offers further opportunities to streamline and strengthen financial services regulation. However, this in itself will create new challenges for some time to come, with a review of the systems, functions and regulatory framework of the new body all being required. The capacity and resources available for Financial Crime Investigations and Financial Intelligence gathering and processing are two critical areas that have been identified as having deficiencies.

The Isle of Man's approach to financial intelligence, investigation and international co-operation was set in 1999-2000, when the Financial Crime Unit (FCU) was established.

The model is unusual in that the FCU carries out all of the functions of Financial Intelligence Units (FIUs) but also has responsibility for the investigation of serious and complex fraud, high level money laundering, allegations of corruption and offences relating to the financing of terrorism.

Deficiencies in the structure, operating model and performance of the FCU have been identified. These include the need for officers to perform a variety of roles, issues regarding career structures, succession planning and the impact of reduced budgets on staff development and training.

The absence of an online IT system for the receipt, management, analysis, investigation and dissemination of suspicious activity reports (SAR) has also had a considerable impact on the ability of the FCU to carry out investigations.

Considerable and effective assistance is given to other jurisdictions, both on a formal basis and also informally. However, feedback is sporadic in nature and limited in scope. This, in turn, has some impact in terms of how best the FCU can instigate and direct future investigations.

The gathering, processing, analysis and sharing of financial intelligence have also raised areas of concern. Abstraction of staff and limited levels of experience have an impact upon the FCU's ability to deal with intelligence and the limited nature of specialist financial investigation training that has been given to FIU officers also limits its effectiveness.

⁴ Designated Non-Financial Businesses and Professions which include e.g. advocates, accountants, corporate service providers and gambling.

⁵ The FATF is an independent inter-governmental body which develops and promotes policies to protect the global financial system against money laundering, terrorist financing and proliferation

The absence of convictions for complex high volume international ML cases has made it difficult to identify prevalent typologies for the Isle of Man and therefore to focus risk mitigation more effectively. A regular review of the content of Mutual Legal Assistance Requests (MLARs) and International Letters of Request (ILORs) and a more formal and regular sharing of intelligence between the relevant authorities domestically, would also help to build a more informed picture of the typologies relevant for the Isle of Man

Work is now underway to ensure that this takes place including a review of information sharing gateways.

The robustness of this assessment into ML threats has also been impacted by a lack of key data which would better help to identify sources of external threat. For example, there is no annual balance of payments report for the Isle of Man and, of the four major economic sectors, detailed data was only available for two, (albeit the two largest) which were the banking and insurance sectors.

With comparatively few prosecutions taking place for ML, it is challenging to make a fully rounded assessment of the prosecutions or the court services, in respect of complex ML cases.

There were also data gaps concerning a number of non-financial sectors, some of which had not in the past been required to register with a supervisory body. This meant that the risk assessment in some areas was constrained as there was no comprehensive, organised or historic data to call upon.

The introduction of the Designated Businesses (Registration and Oversight) Act (Designated Businesses Act) in October 2015 will address this issue and more complete data will be available to update the NRA in the future.

Border controls were considered in some detail, although it was recognised the measures that could be undertaken would be limited owing to the Isle of Man's particular position within the Common Travel Area and as part of a customs union with the UK. However the Isle of Man has a mature finance sector and placing illicit funds directly into banks or other institutions has become much more difficult in recent years, with institutions effectively acting as a virtual border. The NRA established that the Isle of Man does not have a significant cash courier risk; nevertheless a number of actions were identified which could further strengthen controls in this area.

The Isle of Man is a small jurisdiction and the various agencies involved in combating ML and Terrorist Financing (TF) work closely together.

The NRA highlighted that overall there is a high level of domestic cooperation, although this can be further improved upon. In addition, there are numerous formal and informal opportunities for representatives from Government, Regulators and industry to meet together to discuss and develop policy and strategy and to deliver operational actions as appropriate. In 2012 the Government published a policy statement⁸ on combating ML / TF and the completion of this NRA with its accompanying Action Plan, will provide sufficient and substantial detail to enable a strategy to now be developed.

⁸ <https://www.gov.im/media/1082460/amlcommitment.pdf>

3. Next Steps — National Level

Securing agreement to the actions arising out of the NRA is the priority, following which a national Anti-Money Laundering / Combating the Financing of Terrorism (AML/CFT) strategy can be considered and recommendations made accordingly. The coming into force of legislation to introduce oversight for the DNFBP sector will be a significant step forward in AML/CFT policy and strategy. The introduction of a new Anti-Money Laundering and Countering the Financing of Terrorism Code 2015⁹ (AML/CFT Code) which pre-dates the NRA, will also help to strengthen the AML/CFT framework for the Isle of Man.

A number of actions aimed at addressing the identified deficiencies in respect of Financial Intelligence and Financial Investigations are included in an action plan developed by the Serious Crime Strategic Board (SCSB). The critical issue however, which is also identified in the SCSB plan, is the need to progress a strategic review of the organisational structure of the FCU in order to move to a new model which more effectively meets the needs of the Isle of Man. Terms of reference for this work have been drafted and rapid progress is being made.

The creation of an online reporting system for SARs will be accompanied by work with the industry to raise reporting standards; it will also necessitate a fundamental shift in how the FIU deals with SARs. The information technology that is currently available to the FIU, aside from that concerning SARs, will also need to be reviewed and upgraded.

A review of the approach to requesting feedback from jurisdictions concerning the

effectiveness of information provided by the Isle of Man in response to international requests will be undertaken.

Actions have been identified which will improve co-ordination between Customs and Excise, the Isle of Man Constabulary and the Department of Infrastructure and other agencies in respect of border controls.

Customs and Excise has put in place an outreach and awareness-raising programme involving airport and ferry port operators, security personnel (including private security company staff), express courier and freight businesses.

The aim of this programme is to heighten awareness of the risk of undeclared cash, and the proper means of dealing with any detection. Other measures include reframing enabling legislation to allow for targeted action or controls on goods and cash entering or leaving the Island. Work has also taken place in respect of outreach exercises with non-Government bodies to provide education and improve import and export monitoring.

From the analysis undertaken it is apparent that at this time priority work is required to address issues at the national level for combating ML. Nevertheless the sectoral analysis identified some commonalities and also areas where actions could be taken to reduce sector vulnerability and increase the ability to combat ML. These are addressed in the following section.

⁹ The Code came into operation on 1 April 2015

4. FINANCIAL SECTOR

The assessment of each sector took into account known threats and inherent vulnerabilities for each sector. It took into account how far these vulnerabilities were mitigated by the AML/CFT controls in place.

The ML/TF assessment also took into account a number of factors concerning the size of each sector in respect of the Island's economy, since this also represents a risk factor. The combination of threat and vulnerability produced a risk rating as follows;

- High
- Medium high
- Medium
- Medium low
- Low

Further information regarding the methodology can be found in Annex I.

Financial Sector — Banking

The overall ML risk for the Banking sector is assessed as medium.

There is a generally strong AML / CFT control framework counteracted by some inherent vulnerabilities in products, services, delivery and customer type, although there are mitigating controls in place.

Banking currently represents approximately 8.5% (£330m) of the Island's GDP (source: national income accounts 2012/13). The Island's banks service local and international personal customers, corporate and business

clients (direct and introduced) as well as persons holding funds on behalf of others (e.g. wealth management).

A wide range of products and services are provided including savings, current accounts, private and premier banking, investments, lending, treasury services and foreign currency accounts.

The most vulnerable customer segments (also taking into account the size of those segments in relation to banking) are considered to be non-resident High Net Worth (HNW) clients, managed corporate / trust clients (where complex structures could be in place), and the use of the banking sector by large non-Isle of Man corporates. This analysis reflects a range of risk factors that could be more prevalent in these segments including: non-face to face transactions, the handling of higher risk customer types (e.g. Politically Exposed Persons or PEPs), the international nature of transactions, and typologies (for example tax evasion related typologies).

Banks in the Island also face a range of challenges and pressures that can relate to AML / CFT including international and market pressure, group de-risking / cross border risks, regulatory change and outsourcing. Banking is a mature sector in the Isle of Man with well-established customer due diligence and supervisory controls; the vast majority of banks are part of wider international groups established in jurisdictions with equivalent AML regimes. It is considered to be broadly well controlled, but there are core inherent vulnerabilities prevalent, most notably arising from some customer segments to which products and services are offered.

Financial Sector — Securities

The overall ML risk for the Securities sector is assessed as medium.

There is a generally strong AML control framework but some of the inherent vulnerabilities, notably in the client base, are reflected in the overall risk rating.

The securities sector forms a small part of the Isle of Man financial services sector overall, contributing approximately 1% to the Gross Domestic Product of the Island. With the exception of Isle of Man Independent Financial Advisors, the client base will be substantially non-resident clients with foreign business or personal interests.

The client base of the majority of institutions in the securities sector therefore presents a higher risk of ML.

Other risk factors to be considered are a client base which includes PEPs, HNW individuals, clients linked to higher risk jurisdictions and clients linked to higher risk activities. Non-retail funds and investment business represent the most significant elements of the securities sector. Overseas funds represent the element of the sector that has seen a significant positive growth in the relevant period.

The general AML controls which apply to the securities sector in the Isle of Man are assessed as strong. There is a mature legal framework which seeks to prevent ML and

this is well understood by functionaries in the sector and their staff. Entry controls in to the sector (the steps that a functionary has to go through with a regulator before they can operate in this sector) are considered to be thorough and detailed. The majority of the investor base is UK resident and so concerns in relation to the identification infrastructure of these investors are limited.

Financial Sector — Insurance and Pensions

The overall ML risk for the Insurance and Pensions sector is assessed as medium.

There is a generally strong AML framework, however some characteristics of the products and services provided within the insurance and pensions sectors of the Island fall within the range of categories suggested by the FATF as examples of potentially higher-risk business.

The insurance and pensions sector is a well-established and mature part of the industry which, over the last six years has continued its upward trend of contribution to the economy of the Isle of Man, overtaking banking as the largest single contributor to the Island's GDP in 2009. Approximately 2,000 people (4.5% of the working population⁷) work in the Insurance and Pensions sector, and a similar number off-Island in branch and supporting operations.

⁷ Isle of Man Census 2011

There are also accounting, legal and other professional service providers representing many well-known international firms.

In 2013 assets under management within the Island's insurance and pensions sector continued recent trends increasing by just over 5% on the prior year's position to just under £64 billion. The Island's long term insurance sector has £56.5 billion under management, general insurance has £4.7 billion under management and pension scheme assets total £2.7 billion. Distribution is mainly through independent financial advisors.

In recognition of the higher risk characteristics the IPA requires all insurers to identify the source of wealth for all new business in addition to the standard due diligence requirements set out in the AML/CFT Code. The life sector, which represents about 89% of the insurance and pensions sector in terms of assets under management, has a medium vulnerability to ML. The pension sector, which represents 4% of the overall sector, is assessed as having a higher vulnerability than that of life. This reflects the earlier stages of development life cycle of the industry as a whole market and the need to develop further the compliance frameworks to address the risks presented by the international, non-face to face business.

The non-life sector, representing 7% of the overall sector, has a medium low vulnerability to ML reflecting the lower risk profile of the products offered.

Other Financial Institutions

The overall ML risk for Other Financial Institutions (OFIs)⁸ is assessed as medium-low.

The quality of the AML control framework for OFIs varies between medium to medium high. Money Transmission Services are subject to AML/CFT controls; however the quality of AML/CFT controls for Money Lending is identified as being 'Close to Nothing' currently although a registration and oversight regime for AML/CFT will be introduced when the Designated Businesses Act comes into force in October 2015.

OFIs represent a small sector compared to other groups on the Island, and present medium to low vulnerability. This is based upon current activity and knowledge and reflects the relatively small size of the sector, a low average transaction size, the predominant customer base being local resident individuals (face to face) and the AML / CFT and licensing regime in place, other than for Money Lending. For those firms which are already subject to full supervision (and are required to be regulated by the FSC), only minor improvements are required to enhance the current regime and ensure that the focus remains on the vulnerabilities present in these sectors (money service businesses).

⁸ OFIs include Money Transmission Services and Money Lending as well as a number of other smaller activities such as safety deposit boxes. OFIs are also referred to as Money Service Businesses.

5. NON-FINANCIAL SECTOR

Designated Non-Financial Businesses and Professions (DNFBPs)

The primary criteria for identifying those DNFBPs to be assessed in detail concerned the level of likely exposure to domestic or international criminal activity, with priority being assigned to the possibility of organised, cross-border crime being able to exploit the service / products being offered and the capacity of a sector for laundering (i.e. its size). Online gambling; Trust and Corporate Service Providers (TCSPs); Advocates and Accountants were identified as the primary focus of the DNFBP assessment although high level consideration was also given to CVC, High Value Goods Dealers and Estate Agents at the initial stages of the project to see if they warranted detailed analysis.

DNFBPs — gambling

The overall ML risk for the gambling sector is assessed as medium.

The Isle of Man Gambling Supervision Commission (GSC) licenses around 50 online operators which offer online and mobile device gambling to a worldwide player base. Customers are known as participants or players. The player base is very large and 100s of millions of players' money is deposited in online wallets held by licensees at any given time. The majority of the companies are privately owned and some of the ownership structures are complex. The GSC has legislative powers to determine beneficial ownership and requires all owners to be identified and approved before assuming control or ownership. Inherent

risks arise because the industry is by nature non-face-to-face, intrinsically cross-border, incorporates a form of agency, operates in jurisdictions with weaker scores on AML/CFT indices and innovates rapidly. Despite these factors, credible typology reports for online gambling are relatively rare; high value cases that arise generally have gambling activity as the motivation for the crime (for example stealing money to fund play). The predominant typology is the use of stolen credit card details to deposit and play in the hope the proceeds can be withdrawn without detection. Mitigations exist to prevent this in the AML Code.

There are a number of factors which mitigate the risk of players laundering money through the sector:

- the industry is almost exclusively IT based and detailed transaction records are kept on all activity
- the industry has low thresholds before verification of identity is required (currently EUR 3,000 in any rolling 30 day period)
- players' wallets are held online by the operator so players must supply the required verification of identity before the operator will release their money back to them. A failure to supply credentials (typically passport or driving licence, plus proof of address) typically results in the account being suspended, the money remaining with the operator and a Suspicious Activity Report (SAR) being considered.

The threat that would be posed by criminal ownership of an online gambling licence is highly significant and recent typologies have been observed in Europe.

DNFBPs — Trust and Company Service Providers

The overall ML risk for Trust and Company Service Providers (TCSPs) is assessed as medium high.

The TCSP industry comprises some 160 licence holders. Firms range in size from international businesses with in excess of 100 employees, to small businesses which are in common ownership with the practices of accountants or advocates and often service a similar underlying client base. The industry provides services to some 30,000 client companies, of which approximately half are incorporated on the Island and half elsewhere, and to some 20,000 trusts.

From an AML/CFT viewpoint TCSPs are important as gatekeepers to the financial system. The trusts and companies of which they are trustees and directors have control of assets, investments and bank accounts. Most business is international in nature with around 40% estimated to come from outside the UK and EU. TCSPs have the highest vulnerability score across all sectors due to the high risk profile of beneficial owners (the clients) of TCSPs; the existing and significant typologies for the sector; the availability of non-face-to-face transactions; the use of professional intermediaries and the complex nature of some of the structures involved.

Awareness of AML/CFT risk indicators is assessed as high across the industry; TCSPs have been subject to licensing and supervisory visits since 2001 and a risk-based approach to AML/CFT since 2008; almost all visits to TCSPs include AML/CFT matters. A standard supervisory visit includes a review of the TCSP's AML/CFT risk assessment of its business as a whole; its method for risk assessing potential clients

and how this is applied in practice across sampled files; the presence and quality of CDD related to those files, and the frequency and quality of monitoring and risk assessment of ongoing business. Training records and the procedures and records for SARs are also reviewed.

The FSC only licenses TCSPs which offer a full range of regulated activities; "registered office only" business has been in long-term decline and "mixed boards" are rare. The Isle of Man has well-regarded aircraft and shipping registries. These sectors, together with ancillary services to online gambling companies feature in many TCSPs' target markets for new business.

ML/TF risk can relate to misuse of TCSP services for the commission of the predicate offence, or for layering or integration of dishonestly obtained funds. The misuse of legal entities to evade tax features highly in international experience of TCSP risk. Automatic exchange of information for direct tax purposes under FATCA and the CRS is expected to reduce these risks. Closure of legal tax avoidance and planning opportunities for middle earners has led the industry to focus on wealthy clients and a more international client base of a higher standard. This is more likely to reduce the risks of receiving the proceeds of foreign corruption or organised crime.

Where TCSPs supply services, including corporate vehicles, for use in international trade there is a risk that those vehicles could be used to carry out trade-based ML. In recent years Customs and Excise has undertaken an awareness-raising programme and provided specific guidance on the risk faced by TCSPs from not complying with "trade control" licensing requirements where involved in movement or brokering activities.

DNFBPs — Advocates

The overall ML risk for advocates is assessed as medium low.

Only nine of the 27 Practices that conduct business in the regulated sector report having an international client base; the remainder provides regulated services to the local residents of the Isle of Man. The nine Practices delivering regulated legal services to an international client base employ 112 of the 226 advocates at the Bar.

For the Isle of Man, the inherent vulnerabilities to the profession of legal services being used for ML are identified predominantly as the extent and the value of international work provided to HNW clients. However, the primary risk remains deliberate connivance, collaboration or intent of an advocate to commit a legislative breach or criminal offence. Balanced against the high level of awareness and internal compliance controls that have been demonstrated across the profession via supervisory inspection, there are risk-based mitigating controls in place to address this vulnerability.

The type and manner in which legal services are delivered by advocates in the Isle of Man mitigates many of the vulnerability factors which are often referred to in typology reports for this sector. Supervisory visits have confirmed that work is conducted for named and identified clients, or where non-face-to-face instruction is received it will be largely from Law Firms in England where the English law firm is the client and the Island requirement is a point of company law in a much larger deal.

The very small size of the sector (36 firms / 226 advocates) and the resources assigned by the Law Society Council to delivery of the AML programme have secured what might be considered an unusual level of access to and oversight of a profession by its supervisor. 100% of firms have been visited and subject to AML review on two occasions since 2010, with the 2013/2014 visit round seeing 65% of firms visited on a risk basis. For the past two years an Annual Compliance return has been required from each Practice signed with an Advocates Undertaking. Each Practice has, since 2011, been required to submit to the Law Society its Money Laundering Reporting Officer (MLRO) appointee information annually, with some integrity based information requested (of a format largely adopted from FSC documentation), by way of a fit-and-proper test.

Advocate involvement in TCSP business forms part of the legal practice in only a small number of Practices. This key ML vulnerability associated with the legal profession is not part of the core delivery service of Isle of Man advocates. A number of Practices have established separately licensed entities providing TCSP services. These businesses are supervised by the FSC as TCSPs with their associated risks are separately assessed.

DNFBPs — Accountants

The overall ML risk for accountants is assessed as medium.

In 2013 the Department of Home Affairs (DHA) identified approximately 234 firms or individuals active in the 'accountancy' field. There is no requirement currently for accountants to provide information for the NRA although support for, and responses to requests for information during this process from the professional bodies (ICAEW / ACCA¹⁰) to which over 80% of accountants are attached and supervised were excellent. Data was generally limited however with information provided largely anecdotally and evidence limited to the professional conduct standards of the professions.

The Designated Businesses Act, which comes into force in October 2015, will ensure that all registered Firms of Accountants and those representing themselves as Accountants are obliged to submit an AML specific annual return to the FSC. As this Bill is not enacted at the time of this report, it is noted but not considered a mitigating factor in further reporting.

The professional bodies will continue to provide guidance and collect data on AML and other regulatory purposes for and from its Members; much of which will likely remain relevant to the overall assessment. Co-ordination between the FSC (which will have oversight responsibility for Accountants) and the Professional Bodies as the self-regulatory bodies will be imperative, with the Bill making provision for supervisory duties to be 'delegated' to the professional bodies.



The Designated Businesses (Registration and Oversight) Bill when in force will ensure that all registered Firms of Accountants and those representing themselves as Accountants are obliged to submit an AML specific annual return to the FSC.



¹⁰ Institute of Chartered Accountants in England and Wales / Association of Chartered Certified Accountants

6. Next Steps – Sectoral Level

There are a number of common themes across the sectors which, if addressed, would serve to help manage sector vulnerability to ML further. These are summarised below.

A focus on SARs is needed to ensure that there is a high level of awareness of what is required, to reduce defensive reporting and to ensure that SARs are completed in a manner that enables them to be effectively reviewed and where required, analysed by the FCU. The introduction of an online SAR reporting system at national level will be a significant step forwards and should assist the sectors in respect of improving SAR reporting.

Improved data collection for AML / CFT purposes is required generally. All sectors reported that much of the data that would enable better consideration of threats was not available or not in a manner that made it accessible for risk assessment purposes.

Evidence that administrative¹¹ and criminal sanctions were being applied was generally lacking across all sectors. Sanctions are intended to act as a deterrent as well as addressing unacceptable or criminal behaviour. Therefore consideration will be given as to how the level of transparency in respect of administrative sanctions can be

improved; whether more specific guidance is required for industry as to when and in what circumstances administrative sanctions will be applied. Also, further consideration as to whether more specific guidance is required on where serious administrative failings become a criminal matter and whether, in respect of criminal sanctions, Government needs to restate its commitment to enforcement.

Supervision, compliance functions and corporate due diligence generally were variously identified by certain sectors as requiring consideration, and will be a particular area of focus for those DNFBPs who will shortly come under the Designated Businesses Act 2015. Actions on each of these areas vary somewhat dependent upon which sector they relate to. The DNFBP Bill itself, which will come into force later in 2015, represents a significant milestone and will both enable and require the progression of further work for the non-financial sector in respect of training, guidance and supervision for ML purposes.

¹¹ Administrative sanctions are sanctions available to regulators who can impose them for breaches of the regulations. Sanctions can include issuing warnings, directions, imposing fines or in the final instance removing a licence and thereby closing a business.

7. Terrorist Financing Risk

TF risk was considered by a working group consisting of representatives from law enforcement (FCU), the Customs and Excise Division, HM Attorney General's Chambers, the Financial Supervision Commission and the Cabinet Office using the TF module provided. Annex III sets out the policy of the Isle of Man Government in respect of complying with international sanctions against terrorism and the financing of terrorism and the way in which this is achieved for the Island.

There is little evidence of the Island having been at risk from TF in recent years, with few SARs relating to TF being submitted to the FCU. Whilst however there is no indication of TF taking place domestically, the use in particular of the Isle of Man's sophisticated financial services sectors by a terrorist group or a terrorist financier elsewhere than in the Isle of Man remains a threat.

Where appropriate, law enforcement and regulators on the Island have and will continue to co-operate fully with agencies of other jurisdictions, and examples can be provided of such co-operation with, for example, agencies from the UK and the USA.

The Island has ensured that its legislation is adequate to enforce any sanctions or other restrictions necessary, including the Terrorism and Other Crime (Financial Restrictions) Act 2014, which came into

operation with effect from 1 January 2015. In addition, all relevant UN and EU sanctions relating to terrorism financing, as well as relevant UK measures, have also been fully imposed; and there has been information and guidance provided to businesses specifically about TF sanctions and the risk of proliferation funding. The lists of those designated persons, businesses and entities subject to sanctions are maintained so that they match those in the UK.

Customs and Excise is concerned with sanctions and export and trade control measures, and has a close working relationship with the HM Treasury, Foreign and Commonwealth Office, UK Export Control Organisation, as well as with HM Revenue and Customs, Border Force and the National Crime Agency. Thus there is generally a good level of awareness locally of the related risks in the local law enforcement and regulators.

The NRA has also highlighted the need to continue to work with Not for Profit Organisations (NPOs) to raise awareness of the risks connected with TF. A number of charities based in the Isle of Man do fund, either directly or indirectly, charitable projects in regions of the world where the risk of monies being appropriated for TF are high. Amongst these groups is the Government's own International Development Committee, which disburses grants, some of which are of significant amounts, to small NPOs.

8. OVERALL ASSESSMENT OF NATIONAL MONEY LAUNDERING RISK

Domestic money laundering threat

The main crimes that generate the proceeds of crime domestically in the Isle of Man are local drug dealing and local theft. Manx residents are however on occasion involved in ML and criminal activity with links that are both domestic and outside of the Island (see also under International Threats below) and such cases can be significant.

It is the case that where persons resident in the Island are found to be involved in ML internationally, and potentially the related predicate offences, then the impact of such a case is significantly greater both in respect of the call upon law enforcement resources to address such offending and the potential impact upon the international reputation of the Island.

Nevertheless, of the ten cases that resulted in convictions related to ML in 2013, all were domestic in nature and four of them were drug related. Currently, estimates for the volume of undetected ML occurring domestically and the value of the proceeds of crime in circulation in the Island do not exist.

A survey of over 50 governmental, law enforcement and industry representatives in November 2014 captured the perception of ML from individuals with a close involvement with AML work of the domestic ML risk in the Isle of Man. The results reflected the view that the risk of ML does exist; that the size of the proceeds of crime in the Island is seen as medium low and that non-resident tax evasion and fraud were believed to be the primary predicate offences. Predicate offences were considered to take place off-Island and the risks to the Island concerned layering, which is the stage of the ML process designed to disguise the origin of illicit funds. Business from the UK was considered to present the greatest source of threat, in particular because of the volumes concerned. Research and analysis undertaken later as part of the NRA process largely supports these perceptions.

Overall the NRA group considered that the Manx population is predominantly law abiding and that there was evidence for this both in respect of the consistently low crime statistics and also from other sources. For example, domestically there is evidence that there is a high level of tax compliance as seen in relation to indirect tax.



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International money laundering threat

The Island's economy is primarily financial services based, and financial flows into and out of the Isle of Man each year are numbered in the billions of pounds. These are significant financial flows and they represent a very real potential for illicit money to enter and to flow through the Isle of Man, in particular as part of a layering process. Furthermore, the Isle of Man's financial services are characterised by non-face-to-face business relationships which require rigorous customer due diligence (CDD) systems.

The largest financial sectors in the Isle of Man are banking and insurance. These sectors are well established, comprising substantially branches and subsidiaries of large multinational firms that are familiar with operating within international AML frameworks. The Island's small population and the comparatively small size of the domestic economy, allied to the fact that the vast majority of financial services clients are resident outside the Island, suggests that most predicate offences take place outside of the Isle of Man.

Domestically, the number of trials and convictions of individuals who have taken part in the ML of illicit proceeds from abroad is very low, with the 2009 case concerning Trevor Baines remaining the most notable (and currently most recent) case. In summary, during October 2009 husband and wife Trevor and Wendy Baines, Isle of Man residents, were convicted of laundering US \$175 million of proceeds from a securities fraud in the USA in addition to false accounting. Mr Baines was sentenced to a term of 6 years' imprisonment for the offences. He appealed but the sentence was upheld by the Appeal Court¹².

Outside of the Baines's case, the assessment process concluded that tax evasion and fraud are the most likely external threats to the Isle of Man.

¹² Link to the Appeal Court judgment: <http://www.judgments.im/content/J1106.htm>

9. International perspectives and perceptions

International perceptions of the Isle of Man in respect of its efforts to combat ML are known to vary. Organisations monitoring global standards recognise that the Island has taken a leading role and has a strong record of compliance. However, notwithstanding this recognition, it remains the case that the stereotype of a “tax haven” is often perpetuated when the media and certain lobbying groups refer to the Island. Furthermore, complex financial issues are often cited in oversimplified and generalised terms for added impact.

This position has remained largely unchanged over recent years and in particular following the financial crash. It is recognised that in lobbying campaigns by some international Non-Government Organisations (NGOs) and advocacy groups against tax avoidance activities, the Isle of Man is often generically included among the world’s “tax havens”, regardless of the Island’s demonstrable record of compliance.

In respect of published data, research by groups which have assessed transparency against a number of criteria, positions the Isle of Man in the middle regions of league tables. Other published information is also available, including a study to ascertain the ease with which shell companies¹³ can be

established in jurisdictions. During this research, by Australia’s Griffin University, the Isle of Man was identified as one of the more difficult countries in which to establish a shell company¹⁴.

However more recently, in May 2014, the UK National Crime Agency (NCA) published its “National Strategic Assessment of Serious and Organised Crime” (“the Strategic Assessment”)¹⁵ which states in the Executive Summary (page 4) that;

“Proceeds of corruption and bribery amounting to millions of pounds from some international politically exposed persons (PEPs) have been laundered through UK financial systems including banks and investment property. [...] The UK and its dependent territories are believed to have been the destination for billions of pounds of European criminal proceeds.”

The Strategic Assessment goes on to identify that a large proportion of the profits from serious and organised crime, laundered through UK banks, wire transfer companies and other regulated businesses, is sent abroad and invested in real estate. Whilst the Isle of Man is not specifically identified in the report, clearly as the UK is the Island’s largest financial services trading partner, such statements highlight the need for vigilance.

¹³ A shell company is a company without active business operations or significant assets

¹⁴ <http://www.gfintegrity.org/wp-content/uploads/2014/05/Global-Shell-Games-2012.pdf>

¹⁵ <http://nationalcrimeagency.gov.uk/publications/207-nca-strategic-assessment-of-serious-and-organised-crime/file>

A further key document which is relevant to the Isle of Man's NRA is the UK National Risk Assessment of Money Laundering and Terrorist Financing¹⁶. This report was published in October 2015, some months after the Isle of Man's own National Risk Assessment was finalised. The Island did not have sight of the UK assessment prior to publication. However given that the UK is by far the Island's largest trading partner in financial (and other) services this UK assessment is relevant to the Isle of Man and would have formed a part of the evidence base for this NRA had it been available at the time. Consequently, an Annex IV has been included with this report which seeks briefly to address a number of relevant issues identified within the UK NRA.

The purchase of real estate using the proceeds of corruption is the subject of a report by UK Transparency International (March 2015) "Corruption on your Doorstep: How Corrupt Capital is used to Buy Property in the UK". (the Corruption Report)¹⁷.

The Corruption Report identifies that 8.5% (or 3,472) of London properties held by foreign companies are incorporated in the Isle of Man and suggests, but does not substantiate, that those types of arrangements may be used for ML. The report further suggests that;

"The role of the Isle of Man incorporated companies is disproportionately large in criminal cases of grand corruption in the UK."

The Corruption Report concedes that it is hard to draw accurate conclusions from the evidence as the outcome may be the result of Isle of Man authorities working more collaboratively than others with the Metropolitan Police. From the viewpoint of TCSP regulation and AML/CFT prevention the report is a useful reminder of the importance of source of wealth in considering higher value transactions.

The Corruption Report also draws attention to the importance of effective AML/CFT precautions in DNFBPs¹⁸. At the time of writing, a review is being conducted by the UK's NCA and the Isle of Man's authorities with the aim of identifying companies cited in the report. It is anticipated that the review will produce information for regulators and possibly typology information for industry.

¹⁶ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/468210/UK_NRA_October_2015_final_web.pdf

¹⁷ <http://www.transparency.org.uk/publications/corruption-on-your-doorstep/>

¹⁸ In August 2015 the NCA was able to confirm that all but one of their investigations into entities in the Isle of Man are complete without recourse to restraint and confiscation in the Island. The final investigation is into a complex structure with one company in the Isle of Man, and whilst convictions have been obtained and confiscation hearings are ongoing, none are on the Isle of Man.

10. Domestic and international threat indicators and data

There are a number of indicators available which can help to assess the level of the ML threat facing the Isle of Man. One of these indicators is the types and volumes of SARs received by the Isle of Man’s FIU. Industry’s compliance with the requirement under law for individuals/firms to file SARs with the FCU provides a key source of information from which intelligence can be drawn. The data available from SARs helps to provide an overall picture of

potential threat in respect of business undertaken at a jurisdictional level. Figure 1 shows the level of SARs received by the FCU from each sector for the year 2013.

Whilst SARs are a key data source for financial intelligence, it is acknowledged that they are indicators only and that many SARs are filed on a defensive basis. Quality also varies with a significant minority of SARs not fully completed and missing key information. The issues concerning the production of SARs, the transmission of the information to the FCU and the levels of analysis which they then receive are discussed in more detail later in this section.

Figure 1. Originator sector breakdown of Suspicious Action Reports received by the Financial Crime Unit (2013)

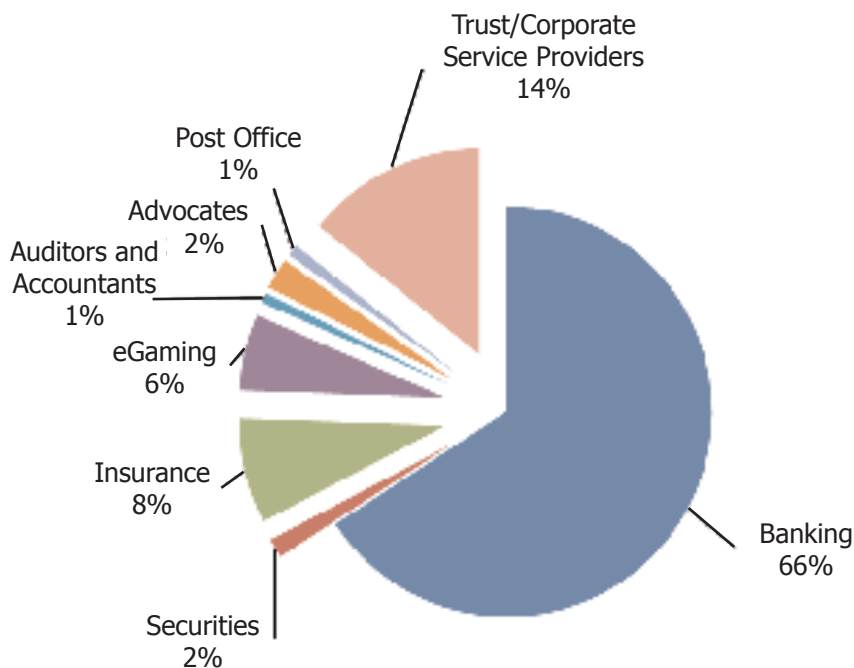


Figure 2. Suspicious Action Report originator contribution to GDP (2012 -13)

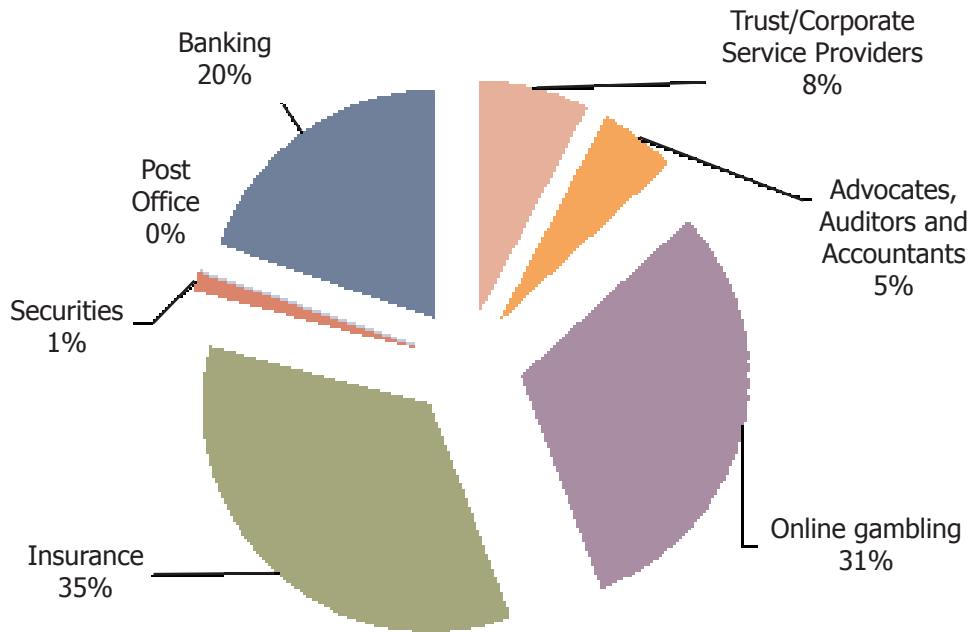


Figure 2 illustrates the proportional size of the sectors generating SARs measured against each other (based upon GDP calculated for the financial year). Banking, online gambling and insurance are all significant contributors to GDP and it can be seen in Table 1 that they, along with the TCSPs, contribute the largest numbers of SARs.

Table 1. Number of SARs to FCU

| SECTOR | 2011 | 2012 | 2013 |
|-----------------------------------|------|------|------|
| Banking | 1162 | 711 | 995 |
| Securities | 35 | 22 | 23 |
| Insurance | 168 | 129 | 125 |
| Online gambling | 992* | 59 | 91 |
| Auditors and Accountants | 9 | 17 | 12 |
| Advocates | 60 | 46 | 37 |
| Post Office | 3 | 6 | 14 |
| Trust/Corporate Service Providers | 216 | 196 | 216 |

*The sharp decline in SARs from the online gambling sector from 2012 onwards is attributed to a change in approach from one large online gambling firm following clarification from the FCU concerning criteria for making SARs.

Table 1 above provides a breakdown of SARs received by the FCU by sector, with banking providing the majority. This reflects in part the high level of understanding, awareness and compliance with the technical aspects of the AML Code by the banking sector as well as the very high volume of assets and liabilities within the sector.

The threat assessment also considered a number of other factors including the number of international cooperation requests received by jurisdiction and assets and liabilities from financial sectors measured against SARs, where there was information relating to the residence of the client attempting the

transaction. The level of financial exposure to jurisdictions with recognised high threat levels of ML was also considered.

In 2013 79% of SARs received (459) was in relation to the UK. This was not surprising; there are close economic, geographic and historic links between the Isle of Man and the UK and as a consequence a significant amount of financial activity takes place, in particular between the Island and the City of London. As the largest financial partner for the Isle of Man the UK is by far the most frequently reported jurisdiction in terms of SARs.

The levels of exposure to jurisdictions which have a recognised high threat of ML must be considered relative to the Island's exposure to the UK which has been recognised as having a very high level of financial integrity and formalisation. Yet the UK represents almost a third of the Isle of Man's total SARs to the FCU and over 50% of the mutual legal assistance requests handled via HM Attorney General's Chambers (AGC).

If the UK, with its high compliance and low ML ranking is used as a benchmark, then one point of view might be the Isle of Man is not exposed to severe ML threats internationally. However it is very important to consider that the business being transacted from the UK to the Isle of Man is not typically standard retail financial services and corresponding low risk individuals.

At sectoral level, banking dominates threat indicators in terms of both the SARs received and the requests for mutual legal assistance (MLAR) concerning ML sent to the AGC from other jurisdictions. The number of MLARs per sector falls generally in line with the number of SARs per sector, except in the case of insurance, where only one MLAR concerning the sector was made during a six year period although 8% of SARs received by the FCU were from the insurance sector in 2013.



As the largest financial partner for the Isle of Man the UK is by far the most frequently reported jurisdiction in terms of SARs.



Figure 3. Breakdown of Mutual Legal Assistance Requests by sector since 2009

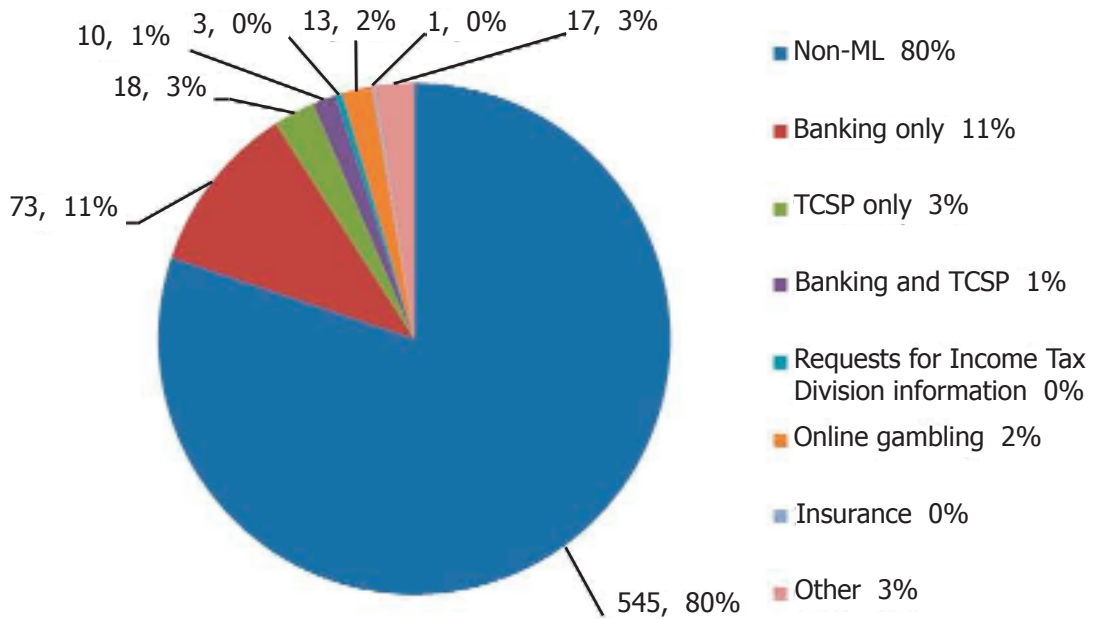
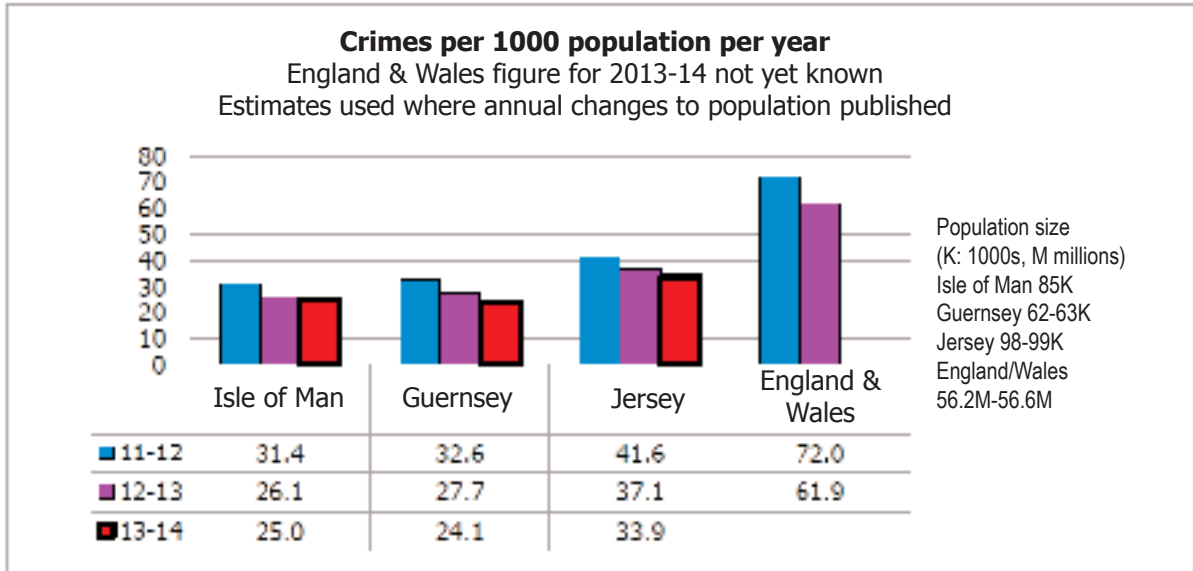


Figure 3 above illustrates the % breakdown of MLARs per sector between 2009 and Spring 2015. MLARs in respect of the banking sector comprised the largest element in over 50% of ML related MLARs.

Indirect evidence indicates that the level of informal economic activity taking place in the Island is, as with most countries, predominantly cash based and therefore at a relatively low level. With a top rate tax of 20% higher rate of income tax, the levels of tax recovered from individual tax investigations is such that cases are settled by way of civil monetary penalties rather

than as criminal tax evasion.

The Isle of Man's crime per capita is shown in Figure 5 below, giving an indication of the relatively low rates of crime recorded in the Island in recent years. Overall, convictions for ML offences domestically have been rare. In 2013 only ten convictions took place relating to ML, in comparison to 37 convictions in 2012 and 45 in 2011. None of the cases represented high volume ML.



*Source: IOM Chief Constable’s Annual Report 2013/14

11. Challenges, deficiencies and gaps in data collection

The threat assessment process has highlighted that there is a need to obtain improved data in order to undertake a more detailed analysis. In some key areas the data that would better inform the risk assessment process does not exist.

The absence of a Central Bank and a lack of any institutional requirement to collate central trade statistics prior to the NRA has resulted in the need to use the financial information that is currently available. In particular, aggregated data that was predominantly obtained from the banking and insurance sectors (by far the largest

financial sectors) via the relevant regulators.

There were further challenges in respect of data collection. For example, financial data by jurisdiction for the securities and TCSPs is only collected on a broad geographic basis, so a more detailed breakdown is not possible.

Online gambling is another area that represents a significant portion of the export economy yet data on financial flows is not routinely collected. The online gambling sector and the GSC are now undertaking some work in this area but the data collection could not be finalised in time for this NRA report. This has effectively limited the available NRA sector financial data to banking and insurance.

Banking data was made available but further analysis is currently ongoing which has meant that cash flow for banking by jurisdiction has not been available, although this is expected to be resolved shortly. Assets and liabilities by jurisdiction have been used instead during the threat assessment.

More effective data collection in respect of individual ML convictions in the Isle of Man is also required. For example, while the number and names of convictions relating to ML in 2013 are known, the acquisition of specific details from each case (i.e. determining the sectors involved; predicate offences etc.) is a labour intensive task as this information has not previously been captured in an accessible manner.

Information from other jurisdictions following responses from the Island to requests for information (e.g. successful convictions derived from shared information; amount of assets seized etc.) would also be helpful in determining how often and in what manner financial services in the Isle of Man may be used to launder money. However, it is acknowledged that currently there is little feedback, and the National Risk Assessment working group has identified the need for the Isle of Man to acquire more. The issue of international cooperation is dealt with later in this NRA.

12. Actions required to improve data/statistics on crime

A framework for collating and updating threat assessment data for future NRAs will need to be agreed. Financial flow data, SAR data, details and typologies from ML-related convictions in the Isle of Man, numbers of MLARs received by the AGC, cash declarations and cash seizure data from Customs and Excise are amongst the data which requires collation into a standardised format; some at least of this data should also be held centrally. A review of precisely what data should be provided for NRA and in what manner is one of the key actions that will flow from this process. Further work will be required to assess which data that is not currently available should be collected in the future, in order to improve the NRA process. These actions, implemented properly, should allow for much greater efficiency and level of analysis for future NRA.

Implications

The Isle of Man’s exposure to recognised high risk jurisdictions is relatively small; the vast majority of financial services activity takes place with low risk and FATF compliant jurisdictions (albeit that the type of business undertaken with the UK is higher risk, as stated earlier). There is no reason to suppose however that the Isle of Man is immune to the typologies identified by the FATF and other international bodies as prevalent in particular sectors. However, the data deficiencies highlighted above limit the messages that can be given concerning ML threat for this first NRA.

Further planning is required to allow for more thorough and accurate threat assessments in the near future. It is recognised that a focus on key data sets is required in addition to the organised and sustainable collection of data; the provision of adequate data collection resources; and a granularity of detail and an understanding of the typologies used by money launderers to target the Isle of Man.

It is acknowledged that until an improved level of data collection is achieved, it is very important to maintain continued awareness of the risks faced by all the “gatekeeper” institutions in the Island.

Consideration will need to be given to how information identified from the threat assessment could best be shared more widely within Government and with industry to inform measures which help to identify and combat ML. This will gather more importance as actions to improve the collation and analysis of data are developed and more intelligence on potential threats becomes available.

13. OVERALL ASSESSMENT OF NATIONAL VULNERABILITY TO MONEY LAUNDERING

National combating ability

The term ‘combating’ refers to the ability to defend against attempts at ML by using a range of protective and proactive measures, the nature of which can vary depending upon whether it is at national or sector level. The national picture is explored in this section which looks at, for example, the strategic approach of Government and the work of the FCU.

National priorities for improvement

1. Capacity and Resources for Financial Crime Investigations
2. Quality of AML Policy and Strategy
3. Quality of FIU Intelligence Gathering and Processing
4. Effectiveness of International Cooperation
5. Effectiveness of Customs Controls on Cash and Similar Instruments
6. Quality of Border Controls

For reasons that are explained later, priorities 5 and 6 are considered to be of less importance than otherwise indicated. Additional issues were also identified, although not as priorities, and actions developed as a result.

14. Identified priorities for improvement (1-6)

Improvement priority 1 — Capacity and resources for financial crime investigations

The capacity for financial crime investigations is restricted by the current resources available, limited access to specialist support (e.g. analysts) and a need for training as Accredited Investigators and Financial Crime Officers. This results in a lack of specialisation amongst the current staff. Financial Crime Investigation sits within a broader FCU which, whilst it has the requisite autonomy and political independence, also creates difficulties through competing demands for time and resources in other (domestic) policing areas. Broader strategic and resource issues that affect the Constabulary impact directly upon the FCU with officers abstracted to other casework and indeed operational duties.

Recent planned police retirements from the FCU, coupled with the broader strategic and resource issues affecting the Constabulary has resulted in a decrease of experienced officers in the FCU with the required AML specialist skills. The situation is compounded due to the absence of any formal AML training specifically targeted to meet local conditions. The FCU is also staffed by Customs and Excise officers seconded for periods of two to three years although no Customs officers have been appointed as Officers in Charge of financial crime investigations. It is acknowledged that whilst these are short term issues, the longer term need for succession planning and training needs to form part of the modus operandi.

It is important to note that the current backlog of cases is low but this may be more a reflection on the inability to spend time on detailed analysis and investigation of cases where the Isle of Man may be a nexus to international based cases. Further, it is possible that a more expert system of analysis of SARs and reports would guide officer investigations better to identify and assist a more proactive approach with industry where professional firms are repeatedly involved in suspicious cases and where the proportion of reports received from a sector or business area are disproportionately low.

Actions have been identified to resolve issues concerning training, which will assist in bringing the investigative functions up to standard. The progression of a wholesale review of the internal structure and staffing levels available within the FCU is required and, overarching this, a broader strategic review of the organisational structure of the FCU. Again, this is now underway with the appointment by the Chief Secretary of a body to lead this review work. In the meantime, measures need to be put in place to address the current need for more financial crime investigators, specialist support and alternative resourcing models explored to help to cope with the current demand.

The Serious Crime Strategic Board ("SCSB") a senior multi-agency body which oversees the FCU, has an Action Plan in place which is being progressed that addresses issues such as role profiles and job descriptions, succession planning, a Service Delivery Plan, performance monitoring and other improvements which need to be implemented.

Improvement priority 2 — Quality of AML policy and strategy

The national cooperation and coordination of AML/CFT policies in the Isle of Man is led by the AML/CFT Strategic Group. The Strategic Group does not have political representation, nor is it established in law or regulation, but it is however a body designated by the Council of Ministers. The Strategic Group reports directly to Council via the Chief Secretary, who is the most senior civil servant in the Island and is Chair of the Strategic Group. This model is considered to be effective in a small jurisdiction such as the Isle of Man. There are a number of Government and consultative groups now established which have remits that encompass aspects of AML/CFT and which report to the Strategic Group either directly or via the AML/CFT Technical Group.

In June 2012 the Isle of Man Government published its policy on “Commitment to Tackling Money Laundering and the Financing of Terrorism and Proliferation”. Although the Government has not yet published its strategy to achieve these aims it will be better placed to consider the content of such a strategy once this formal and comprehensive NRA process is finalised.

The adoption and implementation of a risk-based assessment from the perspective of regulators, financial institutions and DNFBPs, as well as Government will in some areas be challenging and will represent a culture change for many. It is recognised that the Isle of Man is currently at the early stages of this process. Furthermore, working with DNFBPs at a national level will be facilitated by the Designated Businesses Act when it comes into force in October 2015.

Completing both the NRA process and securing agreement to the Action Plan arising out of the NRA will be key milestones. The Strategic Group will need to consider the contents of a strategy for the Isle of Man informed by the NRA process and make recommendations to the Council of Ministers accordingly.

Subject to Council’s agreement, a review should be undertaken into whether the reporting framework for AML/CFT is appropriate and whether all bodies with an AML/CFT remit are working effectively together and advice taken on the implications and advisability of legally establishing the Strategic Group. The coming into force of the legislation to introduce regulation for the DNFBP sector will also be a significant step forward in AML/CFT policy and strategy. Annex II includes a diagram setting out the current relationships between the relevant AML/CFT bodies and a brief explanation concerning their roles.

Improvement priority 3 — Quality of FIU intelligence gathering and processing

The main issues identified in the quality of FIU intelligence gathering and processing are limited resources, limited specialised training, frequent abstracting of officers to work on non-financial crimes and a lack of meaningful data recovery from SARs. As staff are not ring fenced, they are at times extracted to assist with other investigations and operational duties to meet broader agency demands. Constrained financial resources have had an impact on the headcount, skills and training of officers, and in their capacity to investigate all SARs. A risk based approach has therefore, been deployed based on the resources available. A more advanced management information system and in particular the automated filing of SARs to the FIU would help mitigate some of the resourcing issues.

The FIU is staffed with experienced and committed law enforcement officers, but training as Accredited Investigators or Financial Intelligence Officers is required. This is important not just for effectiveness but also so that there is a recognised level of expertise in court as part of any prosecution process.

There is an established SAR reporting system in place which is considered to be reasonably effective. Accuracy and completeness of SARs remains an issue however and the proper use of SARs varies amongst sectors, in that the more established and institutionalised insurance and banking sectors have higher reporting standards and reporting frequencies than sectors which are characterised by many small firms and partnerships. This potentially heightens vulnerability in the smaller sectors, though it should be remembered that they are either much smaller in economic size or are substantially less effective for ML.

The NRA process has identified that more work is required to streamline the process and to improve the content and therefore the amount of meaningful data within SARs. Incomplete SARs for example are a regular occurrence as is 'defensive' reporting. The processing, analysing and dissemination of SARs is largely performed manually, as there is not currently an automated reporting system. There is however a project which is well advanced which will see an online reporting system introduced which is expected to become fully operational in 2015.

A further identified deficiency was highlighted in the 2009 IMF report¹⁹ of 2009 (Recommendation 26) in that there was no formal power of access to information for FIU analytical purposes. The lack of powers to request further information in support of ongoing investigations in order to improve the quality of investigation is also a noticeable absence in the Island's AML/CTF arsenal.

¹⁹ 'Isle of Man; Detailed Assessment Report on Anti-Money Laundering and Combating the Financing of Terrorism' IMF 2009

Improvement priority 4 — International cooperation

As an international business centre, the composition of the Isle of Man's economy is heavily dependent on export-based financial services. The majority of the Financial Services' client base is therefore not resident locally. It is of paramount importance therefore that the Isle of Man demonstrates efficient, effective and proactive cooperation and assistance to other countries in obtaining and providing information in relation to investigations into financial and other crimes.

The major international cooperation treaties extend to the Isle of Man and the Island is compliant with the FATF recommendations

on international cooperation and is a member of Egmont²⁰. Furthermore, the Island co-operates fully with international enforcement organisations such as Interpol and Europol. The Isle of Man has a strong record of international cooperation which is evidenced by the effectiveness with which MLAR are dealt with.

Mutual Legal Assistance/International Letters of Request and Asset Recovery Requests for Mutual Legal Assistance, made by way of ILOR are submitted to and dealt with via the Attorney General's Chambers (AGC).

The response time and effectiveness of the Attorney General's Chambers to MLA is set out in Table 2. Over 50% of requests are resolved within a 6 month time frame.

Table 2. International letters of request

| ILORs | 2014 (to 03.12) | 2013 | 2012 |
|-----------------------------------|--------------------|------|------|
| Received | 58 | 85 | 80 |
| Refused | 0 | 1 | 0 |
| Executed within 4 months or less | 24 | 39 | 60 |
| Executed within 4 to 6 months | 8 | 15 | 1 |
| Executed within 6 to 12 months | 1 | 4 | 4 |
| Unable to assist ²¹ | 6 | 16 | 10 |
| Ongoing | 18 | 3 | 2 |
| Trust/Corporate Service Providers | 1 | 7 | 3 |

²⁰ Egmont is an international group of Financial Intelligence Units which meets regularly to meet regularly to find ways to promote the development of FIUs and to cooperate, especially in the areas of information exchange, training and the sharing of expertise.

²¹ Since the introduction of the Proceeds of Crime Act in 2008 there have been no instances of the IOM being unable to assist because the legislation prevented it, other than in relation to 1 ILOR shown on the above table as refused. Where the IOM has been unable to assist this is because of practical rather than legal barriers. For example it is not uncommon to discover that a bank account referred to in the MLAR is held in the UK or the Jersey branch and not in the IOM. Over the past few years there have been a number of ILORs from Germany where a false IOM address has been given. In respect of the refusal, a request for assistance was received issued by a private firm of solicitors on behalf of their client wishing to bring a private prosecution. The IOM's international cooperation regime is specific to public investigating or prosecuting authorities.

The AGC provides assistance to other jurisdictions in respect of recovering assets which are the proceeds of crime; however, as with many jurisdictions, the amounts restrained and confiscated as a result of mutual legal assistance requests are relatively modest but at the same reflect a full cooperation with the requests received. Civil recovery is possible but is relatively rare; the last time that a civil recovery order was made was in 2011.

The Isle of Man Government also cooperates internationally on high level, complex cases, engaging not just with other law enforcement agencies and regulators, but also with other agencies outside the Island, engaging at the same time domestically with regulated businesses and the authorities to achieve positive outcomes.

• Tax information exchange and cooperation on VAT matters

The Island is a member of the Global Forum on Transparency and Exchange of Information for Tax Purposes (the Global Forum) which has 123 members. The Island was subject to a combined Phase 1 and 2 Peer Review by the Global Forum in 2010 and the report was published in June 2011^[1]. The executive summary of the report states that 'Experience to date shows that exchange of information has been effective and expeditious. In May 2015, the Global Forum re-published the ratings of 78 jurisdictions which had been subject to both Phase 1 and Phase 2 reviews. The Isle of Man remains one of only 20 jurisdictions to receive the top 'Compliant' rating.

Feedback provided by the Isle of Man's information exchange partners is very positive. The information requested is provided quickly and exchange of information partners are appreciative of the open and transparent relationship they have with the Isle of Man competent authority.

The Customs and Excise Agreement means that there exists a close working relationship with HMRC in the UK on customs, VAT and other indirect taxes, and import, export and trade controls. This extends to what might be seen as mutual assistance with, and the ability to recover the relevant taxes or duties on behalf of the UK. In essence, insofar as customs, VAT and the relevant excise duties are concerned, the UK and Island operate as if a single area.

In addition, the inclusion of the Isle of Man in the customs and fiscal (VAT and excise) territories of the EU has also led to EU legislation on mutual assistance in those matters being applied to, or adopted by, the Island. Hence, the Customs and Excise Division can provide mutual assistance in relevant matters to any Member State, and is even able to undertake mutual recovery action, having applied the elements of the EU Mutual Assistance Recovery Directive 2010 into Island law (thus allowing recovery of debts as if owed to the Island, instead of having to apply to the courts).

[1] http://www.oecd-ilibrary.org/taxation/global-forum-on-transparency-and-exchange-of-information-for-tax-purposes-peer-reviews-isle-of-man-2011_9789264115002-en

The application of EU customs law to the Island has also enabled Customs and Excise to take advantage of mutual assistance agreements between the EU and third countries to provide information and assistance.

The standard of international cooperation provided is considered to be high, but it could be improved further in certain areas by improved resource management and better evidence of cooperation by maintaining more comprehensive statistical data. On the latter, the preparation of the National Risk Assessment has identified key areas which have impacted upon the Island's ability to provide the necessary level of supporting statistical data.

- **Obtaining feedback**

The first area identified for improvement is feedback. Whilst the Island has historically sought feedback from countries requesting assistance concerning the value of information provided by way of mutual legal assistance, the general low levels of response over time have led to this no longer being pro-actively requested by many of the competent authorities.

It has been recognised during the NRA process that this seeking of international feedback on the value of information provided, needs to be re-energised and requests by the Island for feedback on the value/use made of information provided, will in future be included when a mutual legal assistance request is dealt with.

In relation to tax information exchange, whilst feedback is proactively sought and the level of feedback is reasonable there remains room for improvement. This matter has been raised at the level of the Global Forum. The confidentiality provisions of the Island's international taxation agreements have also proved problematic in obtaining key data for the NRA as they preclude the Assessor of Income Tax providing statistical data. For example even details of the number of tax requests received annually from other jurisdictions (broken down by country of origin) were not capable of being shared for National Risk Assessment, or for other domestic intelligence purposes. Partner jurisdictions are particularly sensitive to disclosure of such information, and so while the NRA project could consider the data in aggregate, country specific information had to be precluded, otherwise a breach of treaty would occur.

Whilst disclosure has in one or two instances been agreed on a bilateral basis, the absence of unilateral agreement renders this of very limited value. The importance of access to tax information exchange data for other purposes is however becoming more widely recognised and continues to be raised at an international level.

• ILORs

A further area which was identified concerns the domestic response to MLAR/ILOR. The potential intelligence available from MLARs has not been harvested systematically in the past. This would enable a more focused scrutiny of entities and/or individuals based in the Isle of Man to be undertaken. Further clarity has been obtained during the NRA process concerning the ability to use information as a catalyst for domestic Isle of Man financial investigations and progress in this area is now expected. Collating the data to review effectiveness in international cooperation for the NRA has also highlighted the need for such statistics to be kept centrally and updated regularly, so that the numbers received and the effectiveness of the Isle of Man's response can be monitored at a national level.

• Demands upon resources

In the medium term, as the reporting obligations in (FATCA and the Common Reporting Standard (CRS) agreements take full effect, there is likely to be an increase in international requests for information to the Isle of Man Tax authorities and to the Attorney General's Chambers. This will need to be closely monitored to ensure that there are sufficient resources available to meet any increased demand in this area.

Improvement priorities 5 & 6 — Effectiveness of customs controls on cash and similar instruments and quality of border controls

The effectiveness of customs controls on cash and similar instruments as both a source of vulnerability and a priority for improvement was identified by the NRA.

However, this in part reflects the application of the model that was used to larger, sovereign states with a full suite of border controls and a lower level of financialisation of the economy. While the scope for smuggling cash into the Isle of Man does exist, placing it within the financial system in the Isle of Man is particularly difficult, due to the low tolerance for large sums of cash in Isle of Man's financial services and the AML controls in place.

The main potential sources of threat are illicit cash, criminal property and drugs. There are no customs barriers between the Isle of Man and its closest neighbours or any fixed border controls to check the movement of people. This is a consequence of the Island's constitutional nature as a Crown Dependency of the British Crown, the establishment in law of the Common Travel Area (CTA) which protects free movement between the UK, the Republic of Ireland and the Crown Dependencies and the customs union between the Island and the UK under the Customs and Excise Agreement 1979.

The Isle of Man is also part of the customs territory of the EU under Protocol 3 to the UK Act of Accession. As a result there is a free movement of passengers and freight between the UK and the Isle of Man.

There is no requirement for persons entering or leaving the Isle of Man to make any declaration or present themselves to customs or immigration officials except in specific circumstances (e.g. when passengers arrive directly from outside the CTA or when persons are carrying cash amounting to over €10,000). Although passengers need to declare movements of cash over €10,000, there is no enforcement of disclosure requirements. Occasionally Isle of Man Constabulary and Customs and Excise undertake exercises including stops and questioning. If good intelligence is provided to either the Police or Customs and Exercise then it is acted upon.

“Cash controls” on persons entering or leaving the Island do exist with seizures of cash regularly taking place at both the ferry port and airport. In addition, Customs and Excise has put in place an outreach and awareness-raising programme involving port and airport operators, security personnel (including private security staff), express courier and freight businesses. The aim of this programme is to heighten awareness of the risk of undeclared cash, and the proper means of dealing with any detection. .

There have been a number of seizures based on these existing procedures. A number of actions have been identified which the Isle of Man can undertake in order to raise its national combating ability in this area. In particular and as a result of the NRA there has been improved co-ordination between Customs and Excise, the Police, the Department of Infrastructure (responsible for ports/airports and their security), the Port Security and the private sector.

15. Other national level issues

Two additional national level issues have been identified during the NRA process. These issues are de-risking and convertible virtual currency: both of which are summarised below.

• De-risking

De-risking is the phenomenon of financial firms terminating or restricting business relationships with clients that they consider to present an unacceptable level of risk to the institution. Cross-border banking relationships (particularly with banks in developing countries), money or value transfer services and non-profit organisations are thought to be particularly affected.

The drivers of de-risking may include perceived or real weaknesses in the AML/CFT framework in counterpart countries; assessment of the risks of categories to which clients belong; cost/benefit considerations, or regulatory concerns following high visibility enforcement action. The consequence of de-risking is that both smaller institutions and particular economic segments may not be able to find alternative channels for financial transactions and as a result they must use informal channels, which can increase the threat of ML.

De-risking is not currently fully understood and has yet to receive comprehensive research, analysis and recommended actions at the international level. Within the Isle of Man, anecdotal information suggests that de-risking by some banks has taken place. De-risking has the potential to force local businesses to bank in other jurisdictions, which means that the Island's authorities may have no powers to freeze or arrest suspected proceeds of crime as the Isle of Man's POCA 2008 does not have extra-territorial effect. In some cases, businesses which are having problems establishing banking relationships may also seek to use alternative providers such as payment service companies.

The Isle of Man Government has not yet undertaken a full domestic analysis of de-risking, and as a result it has not been considered as a factor in the NRA project. However, it is expected to be a matter for fuller consideration in future NRA projects.

• Convertible Virtual Currency

The Isle of Man is one of the leading jurisdictions in terms of recognising convertible virtual currency (CVC which includes crypto currency). CVC is defined in the Isle of Man as the digital representation of value that can be traded and which functions as a medium of exchange, store of value or unit of account but does not have legal tender status. Importantly, it is not issued by any jurisdiction but fulfils the above criteria by its recognition by the

community of users. Schedule 4 to the Isle of Man's Proceeds of Crime Act 2008 (POCA)²², defines the CVC sector as a regulated business for AML/CFT purposes.

The international CVC sector has experienced significant publicity due to both its innovative nature and due to several high profile criminal activities and the use of CVC as a means to buy and sell contraband anonymously.

The Island is moving to recognise CVC as property rather than currency and to apply appropriate AML controls. Furthermore, the Government considers that ignoring the problem of potential criminal activity is to be negligent of the risks. The local CVC industry has existed since 2014, and is currently believed to include approximately 12 firms which are in some way involved actively in the sector. It is noted that around 22 individuals are estimated to work within the sector.

Due to the very small size of the CVC sector in the Isle of Man, and the current lack of data surrounding it, CVC has not formed part of the detailed analysis undertaken by the DNFBP sector, although some consideration has been undertaken in that report. Should the sector continue to develop locally, it will receive greater scrutiny if and when the Government decides to consider a full regulatory regime, which would be reflected in a future NRA process.

²² Schedule 4 of POCA refers to "the business of issuing, transmitting, transferring, providing safe custody or storage of, administering, managing, lending, buying, selling, exchanging or otherwise trading or intermediating convertible virtual currencies, including crypto-currencies or similar concepts where the concept is accepted by persons as a means of payment for goods or services, a unit of account, a store of value or a commodity".

16. SECTOR REPORTS **Financial Sectors and Designated Non-Financial Businesses and Professions**

Banking

Banks in the Island provide services to local and international personal customers, corporate and business clients (direct and introduced) and persons holding funds on behalf of others (e.g. wealth management). A wide range of products and services are provided including savings, current accounts, private and premier banking, investments, lending, treasury services and foreign currency accounts.

The banking sector in the Isle of Man is a fully regulated and supervised sector with prudential and conduct supervision in place, including AML / CFT. The assessment recognised that banks are also generally subject to wider group consolidated supervision and need to take into account not only local AML / CFT legislation in devising policies and procedures, but also that of their wider groups, which are mainly in jurisdictions considered to be equivalent for AML / CFT purposes. The assessment also took into account the impact of strong entry controls for the sector and requirements around internal audit functions.

The NRA took into consideration the size of the sector in the Isle of Man, including the importance of banking to the economy — banking currently represents approximately 8.5% (£330m) of the Island's GDP²³ — and the fact that certain banks are also important for the domestic economy due to the services they provide.

Banking sector vulnerabilities

The overall vulnerability was assessed as

medium, which took into account the AML controls in place, and the vulnerabilities of customers, products and services. Assessment of the AML controls found that the quality of these controls for the sector was medium/high and that no critical or urgent attention was required.

An assessment of vulnerabilities relating to identified customer segments was also undertaken. From a ML/terrorist financing perspective, the three most vulnerable segments (taking into account their estimated size) were assessed as non-resident individuals (HNW); corporate and trust entities managed by Isle of Man based regulated TCSPs; and international large corporations. This reflects a range of risk factors that are prevalent in these sectors, notwithstanding that banks do mitigate some of the increased inherent vulnerability through additional AML controls.

The NRA also identified that the FSC does not obtain information at present from each bank individually that would enable it to undertake a similar assessment of customer and product vulnerability at individual bank level.

Banking sector threats

The ML threat to banks was assessed as medium; the assessment noted that there is a lower domestic threat, but a medium international threat arising from persons / entities who wish to abuse the system to launder the proceeds of crime. It was generally considered that the ML threats are greater than the TF threats in the Isle of Man.

²³ Taken from the Isle of Man National Income Accounts 2012/13

The main sources of ML which are recognized at a global level are relevant to the Isle of Man banking sector because of its status as an international finance centre. The assessment concluded that the domestic threat of ML is mainly confined to self-laundering in relation to lower level drug related crime, petty theft and potentially more complex fraud / fiscal related matters. For the first two, the laundering of illicitly obtained cash is a core threat.

Where predicate offences occur off-island but the proceeds of criminal activity may flow through Isle of Man banks, the core threats arise from the following: white collar crimes such as fraud; drug related (usually domestically based); taxation and excise evasion and corruption and bribery (including embezzlement of public funds). Criminals may seek to target the Isle of Man to abuse the services and products provided by banks.

Most notable features include:

- Acceptance of cash (some international customers can make cash deposits)
- International transfers which are secure and fast
- Assets and stores of value (e.g. deposit savings, cash as security for loans, involvement in real estate transactions)
- Provision of services to “gatekeepers” who may abuse the system, for example foreign PEPs and professional intermediaries.

- Specific jurisdictional aspects as an international finance centre – e.g. non-resident and non-face to face business is accepted, criminals may view the country as safe and secure with easy access to the financial markets (cross border risks), interconnectedness with other professionals who are gatekeepers.

However, evidence shows that the banking sector is well aware of the threats and how its services and products may be abused such that it can mitigate the risks and reduce the potential for harm to the Island.

The main sources of information available to consider threats for this first NRA were Suspicious Activity Reports (SARs) and high level Mutual Legal Assistance Requests (MLARs). In relation to MLARs, since 1 January 2009 just under 11% of the requests received by the Isle of Man authorities relating to ML requested banking information only.

The information from SARs highlighted that the threat of international ML is far greater than the domestic threat; that nearly a third of domestic SARs related to cash activity and that the highest number of SARs relate to the UK which is consistent with the fact that the UK is a core market. Nearly 40% of all SARs were made due to fiscal concerns. This highlights that the abuse of the Isle of Man for tax related offences remains a threat.

The assessment recognised that, in addition to the number of SARs recorded by the FCU, there will be many internal disclosures made by staff of banks that do not result in SARs being submitted to the FCU. It is proposed that data on internal disclosures will be captured in the future by the FSC.

Summary and proposed actions

Taking into account the assessments of vulnerability and threat, the overall ML risk for the banking sector arising out of the NRA is considered to be medium.

There were no critical issues emerging for banking out of the NRA; nevertheless a number of possible improvements were identified and will be the subject of further discussion between the FSC and the banking sector. The main points are:-

- An enhanced feedback and reporting mechanism between the FCU, other government agencies, banks and FSC.
- The FSC to capture AML / CFT information²⁴ on an individual bank basis through standard reporting (e.g. annual returns, other data sources, utilize banks' returns to home regulators or group).
- Development of more sector specific guidance covering screening, and reviews of higher risk customers. Banks will be expected to make changes to move to the best practice seen in these areas.
- Introduction of a wider civil penalty regime to deter poor behaviour and weak controls (which enhances administrative sanctions). This action is already broadly completed as the wider regime was introduced on 1 August 2015

Conclusions

The banking sector is a mature segment of the financial services industry in the Isle of Man and is subject to rigorous AML / CFT legislation and oversight. The assessment concluded that it is broadly well controlled, but that there are core inherent vulnerabilities, which arise mainly from some of the customer segments to which products and services are offered. Banks in the Island

also face a range of challenges and pressures that can relate to AML / CFT.

Some areas for improvement have been identified; these are not considered to be critical nor would they particularly impact on the overall level of vulnerability for the sector. However if they are acted upon they will help to focus the resources of banks and the supervisor (FSC) in the areas perceived to be of higher risk / vulnerability.

²⁴ This may include information on payment flows, cash activity or controls, products and services, customer types, transaction monitoring techniques, internal and external disclosures, customer screening and monitoring, staff training

Securities

The securities sector²⁵ in the Isle of Man is a fully regulated and supervised sector with prudential and conduct supervision in place, including AML / CFT. The securities sector forms a small part of the Isle of Man financial services sector contributing approximately 1% to the Gross Domestic Product of the Island (2014).

The NRA took into account the size of the sector in the Isle of Man and the client base. With the exception of Isle of Man Independent Financial Advisors and to a lesser extent stockbrokers and investment managers, the client base will be substantially non-resident clients with foreign business or personal interests. As such the client base of the majority of institutions in the securities sector presents a higher risk of ML.

In the context of the funds element of the securities sector, however, it is recognised that this risk is substantially mitigated where investors are institutional in nature. Other risk factors that the NRA considered were that the client base potentially includes PEPs, HNW individuals, clients linked to higher risk jurisdictions and clients linked to higher risk activities either at investor or fund level.

Non-retail funds and investment business represent the most significant elements of the securities sector and this was taken into account in the risk assessment.

Non-regulated funds with innovative assets, complex structures and little controls increase the risk of these funds being established for ML or criminal purposes. Overseas funds represent the element of the sector that saw a significant positive growth in the 12 months to 30 June 2014 which was the data reference point for the analysis; this was also taken into account.

Securities sector vulnerabilities

The overall vulnerability was assessed as medium, which took into account the AML controls in place, and the vulnerabilities of customers, products and services. The securities sector encompasses various small to medium sized functionalities as well as a range of products and services from retail focused investments to those product types which are aimed at institutional investors.

Assessment of AML controls found that the quality of the controls for the sector was between medium and high and that no critical or urgent attention was required. There is a mature legal framework which seeks to prevent ML and this is well understood by functionaries in the sector and their staff. Entry controls in respect of functionaries in to the sector are considered to be thorough and detailed.

Anonymous investors do not have the ability to access the securities sector. There are definitive requirements to which functionaries are subject to identify the ultimate beneficial owner of an investment.

25 For the purposes of the NRA, the securities sector comprises of firms which hold either or both of Class 2 or 3 licences issued by the Isle of Man Financial Services Authority

A feature of the sector can be investment by an institution on a pooled basis, where there are a number of underlying clients in the pool. AML regulation and legislation only allows reliance to be placed on the institutional investor in relation to those underlying clients if the institutional investor is a regulated entity in an equivalent jurisdiction and, therefore, subject to similar AML requirements. The assessment noted that from a competitive standpoint, reliance on institutional investors investing on behalf of others appeared to be a common feature of the securities industry across peer jurisdictions.

Securities sector threats

The ML threat to the securities sector was assessed as medium low. This reflects the small size of the sector in the Island and the fact that there is a strong and mature AML framework which appears to act as a deterrent to those wishing to launder criminal proceeds through the sector. There have been no typology reports issued in respect of the sector since 2009; this would seem to indicate that the securities sector is not of significant concern to key international bodies such as the FATF. The main sources of ML which are recognized at a global level are relevant to the Isle of Man securities sector because of the Island's status as an international finance centre.

As noted, the last typology report issued for the sector by the FATF was in 2009. The FATF report comments that new products and services are developed constantly, in reaction to investor demand, market conditions, and advances in technology. It states that product offerings are vast, and many are complex, with some devised for sale to the general public and others tailored to the needs of a single purchaser. Many transactions are effected electronically and across international borders. The NRA has identified that the securities sector in the Isle of Man generally does not share all these features.

The FATF consider that some of the features that have long characterised the securities industry, including its speed in executing transactions, its global reach, and its adaptability, can make it attractive to those who would abuse it for illicit purposes, including ML and TF. Moreover, the securities sector is perhaps unique among industries in that it can be used both to launder illicit funds obtained elsewhere, and to generate illicit funds within the industry itself through fraudulent activities. These typologies have been taken into account in the risk assessment.

Summary and proposed actions

Taking into account the assessments of vulnerability and threat, the overall ML risk for the securities sector arising out of the NRA is considered to be medium. There were no critical issues emerging for securities out of the NRA; nevertheless a number of possible improvements were identified and these will be the subject of further discussion between the FSA and the securities sector. The main points concern actions by the regulator and the FCU; the issues identified concerning use of sanctions were identified across most sectors.

- Little evidence of the use of administrative sanctions. This may be because the regulator engages in an initial dialogue with the licence holder to rectify deficiencies through remedial action programmes, the completion of which is monitored by the FSA. The assessment noted that an extended civil penalties regime was anticipated and since the NRA took place the new regime has been introduced, providing a wider suite of powers to the regulator. A need for greater transparency from the FSA about the type of matters considered for administrative sanction and the decisions reached was also identified.
- Compliance systems may not always be as formalized as appropriate in the sector. This is due to the fact that, in some smaller licence holders, there may be a tendency for monitoring to be less formal. It was considered that there was also a risk concerning the lack of prescribed internal and external audit focus on AML procedures and controls. The assessment found that internal audit is only a formal requirement for a small part of the sector and external audits are not required, by way of AML/CFT regulation, to specifically review compliance with AML/CFT requirements.
- There are appropriate criminal sanctions in force for non-compliance with AML/CFT obligations and financial economic crimes. There is however little evidence of enforcement. It was noted that this is the case generally. The process by which criminal referrals were made to (and determined by) the Attorney General's Chambers was identified as an area which would benefit from an increased awareness and understanding.
- In respect of criminal investigations into ML offences, the assessment noted concerns expressed by the sector in respect of 'tipping off' and the impact that this might have on the quality of disclosures made to the FCU. The assessment concluded that an improvement in the quality of disclosures would help the FCU to focus investigative resources more effectively and that it would be helpful for there to be a regular forum where the FCU might meet with the sector and discuss issues around SARs.

Conclusions

The general AML controls which apply to the securities sector in the Isle of Man are very strong. There is a mature legal framework which seeks to prevent ML and this is well understood by functionaries in the sector and their staff. Entry controls in to the sector are thorough and detailed and there is a high level of confidence in the supervision procedures and practices applied to licence holders. The assessment concluded that staff in the sector demonstrate a good awareness of the detailed AML requirements and this leads to a high standard of monitoring for and reporting of suspicious activity.

The assessment of the functionaries and the products was undertaken based on the views and opinions of experienced representatives from the regulator, from industry and from the FCU who participated in the working group. There was limited data collection directly from industry due to the time constraints; the analysis and the conclusions reached are considered to be valid, it is recognized that the next iteration of the NRA would benefit from more input from the functionaries themselves. The FSA will also look to work with the sector to improve the data available for future assessments.



The securities sector in the Isle of Man is a fully regulated and supervised sector with prudential and conduct supervision in place, including AML / CFT.



Insurance and Pensions

The Island has 16 authorised long term insurers, 122 authorised general insurers and 19 permitted insurers²⁶ (The Insurance and Pensions Authority (IPA) also regulates 22 insurance managers (which typically provide outsourced management services to captive insurers) and 29 general insurance intermediaries).

The pensions sector consist of 60 retirement benefits scheme administrators, administering 933 schemes. The Island's long term insurance sector has £56.5 billion under management and general insurance has £4.7 billion under management. Pension scheme assets total £2.7 billion. Distribution is mainly through Independent Financial Advisors (IFAs).

Approximately 2,000 people work in the Island in its insurance sector (which represents 4.5% of the working population according to the 2011 census) and a similar number work off-Island in branch and supporting operations. In addition there are accounting, legal and other professional service providers representing many well-known international firms.

The Island's market itself is represented by a number of industry and professional bodies (e.g. bodies acting on behalf of long term insurers, captive managers, insurance brokers and pension providers; and others on behalf of accountants, legal professionals and actuaries).

The insurance and pensions sector has over the last six years continued its upward trend of contribution to the economy of the Island, overtaking banking as the largest single contributor to the Island's gross domestic product in 2009. The sector is regulated by the IPA, a statutory board established in 1986²⁷. The following activities are regulated activities under the Insurance Act 2008 and are subject to the supervision of the IPA:

- a) carrying on or holding out as carrying on insurance business within the meaning of the IA 2008;
- b) acting or holding out as acting as an insurance manager, within the meaning of the IA 2008, for or in relation to an insurer; or
- c) acting or holding out as acting as an insurance intermediary within the meaning of the IA 2008 in respect of effecting or carrying out contracts of insurance which are not investments within the meaning of the Regulated Activities Order 2011;

Acting or holding out as acting as a retirement benefits schemes administrator within the meaning of the Retirement Benefits Schemes Act 2000 (RBSA 2000) is also a regulated activity. Under section 1 of that Act it is an offence for a person to market a retirement benefit scheme (a 'scheme') or to receive contributions into a scheme or to act by way of business as a trustee to a scheme unless that scheme is an authorised or recognised scheme within the meaning of the RBSA 2000.

²⁶ Permitted insurers represent branches on the Island of insurers licensed in a jurisdiction other than the Island

²⁷ In November 2015 the IPA will merge with the Financial Services Commission to form the IOM Financial Services Authority.

Insurance and pensions vulnerabilities

The life sector represents 88% of the insurance and pensions sector in terms of assets under management. This significant sub-sector has been assessed as having a medium vulnerability to ML.

The medium level of vulnerability is based upon consideration of the most vulnerable products which factors include international, non-face to face business together with the reliance on introducers to collate AML documentation and the underlying investment nature of the products. Each of these qualities is indicative of potential high risk factors when considering the risk of ML.

The pensions sector, representing 4% of the overall sector is assessed as medium. Pensions are at an earlier stage of the development life cycle in comparison to the wider market and there is a need to develop further the compliance frameworks to address the risks presented by the international, non-face to face business.

The non-life sector which represents 7% of the overall sector is assessed as having a medium low vulnerability to ML. This reflects the lower risk profile of the products offered by this sector.

The composite score of the three sub-sectors mirrors that of the life sector (medium) as the life sub-sector dominates the sector both in terms of size of the sector and those products that represent a higher vulnerability.

Insurance and pensions threats

Some characteristics of the products and services provided within the insurance and pensions sectors of the Island fall within the range of categories suggested by the FATF as examples of potentially higher-risk business, including:

- a large proportion of the business proposition is conducted on a non-face-to-face, cross border basis;
- in many cases the business relationship is established through introducers in international jurisdictions that are subject to varying levels of regulation and oversight for AML/CFT purposes;
- the use of legal persons and arrangements such as trusts is commonplace, both as asset-holding vehicles and as part of more complex structures.

In recognition of these higher risk characteristics the IPA requires all insurers to identify the source of wealth for all new business in addition to the standard due diligence requirements set out in the Anti-Money Laundering and Terrorist Financing Code 2015. This additional requirement is set out in regulation 24(1) of the Insurance (Anti Money Laundering) Regulations 2008 (IAMLR 2008) which states:

“An insurer must make enquiries as to how an applicant has acquired the monies to be used as premium for, or contribution to, a policy”.

The assessment considered the STR data received by the FCU compared to the data of insurers in respect of internal and external reports. The reporting rate of 8% as compared to other sectors is lower than would be anticipated given the relative size of the sector in comparison to banking and other sectors. However when compared to other jurisdictions as detailed in the 2004 FATF Typologies report²⁸ the level of SAR reporting by the insurance sector is generally higher than that experienced within other jurisdictions.

An explanation for this may be that it is during the placement stage of the ML cycle that funds of illegal origin are introduced into the financial services industry. With the notable exception of cash premium and contribution payments, insurance and pension products by their nature are usually deployed at the layering and integration stages of the ML process.

Since the placement has already occurred and the link between the illegal activity originating the proceeds being laundered and the proceeds themselves has been weakened, if not severed altogether, it is recognised that it is generally more difficult to detect ML at these advanced stages and so indicators of risk are more difficult to identify.

Distribution channels

The nature of the business undertaken by the insurance and pensions sectors in the Island is predominantly through IFAs on a cross border, non-face-to-face basis. Historically the life sector has targeted through IFAs the British expatriates working overseas. This model has expanded to incorporate expatriates of other jurisdictions. Because they often also market other financial products such as investment products and mortgages and have a face-to-face contact with clients, intermediaries have the best opportunity in the insurance industry to collate CDD on behalf of the insurer.

²⁸ http://www.fatf-gafi.org/media/fatf/documents/reports/2004_2005_ML_Typologies_ENG.pdf

One of the most important findings emerging from typology reports issued by FATF and MONEYVAL is an insufficient degree of compliance with AML requirements by intermediaries with respect to life insurance. A possible reason for low compliance could be that intermediaries—especially if independent from the insurer—perceive the risk of ML as low and are focusing more on sales figures as the driver for their commission.

MONEYVAL and FATF go on to state that insurers, on the other hand, might be reluctant to push for more compliance by intermediaries because of their dependency on these organisations for new business. Whatever the reason it is clear that money launderers have recognised that using intermediaries is a successful way of accessing insurance products.

The conclusion of MONEYVAL and FATF is perhaps supported by the STR information filed with the FCU, with 29% of all SARs filed in 2013 in respect of the insurance and pensions sector arising as a result of knowledge or suspicion arising from information that is in the public domain.

Given that the source of the indicators of risk is publically available, it is reasonable to conclude that this information may have also been available to the intermediaries who introduced the business supporting the conclusion that over reliance on intermediaries introduces further vulnerability to the Island's proposition.

In consideration of this the Island should continue to ensure that reliance on intermediaries is only permitted where the business is not high risk and appropriate compensating controls are in place.

It is not difficult to see similarities between these findings of FATF and MONEYVAL in the application to the pensions' distribution channels. As a result similar vulnerabilities attributable to the distribution network are considered to exist in the pensions sector.

Summary and proposed actions

The composite ML risk to the insurance and pensions sector has been assessed overall as medium, with a medium threat level and a medium vulnerability. AML controls for the sector were assessed as strong.

A number of possible improvements were identified during the assessment process, including the need for more sector specific guidance for the non-life and pension sectors; enhanced regular reporting of AML statistical information by regulated entities; more transparency in respect of sanctions and enforcement actions; encouragement of cross-sectoral forums; specialised training (for the non-life and pension sectors) and strengthening awareness of sanctions vetting.

The work with the greatest potential impact on the vulnerability of the individual sub sectors and overall composite score is:

- the issue of sector specific binding guidance for the pensions sector;
- through appropriate regulation and supervisory visits, the enhancement of existing compliance functions (or implementation of new dedicated compliance functions) where the standard is not that required to address the risks apparent for the products sold; and
- the implementation of outreach programmes to raise the overall AML awareness of the pensions and non-life sectors.

Conclusions

The insurance and pensions sector is a mature segment of the financial services industry in the Isle of Man and is subject to rigorous AML / CFT legislation and oversight. The assessment concluded that it is broadly well controlled, but that there are core inherent vulnerabilities in parts of the sector, which arise mainly from the international non

face to face nature of the business and the use of intermediaries.

Some areas for improvement have been identified; the projected vulnerability for the pensions sub-sector is anticipated to reduce, on completion of a recommended work plan, making a significant contribution to reducing the vulnerability of the sector overall.

Other Financial Institutions

Other Financial Services (OFIs) in the Isle of Man (also referred to as Money Service Businesses) comprise Money Transmission Services and Money Lenders. There are also a number of smaller OFIs dealing with e.g. deposit boxes, which were considered but assessed as too small to be relevant to the NRA.

Money Transmission Service providers (MTS) in the Isle of Man are licensed by the FSC. There are effectively two distinct groups:-

- MTS Group 1 — those that only offer services such as bureau de change, cheque cashing, bill payments²⁹ and agency for payment services (e.g. for MoneyGram or Western Union),
- MTS Group 2 — those that provide payment services directly and e-money issuers.

MTS Group 1

This group is a fully regulated and supervised sector for conduct supervision, with the main focus being AML / CFT. There are currently only 3 licensed providers plus the Isle of Man Post Office (which is exempt from being licensed but the FSC still retains significant powers over its MTS activity including the power to inspect and issue directions).

These businesses mainly provide services to local residents (including temporary or migrant workers who use agency services to send money home) and tourists (most notably bureau de change) on a face to face basis. The majority of transactions are occasional (no business relationships are formed), of low value and can include cash. It is not considered that this sector is domestically important from an economic point of view, although the availability of some services such as money exchange outside of banking (and non-Isle of Man internet providers) is an important social facility.

MTS Group 2

This group is a fully regulated and supervised sector with prudential and conduct supervision in place, including AML / CFT. There are only 2 licensed providers (for payment services directly) and there are currently no e-money providers who are conducting regulated activity. These firms mainly provide services to other businesses (not the public) including regulated firms such as e-gaming, insurance, trust and company service providers, and foreign exchange firms. Business is often conducted non-face to face and does not include cash activity. They are also permitted to use agents subject to agreement with the FSC as the regulator, but none are currently in use. They must also operate segregated payment accounts held with banks (in or outside the Isle of Man). It is not considered that this sector is domestically important from an economic point of view.

²⁹ Any Bill Payment activity that is relevant business under the Proceeds of Crime Act (POCA) would also be regulated activity under the Financial Services legislation, and firms would have to be licensed and regulated by the FSC. The type of Bill Payment services that the Isle of Man Post Office provides does not constitute money transmission services and therefore that service is not regulated activity and is not subject to POCA.

MTS sector vulnerabilities

MTS Group 1

The overall vulnerability was assessed as medium low on a combined basis which reflects the relatively small size of the sector, a low average transaction size, the predominant customer base being local resident individuals (face to face) and the AML / CFT and licensing regime in place. Within this overall assessment it was considered that agency services were the most vulnerable, and cheque cashing the least.

Assessment of the AML controls found that the quality of controls for the sector was medium and that no critical or urgent attention was required. This assessment was performed noting there had been a substantial outreach supervisory program undertaken since 2012, complemented by sector specific guidance. Supervisory visit work by the FSC will continue on a risk based approach. An assessment of inherent vulnerabilities relating to each core activity (bureau de change, cheque cashing and agency) was also undertaken.

From a ML/TF perspective, the main vulnerabilities are:

- Cash activity (customers): exchange low value notes from criminal activity for higher value currency, potential tax evasion (using cash from business proceeds for own expenses or other transactions without declaration), use of counterfeit or stolen notes, moving money internationally outside of the banking system (agency activity), splitting money under reportable thresholds.
- Using the perceived legitimate business (bureau de change, cheque casher) as a "front" (laundering illicit cash with cash from bona fide business).

The assessment also identified that the FSC does not obtain information at present from each MTS business individually that would enable it to undertake a similar assessment of customer and product vulnerability at individual licenceholder level.

MTS Group 2

The overall vulnerability was assessed as medium low which reflects the medium / low size of the sector (from a money flow perspective), the AML / CFT and licensing regime in place, and the limited nature of the activity undertaken (business to business, and for specific markets). Assessment of the AML controls found that the quality of controls for the sector was medium / high and that no critical or urgent attention was required. An assessment of inherent vulnerabilities was also undertaken (rated as medium). From a ML/TF perspective, the main vulnerabilities and typologies are:

- Non face to face activity (possibly anonymity in e-money) and substantial reliance on systems / technology for payment services.
- Relatively new industry and therefore could attract criminals; risks may not be fully understood.
- Payment processing can attract bogus applicants (if internet based) and ID fraud (however, the business in the Isle of Man is currently mostly with companies, not individuals).

It was noted that this is still a relatively new sector and a set of higher risk factors, vulnerabilities and typologies had not at that time been included in sector guidance issued by the FSC; this was rectified during May 2015. The assessment also identified that the FSC does not obtain information at present from each MTS business individually that would enable it to undertake a similar assessment of customer and product vulnerability at individual licenceholder level.

MTS sector threats

MTS Group 1

The ML and TF threat was assessed as being medium low, taking into account the small size and domestic nature of the sector (the Isle of Man is a highly banked jurisdiction), and the level of regulation and supervision in place (including for agency business, which can be abused for TF). The main threat was considered to be from low level domestic laundering, using cash.

The main sources of information available to consider threats for this first NRA were Suspicious Activity Reports (SARs) and high level Mutual Legal Assistance Requests (MLARs). Only low levels of SARs have been submitted, and in relation to MLARs (since 1 January 2009) there have been no requests received by the Isle of Man authorities relating to ML that requested MTS Group 1 information only.

The assessment recognized that, in addition to the number of SARs recorded by the FCU, there will also be internal disclosures made by staff that do not result in SARs being submitted to the FCU. In this respect, the regulator (FSC) is looking at how it can improve its collection data on ML/TF threats, vulnerabilities and mitigation.

MTS Group 2

The ML and TF threat was assessed as being medium low, taking into account the size and bespoke nature of the sector and the level of regulation and supervision in place.

During the NRA it was noted that this is still a relatively new sector and this in itself can make it attractive to money launderers / criminals. However, there were no significant threat indicators prevalent specific to the Isle of Man as the current providers have relatively bespoke and closed business models. It is however recognized that some core international threats which can be prevalent in the banking sector can also be relevant to payment services.

The main sources of information available to consider threats for this first NRA were Suspicious Activity Reports (SARs) and high level Mutual Legal Assistance Requests (MLARs). Only low levels of SARs have been submitted, and in relation to MLARs (since 1 January 2009) there have been no requests received by the Isle of Man authorities relating to ML that requested MTS Group 2 information only.

The assessment recognized that, in addition to the number of SARs recorded by the FCU, there will also be internal disclosures made by staff that do not result in SARs being submitted to the FCU. In this respect, the regulator (FSC) is looking at how it can improve its collection data on ML/TF threats, vulnerabilities and mitigation.

Summary and proposed actions

Taking into account the assessments of vulnerability and threat, the overall ML risk for the MTS sector (Group 1 and Group 2) arising out of the NRA is considered to be medium low. There were no critical issues emerging; nevertheless a number of possible improvements were identified and will be the subject of further discussion between the FSC and the industry. The main points are:-

- The FSC to capture AML / CFT information³⁰ on an individual licenceholder basis (including the Post Office) through standard reporting (e.g. annual returns or similar).
- Provide sector specific guidance for payment services directly and e-money (MTS Group 2) including typologies. This was completed in May 2015 and any further guidance updates will be developed as part of ongoing work.
- Introduction of a wider civil penalty regime to deter poor behaviour and weak controls (which enhances administrative sanctions). This action is already broadly completed as the wider regime was introduced on 1 August 2015.

Conclusions

The OFI sector, inclusive of MTS business, is a small sector compared to other groups on the Island, and is generally assessed as medium low risk based on current activity and knowledge. MTS businesses are already subject to full supervision (and are regulated by the FSC), and only minor improvements are required to enhance the current regime and make sure the Island remains focused on the threats and vulnerabilities present.

The improvements are not considered to be critical nor would they particularly impact on the overall level of vulnerability for the MTS sector; however, if they are acted upon they will help to focus the resources of the businesses and the supervisor (FSC) in the areas perceived to be of higher risk / vulnerability.

³⁰ This may include information on cash activity, products and services, customer types, monitoring techniques and transaction limits, internal and external disclosures, staff training

Moneylenders in the Isle of Man

Persons who lend money to individuals in or from the Isle of Man are required to be registered with the OFT, under the provisions of the Moneylenders Act 1991. Some of the persons who are registered with the OFT also provide lending to companies. Banks in the Isle of Man that undertake customer lending are not required to be registered with the OFT.

In respect of moneylending and AML / CFT, Schedule 4 of the Proceeds of Crime Act states that relevant business is (subject to some intragroup exclusions):-

- The business of lending including but not limited to consumer credit, mortgage credit, factoring, and the financing of commercial transactions in respect of products other than consumer products for and on behalf of customers;
- The business of providing financial leasing arrangements in respect of products other than consumer products for and on behalf of customers; and
- The business of providing financial guarantees and commitments in respect of products other than consumer products for an on behalf of customers.

Although the AML / CFT legislation in the Isle of Man has applied to Moneylenders for a number of years, these persons have not been subject to any form of oversight from a designated body, to help make sure that the sector is in compliance. However, the Isle of Man has now passed the Designated

Business (Registration and Oversight) Act 2015 (the Designated Businesses Act), which comes into force on 26 October 2015. The Designated Businesses Act places responsibility on the FSC³¹ for the oversight of the adherence of certain businesses, including moneylenders, to the Island's AML / CFT legislation.

Moneylenders conducting relevant business are required to register with the FSC; the FSC's oversight role is in relation to AML / CFT compliance only; relevant Moneylenders will still retain their current status with the OFT³².

At the time of the assessment there were 57 moneylenders registered with the OFT, of which 33 are administered by Isle of Man Trust & Company Service Providers (TCSPs), and 10 are former banks or related to banking groups. The remainder are standalone businesses or individuals. The number of companies only undertaking corporate lending (and therefore are not required to be registered under the Moneylenders Act 1991) is not known; however any such companies will need to register with the FSC under the DB Act. For the purpose of the assessment Moneylenders were broadly split into 2 sub sectors: personal lending and non-personal lending. Information was only obtained from businesses registered with the OFT.

It is not considered that this sector is domestically important from an economic point of view in terms of employment or the provision of lending to the local economy; although some lenders may provide a service for local residents or businesses who cannot obtain finance from banks.

³¹ The FSC will be replaced by the Isle of Man Financial Services Authority with effect from 1 November 2015.

³² This is the current position but is subject to wider review as outlined in the letter sent by the OFT to all moneylenders dated 9 September 2015

Moneylender sector vulnerabilities

The overall vulnerability was assessed as medium low on a combined basis. Although there are weaknesses in AML controls the overall vulnerability rating reflects the relatively small size of the sector (especially compared to lending undertaken by banks), a low average transaction size (outside of bespoke lending arrangements), the predominant customer base being face to face (including through brokers) and the assumption that cash activity is not prevalent. An assessment of inherent vulnerabilities relating to each core activity (personal lending and non-personal lending) was also undertaken. From a ML/TF perspective, the main vulnerabilities are:

- Lack of information on the sector as a whole, limited entry controls, no registration or oversight regime for AML / CFT; and
- Potential lack of AML / CFT knowledge within the sector.

More information will be sought from the sector under the Designated Businesses Act registration and ongoing monitoring process that will commence from November 2015.

Moneylender sector threats

The ML and TF threat was assessed as being medium low, taking into account the small size of the sector (the Isle of Man is a highly banked jurisdiction), a significant domestic element for personal lending, and the suspected low level of cash activity. However, there is an international element which needs to be better understood.

The main sources of information available to consider threats for this first NRA were Suspicious Activity Reports (SARs) and high level Mutual Legal Assistance Requests (MLARs). Only low levels of SARs have been submitted, and in relation to MLARs (since 1 January 2009) there have been no requests received by the Isle of Man authorities relating to ML that requested information from moneylenders only.

More information on typologies (threats) relevant to the Isle of Man will need to be developed in sector guidance, but it is acknowledged that moneylending can often be related to wider typologies also covering banks, estate agents, TCSPs and lawyers.

Summary and proposed actions

Taking into account the assessments of vulnerability and threat, the overall ML risk for the Moneylenders sector arising out of the NRA is considered to be medium low.

The main action is to make sure all relevant Moneylenders are registered with the FSC under the Designated Businesses Act and will then be subject to an oversight regime. All the identified actions are as follows:-

- Introduce and complete the registration process for Moneylenders under the DB Act. Registration commences from 9 November 2015, and documents must be submitted by 26 April 2016 at the latest.
- The FSC to undertake visits to all registered entities and obtain annual information from those entities. The intention is that all entities will receive a visit in the first 3 years of the regime being in operation; thereafter the regime will move to a 6 year cycle³³.
- Provide sector specific guidance for Moneylenders including typologies. This was completed in May 2015 (contained in the FSC's AML / CFT Handbook) and any further guidance updates will be developed as part of ongoing work.

Conclusions

The OFI sector, inclusive of Moneylenders, is a small sector compared to other groups on the Island, and is generally assessed as medium low risk based on current activity and knowledge. For Moneylenders, the introduction of the Designated Businesses

Act and supervisory oversight programme will help to better protect the Island and manage and mitigate ML and TF threats. It will also help make sure that better information and data is available from the sector and that firms comply with the AML / CFT legislation.

³³ Information gained from this process will help formulate views for future iterations of the NRA

Gambling

There are five different categories of licensed gambling in the Isle of Man:

- High street betting shops;
- Terrestrial casinos;
- Gambling machines;
- Charity lotteries; and
- Online gambling.

The Island has a number of small domestic (high street) betting shops for those who wish to place bets on sporting events or play on a limited type of gambling machine. The Island licenses three organisations which between them operate approximately nine outlets. There is also one domestic casino whose customer base is predominantly domestic although during the tourist season, it experiences uplift from the visitor economy. The number of gaming machines and tables in the casino for card and dice games is small compared to typical UK counterparts.

Sellers and suppliers of gambling and certain gaming machines (controlled machines) are required to hold a GSC licence and premises must be approved to have controlled machines located in them. Controlled machines are typically slot machines consisting of mechanical or electronic reels which produce prizes on a return-to-player

over time of circa 85-95%. About 250 machines serve the Island's population of 85,000. While they are permitted, there is currently no machine arcade operating in the Island. Machine suppliers are currently bound by the obligations of the Proceeds of Crime Act 2008.

The GSC controlled machines sellers and suppliers currently pose a low ML risk because of the strict constraints on the types of machines that can be deployed, but the GSC's plans to undertake a complete review in this area is expected to create significant opportunities for innovation in the sector, at which stage ML risks may increase.

There is currently no national lottery; the UK's National Lottery is permitted to operate in the Isle of Man and tickets and scratch-cards can be obtained in a number of retail outlets including supermarkets, convenience stores and newsagents.

There are around 50 online gambling operators based in the Island which offer online and mobile device gambling to a worldwide player base. The player base is very large and hundreds of millions of pounds worth of players' money is deposited with the sector at any given time. The business operates cross-border services and innovates rapidly in response to changes in technology.

Online gambling sector vulnerabilities

The NRA made a preliminary analysis of the five sectors to identify which ones should be subject to more detailed scrutiny. On account of their very small scale, all but the online gambling sector were excluded from the detailed assessment.

The overall vulnerability of online gambling to ML was assessed as medium. The quality of AML controls (the systems and procedures used by licensees) were rated as medium high.

The client base (the customers of the industry are referred to as participants or more commonly players) was classed a medium risk; while the overwhelming majority of players are recreational and deposit small sums in response to promotions and offers of bonuses (i.e. lower risk), there are also some very significant players whose betting and gaming are the basis of livelihoods and whose activity represent large sums of money in the system. There are a number of factors which mitigate the risk of players laundering money through the sector:

- The industry is almost exclusively IT based and detailed transaction records are routinely kept and easily mined for information;
- The industry has low thresholds before evidence of ID is required;

- As the industry typically uses a deposit-before-play mechanism, players' wallets are held online by the operator and players must supply the required identification before the operator will release their money.

- Operators screen customers' withdrawal requests for indicators of commercial fraud to protect their own revenue and payment service relationships (for example, detecting the abuse of bonus offers or credit cards with a history of charge-backs). This screening process for commercial risk shares common functionality with AML/CFT controls.

The AML / CFT knowledge of staff and entities varies within the sector. Large multi-national operators invariably have well resourced, dedicated compliance functions and expensive, automated systems to manage AML/CFT risk. However, smaller operators may not have the resources to operate dedicated AML/CFT units and subsequently performance relies on the professionalism, qualifications and experiences of the appointed Money Laundering Reporting Office (MLRO).

The online gambling sector's AML/CFT framework is mature; it has existed for almost as long as the sector itself. While a supervisory regime for AML/CFT can be demonstrated for a number of years, this has and continues to be an evolving area. One of the key recommendations of the NRA has been to refine the quality of the AML/CFT supervision and this process is now underway. This will include adopting a risk based approach to the supervision of licensees.

Online gambling sector threats

Inherent risk arises within the online gambling sector because the business is:

- Non face-to-face
- Intrinsically cross-border
- Incorporates a form of agency in some models
- Operates in markets whose jurisdictions have weaker scores on AML/CFT indices, and;
- Innovates rapidly (for example, gambling has heavily exploited the growth in popularity of mobile computing.)

A common typology reported by licensees with respect to ML is credit card fraud and related identity theft. In such a scheme, a fraudster uses stolen credit card details to gamble without risk and then seeks to remove the funds before the fraud is detected. A related fraud occurs when a player plays and loses money using a credit card and then challenges the payment of funds by requesting a charge-back from the credit card company. These threats are mitigated by requirements on the return of cash through the depositing instrument but the threat exists nonetheless.

Auxiliary typologies that have been noted in the public domain include:

- Criminals using online gambling as a leisure activity using the proceeds of crime;

- Match fixers using sites to place legitimate bets on rigged events;

- Thieves who embezzle their companies, employers or families and gamble the money online, subsequently offering gambling addiction as an explanation.

Predicate offences (criminal offences that generate proceeds) committed through gambling include:

- Breach of local law using the internet to access forbidden websites;
- Failure to pay taxes that are due in respect of winnings;
- Cheating and collusion in peer to peer games to unfairly win money from others;
- Manipulation of software to cheat games into offering better odds or payouts.

The threat that would be posed by criminal ownership of an online gambling licence is highly significant and recent typologies have been observed in Europe.

To counter this threat the GSC uses a number of measures. Firstly it publishes its expectations including its requirement to positively identify beneficial ownership. Secondly, the GSC requires beneficial ownership to be disclosed and tests the credibility of ownership during a face to face meeting where the licence is considered. The GSC reserves the right to commission private agencies to supply enhanced diligence reports applicants as part of the approvals process. Finally, all key personnel are perpetually monitored on a database supplied by a 3rd party which in turn monitors sanctions, politically exposed person (PEP) status and adverse publicity.

Summary and proposed actions

Although no areas relating to online gambling were assessed as being critical, a number of possible improvements were identified:

- GSC to improve its statistics and data
- FCU to conduct a detailed analysis of SARs/STRs submitted by the sector and provide feedback to the sector regarding the quality and quantity of submissions
- GSC to improve guidance and outreach
- GSC to review policy on sanctions for non-compliance with AML/CFT requirements to ensure that reflects national priorities.
- GSC to review the nature of CDD resources in key markets to ensure that CDD is conducted to the required standard.
- GSC to review the strength of Beneficial Ownership checks in the sector.
- GSC to create a framework that can be used for NRA to classify the size of a sector.

The online gambling industry in the Isle of Man is not represented by a unifying body of any description. Other sectors such as banking and TCSPs do have representative bodies which have efficient mechanisms for obtaining information and disseminating information to members.

During the 2015 AML/CFT summer visits to licensees the formation of a dedicated online gambling forum for MLROs was suggested and was universally supported by every MLRO canvassed. It is proposed that this will be set up to operate on a quarterly basis and will serve as a conduit for data in future NRAs.

Conclusions

The gambling sector in the Isle of Man is becoming a significant economic force and continued changes in international standards mean that the focus on AML/CFT will be sustained.

In addition to the actions identified by the NRA, the GSC will be implementing a new approach to AML/CFT inspections with an emphasis on ensuring all licensees understand and meet their obligations. Revised guidance is planned to cover gaps in understanding that have resulted from insufficient detail in the earlier guidance.

The GSC will also be considering how to streamline the capture of NRA data from licensees so that the data is comprehensive, fits into the parameters expected by the World Bank's model and is easily supplied without creating a burden on the industry. Most of the relevant data can be acquired through existing regulatory activity (quarterly returns, inspections, etc.) but one key variable remains outstanding – size of sector.

The World Bank's model places a significant emphasis on the size of a given sector; money launderers prefer a system which is large enough to render their money insignificant, and in some cases money launderers need higher capacity because of the volumes of money that need to be laundered. For this reason, the GSC will be approaching industry with a proposed model for establishing the "size" variable.

Finally, it is necessary for the GSC to consider improvements to strengthen the regulatory sanctions regime providing a wider number of options to encourage or, where it may be necessary, to require compliance from the sector. It is intended that the policy relating to these will be consulted upon. The consultation is currently planned for 2016.

Trust and Corporate Service Providers (TCSPs)

The TCSP industry comprises some 160 licenceholders. Firms range in size from international businesses with in excess of 100 employees, to small businesses which are in common ownership with the practices of accountants or advocates and often service a similar underlying client base.

The industry provides services to some 30,000 client companies of which approximately half are incorporated on the Island and half elsewhere, and to some 20,000 trusts. Most of the business is international in nature. Estimates indicate that some 40% is from the Isle of Man and the UK, 20% from the rest of the EU and about 40% from the rest of the world. The Isle of Man also has aircraft and shipping registries which are well-regarded internationally; these sectors, together with ancillary services to online gambling companies feature in many TCSPs' target markets for new business.

From an AML/CFT perspective TCSPs are important as gatekeepers to the financial system. The trusts and companies of which they are trustees and directors have control of assets, investments and bank accounts.

The NRA assessment recognised that the TCSP sector in the Isle of Man is a mature, regulated and supervised sector with conduct supervision in place, including AML/CFT. The regulation of the TCSP sector parallels the regulation applied to the banking sector, and is administered by a common organisation, currently the FSC and from 1 November 2015 the new Isle of Man Financial Services Authority (IOMFSA).

TCSP sector vulnerabilities

The overall vulnerability for TCSPs was assessed as medium; this took into account the AML controls in place, and the vulnerabilities of customers, products and services. The assessment found that the quality of AML controls for the sector was between medium and high and that no critical or urgent attention was required. The key vulnerabilities arise from the client profile, the existing and significant typologies for the sector, the availability of non-face-to-face transactions, the use of professional intermediaries and the complex nature of some of the structures involved. The types of corporate form available on the Island were not considered to be a major component in the AML/CFT risk of the sector.

The assessment recognised that most business in the Isle of Man is on a "fully managed" basis with TCSP staff being directors or trustees. The FSC only licences TCSPs which are able to offer a full range of regulated activities; "registered office only" business has been in long-term decline and "mixed boards" are rare. TCSPs do provide nominee shareholders however FSC visits test that declarations of trust are in place and that CDD is present on the beneficial owner.

The NRA identified that the FSC does not collect information on the number of trusts governed by Isle of Man law, as there is no general register of trusts.

The misuse of vehicles to evade tax features highly in international experience of TCSP risk. The Isle of Man has a longstanding policy of compliance with international standards on tax including signing agreements on FATCA and the Multilateral Competent Authority Agreement on Automatic Exchange of Financial Information. The assessment recognised that this should help to make the Island an unattractive destination for tax evasion and that the information gathering required should reinforce AML/CFT standards.

TCSP sector threats

The ML threat facing TCSPs was assessed as medium high; the threat is international in nature and arises from persons / entities who wish to abuse the system to launder the proceeds of crime. The main sources of ML identified at a global level are relevant to the Isle of Man TCSP sector because of its status as an international finance centre.

Where predicate offences occur off-island but the proceeds of criminal activity may flow through the Isle of Man, the core threats arise from white collar crimes such as fraud; drugs related (usually domestically based); taxation and excise evasion and corruption and bribery (including embezzlement of public funds).

ML risk can relate to misuse of TCSP services for the commission of the predicate offence, or for layering or integration of dishonestly obtained funds. Tax evasion remains a risk as a predicate offence or source of tainted funds.

Missing trader VAT fraud also remains a financial crime threat; where TCSPs supply services, including corporate vehicles are used in international trade there is a risk that those vehicles could be abused. In recent years Customs and Excise has undertaken an awareness-raising programme and provided specific guidance on these risks.

The NRA concluded that there was a high awareness of threats within the sector and the potential for abuse.

Other than typologies, the main sources of information available to consider threats for this first NRA were Suspicious Activity Reports (SARs) and Mutual Legal Assistance Requests (MLARs). The information from SARs highlighted that the threat of international ML is far greater than the domestic threat; that nearly a third of domestic SARs related to cash activity and that the highest number of SARs relate to the UK which is consistent with the fact that the UK is a core market. Nearly 40% of all SARs were made due to fiscal concerns. This highlights that the abuse of the Isle of Man for tax related offences remains a threat.

The assessment recognised that, in addition to the number of SARs recorded by the FCU, there will be many internal disclosures made by staff that do not result in SARs being submitted to the FCU. The regulator is looking at how it can improve its collection data on ML/FT threats, vulnerabilities and mitigation.

Summary and proposed actions

Taking into account the assessments of vulnerability and threat the overall ML risk for TCSPs is considered to be medium high. This is as a consequence of the threats present in the global environment and not of the vulnerability of the sector in the Isle of Man which is assessed as medium owing to the strength of the AML controls.

No critical issues emerged for TCSPs out of the NRA; a number of possible improvements were identified however and will be the subject of further discussion between the FSC and the industry. The main points concern actions by the regulator and/or the FCU. These are:-

- Examination of the use of regulatory sanctions to ensure their appropriate and timely use as and when required. This is a general action arising out of the NRA and is not specific to TCSPs.
- For the FCU to identify any deficiencies in the quantity or quality of SAR reporting from the sector and to feedback for the next round of supervision and outreach. This is a general action for the FCU to provide more guidance and training on SARs to all of industry and for feedback to MLROs (including the use of online reporting tools) and for the FCU to develop and publish typologies specifically for the Isle of Man.
- The FSC/IOMFSA to undertake a more detailed survey of the CDD gathered by its licensees to ensure that the assessment made of the availability of reliable ID infrastructure is robust.
- The FSC/IOMFSA to review the current data and information available for the TCSP sector and to work with the industry to ensure that where additional information can be secured that will enhance risk assessment for TCSPs that this is progressed.

Conclusions

TCSPs have been subject to licensing and supervisory visits since 2001 and a risk-based approach to AML/CFT since 2008. The assessment concluded that this is a broadly well controlled sector, but that there are

inherent vulnerabilities which in the main arise from the services provided and from some of the customer segments that these are available to. These vulnerabilities and the nature of the threats are not unique to the Isle of Man but are global in nature.

Advocates

The Isle of Man Law Society was established by statute in 1859 and is responsible for self-regulating the sector. The Manx Bar is a fused profession of Solicitors & Barristers, referred to as Advocates. As of March 2015 there were 226 Practising Advocates employed across 36 Advocates Practices. 9 of the 27 Practices that conduct Business in the Regulated Sector report having an international client base; the remainder provides regulated services to the local residents of the Isle of Man. The 9 Practices delivering regulated legal services to an international client base employ 112 of the 226 Advocates at the Bar.

Work is conducted for named and identified clients, or where it is non-face-to-face instruction is received which will be largely from Law Firms in England where the English law firm is the client and the Island requirement is a point of company law in a much larger deal.

Advocate involvement in TCSP business forms part of the legal practice in a small number of Practices and is not part of the core delivery service of Isle of Man Advocates. A number of Practices have established separately licensed entities providing TCSP services. These businesses are supervised by the Financial Supervision Commission.

The range of products and services offered by the 36 Practices fall mainly into 3 categories, criminal and civil legal aid work; General Practice Law Firms supporting the domestic population with family matters and local conveyancing, and corporate and commercial work

Sector vulnerabilities

The comparative strength of specific AML controls for the sector, combined with the inherent vulnerability of the types of customers and services, indicated the general level of vulnerability for the sector. The overall vulnerability was assessed as medium low. Assessment of the AML controls found that the quality of these controls was between medium and very high and that no critical or urgent attention was required.

The key vulnerabilities arise from the extent and the value of international work provided to HNW clients with the primary risk being deliberate connivance, collaboration or intent of an Advocate to commit a legislative breach or criminal offence. FATF and relevant typologies of legal services focus extensively on the involvement of lawyers in 'regulated business'. The typologies highlight that it is via the delivery of this type of service that Lawyers are most exposed to ML/FT activity.

Vulnerability factors identified in typologies for the sector were considered to be mitigated by high levels of sector awareness and internal compliance controls (including the submission of an annual compliance return) which are monitored by the Law Society. Work is conducted for named and identified clients and where non-face-to-face instruction is received it is largely from Law Firms in England where the English law firm is the client.

The assessment recognised that Advocate involvement in TCSP business is limited to a small number of Practices and does not generally form part of their legal business, but is delivered through separately established and regulated TCSPs.

The assessment also took into account that Advocates are not permitted to accept referral work and so are not exposed to the risk of agents. They accept very limited cash into their practices, and the mature banking system ensures a system of easy to monitor and traceable transaction records.

Sector Threats

The ML threat to the sector was assessed as medium low; the sub group noted that there is a lower domestic threat, but a medium international threat arising from persons / entities who wish to abuse the system to launder the proceeds of crime. The main sources of ML threat which are recognized at a global level are considered to be relevant to the Isle of Man because of its status as an international finance centre.

Where predicate offences occur off-island but the proceeds of criminal activity may flow through the Isle of Man, the core threats arise from the following: white collar crimes such as fraud; drug related (usually domestically based); taxation and excise evasion and corruption and bribery (including embezzlement of public funds).

The threat to the sector was considered to be from criminals seeking to use legal professionals to act as gatekeepers (colluding unwittingly or otherwise) in gaining easier access to other parts of the financial framework whilst maintaining distance from it, or to use the client accounts maintained by Advocates to shield money away from scrutiny. Notable features identified by the FATF Report 2013 'Money Laundering and Terrorist Financing Vulnerabilities of Legal Professionals' include;

- Misuse of client accounts
- Purchase of real property
- Creation and management of trusts and companies
- Managing client affairs

However, evidence shows that the legal profession in the Isle of Man is well aware of the threats and how its services may be abused such that it can mitigate the risks and reduce the potential for harm to the Island. The main sources of information available to consider threats for this first NRA were Suspicious Activity Reports (SARs) and high level Mutual Legal Assistance Requests (MLARs). The information from SARs highlighted that the threat of international ML is far greater than the domestic threat; that nearly a third of domestic SARs related to cash activity and that the highest number of SARs relate to the UK which is consistent with the fact that the UK is a core market. Nearly 40% of all SARs were made due to fiscal concerns. This highlights that the abuse of the Isle of Man for tax related offences remains a threat.

As a large source of Advocate work in the Isle of Man comes from the UK, the threats (and vulnerabilities) facing UK lawyers were considered to be particularly relevant. Between September 2014 and May 2015 the Solicitors Regulatory Authority and the National Crime Agency jointly conducted work with UK firms to ensure robust systems were in place to guard against ML by large-scale criminal organisations. Relationships with UK law firms have historically been viewed as low risk, however the assessment noted that there would be a need to consider the outcomes of this regulatory review of the UK sector for the Isle of Man risk rating.

Summary and proposed actions

Taking into account the assessments of vulnerability and threat, the overall ML risk for the legal profession arising out of the NRA is considered to be medium low. Awareness of ML risk indicators appears high and risk appetite low across the profession.

There were no critical issues emerging for the sector out of the NRA; a small number of improvements were identified and will be the subject of further discussion between the FSA and the Law Society for the sector. These are:-

- The FSC/IOMFSA and government to examine the use of regulatory sanctions to ensure their appropriate and timely use as and when required. Ensuring that the use of regulatory sanctions is properly understood and that these sanctions are being used appropriately is a general action arising out of the NRA and is not specific to the legal profession.
- The FCU to identify any deficiencies in the quantity or quality of SAR reporting from the sector and to feedback, with support from the FSC/IOMFSA and the Law Society, any lessons into the next round of supervision and outreach. The NRA identified the need for the FCU to provide more guidance and training on SARs to all of industry and for feedback to MLROs (including the use of online reporting tools) and for the FCU to develop and publish typologies specifically for the Isle of Man.
- The FSC/IOMFSA to review the current data and information available for the sector with the Law Society and to work with the sector to ensure that where additional information can be secured that will enhance the risk assessment process that this is progressed.

The Law Society also identified its priorities as supervisor, which are to ensure ongoing and detailed AML/CFT education for Advocates and testing as to the ongoing effectiveness of the compliance systems in place.

Conclusions

The legal profession is well aware of the threats posed by ML and has well-established compliance controls in place to protect against this. The overall exposure to the threat of international ML is mainly to a relatively small number of firms, although altogether they employ 112 Advocates at the Bar. The Law Society has been responsible for self-regulating the sector since 2009 and

has adopted a risk based approach to AML supervision of Member Practices since 2011.

With the Designated Businesses Act coming into force in October 2015 co-ordination between the FSC/FSA and the Law Society as the Self-Regulatory Body will be imperative. The submission by all registered Firms of Advocates of an AML specific annual return with appropriate and relevant reporting statistics should also allow for improved analysis in the future.

Accountants

The Department of Home Affairs (DHA) has been responsible for AML oversight of Accountants from 2008 until 2015. In 2010 a 'Memorandum of Understanding' established arrangements with five of the professional accountancy bodies requiring those bodies to report the AML oversight activity conducted of their members to the DHA.

The accountancy bodies provided some annual feedback; the extent of oversight in the Island and supervision remained limited however. The 2009 IMF Report included a number of findings and recommendations for accountants, which the DHA sought to address via the MOU. Progress was limited by the absence of a central coordinating oversight body in the Isle of Man.

In September 2013 the DHA provided information for the technical assessment work that was conducted for the MONEYVAL Interim Report. There were no required actions or recommendations to be fulfilled stemming from this report. At that time approximately 234 firms or individuals were identified as being active in the 'accountancy' field. For those identified accountants not currently assigned to a professional body there was assumed to be limited or no oversight or supervision at the time the NRA was conducted.

The Designated Businesses Act 2015 will ensure that all registered firms of accountants and those representing themselves as accountants must submit an AML specific annual return to the FSA. As the legislation was not enacted at the time of the NRA, whilst it was noted, it could not be considered as a mitigating factor in respect of the risk assessment.

It is noted that the professional bodies will continue to provide guidance and collect data on AML and other regulatory matters for and from members; much of which will likely remain relevant to the overall assessment.

There was little evidence available as to the extent of local business conducted by the sector, but the assessment reflected the assumption that there is a cross-section of local and international business taking place. No testing was conducted as to these assumptions.

Sector vulnerabilities

The inherent vulnerability of the accountancy sector was assessed as being medium and the strength of the AML control framework was also identified as medium. Assessment of the AML controls found that the quality of these controls for the sector was between low and medium high. The partial fragmentation and coverage of self-regulatory bodies (SRBs) at the time of the NRA is reflected in some of the lower scores e.g. for entry control and supervision.

The full co-operation and assistance of the professional accountancy bodies of the ACCA and the ICAEW was secured for the NRA; this ensured that information was available in respect of a number of distinct AML areas including AML training requirements and procedure and control expectations. The assessment was able to take into account the AML supervisory regime currently employed by the two professional bodies.

Tax advisors and insolvency practitioners were included in discussions concerning the sector. It was considered that ACCA/ ICAEW registered firms were likely to provide tax advice to their clients, reflecting the professional client acceptance standards set out in the Consultative Committee of Accountancy Bodies (CCAB) anti-money laundering guidance, including the requirement to conduct CDD on clients.

The assessment noted that there is no register for insolvency practitioners nor is specific accreditation required to practice in this field in the Isle of Man. Insolvency work was identified as a risk area; the assessment considered that it may well be the case that accountants are providing this service in the Island under Part V of the Companies Act 1931 and the Companies (Winding Up) Rules 1934. Further work will be required to assess the risk / impact of this type of service.

Sector Threats

The ML threat was assessed as medium low; the sub group noted that there is a lower domestic threat, but a medium international threat arising from persons / entities who wish to abuse the system to launder the proceeds of crime.

The main sources of ML threat which are recognized at a global level are considered to be relevant to the Isle of Man because of its status as an international finance centre. The assessment concluded that the domestic threat of ML is mainly confined to self-laundering in relation to lower level drug related crime, petty theft and potentially more complex fraud / fiscal related matters. For the first two, the laundering of illicitly obtained cash is a core threat.

Where predicate offences occur off-island but the proceeds of criminal activity may flow through the Isle of Man, the core threats arise from the following: white collar crimes such as fraud; drug related (usually domestically based); taxation and excise evasion and corruption and bribery (including embezzlement of public funds).

Accountants in the Isle of Man are not, on the whole, involved with client funds and transactions and are therefore not the most exposed to direct involvement in ML related serious crime. A significant threat to the sector was considered to be from criminals seeking to use accountants as gatekeepers (colluding unwittingly or otherwise) in gaining easier access to other parts of the financial framework whilst maintaining distance from it.

Global typologies include the risk of collusion/complicity in misrepresenting financial affairs (accounting fraud) and in matters relating to taxation (specifically evasion). This area of risk is, the assessment concluded, the one which most accountants will encounter most frequently. Global typologies also indicate the provision of financial advice to criminal organisations, the facilitation of access into the financial sector and collusion and/or complicity in the misrepresentation of financial affairs (i.e. accounting fraud). There is no reason why the Isle of Man is more or less immune to these risks although the NRA did not identify cases where the accountancy sector in the Isle of Man had been used in this way.

The main sources of information available to consider threats for this first NRA were Suspicious Activity Reports (SARs) and high level Mutual Legal Assistance Requests (MLARs). The information from SARs highlighted that the threat of international ML is far greater than the domestic threat; that nearly a third of domestic SARs related to cash activity and that the highest number of SARs relate to the UK which is consistent with the fact that the UK is a core market. Nearly 40% of all SARs were made due to fiscal concerns. This highlights that the abuse of the Isle of Man for tax related offences remains a threat.

Summary and proposed actions

Taking into account the vulnerability and threat assessments, the overall ML risk for accountants is considered to be medium. The risk level reflects in part the current lack of detailed data/information concerning the sector in the Isle of Man which is being addressed as accountants become registered under the new legislation.

Whilst there is extensive evidence of guidance and professional body oversight of AML there is little application of Manx legislation and requirements included. In principle the Money Laundering Regulations 2007 are directly comparable to the principles in the Money Laundering and Terrorist Financing Code 2013 – both stemming from interpretation of POCA 2008 (POCA being almost identical in both UK and the Isle of Man). However, some jurisdiction customisation should be applied if the accountancy sector is to be compared with other sectors. A number of points were identified for action, the most significant of which concerns supervision.

Effectiveness of Supervision/ Oversight Activities

Supervision and oversight for the sector is the most important action identified. Once this is established on a uniform basis, standards of compliance systems and reporting can be examined and compared against required standards. This will be achieved by the new legislation and, once registered, all accountancy practitioners will be subject to ongoing monitoring by the FSC and be required to maintain AML/CFT controls in accordance with the AML/CFT Code.

The assessment identified several other areas for review; for example the next two priorities concerned the effectiveness of compliance systems and the effectiveness of suspicious activity monitoring and reporting. However the assessment recognised that it was important for the new registration and supervision arrangements to be introduced before other areas of work could most effectively be considered.

It is noted that cooperation from the ACCA and other accountancy bodies in respect of NRA data and information was very good. The primary challenge was that the nature of data required for the NRA, where it was available, did not necessarily match with historic data collected by the professional bodies. Although this situation is expected to improve, this assessment was generally limited by the information available.

Conclusions

The reporting data on the number of accountancy firms and individuals at the time of the NRA was impacted by the lack of standard reporting to an on-Island registration body. However, whilst there appeared to be a large number of accountants 'unassigned' to professional bodies, the workgroup was reasonably confident that in ACCA/ ICAEW accountant members the assessment covered the majority of international, complex matters.

With the introduction of the Designated Businesses Act 2015, co-ordination between the FSC and the accountancy professional bodies will be imperative. The submission by all registered accountancy firms and individuals of an AML specific annual return with appropriate and relevant reporting statistics should also allow for improved analysis in the future.

ANNEX I National Risk Assessment Process

Introduction

In February 2012, the Financial Action Task Force (FATF) adopted updated the Anti-Money Laundering / Combating the Financing of Terrorism (AML / CFT) Recommendations and published a revised assessment methodology.

The revised FATF Recommendations represent a significant re-write from the standards against which the Isle of Man was last assessed by the International Monetary Fund (IMF) in 2008. In response to revised FATF Recommendation 2, concerning national cooperation and coordination, a pre-existing senior level working group was formally designated by the Isle of Man Government's Council of Ministers as the AML/CFT Strategic Group (the Strategic Group) to serve as the cooperation and coordination body within the Isle of Man Government for the purposes of addressing and implementing the FATF Recommendations.

The Strategic Group is chaired by the Chief Secretary and includes senior representatives from Cabinet Office, HM Attorney General's Chambers; the Treasury; the Department of Home Affairs; Isle of Man Constabulary, Customs and Excise, Industry Regulators, the Isle of Man Office of Fair Trading and others.

The Strategic Group is responsible for setting the overall direction of the NRA work in respect of revised FATF Recommendation 1. Recommendation 1 introduces a new international requirement for countries to conduct assessments of their Money Laundering / Terrorist Financing (ML / TF) risks and to introduce measures to address these. In June 2013 the Strategic Group agreed terms for a high level NRA Group, also led by the Chief Secretary, and in October 2013 an NRA Working Group was established to take forward the work required.

The Strategic Group agreed upon the advisability of using an internationally recognised model, in the form of the World Bank NRA Self-Assessment Tool. In summer 2014 the Strategic Group secured the resources for this and for the appointment, in October 2014, of an NRA Project Manager based in the Cabinet Office to lead and coordinate the work required. The NRA process for the Isle of Man fully commenced in October 2014 and was substantially concluded by June 2015.

Coordination of the NRA

A voluntary questionnaire provided a starting point for the NRA; this was circulated to industry in August 2014 with a separate questionnaire circulated internally within Government, both seeking information to inform the NRA. This and other information such as that collated for the First 3rd Round Written Progress Report submitted to the MONEYVAL plenary in September 2013, provided a basis for the work. Briefings to key Government officers and industry representatives took place in September 2014 and at the same time seven thematic working groups were established. In preparation for a first workshop with the World Bank team in November 2014, seven thematic working groups were established, and began preparations, collating data and giving consideration to the threats and vulnerabilities.

The seven working groups were as follows;

- National Level Threats
- National Level Vulnerabilities
- Banking
- Securities
- Insurance and pensions
- Other financial institutions, including money service businesses and foreign exchange and;
- Designated Non-Financial Businesses and Professions (DNFBP) including advocates, accountants, online gambling and Trust and Company Service Providers (TCSPs)

In practice given the size of the Isle of Man, which is a small jurisdiction, the membership of the two national groups (comprising Government agencies only) substantially overlapped and the group also functioned as the technical WG for the NRA project with the majority of members being senior technical specialists. The following institutions participated in the national WG (some institutions were represented by more than one person):

- Financial Crime Unit (including the Financial Intelligence Unit)
- Financial Supervisory Authorities (Financial Services Commission; the Insurance and Pensions Authority and the Gambling Supervision Commission).
- Customs and Excise Division of Treasury
- Income Tax Division of Treasury
- Department of Home Affairs (IOM Constabulary, AML legislation)
- Attorney General's Chambers (prosecutions, mutual legal assistance, international)
- IOM Courts of Justice
- Department of Economic Development (trade and commerce including the Business Development Agency; Aircraft, Shipping and Companies Registries).
- Cabinet Office (including good government, international relationships)
- Office of Fair Trading (including registration of money lenders and consumer advice)

The World Bank NRA self-assessment tool provided the Island with a structured model to enable the collection and collation of all required data and evidence. The Isle of Man was responsible for collating all of the data and evidence for input into the Tool; a team from the World Bank provided the expert advice, training and support during the completion of the NRA and reviewed the draft documents to assist in refining the NRA and Action Plan which took place during a Final Workshop in April 2015.

Each sector working group completed its own module which formed part of the NRA assessment. The National Threat and Vulnerability group used this data and included it with their own assessment of the Isle of Man's overall ability to combat ML. Terrorist financing was considered separately within the assessment by a group of officers including representatives from the Financial Crime Unit, the Financial Supervision Commission, Customs and Excise and HM Attorney General's Chambers.

Private sector involvement

Private sector involvement in the NRA was strongly recommended as this can provide useful insights from outside the public sector. This involvement also raises awareness, which is important as the private sector institutions are among the primary audience of the NRA.

The extent and manner of private sector involvement is left to the country concerned. It was agreed at the outset that private sector involvement would be of considerable benefit to the NRA process and that industry representatives should be invited to participate in the sector sub-groups.

The private sector representatives were from the associations of the relevant sectors and professions, along with some other key individuals. As might be expected, there was not a consistent level of representation throughout the process; some associations were more engaged at one stage or another. For a few sectors (e.g. High Value Goods Dealers) following an initial review of risk it was determined that there was no need to focus on them owing to a number of factors and this was therefore reflected in the level of ongoing engagement that took place.

The following associations participated in the NRA being represented and/or consulted with during the process:

- The IOM Law Society
- IOM Bankers Association
- Association of Corporate Service Providers
- Manx Insurance Industry
- Institute of Chartered Accountants in England and Wales
- IOM Captive Insurance Association
- IOM Funds Association
- Chartered Institute of Securities and Investments
- Manx eGaming Association
- Manx Digital Currency Association
- Association of Estate Agents
- IOM Association of Pension Scheme Providers
- Chartered Institute of Taxation
- Association of Chartered Certified Accountants

The feedback from the private sector (and the public sector) during the NRA process and subsequently has been very positive with views expressed that the public-private sector dialogue had been constructive and had helped to enhance cooperation. Comments were made that for some participants it was the first time that they had experienced the private sector, the

regulators, law enforcement, and other public sector representatives sitting together and all working constructively towards the same goal.

Consideration of the sectors

The Department of Economic Development created a weighting model for the NRA which assigned significance to the various sectors being researched for the project. The model considered five factors for each sector, and provided weighting points to each sector dependent on the size of each factor. The factors used were:

- Assets under management
- Capital flow
- Income (profit)
- Employment
- GDP contribution

This was to ensure that appropriate consideration was given, not just to the level of threat and vulnerability presented by a particular sector, but also to the size of that sector relative to the overall financial/non-financial services sectors in the Island and thus avoid any distortion of the results.

Each sector groups gave consideration to the inherent vulnerabilities arising out of the nature of the business, the client profile, the amount of non-face-to-face transactions, whether or not complex structures are involved, etc. These inherent vulnerabilities can be managed to varying extents by the application of AML controls.

The threat level took into account known typologies for ML/TF in a sector, data and information from SARs and from MLARs, any evidence of past abuse, etc. Each working group made an assessment of the threat level for their sector based upon the information available. The assessed level of threat, taken together with the level of final vulnerability (once AML controls are applied) indicates an overall level of risk for each sector.

The Chairs and the Project Manager met together regularly to ensure, particularly in the case of the industry sectors, that there was a consistent and coherent approach to modelling and review taking place. The sub-sector Chairs from Government agencies were also members of the national threat and national vulnerability groups which provided additional synergy.

Regular reports were made to the NRA Strategic Group including an early presentation regarding the functioning of the World Bank Tool. At key junctures the NRA Strategic Group, joined by key stakeholders from across Government, received presentations from each of the sub-group

Chairs, on progress and findings.

Information and updates were also provided to the National Strategy Group (NSG), which is a Committee of the Council of Ministers. Further information on the NSG is provided in Annex II.

Communication

Feedback on progress was ongoing, both internally and also externally with discussion on the NRA taking place with wider industry at a number of different forums and events. Towards the conclusion of the process and once action plans had been drafted, the Project Manager wrote to all industry and professional associations (in June 2015) to provide some high level feedback and to invite the associations to contact the relevant Chair to meet, discuss and comment upon the NRA process and any actions arising for the sector. These meetings began in July 2015 and will be ongoing.

ANNEX II Isle of Man Government AML/CFT Framework

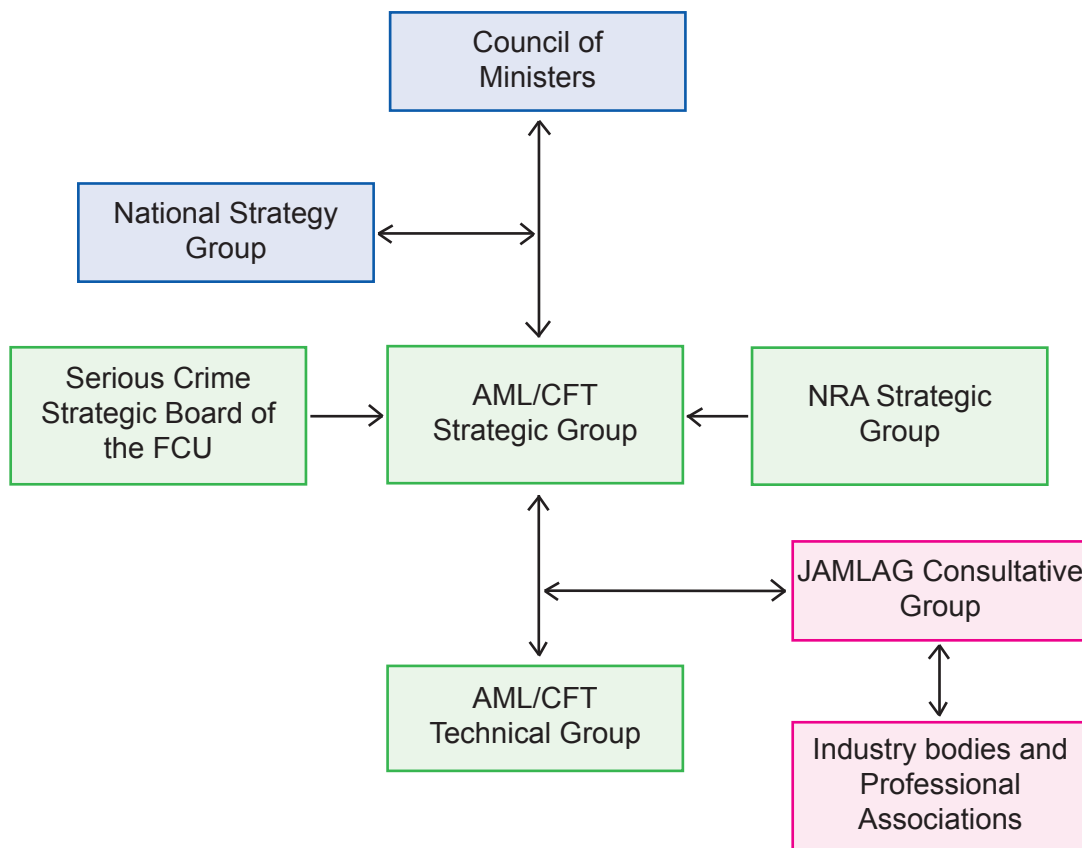
Several AML/CFT pan-Government groups exist in the Isle of Man, including:

- The AML/CFT Strategic Group — a high level committee consisting of senior officers from Government, the regulators and law enforcement, chaired by the Chief Secretary.
- The AML/CFT Technical Group — which reports into the AML/CFT Strategic Group.
- The Joint Anti-Money Laundering Advisory Group (JAMLAG) - an industry liaison forum which brings together Government, regulators

and industry. The work of this group feeds into the considerations of both the Strategic and the Technical AML/CFT groups.

The diagram below sets out the inter-relationships between the various AML/CFT groups. Political bodies are highlighted in blue; officers in green and industry in pink. The Serious Crime Strategic Group will be replaced by the FIU Board once the Financial Intelligence Unit Bill receives Royal Assent.

Figure 6. Isle of Man Government AML / CFT Groups



Council of Ministers

The Council of Ministers is the highest level decision making body within the Isle of Man Government. It consists of eight Ministers

and the Chief Minister with a small number of advisers also present. Its purpose is to set national and international policy which includes matters in respect of AML/CFT and to provide clear leadership to the separate

legal entities of departments, offices and statutory boards which make up the Isle of Man Government. It also has some statutory decision-making functions and importantly has a reserved power to give a department or statutory board directions with regard to the exercise of functions where it appears to it to affect the public interest.

National Strategy Group

The National Strategy Group (NSG) is a sub-committee of the Council of Ministers and consists of the Chief Minister and the Ministers for Treasury and Economic Development with a number of advisors present. It is responsible for ensuring that priority is given to national imperatives within the National Strategic Plan. The Committee identifies work streams which require policy development and together with the other Council of Ministers Committees, identifies and drafts policies to recommend to Council of Ministers.

Anti-Money Laundering and Combating the Financing of Terrorism Strategic Group

The purpose of the Anti-Money Laundering and Combating the Financing of Terrorism Strategic Group is to provide an effective mechanism to enable relevant officers in Government, the regulators and law enforcement in the Island to cooperate and coordinate with each other concerning the development and implementation of policies and activities related to combating ML / TF, the financing of proliferation of weapons of mass destruction, and compliance with related international financial standards. The terms of reference are as follows:

a. To support the Isle of Man Government Commitment to Combating Money Laundering and the Financing of Terrorism and Proliferation through the provision of corporate advice and support.

b. To consider the implications for the Island of the development of relevant international standards and related initiatives.

c. To lead on and coordinate preparations for assessments of the Island's compliance with the FATF Recommendations, and other relevant international standards such as Basel, IOSCO and IAIS, by international bodies.

d. To lead on and coordinate the consideration and progression of any recommendations made following the international assessments referred to above.

e. To provide advice to the Council of Ministers on relevant matters and to make recommendations to Council where any significant policy decision is required, and in particular where there may be financial or resource implications, or issues concerning the international reputation of the Island.

The AML/CFT Strategic Group is chaired by the Chief Secretary and comprises, ex officio, the Chief Financial Officer, Chief Executive of the Department of Home Affairs, HM Acting Attorney General, Chief Executives of the regulators, the Chief Constable and a number of advisers from across Government. The Strategic Group is not a legal entity, neither is it provided for in current legislation; rather the Strategic Group receives its mandate from the Council of Ministers.

Serious Crime Strategic Board

The Serious Crime Strategic Board is chaired by the Chief Constable and brings together partner agencies in order to provide the necessary governance for the operation of the Financial Crime Unit (which includes the FIU)³³.

The Chief Constable is accountable to the Minister for Home Affairs, but works closely with the partner agencies to meet strategic and operational objectives and ensures that the Board considers any strategic and organisational requirements proposed for it by the Council of Ministers. The partner agencies are the Department of Home Affairs, HM Attorney General's Chambers, the Income Tax Division of the Treasury, and the Customs and Excise Division of the Treasury.

The FCU also has a role in formulating AML policy and strategy. Furthermore the Chief Constable sits on the AML/CFT Strategic Group and the Head of the FCU sits on the AML/CFT Technical Group. This ensures that any practical difficulties and findings made through the process of investigation can inform the formulation of strategy and the potential risk areas for the Isle of Man.

Anti-Money Laundering and Combating the Financing of Terrorism Technical Group

The overall purpose of the AML/CFT Technical Group is to provide advice and support to the AML/CFT Strategic Group in respect of the development of ML regulation,

the implications for the Isle of Man of changes to international standards and the effectiveness of measures intended to tackle ML / TF at Government and industry level. The Technical Group comprises representatives from the regulators, law enforcement, the Treasury, the Cabinet Office, the Departments of Home Affairs and Economic Development and the Office of Fair Trading. Ad hoc sub groups may be formed to consider particular issues. The Group is a forum for coordination and discussion across Government as well as focussing on matters in respect of AML/CFT regulation and guidance and emerging issues in respect of the application of regulation.

Joint Anti-Money Laundering Advisory Group

The Joint Anti-Money Laundering Advisory Group (JAMLAG) is a representative discussion forum for regulators, law enforcement authorities and industry.

It provides a forum in which key stakeholders can comment and advise on prospective changes to AML regulations and guidance. Furthermore, JAMLAG aims to foster coordination of AML practices between different industry sectors and acts, as appropriate, as a review body for major changes to international ML standards which might be promulgated. Ad hoc sub groups may be formed to consider particular issues. Chairmanship of JAMLAG meetings rotates between the relevant authorities.

³³ The SCSB will be replaced by the FIU Board once the FIU Act comes into force. The FIU Board will comprise HM Attorney General, the Chief Constable and the Chief Officer (Collector) of the Customs and Excise Division. The new FIU Board will have a role in advising the Strategic Group regarding policy and strategy

ANNEX III Isle of Man International Sanctions Policy and Practice

Policy

It has been the longstanding practice of the Isle of Man Government to maintain the Isle of Man's international sanctions regimes in line with those of the United Nations, European Union and United Kingdom.

As confirmation of this policy, in October 2012 the Council of Ministers endorsed the following formal statement of policy adopted by Treasury at its meeting on 19 September 2012:

"It is the policy of the Isle of Man Treasury that it will maintain the lists of those persons, entities and organisations subject to financial sanctions under applicable United Nations or European Union sanctions legislation so that they correspond to the Consolidated Lists issued by Her Majesty's Treasury in the United Kingdom."

Implementation

Until a few years ago international sanctions measures were normally implemented by the

United Kingdom in the Isle of Man's behalf (with the prior agreement of the Isle of Man

Government) using powers in the United Nations Act 1946 (of Parliament) (UNA 1946)

Until 2000 the UK also assumed responsibility for administering sanctions controls in the Island through the Bank of England. The UK would make an Order in Council under the UNA 1946 to implement UN obligations for itself and subsequently make separate Orders in Council for the Isle of Man, for the Channel Islands, and (using different enabling powers) for the Overseas Territories.

Although such Orders are still made by the UK to implement sanctions measures for the Overseas Territories, this is no longer the case for the Isle of Man³⁴ (or the Channel Islands) which implement sanctions measures using domestic legislation. Furthermore, since 2000 it has been the responsibility of the Isle of Man Government to administer sanctions controls and provide information and advice to businesses about such controls.

There are a number of ways in which international sanctions are implemented by the Isle of Man Government using domestic legislation as set out in the following paragraphs.

³⁴ However, some of the sanctions Orders in Council made by the UK for the Island continue to be in force.

European Communities (Isle of Man) Act 1973

The European Communities (Isle of Man) Act 1973³⁵ allows the Isle of Man to make Regulations to implement any EU instrument which applies to the Island under its limited Protocol 3³⁶ relationship with the EU. Where EU legislation does not, or may not, apply directly to the Isle of Man the ECA 1973 also includes a power to make an Order to apply the relevant EU instrument to the Island with any necessary exceptions, adaptations and modifications; when an EU instrument has been applied to the Island in this way it can then also be implemented with Regulations under the ECA 1973. Orders and Regulations made under the ECA 1973 can apply or implement an EU instrument, as the case may be, as that EU instrument is amended from time to time. The power to make Orders and Regulations under the ECA 1973 rests with the Council of Ministers.

As EU instruments concerning restrictive measures (i.e. sanctions) may not be, or may only partially be, applicable to the Isle of Man under Protocol 3, the established practice is for an application Order as described above to be made first and implementing Regulations then to be made. Since the EU implements UN measures through its legislation as well as adopting restrictive measures on its own initiative this provides a route (albeit slightly indirect) for the Island to implement UN sanctions.

To expedite the application and implementation of EU sanctions instruments, Orders relating to the application of these instruments can be made by the Council of Ministers and come into operation, with the approval of Tynwald only then being sought as soon as practicable afterwards for the Order to continue in operation.

When the making of these Orders and Regulations has been approved by the Council of Ministers it has become standard practice for the commencement provision to bring them into operation immediately after they have been made. In addition, there is a standard modification to an EU sanctions instrument when applied to the Isle of Man whereby any reference in the instrument to an Annex to the instrument is to be construed as a reference to the Annex as amended from time to time.

The Annexes to EU sanctions instruments list, amongst other things, the persons, bodies and entities which are subject to restrictive measures, so changes to these lists generally have automatic effect in the Isle of Man once the EU instrument has been applied. Only when the original EU instrument is replaced or the substantive text in the body of the instrument is amended is a further application Order and implementing Regulations required.

³⁵ http://www.legislation.gov.im/cms/images/LEGISLATION/PRINCIPAL/1973/1973-0014/EuropeanCommunitiesIsleofManAct1973_2.pdf
³⁶ <https://www.gov.im/media/624101/protocol3relationshipwiththeeu.pdf>

The Orders and Regulations are drafted by the External Relations Division of the Isle of Man Government and can be done in a day. In the normal course of events the Council of Ministers meets weekly on a Thursday, with a deadline for papers for approval being the previous Thursday. However, with the move to electronic circulation, papers relating to the implementation of EU sanctions measures can now be circulated to the Council of Ministers up to the day prior to a meeting if this is considered to be necessary. In cases of extreme urgency or if Council is not meeting as normal for any reason, approval for the application and implementation of EU sanctions can be obtained by a quorum of the Ministers indicating their approval following the electronic circulation of the instruments and covering paper.

When the necessary legislation has been made and it has come into operation, the Customs and Excise Division of Treasury handles the administration and enforcement of the measures the Division maintains comprehensive information about the measures that are currently in place on its website³⁷.

Customs and Excise Acts

In addition to application and implementation of EU sanctions Regulations, the Treasury implements export control/arms embargo type restrictive measures using the powers available to it under the Island's Customs and Excise Acts.

Under the terms of the Customs and Excise Agreement 1979³⁸ between the UK and the Isle of Man the Island is obliged to maintain its export control law and procedure so that it corresponds to those in place in the UK.

In practice this is achieved by the application by the Treasury of the relevant UK legislation to the Isle of Man using the powers in our Customs and Excise Act 1993³⁹ (CEA 1993). So, for example, the (UK's) Export Control Order 2008 was applied to the Isle of Man by the Export Control Order 2008 (Application) Order 2009 and subsequent UK orders which have amended or supplemented the 2008 Order have also been applied to the Island. These application orders require Tynwald approval after they have been made but they can have retrospective effect back to when the applied UK legislation came into force.

Similarly to the application of the UK's general export control legislation, specific export control regime legislation is also applied to the Isle of Man. For example, the (UK's) Export Control (Sudan, South Sudan and Central African Republic) Regulations 2014 were applied to the Island by the Export Control (Sudan, South Sudan and Central African Republic Sanctions) Regulations 2014 (Application) Order 2015.

Whilst there may be some overlap between the application and implementation of the EU Regulations using the powers in the ECA 1973 and the application of the UK's export control legislation using the CEA 1993, between them most aspects of sanctions regimes are covered.

³⁷ www.gov.im/categories/tax-vat-and-your-money/customs-and-excise/sanctions-and-export-control/

³⁸ https://www.gov.im/media/80147/customs_agreement1979.pdf

³⁹ http://www.legislation.gov.im/cms/images/LEGISLATION/PRINCIPAL/1993/1993-0007/CustomsandExciseAct1993_2.pdf

Immigration Acts

An element of some sanctions regimes that is not implemented by the methods described above is the implementation of travel bans targeted at certain individuals. The Isle of Man keeps its legislation in line with that in the UK's implementing legislation by using the powers in the UK's Immigration Acts as they have been extended to the Island⁴⁰.

The UK's Immigration (Designation of Travel Bans) Order 2000, as amended, lists Resolutions of the Security Council of the United Nations and instruments made by the Council of the European Union under which persons are subject to travel bans. Under section 8B of the Immigration Act 1971 persons who are included under these "designated instruments" must (subject to certain limited exemptions) then be refused entry to the UK or leave to remain in the UK.

Each time that the UK updates its legislation the External Relations Division of the Cabinet Office drafts an Order to update the Isle of Man's legislation. The Island's latest Order at the time of writing is the Immigration (Designation of Travel Bans) Order 2015.

Terrorism and Other Crime (Financial Restrictions) Act 2014

The Terrorism and Other Crime (Financial Restrictions) Act 2014⁴¹ (TOCA 2014) which

was brought into operation on 1 January 2015, consolidated and replaced previous legislation, including the Terrorist-Asset Freezing Etc. Act 2010 (of Parliament) as extended to the Isle of Man with modifications by Order in Council. Under this Act the Treasury may designate a person as being subject to a freeze on their financial assets and other economic resources and also give directions to financial institutions in an equivalent manner to the UK under Schedule 7 to the Counter Terrorism Act 2008 (such as when the FATF has advised that measures should be taken).

Under this Act "designated person" is defined as including a natural or legal person, group or entity included from time to time on the list provided for by Article 2(3) of Council Regulation (EC) No 2580/2001 of 27 December 2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism as it has effect in the Island.

Any measure affected by the HM Treasury after the coming into operation of TOCA 2014 that is the equivalent to a freezing order or designation under the Act has effect in the Island as if made under TOCA2014 and in the same terms. The fact that a measure that is the equivalent to a direction has been affected by HM Treasury is also to be taken as sufficient for Isle of Man Treasury to form the same reasonable belief or suspicion that gave rise to the effecting of the measure.

⁴⁰ By the Immigration (Isle of Man) Order 2008 (SI 2008/680)

⁴¹ http://www.legislation.gov.im/cms/images/LEGISLATION/PRINCIPAL/2014/2014-0013/TerrorismandOtherCrimeFinancialRestrictionsAct2014_1.pdf

ANNEX IV UK National Risk Assessment of Money Laundering and Terrorist Financing

The UK National Risk Assessment was published on 15 October 2015, some months after the Isle of Man's own National Risk Assessment was finalised. The Isle of Man did not have sight of the UK assessment prior to publication and was not consulted on any relevant matters prior to publication. The UK is by far the Island's largest trading partner in financial (and other) services and there are very close links between the Isle of Man and the UK, in particular with the City of London. The assessment undertaken by HMT and the Home Office is therefore relevant to the Isle of Man. It would have formed a part of the evidence base for the Island's NRA had it been available at the time and it will inform future threat assessments.

This annex to the Isle of Man report does therefore not address the findings of the UK NRA in detail at this time. There is however one relevant matter within the UK NRA which directly concerns the Isle of Man and which is addressed here.

International Exposure

The Isle of Man recognises the threats in the international sphere identified in Chapter 10 of the UK report and is similarly exposed to them, with criminals seeking opportunities to transfer the proceeds of crime in or through the Island or using professional services to facilitate laundering. Transferring proceeds of crime 'offshore' to avoid confiscation of assets also presents a real threat to the Isle of Man.

The UK is the Island's largest trading partner for financial services; this explains why the largest numbers of Suspicious Activity Reports received by the FIU relate to the UK and why it is essential that Isle of Man financial institutions are never complacent when engaged in business with UK customers and businesses. This view is borne out by the UK's own risk assessment.

Recovering criminal assets is a priority for all jurisdictions; where they have been laundered overseas this presents further challenges. The Isle of Man Government, law enforcement agencies and regulators place great importance on international cooperation to assist with identification, restraint and recovery of such assets where they may either be present in the Island or where they may have been channelled through the Island. There are a number of formal and informal procedures in place to enable this cooperation.

Table 10.A of the UK report identifies the "Top 10 countries to which identified UK criminal assets were laundered, ranked by estimated value, 2010/11 – 2014/15". This table includes the Isle of Man as one of those countries (ranked at number 9). It excludes internal movement of laundered funds between the countries that constitute the UK; England, Scotland, Northern Ireland and Wales.

The table unfortunately does not provide a more informative context for the list nor explain the types of data used to support it. The Isle of Man Government subsequently sought information from the UK Home Office regarding this table which, regardless of the lack of accompanying data, did not accord with the information available to the Isle of Man. This was notably in respect of assets frozen or recovered in the Island on behalf of the UK. The following facts have been obtained in respect of the table;

- The table was compiled from data arising out of the UK Joint Asset Recovery Database (JARD) which is managed jointly by the NCA and the Home Office. The data sets are populated by the investigating Law Enforcement Agencies' Financial Investigators.
- The data relates to the identified assets or "Free Property" of persons against whom a benefit figure has been raised and confiscation order has been applied. So, for example, a person may be subject to a confiscation order of £50,000 in the UK, but if their total Free Property assets are much greater than this, then it is that larger figure that is entered into the JARD.
- In many cases the identified assets from which a confiscation order can be realised will therefore not have been judged to be 'criminal' by any UK court; the underlying data in the table is used as a 'proxy' measure only to indicate a potential 'criminal lifestyle'.
- However, the cases in the table concerning the Isle of Man have, or are for the most part being, pursued directly via routes other than through Mutual Legal Assistance Requests and

therefore were not brought to the attention of the authorities in the Isle of Man and in the majority of cases, only proactive liaison with the UK NCA FIU established their existence.

- Those cases that the Attorney General's Chambers in the Isle of Man are aware of do not appear to have been used to populate the JARD, which raises some further concerns regarding accuracy and relevance.
- There are only a very small number of these cases, some of which have been settled.

Table 10A of the UK NRA could therefore be regarded as potentially misleading without the above context to provide a fuller picture.

Further to a constructive dialogue with the relevant UK authorities following the publication of Table 10A a more effective exchange of information is now taking place in respect of the information in the JARD, particularly on a FIU to FIU basis.

The Isle of Man has also reiterated its support for the UK Government in ensuring criminal assets are recovered and that abuse of financial institutions for money laundering purposes is tackled.

Glossary of terms and acronyms

| Term or acronym | Definition |
|------------------------------------|---|
| ACCA | Associated of Chartered Certified Accountants |
| AGC | Attorney General's Chambers |
| AML | Anti-Money Laundering |
| AML / CFT | Anti-Money Laundering / Combating Financing of Terrorism |
| AML / CFT Code | Anti-Money Laundering and Countering the Financing of Terrorism Code 2015 |
| ATCA 2003 | Anti-Terrorism and Crime Act 2003 |
| AUM | Assets Under Management |
| Blockchain | The basis of crypto currency. Aa distributed database; in the case of crypto currency a shared public ledger that enables e.g. bitcoin transactions to take place without an intermediary. |
| BO | Beneficial Ownership |
| BVI | British Virgin Islands |
| CDD | Customer / Corporate Due Diligence |
| C&E | (Isle of Man) Custom and Excise Division |
| CFT | Countering the Financing of Terrorism |
| CIs | Channel Islands |
| Class 2 licence holder | Functionaries which include investment managers, investment advisers and discretionary asset managers |
| CSP | Corporate Services Provider |
| CRS | Common Reporting Standard |
| CTA | Common Travel Area |
| CVC | Convertible Virtual Currency |
| DBC | Disclosure and Barring Checks |
| DBS / DCS | Defined Benefit Schemes / Defined Contribution Schemes |
| DED | Department of Economic Development |
| DHA | Department of Home Affairs |
| DMLRO | Deputy Money Laundering Reporting Officer |
| DNFBP | Designated Non-Financial Business or Profession |
| DNFBP Bill | Designated Businesses (Registration and Oversight) Bill |
| EDD | Enhanced Due Diligence |
| Experienced investor | An investor who meets certain criteria which qualify him as an investor who knows the risks of investing in a certain product |
| FATCA | Foreign Account Tax Compliance Act |
| FATF | Financial Action Task Force |
| FCU | Financial Crime Unit |
| FIU | Financial Intelligence Unit |
| FOBT | Fixed Odds Betting Terminal |
| FSC | Financial Supervision Commission |
| FSC's Financial Services Rule Book | The Rule Book sets out detailed requirements in relation to various matters such as financial resources, conduct of business and risk management. It is the yardstick by which the FSC measures licence holders during supervisory visits |
| FSRB | Financial Services Regulatory Bodies |
| FT | Full Time (employee) |
| GDP | Gross Domestic Product |
| GAAS | Generally Accepted Auditing Standards |
| GSC | Gambling Supervision Commission |
| HMRC | Her Majesty's Revenue and Customs |
| HNW | High Net Worth |
| HNWI | High Net Worth Individual |

NATIONAL RISK ASSESSMENT 2015

| Term or acronym | Definition |
|------------------------|---|
| HVGD | High Value Good Dealer |
| IA 2008 | Insurance Act 2008 |
| ICAEW | Institute of Chartered Accountants in England and Wales |
| IAMLR 2008 | Insurance (Anti-Money Laundering) Regulations 2008 |
| IAIS | International Association of Insurance Supervisors |
| IBC | International Business Companies Act 1984 |
| IFA | Independent Financial Advisor |
| OFI | Other Financial Institution |
| IGN | Guidance Notes on Anti-Money Laundering and Preventing the Financing of Terrorism – for Insurers (Long Term Business) |
| IMF | International Monetary Fund |
| IMF Report 2009 | International Monetary Fund Report 2009 |
| ILOR | International Letters of Request |
| IOSCO | International Organisation of Securities Commissions |
| IPA | Insurance and Pensions Authority |
| Institutional investor | An investor which is a financial institution |
| Investment business | Services being provided by Class 2 licence holders |
| IOM | Isle of Man |
| IOMG | Isle of Man Government |
| JAMLAG | Joint Anti-Money Laundering Advisory Group |
| ML | Money Laundering |
| MLAR | Mutual Legal Assistance Request |
| MLRO | Money Laundering Reporting Officer |
| ML / TF | Money Laundering / Terrorist Financing |
| ML / TF Code | Anti-Money Laundering and Countering the Financing of Terrorism Code 2015 |
| MONEYVAL | Council of Europe's committee of experts on money laundering, which conducts AML/CFT assessments of the Isle of Man |
| MSB | Money Service Business |
| MVTS | Money Value Transmission Services |
| NAV | Net Asset Value |
| Non-retail funds | Specialist, qualifying, experienced and professional investor funds. This category also encompasses closed ended investment companies and exempt schemes. Generally designed for institutional or experienced investors and then to have qualifying criteria for investment purposes |
| NPO | Non-Profit Organization |
| NRA | (Isle of Man) National Risk Assessment |
| OFT | (Isle of Man) Office of Fair Trading |
| Overseas funds | A fund which is incorporated outside of the Isle of Man but is managed or administered in the Isle of Man |
| PEP | Politically Exposed Person |
| POCA 2008 | Proceeds of Crime Act 2008 |
| PT | Part Time (employee) |
| RBSA 2000 | Retirement Benefits Schemes Act 2000 |
| Regulated activities | The following activities are regulated activities under the IA 2008 and are subject to the supervision of the IPA: a) carrying on or holding out as carrying on insurance business within the meaning of the IA 2008; b) acting or holding out as acting as an insurance manager, within the meaning of the IA 2008, for or in relation to an insurer; or c) acting or holding out as acting as an insurance intermediary within the |

NATIONAL RISK ASSESSMENT 2015

| Term or acronym | Definition |
|--------------------------|--|
| | meaning of the IA 2008 in respect of effecting or carrying out contracts of insurance which are not investments within the meaning of the Regulated Activities Order 2011; Acting or holding out as acting as a retirement benefits schemes administrator within the meaning of the RBSA2000 is also a regulated activity. Under section 1 of that Act it is an offence for a person to market a retirement benefit scheme (a 'scheme') or to receive contributions into a scheme or to act by way of business as a trustee to a scheme unless that scheme is an authorised or recognised scheme within the meaning of the RBSA2000. |
| Regulated entities | The following are entities subject to the supervision of the IPA under the IA2008 or the RBSA2000: <ul style="list-style-type: none"> • Insurers authorised or permitted under sections 8 or 22 respectively of the IA2008; • Insurance managers registered under section 25 of the IA2008; • Insurance intermediaries registered under section 25 of the IA2008; • Schemes administrators registered under section 36 of the RBSA2000; • Retirement benefits schemes authorised under section 2 of the RBSA2000; and • Trustees of a retirement benefits scheme (for fit and proper purposes and AML oversight only). |
| Retail Funds | Authorised, regulated and full international collective investment schemes. Available to retail investors. |
| Retail investor | An investor which is considered to have less knowledge and experience of investing than an experienced or institutional investor |
| SAR | Suspicious Activity Report |
| STR | Suspicious Transaction Report |
| SBEEB | Small Business, Enterprise and Employment Bill (2015) |
| SCSB | Serious Crime Strategic Board |
| SME | Small and Medium Enterprise |
| SOF | Source of Funds |
| SOW | Source of Wealth |
| SRB | Self-Regulated Body |
| TIEA | Tax Information Exchange Agreement |
| TCSP | Trust and Company Services Provider |
| TOCA 2014 | Terrorism and Other Crime (Financial Restrictions) Act 2014 |
| TF | Terrorist Financing |
| Tynwald | Parliament of the Isle of Man |
| UBO | Ultimate Beneficial Ownership |
| WMD | Weapons of Mass Destruction |
| 2002/03 FATF Typologies | The FATF money laundering and terrorist financing typologies report 2002/03 |
| 2003/04 FATF Typologies | The FATF report on money laundering typologies 2003/04 |
| 2004/05 FATF Typologies | The FATF report on money laundering and terrorist financing typologies 2004/05 |
| 2010 MONEYVAL Typologies | MONEYVAL report on money laundering through private pension funds and the insurance sector |
| 2013 AML Code | Money Laundering and Terrorist Financing Code 2013 |
| 2015 AML Code | Anti-Money Laundering and Countering the Financing of Terrorism Code 2015 |



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