

The Isle of Man

RISK & COMPLIANCE REPORT

DATE: February 2017

Executive Summary - Isle of Man

Sanctions:

None

FAFT list of AML Deficient Countries

No

Higher Risk Areas:

US Dept of State Money Laundering assessment
Offshore Finance Centre

Major Investment Areas:

Agriculture - products:

cereals, vegetables; cattle, sheep, pigs, poultry

Industries:

financial services, light manufacturing, tourism

Exports - commodities:

tweeds, herring, processed shellfish, beef, lamb

Imports - commodities:

timber, fertilizers, fish

Investment Restrictions:

Information unavailable

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Section 1 - Background

Part of the Norwegian Kingdom of the Hebrides until the 13th century when it was ceded to Scotland, the isle came under the British crown in 1765. Current concerns include reviving the almost extinct Manx Gaelic language. Isle of Man is a British crown dependency but is not part of the UK or of the European Union. However, the UK Government remains constitutionally responsible for its defense and international representation.



Section 2 - Anti – Money Laundering / Terrorist Financing

FATF status

The Isle of Man is not on the FATF List of Countries that have been identified as having strategic AML deficiencies

Compliance with FATF Recommendations

The last Mutual Evaluation Report relating to the implementation of anti-money laundering and counter-terrorist financing standards in The Isle of Man was undertaken by the Financial Action Task Force (FATF) in 2016. According to that Evaluation, the Isle of Man was deemed Compliant for 10 and Largely Compliant for 25 of the FATF 40 Recommendations.

Key Findings from latest Mutual Evaluation Report (2016):

The coordination of anti-money laundering/countering the financing of terrorism ("AML/CFT") policies in the IoM is a strong point. The AML/CFT Strategic Group, assisted by the AML/CFT Technical Group, takes the lead in this area and has been extremely active in promoting sound AML/CFT policies and bringing about significant reforms. The Strategic Group was at the time of the on-site visit overseeing the implementation of an action plan based on the findings of the NRA. It is expected that the action plan, once completed, will result in significant improvements across many areas within the IoM's AML/CFT regime.

As a result of the National Risk Assessment ("NRA") completed in 2015, the authorities have a thorough understanding of where the money laundering ("ML") and financing of terrorism ("FT") vulnerabilities lie within the national institutional and legal framework. They are also aware of which sectors are most vulnerable to ML/FT, both through years of experience in supervision and a reasonably comprehensive assessment, conducted as part of the NRA process, of the products, services and customers present in the IoM.

While the authorities are aware that the ML/FT threats are mainly external, their understanding of threats may be incomplete due to (a) the limited aggregated data available on the volume and destination of outgoing and incoming flows of funds in the financial sector and (b) the absence of aggregated data on where the beneficial owners of assets managed or funds held in the IoM are from or which countries those funds are coming from. The absence of this data creates challenges in determining whether any flows leaving the IoM could potentially be linked to FT, terrorist groups or individual terrorists in other countries, especially in high-risk jurisdictions.

Financial intelligence generated by the financial intelligence unit ("FIU") has been used successfully by the Financial Crime Unit of the IoM Constabulary ("FCU") to develop evidence and trace criminal proceeds in some significant ML cases. However, other than

those few cases, the FIU conducted limited in-depth analysis and, as a result, the intelligence products of the FIU only occasionally added significant value. The intelligence chain appears to be hampered by the low quality of suspicious activity reports ("SARs") received from reporting entities and the absence of reports on suspicions identified at the borders from the Customs and Excise Division ("CED").

The authorities have been successful in prosecuting and achieving convictions for all types of ML, including self-laundering, third party ML and stand-alone ML. However, the number of convictions achieved is modest and the results do not reflect the risk-profile of the IoM. In the period under review, there were no domestically-initiated ML cases involving foreign predicate offences. Very few parallel financial investigations have been conducted. The FCU does not appear to take a proactive approach to identify, initiate and prioritise ML cases focusing on more complex cases, involving potential abuse of or by the IoM financial sector where property is the proceeds of foreign predicates. This also has an effect on the confiscation of proceeds of crime, since they are not identified through financial investigations and restrained at a very early stage. The overall value of property restrained and confiscated remains extremely low.

The authorities have not, to date, detected any potential cases of FT and therefore have not had the opportunity to demonstrate the effective investigation and prosecution of FT. This may be partly explained by the lack of awareness and proactive approach in relation to potential suspicions of FT. A number of cases were noted where potential FT activities should have been at least considered for investigation, especially in relation to FT SARs, matches with United Nations Security Council Resolutions ("UNSCRs") and one mutual legal assistance ("MLA") request. There is no local dedicated anti-terrorism unit although training has been provided to some police officers.

The IoM provides constructive and timely MLA, especially with respect to requests for restraint orders. Informal cooperation is conducted effectively to a large extent. The authorities regularly seek assistance from the United Kingdom ("UK"), although much less frequently from other countries.

Financial institutions ("FIs") and designated non-financial businesses and professions ("DNFBPs") assess ML/FT risk at business level, apply a risk-based approach to CDD and generally demonstrate knowledge of AML/CFT requirements. However, the evaluators are of the opinion that there is insufficient understanding of risks where FIs operate relationships for intermediary customers and where use is made of customer due diligence ("CDD") information presented by third parties that have collected this information in turn from other parties ("information chains"). It is not clear that this inherent risk is being mitigated. Overall, the number of customers assessed as presenting a higher risk appears low compared to risks inherent in the IoM. There is no comprehensive requirement to have an independent audit function (in relation to certain FIs and DNFBPs) to test the AML/CFT system.

Compliance by FIs and DNFBPs with AML/CFT requirements is actively supervised by the Financial Services Authority ("IOMFSA") and the Gambling Supervision Commission ("GSC"). However, the current legislative framework for supervising compliance by DNFBPs (except trust and corporate service providers ("TCSPs") and online gambling operators, which have been subject to supervision for a number of years) is still very new as is the application of a risk-based approach by the GSC. Furthermore, the IOMFSA does not routinely collect

statistics and information that allow it to fully consider ML/TF risk in the financial sector as a whole and at sector level. Nor has the risk that arises from the use made by banks of CDD information provided through chains of introductions received sufficient attention from the IOMFSA. There has been over reliance in the past by the IOMFSA on the use of remediation plans to address AML/CFT issues, though steps have been taken to address this issue.

Measures to prevent the misuse of legal persons and legal arrangements for ML and TF are based around the IOMFSA's long-standing regulation and supervision of TCSPs (which, unlike in many other countries, is not limited to AML/CFT compliance). However, it is common for TCSPs not to meet their customer (or beneficial owner(s) thereof) and to use professional intermediaries to collect (and certify) CDD information; and so there is an increased inherent risk that they may be provided with incomplete or false information.

Measures do not extend to all trusts governed by IoM law. The authorities have not considered cases where legal persons and trusts established under IoM law have been used to disguise ownership or to launder the proceeds of crime.

Risks and General Situation

The IoM is an international financial centre. The national income accounts for the year 2013/14 show that financial services (banking, insurance, other finance and business services, legal and accounting services, and corporate services) account for 37.8% of its gross domestic product ("GDP") of GBP 4.32 billion¹. However, online gambling has now replaced insurance as the largest economic sector on the IoM, with a 16.7% share of GDP, and information and communication technology and online gambling were the main drivers of growth during the year, growing by 58% and 30% respectively in real terms.

The NRA acknowledges that since much of the financial business is conducted on a non-face-to-face basis via intermediaries, the potential for proceeds of crime/funds related to ML/FT flowing into or through the IoM is medium-high. The ML threat is mainly external. Business generated outside the IoM is considered by the authorities to present the greatest source of threat. This is due to the volumes generated by non-resident customers and the type of non-resident customers that are targeted by service providers, such as high net worth individuals, which could include politically exposed persons ("PEPs"). The NRA identifies that as the largest financial partner for the IoM, the UK is by far the most frequently reported jurisdiction in terms of SARs. Corruption, tax evasion and fraud are thought to be the most likely external threats to the IoM. Domestic ML threats are less significant. The authorities have conducted an assessment of FT risk and concluded that the risk is medium-low. This conclusion is based on an assessment of a comprehensive set of factors. However, the assessment of the FT threat appears to be missing an important element, i.e. an assessment of the flows leaving the IoM, which could potentially be linked to the financing of terrorism, terrorist groups or individual terrorists in other countries, especially in high-risk jurisdictions.

The sectors which are considered to be most vulnerable to ML/FT are the trust and corporate services, banking, insurance and online gambling. Most customers of TCSPs are non-resident and many have a high net worth. Structures established for customers can also be complex and can be established for trading purposes, which adds to both complexity and risk. Banks may place reliance on CDD measures applied by TCSPs and other professional intermediaries and business is often referred by introducers. The online gambling and life

insurance sectors are considered to be vulnerable to ML/FT due to their size, rather than due to any inherent features of the business that increase vulnerability. Given that the IoM is a centre for the creation of legal persons and trusts for non-resident persons, the potential for abuse may be greater. However, the IoM has taken measures to mitigate this risk. For instance, TCSPs, which manage a large majority of legal persons and trusts set up in the IoM, are subject to full regulatory control and supervisory visits have been conducted since 2000 in respect of Corporate Service Providers and 2005 in the case of Trust Service Providers.

US Department of State Money Laundering assessment (INCSR)

The Isle of Man was deemed a Jurisdiction of Primary Concern by the US Department of State 2016 International Narcotics Control Strategy Report (INCSR).

Key Findings from the report are as follows: -

Perceived Risks:

Isle of Man (IOM) is a British crown dependency, and while it has its own parliament, government, and laws, the UK remains responsible for its defense and international representation. Offshore banking, manufacturing, and tourism are key sectors of the economy, and the government has actively encouraged the diversification of its economy, offering incentives to high-technology companies and financial institutions that locate on the island. Consequently, it now hosts a wide range of sectors including aviation and maritime services, clean-tech and bio-tech, creative industries, e-business and e-gaming, high-tech manufacturing and tourism.

Its large and sophisticated financial center is potentially vulnerable to money laundering. Most of the illicit funds in the IOM are from fraud schemes and narcotics trafficking in other jurisdictions, including the UK. Predicate offenses to charge money laundering are minimal within the jurisdiction; however, there is concern over value-added tax crimes and the growing risk of cybercrime in its various forms, including identity theft and internet abuse.

Do financial institutions engage in currency transactions related to international narcotics trafficking that include significant amounts of US currency; currency derived from illegal sales in the U.S.; or illegal drug sales that otherwise significantly affect the U.S.: NO

Criminalization of money laundering:

“All serious crimes” approach or “list” approach to predicate crimes: All serious crimes

Are legal persons covered: criminally: YES ***civilly:*** YES

Know-your-customer (KYC) rules:

Enhanced due diligence procedures for PEPs: Foreign: YES ***Domestic:*** YES

KYC covered entities: Banks; building societies; credit issuers; financial leasing companies; money exchanges and remitters; issuers of checks, traveler's checks, money orders, electronic money, or payment cards; guarantors; securities and commodities futures brokers;

portfolio, and asset managers; estate agents; auditors, accountants, tax advisors, lawyers, and notaries; insurance companies and intermediaries; payroll agents; casinos and bookmakers; high-value goods dealers and auctioneers; safe custody facilities for cash or liquid securities

REPORTING REQUIREMENTS:

Number of STRs received and time frame: 1,321 in 2014

Number of CTRs received and time frame: Not applicable

STR covered entities: All businesses

money laundering criminal Prosecutions/convictions:

Prosecutions: 4 in 2014

Convictions: 3 in 2014

Records exchange mechanism:

With U.S.: MLAT: YES **Other mechanism:** YES

With other governments/jurisdictions: YES

Compliance with international standards was evaluated by the International Monetary Fund's Financial Sector Assessment Program.

The Isle of Man now formally participates in the mutual evaluation procedures of the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL), a FATF-style regional body. MONEYVAL has not yet evaluated the IOM.

Enforcement and implementation issues and comments:

In 2015, the IOM carried out its first AML/CFT national risk assessment with the assistance of an international donor. Isle of Man legislation provides powers to constables, including customs officers, to investigate whether a person has benefited from any criminal conduct and to obtain information about that person's financial affairs. There are statutory powers to restrain and recover criminal assets in response to domestic and external requests.

In 2015, the Government of the Isle of Man amended the Proceeds of Crime Act 2008 so it covers bitcoin companies, such as exchanges, operating from the island. The Terrorism and Other Crime (Financial Restrictions) Act 2015 came into effect on January 1, 2015; this Act consolidates, updates, and strengthens previous IOM legislation. The Anti-Money Laundering and Countering the Financing of Terrorism Code 2015, which updates and replaces the 2013 Code, came into effect on April 1, 2015. The Designated Businesses (Registration and Oversight) Act 2015 came into effect on October 26, 2015; the Act provides for designated non-financial businesses and professions to be registered with the IOM's financial services regulator and for there to be appropriate oversight of these bodies for AML/CFT purposes. The IOM's financial services regulator is now the Isle of Man Financial Services Authority following the merger of the Financial Supervision Commission and the Insurance and Pensions Authority on November 1, 2015.

There is limited evidence from suspicious transaction reports (STRs) of suspicion that money from domestic public corruption is being passed through accounts on the IOM. Five of the 1,321 STRs filed in 2014 related to bribery and corruption. The financial intelligence unit believes there are few indications that trade-based money laundering occurs in the IOM.

Recognizing that the nature of tax cooperation has evolved and automatic exchange of information is becoming the global standard, the IOM is making commitments to international co-operation for tax purposes. It has had a Tax Information Exchange Agreement with the United States since 2004 and has a strong working relationship with the Internal Revenue Service. The IOM has a similar intergovernmental agreement with the UK.

IOM is a Crown Dependency and cannot sign or ratify international conventions in its own right unless entrusted to do so. Rather, the UK is responsible for IOM's international affairs and, at IOM's request, may arrange for the ratification of any convention to be extended to the Isle of Man. The UK's ratification of the 1988 UN Drug Convention was extended to include IOM in 1993; its ratification of the UN Convention against Corruption was extended to include IOM in 2009; its ratification of the International Convention for the Suppression of the Financing of Terrorism was extended to IOM in 2008; and its ratification of the UN Convention against Transnational Organized Crime was extended to the IOM in 2012. In 2003, the United States and the UK agreed to extend to the IOM the U.S. - UK Treaty on Mutual Legal Assistance in Criminal Matters.

Current Weaknesses in Government Legislation (2013 INCRS Comparative Tables):

According to the US State Department, The Isle of Man does not conform with regard to the following government legislation: -

Record Large Transactions - By law or regulation, banks are required to maintain records of large transactions in currency or other monetary instruments.

EU White list of Equivalent Jurisdictions

The Isle of Man is currently on the EU White list of Equivalent Jurisdictions (Qualified)

Offshore Financial Centre

The Isle of Man is considered to be an Offshore Financial Centre

Local Anti-Money Laundering Equivalence Expectations

The Isle of Man considers the following countries to meet local anti-money laundering equivalence expectations: -

Argentina Australia Austria Belgium Bermuda Brazil B.V.I. Canada Cayman Islands
Cyprus Denmark Finland France Germany Gibraltar Greece Guernsey Hong Kong
Iceland Ireland Italy Japan Jersey Luxembourg Malta Mauritius Monaco Netherlands
New Zealand Norway Portugal Singapore South Africa Spain Sweden Switzerland United
Kingdom United States of America

International Sanctions

None Applicable

Bribery & Corruption

Index	Rating (100-Good / 0-Bad)
Transparency International Corruption Index	N/A
World Governance Indicator – Control of Corruption	N/A

Section 3 - Economy

Offshore banking, manufacturing, and tourism are key sectors of the economy. The government offers low taxes and other incentives to high-technology companies and financial institutions to locate on the island; this has paid off in expanding employment opportunities in high-income industries. As a result, agriculture and fishing, once the mainstays of the economy, have declined in their contributions to GDP. The Isle of Man also attracts online gambling sites and the film industry. Trade is mostly with the UK. In January 2013, the Isle of Man signed a tax agreement with Guernsey and Jersey, in order to enable the islands' authorities to end tax avoidance and evasion. The Isle of Man enjoys free access to EU markets.

Agriculture - products:

cereals, vegetables; cattle, sheep, pigs, poultry

Industries:

financial services, light manufacturing, tourism

Exports - commodities:

tweeds, herring, processed shellfish, beef, lamb

Imports - commodities:

timber, fertilizers, fish

Banking

Banking and insurance services represent the most significant financial service businesses in the IOM. The authorities provided the following analysis of the financial sector as at end-March 2008. At that date, there were 40 licensed banks of which only two are locally-based.

The Basel Core Principles (BCP) assessment undertaken by the mission confirms the high standard of prudential regulation and supervision found in the 2003 assessment (Annex). The FSC has continued to strengthen its supervisory practice, for example, by establishing a comprehensive, but risk-based system of on-site visits and meetings with bank management.

Section 4 - Government

Executive Branch

elections: the monarchy is hereditary; lieutenant governor appointed by the monarch; the chief minister elected by the Tynwald for a five-year term; election last held on 11 October 2011 (next to be held in December 2016)

Legal system:

the laws of the UK where applicable apply and include Manx statutes

International organization participation:

UPU

Section 5 - Tax

Exchange control

There are no exchange control rules in the IOM.

Treaty and non-treaty withholding tax rates

Isle of Man has signed **42 agreements** (11 DTC and 31 TIEA agreements) providing for the exchange of information.

Jurisdiction	Type of EOI Arrangement	Date Signed	Date entered into Force	Meets standard	Contains paras 4 and 5	
Argentina	TIEA	14 Dec 2012	4 May 2013	Yes	Yes	
Australia	TIEA	29 Jan 2009	5 Jan 2010	Yes	Yes	
Bahrain	DTC	3 Feb 2011	8 Mar 2012	Yes	Yes	
Belgium	DTC	16 Jul 2009	not yet in force	Yes	Yes	
Botswana	TIEA	14 Jun 2013	not yet in force	Unreviewed	Yes	
Canada	TIEA	17 Jan 2011	19 Dec 2011	Yes	Yes	
China	TIEA	26 Oct 2010	14 Aug 2011	Yes	Yes	
Czech Republic	TIEA	18 Jul 2011	18 May 2012	Yes	Yes	
Denmark	TIEA	30 Oct 2007	26 Sep 2008	Yes	Yes	
Estonia	DTC	6 Aug 2009	21 Dec 2009	Yes	Yes	
Faroe Islands	TIEA	30 Oct 2007	3 Aug 2008	Unreviewed	Yes	
Finland	TIEA	30 Oct 2007	14 Jun 2008	Yes	Yes	
France	TIEA	26 Mar 2009	4 Oct 2010	Yes	Yes	
Germany	TIEA	2 Mar 2009	5 Nov 2010	Yes	Yes	
Greenland	TIEA	30 Oct 2007	11 May 2008	Unreviewed	Yes	
Guernsey	DTC	24 Jan 2013	5 Jul 2013	Yes	Yes	
Iceland	TIEA	30 Oct 2007	28 Dec 2008	Yes	Yes	
India	TIEA	4 Feb 2011	17 Mar 2011	Yes	Yes	
Indonesia	TIEA	22 Jun 2011	not yet in force	Yes	Yes	
Ireland	TIEA	24 Apr 2008	24 Oct 2008	Yes	Yes	
Italy	TIEA	17 Sep 2013	not yet in force	Unreviewed	Yes	
Japan	TIEA	21 Jun 2011	1 Sep 2011	Yes	Yes	
Jersey	DTC	24 Jan 2013	10 Jul 2013	Yes	Yes	
Lesotho	TIEA	16 Sep 2013	not yet in force	Unreviewed	Yes	
Luxembourg	DTC	8 Apr 2013	not yet in force	Yes	Yes	
Malta	DTC	23 Oct 2009	26 Feb 2010	Yes	Yes	
Mexico	TIEA	11 Apr 2011	4 Mar 2012	Yes	Yes	
Netherlands	TIEA	12 Oct 2005	24 Jul 2006	Yes	Yes	

Jurisdiction	Type of EOI Arrangement	Date Signed	Date entered into Force	Meets standard	Contains paras 4 and 5	
New Zealand	TIEA	27 Jul 2009	27 Jul 2010	Yes	Yes	
Norway	TIEA	30 Oct 2007	6 Sep 2008	Yes	Yes	
Poland	TIEA	7 Mar 2011	27 Nov 2011	Yes	Yes	
Portugal	TIEA	9 Jul 2010	18 Jan 2012	Yes	Yes	
Qatar	DTC	6 May 2012	15 Nov 2012	Yes	Yes	
Seychelles	DTC	28 Mar 2013	not yet in force	Yes	Yes	
Singapore	DTC	21 Sep 2012	2 May 2013	Yes	Yes	
Slovenia	TIEA	27 Jun 2011	31 Aug 2012	Yes	Yes	
Sweden	TIEA	30 Oct 2007	27 Dec 2008	Yes	Yes	
Switzerland	TIEA	28 Aug 2013	not yet in force	Unreviewed	Yes	
Turkey	TIEA	21 Sep 2012	not yet in force	Yes	Yes	
United Kingdom	DTC	29 Jul 1955	29 Jul 1955	No	No	
United Kingdom	TIEA	29 Sep 2008	4 Feb 2009	Yes	Yes	
United States	TIEA	3 Oct 2002	1 Jan 2006	Yes	Yes	

Methodology and Sources

Section 1 - General Background Report and Map

(Source: [CIA World Factbook](#))

Section 2 - Anti – Money Laundering / Terrorist Financing

	Lower Risk	Medium Risk	Higher Risk
FATF List of Countries identified with strategic AML deficiencies	Not Listed	AML Deficient but Committed	High Risk
Compliance with FATF 40 + 9 recommendations	>69% Compliant or Fully Compliant	35 – 69% Compliant or Fully Compliant	<35% Compliant or Fully Compliant
US Dept of State Money Laundering assessment (INCSR)	Monitored	Concern	Primary Concern
INCSR - Weakness in Government Legislation	<2	2-4	5-20
US Sec of State supporter of / Safe Haven for International Terrorism	No	Safe Haven for Terrorism	State Supporter of Terrorism
EU White list equivalent jurisdictions	Yes		No
International Sanctions UN Sanctions / US Sanctions / EU Sanctions	None	Arab League / Other	UN , EU or US
Corruption Index (Transparency International) Control of corruption (WGI) Global Advice Network	>69%	35 – 69%	<35%
World government Indicators (Average)	>69%	35 – 69%	<35%
Failed States Index (Average)	>69%	35 – 69%	<35%
Offshore Finance Centre	No		Yes

Section 3 - Economy

General Information on the current economic climate in the country and information on imports, exports, main industries and trading partners.

(Source: [CIA World Factbook](#))

Section 4 - Foreign Investment

Information on the openness of foreign investment into the country and the foreign investment markets.

(Source: [US State Department](#))

Section 5 - Government

Names of Government Ministers and general information on political matters.

(Source: [CIA World Factbook](#) / <https://www.cia.gov/library/publications/world-leaders-1/index.html>)

Section 6 - Tax

Information on Tax Information Exchange Agreements entered into, Double Tax Agreements and Exchange Controls.

(Sources: [OECD Global Forum on Transparency and Exchange of Information for Tax Purposes](#) [PKF International](#))

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