COUNCIL OF EUROPE

CONSEIL DE L'EUROPE

COMMITTEE OF EXPERTS ON THE EVALUATION OF ANTI-MONEY LAUNDERING MEASURES AND THE FINANCING OF TERRORISM (MONEYVAL)

MONEYVAL(2013)14

Isle of Man

Progress report[1] and written analysis by the Secretariat of Core Recommendations

20 September 2013

[1] First 3rd Round Written Progress Report Submitted to MONEYVAL

The Isle of Man is one of the United Kingdom Crown Dependencies evaluated by MONEYVAL. This progress report was adopted at MONEYVAL's 42nd plenary meeting (Strasbourg, 16-20 September 2013). For further information on the examination and adoption of this report, please refer to the Meeting Report of the 42nd plenary meeting at http://www.coe.int/moneyval

Table of Contents

This is the first 3rd round written progress report submitted to MONEYVAL by the Isle of Man. This document includes a written analysis by the MONEYVAL Secretariat of the information provided by the United Kingdom Crown Dependency of the Isle of Man on the Core Recommendations (1, 5, 10, 13, SR.II and SR.IV), in accordance with the decision taken at MONEYVAL's 32nd plenary in respect of progress reports.

Isle of Man

First 3rd Round Written Progress Report Submitted to MONEYVAL

1. Written analysis of progress made in respect of the FATF Core Recommendations

1.1. Introduction

1. The purpose of this paper is to introduce the Isle of Man's first report back to the Plenary concerning the progress that it has made to remedy the deficiencies identified in its last assessment on the FATF Core Recommendations[1].

2. The on-site visit to the Isle of Man was conducted by the IMF and took place from 3 to 18 September 2008. The IMF published the assessment report of the Isle of Man on 5 August 2009[2] (http://www.imf.org/external/pubs/ft/scr/2009/cr09278.pdf). As a result of the assessment, the Isle of Man was rated by the IMF Compliant (C) on 12 recommendations, Largely Compliant (LC) on 24 recommendations and Partially Compliant (PC) on 13 recommendations.

3. This paper is based on the MONEYVAL Rules of Procedure as revised in March 2010, which require a Secretariat written analysis of progress against the Core Recommendations. The full progress report is subject to peer review by the Plenary, assisted by the Rapporteur Country and the Secretariat (Rules 38-40). The procedure requires the Plenary to be satisfied with the information provided and the progress undertaken in order to proceed with the adoption of the progress report, as submitted by the country, and the Secretariat written analysis, with both documents being subject to subsequent publication.

4. The Isle of Man has provided the Secretariat and Plenary with a full report on its progress, including supporting material, according to the established progress report template. The Secretariat has drafted the present report to describe and analyse the progress made for each of the Core Recommendations.

5. The Isle of Man received the following ratings on the Core Recommendations:

R.1 – Money laundering offence (PC)
SR.II – Criminalisation of terrorist financing (LC)
R.5 – Customer due diligence (PC)
R.10 – Record Keeping (C)
R.13 – Suspicious transaction reporting (LC)
SR.IV – Suspicious transaction reporting related to terrorism (PC)

6. This paper provides a review and analysis of the measures taken by the Isle of Man to address the deficiencies in relation to the Core Recommendations (Section II) together with a summary of the main conclusions of this review (Section II). This paper should be read in conjunction with the progress report and annexes submitted by the Isle of Man.

7. It is important to note that the present analysis focuses only on the Core Recommendations and thus only a part of the Anti-Money Laundering/Combating the Financing of Terrorism (AML/CFT) system is assessed. Furthermore, when assessing progress made, effectiveness was taken into account, to the extent possible in a paper based desk review, on the basis of the

[1] The Core Recommendations as defined in the FATF procedures are R.1, R.5, R.10, R.13, SR.II and SR.IV.

[2] It should be pointed out that the FATF Recommendations were revised in 2012 and that there have been various changes, including their numbering. Therefore, all references to the FATF Recommendations in the present report concern the version of these standards before their revision in 2012.

information and statistics provided by the Isle of Man, and, as such, the assessment made does not confirm full effectiveness.

1.2. Detailed review of measures taken by the Isle of Man in relation to the Core Recommendations

A. Main changes since the IMF assessment

8. Since the publication of the IMF's report, the Isle of Man has taken a number of measures with a view to addressing the deficiencies identified in the report in respect of the Core Recommendations, including:

- Entry into force of the Proceeds of Crime Act 2008 (POCA 2008);
- Review of the AML/CFT Codes.

9. Although POCA 2008 had been adopted at the time of the assessment it had not come into force and effect. The Act came fully into force on 1 August 2009. This Act replaced a number of earlier measures and is considered to have remedied many of the deficiencies identified by the IMF. In addition, new secondary legislation was also promulgated under POCA 2008 to deal with various aspects of international cooperation including restraint and confiscation and evidence gathering on behalf of countries or territories outside the Isle of Man.

10. A number of Codes have been issued. These Codes provide requirements for the purposes of preventing and detecting money laundering. The Codes are made under Section 157 of POCA 2008 and section 27A of the Terrorism (Finance) Act 2009. Contraventions of the Codes carry penalties ranging from a fine, not exceeding £5,000 (c. €6,000) to a custodial sentence not exceeding two years with the potential for an unlimited fine also to be applied. With regard to the Core Recommendations, the Money Laundering and Terrorist Financing Code 2013 covers identification procedures (including CDD), record keeping and also covers staff training. It is noted that, although the Money Laundering and Terrorist Financing Code 2013 has updated the requirements, many of the requirements have been in place for a number of years through earlier codes.

11. The Financial Services Rulebook 2011 has also been updated. This rulebook is made under Section 18 and Schedule 3 of the Financial Services Act 2008 (FSA 2008). Section 19 of the FSA 2008 states that "*If a licenceholder contravenes a requirement imposed by, or in accordance with, the Rule Book ("a relevant requirement"), the Commission may undertake action for a breach.*" "Action for a breach" permitted by the act ranges from issuance of a warning letter to revocation and suspension of a licence and includes imposition of penalties and service of public warnings.

B. Review of measures taken in relation to the Core Recommendations

<u>Recommendation 1 - Money laundering offence (rated PC in the IMF report)</u>

<u>Recommended Action No.1</u> – *Amend Articles 17C CJA 1990 and 45 DTA 1996 to:*

- *provide for two alternative purposes for the acts of converting and transferring proceeds, namely to avoid prosecution for the predicate offense or to conceal the illicit origin of the funds, and;*
- *eliminate the purpose requirement for the acts of converting and transferring proceeds of crime.*

12. At the time of the IMF report the money laundering offences were covered in the provisions of the Criminal Justice Act 1990 (CJA 1990) and Drug Trafficking Act 1996 (DTA 1996) and the Anti-Terrorism and Crime Act 2003(ATCA2003). The CJA 1990 and the DTA 1996 (including the money laundering offences in Section 17C CJA 1990 and Section 45 DTA 1996) were repealed and replaced by POCA 2008 with effect from 1st August 2009. The new legislation is modelled on the current UK criminal legislation. It is based on the broad notion of "criminal property".

13. The relevant provisions are:

- **Section 139** This section provides that a person commits an offence if that person conceals, disguises, converts, transfers or removes criminal property from the Isle of Man. Section 139 (6) clarifies that concealing or disguising criminal property includes concealing or disguising its nature, source, location, disposition, movement or ownership or any rights with respect to it;
- **Section 140** This section sets out the offence of entering into or becoming concerned in an arrangement which the person knows or suspects facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person;
- **Section 141** This section provides that a person commits an offence if they acquire, use or have possession of criminal property.

14. The definition of criminal property is found in Section 158 (3) and is set out in Annex I. These provisions appear wide enough to cover both the purposive elements in the Convention, to which the IMF recommendation refers.

15. Sections 139 to 141 and 158 are also set out in full in Annex 1 below.

Recommended Action No.2 – *The defence (payment of adequate consideration) provided for in Sections 17B(3) CJA 1990 and 47(3) DTA 1996 is not provided for in the Vienna and Palermo Conventions and should be eliminated as it may allow money launderers to abuse the provision to avoid criminal liability for the acquisition, possession, or use of criminal proceeds/proceeds.*

16. The defence of payment of an 'adequate consideration' is not now included in Section 141. Reflecting a similar provision in the UK legislation, it originally was in Section 141(2) (c) in the IoM legislation but was repealed. The related provision that remains in Section 141(6) appears thus to be redundant.

Recommended Action No.3 - *Amend Section 10 ATCA 2003 to cover all material elements of the money laundering provisions of the Palermo and Vienna Conventions.*

17. In the IMF report the evaluators expressed the view that while Section 10 of the Anti Terrorism Crime Act, 2003 (ATCA 2003) covered some of the material elements of the money laundering offenses as defined in the Vienna and Palermo Conventions, the requirement to prove all three elements would prevent the application of the provision to all situations required by the Conventions.

18. The Anti-Terrorism and Crime (Amendment) Act 2011 came into force on 13th July 2011 and inserted several new provisions into Section 10 of the ATCA 2003. Under Section 10 (as amended) a person commits an offence if he facilitates the retention or control of terrorist property by concealment, by disguise, by conversion, by removal from the jurisdiction, by transfer to nominees or in any other way. The definition of terrorist property is set out in Section 6 of the ATCA 2003. The amended Sections 6 and 10 are set out in Annex 2 below.

Recommended Action No.4 - *Amend the offences of acquisition, possession, or use in the CJA 1990 and the DTA 1996 as well as the money laundering offence contained in the ATCA 2003 to include criminal proceeds obtained through the commission of a predicate offense by the self launderer.*

19. As previously stated, the CJA 1990 and the DTA 1996 have been repealed and replaced by POCA 2008. Furthermore, the ATCA 2003 has been amended by the Anti-Terrorism and Crime (Amendment) Act 2011.

20. As set out under Recommended Action No. 1 above, Sections 139 to 141 of POCA 2008 cover the money laundering offence. The new offences are broader and as they can be committed by "a person", self-laundering is covered.

21. With regard to the ATCA 2003 the amendments to Section 10, as considered under Recommended Action No. 3 above, now cover self-laundering for the same reason as noted above.

Recommended Action No.5 - *The authorities should:*

- *address any barriers to stand-alone ML prosecutions, including the level of proof needed to determine that property stems from the commission of a specific predicate offense; and*
- *take steps to develop jurisprudence on autonomous money laundering to establish that ML is a stand-alone offense.*

22. The authorities consider that the entry into force of POCA 2008 has removed a number of barriers to conducting stand-alone prosecutions. The authorities point out that there have been some important prosecutions.

23. Details of successful prosecutions are set out in the Progress Report submitted by the authorities.

Effectiveness

24. By way of background, at the time of the IMF on-site visit it was reported that only four cases of money laundering based on the CJA 1990 had been investigated since 2003; all of which had been dropped. Additionally, 16 charges for money laundering had been brought before the Isle of Man courts based on the DTA 1996. The report stated that of the 16 cases, six resulted in convictions and five were pending.

25. The following chart sets out all investigations, prosecutions and final convictions for money laundering from 2008 to April 2013.

	Investigations		**Prosecutions**		**Final Convictions**	
	Cases	**Persons**	**Cases**	**Persons**	**Cases**	**Persons**
2008	7	15	20	10	22	9
2009	5	9	6	5	2	2
2010	9	33	36	18	25	15
2011	12	39	104	29	45	24
2012	18	45	61	23	37	18
2013*	3	3	3	3	2	2

*January to April 2013

26. Details of autonomous convictions for money laundering are set out in the progress report. In particular, the cases cited, concerning Trevor and Wendy Baines, was of international importance and involved the laundering of US$ 175 million. It is noted also that a Manx advocate has been convicted *inter alia* of a money laundering offence, though an appeal to the Privy Council is pending.

27. These are encouraging signs that money laundering criminalisation is being actively pursued and that the legislation now in place is being effectively implemented.

Conclusion on Recommendation 1

28. As set out above the entry into force of POCA 2008, together with the Anti-Terrorism and Crime (Amendment) Act 2011 appears to have dealt with technical deficiencies identified by the IMF. This in turn appears to have removed a number of barriers to money laundering prosecutions with the result that there has been a substantial increase in the number of final convictions including some significant convictions for autonomous money laundering.

29. That said, it is noted that all of the ML offences have provisions in them which allow for persons not to commit a money laundering offence in respect of criminal property if they know or believe that the relevant criminal conduct (from which the criminal property derived) occurred in a country or territory outside the Isle of Man, and the relevant criminal conduct was not unlawful under the Criminal Law then applying in that country or territory, and is not of a description prescribed by an order made by the Home Department. Apparently an order was made in 2008 prescribing conduct 'which would receive a penalty in excess of 12 months' on the island (with the exception of some regulatory offences dealing with unlicensed businesses, which are said to correspond to similar exemptions in place in the UK). Unfortunately, the

Statutory Instrument was *ultra vires.* It is not clear what obligations in this respect the reporting entities think they may have currently given that the Order was made and how widely known it is that the Order was *ultra vires*. This is unfortunate for a financial centre, which may be especially vulnerable to laundering of proceeds from conduct committed abroad. The problem is planned to be rectified by a further statutory instrument in the same terms in October. This, again, would permit prosecutions in respect of proceeds of lawful foreign conduct which would attract a sentence in excess of one year in the Isle of Man, subject to some exceptions in respect of certain regulatory offences. The IoM authorities consider that foreign conduct which is not illegal where it took place should be included as the subject of ML offences in the IoM only for what would be serious offences in the IoM. This is a reasonable position, given that the FATF does not make this a mandatory requirement. The authorities justify an exemption which excludes some regulatory offences and any offence carrying less than one year to ensure that the FIU does not receive reports of limited intelligence value and to be consistent with what is in place in the UK, given that much business is done with UK customers. While this is a matter for the IoM authorities, whatever the position is in the UK, it may still be simpler for the private sector in the IoM not to have to interpret the breadth of a complex exemption, and thus for the authorities to consider retaining the status quo, as provided for in S.158(11)(d), which allows for laundering offences to be brought in respect of all criminal property, which would constitute an offence in the Isle of Man, if it occurred there.

30. Another small point has to be noted. There is a threshold now, albeit a *de minimus* threshold, in some of the ML offences. These exonerate deposit taking bodies, which otherwise would commit some of the offences of ML when dealing with transactions of small sizes (concealment and disguise are excluded). The threshold is currently criminal property of less than 250 pounds. Thresholds are, of course, not provided for in the international conventions and the inclusion of thresholds is a defect, which would doubtless be recorded in a full evaluation report. The IoM authorities may wish to reconsider how they tackle this issue. It is unclear if they are simply trying to replicate the position in the UK, where, it is understood, there is no *de minimus* threshold in the ML offences themselves – only a threshold below which deposit taking institutions do not have to seek consent of the FIU to proceed with a transaction involving criminal property of very small sums (which, it is understood the deposit taking institutions would, in any event, be obliged to report to the UK FIU).

Special Recommendation II - Criminalisation of terrorist financing (rated LC in the IMF report)

Recommended Action No 1 – *Amend Article 1 ATCA 2003 to include a reference not only to governments but also to international organisations.*

31. The Anti-Terrorism and Crime Act 2003 (ATCA) continues to be the relevant statutory basis for TF offences. Section 7 is the main TF offence. This criminalises conduct by persons who receive or provide or invite another to provide money or other property where the person either intends that the property will be used or has reasonable grounds to suspect that the property may be used for the purposes of terrorism. An amendment to the ATCA 2003 was made to address the first deficiency identified by the IMF. Section 1(1) of ATCA 2003 now reads:

Terrorism: interpretation

(1) In this Act "terrorism" means the use or threat of action where

- *(a) the action falls within subsection (2),*
- *(b) the use or threat is designed to influence the government or an international organisation or to intimidate the public or a section of the public, and;*
- *(c) the use or threat is made for the purpose of advancing a political, religious, racial or ideological cause.*

Recommended Action No 2 – *Amend the definition of "terrorism" in Section 1 ATCA 2003 to extend to all terrorism offenses as defined in the nine Conventions and Protocols listed in the Annex to the FT Convention.*

32. As previously mentioned, the Anti-Terrorism and Crime (Amendment) Act 2011 introduced an amendment to the ATCA 2003. Section 1(2) of ATCA 2003 now reads:

(2) Action falls within this subsection if it

(a) involves serious violence against a person,
(b) involves serious damage to property,
(c) endangers a person's life, other than that of the person committing the action,
(d) creates a serious risk to the health or safety of the public or a section of the public;
(e) is designed seriously to interfere with or seriously to disrupt an electronic system;
(f) constitutes a Convention offence; or
(g) would constitute a Convention offence if done in the Island.

33. Under Section 75 of the ACTA 2003, a "*Convention Offence*" is defined as "*an offence listed in Schedule 13A or an equivalent offence under the law of a county or territory outside the Island*" Schedule 13A is set out in Annex 3 below. Thus specific offences appear now to be referred to in the Isle of Man law, covering the major acts which constitute offences under the treaties listed in the annex.

Recommended Action No 3 – *Consider the impact of including in the FT offense "intention of advancing a political, religious or ideological cause" on IOM's ability to successfully prosecute in factual settings contemplated by the FT Convention.*

34. The Terrorism (Finance) Act 2009 defines "terrorist financing" as:

(a) the use of funds, or the making available of funds, for the purposes of terrorism; or
(b) the acquisition, possession, concealment, conversion or transfer of funds that are (directly or indirectly) to be used or made available for those purposes.

35. In the same Act, "terrorism" is defined as having the same meaning as in section 1 of the ATCA 2003, set out at paragraph 29. Since the IMF report, the purposive element in S.1(i)(c) has been extended to include an explicit reference to "racial" – the use or threat of action additionally to advance a cause.

36. Technically, this was not marked as a deficiency as it does not appear as a factor underlying the rating in the 2009 report, but a "soft" recommendation to consider the possible impact on prosecutions of this purposive element (which is not required under the TF Convention) was in the IMF's Action Plan. The report itself comments that this is an approach which has been adopted by a number of countries to ensure that the generic definition is not used in circumstances where it is not intended.

37. If this purposive element is confined to acts which fall within A.2(1)(b) of the TF Convention only (any other act intended to cause death or serious bodily injury...to intimidate a population etc) and not A.2(1)(a) acts (offences within the annex to the TF), it is difficult to see how any such act which may be contemplated to intimidate a population, or to influence a government or international organisation which would not be carried out for political, religious, racial or ideological reasons. Thus it is difficult to see how these wide purposive elements might inhibit prosecutions in appropriate cases covering Article 2(1)(b) TF Convention acts even though it technically goes beyond what the Convention calls for.

Effectiveness

38. Although there have been a small number of STRs submitted relating to terrorist financing there do not appear to have been any investigations or prosecutions. In the circumstances it is not possible to assess effectiveness, particularly as to whether the offences are wide enough to cover cases where the support relates to the costs of living, education or similar expenses. Of more concern, however, in the absence of any cases, is whether Section 1(1) of ATCA is

cumulative or disjunctive. It seems to the reviewer that it is cumulative. Convention acts are now included in the definition of action which falls within subsection 2 of Article 1 of ATCA. Thus if Section 1(1) is read cumulatively, on one construction the further mental elements in subsections b and c of Section 1(1) would be applicable to Article 2(1)(a) Convention acts covered by the Annex to the TF Convention and not just to Article 2(1)(b) TF convention acts. The IoM authorities should urgently consider whether further clarification is required as this could be a real limitation on the effectiveness of the regime.

Conclusion on Special Recommendation II

39. The amendments to the ATCA 2003 appear to have addressed the deficiencies identified in the IMF report but further issues have arisen in the process which should be clarified.

Recommendation 5 - Customer due diligence (rated PC in the MER)

Recommended Action No 1 – *The authorities should take steps to eliminate any residual inconsistencies in AML/CFT legal requirements and terminology*.

40. As previously noted there has been a comprehensive review and revision of the codes. In particular, the Money Laundering and Terrorist Financing Code 2013 has replaced earlier codes and covers identification procedures (including CDD), record keeping and staff training. Furthermore, the Financial Services Rulebook 2011 provides detailed rules for entities licenced by the Isle of Man Financial Supervision Commission (FSC).

41. Insurance intermediaries, insurance managers, registered scheme administrators, and scheme trustees, are now included within the scope of all relevant AML/CFT requirements.

42. The IMF report noted that although there was no prohibition on anonymous accounts and accounts in fictitious names, in primary legislation, they were effectively prohibited in secondary legislation. Furthermore, the FSC had indicated that they had not identified any such accounts in the course of their on-site supervision. The Money Laundering and Terrorist Financing Code 2013 has clarified the requirements and now states under paragraph 26 "*A relevant person must not set up an anonymous account or an account in a name that it knows, or has reasonable cause to suspect, to be fictitious for any new or existing customer*." In addition, Rule 6.6 (2) of the Financial Services Rulebook 2011 states "*A licenceholder must not maintain anonymous or fictitious accounts or business relationships*." Rule 6.6 (3) requires licenceholders[3] to identify and verify all holders of numbered accounts maintained.

43. The Financial Services Rulebook 2011 has, under Rule 8.18 maintained a requirement for licenceholders to have a Deputy MLRO. The Money Laundering and Terrorist Financing Code 2013 also contains a requirement for all relevant persons to appoint an MLRO under paragraph 21 (see annex 4 for full text of Paragraph 21).

Recommended Action No 2 – *The authorities should expand the current list of categories of higher-risk customers and consider including, for example, private banking and business involving trusts or other legal arrangements*.

44. Enhanced Due Diligence is now covered by paragraph 11 of the Money Laundering and Terrorist Financing Code 2013. Sub-paragraph (2) states that "*Matters which may pose a higher risk include but are not restricted to*

(a) a business relationship or one-off transaction with
(i) a politically exposed person; or
(ii) a person or legal arrangement resident or located in a country which the relevant person has reason to believe does not apply, or insufficiently applies,

[3] Licenceholders are financial institutions which have received a licence from the Isle of Man Financial Supervision commission.

the FATF Recommendations in respect of the business or transaction in question;

(b) a person which is the subject of a warning issued by a competent authority;
(c) a company which has nominee shareholders or shares in bearer form;
(d) the provision of banking services for higher-risk accounts or high net- worth individuals;
(e) a legal arrangement;
(f) a situation which by its nature presents a risk of money laundering or terrorist financing."

45. Although there is no specific reference to private banking the reference to higher-risk accounts or high net- worth individuals, would appear to cover this. The authorities confirm that the AML/CFT Technical Group and the AML/CFT Strategic Group regularly considers the range of customers who should be subject to enhanced CDD.

Recommended Action No 3 – *The authorities should conduct a risk-based review of the current scope of the Acceptable Applicant facility and, if warranted, limit its availability for consistency with the FATF Recommendations. To comply with the FATF Recommendations, financial institutions should be required in all cases to determine whether a customer is acting on behalf of another person and should take reasonable steps to obtain sufficient identification data to verify the identity of that other person.*

46. In the IMF report, the evaluators were concerned that where an intermediary acting on behalf of underlying customers fell under the definition of an "Acceptable Applicant[4]", the licenseholder could, subject to specified risk-based conditions, regard the intermediary as its customer and not identify the underlying depositors. In these circumstances, the CDD obligations regarding the persons for whom the intermediary is acting remained with the intermediary.

47. Paragraph 6 of the Money Laundering and Terrorist Financing Code 2013 sets out the requirements for identifying the beneficial owner of the applicant. There are no derogations from this requirement in the paragraph.

48. Paragraph 7 of the Money Laundering and Terrorist Financing Code 2013 sets out the requirements when establishing new business relationships. Sub-paragraph (4) requires the following procedures to be undertaken for all new business relationships:

(a) the identification of the applicant for business;
(b) the verification of the identity of the applicant for business using reliable, independent source documents;
(c) the obtaining of information on the purpose and intended nature of the business relationship; and
(d) the taking of reasonable measures to establish the source of funds.

49. Although the AML/CFT Handbook still provides a concession which allows simplified due diligence on an "acceptable applicant" this only applies in limited circumstances and does not apply if there is a "suspicious transaction trigger event" which would include suspicions that the transaction is related to money laundering or there are doubts about the identity of the person.

50. There is also a derogation from the requirement in sub-paragraph (4) of the Code to require verification of identity to be produced in certain defined circumstances as set out in paragraph (5). These circumstances are set out as being:

(a) the identity of the applicant for business is known to the relevant person;
(b) the relevant person knows the nature and intended purpose of the relationship; and

[4] The term "acceptable applicant" is a shorthand term used in the AML/CFT Handbook (guidance) when talking about this particular concession in the Code. An "acceptable applicant" is a person regulated by the Financial Supervision commission or IPA, IOM advocate, legal professional, or qualified accountant, or a regulated person from a jurisdiction accepted by the IOM authorities as applying equivalent AML/CFT standards.

(c) the relevant person has satisfied itself that the applicant for business is

(i) a trusted person; or

(ii) a company listed on a recognised stock exchange or a wholly owned subsidiary of such a company in relation to which the relevant person has taken reasonable measures to establish that there is effective control of the company by an individual, group of individuals or another legal person or legal arrangement (which persons are treated as beneficial owners for the purposes of this Code).

51. The definition of trusted person includes:

(a) a regulated person or a nominee company of that regulated person;

(b) an advocate within the meaning of the Advocates Act 1976, a registered legal practitioner within the meaning of the Legal Practitioners Registration Act 1986 or an accountant carrying out business in or from the Isle of Man, if the relevant person is satisfied that the rules of the professional body of the advocate, legal practitioner or accountant embody requirements and procedures that are at least equivalent to this Code;

(c) a person who acts in the course of external regulated business and is regulated under the law and regulations of a country included in the list in the Schedule, or a nominee company of that external regulated business, unless the relevant person has reason to believe that the country does not apply, or insufficiently applies, the FATF Recommendations in respect of the business of that person.

52. This concession does not apply if there is a "*suspicious transaction trigger event*" which would include suspicions that the transaction is related to money laundering or there are doubts about the identity of the person. The authorities have also stated that this concession cannot be used when the applicant for business, new business relationship, one-off transaction or continuing business relationship is assessed as posing a higher risk as per 11(1A) of the Code.

53. In addition to the foregoing, certain additional exemptions relating to insurers and insurance intermediaries, where the annual premium is less than £1,000 or a series of linked premiums is less than £2,500, are set out in Section 13 of the Money Laundering and Terrorist Financing Code 2013. As with other derogations, this concession is unable to be utilised if there is a suspicious transaction trigger event or the applicant for business is assessed as posing a higher risk as per 11(1A) of the Code.

54. Section 8 of the Code covers procedures for continuing business relationships. The requirements include CDD measures to be applied if no evidence of identity was produced after the business relationship was established. Thus this would appear to cover any residual customers who were introduced using the Acceptable Applicant derogation.

55. In conclusion, the revised concessions appear to be in line with the FATF standards.

Recommended Action No 4 – *If the exceptions to the CDD requirements of secondary legislation as currently set out in the FSC Handbook are to be retained, the authorities should amend the secondary legislation as necessary to provide for them.*

56. In the IMF report, the evaluators expressed a concern that certain concessions set out in the Financial Supervision Commission's AML/CFT Handbook did not appear to have a clear legal basis in either the AML Code 2007 or 2008 or FSC Rule Book. These concessions related to employee benefit schemes, share option plans, and pension schemes where it is the trustee, controller, administrator, or scheme manager who is the principal to be identified and verified for CDD purposes. Although the evaluators accepted that the concession was broadly consistent with the FATF Recommendations, it did not appear to have been provided for in the IOM in law, but only in guidance.

57. This concession has now been transposed into paragraph 13 of the Money Laundering and Terrorist Financing Code 2013. As previously noted, the Code is made under Section 157 of POCA 2008 and, as such, its provisions are provided for in law.

Recommended Action No 5 – *Should the authorities decide to continue allowing source of funds to be used as principal evidence of identity in certain low risk circumstances, the requirements should be tightened further to eliminate any remaining risk of abuse for ML or FT purposes.*

58. In the IMF report the evaluators noted that the FSC Handbook allowed source of funds to be accepted as evidence of identity. Although this concession could only be utilised in limited circumstances, the evaluators concluded that this was not in accordance with the FATF Recommendations and advised that it should be removed.

59. The authorities have confirmed that this concession has now been removed and no longer applies.

Recommended Action No 6 – *The authorities should review on a risk basis the implementation of the concession allowing operations to commence prior to completion of full CDD procedures to ensure it is not being misused.*

60. The concession allowing operations to commence prior to completion of full CDD procedures was amended in the 2010 Code and continued with these amendments in the Money Laundering and Terrorist Financing Code 2013. Under paragraph 7 (3), the verification of the identity of the applicant for business, following the establishment of the business relationship is only permissible if:

(a) it occurs as soon as reasonably practicable;
(b) it is essential not to interrupt the normal course of business;
(c) the money laundering and the financing of terrorism risks are effectively managed;
(d) the relevant person's senior management has approved the establishment of the business relationship and any subsequent activity until sub-paragraph (4)(b) has been complied with; and
(e) the relevant person ensures that the amount, type and number of transactions is limited and monitored.

61. Furthermore, this concession will not apply if there is a "suspicious transaction trigger event" which would include suspicions that the transaction is related to money laundering or there are doubts about the identity of the person. As with other concessions noted in this analysis this concession is also unable to be utilised if the applicant for business is assessed as posing a higher risk per 11(1A) of the Code.

62. The authorities have indicated that all on-site inspections conducted by the FSC include a review of the timing for completion of full CDD and use of concessions in this area to ensure compliance with the Code. The Insurance and Pensions Authority (IPA) apply similar procedures.

Recommended Action No 7 – *The authorities should ensure that insurance managers and insurance intermediaries are included within the scope of all relevant AML/CFT requirements.*

63. Insurance managers and insurance intermediaries are included in Schedule 4 to POCA 2008 and are relevant businesses for the Money Laundering and Terrorist Financing Code 2013. They are therefore subject to the AML/CFT requirements.

Recommended Action No 8 – *The authorities should consider reducing significantly the current EUR15,000 threshold for the application of CDD measures to one-off transactions by MVT service providers.*

64. As in the previous 2010 Code, the Money Laundering and Terrorist Financing Code 2013 now defines an "*exempted one-off transaction*" as a "one-off transaction (whether a single transaction or a series of linked transactions) where the *amount of the transaction or, as the case may be, the aggregate in the case of a series of linked transactions, is less in value than*"

(a) euro 3,000 in the case of a transaction or series of linked transactions entered into in the course of business of a class specified in entries 9 [casino] and 10 [bookmaker] in Schedule 1; or

(b) euro 1,000 in the case of a transaction entered into in the course of business of a class specified in entries 19 [bureau de change] and 21[any activity involving money transmission or cheque encashment facilities] in Schedule 1; or

(c) Euro 15,000 in any other case;"

Effectiveness

65. The response to question 6 in the Progress Report indicates that in the period from 2008 to June 2013, the FSC have identified a number of AML/CFT breaches although this is not broken down by specific category of breach. In each case an action plan is provided to remedy the breach and the FSC will follow-up to make sure that the remedial action is undertaken in a timely manner. This does indicate a robust approach to the identification and remedying of breaches and is an indicator that effective implementation of all AML/CFT requirements, including CDD measures, is being taken seriously.

Conclusion on Recommendation 5

66. The deficiencies identified in the IMF report relating to Recommendation 5 appear to have been remedied through the issuance of revised Codes and Rules.

Recommendation 10 – Record keeping

67. There were no recommended action points in the last MER. The current effectiveness of implementation will be assessed in the next evaluation round.

Recommendation 13 – Suspicious transaction reporting (rated LC in the MER)

68. There is no clear positive obligation to report a suspicion that funds are the proceeds of a criminal activity set out in POCA 2008. The Reporting obligation is set out in Sections 139 to 155 of POCA 2008. Sections 139 to 141 set out that making a disclosure is a defence against concealing, disguising, converting, transferring or removing criminal property, making arrangements to acquire, retain and use criminal property and acquiring, using or possessing criminal property. Sections 142 to 144 set out the offence of failing to disclose suspicions of money laundering (which is defined in terms of sections 139 to 141). Sections 153 to 155 set out the requirements for making disclosures. Section 158(11) defines money laundering as an offence under sections 139, 140 or 141. Those sections define offences in relation to "criminal property" which itself is defined in section 158(3) as benefit from criminal conduct which is defined in section 158(2) as conduct which constitutes an offence in the Island or would constitute an offence if it occurred there. Although the requirement to report is ultimately linked to "criminal proceeds" the reference to "money laundering" in Sections 142 to 144 could be construed as falling short of a requirement to report a suspicion that funds are the proceeds of a criminal activity as required by Recommendation 13.

69. It is noted that this contrasts with the approach taken under Special Recommendation IV as set out below where there is a positive duty to report suspicions under the ATCA 2003.

Recommended Action No 1 – *The FCU and supervisory authorities should take steps to enhance the timeliness of reporting of suspicious transactions to the FCU.*

70. Sections 153 and 154 of POCA 2008 require that disclosures are made "*as soon as is practicable after the information or other matter comes to the discloser*". This requirement is also contained in the Money Laundering and Terrorist Financing Code 2013 at paragraph 21.

71. The supervisory authorities have also provided training to financial institutions (including CSPs and TSPs) in the form of seminars and conferences which have emphasised the importance of timely STRs. The Financial Crime Unit (FCU) (the Isle of Man FIU) also provides education and training to financial institutions on an individual basis, around 30 such sessions occur annually. The FCU has also issued an Advisory Notice to financial institutions which

emphasises that reports made under both AML and CFT legislation should be made to the FCU as soon as is practicable after the information or other matter mentioned comes to that person.

72. Both the FSC and the IPA review registers of disclosure during on-site visits and where slow referrals are identified. These are taken up with the licenceholder and timeliness is encouraged.

Recommended Action No 2 – *The law should be amended to provide comprehensively that suspicious attempted transactions must be reported promptly to the FCU.*

73. Section 158 (11) (b) of POCA 2008 includes as a definition of money laundering an act which "constitutes an attempt, conspiracy or incitement to commit an offence specified in paragraph (a)" (Paragraph (a) in turn refers to the main money laundering offence in sections 139 to 141). Therefore an attempt to commit a money laundering offence is subject to suspicious transaction reporting in exactly the same way as an offence that has been committed. This requirement is also contained in the Money Laundering and Terrorist Financing Code 2013 at paragraph 21.

74. The authorities confirm that education and training delivered by the FCU highlights this particular issue, and disclosing entities are reminded that such reports made should not be restricted solely to just clients/potential clients only. It is noted that a significant number of STRs submitted to the FCU relate to attempted transactions.

Effectiveness

75. The following chart sets out the number of STRs received from reporting entities. Although it is banks that submit the largest number of reports, there are a significant number of reports received from other reporting entities. With regard to DNFBPs, there are also a significant number of reports submitted, mainly from the on-line gaming and trust and company service providers although lawyers and accountants are also regularly submitting reports.

Monitoring entities	**2008**		**2009**		**2010**		**2011**		**2012**		**2013***	
	ML	**FT**	**ML**	**FT**	**ML**	**FT**	**ML**	**FT**	**ML**	**FT**	**ML**	**FT**
Banks/Building Soc	522	2	937	4	949		1161	1	711		289	
Financial Advisor	3		0		4		1		2		1	
Investment/Fund Manager	18	2	24		16		35		22		8	
Stockbroker	2		7		8		7		9		2	
Life Assurance/ Insurance Company	183	2	137		161	5	165	3	128	1	44	
Money Service	12	1	7		5		4		1		0	
Post Office	2		2		5		3		6		2	
Total Financial Institutions	**742**	**7**	**1,114**	**4**	**1,148**	**5**	**1376**	**4**	**879**	**1**	**346**	**742**
Accountant	9		14		16		9		15	2	5	
Lawyer	16		27		41		60		46		17	
Online Gaming	1		6		28		992		97		13	
TCSP's	135		205	2	194	1	216		192	4	55	
Regulator	2		7		4		6		4		5	
Other	6		3		5		5		4		1	
Total DNFBP	**169**	**0**	**262**	**2**	**288**	**1**	**1,288**	**0**	**358**	**6**	**96**	**169**
TOTAL	**911**	**7**	**1,376**	**6**	**1,436**	**6**	**2,664**	**4**	**1,237**	**7**	**442**	

* January to April 2013

76. Overall both the number of reports submitted together with the spread of entities reporting, from both the financial and DNFBP sector appears to be satisfactory.

77. The following table sets out the actions taken following reception of the reports. This table demonstrates that the reports are being regularly disseminated to law enforcement agencies and prosecutors and are resulting in indictments being commenced with a number of successful convictions.

Year	Reports about suspicious transactions		Cases opened by FCU		Notifications to Law Enforcement/ Prosecutions		Indictments				Convictions			
							ML		FT		ML		FT	
	ML	FT	ML	FT	ML	FT	Cases	Persons	Cases	Persons	Cases	Persons	Cases	Persons
2008	911	7	36		586	7	8	10			8	10		
2009	1,376	6	27		809	4	5	6			5	6		
2010	1,436	6	64		665	4	7	18			7	16		
2011	2,664	4	26		539	1	2	2			2	2		
2012	1,237	7	21		398	4	9	9			9	9		
2013*	442		6		122		2	2			2	1		

* January to April 2013

78. This table appears to indicate that the reports received are being used effectively and are contributing to final convictions. In particular, in the answer to question 1. in part 4 of the submitted progress report it is reported that in 2010 a local bank made a SAR to the FCU regarding its suspicions over a local resident depositing cash for crediting to a third party account maintained in the UK. The bank reported the depositor knew little about the provenance of the transaction when challenged by bank staff, and in the presence of the cashier the depositor made a telephone call to ascertain details of the account the money was to be credited to. Enquiries made by the FCU indicated the UK account was operated by an individual known to UK police for being involved in suspected drugs trafficking. The FCU issued an Advisory Notice to local banks outlining the above typology. Consequently, additional SARs were received which assisted law enforcement in establishing the scale of the problem locally. Eventually, 22 individuals were identified as depositing money locally for crediting to third party accounts sited in the UK; 19 were subsequently arrested and charged with removing criminal property from the Isle of Man, and 16 convicted. Their sentences ranged from custodial to non-custodial, depending on the severity of their involvement. Furthermore, those directly involved in drug trafficking were arrested and escorted to the Isle of Man. On conviction all received lengthy custodial sentences.

Conclusion on Recommendation 13

79. It would appear that the deficiencies identified under Recommendation 13 in the IMF report have been addressed and that, from a desk-based review, it appears that the system is operating satisfactorily. However, although not an identified deficiency in the IMF report, the underlying reporting requirement appears unnecessarily complex and not entirely in line with the requirement of Recommendation 13.

Special Recommendation IV– Suspicious transaction reporting related to terrorism (rated PC in the MER)

80. Section 11 of the ATCA 2003 sets out the duty of disclosure of information. Such disclosure applies where a person believes or suspects that another person has committed an offence under any of sections 7 to 10 of the Act. Such offences include fund raising, use and possession, facilitating funding and money laundering linked to terrorism.

Recommended Action No 1 - *The authorities should amend the law as needed to address the deficiencies in the scope of ATCA 2003 and thereby provide the required scope of coverage for STR reporting.*

81. The Anti-Terrorism and Crime (Amendment) Act 2011, in particular the provisions of section 4 and Schedule 4, which came into effect on 13th July 2011 extends the definition of terrorism and appears to include all of the offences as defined in the nine Conventions and Protocols listed in the Annex to the Financing of Terrorism Convention. (See also analysis of Special Recommendation II above).

Recommended Action No 2 - *The FCU and supervisory authorities should take steps to enhance the timeliness of reporting of suspicious transactions to the FCU, including for suspicions of FT.*

82. See analysis of Deficiency 1 under Recommendation 13 above.

Recommended Action No 3 - *The law should be amended to provide comprehensively that suspicious attempted transactions must be reported promptly to the FCU.*

83. Paragraph 21 of the Money Laundering and Terrorist Financing Code 2013 (as amended) deals with the procedures required of financial institutions for making internal disclosures within an organisation and external disclosures to the Financial Crime Unit. Both internal and external disclosures include where there is knowledge or suspicion of attempted financing of terrorism.

Effectiveness

84. The tables set out under Recommendation 13 above indicate that reports linked to suspicions that the funds may be intended for the financing of terrorism are being submitted, both by financial institutions and DNFBPs.

Conclusion on Special Recommendation IV

85. Overall, the reporting and disclosure requirements, as set out in the ATCA 2003 as amended, would appear broadly to meet the requirements of Special Recommendation IV, though the concerns relating to SR II outlined above may have a consequential impact on SR IV. From a desk-based review it appears that the system is operating satisfactorily.

1.3. Main conclusions

86. Since the IMF report, the Isle of Man authorities have conducted a comprehensive review of the recommendations relating to the Core recommendations. With the coming into force and effect of POCA 2008, amendments to ATCA 2003 together with related Codes, the Isle of Man has enhanced the regime and addressed the deficiencies related to the Core Recommendations. The authorities have followed these legislative initiatives with a programme of education and training. The relevant supervisors have incorporated a review of compliance with the revised requirements into their on-site visit programmes.

87. Overall it is considered that the Isle of Man has made considerable progress to address and remedy the deficiencies that were identified in the IMF report, though there remain some issues to address as set out above.

88. As a result of the discussions held in the context of the examination of this first progress report, the Plenary was satisfied with the information provided and the progress being undertaken and thus approved the progress report and the analysis of the progress on the core Recommendations. Pursuant to Rule 41 of the Rules of procedure, the progress report will be subject of an update in every two years between evaluation visits (i.e. September 2015), though the Plenary may decide to fix an earlier date at which an update should be presented.

MONEYVAL Secretariat

2. *Information submitted by the Isle of Man for the first 3rd round progress report*

2.1 General overview of the current situation and the developments since the last evaluation relevant in the AML/CFT field

New developments since the adoption of the developments since the last evaluation (5 August 2009)

Proceeds of Crime Act 2008

When the Isle of Man was last evaluated in respect of AML/CFT, the primary legislation which criminalised money laundering comprised the Drug Trafficking Act (DTA) 1996 (money laundering stemming from drug trafficking) and the Criminal Justice Act (CJA) 1990 (money laundering stemming from other predicate offences). The primary legislation which criminalised terrorist financing comprised the Anti-Terrorism and Crime Act (ACTA) 2003.

At the time of the last evaluation in 2008, new legislation which criminalised money laundering, namely the Proceeds of Crime Act (POCA) 2008 had been enacted and had received Royal Assent, but as the entry into force provisions of POCA meant that it did not come into force in its entirety until 1st August 2009, the evaluation process did not take it into account with the result that many of the recommendations made in the last evaluation relate specifically to perceived deficiencies within DTA 1996 and CJA 1990. By 1st August 2009, all of the provisions of POCA 2008 had come into force and all of the money laundering provisions of DTA 1996 and CJA 1990 had been repealed. In addition, new secondary legislation was created under POCA 2008 to deal with various aspects of international cooperation including restraint and confiscation and evidence gathering on behalf of countries or territories outside the Island. The corresponding secondary legislation made under DTA 1996 and CJA 1990 was therefore repealed.

Whilst the primary legislation criminalising terrorist financing remains ACTA 2003, this has been significantly amended by the Anti-Terrorism and Crime (Amendment) Act 2011 which addresses the perceived deficiencies within ACTA 2003 identified in the last evaluation.

Details of the relevant provisions of this new and amended legislation are set out within the relevant sections of this questionnaire below.

A review of the AML/CFT Codes since the previous assessment

The Criminal Justice (Money Laundering) Code 2008 (AML Code 2008) - effective from 18 December 2008 to 31 August 2010.
Amended by the Criminal Justice (Money Laundering) (Amendment) Code 2009.

Replaced by the Proceeds of Crime (Money Laundering) Code 2010 (AML Code 2010) - effective from 1 September 2010 to 30 April 2013.
Amended by the Proceeds of Crime (Money Laundering) (Amendment) Code 2010.

The AML Code 2010 was supplemented by the Prevention of Terrorist Financing Code 2011 (CFT Code 2011) - effective from 1 September 2011 to 30 April 2013.

The AML Code 2010 and the CFT Code 2011 were replaced by a combined Money Laundering and Terrorist Financing Code 2013 (AML/CFT Code 2013) - effective 1 May 2013.

Following the coming into effect of the AML/CFT Code 2013 some minor drafting and typographical

errors and potential ambiguities were identified. This necessitated a new Money Laundering and Terrorist Financing (Amendment) Code 2013 which came into operation on 1 July 2013.

In respect of online gambling, the history of the AML/CFT Codes is as follows:

N.B The legislation included in this section only applies to online gambling providers. Other institutions that are regulated by the Gambling Supervision Commission, including casinos and bookmakers, are covered by the AML/CFT Code 2013 the detail of which has already been covered above.

Criminal Justice (Money Laundering - Online Gambling) Code 2008 - effective 1 September 2008.
Replaced by the Criminal Justice (Money Laundering – Online Gambling) (No. 2) Code 2008 on 18 December 2008.
Replaced by the Proceeds of Crime (Money Laundering – Online Gambling) Code 2010 - effective 1 September 2010
Amended by the Proceeds of Crime (Money Laundering – Online Gambling) (Amendment) Code 2010 on 1 March 2011 which amended the list of equivalent jurisdictions at Schedule 1. This piece of legislation was then supplemented by the Prevention of Terrorist Financing (Online Gambling) Code 2011 on 1 May 2011.

Both of these Codes were replaced by the Money Laundering and Terrorist Financing (Online Gambling) Code 2013 – effective 1 May 2013.

The Money Laundering and Terrorist Financing (Online Gambling) Code 2013 contains similar provisions as the AML/CFT Code 2013 however is written for the businesses of online gambling providers.

AML/CFT Working Groups

The IMF Working Group was established on an *ad hoc* basis by the Chief Secretary in 2007 to coordinate preparations by Government, the regulators and law enforcement for the assessment of the Island by the IMF in 2008, in particular in respect of anti-money laundering and countering the financing of terrorism. As this was a high level steering group, a sub-group of relevant officers (AML/CFT Technical Group) was mandated to give detailed/technical consideration to particular issues.

Following the publication of the IMF Report in 2009 the IMF Working Group (and the technical group) continued in existence to coordinate consideration and progression of the recommendations made by the IMF, in preparation for the next international assessment of the Island. The Working Group also monitored and considered international developments in relation to money laundering, terrorist financing and related matters – such as the adoption of the revised FATF Recommendations – and their impact on the Island.

Following the publication, in June 2012 by the Council of Ministers, of the 'Isle of Man Government Commitment to Combating Money Laundering and the Financing of Terrorism & Proliferation' the IMF Working Group was renamed as the AML/CFT Strategic Group and given a political mandate and formal remit for its work by the Council of Ministers.

The AML/CFT Strategic Group is comprised of the heads of relevant government departments (Chief Secretary's Office, Home Affairs and Treasury), the Chief Executives of the regulators (Financial Supervision Commission, Insurance and Pensions Authority, Gambling Supervision Commission), the Chief Executive of the Office of Fair Trading and the Deputy Chief Constable. Senior executive officers within these departments and bodies also attend including a Sanctions Officer at Customs and Excise. In addition, a representative from the Companies Registry attends.

The overall purpose of the AML/CFT 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 money laundering, terrorist financing, the financing of proliferation of weapons of mass destruction, and compliance with related international financial standards.

Crown Dependency Meetings

For a number of years delegations from the Isle of Man, Jersey and Guernsey have met on an annual basis to discuss issues arising in relation to AML/CFT. The meetings are attended by representatives of the Financial Services Regulators of each jurisdiction (both the Financial Supervision Commission and the Insurance and Pensions Authority attend from the Isle of Man), the Attorney General of each jurisdiction and a representative from the FIU of each jurisdiction. The meeting is used as a forum to discuss any topical issues in relation to AML/CFT and any developments both at a local and international level. Since the previous evaluation there have been 6 meetings held.

Other developments since the last evaluation

Since the last evaluation, the Foundations Act 2011 has come into effect. In so far as foundations are set up by corporate and trust services providers, they are subject to the AML/CFT requirements.

During the period of 2008 – 2012 a phased supervisory program was developed by the Financial Supervision Commission ("FSC") in respect of money service businesses (bureau de change, provision of payment services, provision of cheque cashing services and the issue of e-money). This regime regulates money service businesses in respect of AML/CFT compliance, and also in relation to certain prudential requirements. Further detail regarding the development of the regime is provided in the "Specific Questions" section of this questionnaire.

Since the previous evaluation the online gambling industry in the Isle of Man has experienced a period of very rapid expansion. To illustrate growth, by 2010 the Gambling Supervision Commission (GSC) licensed 21 operators, by 2011 the figure was 43 operators and by 2012 the figure had risen to 52 operators. The online sector currently accounts for just under 10% of the Island's GDP and employs some 800 or so people who work directly for licenceholders or who are employed by the ancillary industries that have grown up to service the sector.

Also since the last evaluation took place, development of a regime to monitor compliance of DNFBPs in relation to AML/CFT legislation has commenced. To date, oversight of DNFBPs has been provided by certain government departments (including the Department of Home Affairs, Office of Fair Trading, FSC and Gambling Supervision Commission), as well as the Isle of Man Law Society and the accountancy professional bodies. In 2012 the Council of Ministers agreed that the oversight of DNFBPs in relation to AML/CFT compliance would be centralised and the FSC will carry out this role (with the power to delegate functions to other professional bodies if deemed appropriate). To achieve this the Designated Businesses (Registration and Oversight) Bill 2013 has been produced, and consulted on with industry. This Bill will allow the FSC to enhance the oversight regime that is currently in place including having the necessary enforcement powers to take action for non-compliance where necessary. It is anticipated the Bill will come into force in 2014.

On 1st June 2013, the Cash in Postal Packets Act 2013 came fully into operation. This extended the requirement for the declaration to Customs and Excise of cash in amounts greater than €10,000 to that sent to or from the Island in the mail. At the same time, it provided powers for the Post Office to detain and open, and for police or Customs and Excise to examine the contents of, postal packets suspected of containing cash which was the proceeds of unlawful conduct or intended for use in unlawful conduct. If over the £1,000 threshold, such cash could be seized in the same way was if found in any other circumstances. These new provisions applied to both international mail and "domestic" mail traffic moving between the UK and the Island.

2.2 Core Recommendations

Please indicate improvements which have been made in respect of the FATF Key Recommendations (Recommendations 1, 5, 10, 13; Special Recommendations II and IV) and the Recommended Action Plan (Appendix 1).

Recommendation 1 (Money Laundering offence)	
Rating: Partially compliant	
1A)Recommendation of the MONEYVAL Report	Amend Articles 17C CJA 1990 and 45 DTA 1996 to:- - provide for two alternative purposes for the acts of converting and transferring proceeds, namely to avoid prosecution for the predicate offense or to conceal the illicit origin of the funds, and; - eliminate the purpose requirement for the acts of converting and transferring proceeds of crime.
Measures taken to implement the Recommendation of the Report	The money laundering provisions of the CJA 1990 and DTA 1996, including Section 17C CJA 1990 and Section 45 DTA 1996 were repealed and replaced by the Proceeds of Crime Act 2008 (POCA 2008) with effect from 1st August 2009. POCA has much broader money laundering provisions than the legislation it replaces. Money laundering offences are defined in sections 139 to 141 POCA. Section 139 provides that a person commits an offence if that person conceals, disguises, converts or transfers criminal property or removes criminal property from the Island. Section 140 provides that a person commits an offence if that person enters into or becomes concerned in an arrangement which that person knows or suspects facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person. Section 141 provides that a person commits an offence if that person acquires, uses or has possession of criminal property. Section 139 therefore provides that converting or transferring criminal property for any purpose is an offence which would, of course, include for the purposes of avoiding prosecution for the predicate offense or to conceal the illicit origin of the funds.
1B)Recommendation of the MONEYVAL Report	The defence (payment of adequate consideration) provided for in Sections 17B(3) CJA 1990 and 47(3) DTA 1996 is not provided for in the Vienna and Palermo Conventions and should be eliminated as it may allow money launderers to abuse the provision to avoid criminal liability for the acquisition, possession, or use of criminal proceeds/proceeds.
Measures taken to implement the Recommendation of	The money laundering provisions of CJA 1990 and DTA 1996 were repealed and replaced by sections 139-141 POCA 2008.

the Report	Section 141 POCA 2008 did, when first enacted, contain a defence of payment of adequate consideration, but this defence was abolished by the Organised and International Crime Act 2010. No defence of payment of adequate consideration now exists.
1C)Recommendation of the MONEYVAL Report	Amend Section 10 ATCA 2003 to cover all material elements of the money laundering provisions of the Palermo and Vienna Conventions.
Measures taken to implement the Recommendation of the Report	The Anti-Terrorism and Crime (Amendment) Act 2011 came into force on 13th July 2011 and inserted several new provisions into section 10 Anti-Terrorism and Crime Act 2003 (ATCA 2003). Under Section 10 (as amended) a person commits an offence if he facilitates the retention or control of terrorist property by concealment, by disguise, by conversion, by removal from the jurisdiction, by transfer to nominees or in any other way. Section 10 ATCA 2003 now therefore covers all material elements of the money laundering provisions of the Palermo and Vienna Conventions.
1D)Recommendation of the MONEYVAL Report	Amend the offences of acquisition, possession, or use in the CJA 1990 and the DTA 1996 as well as the money laundering offence contained in the ATCA 2003 to include criminal proceeds obtained through the commission of a predicate offense by the self-launderer.
Measures taken to implement the Recommendation of the Report	The money laundering provisions of the CJA 1990 and DTA 1996, including Section 17C CJA 1990 and Section 45 DTA 1996 were repealed and replaced by the Proceeds of Crime Act 2008 (POCA 2008) with effect from 1st August 2009. POCA 2008 has much broader money laundering provisions than the legislation it replaces. Money laundering offences are defined in sections 139 to 141 POCA 2008. Section 139 provides that a person commits an offence if that person conceals, disguises, converts or transfers criminal property or removes criminal property from the Island. Section 140 provides that a person commits an offence if that person enters into or becomes concerned in an arrangement which that person knows or suspects facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person. Section 141 provides that a person commits an offence if that person acquires, uses or has possession of criminal property. These provisions ensure that money laundering offences now extend to self-laundering and include criminal proceeds obtained through the commission of a predicate offence by the self-launderer. In addition, the money laundering offence defined in Section 10 ATCA, as amended by the Anti-Terrorism and Crime (Amendment) Act 2011, now extends to self-laundering.
1E)Recommendation of the MONEYVAL	The authorities should:-

Report	(i) address any barriers to stand-alone ML prosecutions, including the level of proof needed to determine that property stems from the commission of a specific predicate offense; and (ii) take steps to develop jurisprudence on autonomous money laundering to establish that ML is a stand-alone offense.
Measures taken to implement the Recommendation of the Report	Any legislative barriers to stand alone money laundering prosecutions were addressed by the coming into force of the Proceeds of Crime Act 2008 (POCA 2008) which is detailed above. There have been some important successful convictions for money laundering in the Isle of Man since the IMF inspection in 2008. In October 2009 Trevor and Wendy Baines were convicted of laundering US $175 million stemming from a securities fraud in the USA and false accounting. Mr Baines was sentenced to a term of 6 years imprisonment for the offences. He appealed sentence, but the sentence was upheld by the Appeal court. A link to the Appeal court judgment which sets out the details of the offences can be found here: http://www.judgments.im/content/J1106.htm In January 2011 Jenny Holt, a Manx Advocate (lawyer) was convicted of three offences including a money laundering offence (becoming concerned in an arrangement knowing or suspecting that the arrangement facilitated the acquisition, retention, use or control of criminal property by or on behalf of another person, contrary to section 140(1) POCA 2008). She appealed the conviction, but this was upheld by the Appeal court. Links to the Appeal court judgment (in 2 parts) can be found here: http://www.judgments.im/content/J1217.htm http://www.judgments.im/content/J1218.htm Miss Holt is currently appealing to the Privy Council and the matter is due to be heard by that Court in January 2014. In 2010 a local bank made a SAR to the FCU regarding its suspicions over a local resident depositing cash for crediting to a third party account maintained in the UK. The bank reported the depositor knew little about the provenance of the transaction when challenged by bank staff, and in the presence of the cashier the depositor made a telephone call to ascertain details of the account the money was to be credited to. Enquiries made by the FCU indicated the UK account was operated by an individual known to UK police for being involved in suspected drugs trafficking. The FCU issued an Advisory Notice to local banks outlining the above typology. Consequently, additional SARs were received which assisted law enforcement in establishing the scale of the problem locally. All intelligence was shared with the UK police force, and additional suspects subsequently identified. Operation Increment was initiated. Twenty-two individuals were identified as depositing money locally for crediting to third party accounts sited in the UK. Nineteen were subsequently arrested and charged with removing criminal property from the Isle of Man, and 16 convicted. Their sentences ranged from custodial to non-custodial, depending on the severity of their involvement. Of those convicted, several had no connection to the predicate offence, their only involvement was

	depositing money locally. Those directly involved in drug trafficking were arrested and escorted to the Isle of Man. Following conviction all received lengthy custodial sentences.
1F)(Other) changes since the last evaluation	None

Recommendation 5 (Customer due diligence). Regarding financial institutions	
Rating: Partially compliant	
2A)Recommendation of the MONEYVAL Report	The authorities should take steps to eliminate any residual inconsistencies in AML/CFT legal requirements and terminology.
Measures taken to implement the Recommendation of the Report	This was addressed by the majority of the relevant preventative measures that were in Part 9 of the Financial Supervision Commission's Financial Services Rule Book 2008 being brought into the Criminal Justice (Money Laundering) Code 2008 (2008 Code) which came into operation on 18 December 2008. The FSC's Financial Services Rule Book 2008 was replaced by the Financial Services Rule Book 2009 which came into effect on 1 January 2010. The Financial Services Rule Book 2009 no longer contained the vast majority of the AML/CFT preventative measures previously found in Part 9. The impact of extending the detailed provisions of the 2008 Code to incorporate the AML/CFT provisions in the FSC's Rule Book was that insurance intermediaries, insurance managers, registered scheme administrators, and scheme trustees, (identified by the IMF as not being included within the scope of either the Rule Book of the FSC or by the Insurance (Anti-Money Laundering) Regulations 2008) were, with effect of the 2008 Code included within the scope of all relevant AML/CFT requirements. The remaining AML/CFT measures relevant to FATF R.5 contained within the Financial Services Rule Book 2009 and not also carried through to the 2008 Code concerned Anonymous Accounts in Rule 6.6. Whilst the 2008 Code did not explicitly prohibit anonymous accounts, paragraph 4(1) required all relevant persons to undertake identification and verification procedures on all applicants for business and the opening of an anonymous account would conflict with this requirement. In addition to this requirement, Rule 6.6 of the Financial Services Rule Book 2009 stated – "(2) A licenceholder must not maintain — (a) an anonymous account, or (b) an account in a fictitious name. (3) If a licenceholder maintains a numbered account it must — (a) identify, and verify the identity of, the customer, and (b) maintain the account in such a way as to comply fully with the requirements of the Criminal Justice (Money Laundering) Code 2008."

	With regard to insurers, Regulation 15 of the Insurance (Anti-Money Laundering) Regulations 2008 (IAMLR 2008) explicitly disallows anonymous accounts as follows: "15. Anonymous bonds or contracts in fictitious names are not permitted and any such business relationships already in place must be treated as high risk and subjected to enhanced due diligence and ongoing monitoring." The 2008 Code was replaced by the Proceeds of Crime (Money Laundering) Code 2010 (AML Code 2010) on 1 September 2010. A new provision was included in the AML Code 2010 at paragraph 25 concerning Anonymous accounts. This stated: "25 Anonymous Accounts A relevant person must not set up an anonymous account or an account in a name which it knows, or has reasonable cause to suspect, to be fictitious for any new or existing customer." The inclusion of the prohibition to set up anonymous accounts within the AML Code 2010 ensured that all regulated entities within the financial services sector, including insurance intermediaries, insurance managers, registered scheme administrators, and scheme trustees, (identified by the IMF as not being covered either by the Rule Book of the FSC or by regulation 15 of the IAMLAR 2008 in respect of Anonymous Accounts) were explicitly prohibited from doing so. This addition was carried through to paragraph 25 of the Prevention of Terrorist Financing Code 2011 (CFT Code 2011) (effective 1 September 2011) which mirrored the requirements of the AML Code 2010 with particular focus on the prevention of terrorist financing. **The Position as at July 2013** The AML Code 2010 and the CFT Code 2011 were replaced by a combined Money Laundering and Terrorist Financing Code 2013 (AML/CFT Code 2013) (effective 1 May 2013, amended 1 July 2013). The provision concerning anonymous accounts in the AML/CFT Code 2013 are the same as those of the AML Code 2010. Paragraph 26 of the AML/CFT Code 2013 states: "26. Anonymous and fictitious name accounts A relevant person must not set up an anonymous account or an account in a name that it knows, or has reasonable cause to suspect, to be fictitious for any new or existing customer." The only AML/CFT provision remaining within the Financial Supervision Commission's Financial Services Rule Book 2011 relevant to FATF R.5 concerns Anonymous Accounts and supplements the provisions contained within the AML/CFT Code 2013 (as amended). Rule 6.6 states: "6.6 (2) A licence holder must not maintain anonymous or fictitious accounts or business relationships. (3) If a licence holder maintains a numbered account it must— (a) identify, and verify the identity of, the customer, and

	(b) maintain the account in such a way as to comply fully with the requirements of the Proceeds of Crime (Money Laundering) Code 2010 and Prevention of Terrorist Financing Code 2011 or any successor." The requirement for FSC licenceholders to have a Deputy MLRO (to cover for any absence of the MLRO) was at Rule 8.18(1)(c) of the Financial Services Rule Book 2008. This Rule of the 2008 Rule Book applied to new FSC licenceholders (or in respect of newly licensed activities) from 1 August 2008 and it applied to existing FSC licenceholders from 1 January 2009. The requirement for FSC licenceholders to have a Deputy MLRO remains within the Financial Services Rule Book 2011 at Rule 8.18(1)(c)which states: "**8.18 Compliance officer and money laundering reporting officer / countering the financing of terrorism officer** (1) A licenceholder must appoint the following officers— … (c) a deputy money laundering reporting officer ("Deputy MLRO") who will also fulfil the role of deputy countering the financing of terrorism officer ("Deputy CFTO") to cover for any absence of the MLRO/CFTO." This is in addition to the requirement at paragraph 21 of the AML/CFT Code 2013 (as amended) for all relevant persons to appoint an MLRO. Though, the AML/CFT Code 2013 has now amended the definition of MLRO to make clear that where a Deputy MLRO has been appointed, the requirements relevant to the MLRO are equally applicable to the Deputy MLRO.
2B)Recommendation of the MONEYVAL Report	The authorities should expand the current list of categories of higher-risk customers and consider including, for example, private banking and business involving trusts or other legal arrangements.
Measures taken to implement the Recommendation of the Report	With the coming into effect of the Proceeds of Crime (Money Laundering) Code 2010 (AML Code 2010) on 1 September 2010 the list of categories of higher risk customers was expanded in legislation in order to comply with this recommendation. Paragraph 8 of the AML Code 2010 dealt with Enhanced Due Diligence. Additional categories were added to paragraph 8. These were: • private banking at 8(2)(d) where it stated "the provision of banking services for higher-risk accounts or high net-worth individuals"; • business involving trusts or other legal arrangements at 8(2)(e) where it stated "a legal arrangement". "Legal arrangement" was broadly defined within the AML Code 2010 as meaning an express trust or any other arrangement which has similar legal effect (such as a fiducie, Treuhand or fideicomiso); • companies which have nominee shareholders at 8(2)(c); and • a situation which by its nature presents a risk of money laundering or terrorist financing" at 8(2)(f). The whole of paragraph 8(2) of the AML Code 2010 stated: "8(2) Matters which may pose a higher risk include but are not restricted to —

	(a) a business relationship or one-off transaction with — (i) a politically exposed person; or (ii) a person or legal arrangement resident or located in a country which the relevant person has reason to believe does not apply, or insufficiently applies, the FATF Recommendations in respect of the business or transaction in question; (b) a person which is the subject of a warning issued by a competent authority; (c) a company which has nominee shareholders or shares in bearer form; (d) the provision of banking services for higher-risk accounts or high net-worth individuals; (e) a legal arrangement; (f) a situation which by its nature presents a risk of money laundering or terrorist financing." Paragraph 8 (Enhanced Due Diligence) of the Prevention of Terrorist Financing Code 2011 (CFT Code 2011) (effective 1 September 2011) duplicated paragraph 8(2) of the AML Code 2010 with the exception of subparagraph (f) which stated: " (f) a situation which by its nature presents a risk of terrorist financing." **The Position as at July 2013** With the coming into effect of the Money Laundering and Terrorist Financing Code 2013 (as amended) (effective 1 May 2013, amended 1 July 2013) which replaced both the AML Code 2010 and the CFT Code 2011, Enhanced Due Diligence is now covered by paragraph 11 and the list of higher risk categories was carried forward unchanged into the current legislation under paragraph 11(2), except for the provision of sub-paragraph (f) which now considers both the risk of money laundering and terrorist financing as follows: "(f) a situation that by its nature presents a risk of money laundering or the financing of terrorism." This is something which is kept under review by the AML/CFT Technical Group and the AML/CFT Strategic Group.
2C)Recommendation of the MONEYVAL Report	The authorities should conduct a risk-based review of the current scope of the Acceptable Applicant facility and, if warranted, limit its availability for consistency with the FATF Recommendations. To comply with the FATF Recommendations, financial institutions should be required in all cases to determine whether a customer is acting on behalf of another person and should take reasonable steps to obtain sufficient identification data to verify the identity of that other person.
Measures taken to implement the Recommendation of the Report	In the redrafting of the Money Laundering and Terrorist Financing Code 2013 (as amended) (effective 1 May 2013, amended 1 July 2013) (AML/CFT Code 2013), it was decided to keep lawyers and accountants as eligible Acceptable Applicants under paragraphs 7(5)(c) (new business relationships) and 9(4)(c) (one-off transactions) as per the definition of trusted person at paragraph 3. This was based on the evidence of the supervisory regime that the two primary groups (Advocates & Accountants) had provided to the Department

	of Home Affairs under the respective Memorandums of Understanding (signed August 2010). In the period 2010 to 2013 lawyers on the Isle of Man have been subject to supervision by the Isle of Man Law Society and accountants who are members of a professional body have been subject to supervision by the ICAEW/ACCA/CIMA/ICB under MOUs with the DHA. Details of these arrangements are provided elsewhere in answer to questions throughout this questionnaire. It should also be noted that the Acceptable Applicant facility is subject to certain restrictions in its use. It is not available under paragraphs 7(6) (new business relationships) and 9(5) (one-off transactions) where there is a suspicious transaction trigger event. A suspicious transaction trigger event is defined as: ““**suspicious transaction trigger event**” means the occurrence of any one of the following— (a) the relevant person knowing or suspecting that the transaction is or may be related to money laundering or the financing of terrorism; (b) a suspicious pattern of behaviour causing the relevant person to know or suspect that the behaviour is or may be related to money laundering or the financing of terrorism; (c) the relevant person becoming aware of anything that causes the relevant person to doubt the identity of the applicant for business or the introducer (in the case of paragraph 10) or beneficial owner; or (d) the relevant person becoming aware of anything that causes the relevant person to doubt the *bona fides* of the applicant for business or the introducer (in the case of paragraph 10) or beneficial owner;” In these circumstances, the relevant person must conduct enhanced customer due diligence under paragraph 11 and consider whether an internal disclosure should be made. The Acceptable Applicant facility is also not available for one-off transactions under paragraph 9(5) where there are transactions that are complex or both large and unusual that have no apparent economic or visible lawful purpose. Again enhanced customer due diligence must be undertaken under paragraph 11 and the relevant person must consider whether an internal disclosure should be made. Paragraph 11 provides a further restriction on the acceptable applicant facility. If the new business relationship or one-off transaction poses a higher risk, paragraph 11(1A) provides that the acceptable applicant facility at 7(5) or 9(4) does not apply. Matters which may pose a higher risk are set out at 11(2) and include: “(a) a business relationship or one-off transaction with — (i) a politically exposed person; or (ii) a person or legal arrangement resident or located in a country that the relevant person has reason to believe does not apply, or insufficiently applies, the FATF Recommendations in respect of the business or transaction in question;

(b) a person that is the subject of a warning issued by a competent authority;
(c) a company that has nominee shareholders or shares in bearer form;
(d) the provision of banking services for higher-risk accounts or high net-worth individuals;
(e) a legal arrangement;
(f) a situation that by its nature presents a risk of money laundering or the financing of terrorism."

Detail of changes made to the Acceptable Applicant concession

During the period since the IMF Inspection other changes have been made to the Acceptable Applicant facility.

Nominee company
At 6(6)(a), 6(6)(c) (in respect of new business relationships), 9(4)(a)(i) and 9(4)(a)(iii) (in respect of one-off transactions) and paragraph 2 (interpretation) of the Proceeds of Crime (Money Laundering) Code 2010 (AML Code 2010) a nominee company of a regulated person or an external regulated business was included.

"Nominee Company" was defined as meaning "a wholly owned subsidiary which complies with paragraphs 2.7 or 3.1 of the Financial Services (Exemption) Regulations 2009 or equivalent regulations in a jurisdiction listed in Schedule 2 of the Code".

This change was replicated in the Prevention of Terrorism Code 2011 at paragraphs 6(6)(a), 6(6)(c) (new business relationships), 9(4)(a)(i), 9(4)(a)(iii) (one-off transactions) and 2 (interpretation).

This change was continued in the Money Laundering and Terrorist Financing Code 2013 (as amended) (AML/CFT Code 2013) at paragraph 7(5)(c) (new business relationships), 9(4)(c)(i) (one-off transactions), and paragraph 3 with the definition of trusted person which includes a nominee company of a regulated person or of an external regulated business.

"Nominee company" is defined as meaning "a wholly owned subsidiary that complies with paragraphs 2.7 or 3.1 of Schedule 1 to the Financial Services (Exemptions) Regulations 2011 or equivalent regulations in a jurisdiction listed in the Schedule to this Code;"

Definition of external regulated business
The definition of External Regulated Business was amended in the AML Code 2010 firstly so that it did not have to correspond to business carried out by an Isle of Man regulated person. Secondly the definition was amended to make clear that the external regulated business must be regulated or supervised specifically for the prevention of money laundering and financing of terrorism.

This change to the definition was carried through to the CFT Code 2011 (with drafting to ensure it was specific to the prevention of terrorist financing), (effective 1 September 2011).

This change to the definition was carried through to the AML/CFT Code 2013 (as amended) (with minor drafting amendments) (effective 1 May 2013,

	amended 1 July 2013). Paragraph 3 of the AML/CFT Code 2013 states: ""**external regulated business**" means business outside the Island regulated or supervised for the prevention of money laundering and the financing of terrorism by an authority (whether a governmental or professional body and whether in the Island or in a country outside the Island) empowered (whether by law or by the rules of the body) to regulate or supervise such business;" **Addition of a company listed on a recognised stock exchange** Paragraph 6(6) (new business relationships) of the AML Code 2010 was amended to add a company listed on a recognised stock exchange or a wholly owned subsidiary of such a company as entities that could be treated as acceptable applicants. Paragraph 6(6)(d) stated: "A company listed on a recognised stock exchange or a wholly owned subsidiary of such a company provided the relevant person has taken reasonable measures to establish whether there is effective control of the company by an individual, group of individuals or another legal person or legal arrangement. If this is the case, those controllers must be considered as beneficial owners and paragraph 5(2)(b) applies." Paragraph 5(2)(b) stated: "The relevant person must, in the case of any applicant for business – (b) take reasonable measures to verify the identity of those persons, using relevant information or data obtained from a reliable source;" This amendment was carried through to the CFT Code 2011 at paragraphs 6(6)(d) and 5(2)(b). This amendment was carried through to the AML/CFT Code 2013 (as amended) (effective 1 May 2013, amended 1 July 2013) at paragraph 7(5)(c) which states: "(5) Sub-paragraph (1) does not require verification of identity to be produced if – … (c) the relevant person has satisfied itself that the applicant for business is – … (ii) a company listed on a recognised stock exchange or a wholly owned subsidiary of such a company in relation to which the relevant person has taken reasonable measures to establish that there is effective control of the company by an individual, group of individuals or another legal person or arrangement (which persons are treated as beneficial owners for the purposes of this Code)." **Additional restrictions – requirement to conduct enhanced DD and consider whether a suspicious transaction report / internal disclosure should be made** Additional restrictions were placed on the use of the Acceptable Applicants

	concession with the coming into effect of the AML Code 2010 (effective 1 September 2010). **New business relationships** In respect of new business relationships, at paragraphs 6(8) of the Criminal Justice (Money Laundering) Code 2008 (effective 18 December 2008 to 31 August 2010) it was already a requirement that the acceptable applicant concession could not be used in the circumstances listed at 6(8)(a) to (d). With the AML Code 2010, these circumstances (now at 6(9)(a) to (d)) were expanded to include knowledge or suspicion that a transaction or pattern of behavior is or may be related to the financing of terrorism. In addition, where the acceptable applicant concession for new business relationships could not be used as a result of the circumstances listed at 6(9)(a) to (d), relevant businesses were now also required to conduct enhanced due diligence (as outlined at paragraph 8) and consider whether a suspicious transaction report should be made. This amendment was carried forward to the CFT Code 2011 at paragraph 6(9) (with drafting to ensure it was specific to the prevention of terrorist financing) (effective 1 September 2011). In the AML/CFT Code 2013 (effective 1 May 2013, amended 1 July 2013) the acceptable applicant concession for new business relationships does not apply as per paragraph 7(6). In addition, enhanced due diligence is required and the relevant business must consider whether an internal disclosure should be made (rather than a suspicious transaction report as in previous legislation). Paragraph 7(6) states: "If there is a suspicious transaction trigger event, paragraph 11 [Enhanced customer due diligence] applies, sub-paragraph (3) and (5) of this paragraph do not apply and the relevant person must consider whether an internal disclosure should be made." A suspicious transaction trigger event is defined at paragraph 3 as: "**suspicious transaction trigger event**" means the occurrence of any one of the following:- (a) the relevant person knowing or suspecting that the transaction is or may be related to money laundering or the financing of terrorism; (b) a suspicious pattern of behaviour causing the relevant person to know or suspect that the behaviour is or may be related to money laundering or the financing of terrorism; (c) the relevant person becoming aware of anything that causes the relevant person to doubt the identity of the applicant for business or the introducer (in the case of paragraph 10) or beneficial owner; or (d) the relevant person becoming aware of anything that causes the relevant person to doubt the *bona fides* of the applicant for business or the introducer (in the case of paragraph 10) or beneficial owner;" **One-Off Transactions** In respect of one-off transactions, at paragraph 9(8) of the Criminal Justice (Money Laundering) Code 2008 it was already a requirement that the

	acceptable applicant concession could not be used for one-off transactions in the circumstances listed at 9(8)(a) to (e). With the AML Code 2010, these circumstances were expanded at 9(8) to include knowledge or suspicion that the transaction or pattern of behavior is or may be related to the financing of terrorism. In addition, where the acceptable applicant concession for one-off transactions could not be used as a result of the circumstances listed at 9(8)(a) to (e), relevant businesses were now also required to conduct enhanced due diligence (as per paragraph 8) and consider whether a suspicious transaction report should be made. This amendment was carried forward to the CFT Code 2011 (effective 1 September 2011) at paragraph 9(8). This amendment was carried forward to the AML/CFT Code 2013 (as amended) (effective 1 May 2013, amended 1 July 2013) at paragraph 9(5) (though relevant businesses are required to consider whether an internal disclosure should be made rather than a suspicious transaction report as in previous legislation). A further restriction on the acceptable applicant facility for one-off transactions was enhanced with the AML/CFT Code 2013 at paragraph 9(5). Previously it was required to take adequate measures to compensate for the risk arising as a result of the one-off transaction being complex or unusually large, and having no apparent economic or visible lawful purpose. Under 9(5) of the AML/CFT Code 2013 where there are transactions that are complex or both large and unusual that have no apparent economic or visible lawful purpose, the acceptable applicant facility cannot be used, enhanced customer due diligence must be undertaken and the relevant person must consider whether an internal disclosure should be made. **Additional restrictions – where the new business relationship or one-off transaction poses a higher risk** Under paragraphs 6(10), 9(9) and 3(4) of the AML Code 2010 the Acceptable Applicant concession could not be used where the new business relationship or one-off transaction posed a higher risk as assessed by the risk assessment. Paragraph 6(10) (new business relationships) stated: "Where the new business relationship poses a higher risk as assessed by the risk assessment carried out in accordance with paragraph 3, sub-paragraphs (3) and (5) shall not have effect and paragraph 8 [enhanced customer due diligence] applies." Paragraph 9(9) (one-off transactions) stated: "Where the one-off transaction poses a higher risk as assessed by the risk assessment carried out in accordance with paragraph 3, sub-paragraph (4) shall not have effect and paragraph 8 [enhanced customer due diligence] applies." These amendments were carried forward to the CFT Code 2011 (effective 1 September 2011) at paragraphs 6(10) and 9(9).

	With the coming into effect on 1 July 2013 of the Money Laundering and Terrorist Financing (Amendment) Code 2013 this restriction was carried forward to the AML/CFT Code 2013. The acceptable applicant concession does not apply where the applicant for business (including introduced business), a new business relationship, one-off transaction or a continuing business relationship poses a higher risk as assessed by the risk assessment. Paragraph 11(1A) states: "For the avoidance of doubt, if higher risk within the meaning of subparagraph 1(a) is assessed paragraphs 7(3), **7(5)**, **9(4)**, 10(5), 13(2), 13(5), 13(7), 13(8) and 13(9) do not apply." Matters which may pose a higher risk are set out at 11(2) and include: "(a) a business relationship or one-off transaction with — (i) a politically exposed person; or (ii) a person or legal arrangement resident or located in a country that the relevant person has reason to believe does not apply, or insufficiently applies, the FATF Recommendations in respect of the business or transaction in question; (b) a person that is the subject of a warning issued by a competent authority; (c) a company that has nominee shareholders or shares in bearer form; (d) the provision of banking services for higher-risk accounts or high net-worth individuals; (e) a legal arrangement; (f) a situation that by its nature presents a risk of money laundering or the financing of terrorism." **Intermediaries Concession** In response to this recommendation, in December 2011 the FSC removed the Intermediaries concession from its AML/CFT Handbook. A new section 4.11 was put into the AML/CFT Handbook regarding a specific and more restrictive concession for applicants for business that are collective investment schemes. This reflected a restricted concession which was included in the AML Code 2010 at paragraph 12(7) and the CFT Code 2011 at paragraph 12(7). Paragraphs 12(7) stated: "Where the applicant for business is – (a) a collective investment scheme, as defined in section 1 of the Collective Investment Schemes Act 2008 or equivalent in a jurisdiction listed in Schedule 2; and (b) where the manager or administrator of the collective investment scheme, as defined in the Collective Investment Schemes Act 2008 is a regulated person or an external regulated business carrying out equivalent regulated activities in a jurisdiction listed in schedule 2 of this Code, the relevant person need not, if that person thinks fit, comply with the provisions of paragraph 5(2)(c) of this Code ." Paragraphs 5(2)(c) of the AML Code 2010 stated… "The relevant person must, in the case of any applicant for business —

	(c) determine whether the applicant is acting on behalf of another person and, if so, identify that other person, and take reasonable measures to verify his identity using relevant information or data obtained from a reliable source." Under paragraphs 12(9) of the AML Code 2010 and the CFT Code 2011 this concession could not be used in the circumstances listed at (a) to (d) i.e. where the applicant for business posed a higher risk or where there was knowledge or suspicions of money laundering or the financing of terrorism. In these circumstances, relevant persons were required to conduct enhanced due diligence as per paragraph 8 and consider whether a suspicious transaction report should be made. In addition, this concession could not be used where the applicant for business posed a higher risk as assessed by the risk assessment under paragraphs 12(10) of the AML Code 2010 and the CFT Code 2011. If paragraphs 12(10) applied, relevant persons were also required to conduct enhanced due diligence under paragraph 8. This concession was carried forward into the AML/CFT Code 2013 (as amended). The relevant paragraphs being 13(8) and 6(2)(c). Controls on this concession were also carried forward. This concession can not be used if there is a suspicious transaction trigger event (as defined at paragraph 3) under paragraph 13(10). In these circumstances, a relevant person must conduct enhanced customer due diligence under paragraph 11 and consider whether an internal disclosure (as opposed to a suspicious transaction report as previously) should be made. 13(10) states: "If there is a suspicious transaction trigger event, paragraph 11 applies, sub-paragraphs (2) (5), (7), (8) and (9) do not apply and the relevant person must consider whether an internal disclosure should be made." See above for definition of a suspicious transaction trigger event. In addition, the concession can not be used under paragraph 11(1A) where the applicant for business (including introduced business), a new business relationship, one-off transaction or a continuing business relationship poses a higher risk as assessed by the risk assessment. Paragraph 11(1A) states: "(1A) For the avoidance of doubt, if higher risk within the meaning of subparagraph 1(a) is assessed paragraphs 7(3), 7(5), 9(4), 10(5), 13(2), 13(5), 13(7), **13(8)** and 13(9) do not apply." Matters which may pose a higher risk are set out at 11(2) and include: "(a) a business relationship or one-off transaction with — (i) a politically exposed person; or (ii) a person or legal arrangement resident or located in a country that the relevant person has reason to believe does not apply, or insufficiently applies, the FATF Recommendations in respect of the business or transaction in

	question; (b) a person that is the subject of a warning issued by a competent authority; (c) a company that has nominee shareholders or shares in bearer form; (d) the provision of banking services for higher-risk accounts or high net-worth individuals; (e) a legal arrangement; (f) a situation that by its nature presents a risk of money laundering or the financing of terrorism."
2D)Recommendation of the MONEYVAL Report	If the exceptions to the CDD requirements of secondary legislation as currently set out in the FSC Handbook are to be retained, the authorities should amend the secondary legislation as necessary to provide for them.
Measures taken to implement the Recommendation of the Report	**Employee Benefit Schemes Concession** At paragraph 485, the IMF report references the FSC's AML/CFT Handbook Section 4.8 which provided a concession in respect of employee benefit schemes. With the coming into effect of the Proceeds of Crime (Money Laundering) Code 2010 (AML Code 2010) on 1 September 2010 this concession was incorporated into secondary legislation at paragraph 12(6) as follows: "Where the product or service is a pension, superannuation or similar scheme that provides retirement benefits to employees, where contributions are made by way of deduction from wages and the scheme rules do not permit the assignment of a member's interest under the scheme, the relevant person may treat the employer, trustee or any other person who has control over the business relationship, including the administrator or the scheme manager, as the applicant for business and the relevant person need not , if that person thinks fit, comply with the provisions of paragraph 5(2)(c) of this Code." Paragraph 5(2)(c) of the AML Code 2010 stated: "The relevant person must, in the case of any applicant for business – … determine whether the applicant is acting on behalf of another person and, if so, identify that other person, and take reasonable measures to verify his identity using relevant information or date obtained from a reliable source." The FSC's AML/CFT Handbook, was amended accordingly. This concession was continued in the Prevention of Terrorist Financing Code 2011 (CFT Code 2011) at paragraph 12(6). This concession was not available where the applicant for business posed a higher risk or where there was knowledge or suspicions of money laundering or the financing of terrorism. Paragraphs 12(9) and 12(10) of the AML Code 2010 stated: "(9) Sub-paragraphs (6), (7) and (8) shall not have effect and the relevant person must conduct enhanced due diligence in accordance with paragraph 8 and consider whether a suspicious transaction report should be made if any one of the following occurs — (a) the relevant person knows or suspects that the transaction is or may be

	related to money laundering or the financing of terrorism; (b) a suspicious pattern of behaviour that causes the relevant person to know or suspect that the behaviour is or may be related to money laundering or the financing of terrorism; (c) the relevant person becomes aware of anything which causes the relevant person to doubt the identity of the applicant for business or beneficial owner; (d) the relevant person becomes aware of anything which causes the relevant person to doubt the *bona fides* of the applicant for business or beneficial owner. (10) Where the applicant for business poses a higher risk as assessed by the risk assessment carried out in accordance with paragraph 3, sub-paragraphs (6), (7) and (8) shall not have effect and paragraph 8 applies." Paragraphs 12(9) and 12(10) of the CFT Code 2011 reflected the AML Code 2010. The Money Laundering and Terrorist Financing Code 2013 (effective 1 May 2013, amended 1 July 2013) (AML/CFT Code 2013) which replaced the AML Code 2010 and the CFT Code 2011 contains a concession pertaining to employee benefit schemes at paragraph 13(7). It states: "13(7) In respect of a pension, superannuation or similar scheme that provides retirement benefits to employees, if contributions are made by way of deduction from wages and the scheme rules do not permit the assignment of a member's interest under the scheme, the relevant person – (a) may treat the employer, trustee or any other person who has control over the business relationship, including the administrator or the scheme manager, as the applicant for business; and (b) need not comply with paragraph 6(2)(c)." Paragraph 6(2)(c) of the AML/CFT Code 2013 states: "6(2) The relevant person must, in the case of any applicant for business – (c) determine whether the applicant is acting on behalf of another person and, if so, identify that other person, and take reasonable measures to verify his or her identity using relevant information or date obtained from a reliable source." This concession is not available as per paragraph 13(10) which states: "If there is a suspicious transaction trigger event, paragraph 11 [Enhanced Customer Due Diligence] applies, sub-paragraphs (2) (5), (7), (8) and (9) do not apply and the relevant person must consider whether an internal disclosure should be made." A suspicious transaction trigger event is defined at paragraph 3 as follows: "**suspicious transaction trigger event**" means the occurrence of any one of the following:-

	(a) the relevant person knowing or suspecting that the transaction is or may be related to money laundering or the financing of terrorism; (b) a suspicious pattern of behaviour causing the relevant person to know or suspect that the behaviour is or may be related to money laundering or the financing of terrorism; (c) the relevant person becoming aware of anything that causes the relevant person to doubt the identity of the applicant for business or the introducer (in the case of paragraph 10) or beneficial owner; or (d) the relevant person becoming aware of anything that causes the relevant person to doubt the *bona fides* of the applicant for business or the introducer (in the case of paragraph 10) or beneficial owner;" In addition, the employee benefit schemes concession can not be used under paragraph 11(1A) of the AML/CFT Code 2013 (as amended) (effective 1 May 2013, amended 1 July 2013) where the applicant for business (including introduced business), a new business relationship, one-off transaction or a continuing business relationship poses a higher risk as assessed by the risk assessment. Paragraph 11(1A) states: "(1A) For the avoidance of doubt, if higher risk within the meaning of subparagraph 1(a) is assessed paragraphs 7(3), 7(5), 9(4), 10(5), 13(2), 13(5), **13(7),** 13(8) and 13(9) do not apply." Matters which may pose a higher risk are set out at 11(2) and include: "(a) a business relationship or one-off transaction with — (i) a politically exposed person; or (ii) a person or legal arrangement resident or located in a country that the relevant person has reason to believe does not apply, or insufficiently applies, the FATF Recommendations in respect of the business or transaction in question; (b) a person that is the subject of a warning issued by a competent authority; (c) a company that has nominee shareholders or shares in bearer form; (d) the provision of banking services for higher-risk accounts or high net-worth individuals; (e) a legal arrangement; (f) a situation that by its nature presents a risk of money laundering or the financing of terrorism." **Source of Funds as Evidence of Identity** At Paragraph 486 of the IMF Report reference was made to the concession in the FSC's AML/CFT Handbook allowing licenceholders to accept source of funds as evidence of identity where certain conditions were met. The source of funds concession was removed from the FSC's AML/CFT Handbook in December 2011. This did not require a change to legislation. **Intermediaries Concession** Paragraph 488 of the IMF's Report deals with the Intermediaries concession which was at section 4.12 of the Financial Supervision Commission's ("FSC") AML/CFT Handbook.

	In December 2011 the FSC removed the Intermediaries concession from its AML/CFT Handbook. A new section 4.11 was put into the AML/CFT Handbook regarding a specific and more restrictive concession for applicants for business that are collective investment schemes. This reflected a restricted concession which was included in the AML Code 2010 at paragraph 12(7) and the CFT Code 2011 at paragraph 12(7). Paragraphs 12(7) stated: "Where the applicant for business is – (a) a collective investment scheme, as defined in section 1 of the Collective Investment Schemes Act 2008 or equivalent in a jurisdiction listed in Schedule 2; and (b) where the manager or administrator of the collective investment scheme, as defined in the Collective Investment Schemes Act 2008 is a regulated person or an external regulated business carrying out equivalent regulated activities in a jurisdiction listed in schedule 2 of this Code, the relevant person need not, if that person thinks fit, comply with the provisions of paragraph 5(2)(c) of this Code ." Paragraphs 5(2)(c) stated… "The relevant person must, in the case of any applicant for business — (c) determine whether the applicant is acting on behalf of another person and, if so, identify that other person, and take reasonable measures to verify his identity using relevant information or data obtained from a reliable source." Under paragraphs 12(9) of the AML Code 2010 and the CFT Code 2011 this concession could not be used in the circumstances listed at (a) to (d) i.e. where the applicant for business posed a higher risk or where there was knowledge or suspicions of money laundering or the financing of terrorism. In these circumstances, relevant persons were required to conduct enhanced due diligence as per paragraph 8 and consider whether a suspicious transaction report should be made. In addition, this concession could not be used where the applicant for business posed a higher risk as assessed by the risk assessment under paragraphs 12(10) of the AML Code 2010 and the CFT Code 2011. If paragraphs 12(10) applied, relevant persons were also required to conduct enhanced due diligence under paragraph 8. See the extracts above of paragraphs 12(9) and 12(10) of the AML Code 2010 for details. This concession was carried forward into the AML/CFT Code 2013 (as amended) (effective 1 May 2013, amended 1 July 2013). The relevant paragraphs being 13(8) and 6(2)(c). Controls on this concession were also carried forward. This concession can not be used if there is a suspicious transaction trigger event (as defined at paragraph 3) under paragraph 13(10). In these circumstances, a relevant person must conduct enhanced customer due diligence under paragraph 11 and consider whether an internal disclosure (as opposed to a suspicious transaction report as previously) should be made. See AML/CFT Code 2013 (as amended) or above for extracts of paragraph 13(10) and the definition of a suspicious transaction trigger event.

	In addition, the concession can not be used under paragraph 11(1A) where the applicant for business (including introduced business), a new business relationship, one-off transaction or a continuing business relationship poses a higher risk as assessed by the risk assessment. Paragraph 11(1A) states: "(1A) For the avoidance of doubt, if higher risk within the meaning of subparagraph 1(a) is assessed paragraphs 7(3), 7(5), 9(4), 10(5), 13(2), 13(5), 13(7), **13(8)** and 13(9) do not apply." Matters which may pose a higher risk are set out at 11(2) and include: "(a) a business relationship or one-off transaction with — (i) a politically exposed person; or (ii) a person or legal arrangement resident or located in a country that the relevant person has reason to believe does not apply, or insufficiently applies, the FATF Recommendations in respect of the business or transaction in question; (b) a person that is the subject of a warning issued by a competent authority; (c) a company that has nominee shareholders or shares in bearer form; (d) the provision of banking services for higher-risk accounts or high net-worth individuals; (e) a legal arrangement; (f) a situation that by its nature presents a risk of money laundering or the financing of terrorism."
2E)Recommendation of the MONEYVAL Report	Should the authorities decide to continue allowing source of funds to be used as principal evidence of identity in certain low risk circumstances, the requirements should be tightened further to eliminate any remaining risk of abuse for ML or FT purposes.
Measures taken to implement the Recommendation of the Report	The source of funds concession was contained within the FSC's AML/CFT Handbook. This concession was removed from the FSC's AML/CFT Handbook in December 2011 by an amendment to the AML/CFT Handbook. This did not require a change to legislation.
2F)Recommendation of the MONEYVAL Report	The authorities should review on a risk basis the implementation of the concession allowing operations to commence prior to completion of full CDD procedures to ensure it is not being misused.
Measures taken to implement the Recommendation of the Report	The FATF Recommendations provide at Criterion 5.14 that countries may permit financial institutions to complete the verification of the identity of the customer and beneficial owner following the establishment of the business relationship subject to certain conditions. Following the IMF's recommendation, with the coming into effect of the Proceeds of Crime (Money Laundering) Code 2010 (AML Code 2010) on 1 September 2010 the Isle of Man enhanced the conditions which apply where a financial institution makes use of this timing concession. Paragraph 6(3) of the AML Code 2010 and the Prevention of Terrorist Financing Code 2011 (CFT Code 2011) also required that:

	"(d) senior management sign-off is obtained for each business relationship and any subsequent activity until the provisions of sub-paragraph 4(b) [verification of identity using reliable, independent source documents, data or information] have been complied with. In this sub-paragraph, "senior management" means Isle of Man resident directors or key persons who are nominated to ensure the relevant person is effectively controlled on a day-to-day basis and who have responsibility for overseeing the relevant person's proper conduct. Where this sub-paragraph (3) applies, the relevant person must ensure that the amount, type and number of transactions is limited and monitored." In addition this timing concession was disapplied where the new business relationship posed a higher risk and enhanced due diligence was required. In this regard paragraphs 6(10) of the AML Code 2010 and the CFT Code 2011 stated: "Where the new business relationship poses a higher risk as assessed by the risk assessment carried out in accordance with paragraph 3, sub-paragraphs (3) and (5) shall not have effect and paragraph 8 [Enhanced Customer Due Diligence] applies." **The Position as at July 2013** These additional controls (requiring senior management approval and limiting and monitoring the transactions) were continued at paragraph 7(3) of the Money Laundering and Terrorist Financing Code 2013 (as amended) (effective 1 May 2013, amended 1 July 2013). The relevant sub-paragraphs of 7(3) state: "(d) the relevant person's senior management has approved the establishment of the business relationship and any subsequent activity until sub-paragraph (4)(b) has been complied with; and (e) the relevant person ensures that the amount, type and number of transactions is limited and monitored." "Senior Management" is defined at paragraph 7(8) as: "… Isle of Man resident directors of key persons who are nominated to ensure the relevant person is effectively controlled on a day-to-day basis and who have responsibility for overseeing the relevant person's proper conduct." This timing concession is not available as per paragraph 7(6) which states: "7(6) If there is a suspicious transaction trigger event, paragraph 11 [Enhanced Customer Due Diligence] applies, sub-paragraph (3) and (5) of this paragraph do not apply and the relevant person must consider whether an internal disclosure should be made." A suspicious transaction trigger event is defined at paragraph 3 as: "**suspicious transaction trigger event**" means the occurrence of any one of the following— (a) the relevant person knowing or suspecting that the transaction is or may be

	related to money laundering or the financing of terrorism; (b) a suspicious pattern of behaviour causing the relevant person to know or suspect that the behaviour is or may be related to money laundering or the financing of terrorism; (c) the relevant person becoming aware of anything that causes the relevant person to doubt the identity of the applicant for business or the introducer (in the case of paragraph 10) or beneficial owner; or (d) the relevant person becoming aware of anything that causes the relevant person to doubt the *bona fides* of the applicant for business or the introducer (in the case of paragraph 10) or beneficial owner;" In addition, the concession can not be used under paragraph 11(1A) where the applicant for business (including introduced business), a new business relationship, one-off transaction or a continuing business relationship poses a higher risk as assessed by the risk assessment. Paragraph 11(1A) states: "(1A) For the avoidance of doubt, if higher risk within the meaning of subparagraph 1(a) is assessed paragraphs **7(3),** 7(5), 9(4), 10(5), 13(2), 13(5), 13(7), 13(8) and 13(9) do not apply." Matters which may pose a higher risk are set out at 11(2) and include: "(a) a business relationship or one-off transaction with — (i) a politically exposed person; or (ii) a person or legal arrangement resident or located in a country that the relevant person has reason to believe does not apply, or insufficiently applies, the FATF Recommendations in respect of the business or transaction in question; (b) a person that is the subject of a warning issued by a competent authority; (c) a company that has nominee shareholders or shares in bearer form; (d) the provision of banking services for higher-risk accounts or high net-worth individuals; (e) a legal arrangement; (f) a situation that by its nature presents a risk of money laundering or the financing of terrorism." The FSC ensures that all onsite inspections include a review of the timing for completion of full CDD and use of concessions in this area to ensure compliance with the Code. Prior to on-site inspections, the Commission reviews AML/CFT procedures, including whether the procedures allow for delayed CDD in any circumstances. This is then actively monitored on visits. This will continue on future inspections of FSC licenceholders. The FSC has also produced Sector Specific banks in Chapter 9 of its AML/CFT Handbook which covers the timing of CDD and the controls that must be applied in particular circumstances. Similarly, where the IPA undertakes on-site inspections with an AML/CFT focus, a review of the timing of the verification of the identity of the customer and beneficial owner is undertaken to ensure that the application of the concession is in accordance with the Code. In practice this concession is not widely used.

2G)Recommendation of the MONEYVAL Report	The authorities should ensure that insurance managers and insurance intermediaries are included within the scope of all relevant AML/CFT requirements.
Measures taken to implement the Recommendation of the Report	This was addressed by majority of the relevant preventative measures that were in Part 9 of the Financial Supervision Commission's Financial Services Rule Book 2008 being brought into the Criminal Justice (Money Laundering) Code 2008 (2008 Code) which came into operation on 18 December 2008. The impact of extending the detailed provisions of the 2008 Code to incorporate the AML/CFT provisions in the FSC's Rule Book was that insurance intermediaries, insurance managers, registered scheme administrators, and scheme trustees, (identified by the IMF as not being included within the scope of either the Rule Book of the FSC or by the Insurance (Anti-Money Laundering) Regulations 2008) were, with effect of the 2008 Code included within the scope of all relevant AML/CFT requirements. Insurance managers and insurance intermediaries were relevant businesses for the purposes of the Proceeds of Crime (Money Laundering) Code 2010 and the Prevention of Terrorism Financing Code 2011 and are included in Schedule 4 to the Proceeds of Crime Act therefore remain relevant businesses for the Money Laundering and Terrorist Financing Code 2013. They are therefore subject to the AML/CFT requirements.
2H)Recommendation of the MONEYVAL Report	The authorities should consider reducing significantly the current EUR15,000 threshold for the application of CDD measures to one-off transactions by MVT service providers.
Measures taken to implement the Recommendation of the Report	With the coming into effect of the Proceeds of Crime (Money Laundering) Code 2010 (AML Code 2010) on 1 September 2010 the definition of an "exempted one-off transaction" was amended at paragraph 2 to comply with the IMF's recommendation. This definition was continued in the Prevention of Terrorist Financing Code 2011 (CFT Code 2011). The threshold was significantly reduced to €1,000 for the application of CDD measures to one-off transactions by bureau de change and any activity involving money (including any representation of monetary value) transmission services or cheque encashment facilities. The definition in the AML Code 2010 and the CFT Code 2011 was: "exempted one-off transaction" means a one-off transaction (whether a single transaction or a series of linked transactions) where the amount of the transaction or, as the case may be, the aggregate in the case of a series of linked transactions, is less in value than — (a) euro 3,000 in the case of a transaction or series of linked transactions entered into in the course of business of a class specified in entries 9 [casino] and 10 [bookmaker] in Schedule 1; or (b) euro 1,000 in the case of a transaction entered into in the course of business of a class specified in entries 19 and 21 in Schedule 1; or (c) euro 15,000 in any other case;"

	Entries 19 and 21 were: "(19) The business of a *bureau de change*. … (21) Any activity involving money (including any representation of monetary value) transmission services or cheque encashment facilities." This revised definition remains the same in the Money Laundering and Terrorist Financing Code 2013 (as amended) (AML/CFT Code 2013) which replaced the AML Code 2010 and the CFT Code 2011 on 1 May 2013 (amended 1 July 2013).
2I)(Other) changes since the last evaluation	With the coming into effect of the Proceeds of Crime (Money Laundering) Code 2010 (AML Code 2010) on 1 September 2010 a number of other changes were made with respect to customer due diligence (CDD). **Definition of Beneficial Owner slightly extended** The definition of beneficial owner had included a natural person who ultimately owns or controls more than 25% of the shares or voting rights in a legal person. This definition was amended to include natural persons who ultimately own 25% or more of the shares or voting rights in a legal person. This extended definition was continued in the Prevention of Terrorism Code 2011 (CFT Code 2011) (effective 1 September 2011). Apart from minor drafting amendments, this extended definition continues in the Money Laundering and Terrorist Financing Code 2013 (as amended) (AML/CFT Code 2013) (effective 1 May 2013, amended 1 July 2013) which is copied below for information: **""beneficial owner"** means the natural person who ultimately owns or controls the applicant for business or on whose behalf a transaction or activity is being conducted; and includes (but is not restricted to) - (a) in the case of a legal person other than a company whose securities are listed on a recognised stock exchange, a natural person who ultimately owns or controls (whether through direct or indirect ownership or control, including through bearer share holdings) 25% or more of the shares or voting rights in the legal person; or (b) in the case of any legal person, a natural person who otherwise exercises control over the management of the legal person; (c) in the case of a legal arrangement, the trustees or other persons controlling the applicant." **Amendments to requirements concerning Continuing Business Relationships** The AML Code 2010 (effective 1 September 2010) brought in the additional requirement that in the circumstances listed at paragraph 7(2)(a) to (e) the relevant person must conduct enhanced due diligence in accordance with paragraph 8 (enhanced CDD) and consider whether a suspicious transaction report should be made. Other amendments were made to the list of circumstances themselves.

	Paragraph 7(2)(a) and (b) were amended to include references to the financing of terrorism. Paragraph 7(2)(a) was amended so that it referred to "activity" rather than only "a transaction" as in previous legislation. Paragraph 7(2)(c) was amended to more accurately reflect FATF Methodology 11.1. 7(2)(c) stated: "transactions that are complex or unusually large or unusual patterns of transactions that have no apparent economic or visible lawful purpose;". In addition, paragraph 7(3) was added which required that: "Where the continuing business relationship poses a higher risk as assessed by the risk assessment carried out in accordance with paragraph 3, paragraph 8 [enhanced customer due diligence] applies." These amendments (with drafting changes to focus on the financing of terrorism) were continued in the CFT Code 2011. Continuing business relationships are covered at paragraph 8 of the AML/CFT Code 2013 (as amended) (effective from 1 May 2013). Though there were some drafting amendments to this paragraph, essentially the majority of the provisions are comparable to previous legislation. Paragraph 7(3) of the AML Code 2010 was removed as the requirement to undertake enhanced CDD on continuing business relationships that are higher risk is covered at paragraph 11(1). **Amendments to concessions regarding customer due diligence.** Paragraph 12 of the AML Code 2010 (effective 1 September 2010) was amended to limit further the concession available to insurers whereby the insurer was exempted from the customer due diligence procedures in respect of low value contracts of insurance. Previously the concession applied where the premium was an exempted one off transaction (premium value of less than €15,000) this was amended to only exempt those contracts where the single premium or series of linked premiums, is not greater than €2,500. 12(1) stated: "An insurer need not comply with paragraphs 5 to 11 where - (a) a single premium, or series of linked premiums, is not greater than €2,500; or (b) [...]." Paragraph 12(2) removed this concession where after due consideration to the money laundering risk the insurer considered it appropriate to comply immediately or to defer compliance to when a claim is made or the policy is cancelled. The AML Code 2010 (effective 1 September 2010), extended this consideration to include the financing of terrorism risk. 12(2) stated: "In respect of sub-paragraph (1) having paid due regard to the money laundering or the financing of terrorism risk, an insurer may consider it appropriate — (a) to comply immediately with the requirements of the Code referred to

	in those paragraphs; or (b) to comply with the requirements of the Code referred to in those paragraphs, but to defer compliance until a claim is made or the policy is cancelled." Paragraphs 12(1) and 12(2) were carried through to the Prevention of Terrorist Financing Code 2011 (CFT Code 2011) (effective 1 September 2011). The AML/CFT Code 2013 (as amended) (effective 1 May 2013, amended 1 July 2013), extended the concessions available to insurers in paragraph 13 to insurance intermediaries who were intermediating on contracts of insurance where the insurer was able to avail itself of the concession. This removed the anomaly whereby the insurance intermediary had to undertake due diligence procedures whereas the insurer was able to apply concessions under certain low risk scenarios. Paragraphs 13 (1) to (6) state: "(1) Sub-paragraphs (2) to (6) apply to— (a) an insurer effecting or carrying out a contract of insurance; and (b) an insurance intermediary who, in the course of business carried on in or from the Island, acts as an insurance intermediary in respect of the effecting or carrying out of a contract of insurance. (2) An insurer or insurance intermediary, as the case may be, need not comply with paragraphs 6 to 12 if the contract of insurance referred to in sub-paragraph (1) is a contract where— (a) the annual premium is less than €1,000, or a single premium, or series of linked premiums, is less than €2,500; or (b) there is neither a surrender value nor a maturity value (for example, term insurance). (3) In respect of a contract of insurance satisfying sub-paragraph (2)(a) or (b) an insurer may, having paid due regard to the risk of money laundering or the financing of terrorism, consider it appropriate to comply with paragraphs 6 to 12 but to defer such compliance until a claim is made or the policy is cancelled. (4) If a claim is made on the contract of insurance referred to in subparagraph (1) that has neither a surrender value nor a maturity value (for example on the occurrence of an event), and the amount of the settlement is greater than €2,500 the insurer must satisfy itself as to the identity of the policyholder or claimant (if different to the policyholder). (5) An insurer or insurance intermediary, as the case may be, need not comply with sub-paragraph (4) if settlement of the claim is to— (a) a third party in payment for services provided (for example to a hospital where health treatment has been provided); (b) a supplier for services or goods; or (c) the policyholder(s) where invoices for services or goods have been provided to the insurer, and the insurer believes the services or goods to have been supplied. (6) If a contract of insurance referred to in sub-paragraph (1) is cancelled resulting in the repayment of premiums and the amount of the settlement is

greater than €2,500, the insurer or insurance intermediary, as the case may be, must comply with paragraphs 6 to 12."

At paragraph 12(6) of the AML Code 2010 (effective 1 September 2010), due to the low risk of money laundering and terrorist financing, a concession was added to remove the obligation of the relevant person from the need to determine whether the applicant is acting on behalf of another person and to verify the identity of that person where the product or service is a pension or similar that provides retirement benefits within certain restrictions. 12(6) states:

"Where the product or service is a pension, superannuation or similar scheme that provides retirement benefits to employees, where contributions are made by way of deduction from wages and the scheme rules do not permit the assignment of a member's interest under the scheme, the relevant person may treat the employer, trustee or any other person who has control over the business relationship, including the administrator or the scheme manager, as the applicant for business and the relevant person need not , if that person thinks fit, comply with the provisions of paragraph 5(2)(c) of this Code."

5(2)(c) of the AML Code 2010 states:

"The relevant person must, in the case of any applicant for business —
(a) [...]; and
(c) determine whether the applicant is acting on behalf of another person and, if so, identify that other person, and take reasonable measures to verify his identity using relevant information or data obtained from a reliable source."

This amendment was carried through into 12(6) of the CFT Code 2011 and on to the AML/CFT Code 2013 (as amended) at paragraph 13(7) and 6(2)(c).

At paragraph 12(8) of the AML Code 2010 (effective 1 September 2010), due to the low risk of money laundering and terrorist financing, a concession was added for postal orders issued by the Isle of Man Post Office up to the value of £50. 12(8) stated:

"Where the Isle of Man Post Office thinks fit, it need not comply with paragraphs 5 to 11 where it issues a postal order up to the value of fifty pounds".

This concession was carried forward to the CFT Code 2011 (effective 1 September 2011) at paragraph 12(8).

The concessions detailed above were not available as per paragraphs 3(4), 12(9) and 12(10) where the applicant for business posed a higher risk or where there was knowledge or suspicion of money laundering or the financing of terrorism. Paragraphs 12(9) and 12(10) of the AML Code 2010 stated:

"(9) Sub-paragraphs (6), (7) and (8) shall not have effect and the relevant person must conduct enhanced due diligence in accordance with paragraph 8 and consider whether a suspicious transaction report should be made if any one of the following occurs —

(a) the relevant person knows or suspects that the transaction is or may be

	related to money laundering or the financing of terrorism; (b) a suspicious pattern of behaviour that causes the relevant person to know or suspect that the behaviour is or may be related to money laundering or the financing of terrorism; (c) the relevant person becomes aware of anything which causes the relevant person to doubt the identity of the applicant for business or beneficial owner; (d) the relevant person becomes aware of anything which causes the relevant person to doubt the *bona fides* of the applicant for business or beneficial owner. (10) Where the applicant for business poses a higher risk as assessed by the risk assessment carried out in accordance with paragraph 3, sub-paragraphs (6), (7) and (8) shall not have effect and paragraph 8 [enhanced customer due diligence] applies." Paragraphs 3(4), 12(9) and 12(10) of the CFT Code 2011 reflected the AML Code 2010. The concession regarding postal orders was carried forward and extended to include redeeming as well as issuing postal orders at paragraph 13(9) of the AML/CFT Code 2013 (as amended) which stated: "The Isle of Man Post Office may not comply with paragraphs 6 to 12 when it issues or redeems a postal order up to the value of £50." This concession is not available as per paragraph 13(10) which states: "13(10) If there is a suspicious transaction trigger event, paragraph 11 [Enhanced Customer Due Diligence] applies instead of sub-paragraphs (5), (7), (8) and **(9)** and the relevant person must consider whether an internal disclosure should be made." A suspicious transaction trigger event is defined at paragraph 3 as follows: "**suspicious transaction trigger event**" means the occurrence of any one of the following:- (a) the relevant person knowing or suspecting that the transaction is or may be related to money laundering or the financing of terrorism; (b) a suspicious pattern of behaviour causing the relevant person to know or suspect that the behaviour is or may be related to money laundering or the financing of terrorism; (c) the relevant person becoming aware of anything that causes the relevant person to doubt the identity of the applicant for business or the introducer (in the case of paragraph 10) or beneficial owner; or (d) the relevant person becoming aware of anything that causes the relevant person to doubt the *bona fides* of the applicant for business or the introducer (in the case of paragraph 10) or beneficial owner;" The AML/CFT Code 2013 (as amended) (effective 1 May 2013, amended 1 July 2013) also carried forward the removal of this concession where the applicant for business (including introduced business), a new business relationship, one-off transaction or a continuing business relationship poses a

	higher risk as assessed by the risk assessment. Paragraph 11(1A) states: "(1A) For the avoidance of doubt, if higher risk within the meaning of subparagraph 1(a) is assessed paragraphs 7(3), 7(5), 9(4), 10(5), 13(2), 13(5), 13(7), 13(8) and **13(9)** do not apply." Matters which may pose a higher risk are set out at 11(2) and include: "(a) a business relationship or one-off transaction with — (i) a politically exposed person; or (ii) a person or legal arrangement resident or located in a country that the relevant person has reason to believe does not apply, or insufficiently applies, the FATF Recommendations in respect of the business or transaction in question; (b) a person that is the subject of a warning issued by a competent authority; (c) a company that has nominee shareholders or shares in bearer form; (d) the provision of banking services for higher-risk accounts or high net-worth individuals; (e) a legal arrangement; (f) a situation that by its nature presents a risk of money laundering or the financing of terrorism." **Further changes made as a result of the AML/CFT Code 2013 (as amended)** Paragraph 5 of the AML/CFT Code 2013 brought the risk assessment provision within the General Requirements paragraph which meant that the general prohibition from forming a business relationship, carrying out a one-off transaction or continuing a business relationship applied unless the risk assessment procedures under paragraph 4 were met. In addition, the offences governed by the AML/CFT Code 2013 were extended (by virtue of paragraph 28) to include the risk assessment requirement at paragraph 4. In respect of customer due diligence requirements concerning beneficiaries of legal persons or legal arrangements, the requirement was extended at paragraph 6(4) so that a loan to a beneficiary (in addition to a payment as in previous legislation) must not be made unless the relevant person has identified the beneficiary of the loan and verified their identity using relevant information and data obtained from a reliable source. Concepts of "internal" and "external" disclosures were clarified in the AML/CFT Code 2013 and at paragraphs 7(6), 7(7)(b), 8(5), 8(6)(c), 9(5), 9(6)(b), 10(10), 10(11)(b) and 13(10) the requirement was changed to require relevant persons to consider making an internal disclosure to the Money Laundering Reporting Officer (MLRO) rather than a suspicious transaction report. It is then a matter for the MLRO to consider the internal disclosure and whether a suspicious transaction report should be made to the Financial Crime Unit (FCU).

	Other Changes In the context of FATF Recommendation 5, in keeping under review and developing the Island's legislation through the AML and CFT Codes, the IMF Working Group, AML/CFT Strategic Group and the AML/CFT Technical Group (as outlined above at question 1, General Overview) have been involved.
Recommendation 5 (Customer due diligence) Regarding DNFBP[5]	
3A)Recommendation of the MONEYVAL Report	The authorities should keep under review the list of categories of higher-risk customers and consider including additional categories on a risk-related basis.
Measures taken to implement the Recommendation of the Report	With the coming into effect of the Proceeds of Crime (Money Laundering) Code 2010 (AML Code 2010) on 1 September 2010 the list of categories of higher risk customers was expanded in legislation in order to comply with this recommendation. Paragraph 8 of the AML Code 2010 dealt with Enhanced Due Diligence. Additional categories were added to paragraph 8. These were: • private banking at 8(2)(d) where it stated "the provision of banking services for higher-risk accounts or high net-worth individuals"; • business involving trusts or other legal arrangements at 8(2)(e) where it stated "a legal arrangement". "Legal arrangement" was broadly defined within the AML Code 2010 as meaning an express trust or any other arrangement which has similar legal effect (such as a fiducie, Treuhand or fideicomiso); • companies which have nominee shareholders at 8(2)(c); and • a situation which by its nature presents a risk of money laundering or terrorist financing" at 8(2)(f). The whole of paragraph 8(2) of the AML Code 2010 stated: "8(2) Matters which may pose a higher risk include but are not restricted to — (a) a business relationship or one-off transaction with — (i) a politically exposed person; or (ii) a person or legal arrangement resident or located in a country which the relevant person has reason to believe does not apply, or insufficiently applies, the FATF Recommendations in respect of the business or transaction in question; (b) a person which is the subject of a warning issued by a competent authority; (c) a company which has nominee shareholders or shares in bearer form; (d) the provision of banking services for higher-risk accounts or high net-worth individuals; (e) a legal arrangement; (f) a situation which by its nature presents a risk of money laundering or terrorist financing." Paragraph 8 (Enhanced Due Diligence) of the Prevention of Terrorist Financing Code 2011 (CFT Code 2011) (effective 1 September 2011)

[5] i.e. part of Recommendation 12.

	duplicated paragraph 8(2) of the AML Code 2010 with the exception of subparagraph (f) which stated: " (f) a situation which by its nature presents a risk of terrorist financing." **The Position as at July 2013** With the coming into effect of the Money Laundering and Terrorist Financing Code 2013 (as amended) (effective 1 May 2013, amended 1 July 2013) which replaced both the AML Code 2010 and the CFT Code 2011, Enhanced Due Diligence is now covered by paragraph 11 and the list of higher risk categories was carried forward unchanged into the current legislation under paragraph 11(2), except for the provision of sub-paragraph (f) which now considers both the risk of money laundering and terrorist financing as follows: "(f) a situation that by its nature presents a risk of money laundering or the financing of terrorism." These provisions are replicated in the Money Laundering and Terrorist Financing (Online Gambling) Code 2013 at paragraph 6(4) which states: "Matters that pose a higher risk include but are not restricted to a participant or business participant who is or has a substantial connection with — (a) a politically exposed person; (b) a person, legal person or legal arrangement resident or located in a country that the licence holder has reason to believe does not apply, or insufficiently applies, the FATF Recommendations; or (c) a person, legal person or legal arrangement that is the subject of any notices or warnings issued from time to time by the Isle of Man Gambling Supervision Commission." This is something which is kept under review by the AML/CFT Technical Group and the AML/CFT Strategic Group where the participants, such as the Gambling Supervision Commission and Financial Supervision Commission can feed into the group where necessary .
3B)Recommendation of the MONEYVAL Report	The authorities should conduct a risk-based review of the current scope of the Acceptable Applicant facility and, if warranted, limit its availability for consistency with the FATF Recommendations.
Measures taken to implement the Recommendation of the Report	The Acceptable Applicant provisions apply to all DNFBPs in the conduct of 'relevant business'. In the redrafting of the Money Laundering and Terrorist Financing Code 2013 (as amended) (effective 1 May 2013, amended 1 July 2013) (AML/CFT Code 2013), it was decided to keep lawyers and accountants as eligible Acceptable Applicants under paragraphs 7(5)(c) (new business relationships) and 9(4)(c) (one-off transactions) as per the definition of trusted person at paragraph 3. This was based on the evidence of the supervisory regime that the two primary groups (Advocates & Accountants) had provided to the Department of Home Affairs under the respective Memorandums of Understanding (signed August 2010).

	In the period 2010 to 2013 lawyers on the Isle of Man have been subject to supervision by the Isle of Man Law Society and accountants who are members of a professional body have been subject to supervision by the ICAEW/ACCA/CIMA/ICB under MOUs with the DHA. Details of these arrangements are provided elsewhere in answer to questions throughout this questionnaire. It should also be noted that the Acceptable Applicant facility is subject to certain restrictions in its use. It is not available under paragraphs 7(6) (new business relationships) and 9(5) (one-off transactions) where there is a suspicious transaction trigger event. A suspicious transaction trigger event is defined as: ""**suspicious transaction trigger event**" means the occurrence of any one of the following— (a) the relevant person knowing or suspecting that the transaction is or may be related to money laundering or the financing of terrorism; (b) a suspicious pattern of behaviour causing the relevant person to know or suspect that the behaviour is or may be related to money laundering or the financing of terrorism; (c) the relevant person becoming aware of anything that causes the relevant person to doubt the identity of the applicant for business or the introducer (in the case of paragraph 10) or beneficial owner; or (d) the relevant person becoming aware of anything that causes the relevant person to doubt the *bona fides* of the applicant for business or the introducer (in the case of paragraph 10) or beneficial owner;" In these circumstances, the relevant person must conduct enhanced customer due diligence under paragraph 11 and consider whether an internal disclosure should be made. The Acceptable Applicant facility is also not available for one-off transactions under paragraph 9(5) where there are transactions that are complex or both large and unusual that have no apparent economic or visible lawful purpose. Again enhanced customer due diligence must be undertaken under paragraph 11 and the relevant person must consider whether an internal disclosure should be made. Paragraph 11 provides a further restriction on the acceptable applicant facility. If the new business relationship or one-off transaction poses a higher risk, paragraph 11(1A) provides that the acceptable applicant facility at 7(5) or 9(4) does not apply. Under pargrapah 11(2), matters that may pose a higher risk include: "a person or legal arrangement resident or located in a country that the relevant person has reason to believe does not apply, or insufficiently applies, the FATF Recommendations in respect of the business or transaction in question". **Detail of changes made to the Acceptable Applicant concession** During the period since the IMF Inspection other changes have been made to the Acceptable Applicant facility. **Nominee company**

	At 6(6)(a), 6(6)(c) (in respect of new business relationships), 9(4)(a)(i) and 9(4)(a)(iii) (in respect of one-off transactions) and paragraph 2 (interpretation) of the Proceeds of Crime (Money Laundering) Code 2010 (AML Code 2010) a nominee company of a regulated person or an external regulated business was included. "Nominee Company" was defined as meaning "a wholly owned subsidiary which complies with paragraphs 2.7 or 3.1 of the Financial Services (Exemption) Regulations 2009 or equivalent regulations in a jurisdiction listed in Schedule 2 of the Code". This change was replicated in the Prevention of Terrorism Code 2011 at paragraphs 6(6)(a), 6(6)(c) (new business relationships), 9(4)(a)(i), 9(4)(a)(iii) (one-off transactions) and 2 (interpretation). This change was continued in the Money Laundering and Terrorist Financing Code 2013 (as amended) (AML/CFT Code 2013) at paragraph 7(5)(c) (new business relationships), 9(4)(c)(i) (one-off transactions), and paragraph 3 with the definition of trusted person which includes a nominee company of a regulated person or of an external regulated business. "Nominee company" is defined as meaning "a wholly owned subsidiary that complies with paragraphs 2.7 or 3.1 of Schedule 1 to the Financial Services (Exemptions) Regulations 2011 or equivalent regulations in a jurisdiction listed in the Schedule to this Code;" **Definition of external regulated business** The definition of External Regulated Business was amended in the AML Code 2010 firstly so that it did not have to correspond to business carried out by an Isle of Man regulated person. Secondly the definition was amended to make clear that the external regulated business is regulated or supervised specifically for the prevention of money laundering and financing of terrorism. This change to the definition was carried through to the CFT Code 2011 (with drafting to ensure it was specific to the prevention of terrorist financing), (effective 1 September 2011). This change to the definition was carried through to the AML/CFT Code 2013 (as amended) (with minor drafting amendments) (effective 1 May 2013, amended 1 July 2013). Paragraph 3 of the AML/CFT Code 2013 states: ""**external regulated business**" means business outside the Island regulated or supervised for the prevention of money laundering and the financing of terrorism by an authority (whether a governmental or professional body and whether in the Island or in a country outside the Island) empowered (whether by law or by the rules of the body) to regulate or supervise such business;" **Addition of a company listed on a recognised stock exchange** Paragraph 6(6) (new business relationships) of the AML Code 2010 was amended to add a company listed on a recognised stock exchange or a wholly owned subsidiary of such a company as entities that could be treated as acceptable applicants.

	Paragraph 6(6)(d) stated: "A company listed on a recognised stock exchange or a wholly owned subsidiary of such a company provided the relevant person has taken reasonable measures to establish whether there is effective control of the company by an individual, group of individuals or another legal person or legal arrangement. If this is the case, those controllers must be considered as beneficial owners and paragraph 5(2)(b) applies." Paragraph 5(2)(b) stated: "The relevant person must, in the case of any applicant for business – (b) take reasonable measures to verify the identity of those persons, using relevant information or data obtained from a reliable source;" This amendment was carried through to the CFT Code 2011 at paragraphs 6(6)(d) and 5(2)(b). This amendment was carried through to the AML/CFT Code 2013 (as amended) (effective 1 May 2013, amended 1 July 2013) at paragraph 7(5)(c) which states: "(5) Sub-paragraph (1) does not require verification of identity to be produced if – … (c) the relevant person has satisfied itself that the applicant for business is – … (ii) a company listed on a recognised stock exchange or a wholly owned subsidiary of such a company in relation to which the relevant person has taken reasonable measures to establish that there is effective control of the company by an individual, group of individuals or another legal person or arrangement (which persons are treated as beneficial owners for the purposes of this Code)." **Additional restrictions – requirement to conduct enhanced DD and consider whether a suspicious transaction report / internal disclosure should be made** Additional restrictions were placed on the use of the Acceptable Applicants concession with the coming into effect of the AML Code 2010 (effective 1 September 2010). **New business relationships** In respect of new business relationships, at paragraphs 6(8) of the Criminal Justice (Money Laundering) Code 2008 (effective 18 December 2008 to 31 August 2010) it was already a requirement that the acceptable applicant concession could not be used in the circumstances listed at 6(8)(a) to (d). With the AML Code 2010, these circumstances (now at 6(9)(a) to (d)) were expanded to include knowledge or suspicion that a transaction or pattern of behavior is or may be related to the financing of terrorism. In addition, where the acceptable applicant concession for new business relationships could not be used as a result of the circumstances listed at 6(9)(a) to (d), relevant businesses were now also required to conduct

	enhanced due diligence (as outlined at paragraph 8) and consider whether a suspicious transaction report should be made. This amendment was carried forward to the CFT Code 2011 at paragraph 6(9) (with drafting to ensure it was specific to the prevention of terrorist financing) (effective 1 September 2011). In the AML/CFT Code 2013 (effective 1 May 2013, amended 1 July 2013) the acceptable applicant concession for new business relationships does not apply as per paragraph 7(6). In addition, enhanced due diligence is required and the relevant business must consider whether an internal disclosure should be made (rather than a suspicious transaction report as in previous legislation). Paragraph 7(6) states: "If there is a suspicious transaction trigger event, paragraph 11 [Enhanced customer due diligence] applies, sub-paragraph (3) and (5) of this paragraph do not apply and the relevant person must consider whether an internal disclosure should be made." A suspicious transaction trigger event is defined at paragraph 3 as: "**suspicious transaction trigger event**" means the occurrence of any one of the following:- (a) the relevant person knowing or suspecting that the transaction is or may be related to money laundering or the financing of terrorism; (b) a suspicious pattern of behaviour causing the relevant person to know or suspect that the behaviour is or may be related to money laundering or the financing of terrorism; (c) the relevant person becoming aware of anything that causes the relevant person to doubt the identity of the applicant for business or the introducer (in the case of paragraph 10) or beneficial owner; or (d) the relevant person becoming aware of anything that causes the relevant person to doubt the *bona fides* of the applicant for business or the introducer (in the case of paragraph 10) or beneficial owner;" **One-Off Transactions** In respect of one-off transactions, at paragraph 9(8) of the Criminal Justice (Money Laundering) Code 2008 it was already a requirement that the acceptable applicant concession could not be used for one-off transactions in the circumstances listed at 9(8)(a) to (e). With the AML Code 2010, these circumstances were expanded at 9(8) to include knowledge or suspicion that the transaction or pattern of behavior is or may be related to the financing of terrorism. In addition, where the acceptable applicant concession for one-off transactions could not be used as a result of the circumstances listed at 9(8)(a) to (e), relevant businesses were now also required to conduct enhanced due diligence (as per paragraph 8) and consider whether a suspicious transaction report should be made. This amendment was carried forward to the CFT Code 2011 (effective 1 September 2011) at paragraph 9(8). This amendment was carried forward to the AML/CFT Code 2013 (as

	amended) (effective 1 May 2013, amended 1 July 2013) at paragraph 9(5) (though relevant businesses are required to consider whether an internal disclosure should be made rather than a suspicious transaction report as in previous legislation). A further restriction on the acceptable applicant facility for one-off transactions was enhanced with the AML/CFT Code 2013 at paragraph 9(5). Previously it was required to take adequate measures to compensate for the risk arising as a result of the one-off transaction being complex or unusually large, and having no apparent economic or visible lawful purpose. Under 9(5) of the AML/CFT Code 2013 where there are transactions that are complex or both large and unusual that have no apparent economic or visible lawful purpose, the acceptable applicant facility can not be used, enhanced customer due diligence must be undertaken and the relevant person must consider whether an internal disclosure should be made. **Additional restrictions – where the new business relationship or one-off transaction poses a higher risk** Under paragraphs 6(10), 9(9) and 3(4) of the AML Code 2010 the Acceptable Applicant concession could not be used where the new business relationship or one-off transaction posed a higher risk as assessed by the risk assessment. Paragraph 6(10) (new business relationships) stated: "Where the new business relationship poses a higher risk as assessed by the risk assessment carried out in accordance with paragraph 3, sub-paragraphs (3) and (5) shall not have effect and paragraph 8 [enhanced customer due diligence] applies." Paragraph 9(9) (one-off transactions) stated: "Where the one-off transaction poses a higher risk as assessed by the risk assessment carried out in accordance with paragraph 3, sub-paragraph (4) shall not have effect and paragraph 8 [enhanced customer due diligence] applies." These amendments were carried forward to the CFT Code 2011 (effective 1 September 2011) at paragraphs 6(10) and 9(9). With the coming into effect on 1 July 2013 of the Money Laundering and Terrorist Financing (Amendment) Code 2013 this restriction was carried forward to the AML/CFT Code 2013. The acceptable applicant concession does not apply where the applicant for business (including introduced business), a new business relationship, one-off transaction or a continuing business relationship poses a higher risk as assessed by the risk assessment. Paragraph 11(1A) states: "For the avoidance of doubt, if higher risk within the meaning of subparagraph 1(a) is assessed paragraphs 7(3), **7(5)**, **9(4)**, 10(5), 13(2), 13(5), 13(7), 13(8) and 13(9) do not apply." Matters which may pose a higher risk are set out at 11(2) and include:

	"(a) a business relationship or one-off transaction with — (i) a politically exposed person; or (ii) a person or legal arrangement resident or located in a country that the relevant person has reason to believe does not apply, or insufficiently applies, the FATF Recommendations in respect of the business or transaction in question; (b) a person that is the subject of a warning issued by a competent authority; (c) a company that has nominee shareholders or shares in bearer form; (d) the provision of banking services for higher-risk accounts or high net-worth individuals; (e) a legal arrangement; (f) a situation that by its nature presents a risk of money laundering or the financing of terrorism."
3C)Recommendation of the MONEYVAL Report	In the case of CSPs and TSPs, if the exceptions to the CDD requirements of secondary legislation as currently set out in the FSC Handbook are to be retained, the authorities should amend the secondary legislation as necessary to provide for them.
Measures taken to implement the Recommendation of the Report	**Employee Benefit Schemes Concession** At paragraph 485, the IMF report references the FSC's AML/CFT Handbook Section 4.8 which provided a concession in respect of employee benefit schemes. With the coming into effect of the Proceeds of Crime (Money Laundering) Code 2010 (AML Code 2010) on 1 September 2010 this concession was incorporated into secondary legislation at paragraph 12(6) as follows: "Where the product or service is a pension, superannuation or similar scheme that provides retirement benefits to employees, where contributions are made by way of deduction from wages and the scheme rules do not permit the assignment of a member's interest under the scheme, the relevant person may treat the employer, trustee or any other person who has control over the business relationship, including the administrator or the scheme manager, as the applicant for business and the relevant person need not , if that person thinks fit, comply with the provisions of paragraph 5(2)(c) of this Code." Paragraph 5(2)(c) of the AML Code 2010 stated: "The relevant person must, in the case of any applicant for business – … determine whether the applicant is acting on behalf of another person and, if so, identify that other person, and take reasonable measures to verify his identity using relevant information or date obtained from a reliable source." The FSC's AML/CFT Handbook, was amended accordingly. This concession was continued in the Prevention of Terrorist Financing Code 2011 (CFT Code 2011) at paragraph 12(6). This concession was not available where the applicant for business posed a higher risk or where there was knowledge or suspicions of money laundering or the financing of terrorism. Paragraphs 12(9) and 12(10) of the AML Code 2010 stated:

	"(9) Sub-paragraphs (6), (7) and (8) shall not have effect and the relevant person must conduct enhanced due diligence in accordance with paragraph 8 and consider whether a suspicious transaction report should be made if any one of the following occurs — (a) the relevant person knows or suspects that the transaction is or may be related to money laundering or the financing of terrorism; (b) a suspicious pattern of behaviour that causes the relevant person to know or suspect that the behaviour is or may be related to money laundering or the financing of terrorism; (c) the relevant person becomes aware of anything which causes the relevant person to doubt the identity of the applicant for business or beneficial owner; (d) the relevant person becomes aware of anything which causes the relevant person to doubt the *bona fides* of the applicant for business or beneficial owner. (10) Where the applicant for business poses a higher risk as assessed by the risk assessment carried out in accordance with paragraph 3, sub-paragraphs (6), (7) and (8) shall not have effect and paragraph 8 applies." Paragraphs 12(9) and 12(10) of the CFT Code 2011 reflected the AML Code 2010. The Money Laundering and Terrorist Financing Code 2013 (effective 1 May 2013, amended 1 July 2013) (AML/CFT Code 2013) which replaced the AML Code 2010 and the CFT Code 2011 contains a concession pertaining to employee benefit schemes at paragraph 13(7). It states: "13(7) In respect of a pension, superannuation or similar scheme that provides retirement benefits to employees, if contributions are made by way of deduction from wages and the scheme rules do not permit the assignment of a member's interest under the scheme, the relevant person – (a) may treat the employer, trustee or any other person who has control over the business relationship, including the administrator or the scheme manager, as the applicant for business; and (b) need not comply with paragraph 6(2)(c)." Paragraph 6(2)(c) of the AML/CFT Code 2013 states: "6(2) The relevant person must, in the case of any applicant for business – (c) determine whether the applicant is acting on behalf of another person and, if so, identify that other person, and take reasonable measures to verify his or her identity using relevant information or date obtained from a reliable source." This concession is not available as per paragraph 13(10) which states: "If there is a suspicious transaction trigger event, paragraph 11 [Enhanced Customer Due Diligence] applies, sub-paragraphs (2) (5), (7), (8) and (9) do not apply and the relevant person must consider whether an internal disclosure should be made."

	A suspicious transaction trigger event is defined at paragraph 3 as follows: "**suspicious transaction trigger event**" means the occurrence of any one of the following:- (a) the relevant person knowing or suspecting that the transaction is or may be related to money laundering or the financing of terrorism; (b) a suspicious pattern of behaviour causing the relevant person to know or suspect that the behaviour is or may be related to money laundering or the financing of terrorism; (c) the relevant person becoming aware of anything that causes the relevant person to doubt the identity of the applicant for business or the introducer (in the case of paragraph 10) or beneficial owner; or (d) the relevant person becoming aware of anything that causes the relevant person to doubt the *bona fides* of the applicant for business or the introducer (in the case of paragraph 10) or beneficial owner;" In addition, the employee benefit schemes concession can not be used under paragraph 11(1A) of the AML/CFT Code 2013 (as amended) (effective 1 May 2013, amended 1 July 2013) where the applicant for business (including introduced business), a new business relationship, one-off transaction or a continuing business relationship poses a higher risk as assessed by the risk assessment. Paragraph 11(1A) states: "(1A) For the avoidance of doubt, if higher risk within the meaning of subparagraph 1(a) is assessed paragraphs 7(3), 7(5), 9(4), 10(5), 13(2), 13(5), **13(7),** 13(8) and 13(9) do not apply." Matters which may pose a higher risk are set out at 11(2) and include: "(a) a business relationship or one-off transaction with — (i) a politically exposed person; or (ii) a person or legal arrangement resident or located in a country that the relevant person has reason to believe does not apply, or insufficiently applies, the FATF Recommendations in respect of the business or transaction in question; (b) a person that is the subject of a warning issued by a competent authority; (c) a company that has nominee shareholders or shares in bearer form; (d) the provision of banking services for higher-risk accounts or high net-worth individuals; (e) a legal arrangement; (f) a situation that by its nature presents a risk of money laundering or the financing of terrorism." **Source of Funds as Evidence of Identity** At Paragraph 486 of the IMF Report reference was made to the concession in the FSC's AML/CFT Handbook allowing licenceholders to accept source of funds as evidence of identity where certain conditions were met. The source of funds concession was removed from the FSC's AML/CFT Handbook in December 2011. This did nor require a change to legislation. **Intermediaries Concession**

	Paragraph 488 of the IMF's Report deals with the Intermediaries concession which was at section 4.12 of the Financial Supervision Commission's ("FSC") AML/CFT Handbook. In December 2011 the FSC removed the Intermediaries concession from its AML/CFT Handbook. A new section 4.11 was put into the AML/CFT Handbook regarding a specific and more restrictive concession for applicants for business that are collective investment schemes. This reflected a restricted concession which was included in the AML Code 2010 at paragraph 12(7) and the CFT Code 2011 at paragraph 12(7). Paragraphs 12(7) stated: "Where the applicant for business is – (a) a collective investment scheme, as defined in section 1 of the Collective Investment Schemes Act 2008 or equivalent in a jurisdiction listed in Schedule 2; and (b) where the manager or administrator of the collective investment scheme, as defined in the Collective Investment Schemes Act 2008 is a regulated person or an external regulated business carrying out equivalent regulated activities in a jurisdiction listed in schedule 2 of this Code, the relevant person need not, if that person thinks fit, comply with the provisions of paragraph 5(2)(c) of this Code ." Paragraphs 5(2)(c) stated… "The relevant person must, in the case of any applicant for business — (c) determine whether the applicant is acting on behalf of another person and, if so, identify that other person, and take reasonable measures to verify his identity using relevant information or data obtained from a reliable source." Under paragraphs 12(9) of the AML Code 2010 and the CFT Code 2011 this concession could not be used in the circumstances listed at (a) to (d) i.e. where the applicant for business posed a higher risk or where there was knowledge or suspicions of money laundering or the financing of terrorism. In these circumstances, relevant persons were required to conduct enhanced due diligence as per paragraph 8 and consider whether a suspicious transaction report should be made. In addition, this concession could not be used where the applicant for business posed a higher risk as assessed by the risk assessment under paragraphs 12(10) of the AML Code 2010 and the CFT Code 2011. If paragraphs 12(10) applied, relevant persons were also required to conduct enhanced due diligence under paragraph 8. See the extracts above of paragraphs 12(9) and 12(10) of the AML Code 2010 for details. This concession was carried forward into the AML/CFT Code 2013 (as amended) (effective 1 May 2013, amended 1 July 2013). The relevant paragraphs being 13(8) and 6(2)(c). Controls on this concession were also carried forward. This concession can not be used if there is a suspicious transaction trigger event (as defined at paragraph 3) under paragraph 13(10). In these circumstances, a relevant person must conduct enhanced customer due diligence under paragraph 11 and consider whether an internal disclosure

	(as opposed to a suspicious transaction report as previously) should be made. See AML/CFT Code 2013 (as amended) or above for extracts of paragraph 13(10) and the definition of a suspicious transaction trigger event. In addition, the concession can not be used under paragraph 11(1A) where the applicant for business (including introduced business), a new business relationship, one-off transaction or a continuing business relationship poses a higher risk as assessed by the risk assessment. Paragraph 11(1A) states: "(1A) For the avoidance of doubt, if higher risk within the meaning of subparagraph 1(a) is assessed paragraphs 7(3), 7(5), 9(4), 10(5), 13(2), 13(5), 13(7), **13(8)** and 13(9) do not apply." Matters which may pose a higher risk are set out at 11(2) and include: "(a) a business relationship or one-off transaction with — (i) a politically exposed person; or (ii) a person or legal arrangement resident or located in a country that the relevant person has reason to believe does not apply, or insufficiently applies, the FATF Recommendations in respect of the business or transaction in question; (b) a person that is the subject of a warning issued by a competent authority; (c) a company that has nominee shareholders or shares in bearer form; (d) the provision of banking services for higher-risk accounts or high net-worth individuals; (e) a legal arrangement; (f) a situation that by its nature presents a risk of money laundering or the financing of terrorism."
3D)Recommendation of the MONEYVAL Report	The authorities should review on a risk basis the implementation of the concession allowing operations to commence prior to completion of full CDD procedures to ensure it is not being misused, particularly in the case of advocates.
Measures taken to implement the Recommendation of the Report	**Position with respect to the relevant legislation** The FATF Recommendations provide at Criterion 5.14 that countries may permit financial institutions to complete the verification of the identity of the customer and beneficial owner following the establishment of the business relationship subject to certain conditions. Following the IMF's recommendation, with the coming into effect of the Proceeds of Crime (Money Laundering) Code 2010 (AML Code 2010) on 1 September 2010 the Isle of Man enhanced the conditions which apply where a financial institution makes use of this timing concession. Paragraph 6(3) of the AML Code 2010 and the Prevention of Terrorist Financing Code 2011 (CFT Code 2011) also required that: "(d) senior management sign-off is obtained for each business relationship and any subsequent activity until the provisions of sub-paragraph 4(b) [verification of identity using reliable, independent source documents, data or

	information] have been complied with. In this sub-paragraph, "senior management" means Isle of Man resident directors or key persons who are nominated to ensure the relevant person is effectively controlled on a day-to-day basis and who have responsibility for overseeing the relevant person's proper conduct. Where this sub-paragraph (3) applies, the relevant person must ensure that the amount, type and number of transactions is limited and monitored." In addition this timing concession was disapplied where the new business relationship posed a higher risk and enhanced due diligence was required. In this regard paragraphs 6(10) of the AML Code 2010 and the CFT Code 2011 stated: "Where the new business relationship poses a higher risk as assessed by the risk assessment carried out in accordance with paragraph 3, sub-paragraphs (3) and (5) shall not have effect and paragraph 8 [Enhanced Customer Due Diligence] applies." **The Position as at July 2013** These additional controls (requiring senior management approval and limiting and monitoring the transactions) were continued at paragraph 7(3) of the Money Laundering and Terrorist Financing Code 2013 (as amended) (effective 1 May 2013, amended 1 July 2013). The relevant sub-paragraphs of 7(3) state: "(d) the relevant person's senior management has approved the establishment of the business relationship and any subsequent activity until sub-paragraph (4)(b) has been complied with; and (e) the relevant person ensures that the amount, type and number of transactions is limited and monitored." "Senior Management" is defined at paragraph 7(8) as: "… Isle of Man resident directors of key persons who are nominated to ensure the relevant person is effectively controlled on a day-to-day basis and who have responsibility for overseeing the relevant person's proper conduct." This timing concession is not available as per paragraph 7(6) which states: "7(6) If there is a suspicious transaction trigger event, paragraph 11 [Enhanced Customer Due Diligence] applies, sub-paragraph (3) and (5) of this paragraph do not apply and the relevant person must consider whether an internal disclosure should be made." A suspicious transaction trigger event is defined at paragraph 3 as: "**suspicious transaction trigger event**" means the occurrence of any one of the following— (a) the relevant person knowing or suspecting that the transaction is or may be related to money laundering or the financing of terrorism; (b) a suspicious pattern of behaviour causing the relevant person to know or suspect that the behaviour is or may be related to money laundering or the

financing of terrorism;
(c) the relevant person becoming aware of anything that causes the relevant person to doubt the identity of the applicant for business or the introducer (in the case of paragraph 10) or beneficial owner; or
(d) the relevant person becoming aware of anything that causes the relevant person to doubt the *bona fides* of the applicant for business or the introducer (in the case of paragraph 10) or beneficial owner;"

In addition, the concession can not be used under paragraph 11(1A) where the applicant for business (including introduced business), a new business relationship, one-off transaction or a continuing business relationship poses a higher risk as assessed by the risk assessment.

Paragraph 11(1A) states:

"(1A) For the avoidance of doubt, if higher risk within the meaning of subparagraph 1(a) is assessed paragraphs **7(3),** 7(5), 9(4), 10(5), 13(2), 13(5), 13(7), 13(8) and 13(9) do not apply."

Matters which may pose a higher risk are set out at 11(2) and include:

"(a) a business relationship or one-off transaction with —
(i) a politically exposed person; or
(ii) a person or legal arrangement resident or located in a country that the relevant person has reason to believe does not apply, or insufficiently applies, the FATF Recommendations in respect of the business or transaction in question;
(b) a person that is the subject of a warning issued by a competent authority;
(c) a company that has nominee shareholders or shares in bearer form;
(d) the provision of banking services for higher-risk accounts or high net-worth individuals;
(e) a legal arrangement;
(f) a situation that by its nature presents a risk of money laundering or the financing of terrorism."

Corporate and Trust Service Providers
AML/CFT forms a significant element of on-site visits to CSPs and TSPs. The FSC ensures that all onsite inspections include a review of the timing for completion of full CDD and use of concessions in this area to ensure compliance with the Code. Prior to on-site inspections, the Commission reviews AML/CFT procedures, including whether the procedures allow for delayed CDD in any circumstances. This is then actively monitored on visits. CDD is examined on the sampled files, including whether CDD is up to date and correctly certified and whether it was gathered prior to the client company commencing business or the trust being settled. In 2012/13 the Commission carried out 42 visits to CSP and TSP licenceholders. This will continue on future inspections of FSC licenceholders.

In respect of CSP and TSP business, it takes time to form a company. The FSC cannot foresee circumstances in which a fiduciary can meet the test at 6(3)(b) that "[the delay] is essential not to interrupt the normal course of business".

Advocates

	The practical implementation of this recommendation was subject to testing during the Law Society 2011-12 on-site inspections of all Advocates practices. Of 34 firms inspected all Practices conducting 'relevant business' were found to have an appropriate system in place to manage the request, collection, application and record keeping of CDD. As Advocates were of particular mention, further detail is provided for this group aimed at satisfying IMF concern; • All firms (conducting relevant business) request CDD from their clients in their Terms of Business / Letter of Engagement. • Some practices link the provision of CDD to their timewriting tool, whereby until CDD is received, the matter is not 'opened', and no time can be billed to it. • Some practices begin legal drafting, but do not release the work product to the client until CDD is completed. • Some practices have a CDD control linked to their accounts procedures, whereby no 'transaction' in or out of the client account is conducted without confirmation that CDD is in place governing that transaction. • Some practices have adopted centralised CDD records to assist with repeat instructions from clients, which also helps with timeliness. • The primary exception to the completion of CDD procedures prior to work commencing was found to relate to non-relevant 'legal opinion' work. Even in these instances the majority of Practices now have in place an AML client risk assessment which allows them to document any exceptions to internal procedure, or highlight why and with whose authority work was conducted without CDD being collected in line with the concession detail in the Code. **Gambling Supervision Commission (GSC) Licenceholders** In relation to online gambling providers, it should be noted that the position in relation to the timing of identifying a prosective participant and verifying this information has not changed since the Criminal Justice (Money Laundering - Online Gambling) Code 2008, in that a participant has to provide identification information prior to commencing a relationship. However, this information only has to be verified once a certain threshold is reached. The current position in relation to this, as stated in the Money Laundering and Terrorist Financing (Online Gambling) Code 2013 (Online Gambling AML/CFT Code 2013) is set out below: Paragraph 7 (1) states: "A licenceholder must establish, maintain and operate procedures that require the prospective participant to provide satisfactory information as to his or her identity (either online or in writing) as soon as reasonably practicable after contact is first made between them." Paragraph 7(2) states that: "Procedures comply with this paragraph and paragraph 6 [risk assessment] if they require that unless satisfactory information as to the prospective participant's identity is provided— (a) no account will be opened for him or her; (b) no money will be accepted from or on behalf of him or her; and

	(c) no participation in online gambling by him or her will be permitted." Paragraph 8 (3) then states: "A licence holder must establish, maintain and operate procedures that require the participant to produce satisfactory evidence of his or her identity before making the qualifying payment." In relation to online gambling, a payment is a qualifying payment if— (a) the payment exceeds €3,000; or (b) when taken with all other payments made to the participant within the 30 days immediately preceding the date on which the payment is to be made, the aggregate amount exceeds €3,000. Paragraph 8(4) states that "procedures comply with this paragraph if they require that if satisfactory evidence is not produced- (a) the qualifying payment will not be made unless or until it is produced; (b) no further participation in online gambling by the participant will be permitted; and (c) a licenceholder must consider whether an internal disclosure should be made." Following identification, a licensee must assess firstly the initial risk and thereafter the ongoing risk that the participant may be trying to launder money or finance terrorism. The risk assessment process takes into account the risk factors mandated by the Online Gambling AML/CFT Code 2013, the FATF 2013 guidance and MONEYVAL's typologies report as well as any relevant typology reports that may be issued from time to time by FATF or MONEYVAL. If this risk assessment process identifies a suspicion of money laundering or terrorist financing then enhanced due diligence is triggered as per paragraph 10 of the Online Gambling AML/CFT Code 2013. Also, participants are subject to enhanced due diligence if they withdraw more than €3000 in any given 30 day period (either in aggregate or as a single transaction). Where enhanced due diligence or any other variations in patterns of participation, etc. give rise to suspicions, the licensee is then obliged to file an STR and follow any instructions issued by the FCU. Any attempts to obtain verification data which cannot be completed by the participant also gives rise to the requirement to consider whether an STR should be lodged with the FCU. Compliance with the above requirements is assessed by the GSC at the time of a visit. The GSC visits its operators according to a rolling program and undertakes an analysis of each operator's understanding and application of AML/CFT legislation. In addition, AML data is monitored each quarter through the submission of quarterly reports to the GSC by licensees. This exercise obtains data on the number of STRs filed, the numbers of new participants registered, etc. and allows the GSC to identify any outlying licensees and consider reprioritising

	the visits schedule.
3E)Recommendation of the MONEYVAL Report	The DHA should proceed as quickly as possible with the planned arrangements to ensure that effective AML/CFT arrangements are place for accountancy professionals, including on a risk-sensitive basis those that are not members of either of the two main bodies.
Measures taken to implement the Recommendation of the Report	The Proceeds of Crime Act 2008 (POCA 2008) makes provision for the DHA and the Accountancy Institutes / Associations (ICAEW / ACCA / CIMA / ICB) as Supervisory Authorities. In August 2010, Memorandum of Understanding were signed with: • Institute of Chartered Accountants of England & Wales (ICAEW) • Association of Chartered Certified Accountants (ACCA) • Chartered Institute of Management Accountants (CIMA) • Institute of Certified Bookkeepers (ICB) The addition of CIMA & ICB was intended to capture those professionals not members of either of the two main bodies, ICAEW or ACCA. The MOUs were not binding agreements or contracts but rather statements of intent designed to ensure that both parties understood their obligations in relation to AML/CFT supervision of accountants on the Isle of Man. Key deliverables of these MOUs were: • Use reasonable endeavours to ensure their Members were aware of their obligations under POCA 2008 and the AML and CFT Codes (and sucsessors). • Ensure disclosures in the form and manner which was prescribed by the DHA were made by their Members to the FCU. • To collate annual returns from Member firms confirming that they understand and adopt the main aspects of the AML and CFT Codes, POCA 2008 and all related AML legislation and guidance which apply to the profession (including training, client due-diligence, reporting procedures and the appointment of a nominated officer). • Cyclical and risk based visits. • Reporting to the DHA annually of work conducted. • Reporting to the FCU if the Institute / Association was to become aware of any potential offence. Annual reports provided by ICAEW, ACCA, CIMA make reference to the work conducted by them for and with their Members on the Isle of Man, as part of their annual AML supervision reports which they submit to UK Treasury. The effectiveness of the AML/CFT arrangements in place for accountancy professionals since August 2010 has relied on the work conducted and reported by the four professional bodies under the terms of these MoUs. ICAEW / ACCA / CIMA / ICB status as Supervisory authorities in the United Kingdom, and the confirmation of application of professional standards imposed on their members worldwide and reported to the DHA on an annual basis was deemed sufficient for this group. The DHA did however recognise that the IMF recommended Isle of Man

	specific Guidance was put in place and a guidance document was published on the DHA website aimed at DNFBP businesses. In February 2013 a project was commissioned by the DHA aimed at further enhancing the Isle of Man's supervision of accountants for AML purposes prior to the oversight role being centralised with the Financial Supervision Commission. The core components of this project were to: • Identify and create a register of all those whom, under Schedule 4 of POCA 2008 (as amended by the Proceeds of Crime (Business in the Regulated Sector) Order 2013), conduct business in the regulated sector (not just those that are members of the two primary professional bodies). • Enhance relationships between DHA, FSC and the professional bodies (ICAEW / ACCA) to facilitate the practical application of the requirements detailed in the Designated Business (Registration and Oversight) Bill 2013. • Further detail DHA / FSC expectations around on-site inspections conducted by professional bodies of their Members on the Isle of Man. Further clarity as to the supervisory programme for accountants has been provided by: • The Proceeds of Crime (Business in the Regulated Sector) Order 2013 which came into force on 1st May 2013; this expands the definition of services in relation to audit and accountancy. Where the service being offered now falls within the 'Regulated sector' definition, anyone (be they a Firm or sole practitioner) will be expected to comply with the requirements of the Money Laundering and Terrorist Financing Code 2013 (as amended). These requirements are not determined by membership of a professional body • Registration, supervision, enforcement provisions for those who are members of professional bodies AND for those who are not - but are conducting Business in the Regulated Sector - is currently being addressed via the Designated Business (Registration & Oversight) Bill 2013.
3F)Recommendation of the MONEYVAL Report	The DHA should proceed as soon as possible with the planned implementation on a risk-sensitive basis of AML/CFT measures for dealers in high-value goods engaged in cash transactions.
Measures taken to implement the Recommendation of the Report	The Survey of such businesses showed that no businesses were engaged in cash transaction of €15,000 or above. Since 2010 only one transaction has been identified of in excess of this amount and this was reported to the DHA by the business concerned and submitted to the FCU for investigation. The Designated Businesses (Registration and Oversight) Bill 2013 proposes to amend the Supply of Goods and Services Act 1996 to make it illegal to accept payments of cash for the supply of goods and services where the amount is €15,000 or more.
3G)Recommendation of the MONEYVAL	The requirement to consider filing an STR if unable to adequately complete CDD measures should be extended to casinos.

Report	
Measures taken to implement the Recommendation of the Report	Paragraphs 7(7) & 8(6) & 9(6) & 10(11) of the Money Laundering and Terrorist Financing Code 2013 (as amended) require all listed entities at Schedule 4 of the Proceeds of Crime Act 2008 to consider making an STR. At para L of Schedule 4 is listed "Any activity permitted to be carried on by a licence holder under a casino licence granted under the Casino Act 1986." This provision was also extended to other gambling entities such as online gambling providers. The Criminal Justice (Money Laundering – Online Gambling) (No. 2) Code 2008 was amended at paragraph 7(4)(c) to include that where satisfactory evidence is not produced: "(c) a licenceholder considers whether a suspicious transaction report should be made." This was carried though to the Proceeds of Crime (Money Laundering – Online Gambling) Code 2010 and Prevention of Financing (Online Gambling) Code 2011 at paragraphs 7(4)(c) and into the Money Laundering and Terrorist Financing (Online Gambling) Code 2013 at paragraph 8(4)(c). This requirement was also replicated in the ongoing monitoring provisions of the above Codes.
3H)(Other) changes since the last evaluation	For some time the business of dealing in goods of any description where a transaction involves accepting a total cash payment of €15,000 has been deemed to be a business in the regulated sector and therefore covered by the requirements of the AML/CFT legislation. However, in May 2013 this area was slightly expanded to also include the provision of safe custody facilities, deposit boxes or other secure storage facilities for high-value physical items or assets, jewellery, precious metals and stones, gold bullion or documents of title. Please see Schedule 4 of the Proceeds of Crime Act 2008 or the Proceeds of Crime (Business in the Regulated Sector) Order 2013. With the coming into effect of the Proceeds of Crime (Money Laundering) Code 2010 (AML Code 2010) on 1 September 2010 a number of other changes were made with respect to customer due diligence (CDD). **Definition of Beneficial Owner slightly extended** The definition of beneficial owner had included a natural person who ultimately owns or controls more than 25% of the shares or voting rights in a legal person. This definition was amended to include natural persons who ultimately own 25% or more of the shares or voting rights in a legal person. This extended definition was continued in the Prevention of Terrorism Code 2011 (CFT Code 2011) (effective 1 September 2011). Apart from minor drafting amendments, this extended definition continues in the Money Laundering and Terrorist Financing Code 2013 (as amended) (AML/CFT Code 2013) (effective 1 May 2013, amended 1 July 2013) which is copied below for information:

	““beneficial owner” means the natural person who ultimately owns or controls the applicant for business or on whose behalf a transaction or activity is being conducted; and includes (but is not restricted to) - (a) in the case of a legal person other than a company whose securities are listed on a recognised stock exchange, a natural person who ultimately owns or controls (whether through direct or indirect ownership or control, including through bearer share holdings) 25% or more of the shares or voting rights in the legal person; or (b) in the case of any legal person, a natural person who otherwise exercises control over the management of the legal person; (c) in the case of a legal arrangement, the trustees or other persons controlling the applicant.” **Amendments to requirements concerning Continuing Business Relationships** The AML Code 2010 (effective 1 September 2010) brought in the additional requirement that in the circumstances listed at paragraph 7(2)(a) to (e) the relevant person must conduct enhanced due diligence in accordance with paragraph 8 (enhanced CDD) and consider whether a suspicious transaction report should be made. Other amendments were made to the list of circumstances themselves. Paragraph 7(2)(a) and (b) were amended to include references to the financing of terrorism. Paragraph 7(2)(a) was amended so that it referred to “activity” rather than only “a transaction” as in previous legislation. Paragraph 7(2)(c) was amended to more accurately reflect FATF Methodology 11.1. 7(2)(c) stated: “transactions that are complex or unusually large or unusual patterns of transactions that have no apparent economic or visible lawful purpose;”. In addition, paragraph 7(3) was added which required that: “Where the continuing business relationship poses a higher risk as assessed by the risk assessment carried out in accordance with paragraph 3, paragraph 8 [enhanced customer due diligence] applies.” These amendments (with drafting changes to focus on the financing of terrorism) were continued in the CFT Code 2011. Continuing business relationships are covered at paragraph 8 of the AML/CFT Code 2013 (as amended) (effective from 1 May 2013). Though there were some drafting amendments to this paragraph, essentially the majority of the provisions are comparable to previous legislation. Paragraph 7(3) of the AML Code 2010 was removed as the requirement to undertake enhanced CDD on continuing business relationships that are higher risk is covered at paragraph 11(1). **Further changes made as a result of the AML/CFT Code 2013 (as amended)** Paragraph 5 of the AML/CFT Code 2013 brought the risk assessment

	provision within the General Requirements paragraph which meant that the general prohibition from forming a business relationship, carrying out a one-off transaction or continuing a business relationship applied unless the risk assessment procedures under paragraph 4 were met. In addition, the offences governed by the AML/CFT Code 2013 were extended (by virtue of paragraph 28) to include the risk assessment requirement at paragraph 4. In respect of customer due diligence requirements concerning beneficiaries of legal persons or legal arrangements, the requirement was extended at paragraph 6(4) so that a loan to a beneficiary (in addition to a payment as in previous legislation) must not be made unless the relevant person has identified the beneficiary of the loan and verified their identity using relevant information and data obtained from a reliable source. Concepts of "internal" and "external" disclosures were clarified in the AML/CFT Code 2013 and at paragraphs 7(6), 7(7)(b), 8(5), 8(6)(c), 9(5), 9(6)(b), 10(10), 10(11)(b) and 13(10) the requirement was changed to require relevant persons to consider making an internal disclosure to the Money Laundering Reporting Officer (MLRO) rather than a suspicious transaction report. It is then a matter for the MLRO to consider the internal disclosure and whether a suspicious transaction report should be made to the Financial Crime Unit (FCU). **Other Changes** In the context of FATF Recommendation 5, in keeping under review and developing the Island's legislation through the AML and CFT Codes, the IMF Working Group, AML/CFT Strategic Group and the AML/CFT Technical Group (as outlined above at question 1, General Overview) have been involved.

Recommendation 10 (Record keeping) Regarding Financial Institutions	
Rating: Compliant	
4A)(Other) changes since the last evaluation	**Changes made to Record Keeping requirements in the AML and CFT Codes** Drafting changes were made to paragraph 16(a) of the Proceeds of Crime (Money Laundering) Code 2010 (AML Code 2010) (effective 1 September 2010) so that instead of referring to relevant persons keeping a copy of the evidence of identity, relevant persons were required to keep a copy of the "documents, data and information obtained or produced under paragraphs 5 to 14". This was not considered a major change, but more closely reflected the FATF Recommendation Criterion 5.3. This amendment was carried through to the Prevention of Terrorist Financing Code 2011 (CFT Code 2011) (effective 1 September 2011) and the Money Laundering and Terrorist Financing Code 2013 (as amended) (AML/CFT Code 2013) (effective 1 May 2013, amended 1 July 2013). The categories of records required to be kept were extended with the AML/CFT Code 2013 to include those connected to the risk assessment. The Risk

	Assessment requirement was enhanced with the addition of paragraph 4(2)(c) to specifically require that the risk assessment undertaken must be documented in order to be able to demonstrate its basis. Paragraph 17(a) (Records) was amended to specifically refer to paragraph 4 (Risk Assessment). In respect of Introduced Business, the IMF Report paragraph 597 made reference to there being some risk that information held by third parties might not be released in practice, particularly if held outside the IOM, despite the IOM licensed entity having been satisfied that no such difficulty would arise. Paragraph 11(12) of the AML Code 2010 disapplied the use of the eligible introducer concession and required enhanced customer due diligence where the applicant for business posed a higher risk. Paragraph 11(12) stated: "Where the applicant for business poses a higher risk as assessed by the risk assessment carried out in accordance with paragraph 3, sub-paragraph (5) [which provided the eligible introducer concession] shall not have effect and paragraph 8 [enhanced customer due diligence] applies." This restriction on the use of the eligible introducer facility was continued at paragraph 11(12) of the CFT Code 2011. The eligible introducer concession remains unavailable under the AML/CFT Code 2013 as a consequence of paragraph 11(1A) where the applicant for business (including introduced business), a new business relationship, one-off transaction or a continuing business relationship poses a higher risk as assessed by the risk assessment. Paragraph 11(1A) states: "(1A) For the avoidance of doubt, if higher risk within the meaning of subparagraph 1(a) is assessed paragraphs 7(3), 7(5), 9(4), **10(5)**, 13(2), 13(5), 13(7), 13(8) and 13(9) do not apply." Matters which may pose a higher risk are set out at 11(2) and include: "(a) a business relationship or one-off transaction with — (i) a politically exposed person; or (ii) a person or legal arrangement resident or located in a country that the relevant person has reason to believe does not apply, or insufficiently applies, the FATF Recommendations in respect of the business or transaction in question; (b) a person that is the subject of a warning issued by a competent authority; (c) a company that has nominee shareholders or shares in bearer form; (d) the provision of banking services for higher-risk accounts or high net-worth individuals; (e) a legal arrangement; (f) a situation that by its nature presents a risk of money laundering or the financing of terrorism." Therefore, the risk of not being able to obtain the relevant documents is mitigated further to only those relationships which are lower and standard risk. These additional requirements supplement the requirement that was within the

	2008 Code and continued in the AML Code 2010, CFT Code 2011 and the AML/CFT Code 2013 that relevant persons must take measures to satisfy themselves that the procedures for implementing the eligible introducer concession are effective by testing them on a random and periodic basis. Also in respect of introduced business, paragraph 11(7) of the AML Code 2010 was amended at 11(7)(d)(ii). The result of this was that it was no longer a requirement for the written terms of business between the relevant person and the introducer to require the introducer to establish and maintain records of all transactions between the relevant person and the introducer. This amendment was carried through to the CFT Code 2011 (though amended to make specific reference to the prevention of terrorist financing requirements) and the AML/CFT Code 2013 at 10(6)(d). **Changes made to the FSC's Financial Services Rule Book regarding AML/CFT specific record keeping requirements** Rule 9.16 of the FSC's Financial Services Rule Book 2008 included record keeping provisions to cover those particular AML/CFT requirements within the Rule Book. When the majority of the relevant preventative measures within Part 9 of the Financial Supervision Commission's Financial Services Rule Book 2008 were brought into the Criminal Justice (Money Laundering) Code 2008 (2008 Code) (effective 18 December 2008) it was not necessary for the Rule Book to retain the AML/CFT specific record keeping provisions. It was considered that the record keeping provisions of the 2008 Code applied to the anonymous accounts provision at 6.6 of the Rule Book which stated: "…(3) If a licenceholder maintains a numbered account it must — (a) identify, and verify the identity of, the customer, and (b) maintain the account in such a way as to comply fully with the requirements of the Criminal Justice (Money Laundering) Code 2008." As the licenceholder was required to maintain the account in such a way as to fully comply with the requirements of the 2008 Code, the record keeping requirements of the 2008 Code applied. Therefore there was no significant change to the record keeping requirements as a result of Rule 9.16 being removed from the Financial Services Rule Book 2008. This position continued with the coming into effect of the AML Code 2010 and the CFT Code 2011. It has also continued with the coming into effect of the AML/CFT Code 2013 (as amended) (effective 1 May 2013, amended 1 July 2013). The FSC's Financial Services Rule Book 2011 states at Rule 6.6.: "6.6 (2) A licence holder must not maintain anonymous or fictitious accounts or business relationships. (3) If a licence holder maintains a numbered account it must— (a) identify, and verify the identity of, the customer, and (b) maintain the account in such a way as to comply fully with the requirements of the Proceeds of Crime (Money Laundering) Code 2010 and Prevention of Terrorist Financing Code 2011 or any successor [now the Money Laundering

	and Terrorist Financing Code 2013]." As the account must be maintained in such a way as to comply fully with the AML Code 2010 / CFT Code 2011 or their successor code the AML/CFT Code 2013 (as amended), the record keeping requirements of the Code in force at the relevant time apply. **Other regulatory record keeping requirements applicable to FSC licenceholders (including corporate and trust service providers)** The IMF's Report on the Isle of Man makes reference, at paragraph 580, to broader record keeping requirements applicable to banking licenceholders contained within the Banking (General Practice) Regulatory Code 2005 (Banking Code 2005). The Financial Services Act 2008 came into effect on 1 August 2008 and the Financial Services Rule Book 2008 (applicable to new licenceholders from 1 August 2008 and existing licenceholders from 1 January 2009) was made under section 18 of that Act. The general record keeping requirements applicable to FSC licenceholders are contained in the Financial Services Rule Book, as amended from time to time (the current version being the Financial Services Rule Book 2011). Rules 2.14 and 2.18 of the Financial Services Rule Book 2011 provide broad accounting record requirements for all licenceholders (incorporated in or outside the Isle of Man respectively) similar to those previously found in the Banking Code 2005. As previously, such records are required to be retained for 6 years. The Financial Services Rule Book 2011 contains other record keeping provisions relevant to FSC licenceholders as follows: 3.11 - record keeping requirements for investment businesses, services to collective investment schemes and CTSPs in respect of client money, trust money and relevant funds. 4.4 – records of transactions undertaken in respect of clients' investments by investment business licenceholders (6 years). 4.5 – records of safe-custody investments (6 years). 6.66(3) – where a licenceholder ceases to carry on relevant activities for or on behalf of a client company and the company is struck off the register under section 273(5) or dissolved under section 273A(8) of the Companies Act 1931, records must be retained for at least 13 years after the publication of a notice under one section 273(5) or section 273A(8) of the Companies Act 1931. 6.66(4) – where a licenceholder ceases to carry on relevant activities for or on behalf of a client company incorporated under the Companies Act 2006, and the company is struck off the register under section 183 or dissolved under sections 186 or 190 of the Companies Act 2006, records must be retained for at least 18 years after the publication of a notice under section 183(4) of the Companies Act 2006. 6.66(5) – where a licenceholder ceases to carry on relevant activities for or on behalf of a foundation established under the Foundations Act 2011 and the

	foundation is wound up and dissolved, records must be retained for at least 10 years. 8.24 – 8.26 – systems and controls for record keeping, clients' records and records kept by third parties (6 years) 8.55 – retention of client records for at least 6 years by investment business licenceholders. However, in the case of long-term business as defined by the Insurance Act 2008, records must be retained for the duration of the contract; and records relating to pension transfers, opt-outs and free standing additional voluntary contributions must be retained indefinitely. 9.24 – systems and controls for record keeping by professional officers (6 years). **FSC Supervisory Visits** On-site supervisory visits ensure that the record keeping procedures are in line with the AML/CFT Code, Financial Services Rule Book 2009 or are stricter. Visit prompt sheets explicitly deal with this point. Visits continue to examine the licenceholder's record retention policies and procedures and their implementation through sample files including consideration of client information, records and minutes, correspondence files and bank accounts. Licenceholder procedures are also checked for the frequencies at which AML/CFT monitoring reviews are scheduled, and then Commission staff examine the frequency at which they are actually conducted.
Recommendation 10 (Record keeping) Regarding DNFBP[6]	
5A)(Other) changes since the last evaluation	**Changes made to Record Keeping requirements in the AML and CFT Codes** Drafting changes were made to paragraph 16(a) of the Proceeds of Crime (Money Laundering) Code 2010 (AML Code 2010) (effective 1 September 2010) so that instead of referring to relevant persons keeping a copy of the evidence of identity, relevant persons were required to keep a copy of the "documents, data and information obtained or produced under paragraphs 5 to 14". This was not considered a major change, but more closely reflected the FATF Recommendation Criterion 5.3. This amendment was carried through to the Prevention of Terrorist Financing Code 2011 (CFT Code 2011) (effective 1 September 2011) and the Money Laundering and Terrorist Financing Code 2013 (as amended) (AML/CFT Code 2013) (effective 1 May 2013, amended 1 July 2013). The categories of records required to be kept were extended with the AML/CFT Code 2013 to include those connected to the risk assessment. The Risk Assessment requirement was enhanced with the addition of paragraph 4(2)(c) to specifically require that the risk assessment undertaken must be documented in order to be able to demonstrate its basis. Paragraph 17(a) (Records) was amended to specifically refer to paragraph 4 (Risk Assessment). In respect of Introduced Business, the IMF Report paragraph 597 made reference

[6] i.e. part of Recommendation 12.

	to there being some risk that information held by third parties might not be released in practice, particularly if held outside the IOM, despite the IOM licensed entity having been satisfied that no such difficulty would arise. Paragraph 11(12) of the AML Code 2010 disapplied the use of the eligible introducer concession and required enhanced customer due diligence where the applicant for business posed a higher risk. Paragraph 11(12) stated: "Where the applicant for business poses a higher risk as assessed by the risk assessment carried out in accordance with paragraph 3, sub-paragraph (5) [which provided the eligible introducer concession] shall not have effect and paragraph 8 [enhanced customer due diligence] applies." This restriction on the use of the eligible introducer facility was continued at paragraph 11(12) of the CFT Code 2011. The eligible introducer concession remains unavailable under the AML/CFT Code 2013 as a consequence of paragraph 11(1A) where the applicant for business (including introduced business), a new business relationship, one-off transaction or a continuing business relationship poses a higher risk as assessed by the risk assessment. Paragraph 11(1A) states: "(1A) For the avoidance of doubt, if higher risk within the meaning of subparagraph 1(a) is assessed paragraphs 7(3), 7(5), 9(4), **10(5)**, 13(2), 13(5), 13(7), 13(8) and 13(9) do not apply." Matters which may pose a higher risk are set out at 11(2) and include: "(a) a business relationship or one-off transaction with — (i) a politically exposed person; or (ii) a person or legal arrangement resident or located in a country that the relevant person has reason to believe does not apply, or insufficiently applies, the FATF Recommendations in respect of the business or transaction in question; (b) a person that is the subject of a warning issued by a competent authority; (c) a company that has nominee shareholders or shares in bearer form; (d) the provision of banking services for higher-risk accounts or high net-worth individuals; (e) a legal arrangement; (f) a situation that by its nature presents a risk of money laundering or the financing of terrorism." Therefore, the risk of not being able to obtain the relevant documents is mitigated further to only those relationships which are lower and standard risk. These additional requirements supplement the requirement that was within the 2008 Code and continued in the AML Code 2010, CFT Code 2011 and the AML/CFT Code 2013 that relevant persons must take measures to satisfy themselves that the procedures for implementing the eligible introducer concession are effective by testing them on a random and periodic basis. Also in respect of introduced business, paragraph 11(7) of the AML Code 2010

was amended at 11(7)(d)(ii). The result of this was that it was no longer a requirement for the written terms of business between the relevant person and the introducer to require the introducer to establish and maintain records of all transactions between the relevant person and the introducer.

This amendment was carried through to the CFT Code 2011 (though amended to make specific reference to the prevention of terrorist financing requirements) and the AML/CFT Code 2013 at 10(6)(d).

Accountants

The Consultative Committee of Accountancy Bodies (CCAB) 2008 guidance was addressed to all professionals conducting 'defined services' under United Kingdom AML 2007 regulations. CCAB guidance addresses '**Record-keeping'** within Section 3 : Anti-Money Laundering Systems & Controls, section 3.9 which states "*Records must be kept of clients' identity, the supporting evidence of verification of identity (in each case including the original and any updated records), the firm's business relationships with them (i.e. including any non-engagement related documents relating to the client relationship) and details of any occasional transactions and details of monitoring of the relationship. These records must be kept for five years after the end of the relevant business relationships or completion of the transactions. Care is needed to ensure retention of historic, as well as current records. Businesses are also recommended to store securely the information relating to both internal reports and SARs for at least the same period i.e. at least five years after receipt by the MLRO…."*

The DHA took assurance that all members of the professional bodies are bound to "take account of" the CCAB Guidance. This would be one of the aspects considered when the accountancy bodies conduct inspections on members.

Advocates

In September 2009 the Law Society issued Guidance (attached to email of 09/08/13) to Advocates which states in relation to Record Keeping requirements the records which must be retained include:

- Either a copy of the evidence of identity, or information that enables a copy of such evidence to be obtained;
- A record of all transactions carried out in the course of Relevant Business;
- Such other records as are sufficient to permit reconstruction of individual transactions and compliance with the Code. Any records relating to compliance with the Code must be retained for a period of 5 years from the date when either all activities relating to a one-off transaction or series of linked transactions were completed or when the retainer in relation to a particular matter was formally ended or, if not formally ended, when all activities in relation to that matter were completed. Where a report has been made or it is known that a matter is under investigation, all relevant records must be retained for as long as required by the constable. If a request for information or an enquiry is underway by a competent authority, all relevant records must be retained for as long as required by the authority.

The statutory requirements for and the importance of record keeping was

	discussed at every Supervisory visit conducted by the Law Society in the 2011-12 round (100% of Practices). The completion of the first round of visits indicated that practices were complying with legal obligations, the second round demonstrated Advocates had a much fuller understanding and had effected improved systems. **Changes made to the FSC's Financial Services Rule Book regarding AML/CFT specific record keeping requirements (including corporate and trust service providers)** Rule 9.16 of the FSC's Financial Services Rule Book 2008 included record keeping provisions to cover those AML/CFT requirements within the Rule Book. When the majority of the relevant preventative measures within Part 9 of the Financial Supervision Commission's Financial Services Rule Book 2008 were brought into the Criminal Justice (Money Laundering) Code 2008 (2008 Code) (effective 18 December 2008) it was not necessary for the Rule Book to retain the AML/CFT specific record keeping provisions. It was considered that the record keeping provisions of the 2008 Code applied to the anonymous accounts provision at 6.6 of the Rule Book which stated: "…(3) If a licenceholder maintains a numbered account it must — (a) identify, and verify the identity of, the customer, and (b) maintain the account in such a way as to comply fully with the requirements of the Criminal Justice (Money Laundering) Code 2008." As the licenceholder was required to maintain the account in such a way as to fully comply with the requirements of the 2008 Code, the record keeping requirements of the 2008 Code applied. Therefore there was no significant change to the record keeping requirements as a result of Rule 9.16 being removed from the Financial Services Rule Book 2008. This position continued with the coming into effect of the AML Code 2010 and the CFT Code 2011. It has also continued with the coming into effect of the AML/CFT Code 2013 (as amended) (effective 1 May 2013, amended 1 July 2013). The FSC's Financial Services Rule Book 2011 states at Rule 6.6.: "6.6 (2) A licence holder must not maintain anonymous or fictitious accounts or business relationships. (3) If a licence holder maintains a numbered account it must— (a) identify, and verify the identity of, the customer, and (b) maintain the account in such a way as to comply fully with the requirements of the Proceeds of Crime (Money Laundering) Code 2010 and Prevention of Terrorist Financing Code 2011 or any successor [now the Money Laundering and Terrorist Financing Code 2013]." As the account must be maintained in such a way as to comply fully with the AML Code 2010 / CFT Code 2011 or their successor code the AML/CFT Code 2013 (as amended), the record keeping requirements of the Code in force at the relevant time apply. **Other regulatory record keeping requirements applicable to FSC licenceholders (including corporate and trust service providers)**

	The IMF's Report on the Isle of Man makes reference, at paragraph 580, to broader record keeping requirements applicable to banking licenceholders contained within the Banking (General Practice) Regulatory Code 2005 (Banking Code 2005). The Financial Services Act 2008 came into effect on 1 August 2008 and the Financial Services Rule Book 2008 (applicable to new licenceholders from 1 August 2008 and existing licenceholders from 1 January 2009) was made under section 18 of that Act. The general record keeping requirements applicable to FSC licenceholders are contained in the Financial Services Rule Book, as amended from time to time (the current version being the Financial Services Rule Book 2011). Rules 2.14 and 2.18 of the Financial Services Rule Book 2011 provide broad accounting record requirements for all licenceholders (incorporated in or outside the Isle of Man respectively) similar to those previously found in the Banking Code 2005. As previously, such records are required to be retained for 6 years. The Financial Services Rule Book 2011 contains other record keeping provisions relevant to FSC licenceholders as follows: 3.11 - record keeping requirements for investment businesses, services to collective investment schemes and CTSPs in respect of client money, trust money and relevant funds. 4.4 – records of transactions undertaken in respect of clients' investments by investment business licenceholders (6 years). 4.5 – records of safe-custody investments (6 years) 6.66(3) – where a licenceholder ceases to carry on relevant activities for or on behalf of a client company and the company is struck off the register under section 273(5) or dissolved under section 273A(8) of the Companies Act 1931, records must be retained for at least 13 years after the publication of a notice under one section 273(5) or section 273A(8) of the Companies Act 1931. 6.66(4) – where a licenceholder ceases to carry on relevant activities for or on behalf of a client company incorporated under the Companies Act 2006, and the company is struck off the register under section 183 or dissolved under sections 186 or 190 of the Companies Act 2006, records must be retained for at least 18 years after the publication of a notice under section 183(4) of the Companies Act 2006. 6.66(5) – where a licenceholder ceases to carry on relevant activities for or on behalf of a foundation established under the Foundations Act 2011 and the foundation is wound up and dissolved, records must be retained for at least 10 years. 8.24 – 8.26 – systems and controls for record keeping, clients' records and records kept by third parties (6 years) 8.55 – retention of client records for at least 6 years by investment business licenceholders. However, in the case of long-term business as defined by the Insurance Act 2008, records must be retained for the duration of the contract; and

	records relating to pension transfers, opt-outs and free standing additional voluntary contributions must be retained indefinitely. 9.24 – systems and controls for record keeping by professional officers (6 years). **Corporate and Trust Service Providers - FSC Supervisory Visits** On-site supervisory visits ensure that the record keeping procedures are in line with the AML/CFT Code 2013 and Rule Book or are stricter. Visit prompt sheets explicitly deal with this point. Visits continue to examine the licenceholder's record retention policies and procedures and their implementation through sample files including consideration of client information, records and minutes, correspondence files and bank accounts. Licenceholder procedures are also checked for the frequencies at which AML-CFT monitoring reviews are scheduled, and then Commission staff examine the frequency at which they are actually conducted. **Gambling Supervision Commission (GSC) Licenceholders** In relation to record keeping in respect of online gambling providers, there was one main change made from the previous record keeping requirements. The Criminal Justice (Money Laundering – Online Gambling) Code 2008 (Online Gambling AML Code 2008) previously stated that if hard copy data was held outside the Island it must be capable of being retrieved within 21 working days. Paragraph 14 of the Criminal Justice (Money Laundering – Online Gambling) (No.2) Code was amended to state that if hard copy data was held outside of the Island it must be capable of being retrieved within 7 days. This position was mainted in paragraphs 14 (1) of the Proceeds of Crime (Money Laundering – Online Gambling) Code 2010 (Online Gambling AML Code 2010) and Prevention of Terrorist (Online Gambling) Code 2011 (Online Gambling CFT Code 2011). This change has been carried through to the Money Laundering and Terrorist Financing (Online Gambling) Code 2013 (Online Gambling AML/CFT Code 2013) at paragraph 15 (format and retrieval of records). In addition, the Gambling Supervision Commission (GSC) has included in its latest guidance that where the Online Gambling AML/CFT Code 2013 states at paragraph 15 "if the records are in the form of hard copies kept on the Island, the licence holder must ensure that they are capable of retrieval without undue delay;" "Without undue delay" is interpreted as being within 7 days of the request. Compliance with the Online Gambling AML/CFT Code 2013 and the GSC guidance is assessed at the GSC visits which take place on a rolling program. In relation to other GSC licenceholders, including casinos, the requirements of the Money Laundering and Terrorist Financing Code 2013 apply which are summarised at the beginning of this section.

Recommendation 13 (Suspicious transaction reporting) Regarding Financial Institutions	
Rating: Largely compliant	
6A)Recommendation of the MONEYVAL Report	The FCU and supervisory authorities should take steps to enhance the timeliness of reporting of suspicious transactions to the FCU.
Measures taken to implement the Recommendation of the Report	Sections 153 and 154, Proceeds of Crime Act 2008 (POCA 2008) w.e.f. 1st August 2009 provide that SARs should be made to the FCU only "as soon as is practicable". Section 155 allows the DHA to prescribe the form and manner of making of SAR (and therefore could be used to require electronic disclosures, if required). Paragraph 20(2)(f) of the Proceeds of Crime (Money Laundering) Code 2010 (AML Code 2010) was rewritten to use the same wording as POCA 2008 "as soon as is practicable." This was duplicated in the Prevention of Terrorist Financing Code 2011 (CFT Code 2011). This remains the same in the Money Laundering and Terrorist Financing Code 2013 (as amended). The authorities have taken a number of steps since the IMF's evaluation of the Isle of Man to enhance the timeliness of reporting of suspicious transactions. The supervisory authorities have provided educational training to financial institutions (including CSPs and TSPs) in the form of seminars and conferences which have emphasised the importance of timely STRs. In addition, the specific UK case of Shah v HSBC has been highlighted to financial institutions as a case specifically demonstrating the importance of timely STRs for financial institutions, as well as defining "suspicion". Further guidance on making STRs for FSC licenceholders can be found in the AML/CFT Handbook at section 6. The FCU also provides education and training to financial institutions on an individual basis, highlighting amongst other themes money laundering and other ancillary offences, including failure to disclose. Around 30 such sessions occur annually. In January 2011, the FCU issued an Advisory Notice to Isle of Man financial institutions (including CSPs and TSPs) emphasising to them that statutory reports (Suspicious Transaction Reports) made under both AML and CFT legislation should be made to the FCU as soon as is practicable after the information or other matter mentioned comes to that person. This message is reinforced by the FCU during educational training to financial institutions. In addition, the FCU and the FSC have established liaison meetings to deal specifically with the issue of STRs and to improve their timeliness. These meetings serve to highlight potential issues with specific financial institutions (including CSPs and TSPs) in order that they may be addressed through the supervisory process. In respect of both IPA and FSC supervisory visits, the relevant registers of internal and external disclosures required to be maintained by licenceholders

	under the AML/CFT Code 2013 are reviewed. Where slow referrals are identified these would be taken up with the licenceholder and timeliness encouraged.
6B)Recommendation of the MONEYVAL Report	The law should be amended to provide comprehensively that suspicious attempted transactions must be reported promptly to the FCU.
Measures taken to implement the Recommendation of the Report	The primary legislation states any suspicion or knowledge that another is engaged in ML should be reported and this would include attempted transactions. Section 158(11) of Proceeds of Crime Act 2008 (POCA 2008) defines "money laundering" for the purposes of the Act as including an attempt to commit a substantive offence. Therefore an attempt to commit a ML offence is subject to suspicious transaction reporting in exactly the same way as an offence that has been committed: "(11) Money laundering is an act which — (a) constitutes an offence under section 139, 140 or 141; (b) constitutes an attempt, conspiracy or incitement to commit an offence specified in paragraph (a); (c) constitutes aiding, abetting, counselling or procuring the commission of an offence specified in paragraph (a); or (d) would constitute an offence specified in paragraph (a), (b) or (c) if done in the Island." In addition, the Proceeds of Crime (Money Laundering) Code 2010 (AML Code 2010) was amended at paragraph 20 to explicitly refer to suspicious attempted transactions. This amendment was carried through to paragraph 20 of the Prevention of Terrorist Financing Code 2011 (CFT Code 2011). Paragraph 21 of the Money Laundering and Terrorist Financing Code 2013 (as amended) (AML/CFT Code 2013) deals with the procedures required of financial institutions for making internal disclosures within an organisation and external disclosures to the Financial Crime Unit. Both internal and external disclosures include where there is knowledge or suspicion of attempted money laundering or attempted financing of terrorism. Education and training delivered by the FCU highlights this particular issue, and disclosing entities are reminded that such reports made should not be restricted solely to just clients/potential clients only. A significant number of STRs submitted to the FCU relate to attempted transactions.
6C)(Other) changes since the last evaluation	**Changes made as a result of the AML/CFT Code 2013 (as amended)** Requirements for making disclosures at paragraph 21 of the AML/CFT Code 2013 and ensuring staff know who they should make internal disclosures to were extended to include "workers". This addition was to ensure that all relevant persons employed within the regulated sector are covered by the requirements of the AML/CFT Code 2013.

Recommendation 13 (Suspicious transaction reporting) Regarding DNFBP[7]	
7A)Recommendation of the MONEYVAL Report	Clarify the position of legal privilege in relation to ML and FT issues and STR reporting in a manner supportive of the AML/CFT system.
Measures taken to implement the Recommendation of the Report	The impact of legal privilege on STR reporting by Advocates has been addressed by the Law Society in its second round of Compliance visits (which were completed in July 2013). There is no evidence to date that legal privilege is or has been used as a ground for not making STRs. Furthermore, the perceived low level of STR reporting by Advocates is not believed to be occasioned in consequence of reliance on legal privilege. By way of additional background, Section 13 of the Police Powers and Procedures Act 1998 defines items subject to legal privilege as – (a) communications between a professional legal adviser and his client or any person representing his client made in connection with the giving of legal advice to the client; (b) communictions between a professional legal adviser and his client or any person representing his client or between such an adviser or his client or any such representative and any other person made in connection with or in contemplation of legal proceedings and for the purposes of such proceedings; and (c) items enclosed with or referred to in such communications and made — (i) in connection with the giving of legal advice; or (ii) in connection with or in contemplation of legal proceedings and for the purposes of such proceedings, when they are in the possession of a person who is entitled to possession of them. (2) Items held with the intention of furthering a criminal purpose are not items subject to legal privilege.
7B)Recommendation of the MONEYVAL Report	The authorities should continue their efforts, through awareness raising and otherwise, to increase the effectiveness of STR reporting by DNFBPs, particularly for those categories that rarely report suspicions.
Measures taken to implement the Recommendation of the Report	**General** Activities undertaken to raise awareness and to increase the effectiveness of STR reporting by DNFBPs since the September 2008 visit are as follows: • April 2009 : Financial Supervision Commission provided briefing session to DNFBPs in which deficiencies highlighted by the IMF visit were discussed. • Late 2009 : Guidance notes were issued to DNFBPs by Department of Home Affairs (DHA) setting out their AML/CFT obligations. • August 2010 : DHA wrote to DNFBPs re AML/CFT requirements and about the Proceeds of Crime (Money Laundering) Code 2010 (AML Code 2010) coming into force on the 1 September 2010 – the AML Code 2010 included provisions and requirements around STR reporting at paragraph

[7] i.e. part of Recommendation 16.

20 "Recognition and reporting or suspicious transactions and suspicious attempted transactions.

Accountants

- August 2010 : MoUs with (4) Accountancy bodies signed which included the expectation that the Institutes / Associations would "use all reasonable endeavours to ensure that its members are aware of their obligations under the Proceeds of Crime Act 2008 (POCA 2008) and the Code including:
    - Ensuring where necessary, disclosures are made to a constable or customs officer serving with the Financial Crime Unit
    - Ensuring disclosures are in the form and manner which may be prescribed by the DHA under section 155(1) of POCA 2008
    - 2010 MoUs made specific reference to Consultative Committee of Accountancy Bodies ("CCAB") guidance – as agreed by UK Treasury – which deals with Reporting at Section 6. DHA took assurance that all members of the professional bodies are bound to "*take account of*" the CCAB Guidance.

Advocates

Under the terms of the MOU with the DHA the Law Society committed to provide annual training to all Advocates:

- Feb 2011 and Feb 2013 AML/CFT on-line training modules were customised and provided free to Manx Advocates. These modules included the requirements of STR reporting.
- 2010/2011/2012 AML/CFT Face to face training, delivered to Advocates for free, have all addressed STR reporting. The 2012 MLRO masterclass delivered to Advocate MLROs, referred particularly to timeliness and the requirement to submit attempted STRs.

The Law Society has an MOU with the Financial Crime Unit ("FCU") whereby the Society seeks input on the number and the quality of reports submitted by Advocates. This information is intended to further inform education, training and improve quality and timeliness of Advocates reporting.

An FCU representative delivered a presentation to Law Society Members in October 2010 and attended a Compliance coffee hour to talk to MLROs less formally on STRs and the Advocates relationship with the FCU in September 2012.

Corporate and Trust Service Providers (CSPs and TSPs)

In respect of CSPs and TSPs, the FSC provided educational training in the form of seminars and conferences which emphasised the importance of timely STRs. In addition, the specific UK case of Shah v HSBC was highlighted as a case specifically demonstrating the importance of timely STRs. Further guidance on making STRs for FSC licenceholders can be found in the AML/CFT Handbook at section 6.

In January 2011, the FCU issued an Advisory Notice to Isle of Man financial institutions which also went to CSPs and TSPs emphasising to them that statutory reports (Suspicious Transaction Reports) made under both AML and CFT legislation should be made to the FCU as soon as is practicable after the information or other matter mentioned comes to that person.

	The FCU and the FSC have established liaison meetings to deal specifically with the issue of STRs and to improve their timeliness. These meetings serve to highlight potential issues with specific businesses regulated by the FSC (including CSPs and TSPs) in order that they may be addressed through the supervisory process. In respect of FSC supervisory visits, the relevant registers of internal and external disclosures required to be maintained by licenceholders under the AML/CFT Code are reviewed. Where slow referrals are identified these would be taken up with the licenceholder and timeliness encouraged. **Gambling Supervision Commission (GSC) Licenceholders** The GSC has implemented a programme of AML/CFT education for its licenceholders in relation to a variety of topics including STR reporting. The GSC's AML/CFT guidance is periodically updated to ensure that licenceholders understand not only all aspects of the regulations but the GSC's expectations of their application in practice. The GSC places a significant emphasis on AML/CFT compliance (with both the legislation and guidance) when it visits its licensees and follow up reports which are supplied to licensees highlight areas for improvement if any are discovered. The GSC has also launched an AML/CFT technical briefing for its licensees and those in the sector that offer administrative support to such licenceholders (such as corporate service providers, gambling directors) which covers issues such as STR reporting. GSC licenceholders must now submit quarterly reports to the GSC. This exercise obtains data on the number of STRs filed amongst other things. The GSC meets periodically with representatives of the FCU to discuss the empirical quality and relevance of reports in respect of the sector. This combined with the quarterly reporting of AML/CFT data from licensees allows the GSC to monitor the effectiveness of its programme.
7C)Recommendation of the MONEYVAL Report	The authorities should amend the law to require the reporting of suspicious attempted transactions.
Measures taken to implement the Recommendation of the Report	The primary legislation states any suspicion or knowledge that another is engaged in ML should be reported and this would include attempted transactions. Section 158(11) of Proceeds of Crime Act 2008 (POCA 2008) defines "money laundering" for the purposes of the Act as including an attempt to commit a substantive offence. Therefore an attempt to commit a money laundering offence is subject to suspicious transaction reporting in exactly the same way an offence that has been committed: "(11) Money laundering is an act which — (a) constitutes an offence under section 139, 140 or 141; (b) constitutes an attempt, conspiracy or incitement to commit an offence specified in paragraph (a); (c) constitutes aiding, abetting, counselling or procuring the commission of an offence specified in paragraph (a); or (d) would constitute an offence specified in paragraph (a), (b) or (c) if done in

	the Island." In addition, the Proceeds of Crime (Money Laundering) Code 2010 (AML Code 2010) was amended at paragraph 20 to explicitly refer to suspicious attempted transactions. This amendment was carried through to paragraph 20 of the Prevention of Terrorist Financing Code 2011 (CFT Code 2011). Paragraph 21 of the Money Laundering and Terrorist Financing Code 2013 (as amended) (AML/CFT Code 2013) deals with the procedures required of any entity conducting Business in the Regulated Sector for making internal disclosures within an organisation and external disclosures to the Financial Crime Unit (FCU). Both internal and external disclosures include where there is knowledge or suspicion of attempted money laundering or attempted financing of terrorism. Education and training delivered by the FCU highlights this particular issue, and disclosing entities are reminded that such reports made should not be restricted solely to just clients/potential clients only. A significant number of STRs made to the FCU relate to attempted transactions. In relation to Online Gambling Providers, the Proceeds of Crime (Money Laundering – Online Gambling) Code 2010 and Prevention of Terrorist (Online Gambling) Code 2011 paragraphs 16 were amended to ensure the reporting of suspicious attempted transactions was required by law. This amendment was carried through to the Money Laundering and Terrorist Financing (Online Gambling) Code 2013 at paragraph 17(3). In relation to other GSC licenceholders including casinos the requirements of the Money Laundering and Terrorist Financing Code 2013 apply which are summarised above.
7D)Changes since the last evaluation	**Changes made as a result of the AML/CFT Code 2013 (as amended)** Requirements for making disclosures at paragraph 21 of the AML/CFT Code 2013 and ensuring staff know who they should make internal disclosures to were extended to include "workers". This addition was to ensure that all relevant persons employed within the regulated sector are covered by the requirements of the AML/CFT Code 2013. This change was also replicated in the Money Laundering and Terrorist Financing (Online Gambling Code) 2013 at paragraph 17.

Special Recommendation II (Criminalisation of terrorist financing)	
Rating: Largely compliant	
8A)Recommendation of the MONEYVAL Report	Amend Article 1 ATCA 2003 to include a reference not only to governments but also to international organisations.
Measures taken to implement the Recommendation of the Report	The Anti-Terrorism and Crime (Amendment) Act 2011 inserted a reference to international organisations into section 1 of the Anti-Terrorism and Crime Act 2003 (ATCA 2003). This came into force on 13th July 2011. Section 1(1) of ATCA 2003 now reads:

	Terrorism: interpretation (1) In this Act "**terrorism**" means the use or threat of action where — (a) the action falls within subsection (2), (b) the use or threat is designed to influence the government or an **international organisation** or to intimidate the public or a section of the public, and; (c) the use or threat is made for the purpose of advancing a political, religious, racial or ideological cause.
8B)Recommendation of the MONEYVAL Report	Amend the definition of "terrorism" in Section 1 ATCA 2003 to extend to all terrorism offenses as defined in the nine Conventions and Protocols listed in the Annex to the FT Convention.
Measures taken to implement the Recommendation of the Report	The Anti-Terrorism and Crime (Amendment) Act 2011 amended section 1 the Anti-Terrorism and Crime Act 2003 (ATCA 2003) so that the definition of terrorism now includes all of the offences referred to in the nine Conventions and Protocols listed in the Annex to the FT Convention. This has been achieved through reference to relevant offences in law rather than to the list of Conventions and Protocols, taking the same approach as the UK in its Terrorism Act 2006 (see Schedule 1 of that Act). Subsections (1) and (2) of section 1 ATCA 2003 now reads as follows: (1) In this Act "**terrorism**" means the use or threat of action where — (a) the action falls within subsection (2), (b) the use or threat is designed to influence the government or an international organisation or to intimidate the public or a section of the public, and (c) the use or threat is made for the purpose of advancing a political, religious, racial or ideological cause. (2) Action falls within this subsection if it — (a) involves serious violence against a person, (b) involves serious damage to property, (c) endangers a person's life, other than that of the person committing the action, (d) creates a serious risk to the health or safety of the public or a section of the public; (e) is designed seriously to interfere with or seriously to disrupt an electronic system; **(f) constitutes a Convention offence; or** **(g) would constitute a Convention offence if done in the Island.** Under section 75 ATCA 2003, "**Convention offence**" means an offence listed in Schedule 13A or an equivalent offence under the law of a county or territory outside the Island; New Schedule 13A to ATCA 2003 is reproduced below: **SCHEDULE 13A** **CONVENTION OFFENCES** *Explosive offences* 1. An offence under any of the following provisions of the *Explosive Substances Act 1883* — (a) section 2 (causing an explosion likely to endanger life); (b) section 3 (preparation of explosions);

	(c) section 5 (ancillary offences). *Biological weapons* 2. An offence under section 1 (biological agents and weapons) of the Biological Weapons Act 1974 (of Parliament). *Offences against internationally protected persons* 3. (1) An offence mentioned in section 1(1)(a) of the Internationally Protected Persons Act 1978 (of Parliament) (attacks against protected persons committed outside the Island) which is committed (whether in the Island or elsewhere) in relation to a protected person. (2) An offence mentioned in section 1(1)(b) of that Act (attacks on relevant premises etc) which is committed (whether in the Island or elsewhere) in connection with an attack — (a) on relevant premises or on a vehicle ordinarily used by a protected person; and (b) at a time when a protected person is in or on the premises or vehicle. (3) An offence under section 1(3) of that Act (threats etc in relation to protected persons). (4) Expressions used in this paragraph and section 1 of that Act have the same means in this paragraph as in that section. *Hostage-taking* 4. An offence under section 1 of the Taking of Hostages Act 1982 (of Parliament) (hostage-taking). *Hijacking and other offences against aircraft* 5. Offences under any of the following provisions of the Aviation Security Act 1982 (of Parliament) — (a) section 1 (hijacking); (b) section 2 (destroying, damaging or endangering safety of aircraft); (c) section 3 (other acts endangering or likely to endanger safety of aircraft); (d) section 6(2) (ancillary offences). *Offences involving nuclear material* 6. (1) An offence mentioned in section 1(1)(a) to (d) of the Nuclear Material (Offences) Act 1983 (of Parliament) (offences in relation to nuclear material committed outside the Isle of Man) which is committed (whether in the Isle of Man or elsewhere) in relation to or by means of nuclear material. (2) An offence mentioned in section 1(1)(a) or (b) of that Act where the act making the person guilty of the offence (whether done in the Island or elsewhere) — (a) is directed at a nuclear facility or interferes with the operation of such a facility; and (b) causes death, injury or damage resulting from the emission of ionising radiation or the release of radioactive material. (3) An offence under any of the following provisions of that Act — (a) section 1B (offences relating to damage to environment); (b) section 1C (offences of importing or exporting etc nuclear material: extended jurisdiction); (c) section 2 (offences involving preparatory acts and threats). (4) Expressions used in this paragraph and that Act have the same meanings in this paragraph as in that Act. 7. (1) Any of the following offences under the *Customs and Excise Management Act 1986* — (a) an offence under section 47(2) or (3) (improper importation of goods) in connection with a prohibition or restriction relating to the importation of nuclear material; (b) an offence under section 69(2) (exportation of prohibited or restricted goods) in connection with a prohibition or restriction relating to the

	exportation or shipment as stores of nuclear material; (c) an offence under section 178(1) or (2) (fraudulent evasion of duty) in connection with a prohibition or restriction relating to the importation, exportation or shipment as stores of nuclear material. (2) In this paragraph 'nuclear material' has the same meaning as in the Nuclear Material (Offences) Act 1983 (of Parliament) (see section 6 of that Act). *Offences relating to aviation and maritime security* 8. (1) An offence under section 1 of the Aviation and Maritime Security Act 1990 (of Parliament) (endangering safety at aerodromes). (2) Offences under any of the following provisions of the *Maritime Security Act 1995* — (a) section 1 (hijacking of ships); (b) section 2 (seizing or exercising control of fixed platforms); (c) section 3 (destroying ships or fixed platforms or endangering their safety); (d) section 4 (other acts endangering or likely to endanger safe navigation); (e) section 5 (offences involving threats relating to ships or fixed platforms); (f) section 6 (ancillary offences). *Offences involving chemical weapons* 9. An offence under section 2 of the Chemical Weapons Act 1996 (of Parliament) (use, development etc of chemical weapons). *Terrorist funds* 10. An offence under any of the following provision of this Act — (a) section 7 (terrorist fund-raising); (b) section 8 (use or possession of terrorist funds); (c) section 9 (facilitating funding for terrorism); (d) section 10 (money laundering of terrorist funds). *Directing terrorist organisation* 11. An offence under section 44 (directing a terrorist organisation) of this Act. *Offences involving nuclear weapons* 12. An offence under section 49B (use etc of nuclear weapons) of this Act. *Conspiracy etc* 13. Any of the following offences — (a) conspiracy to commit a Convention offence; (b) inciting the commission of a Convention offence; (c) attempting to commit a Convention offence; (d) aiding, abetting, counselling or procuring the commission of a Convention offence. 14. The Department may by order — (a) amend this Schedule so as to add an offence to the offences listed in this Schedule; (b) amend this Schedule so as to remove an offence from the offences so listed; (c) make supplemental, incidental, consequential or transitional provision in connection with the addition or removal of an offence. *Interpretation* 15. In this Schedule, a reference to an Act of Parliament, or a provision of an Act of Parliament, is a reference to that Act, or a provision of that Act, as it has effect in the Island.ATCA
8C)Recommendation of the MONEYVAL Report	Consider the impact of the including in the FT offense "intention of advancing a political, religious or ideological cause" on IOM's ability to successfully prosecute in factual settings contemplated by the FT Convention.
Measures taken to	Terrorist Financing is now defined in section 3 of the Terrorism (Finance) Act

implement the Recommendation of the Report	2009: "**"terrorist financing"** means — (a) the use of funds, or the making available of funds, for the purposes of terrorism; or (b) the acquisition, possession, concealment, conversion or transfer of funds that are (directly or indirectly) to be used or made available for those purposes." where: **"terrorism"** has the same meaning as in section 1 of the Anti-Terrorism and Crime Act 2003; The provision the IMF refers in s.1 ATCA mirrors that in s.1 of the UK's Terrorism Act 2000 (although both the Manx and UK Acts also now include "racial") - "racial" was inserted in s.1 ATCA by the Terrorism (Finance) Act 2009. It is noted that in paragraph 189 of the Report, the IMF accepts that whilst the provision adds an element not set forth directly in the FT Convention, is one that a number of countries have adopted to ensure the generic definition is not used in circumstances where it was not intended. It should also be noted that the provision also exists in the Terrorism (Jersey) Law 2002, but although the IMF commented on this matter, unlike for the IOM, it did not include any reference it in the Recommended Action Plan for Jersey. Particularly now that an explicit reference to a racial cause has been inserted into the provision is considered that it is sufficiently broad that it does not adversely affect the Island's ability to prosecute an FT offence. As the adjective "ideological" (or the noun "ideology") is not defined in the legislation in any prosecution the word would be interpreted by the courts and others as having the normal dictionary definition. It can be seen from a review of a number of dictionary definitions that the word **"ideology"** is open to wide interpretation, for example: **Collins English Dictionary:** 1.a body of ideas that reflects the beliefs and interests of a nation, political system, etc and underlies political action 2.(philosophy, sociology) the set of beliefs by which a group or society orders reality so as to render it intelligible 3.speculation that is imaginary or visionary 4.the study of the nature and origin of ideas **Oxford English Dictionary** 1 (plural ideologies) a system of ideas and ideals, especially one which forms the basis of economic or political theory and policy: *the ideology of republicanism* •the set of beliefs characteristic of a social group or individual: *a critique of bourgeois ideology* 2 [mass noun] archaic the science of ideas; the study of their origin and nature. •archaic visionary speculation, especially of an unrealistic or idealistic nature.
8D)(Other) changes	None

since the last evaluation	

Special Recommendation IV (Suspicious transaction reporting) Regarding Financial Institutions	
Rating: Partially compliant	
9A)Recommendation of the MONEYVAL Report	The authorities should amend the law as needed to address the deficiencies in the scope of ATCA 2003 and thereby provide the required scope of coverage for STR reporting.
Measures taken to implement the Recommendation of the Report	The Anti-Terrorism and Crime (Amendment) Act 2011, in particular the provisions of section 4 and Schedule 4, which came into effect on 13th July 2011 extends the definition of terrorism to include all of the offenses as defined in the nine Conventions and Protocols listed in the Annex to the Financing of Terrorism Convention.
9B)Recommendation of the MONEYVAL Report	The FCU and supervisory authorities should take steps to enhance the timeliness of reporting of suspicious transactions to the FCU, including for suspicions of FT.
Measures taken to implement the Recommendation of the Report	Paragraph 20(2)(f) of the Proceeds of Crime (Money Laundering) Code 2010 (AML Code 2010) was rewritten to use the same wording as POCA 2008 "as soon as is practicable." This was duplicated in the Prevention of Terrorist Financing Code 2011 (CFT Code 2011). This remains the same in the Money Laundering and Terrorist Financing Code 2013 (as amended). The authorities have taken a number of steps since the IMF's evaluation of the Isle of Man to enhance the timeliness of reporting of suspicious transactions. The supervisory authorities have provided educational training to financial institutions (including CSPs and TSPs) in the form of seminars and conferences which have emphasised the importance of timely STRs. In addition, the specific UK case of Shah v HSBC has been highlighted to financial institutions as a case specifically demonstrating the importance of timely STRs for financial institutions, as well as defining "suspicion". Further guidance on making STRs for FSC licenceholders can be found in the AML/CFT Handbook at section 6. The FCU also provides education and training to financial institutions on an individual basis, highlighting amongst other themes terrorist financing and other offences, including failure to disclose. Around 30 such sessions occur annually. In January 2011, the FCU issued an Advisory Notice to Isle of Man financial institutions (including CSPs and TSPs) emphasising to them that statutory reports (Suspicious Transaction Reports) made under both AML and CFT legislation should be made to the FCU as soon as is practicable after the information or other matter mentioned comes to that person. This message is reinforced by the FCU during educational training to financial institutions.

	In addition, the FCU and the FSC have established liaison meetings to deal specifically with the issue of STRs and to improve their timeliness. These meetings serve to highlight potential issues with specific financial institutions (including CSPs and TSPs) in order that they may be addressed through the supervisory process. In respect of both IPA and FSC supervisory visits, the relevant registers of internal and external disclosures required to be maintained by licenceholders under the AML/CFT Code 2013 are reviewed. Where slow referrals are identified these would be taken up with the licenceholder and timeliness encouraged.
9C)Recommendation of the MONEYVAL Report	The law should be amended to provide comprehensively that suspicious attempted transactions must be reported promptly to the FCU.
Measures taken to implement the Recommendation of the Report	Paragraph 20 of the Proceeds of Crime (Money Laundering) Code 2010 (AML Code 2010) was amended to explicitly refer to suspicious attempted transactions in respect of terrorist financing. Paragraph 20 of the Prevention of Terrorist Financing Code 2011 (CFT Code 2011) (effective 1 September 2011) explicitly referred to suspicious attempted transactions in respect of terrorist financing. Paragraph 21 of the Money Laundering and Terrorist Financing Code 2013 (as amended) (AML/CFT Code 2013) deals with the procedures required of financial institutions for making internal disclosures within an organisation and external disclosures to the Financial Crime Unit. Both internal and external disclosures include where there is knowledge or suspicion of attempted financing of terrorism. Education and training delivered by the FCU highlights this particular issue, and disclosing entities are reminded that such reports made should not be restricted solely to just clients/potential clients only. A significant number of STRs relate to attempted transactions.
9D)(Other) changes since the last evaluation	**Changes made as a result of the AML/CFT Code 2013 (as amended)** Requirements for making disclosures at paragraph 21 of the AML/CFT Code 2013 and ensuring staff know who they should make internal disclosures to were extended to include "workers". This addition was to ensure that all relevant persons employed within the regulated sector are covered by the requirements of the AML/CFT Code 2013.
Special Recommendation IV (Suspicious transaction reporting) Regarding DNFBP	
10A)(Other) changes since the last evaluation	**Changes to Legislation** As outlined above, a number of changes have been made to legislation concerning terrorist financing STRs. The Anti-Terrorism and Crime (Amendment) Act 2011, in particular the provisions of section 4 and Schedule 4, which came into effect on 13th July 2011 extends the definition of terrorism to include all of the offenses as defined in the nine Conventions and Protocols listed in the Annex to the Financing of Terrorism Convention.

	Paragraph 20(2)(f) of the Proceeds of Crime (Money Laundering) Code 2010 (AML Code 2010) was rewritten to use the wording "as soon as is practicable." This was duplicated in the Prevention of Terrorist Financing Code 2011 (CFT Code 2011). This remains the same in the Money Laundering and Terrorist Financing Code 2013 (as amended) (AML/CFT Code 2013). Paragraph 20 of the AML Code 2010 was amended at to explicitly refer to suspicious attempted transactions in respect of terrorist financing. Paragraph 20 of the CFT Code 2011 (effective 1 September 2011) explicitly referred to suspicious attempted transactions in respect of terrorist financing. Paragraph 21 of the AML/CFT Code 2013 deals with the procedures required of financial institutions for making internal disclosures within an organisation and external disclosures to the Financial Crime Unit (FCU). Both internal and external disclosures include where there is knowledge or suspicion of attempted financing of terrorism. Requirements for making disclosures at paragraph 21 of the AML/CFT Code 2013 and ensuring staff know who they should make internal disclosures to were extended to include "workers". This addition was to ensure that all relevant persons employed within the regulated sector are covered by the requirements of the AML/CFT Code 2013. **Advocates** The Law Society does not distinguish between AML and CFT related STR reporting. At each Law Society supervisory visit it is confirmed that appropriate records are kept of internal and external disclosures – a register is expected to be held which applies to both AML and CFT STRs. Testing during both rounds of visits confirms this requirement is being met. Advocates were issued a briefing note in August 2011 on the CFT Code 2011. Training was provided by the Law Society in October 2011 & November 2012 that addressed disclosures under the POCA 2008 offences part of the training session. Both speakers introduced both AML and CFT risks at the outset. On line training was provided for free to Manx Advocates in February 2011 and February 2013 – STR reporting on both AML and CFT matters were addressed in these modules. **Accountants** CCAB Guidance in its Glossary defines Money Laundering as "For the purposes of this Guidance, money laundering is defined to include those offences relating to terrorist finance…." No distinction is made between the two. **Corporate and Trust Service Providers (CSPs and TSPs)** In respect of CSPs and TSPs, the FSC provided educational training in the form of seminars and conferences which emphasised the importance of

	timely STRs. In addition, the specific UK case of Shah v HSBC was highlighted as a case specifically demonstrating the importance of timely STRs, as well as defining "suspicion". Further guidance on making STRs for FSC licenceholders can be found in the AML/CFT Handbook at section 6. In January 2011, the FCU issued an Advisory Notice to Isle of Man financial institutions which also went to CSPs and TSPs emphasising to them that statutory reports (Suspicious Transaction Reports) made under both AML and CFT legislation should be made to the FCU as soon as is practicable after the information or other matter mentioned comes to that person. The FCU and the FSC have established liaison meetings to deal specifically with the issue of STRs and to improve their timeliness. These meetings serve to highlight potential issues with specific businesses regulated by the FSC (including CSPs and TSPs) in order that they may be addressed through the supervisory process. In respect of FSC supervisory visits, the relevant registers of internal and external disclosures required to be maintained by licenceholders under the AML/CFT Code are reviewed. Where slow referrals are identified these would be taken up with the licenceholder and timeliness encouraged. **Gambling Supervision Commission (GSC) Licenceholders** A number of changes have also been made to the online gambling legislation concerning disclosure of terrorist financing STRs. The Criminal Justice (Money Laundering – Online Gambling) Code 2008 stated at paragraph 16 (3) (f) "that information or other matter contained in a report is disclosed promptly to a constable ....." Paragraph 16(2)(f) of the Proceeds of Crime (Money Laundering – Online Gambling) Code 2010 was rewritten to state that disclosures should be made "as soon as is practicable." This was duplicated in the Prevention of Terrorist Financing (Online Gambling) Code 2011. This remains the same in the Money Laundering and Terrorist Financing (Online Gambling) Code 2013 at paragraph 17(3)(f). Paragraph 16 of the Proceeds of Crime (Money Laundering – Online Gambling) Code 2010 was amended at to explicitly refer to suspicious attempted transactions in respect of terrorist financing. Paragraph 16 of the Prevention of Terrorist Financing (Online Gambling) Code 2011 also explicitly referred to suspicious attempted transactions in respect of terrorist financing. Paragraph 17 (3) of the Money Laundering and Terrorist Financing (Online Gambling) Code 2013 deals with the procedures required of financial institutions for making internal disclosures within an organisation and external disclosures to the Financial Crime Unit (FCU). Both internal and external disclosures include where there is knowledge or suspicion of attempted financing of terrorism. Requirements for making disclosures at paragraph 17 of the Money Laundering and Terrorist Financing (Online Gambling) Code 2013 and ensuring staff know who they should make internal disclosures to were

	extended to include "workers". This addition was to ensure that all relevant persons employed within the regulated sector are covered by the requirements of the Code. It should be noted that in respect of other GSC licenceholders such as casinos paragraph 21(3) of the Money Laundering and Terrorist Financing Code 2013 (as amended) also explicitly mandates STR reporting for money laundering and terrorist financing. STR reporting is re-iterated to licenceholders in the GSC Guidance and compliance with the legilsation is monitored at visits. Quarterly reports also mandate AML/CFT data to allow the number of external reports made to the FCU to be assessed. The GSC meets periodically with representatives of the FCU to discuss the empirical quality and relevance of reports in respect of the sector.

2.3 Other Recommendations

In the last report the following FATF recommendations were rated as "partially compliant" (PC) or "non compliant" (NC) (see also Appendix 1). Please, specify for each one what measures, if any, have been taken to improve the situation and implement the suggestions for improvements contained in the evaluation report.

Recommendation 3 (Confiscation and provisional measures)	
Rating: Partially compliant	
11A)Recommendation of the MONEYVAL Report	The law should be amended to address the deficiencies affecting the scope of the ML and FT offenses and thereby also improve the quality of the criminal confiscation regime.
Measures taken to implement the Recommendation of the Report	The money laundering provisions of the CJA 1990 and DTA 1996, were repealed and replaced by the Proceeds of Crime Act 2008 (POCA) with effect from 1st August 2009. POCA has much broader money laundering provisions than the legislation it replaces. Money laundering offences are defined in sections 139 to 141 POCA. Section 139 provides that a person commits an offence if that person conceals, disguises, converts or transfers criminal property or removes criminal property from the Island. Section 140 provides that a person commits an offence if that person enters into or becomes concerned in an arrangement which that person knows or suspects facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person. Section 141 provides that a person commits an offence if that person acquires, uses or has possession of criminal property. These provisions make self-laundering a criminal offence for the acts of acquiring, possessing or using criminal proceeds. The Anti-Terrorism and Crime (Amendment) Act 2011 came into force on 13th July 2011 and inserted several new provisions into section 10 of the Anti-Terrorism and Crime Act 2003 (ATCA). Under Section 10 (as amended) a person commits an offence if he facilitates the retention or control of terrorist property by concealment, by disguise, by conversion, by removal from the jurisdiction, by transfer to nominees or in any other way. Section 10 of ATCA now therefore covers all material elements of the money laundering provisions of the Palermo and Vienna Conventions. The deficiencies affecting the criminalisation of ML and FT offences have therefore been corrected which should improve the quality of the criminal confiscation regime.
11B)Recommendation of the MONEYVAL Report	The law should be amended to: - allow equivalent value seizure at any stage of the investigation; and - address in ATCA 2003 the issue of equivalent value confiscation in the context of FT-related assets.
Measures taken to implement the Recommendation of	Sections 96 to 102 POCA 2008 deal with restraint (seizure) and section 96 provides for assets to be restrained before proceedings have begun. Section 96 provides for equivalent value restraint in that it allows any realisable

the Report	property held by a person on the Island to be restrained to the value of that person's benefit from their criminal conduct. As assets may now be restrained at the investigation stage (under the previous legislation they could only be restrained when criminal proceedings had begun), equivalent value seizure is now permitted at any stage from commencement of an investigation until the final conclusion of criminal proceedings. Anti-Terrorism and Crime (Amendment) Act 2011 inserted a number of amendments into ATCA 2003 which provide for equivalent value confiscation in the context of FT-related assets including 16B Special forfeiture orders. (1) This section applies where — (a) the court wishes to make a forfeiture order under section 16 or 16A; (b) the court is prevented from making the order, or an order to the extent it wishes, due only to the money or other property mentioned in those sections being no longer in the possession or control of the convicted person; and (c) the convicted person has money or other property, or an interest in money or other property, that the court wishes to be the subject of a forfeiture order. (2) Where the conditions in subsection (1) are satisfied, the court may make a special forfeiture order in relation to any money or other property mentioned in subsection (1)(c) up to the equivalent value of the money or other property mentioned in section 16 or 16A.
11C)Recommendation of the MONEYVAL Report	Case law should be developed on stand-alone money laundering confiscations.
Measures taken to implement the Recommendation of the Report	This concerns the situation where there is no conviction for a predicate offence. In meetings with IMF assessors the AG's Chambers disputed the assertion that confiscation of laundered assets might not succeed in stand-alone ML cases. There have been some important recent successful convictions for money laundering in the Isle of Man. The Isle of Man Constabulary Financial Crime Unit (FCU) has other money laundering investigations underway. The IOM Constabulary has recently undertaken a specific operation styled Operation Increment. This has involved the prosecution of a number of individuals for standalone money laundering offences. Some have pleaded "Not Guilty" so jurisprudence is being developed as a consequence.
11D)Recommendation of the MONEYVAL Report	The authorities should address the low effectiveness of the current asset recovery measures, particularly by focusing on the timely tracing and immobilization of recoverable or realizable assets.
Measures taken to implement the Recommendation of the Report	Section 151 of the Proceeds of Crime Act 2008 provides adequate provision to allow the timely immobilization of assets. Section 151 of the Proceeds of Crime Act 2008 specifies consent decisions must be made within seven working days (the 'notice period') from the day after receipt of the consent request (excluding Bank Holidays and weekends). The purpose of the seven days is to allow the FCU and its law enforcement partners time to risk assess, analyse, research and undertake

	further enquiries relating to the disclosed information in order to determine the best response to the consent request. The reporter runs the risk of committing a money laundering offence if they proceed prior to receiving a decision from the FCU. If nothing is heard from the FCU within that time, the reporter may proceed with the specified transaction or activity and will have a defence to any potential money laundering offences relating to that activity. If consent is refused within the seven working days, law enforcement has a further 31 calendar days (the 'moratorium period') – from the day of refusal – to further the investigation into the reported matter and take further action e.g. restrain or seize funds. The 31 days includes weekends and public holidays. The reporter runs the risk of committing a money laundering offence if they proceed during the moratorium period whilst consent is still refused. If no restraint or seizure action occurs after the end of the 31 day period, the reporter can proceed with the transaction or activity and will have a defence to any potential money laundering offences relating to that activity. Consent does not extend to any acts/criminal property not detailed in the initial disclosure or agreed with the FCU.
11E)(Other) changes since the last evaluation	None

Recommendation 12 (DNFBP – R.5[8], 6, 8 & 11)	
Rating: Partially compliant	
12A)(Other) changes since the last evaluation	The IMF's recommendations re **FATF Recommendation 5** are covered above at (3A) to (3H) of this document. Regarding **FATF Recommendation 6 (PEPs)** the Isle of Man was rated as Compliant. The IMF made no recommendations in respect of Recommendation 6. Since the last IMF inspection, the definition of Politically Exposed Person was expanded to include "Honorary Consul". This was done through the Proceeds of Crime (Money Laundering) Code 2010 which came into effect on 1 September 2010. This definition was carried forward to the Prevention of Terrorist Financing Code 2011 and the Money Laundering and Terrorist Financing Code 2013 (as amended). The amendment to the definition to include "honory counsel" was also replicated in the online gambling legislation in 2010 and remains in the current Money Laundering and Terrorist Financing (Online Gambling) Code 2013. Prior to undertaking FSC supervisory visits on Corporate and Trust Services Providers (TCSPs), the supervisory team obtains copies of the procedures and reviews them for completeness. PEPs is an area routinely examined. This is an area the GSC would also look at on visits to licenceholders to ensure compliance with the legislation.

[8] Covered under R.5 above.

Regarding FATF **Recommendation 8 (Non face-to-face transaction; new technologies)** the Isle of Man was rated as Largely Compliant. The recommendation made by the IMF stated:

"To support the implementation of the basic requirement in this area, the authorities should issue more detailed guidance on the specific ML and FT risks of new technologies, for example in relation to e-money and e-commerce."

Corporate and Trust Service Providers (TCSPs)
In respect of TCSPs the FSC amended its AML/CFT Handbook in September 2010 to provide additional guidance on technological developments which is at section 2.8 of the AML/CFT Handbook and supplemented in the sector specific guidance relevant to TCSPs.

Prior to undertaking FSC supervisory visits on TCSPs, the supervisory team obtains copies of the procedures and reviews them for completeness. Technological change is an area routinely examined.

Gambling Supervision Commission (GSC) Licenceholders

The requirement to have procedures in relation to technological developments was introduced in law in 2008 in the Criminal Justice Money Laundering – Online Gambling)(No. 2) Code 2008 at paragraphs 3 (1) and paragraph 19 and was carried thorough the successor codes.

The current position is this remains in the Money Laundering and Terrorist Financing (Online Gambling) Code 2013 at paragraph 4(1) and paragraph 20.

In respect of all GSC licenceholders, the GSC has expanded on its guidance in relation to licenceholders having the appropriate procedures and controls to prevent the misuse of technological developments. The relevant section of the guidance is copied below for information:

"FATF recommendation 15 addresses the subject of technological developments in general terms and makes the following point, which is in part addressed to countries' lawmakers as well as institutions operating within those jurisdictions:

- Whenever a new product is developed; or
- A new delivery mechanism becomes available;
- New business practice emeges; or
- New technology is used to deliver new or old services;

then a risk assessment should be performed to determine whether the innovation creates a weakness that can be exploited by money launderers or those seeking to finance terrorism. Where risks are identified, measures must be taken to mitigate the risks.

Regarding **FATF Recommendation 11 (Unusual Transactions)** the Isle of Man was rated as Compliant. The IMF made no recommendations for Recommendation 11 either in respect of financial institutions or in respect of DNFBPs.

	Other changes made in respect of Recommendation 11 since the IMF's Inspection were: As outlined above at (2A) the majority of the relevant preventative measures within Part 9 of the Financial Supervision Commission's Financial Services Rule Book 2008 were transposed into the Criminal Justice (Money Laundering) Code 2008 (2008 Code) which came into operation on 18 December 2008. This included paragraph 15 of the 2008 Code which dealt with Ongoing Monitoring and scrutiny of transactions and activities that are complex, large and unusual or of an unusual pattern and which have no apparent economic or lawful purpose. This requirements was therefore extended to all DNFBPs covered by the 2008 Code. This requirement remained in the Proceeds of Crime (Money laundering) Code 2010 (AML Code 2010) and the Prevention of Terrorist Financing Code 2011 (CFT Code 2011) at paragraph 15 unchanged and in the Money Laundering and Terrorist Financing Code 2013 (AML/CFT Code 2013) at paragraph 16 with only minor drafting amendments. Elements of FATF R.11 are also dealt with in the paragraphs of the Codes concerning Continuing Business Relationships. With the coming into effect of the AML Code 2010 (1 September 2010) amendments were made to paragraph 7 regarding Continuing Business Relationships. In respect of FATF R.11, paragraph 7(2) was amended to also require that relevant persons conduct enhanced due diligence and consider whether a suspicious transaction report should be made where there were transactions that are complex or unusually large or unusual patterns of transactions that have no apparent economic or visible lawful purpose. In addition, 7(2)(c) was amended to more accurately reflect criterion 11.1 of the FATF Methodology. These changes were carried forward to the CFT Code 2011 at paragraph 7(2). These changes were also carried forward at paragraph 8 of the Money Laundering and Terrorist Financing Code 2013 (as amended) (effective 1 May 2013, amended 1 July 2013). In particular, the elements concerning FATF R.11 which are in addition to those at paragraph 16 of the AML/CFT Code 2013 are at paragraphs 8(1) and 8(3). The additional requirement, where there are transactions that are complex, both large and unusual or of an unusual pattern that have no apparent economic or visible lawful purpose, to undertake enhanced customer due diligence and consider making an internal transaction report (as opposed to a suspicious transaction report as previously) is at paragraph 8(5). **Corporate and Trust Service Providers (TCSPs)** In respect of TCSPs, the expectation is: 1. At take-on there is a clear statement of the expectations of the licenceholder for what the company / trust is going to do, including the size and frequency of transactions. Explanations should be internally consistent and if they are not the FSC would question why not. 2. A procedure which sets out the frequency at which files are reviewed. 3 File reviews which follow that frequency and which include checking for any inconsistency with the original business profile. 4. The licenceholder to follow-up on any inconsistencies which it finds. 5 Consideration of STRs and cessation of business if there are unexplained inconsistencies. Prior to undertaking FSC supervisory visits on TCSPs, the supervisory team obtains copies of the procedures and reviews them for completeness. Ongoing Monitoring and dealing with unusual transactions is an area routinely examined

	and sample checked to ensure compliance with the procedures. **Gambling Supervision Commission (GSC) Licenceholders** In respect of R11 for online gambling providers, the Criminal Justice (Money Laundering – Online Gambling) Code 2008 made reference to "unusual patterns" of transactions at paragraph 10, however the Criminal Justice (Money Laundering – Online Gamling) (No.2) Code 2008 expanded on this at paragraph 10 (2) to also include transactions that appeared complex or had no apparent economic or lawful purpose. This was carried through to the Proceeds of Crime (Money Laundering – Online Gambling) Code 2010 and Prevention of Terrorist (Online Gambling) Code 2011 at paragraphs 10(2). The amended paragraphs stated that where such transactions were identified the licenceholder must have procedures in place to ensure satisfactory confirmation of identity information was received and this was verified with appropriate evidence. If this identification information or evidence was not provided no further participation in online gambling would be permitted; and the licenceholder must consider whether an internal disclosure should be made. These provisions have been carried through to the Money Laundering and Terrorist Financing (Online Gambling) Code 2013 at paragraph 11. **Accountants** In relation to accountants, CDD (R5) / PEPs (R6) / Developing technologies (R8) and Complex transactions (R11); • CCAB Guidance expands upon R5 CDD at Section 5 (5.1 to 5.55) and PEPs at Section 5 : (5.27-5.29) • CCAB Guidance does not define or provide guidance on management of AML threats posed by Developing technologies (R8) or how to address complex transactions (R11). **Advocates** The Law Society issued Guidance in September 2009 which essentially reflected the requirements of the Code in relation to CDD, PEPS, Developing Technologies and Complex Transactions. Additional Guidance has not been issued to date, but the application and implementation of these requirements are discussed, tested and where necessary remedial actions applied as part of the Law Society supervisory visits. Developing Technologies and AML risk largely impacts Advocates in the area of ongoing compliance with the record keeping and retrieval requirements of the Code. To this extent the Law Society has assessed and reviewed icloud technology and met with designers and providers of client management tools which some Advocates Practices have adopted for the electronic storage of case management papers which includes CDD / PEP recording. **Other DNFBPs** The DHA Guidance notes for all DNFBPs also provides some specific information in relation to CDD (R5), PEPS (R6), Non face to face transactions / new technologies (R8) and unusual transactions (R11).

Recommendation 14 (Protection and no tipping-off)	
Rating: Partially compliant	
13A)Recommendation of the MONEYVAL Report	The authorities should amend the law to extend the protection for persons reporting suspicions to the FIU to cover all aspects in the international standard and limit the protection to reporting in good faith.
Measures taken to implement the Recommendation of the Report	The protection referred to in this recommendation has been provided by section 153 of the Proceeds of Crime Act 2008 which is entitled "Protected disclosures" and provides: ***153 Protected disclosures*** *[P2002/29/337]* *(1) A disclosure which satisfies the following three conditions is not to be taken to breach any restriction on the disclosure of information (however imposed).* *(2) The first condition is that the information or other matter disclosed came to the person making the disclosure (the discloser) in the course of the discloser's trade, profession, business or employment.* *(3) The second condition is that the information or other matter —* *(a) causes the discloser to know or suspect; or* *(b) gives the discloser reasonable grounds for knowing or suspecting,* *that another person is engaged in money laundering.* *(4) The third condition is that the disclosure is made to —* *(a) a constable or customs officer serving (in either case) with the Financial Crime Unit of the Isle of Man Constabulary; or* *(b) a nominated officer,* *as soon as is practicable after the information or other matter comes to the discloser.* *(5) Where a disclosure consists of a disclosure protected under subsection (1) and a disclosure of either or both of —* *(a) the identity of the other person mentioned in subsection (3); and* *(b) the whereabouts of property forming the subject-matter of the money laundering that the discloser knows or suspects, or has reasonable grounds for knowing or suspecting, that other person to be engaged in,* *the disclosure of the thing mentioned in paragraph (a) or (b) (as well as the disclosure protected under subsection (1)) is not to be taken to breach any restriction on the disclosure of information (however imposed).* *(6) A disclosure to a nominated officer is a disclosure which —* *(a) is made to a person nominated by the discloser's employer to receive disclosures under section 142 or this section; and* *(b) is made in the course of the discloser's employment.* This provision means that financial institutions and their directors, officers and employees are protected by law from both criminal and civil liability for breach of any restriction on disclosure of information imposed by contract or by any legislative, regulatory or administrative provision , if they report their suspicions in good faith to the FIU and therefore meets the international standard.

	See also the English case of Shah v HSBC Private Bank (UK) Ltd which provides common law support for the broader contention that, in general terms, a financial institution cannot be exposed to civil claims for simply complying with its anti-money laundering obligations. The case of Shah, although not binding in Manx Law, would be persuasive and, as no case law in this area exists in the Island, would in all probability be followed by the Manx Courts.
13B)Recommendation of the MONEYVAL Report	The authorities should consider introducing measures to ensure the confidentiality, including in Court proceedings, of persons reporting suspicions to the FIU.
Measures taken to implement the Recommendation of the Report	Public Interest Immunity (PII) would normally be sought in respect of any disclosure made to the FIU under the provisions of the Proceeds of Crime Act 2008 (POCA). In the event a person is charged, criminal (Court) proceedings are brought. If the defence required the person making a suspicious transaction report to the FIU to attend Court, the provisions of the Criminal Justice (Witness Anonymity) Act 2011 would enable the prosecution to apply for an order the effect of which would be to prevent the witness's name and any other details from being identified in the Court proceedings, if this was considered to be necessary. When a disclosure is made to the FIU by a financial institution or non-financial business or profession, that disclosure will be used by the FIU in the course of its criminal investigation and if it is determined that material referred to in the disclosure is required evidentially for a criminal prosecution, application is made to the court for a production order under section 162 POCA. The production order is then served on the institution which is required by law to produce the material referred to in the order. It is that material which is used as evidence in the criminal proceedings. The original disclosure would be retained as sensitive unused material and neither the disclosure itself nor confirmation that a disclosure existed would be disclosed to the defence. The disclosure and the identity of the person making it would be treated as confidential. If application were made by the defence to see sensitive unused material, the prosecution would resist such an application claiming Public Interest Immunity. The disclosure and the identity of the person making it would remain confidential after the conclusion of criminal proceedings and, should application be made to the court at any time for it to be used in civil proceedings, whilst the substance of the disclosure may be revealed in a redacted form, disclosure of the identity of the person making it would be resisted citing Public Interest Immunity. There has been a relatively recent development in case law in England and Wales in this area. In the case of Shah v HSBC, the Court of Appeal ruled in 2011 that the identity of staff making disclosures in good faith is not disclosable. Whilst this case is not binding in Manx Law, as an Appeal Court judgment, it would be highly persuasive and, as no case law in this area exists in the Island, would in all probability be followed by the Manx Courts.
13C)(Other) changes	None

since the last evaluation	

Recommendation 16 (DNFBP – R.13[9]-15 & 21)	
Rating: Partially compliant	
14A)Recommendation of the MONEYVAL Report	The authorities should amend the law to extend the protection for persons reporting suspicions to the FIU to cover all aspects in the international standard and limit the protection to reporting in good faith.
Measures taken to implement the Recommendation of the Report	The protection referred to in this recommendation has been provided by section 153 of the Proceeds of Crime Act 2008 which is entitled "Protected disclosures" and provides: ***153 Protected disclosures*** *[P2002/29/337]* *(1) A disclosure which satisfies the following three conditions is not to be taken to breach any restriction on the disclosure of information (however imposed).* *(2) The first condition is that the information or other matter disclosed came to the person making the disclosure (the discloser) in the course of the discloser's trade, profession, business or employment.* *(3) The second condition is that the information or other matter —* *(a) causes the discloser to know or suspect; or* *(b) gives the discloser reasonable grounds for knowing or suspecting,* *that another person is engaged in money laundering.* *(4) The third condition is that the disclosure is made to —* *(a) a constable or customs officer serving (in either case) with the Financial Crime Unit of the Isle of Man Constabulary; or* *(b) a nominated officer,* *as soon as is practicable after the information or other matter comes to the discloser.* *(5) Where a disclosure consists of a disclosure protected under subsection (1) and a disclosure of either or both of —* *(a) the identity of the other person mentioned in subsection (3); and* *(b) the whereabouts of property forming the subject-matter of the money laundering that the discloser knows or suspects, or has reasonable grounds for knowing or suspecting, that other person to be engaged in,* *the disclosure of the thing mentioned in paragraph (a) or (b) (as well as the disclosure protected under subsection (1)) is not to be taken to breach any restriction on the disclosure of information (however imposed).* *(6) A disclosure to a nominated officer is a disclosure which —* *(a) is made to a person nominated by the discloser's employer to receive disclosures under section 142 or this section; and* *(b) is made in the course of the discloser's employment.* This provision means that financial institutions and their directors, officers and employees are protected by law from both criminal and civil liability for

[9] Covered under R.13 above.

	breach of any restriction on disclosure of information imposed by contract or by any legislative, regulatory or administrative provision, if they report their suspicions in good faith to the FIU and therefore meets the international standard. See also the English case of Shah v HSBC Private Bank (UK) Ltd which provides common law support for the broader contention that, in general terms, a financial institution cannot be exposed to civil claims for simply complying with its anti-money laundering obligations. The case of Shah, although not binding in Manx Law, would be persuasive and, as no case law in this area exists in the Island, would in all probability be followed by the Manx Courts.
14B)Recommendation of the MONEYVAL Report	The authorities should consider introducing measures to ensure the confidentiality, including in Court proceedings, of persons reporting suspicions to the FIU.
Measures taken to implement the Recommendation of the Report	Public Interest Immunity (PII) would normally be sought in respect of any disclosure made to the FIU under the provisions of the Proceeds of Crime Act 2008 (POCA). In the event a person is charged, criminal (Court) proceedings are brought. If the defence required the person making a suspicious transaction report to the FIU to attend Court, the provisions of the Criminal Justice (Witness Anonymity) Act 2011 would enable the prosecution to apply for an order the effect of which would be to prevent the witness's name and any other details from being identified in the Court proceedings, if this was considered to be necessary. When a disclosure is made to the FIU by a financial institution or non-financial business or profession, that disclosure will be used by the FIU in the course of its criminal investigation and if it is determined that material referred to in the disclosure is required evidentially for a criminal prosecution, application is made to the court for a production order under section 162 POCA. The production order is then served on the institution which is required by law to produce the material referred to in the order. It is that material which is used as evidence in the criminal proceedings. The original disclosure would be retained as sensitive unused material and neither the disclosure itself nor confirmation that a disclosure existed would be disclosed to the defence. The disclosure and the identity of the person making it would be treated as confidential. If application were made by the defence to see sensitive unused material, the prosecution would resist such an application claiming Public Interest Immunity. The disclosure and the identity of the person making it would remain confidential after the conclusion of criminal proceedings and, should application be made to the court for it to be used in civil proceedings, whilst the substance of the disclosure may be revealed in a redacted form, disclosure of the identity of the person making it would be resisted citing Public Interest Immunity. There has been a relatively recent development in case law in England and Wales in this area. In the case of Shah v HSBC, the Court of Appeal ruled in 2011 that the identity of staff making disclosures in good faith is not disclosable. Whilst this case is not binding in Manx Law, as an Appeal Court

	judgment, it would be highly persuasive and, as no case law in this area exists in the Island, would in all probability be followed by the Manx Courts.
14C)Recommendation of the MONEYVAL Report	The authorities should introduce a requirement in law, regulation, or other enforceable means to maintain an adequately resourced and independent audit function to test compliance with AML/CFT procedures in line with the nature, size and activity of the DNFBP.
Measures taken to implement the Recommendation of the Report	Paragraph 24 of the Proceeds of Crime (Money Laundering) Code 2010 introduced a requirement in respect of this for all entities covered by the Code including the DNFBPs that it covered. It stated: "24 Monitoring and testing compliance A relevant person must maintain appropriate procedures for monitoring and testing compliance with the money laundering requirements, having regard to – (a) The risk of money laundering and the financing of terrorism; and (b) The nature and size of the organisation of the relevant person." This amendment was carried through to the Prevention of Terrorist Financing Code 2011 at paragraph 24, with appropriate amendments to allow for that Code's terrorist financing focus. This amendment was carried through to the Money Laundering and Terrorist Financing Code 2013 (as amended) (effective 1 May 2013, amended 1 July 2013) at paragraph 25. **Accountants** The MoUs established by the DHA in August 2010, with accountancy professional bodies, laid out expectations regarding cyclical and risk based supervisory visits to be conducted by ICAEW / ACCA of its Members in line with the standards adopted by these professional bodies. During the period August 2010 – May 2013 (at which point the definition of accountancy services was extended), the DHA were comfortable the ICAEW / ACCA members represented the majority of professionals operating on Island. This was therefore a representative sample based on the risk assessment criteria of the respective professional bodies. The DHA were aware that AML obligations and compliance were assessed as part of every inspection. In their 2011-12 report to Treasury ICAEW reported (para 35) "*The monitoring process includes the requirement that each firm submits an annual return. As part of this process all member firms are asked to confirm that:-* • *the firm complies with the requirements of relevant money laundering legislation and regulations (**whether UK or overseas**);* • *the firm has a nominated officer to take responsibility for compliance;* • *staff/principals are provided with appropriate training;* • *they have procedures to gather and retain evidence of the identification of all clients;*

- *they undertake ongoing compliance monitoring; and*
- *they report suspicions of money laundering as required by law*."

In the ICAEW report to Treasury submitted May 2012, in response to HM Treasury's Commissioning Note sent on 14 March 2012 (para 28) they state that "*as we become aware of a firm's increasing risk profile, or we receive intelligence about suspicious activities we accelerate, and adapt, our visit process."* Isle of Man member firms of ICAEW have been subject to this risk based visit approach which influences overall frequency of visits to firms on Island. The DHA has provided no information to the ICAEW which would have given them cause to increase the frequency of inspections of Isle of Man Firms in general, or any one Firm in particular.

The Designated Business (Registration and Oversight) Bill 2013 will be the key driver for increased coordination of AML audit and compliance testing across the whole Accountancy profession – not just those that are members of either of the two main professional bodies.

Advocates

The Proceeds of Crime Act designates the Law Society as a supervisory authority. The Law Society Memorandum of Understanding (MOU) with the Department of Home Affairs (DHA) signed August 2010, stated that both the DHA and the Law Society are responsible for supervising member firms that fall with their ambit. The Law Society undertakes visits to all practices on an annual basis.

The Law Society Powers of Supervision are encapsulated in statute:

- All such powers, rights and authorities as are reasonably necessary or expedient for or conducive to the exercise of its functions (Article 3, Advocates Act 1995);
- The power to require an Advocate to deliver to any person appointed by the Society, all documents in the possession of an Advocate, where the Council is satisfied that an Advocate has failed to comply with practice rules or suspects dishonesty (Schedule 1, Advocates Act 1976)
- The power to require an Advocate (or employee) or incorporated practice to provide specific documents or information if necessary to determine wither there has been professional misconduct or failure to comply with the provision of the Act or requirements made under the Act or the Anti-Money Laundering Code made under the Proceeds of Crime Act (Article 26A, and Schedule 1a, Advocates Act 1976).

The Law Society Functions & Powers

S2 (1) of the Advocates Act 1995 states the functions of the Law Society to be:

- Promote and encourage proper conduct among members of the legal profession.

Exercise its powers for the purpose of:

- Preventing illegal, dishonorable, or improper practices by members of the Society;

And

	• stopping any such practice as comes to the notice of the Society; • Preserve and maintain the integrity of the profession. **S3** provides that the Society shall have all such powers rights and authorities as are reasonably necessary or expedient for or conducive to the exercise of any of its functions. **S7** Provides that subject to S11 Council shall have sole management of the Society. **S26(A) AA1976 (as amended by Advocates Amendment Act 2010)** Provides that Council may obtain information or documents for the purpose of investigating: • whether any advocate has committed professional misconduct; • whether any advocate/employee has failed to comply with requirements of the Advocates Act 1976 or Rules made pursuant to S16 (Disciplinary Rules to be known as Practice Rules) and Byelaws and a code made under S157 (Money Laundering) of the Proceeds of Crime Act 2008. **Practice Rules 2001**: • **PR15:** An Advocate is under a duty to ensure compliance with the Anti-Money Laundering Code 1998 and the Anti-Money Laundering (Amendment) Code 1999 or such other codes which may from time to time be made by the DHA and such rules, regulations, codes and directions as may from time to time be made by the Isle of man Law Society; • **PR16:** Every Advocate shall have a duty to ensure adequate supervision and control of his practice **S24 of the Advocates Act 1976 Provides that** • Anything required or authorised to be done by the Society under or in pursuance of any enactment may be done on behalf of the Society by the Council. **S13 (1) of the Advocates Act 1995** empowers the Council to make Bye-Laws to: • provide for the regulation & good government of Society; its members and its affairs; • make such provision as necessary for effective exercise of Society's powers and functions. In 2000, Byelaws were approved by a general meeting of the Society and the First Deemster. Bye-law 64 empowered the Council to employ such other administrative staff on such terms as Council shall determine and Bye-Law 65 provides that such staff shall carry out such duties as Council directs. The legislation and regulations referred to above are what the Law Society currently relies on for its powers to supervise and monitor firms subject to AML / CFT obligations and provide its authority to conduct inspections and compel production of information (in line with FATF R27). A recent independent assessment, conducted by IMF assessor Richard Pratt, identified

	that clarity is still required on delegated powers, and the powers of the Society over its members to ensure a fully cohesive regulatory structure. The powers and functions detailed in the Designated Businesses (Registration and Oversight) Bill 2013 will provide the clarification that is recommended. In order to meet the challenge of providing an adequately resourced and independent audit function to test compliance with AML/CFT procedures across the profession, the Law Society appointed an experienced Compliance Manager in June 2010 with an additional specialist resource (retired head of the IoM Financial Crime Unit) recruited to the compliance function in January 2012. Neither of these resources are Advocates and are considered to provide an independent assessment of the profession. Whilst both individuals are part-time as at the end of July 2013 2 rounds of 100% (33 firms in 2011-12 & 35 firms in 2012-13) visits have been completed. This is deemed an appropriate and effective resource in light of the size of the Manx Bar. **Gambling Supervision Commission (GSC) Licenceholders** In relation to Online Gambling Providers, the Proceeds of Crime (Money Laundering – Online Gambling) Code 2010 and Prevention of Terrorist (Online Gambling) Code 2011 were amended to add in paragraph 20 which covered monitoring and testing of compliance. It stated: "A licence holder must maintain adequate procedures for monitoring and testing compliance with the money laundering and terrorist financing requirements, having regard to— (a) the risk of money laundering and financing of terrorism; and (b) the nature and size of the organisation of the licence holder." This was carried through to the Money Laundering and Terrorist Financing (Online Gambling) Code 2013 at paragraph 21. In relation to other GSC licenceholders, including casinos, the requirements of the Money Laundering and Terrorist Financing Code 2013 apply which are summarised above. This is an area that would be considered when the GSC undertake an inspection to a licenceholder.
14D)(Other) changes since the last evaluation	None

Recommendation 24 (DNFBP – regulation, supervision and monitoring)	
Rating: Partially compliant	
15A)Recommendation of the MONEYVAL Report	The authorities should provide for and implement a system of regular and full audits for advocates based on onsite visits to monitor more closely the level of compliance with their AML/CFT obligations.
Measures taken to implement the Recommendation of	The August 2010 MoU between the Law Society and the DHA delegates functional delivery of a full audit programme to the Law Society for all Manx Advocates Firms. The visits started in April 2011 and as at the end of

the Report	July 2013 two AML/CFT focused visits have been conducted to every firm. **The Law Society AML/CFT Supervisory (Audit) Programme** • The AML/CFT supervisory programme is submitted annually to the Law Society Council by the Compliance Manager and adopted by them for delivery. It is also submitted to the Department of Home Affairs (DHA) and the AML/CFT technical working group as evidence of the Society meeting its commitments for AML supervision of Advocates in line with the Memorandum of Understanding with the DHA signed August 2010. The first visit occurred in April 2011; • Whilst the programme includes component parts of training, guidance, support and advise, the visit or audit process is designed to provide assurance, currently on an annual basis, that Practices are acting in accordance with the anti-money laundering and terrorist financing primary legislation and the supporting Codes; • The visit process includes; the setting of a visit date, an on-site inspection (where interviews and file reviews are conducted), and a written report. The report will detail remedial actions expected of the Practice, led by the Money Laundering Reporting Officer (MLRO), with a date assigned by which the Practice should provide a written response with confirmation that remedial actions have been taken; • The remedial actions are assessed and if deemed appropriate the visit report is signed off and held. The Visit report covering page provides a succinct summary of visit authority, objectives and the reporting process, and is copied below in full for information. **Introduction** The Law Society is the Supervisory Authority for Manx Advocates for the purpose of compliance with the Isle of Man's Anti-Money Laundering / Countering the Financing of Terrorism (AML/CFT) regime and in accordance with the Memorandum of Understanding signed with the Department of Home Affairs (DHA) in August 2010. The Law Society understands its role to be clearly divided between providing support to Members to aid compliance and executing the regulatory functions required to ensure that practices operate at a particular level which provides a satisfactory response to external scrutiny by bodies such as the International Monetary Fund. One of the activities expected of a supervisory authority is to conduct inspections or visits of the companies or individuals it regulates. The objective of these visits is to seek assurance that AML/CFT awareness and compliance is of a standard expected of Manx Advocates, in accordance with legislation and Law Society published standards (which includes Practice Rules), and that appropriate controls and procedures are in place which demonstrate adequate control and supervision of the Practice in this key risk area. **Assessment criteria** This report is intended to document the findings of a risk based AML/CFT Compliance visit to your Practice which will have been conducted by the Law Society Compliance Team. The compliance themes which were examined during your visit were based on; your replies detailed in the self-assessment questionnaires, the materials provided in pre-visit reading, your

	previous visit reports and information of regulatory significance of which the Society was aware. However, in instances where issues of particular concern came to the fore during the visit, priority focus will have been given to these matters. In such instances you may see recommendations for remedial action on topics which you do not recall being addressed directly during the visit, but on which the compliance team require assurance. 'Findings' have been assigned a 'traffic-light' grading intended to reflect the level and urgency of remedial action required to enhance compliance in relation to the culture and controls demonstrated via the documents reviewed, and the testing and interviews conducted on the day. No further investigation has been conducted, and it is not the intention of this report to evidence, in depth, every comment made. The results of 'testing' conducted during the visit have been assigned a similar traffic light grading to indicate assessed levels of compliance. The 'Recommendations' section of the report lists those actions the Law Society expects the Practice to undertake with an associated deadline which will address identified concerns or areas of identified control weakness. It may be that some of these can be addressed by your Practice with reference to an existing procedure that simply was not reviewed or requested on the day. Where the Law Society feels able to contribute advice or guidance to assist the robustness of controls or implementation of AML procedures in a Practice this can also be found in this section of the report. An overall visit rating will be assigned. **Reporting** The Compliance Team are non-Advocate employees of the executive team of the Law Society and as such are considered independent assessors. This report has been prepared by the Compliance Team and is being provided in full to your Practice. The Chief Executive of the Law Society will review a sample of reports for the purpose of quality control and will be asked to review any reports which may carry an 'unsatisfactory' grading. In the event that the DHA or the IMF request to see examples of the Society's compliance visit process and reporting, your consent to share this report under the appropriate controlled circumstances is presumed, unless contrary written indication is given.
15B)Recommendation of the MONEYVAL Report	The authorities should ensure that registered legal practitioners are supervised to ensure their compliance with the provisions of the AML Code 2008.
Measures taken to implement the Recommendation of the Report	Discussions are taking place between legal practitioners and the Law Society, with the involvement of the DHA, with a view to including them under the supervision of the Law Society. To date this arrangement has not been put in place and if this is not achieved legal practitioners will automatically be registered and regulated by the FSC from the date the Designated Businesses (Registration and Oversight) Bill 2013 comes into force in 2014, as will any other person working in the legal profession conducting business in the regulated sector that is not supervised by the Law Society.

15C)Recommendation of the MONEYVAL Report	The authorities should finalize the agreement between the DHA and the professional accounting bodies, issue guidance adapted to the IOM's AML/CFT requirements, and implement an AML/CFT on-site supervisory regime for the industry.
Measures taken to implement the Recommendation of the Report	In August 2010 the DHA finalised and formalised agreements (MOUs) in relation to supervisory authority for AML with four professional accounting bodies – ICAEW / ACCA / CIMA / ICB. It should be noted that an AML/CFT on-site supervisory regime was already in place for ICAEW / ACCA member firms on the Isle of Man operated by the professional bodies themselves; the MOUs simply formalised the requirement for the professional bodies to report on the work conducted. Whilst Isle of Man specific guidance has not been issued by the professional bodies to date it is an expectation of professional membership that all Members make themselves familiar with the specific requirements of their local jurisdiction: • ICAEW in their "Practice Assurance Standard No 1 – which requires all practice firms to ensure they are fully aware of all relevant law, regulations and standards that apply to their areas of activity; • ACCA in the Anti-Money Laundering Section of ACCA'S Code of ethics and conduct which is part of the ACCA rulebook. B2 of Section 3 states; "*The guidance contained in this section sets out the type of preventative measures that a professional accountant shall adopt and the circumstances in which they shall consider reporting any knowledge or suspicions of money laundering activity to the authorities in the country in which they operate. A professional accountant shall ensure that they and their staff are fully aware of their obligations under local legislation, and is reminded that those obligations may be more stringent than the requirements of this section*". The accountancy practices (and other DNFBPs) on the Island can also make use of the AML/CFT Guidance issued by the Department of Home Affairs which is specific to the IOM requirements.
15D)Recommendation of the MONEYVAL Report	The authorities should formalize the basis for on-site assessments for DNFBPs that do not fall within the mandate of the FSC, GSC, or the IOM Law Society.
Measures taken to implement the Recommendation of the Report	The August 2010 MOUs formalised the basis for on-site assessment and reporting to DHA by ICAEW / ACCA/ CIMA/ ICB. [as described above] The ICAEW / ACCA consider Isle of Man firms in their overall risk assessment of the profession which they regulate: • ICAEW : operate a 6 year visit cycle for all General practice firms, with small firms (sole practitioners) on an 8 year visit cycle. Firms perceived as higher risk can be subject to inspection annually; • ACCA : operate a 6 year visit cycle for low risk firms. In some instances a desk top review is conducted of low risk firms. Members are required to make an annual declaration regarding AML compliance and renew practicing certificates annually. Information

	provided in this annual disclosures further informs the ACCA as to the risk profile and can influence the frequency of the visits. This risk-based approach to frequency of on-site inspections has not been subject to challenge by HM Treasury, and as such is deemed sufficient for the Isle of Man. On-site inspections conducted of Isle of Man Firms: • ICAEW reported that during the 2011-12 period 20 inspections were conducted in line with ICAEW risk profiling; • ACCA reported 4 visits during 2010, 0 visits in 2011, 5 visits in 2012. The ICAEW & ACCA have a formalised on-site inspection programme which meets HM Treasury standards / expectations and was assessed as meeting the requirements of the IoM under the MoU with the DHA. The Proceeds of Crime (Business in the Regulated Sector) Order 2013, which came into force on 1 May 2013, creates an additional group of Firms / Individuals providing accountancy services (which is a broader definition than previously) that will need to be included in an on-site visit programme. The Designated Businesses (Registration and Oversight) Bill 2013 will enable the FSC to conduct the visits to those providing accountancy services, and to monitor all DNFBPs compliance with AML/CFT primary and secondary legislation. This oversight function may be delegated to a professional body if the body is deemed appropriate by the FSC to carry out the role.
15E)Recommendation of the MONEYVAL Report	The authorities should proceed with planned legislative amendments to provide the DHA with adequate powers in undertaking registration and regulation for AML/CFT purposes of DNFBPs within its mandate and provide the DHA with resources consistent with that mandate.
Measures taken to implement the Recommendation of the Report	[It should be noted that such powers will no longer be required by the DHA with the transfer of such responsibility under the Designated Businesses (Registration and Oversight) Bill 2013 to the FSC.] From August 2010 to date, the DHA has used Memorandums of Understanding to compel the Law Society to deliver on its behalf, registration and regulation of Advocates for AML/CFT purposes. The DHA has been provided assurance, via quarterly reporting, that appropriate actions have and continue to be undertaken by the Society in delivery of the responsibilities assigned it in the MOU. Similar arrangements are also in place for accountants undertaken by the ICAEW/ACCA/CIMA/ICB. The Designated Businesses (Registration and Oversight) Bill 2013 will remove DHA responsibility for functional regulatory matters and place them with the FSC. This piece of legislation will include a provision for the FSC to delegate any of its functions under the Act to any person or body as it considers appropriate.
15F)Recommendation	The authorities should assess the adequacy of the GSC's staffing capacity

of the MONEYVAL Report	and specialist skills base to ensure it is well positioned from an AML/CFT perspective to deal with the expected growth in online and terrestrial casino business.
Measures taken to implement the Recommendation of the Report	The GSC staffing capacity and specialist skill set has been reviewed. The commitment to the creation of new posts, with supporting budgets, to meet the expected growth in both the online and terrestrial gambling sectors for the coming three years (commencing 2013) has been approved at the necessary political levels. Staff recruitment to fill the new posts, as well as those vacated through staff turnover typical in such an authority, has enhanced the skills within the authority. Recruits include a former Inspector of the Isle of Man Constabulary previously the head of international cooperation and an accredited financial investigator with expertise in financial crime, corruption and money laundering. Others recruited brought inspection, compliance and fraud detection skills built up in both public and private sector organisations. The authority continues to develop its staff and provides in-house training, sources external bespoke training and provides support to those undertaking relevant professional qualifications. All legal advice continues to be provided by the Attorney General's Chambers and specialist financial analysis is outsourced and provided through one of the big four accountancy practices.
15G)(Other) changes since the last evaluation	The Law Society Regulation, Supervision and Monitoring programme was independently assessed in March 2013. The following features of the present regulatory regime were noted: • The extensive experience of the CEO and compliance staff; • The fact that the Council has been prepared to recruit compliance staff and to increase their hours at the request of the CEO; • The inspection programme that has enabled the Society to conduct visits to every Advocates' practice in each of the two year cycles (2012-13 cycle completed July 2013); • The emphasis on training and support given to Advocates' practices during visits and the dissemination of best practice and innovative approaches; • The use of newsletters to provide information on best practice and raise awareness of ML/TF typologies; • The provision of training (online and face to face), compliance coffee hours, an AML helpline and provision of a Society license to Accuity (as an electronic reliable source); • The risk-based approach adopted by the executive. The reporting system that enables the CEO and the Council to have an overview of the level of compliance by Advocates Practices, using a traffic light and simple risk-grading system.

Recommendation 35 (Conventions)	
Rating: Partially compliant	
16A)Recommendation of the MONEYVAL Report	IOM should request extension to it of the Palermo Convention.

Measures taken to implement the Recommendation of the Report	The extension of the UK's ratification of the Palermo Convention to the Island of Man was completed on 1 June 2012 and the Convention came into operation for the Isle of Man 1 July 2012.
16B)Recommendation of the MONEYVAL Report	The authorities should ensure that all provisions of the Palermo and Vienna Conventions are fully implemented.
Measures taken to implement the Recommendation of the Report	**Vienna Convention** In relation to the Vienna Convention, paragraph 947 of the IMF report stated: "The IOM has implemented most of the Vienna Convention's provisions relevant to the FATF Recommendations. However, due to the common law principle of territoriality it appears that the IOM could not take jurisdiction over drug offenses or drug-based money laundering based only on the offender's nationality or residency. Also, the confiscation provisions relating to proceeds derived from and instrumentalities of drug offences fall short of the international standard as outlined in section 2 of this report." Dealing firstly with the jurisdiction issue, Article 4, paragraph 1(b) of the Vienna Convention states: "Each party…May take such measures as may be necessary to establish its jurisdiction over the offences it has established in accordance with article 3, paragraph 1, when: i) The offence is committed by one of its nationals or by a person who has his habitual residence in its territory." It is submitted that this provision is discretionary rather than mandatory (compare use of the word "may" in this sub-paragraph as opposed to the word "shall" in article 4, paragraph 1(a) and that the ability to establish jurisdiction in the IOM where the money-laundering offence or predicate offence took place elsewhere based on the grounds of the offender being an IOM national or resident does not yet represent a requirement or the international standard. In any event, it is submitted that the provisions of Part 3 of the Proceeds of Crime Act 2008 (POCA) have extraterritorial effect. Part 3 of the Act deals with money laundering and section 158 deals with the interpretation of Part 3. Criminal conduct is defined in section 158(2) as conduct which constitutes an offence in the Island or would constitute an offence in the Island if it occurred there. Section 158(3)(a) then defines criminal property as constituting a person's benefit from criminal conduct. There is no requirement therefore for either the criminal conduct or criminal property to take place or be situated in the IOM. The primary money laundering offences are then defined in sections 139, 140 and 141 in relation to "criminal property". None of these sections impose any requirement for the offence to be committed in the IOM. Indeed, a defence is provided in each section that a person does not commit an offence if the criminal conduct took place outside the Island and the offender knew or believed that the criminal conduct was not, at the time it occurred, unlawful under the criminal law then applying in that country or territory. POCA is an all-crimes money-laundering statute and does not discriminate between drug-related or none-drug-related predicate offences. With regard to the confiscation provisions relating to proceeds derived from and instrumentalities of drug offences, as explained elsewhere in this questionnaire, Section 96 of POCA, now provides for equivalent value

	seizure of assets before the commencement of criminal proceedings and Section 16 of the Anti-Terrorism and Crime (Amendment) Act 2011 provides for equivalent value confiscation in the context of FT-related assets. As also explained elsewhere in this questionnaire, deficiencies in money laundering and terrorist financing criminalisation have been addressed by POCA and the Anti-Terrorism and Crime (Amendment) Act 2011. We have an example of the successful use of mutual assistance provisions under the Vienna Convention: On 26th June 2012, the Island received a request from the Spanish Ministry of the Interior for permission to board and search a yacht in international waters flying the Manx flag, but Bulgarian ownership and crew. A pre-existing protocol governing responses to such requests under Article 17 of the UN Vienna Convention 1988 (and permission provided for under section 9D of the Misuse of Drugs Act 1976) was utilised and formal permission granted. In the subsequent search, some half ton of cannabis was found and seized. **Palermo Convention** In relation to the Palermo Convention, the money laundering provisions of the CJA 1990 and DTA 1996, were repealed and replaced by the Proceeds of Crime Act 2008 (POCA) with effect from 1st August 2009. POCA has much broader money laundering provisions than the legislation it replaced. Money laundering offences are defined in sections 139 to 141 POCA. Section 139 provides that a person commits an offence if that person conceals, disguises, converts or transfers criminal property or removes criminal property from the Island. Section 140 provides that a person commits an offence if that person enters into or becomes concerned in an arrangement which that person knows or suspects facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person. Section 141 provides that a person commits an offence if that person acquires, uses or has possession of criminal property. These provisions make self-laundering a criminal offence for the acts of acquiring, possessing or using criminal proceeds. The Anti-Terrorism and Crime (Amendment) Act 2011 came into force on 13th July 2011 and inserted several new provisions into section 10 ATCA. Under Section 10 (as amended) a person commits an offence if he facilitates the retention or control of terrorist property by concealment, by disguise, by conversion, by removal from the jurisdiction, by transfer to nominees or in any other way. Section 10 ATCA now therefore covers all material elements of the money laundering provisions of the Palermo and Vienna Conventions. The deficiencies affecting the criminalisation of ML and FT offences have therefore been corrected which should improve the quality of the criminal confiscation regime. Sections 96 to 102 POCA deal with restraint (seizure) and section 96 provides for assets to be restrained before proceedings have begun. Section 96 provides for equivalent value restraint in that it allows any realisable property held by a person on the Island to be restrained to the value of that person's benefit from their criminal conduct. As assets may now be restrained at the investigation stage (under the previous legislation they could only be restrained when criminal proceedings had begun), equivalent value seizure is now permitted at any stage from commencement of an investigation until the final conclusion of criminal proceedings. The Anti-Terrorism and Crime

	(Amendment) Act 2011 inserted a number of amendments into ATCA 2003 which provide for equivalent value confiscation in the context of FT-related assets including 16B Special forfeiture orders. (1) This section applies where — (a) the court wishes to make a forfeiture order under section 16 or 16A; (b) the court is prevented from making the order, or an order to the extent it wishes, due only to the money or other property mentioned in those sections being no longer in the possession or control of the convicted person; and (c) the convicted person has money or other property, or an interest in money or other property, that the court wishes to be the subject of a forfeiture order. (2) Where the conditions in subsection (1) are satisfied, the court may make a special forfeiture order in relation to any money or other property mentioned in subsection (1)(c) up to the equivalent value of the money or other property mentioned in section 16 or 16A. These legislative changes should ensure that all provisions of the Palermo and Vienna conventions are now fully implemented.
16C)(Other) changes since the last evaluation	None

Recommendation 38 (MLA on confiscation and freezing)	
Rating: Partially compliant	
17A)Recommendation of the MONEYVAL Report	Amend the law to correct the deficiencies affecting the criminalization of ML and FT offenses, and thus facilitate full compliance with MLA requests related to seizure and confiscation where the dual criminality principle applies.
Measures taken to implement the Recommendation of the Report	The money laundering provisions of the CJA 1990 and DTA 1996, were repealed and replaced by the Proceeds of Crime Act 2008 with effect from 1st August 2009. POCA has much broad money laundering provisions than the legislation it replaces. Money laundering offences are defined in sections 139 to 141 POCA. Section 139 provides that a person commits an offence if that person conceals, disguises, converts or transfers criminal property or removes criminal property from the Island. Section 140 provides that a person commits an offence if that person enters into or becomes concerned in an arrangement which that person knows or suspects facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person. Section 141 provides that a person commits an offence if that person acquires, uses or has possession of criminal property. The Anti-Terrorism and Crime (Amendment) Act 2011 came into force on 13th July 2011 and inserted several new provisions into section 10 ATCA. Under Section 10 (as amended) a person commits an offence if he facilitates the retention or control of terrorist property by concealment, by disguise, by conversion, by removal from the jurisdiction, by transfer to nominees or in any other way. S10 ATCA now therefore covers all material elements of the money laundering provisions of the Palermo and Vienna Conventions. The deficiencies affecting the criminalisation of ML and FT offences have therefore been corrected which should facilitate full compliance with MLA requests relating to seizure and confiscation where the dual criminality principle applies.

17B)(Other) changes since the last evaluation	None

Special Recommendation I (Implement UN instruments)	
Rating: Partially compliant	
18A)Recommendation of the MONEYVAL Report	The authorities should ensure that all provisions of the United Nations International Convention for the Suppression of Financing of Terrorism are implemented.
Measures taken to implement the Recommendation of the Report	The UK ratification of the Convention was extended to the Isle of Man on September 25, 2008, and Island law criminalised the financing of terrorism by means of the Anti-Terrorism and Crime Act 2003. However, section 2 of the IMF Report 2009 highlighted that the terrorist financing offence did not fully meet the requirements of the international standard and shortcomings were also identified with respect to the confiscation provisions relating to terrorist assets. The Report's recommendations included – • amending the 2003 Act to include a reference not only to governments but also to international organisations, and extending the definition of "terrorism" in section 1 cover all terrorism offenses defined in the 9 Conventions and Protocols listed in the Annex to the Convention; • addressing in the 2003 Act the issue of equivalent value confiscation in the context of terrorism-related assets; • introducing a formal procedure governing the receipt and assessment of requests based on foreign freezing lists; and • considering the impact of including in the financing of terrorism offence the "intention of advancing a political, religious, or ideological cause" on the Island's ability to successfully prosecute in factual settings contemplated by the Convention The Anti-Terrorism and Crime (Amendment) Act 2011 addressed the deficiencies in the legislation that had been identified, and amended the 2003 Act from 13th July 2011. For example, a new section 16B deals with equivalent value confiscation, and various sections around 6 to 10 etc. have been amended and no longer refer to "arrangements" but instead to "facilitating terrorist financing". Please see section 8B of this document for further detail in relation to the above.
18B)(Other) changes since the last evaluation	None

Special Recommendation III (Freeze and confiscate terrorist assets)	
Rating: Partially compliant	
19A)Recommendation of the MONEYVAL Report	Put in place a formal procedure governing the receipt and assessment of requests based on foreign freezing lists, as required by UNSCR 1373.

Measures taken to implement the Recommendation of the Report	Although steps have been taken in relation to this point (and the other recommendations made by the IMF concerning SR III) which are detailed below, it is important firstly to clarify the Isle of Man's constitutional relationship as a British Crown Dependency with the United Kingdom, and how this impacts on the IOM's scope to act in respect of compliance with international obligations. The IMF Report noted (para 14): *"As a British Crown Dependency, the IOM is not empowered to sign or ratify international conventions on its own behalf but, following a request by the IOM Government, the UK may extend the ratification of any convention to the IOM."*. The Report also noted (para 59): *"Constitutionally, the IOM is a self-governing British Crown Dependency and, as is the case in the UK, does not have a codified constitution. The UK Government, on behalf of the British Crown, is ultimately responsible for the IOM's international relations."*. However, it is not clear that the IMF assessors fully understood the implications of the Island's constitutional relationship with the UK. The IOM is not a Sovereign State. Although the IOM Government is responsible for domestic legislation and policy, because the UK is responsible for the IOM's international relations and defence the Island does not have a "foreign policy", separate from that of the UK. This does not mean, for example, that the IOM must have every international treaty, convention or agreement that is ratified by the UK extended to it or that if an international instrument is extended it must be implemented by the Island in an identical way to the UK. However, UK will not agree to extension unless it is content that the IOM's implementation is sufficient to implement the instrument. This is because the UK remains ultimately responsible to the relevant treaty for the Island's compliance with the instrument. Also, because the IOM is included within UK's membership of the United Nations and it is not a member in its own right, although IOM can implement UN obligations in its own way within the Island, if there is a lack of compliance with those obligations by the IOM the UK is the responsible member state of the UN. The UK would then draw the matter to the attention of the IOM Government and request that any shortcomings that had been identified be addressed. In respect of the term "nationals" that is referred to in UNSCR 1373 (and other places) it is worth noting that there is no such thing as an "Isle of Man national", only British nationals by virtue of the application of the UK's nationality to the IOM. It is because of the constitutional relationship described above (the close economic ties between the IOM and the UK with a wide range of financial institutions operating in both jurisdictions is also a minor contributing factor) that there is an established IOM Government policy to keep its sanctions/terrorist asset freezing measures in line with those of the United Kingdom. In practice this means that the Isle of Man maintains asset freezing measures against persons and entities where they have been designated by the UN, the EU or the UK. Although there is now provision in the Island's legislation to do so, it is

	difficult to envisage the circumstances under which the IOM would be in a position to unilaterally list or delist a person for terrorist asset freezing measures if that person was not subject to UN, EU or UK measures[10]. The available powers have been used where the UK has imposed freezing measures (see below) but if the Isle of Man received a request from, for example, the authorities in the USA to impose terrorist asset freezing measures against a person or body which was not subject to UN, EU or UK measures it is unlikely that the IOM would act unless the UK also intended to do so. On receipt of any such request the initial course of action for the Isle of Man would be to seek the views of the relevant Departments of the UK Government. The Anti-Terrorism and Crime (Amendment) Act 2011 amended section 50 of the Anti-Terrorism and Crime Act 2003 (ATCA) to make it explicitly clear that the section can be used to make a freezing order relating to terrorism following receipt of an external request. The Act came into effect on 13th July 2011. Following amendment in 2011 ATCA can also be used to freeze the assets of an Isle of Man resident who may be included on a foreign freezing list. Section 50 was activated and the relevant protocol on its operation was used to determine if an order was needed in the case of Landsbanki in late 2008. In 2009 the Terrorism (Finance) Act 2009 was enacted to mirror provisions contained in the UK's Counter Terrorism Act 2008, in particular Schedule 7 to that Act. The 2009 Act came into operation on 15th July 2009 and it allows Treasury to make directions requiring businesses in the regulated sector to cease or limit business with countries, organisations etc. The conditions for making these directions are set out in section 4 of the Act: ***4 Conditions for giving direction by Treasury*** *(1) The Treasury may give a direction to a person mentioned in paragraph 1 of the Schedule if one or more of the following conditions is met in relation to a country.* *(2) The first condition is that the Financial Action Task Force has advised that measures should be taken in relation to the country because of the risk of terrorist financing or money laundering activities being carried on —* *(a) in the country;* *(b) by the government of the country; or* *(c) by persons resident or incorporated in the country.* *(3) The second condition is that the Treasury reasonably believes that there is a risk that terrorist financing or money laundering activities are being carried on —* *(a) in the country;* *(b) by the government of the country; or* *(c) by persons resident or incorporated in the country,* *and that this poses a significant risk to the national interests of the Island.* *(4) The third condition is that the Treasury reasonably believes that —* *(a) the development or production of nuclear, radiological, biological or chemical weapons in the country; or* *(b) the doing in the country of anything that facilitates the development or*

[10] A potential, although remote, possible exception to this could be if there was a future domestic Isle of Man based terrorist person or body with targets purely within the Isle of Man. However, if such an unlikely situation did arise it is quite probable that the UK would also impose appropriate measures against the person or body.

	production of any such weapons, *poses a significant risk to the national interests of the Island.* *(5) The Schedule has effect in relation to directions.* This power was used in October 2009 in relation to 2 Iranian entities, in line with provision that had been made by the UK.
19B)Recommendation of the MONEYVAL Report	Amend the legal framework implementing the UN Resolutions and EC Regulations to expressly extend the definition of 'funds' subject to freezing to cover assets 'jointly' or 'indirectly' owned or controlled by the relevant persons.
Measures taken to implement the Recommendation of the Report	The Isle of Man Government has given very careful consideration to this issue. The IMF report stated: *"Extension of c. III.1-III.3 to funds or assets controlled by designated persons (c. III.4):* *269. ATCA 2003 does not contain any detailed definition of funds, other than "money or other property" (throughout Part III on terrorist property) and "financial assets and economic benefits of any kind" (Section 51(6) in the context of freezing orders).* *270. All special statutes covering the implementation of the freezing mechanism under the UN Resolutions and the EU Regulation are very specific and elaborate in defining the funds subject to freezing (Article 2 of the Al-Qa'ida and Taliban Order 2002, Article 2 of the Terrorism Order 2001 and Article 1 of the EC Regulations 2580/2001 and 881/2002 as applied in the IOM). Although quite detailed, none of them contain an express reference to assets that are* ***"jointly"*** *and* ***"indirectly owned or controlled"*** *by the designated persons. Derivatives of the funds (interests, dividends, etc.) are adequately covered."* (emphasis added) Following the amendment of the Anti-Terrorism and Crime Act 2003 (ATCA)by the Anti-Terrorism and Crime (Amendment) Act 2011, ATCA 2003 now includes at section 50(6) a more detailed definition of "funds" and section 50(7) provide that a freezing order may be made in respect of funds regardless of whether they are owned or held by more than one person (i.e. "jointly" owned or held funds"). In relation to the instruments referred to in paragraph 270 of the IMF's report above the Terrorism Order 2001 was repealed by the Terrorist Asset-Freezing etc. Act 2010 (Isle of Man) Order 2011 (SI 2011/749) which extended, with certain modifications, the UK's Terrorist Asset-Freezing etc. Act 2010 to the Island. Under the 2010 Act as it applies to the Island a natural or legal person, group or entity included in the list provided for by Article 2(3) of Council Regulation (EC) No 2580/2001, as it has effect from time to time, is automatically a "designated person" for the purposes of the Act. It is interesting to note that neither the Security Council Resolutions nor the UN Convention for the Suppression of the Financing of Terrorism (Terrorist Financing Convention) actually include an express reference to assets "jointly" owned or controlled by designated persons, although "directly or indirectly" is expressly referred to.

	The word "jointly" comes from the FATF's Interpretative Note on SRIII[11] (paragraphs 8(a) and (c)): *The competent authorities shall ensure that their nationals or any persons and entities within their territories are prohibited from making any funds or other assets, economic resources or financial or other related services available, directly or indirectly, wholly or **jointly**, for the benefit of: designated persons, terrorists; those who finance terrorism; terrorist organisations; entities owned or controlled, directly or indirectly, by such persons or entities; and persons and entities acting on behalf of or at the direction of such persons or entities.* *Under Special Recommendation III, funds or other assets to be frozen include those subject to freezing under S/RES/1267(1999) and S/RES/1373(2001). Such funds or other assets would also include those wholly or jointly owned or controlled, directly or indirectly, by designated persons.* It also appears in "Essential Criterion" 4 in the FATF's assessment Methodology for SRIII: *III.4 The freezing actions referred to in Criteria III.1 – III.3 should extend to:* *a) funds or other assets wholly or **jointly** owned or controlled, directly or indirectly, by designated persons, terrorists, those who finance terrorism or terrorist organisations; and* *b) funds or other assets derived or generated from funds or other assets owned or controlled directly or indirectly by designated persons, terrorists, those who finance terrorism or terrorist organisations.* The word "jointly" is expanded upon under Criterion 4 by means of a footnote which states: *"Jointly* refers to those assets held jointly between or among designated persons, terrorists, those who finance terrorism or terrorist organisations on the one hand, and a third party or parties on the other hand." The European Union is generally considered as being assiduous in its implementation of UN Security Council Resolutions and sanctions measures as a whole, often imposing stricter measures than required by UN Resolutions. Its implementation of the asset freezing aspects of UNSCRs 1267 and 1373 by Regulations and 881/2002 and 2580/2001 (as they currently have effect) is, respectively, as follows: *Article 2 of Regulation (EC) No 881/2002* *1. All funds and economic resources belonging to, owned, held or controlled by a natural or legal person, entity, body or group listed in Annex I, shall be frozen.* *2. No funds or economic resources shall be made available, directly or indirectly, to, or for the benefit of, natural or legal persons, entities, bodies or groups listed in Annex I.* *3. Annex I shall consist of natural and legal persons, entities, bodies and groups designated by the UN Security Council or by the Sanctions Committee as being associated with the Al-Qaida network.* *4. The prohibition set out in paragraph 2 shall not give rise to liability of any kind on the part of the natural or legal persons, entities, bodies or*

[11] This wording continues to appear in the Interpretative Note for revised Recommendation 6.

	groups concerned, if they did not know, and had no reasonable cause to suspect, that their actions would infringe these prohibitions. The following definitions from Article 1 of Regulation 881/2002 apply: *'funds' means financial assets and economic benefits of every kind, including but not limited to cash, cheques, claims on money, drafts, money orders and other payment instruments; deposits with financial institutions or other entities, balances on accounts, debts and debt obligations; publicly and privately traded securities and debt instruments, including stocks and shares, certificates presenting securities, bonds, notes, warrants, debentures, derivatives contracts; interest, dividends or other income on or value accruing from or generated by assets; credit, right of set-off, guarantees, performance bonds or other financial commitments; letters of credit, bills of lading, bills of sale; documents evidencing an interest in funds or financial resources, and any other instrument of export-financing;* *'economic resources' means assets of every kind, whether tangible or intangible, movable or immovable, which are not funds but can be used to obtain funds, goods or services;* *'freezing of funds' means preventing any move, transfer, alteration, use of, access to, or dealing with funds in any way that would result in any change in their volume, amount, location, ownership, possession, character, destination or other change that would enable the funds to be used, including portfolio management.* <u>Article 2 of Regulation (EC) No 2580/2001</u> *1. Except as permitted under Articles 5 and 6:* *(a) all funds, other financial assets and economic resources belonging to, or owned or held by, a natural or legal person, group or entity included in the list referred to in paragraph 3 shall be frozen;* *(b) no funds, other financial assets and economic resources shall be made available, directly or indirectly, to, or for the benefit of, a natural or legal person, group or entity included in the list referred to in paragraph 3.* *2. Except as permitted under Articles 5 and 6, it shall be prohibited to provide financial services to, or for the benefit of, a natural or legal person, group or entity included in the list referred to in paragraph 3.* For the purpose of Regulation 2580/2001, the following definitions apply: *1. 'Funds, other financial assets and economic resources' means assets of every kind, whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets, including, but not limited to, bank credits, travellers' cheques, bank cheques, money orders, shares, securities, bonds, drafts and letters of credit.* *2. 'Freezing of funds, other financial assets and economic resources' means the prevention of any move, transfer, alteration, use of or dealing with funds in any way that would result in any change in their volume, amount, location, ownership, possession, character, destination or other change that would enable the funds to be used, including portfolio management.* *3. 'Financial services' means any service of a financial nature, including all insurance and insurance-related services, and all banking and other financial services (excluding insurance) as follows: (list omitted)* *...* *5. 'Owning a legal person, group or entity' means being in possession of 50*

	% or more of the proprietary rights of a legal person, group or entity, or having a majority interest therein. *6. 'Controlling a legal person, group or entity' means any of the following:* *(a) having the right to appoint or remove a majority of the members of the administrative, management or supervisory body of such legal person, group or entity;* *(b) having appointed solely as a result of the exercise of one's voting rights a majority of the members of the administrative, management or supervisory bodies of a legal person, group or entity who have held office during the present and previous financial year;* *(c) controlling alone, pursuant to an agreement with other shareholders in or members of a legal person, group or entity, a majority of shareholders' or members' voting rights in that legal person, group or entity;* *(d) having the right to exercise a dominant influence over a legal person, group or entity, pursuant to an agreement entered into with that legal person, group or entity, or to a provision in its Memorandum or Articles of Association, where the law governing that legal person, group or entity permits its being subject to such agreement or provision;* *(e) having the power to exercise the right to exercise a dominant influence referred to in point (d), without being the holder of that right;* *(f) having the right to use all or part of the assets of a legal person, group or entity;* *(g) managing the business of a legal person, group or entity on a unified basis, while publishing consolidated accounts;* *(h) sharing jointly and severally the financial liabilities of a legal person, group or entity, or guaranteeing them.* It can be seen that although the Regulations explicitly refer to funds and economic resources being made available "directly or indirectly" to a designated person, in neither case is the word "jointly" used. It would therefore appear not to be necessary for the implementation of the Security Council Resolutions or SRIII itself (or revised Recommendation 6) for there to be an express reference to assets (funds or other economic resources) that are jointly owned by designated persons, or at least for the word "jointly" to be explicitly used, as might have been inferred from the IMF's recommendation to the Island on this issue. This would certainly appear to be the view taken by the European Union in its implementation of the UN Security Council Resolutions. In the case of Council Regulation 881/2002 in respect UNSCR 1267 it may be argued that the reference in Article 2(1) to the freezing of "funds and economic resources belonging to, owned, held or controlled by [a designated person]" is sufficient to implement the freezing measures, whatever the ownership – wholly, jointly, direct, indirectly or otherwise. In addition, it be argued that the prohibition in Article 2(2) on making funds or economic resources available, directly or indirectly, to, or for the benefit of, [a designated person]" is sufficient to cover all circumstances. Although Article 2(1) of Council Regulation 2580/2001 is perhaps slightly less clear in that it does not include the word "controlled" it can be argued that this does not matter as all persons designated for the purposes of this EU Regulation, as it has effect from time to time, are now automatically designated persons for the purposes the Terrorist Asset-Freezing Etc. Act

	2010 as it has effect in the Isle of Man. Under Chapter 2 of the 2010 Act (prohibitions in relation to designated persons) funds and economic resources that are controlled by a designated person fall within its scope. It may be of interest to note that such up to date UK legislation as the 2010 Act does not refer explicitly to funds or economic resources that are "jointly" owned or controlled. Given the constitutional relationship of the IOM with UK explained above the Isle of Man Government is of the view that the legislation in this area should remain in line with that of the UK, and hence the EU, and that it is considered that the Island does in fact appropriately implement the UNSCRs and SR III and revised Recommendation 6 in this respect. The Customs and Excise Division has advised that in guidance, at presentations to institutions, in response to enquirers, etc. in respect of financial sanctions its approach has been to emphasise what it sees as the essential point that the intention of sanctions is that no funds flow to, or for the benefit of, a person or entity which subject to restrictive measures, *directly or indirectly*. It would expect regulated entities to also interpret this in a broad sense, and its experience is that banks would generally do so. Customs and Excise considers that most, if not all, relevant businesses in the IOM make use of the HM Treasury website and guidance, and/or reference works and media which use the UK guidance themselves in respect of compliance with financial sanctions. Furthermore, in its sanctions notices and news releases the Customs and Excise Division (where possible) refers to the HM Treasury website and consolidated lists on there – and refer enquirers to it. Being able to do so would provide a degree of certainty and clarity to what has become in recent years a complex area involving a variety of measures against an ever-increasing number of jurisdictions. In practice, Customs and Excise would expect and require anyone concerned with jointly-owned assets to show how and why any benefit (such as from a disposal of shares) would not flow to a sanctioned person or entity, and for any jointly-owned assets to remain frozen and only released if the same sort of proof was provided, and/or a suitable licence were obtained. In the matter of permissions and licences[12], Customs and Excise takes advice from HM Treasury (or, if appropriate, the Export Control Organisation at BIS, the FCO or another UK Government body), and again maintaining equivalence with UK lists, measures and procedures is (or would be) extremely useful.
19C)Recommendation of the MONEYVAL Report	Amend the legal framework for the implementation of the EC Regulations to provide a procedure for considering requests for delisting or unfreezing.
Measures taken to implement the Recommendation of	Following a ruling by the UK Supreme Court in January 2010[13] concerning the vires of certain terrorist asset freezing orders made under the United Nations Act 1946 (of Parliament) the UK Government enacted the Terrorist

[12] Derogations from the restrictive measures set in out in relevant EU Regulations may be permitted subject to prior authorisation from the competent authority, such as by the issuing of a licence.

[13] In large part the Supreme Court's decision was based on the lack of a clear intention by Parliament when the 1946 Act was passed to impose such restrictive measures and the lack of Parliamentary control over the Orders in Council made under the Act which imposed those measures.

the Report	Asset-Freezing Etc. Act 2010. This Act included a permissive extent provision to allow it to be extended to the Isle of Man and this power was exercised by the Terrorist Asset-Freezing etc. Act 2010 (Isle of Man) Order 2011 (SI 2011/749). Under this legislation a "designated person" includes any natural or legal person, group or entity included in 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. Therefore under the UK legislation as it applies in the IOM the list under Regulation 2580/2001 is automatically updated as and when amendments are made by the EU and there is no power under the legislation for the list in the Island to differ from that in the EU. Given, the constitutional relationship between the IOM and UK explained above and the policy of maintaining the Island's sanctions/asset freezing measures in line with those of the UK, and so those of the EU, the Isle of Man Government is content with this position. Paragraph 276 of the IMF's 2009 report states: *"Nothing is provided in terms of an intervention of the IOM authorities in a request to the UN Sanctions Committee to de-list and unfreeze assets frozen under UNSCR1267, or a similar request in relation to the EC Regulation. The specific de-listing mechanism of UNSCR 1730 (2006), providing for a designated person to make a request to the 1267 Committee through their State of residence or citizenship (beside the possibility of addressing a focal point at the UN), has not been considered by the IOM authorities. In practice, the IOM authorities liaise on any such action with the competent UK authorities."* The report goes on to say, at paragraph 285: *"The implementation by the IOM of UNSCRs 1267 and 1373, as well as the 2001 and 2002 EC Regulations, is closely linked to that of the UK. All UK lists become automatically incorporated in the IOM freezing regime. The IOM has little or no input in the decisions taken in this context in respect of designations, delisting and unfreezing."* The IMF then concluded that that: *"A procedure for considering de-listing or unfreezing requests is not provided for in the context of the EC Regulations"* UNSCR 1730 (2006) which is referred to in the IMF report states: *"The Security Council requests the Secretary-General to establish... a focal point to receive de-listing requests. Petitioners seeking to submit a request for delisting can do so either through the focal point process [directly] or through their state of residence or citizenship ."* Two important points are worth noting. The first point is that UNSCR 1730 which is referred to in the IMF Report only relates to persons listed by the United Nations' Sanctions Committee under UNSCR 1267 (and successor Resolutions) as persons are not listed by the UN itself under UNSCR 1373; this is done by individual members of the UN or in case of the Member States of the EU, generally by the European Union. The second point is that, as explained previously, the Isle of Man is not a member of the United Nations. The Island's link to the UN is through its inclusion in the UK's membership. Therefore, for all purposes, the "State" so

	far as any person in the Isle of Man is concerned in dealing with the UN is the United Kingdom. The Isle of Man Government has no direct link to the United Nations. It is likely that any communication the Island wished to have with the UN in respect of UNSCR 1267 (or indeed other matters) would have to be through the UK, as the State that is a member of the United Nations. Therefore, it is again argued that whilst it is entirely appropriate for the Island to have its own implementing legislation in this area (which is generally similar to that in the UK), it would not be appropriate for the Island to have different lists of designated persons in respect of UNSCR 1267 (and its successor Resolutions) or UNSCR 1373 than the UK , or for the Island to unilaterally de-list a person on a UK sanctions list (and, hence, even though the Island is not a member of the EU, because the UK must implement EU lists, it would similarly not be appropriate to unilaterally delist a person on an EU list). Indeed, given the constitutional relationship between the Isle of Man and the UK it is likely that such a delisting would cause constitutional difficulties between the Island and the UK. There have, however, been a number of changes since the IMF Report. At the time that the IMF published its report in September 2009 the Island's implementing legislation for **UNSCR 1267** was as follows: a. The Al-Qa'ida and Taliban (United Nations Measures) (Isle of Man) Order 2002 (SI 2002/259) – made by the UK under the United Nations Act 1946 for the implementation in the Isle of Man of the Security Council Resolution; b. European Communities (Al-Qaida and Taliban Sanctions) (Application) Order 2002 (SD 444/02) – made under the European Communities (Isle of Man) Act 1973 ("the 1973 Act") to apply EC Regulation 881/2002 as part of the law of the Island; and c. European Communities (Al-Qaida and Taliban Sanctions) (Enforcement) Regulations 2008 (SD 942/08) – made under the 1973 Act to implement EC Regulation 881/2002 as it has effect in the Island by virtue of the above Order. And for **UNSCR 1373** the Island's implementing legislation was: d. The Terrorism (United Nations Measures) (Isle of Man) Order 2001 (SI 2001/3364) – made by the UK under the United Nations Act 1946 for the implementation in the Isle of Man of the Security Council Resolution; e. European Communities (Terrorism Measures) Order 2002 (SD 111/02) – made under the 1973 Act to apply EC Regulation 2580/2001 as part of the law of the Island; and f. European Communities (Terrorism Measures) (Enforcement) Regulations 2008 (SD 941/08) – made under the 1973 Act to implement EC Regulation 2580/2001 as it has effect in the Island by virtue of the above Order. Dealing with UNSCR 1373 first, the European Communities Order and Regulations are still in place but the UN Terrorism Order was repealed by the Terrorist Asset-Freezing etc. Act 2010 (Isle of Man) Order 2011 (SI 2011/749), which extended the UK's Terrorist Asset-Freezing etc. Act 2010 ("the 2010 Act") to the Island (with certain modifications). As referred to above, under the 2010 Act as it has effect in the Island a

	natural or legal person, group or entity included in the list provided for by Article 2(3) of EC Regulation 2580/2001 is now automatically a designated person for the purposes of the Act. Due to interpretative provisions which apply to UK legislation the reference to the EC Regulation means the Regulation as amended from time to time. Given the extensive provisions in relation to designated persons in the 2010 Act (offences, penalties, licences, etc.) the European Communities Regulations made under the 1973 Act are essentially redundant and it is envisaged that they will be revoked. However, the Order made under the 1973 Act, which applies EC Regulation 2580/2001 as part of the law of the Island, will probably be retained. In relation to UNSCR 1267 the situation is somewhat more complex. There have been a number of successor Resolutions to UNSCR 1267, and the sanctions regime in respect of persons associated with Al-Qaida has been split from the regime in respect of members of the Taliban in Afghanistan who are not cooperating with efforts to stabilise that country. The UN Al-Qa'ida and Taliban Order is still in force but it is rather out of date. The EC Order which applied EC Regulation 881/2002 to the Island was, until recently, still in effect although amendment Orders[14] had been made which applied certain amendments made by the EU to Regulation 881/2002. These amendments included provision for exceptions and licensing. The application of these amendments provides a legal mechanism enabling access to UNSCR 1267 frozen funds for humanitarian purposes and to cover basic expenses, as recommended by the IMF. To take account of the splitting of the Al-Qaida measures from the Afghanistan measures EU application Orders in respect of that country were also made[15]. The 2008 EC Al-Qaida Regulations were revoked and replaced by a new set of Regulations[16] made in 2011 which implemented EC Regulation 881/2002 as it then had effect in the Island. There are also implementing Regulations for the application of the EU's Afghanistan/Taliban measures that have been applied to the Island[17]. In July 2013, following the further amendment of EC Regulation 881/2002 a new consolidated and updated application Order[18] was made which revoked the original Order and amendment Order. As permitted by section 2A of the 1973 Act is in operation although it will not be submitted to Tynwald for approval until October 2013. New implementing Regulations[19] which revoked the existing Regulations were also made.
19D)Recommendation of the MONEYVAL Report	Provide for and publicize a clear procedure enabling access to UNSCR 1267 frozen funds for humanitarian purposes and to cover basic expenses.

[14] European Union (Al-Qaida and Taliban Sanctions) (Application) (Amendment) Order 2011 (SD 120/11) and European Union (Al-Qaida and Taliban Sanctions) (Application) (Amendment) (No. 2) Order 2011 (SD 0779/11)

[15] European Union (Afghanistan Sanctions) Order 2012 (SD 0472/112), which applies Council Regulation (EU) No 753/2011 of 1 August 2011 concerning restrictive measures directed against certain individuals, groups, undertakings and entities in view of the situation in Afghanistan, and amendments to that Regulation to the Island.

[16] Al-Qaida and Taliban Sanctions Regulations 2011 (SD 121/11) and the Al-Qaida and Taliban Sanctions (Amendment) Regulations 2011 (0780/11)

[17] Afghanistan Sanctions Regulations 2012 (SD 0473/12)

[18] European Union (Al-Qaida Sanctions) Order 2013 (SD 0271/13)

[19] Al-Qaida Sanctions Regulations 2013 (SD 0272/13)

Measures taken to implement the Recommendation of the Report	As described above, the Island's implementation of UNSCR 1267 through the application and implementation of the EU's legislation in respect of this UN Security Council Resolution has been amended to provide for access to frozen funds for humanitarian purposes and for basic expenses. The website of the Customs and Excise Division of Treasury provides detailed guidance on all of the sanctions and asset freezing measures that the IOM has in place, including information in respect of how licences may be obtained for permitted derogations and any exceptions to the restrictive measures. Any changes to the sanctions regimes is publicised in a press release issued by the Customs and Excise Division on the front page of the Isle of Man Government website. The FSC then also issues a press release in respect of the changes to these measures. On 16th March 2011, the relevant public notice (Sanctions Notice 21) was amended to refer to amendments made to EU Regulation 881/2002, a new paragraph 22A in that notice stating – "Council Regulation 881/2002, as amended with effect from 19 February 2011, allows for the release of funds or economic resources to cover— (a) basic expenses, including payment for rent, mortgage, foodstuffs etc; (b) payment of reasonable professional fees and legal expenses; (c) payment of fees or service charges for the routine holding or maintenance of frozen funds or economic resources; or (d) other extraordinary expenses. Requests must be made to the Sanctions Officer, and any approval or refusal will be communicated in writing.". In other sanctions regimes, licences have been granted for household, living and legal expenses but none to date have been requested in respect of suspected Al-Qaida or terrorism funds.
19E)(Other) changes since the last evaluation	One matter that has been raised with the Customs and Excise Division of the Treasury was the listing of "internal persons". To clarify the situation, as it is understood by Customs and Excise, those persons listed for the purposes of terrorist financing sanctions include such "internal persons" that are listed by HM Treasury in the UK. This follows the policy of the Isle of man Treasury to maintain its lists of those subject to restrictive measures so that they correspond to those in place in the UK. Section 1 of the Terrorist Asset-Freezing Etc. Act 2010 allows for a "designated person" to include a person designated by the Treasury, as well as a person included in a list provided for by Council Directive (EC) No 2580/2001. Hence persons not included on the EU lists may be designated persons. Nothing in the Act, nor any supporting materials (including preceding consultation) suggests that Island persons, British nationals or EU citizens may not be designated persons. However, to date there have been no instances where information has been brought to the attention of the Island authorities that would have enabled the Treasury here to consider designating any person not already included on the

	lists published by HM Treasury.

Special Recommendation V (International cooperation)	
Rating: Partially compliant	
20A)Recommendation of the MONEYVAL Report	Remove the current restriction limiting MLA involving coercive conservatory and recovery matters to 'designated countries'.
Measures taken to implement the Recommendation of the Report	The Proceeds of Crime (External Requests and Orders) Order 2009 is secondary legislation made under section 215 of the Proceeds of Crime Act 2008 and makes provision for the restraint of assets in the Island at the request of jurisdictions outside the Island and for the enforcement in the Island of confiscation orders made outside the Island. It replaces the secondary legislation made under the CJA 1990 and DTA 1996 and in force at the time of the IMF assessment in 2008. The Proceeds of Crime (External Requests and Orders) Order 2009 does not employ the concept of "designated countries" and allows coercive conservatory measures to be taken on behalf of all countries and territories outside the Island. The Anti-Terrorism and Crime (Amendment) Act 2011 came into effect on 13th July 2011 and removed references in Schedule 2 to ATCA 2003 to "designated countries" allowing orders made outside the British Isles to be enforced in the Island.
20B)Recommendation of the MONEYVAL Report	In amending the law in respect of the equivalent value confiscation and seizure in FT matters, remove also obstacles to related international mutual assistance.
Measures taken to implement the Recommendation of the Report	The Anti-Terrorism and Crime (Amendment) Act 2011inserted a number of amendments into ATCA 2003which provide for equivalent value confiscation in the context of FT-related assets including 16B Special forfeiture orders. (1) This section applies where — (a) the court wishes to make a forfeiture order under section 16 or 16A; (b) the court is prevented from making the order, or an order to the extent it wishes, due only to the money or other property mentioned in those sections being no longer in the possession or control of the convicted person; and (c) the convicted person has money or other property, or an interest in money or other property, that the court wishes to be the subject of a forfeiture order. (2) Where the conditions in subsection (1) are satisfied, the court may make a special forfeiture order in relation to any money or other property mentioned in subsection (1)(c) up to the equivalent value of the money or other property mentioned in section 16 or 16A.
20C) (Other) changes since the last evaluation	None

2.4 Specific Questions

1. Please give details of any autonomous convictions for money laundering.

Any legislative barriers to stand alone money laundering prosecutions were addressed by the coming into force of the Proceeds of Crime Act 2008 (POCA 2008) which is detailed above. There have been some important successful convictions for money laundering in the Isle of Man since the IMF inspection in 2008. In October 2009 Trevor and Wendy Baines were convicted of laundering US $175 million stemming from a securities fraud in the USA and false accounting. Mr Baines was sentenced to a term of 6 years imprisonment for the offences. He appealed sentence, but the sentence was upheld by the Appeal court. A link to the Appeal court judgment which sets out the details of the offences can be found here:

http://www.judgments.im/content/J1106.htm

In January 2011 Jenny Holt, a Manx Advocate (lawyer) was convicted of three offences including a money laundering offence (becoming concerned in an arrangement knowing or suspecting that the arrangement facilitated the acquisition, retention, use or control of criminal property by or on behalf of another person, contrary to section 140(1) POCA 2008). She appealed the conviction, but this was upheld by the Appeal court. Links to the Appeal court judgment (in 2 parts) can be found here:

http://www.judgments.im/content/J1217.htm
http://www.judgments.im/content/J1218.htm

Miss Holt is currently appealing to the Privy Council.

In 2010 a local bank made a SAR to the FCU regarding its suspicions over a local resident depositing cash for crediting to a third party account maintained in the UK. The bank reported the depositor knew little about the provenance of the transaction when challenged by bank staff, and in the presence of the cashier the depositor made a telephone call to ascertain details of the account the money was to be credited to.

Enquiries made by the FCU indicated the UK account was operated by an individual known to UK police for being involved in suspected drugs trafficking. The FCU issued an Advisory Notice to local banks outlining the above typology. Consequently, additional SARs were received which assisted law enforcement in establishing the scale of the problem locally. All intelligence was shared with the UK police force, and additional suspects subsequently identified. Operation Increment was initiated.

Twenty-two individuals were identified as depositing money locally for crediting to third party accounts sited in the UK. Nineteen were subsequently arrested and charged with removing criminal property from the Isle of Man, and 16 convicted. Their sentences ranged from custodial to non-custodial, depending on the severity of their involvement. Of those convicted, several had no connection to the predicate offence, their only involvement was depositing money locally.

Those directly involved in drug trafficking were arrested and escorted to the Isle of Man. On conviction all received lengthy custodial sentences.

2. Please give details of your assessment of the main funds-generating crimes on the Isle of Man.

Drug Trafficking - Isle of Man street prices for controlled drugs tend to be among the most expensive in the UK. The north-west area of the UK provides some of the cheapest street prices.

Consequently, the Isle of Man represents a fertile market ripe for exploitation by drugs traffickers based in the north-west of the UK. A network of local dealers exists because of these favourable market conditions. Transferring criminal funds from the Isle of Man to purchase controlled drugs in the UK is a thriving industry which law enforcement seeks to identify and prevent.

Other local acquisitive crime such as theft from employer - The Isle of Man enjoys relatively low unemployment and has a finance sector largely untouched by the recent economic downturn. However, local employees are experiencing and enduring economic difficulty, and an increase in theft from finance sector employers has materialised and reflects this reality.

Considering this in the context of the size of the Island, with a population of just over 80,000, in the year ended March 2013, the Isle of Man Constabulary recorded 2203 crimes, which represents a 17.1% reduction on the previous year. The vast majority of these crimes were of a minor nature and did not generate funds.

3. **Please give details of your assessment of the main money laundering risks on the Isle of Man**.

Due to the nature of the financial services offered by Isle of Man regulated entities, the placement of laundered money locally is unlikely. Placement of criminal funds in the Isle of Man is virtually wholly derived from local acquisitive crime, such as drug trafficking and theft from employer.

In money laundering terms Isle of Man regulated entities are more likely to be utilised for layering the proceeds of crime, where the predicate offence has occurred outside the Isle of Man. The risk of integration of criminal funds on the Isle of Man is as per placement.

The local financial sectors money laundering risk, as per above, is exacerbated as the artificial structure is usually locally based, but the criminal assets held elsewhere.

It is a perception that entities utilise offshore structures etc. to evade or avoid direct and indirect taxation. If this perception is factual, the Isle of Man's risk to money laundering may now be enhanced due to tax evasion recently being deemed a predicate offence under the revised FATF recommendations.

There are also certain locally established entities such as payroll service providers, that exist specifically to legitimately take advantage of taxation loopholes identified outside the Isle of Man. Recent court judgements in the UK appear to suggest that such structures may be unlawful, which raises the question of the legitimacy of the funds connected to the Isle of Man via these structures,

There are numerous High Net Worth Individuals ("HNWI") residing on the Isle of Man, a significant number who relocated here from elsewhere. The provenance of their wealth is unknown and difficult to establish, once the individual comes to notice. Known members of UK organised crime syndicates now reside on the Isle of Man, largely beneath the radar of the local authorities. Their presence on the Isle of Man is usually detected as a result of law enforcement enquiries from off-island. Any assets held locally by them, could potentially represent the proceeds of crime. Establishing predicate offences can be difficult as the crimes are likely to have been committed elsewhere, and the suspect cannot be directly linked to the offences. It cannot be established if these individuals relocated to the Isle of Man as a result of Government initiatives to attract HNWI.

It is apparent from SAR data that commission driven entities do not always have sufficient information concerning CDD/KYC/SOF/SOW in respect of new customers. There appears to be little appetite to decline such business, or to conduct sufficient CDD etc. before any surrender request is received. In cases where an independent financial advisor ("IFA") is involved, there appears little prospect of the IFA challenging their client over AML issues raised by the local regulated entity.

4. Please explain the steps taken to enhance AML/CFT supervision of money and value transfer service providers since the last evaluation.

Prior to the FSC taking on responsibility for money and value transfer service providers, the Isle of Man's Custom and Excise team operated a register for anyone providing bureau de change, money transmission or cheque cashing services. This regime, which did not explicitly provide for ongoing supervision or for enforcement action, was deemed to be insufficiently robust. As a result, during 2007, it was agreed that this sector would fall under the auspices of the FSC and a new, more robust regime would be introduced.

During 2008, the FSC brought into operation a supervisory regime for money and value transfer service providers. The Financial Services Act 2008, which came into effect on 1 August 2008, brought Money Transmission Services carried on in or from the Isle of Man as an activity regulated by the Financial Supervision Commission. Money Transmission Services include:

- Operation of a bureau de change
- Money Transmission
- Third party cheque cashing
- Issue of e-money

Anyone who was undertaking any of these activities and who had an annual turnover in excess of £50,000, in respect of those services, was required to apply to the FSC for a financial services licence by 1 November 2008. Failure to apply for a licence, unless an exclusion or exemption applied was a breach of the Financial Services Act 2008.

Under the Financial Services (Exemption) Regulations 2008 a business carrying out Money Transmission Services with a turnover of less than £50,000 during the previous 12 calendar months, and which continued to have an annual turnover below £50,000 did not need to be licensed, provided it had notified the FSC that it is undertaking money transmission services. Similarly the Isle of Man Post Office was also classified as an "exempt person". Existing businesses were required to submit the notification form to the Commission by 1 November 2008. New businesses wishing to take advantage of the exemption were required to submit the notification form prior to commencing any money transmission services. The FSC still has powers over "exempt" persons, including the powers to issue directions.

A press release was issued on the FSC's website on 30 October 2008 regarding this development.

The primary focus of this new regime was AML / CFT. Although any incumbents, or new entrants, had to apply for a financial services licence, or to be added to the exempt register, the criteria to be satisfied was heavily weighted towards compliance with AML /CFT Code. Pre-licensing visits were undertaken to all applicants with the main topic being the AML / CFT procedures in place plus testing the management's knowledge of the regulations and how it would ensure compliance going-forward.

Current position

A revised version of the Regulated Activities Order came into effect on 1 January 2012 and remains in force today. The main consequences of this for money and value transfer providers, was two-fold. Firstly, payment services was added as a regulated activity and that all the money transmission related subclasses of business were grouped within Class 8. Secondly, the supervisory regime was extended beyond AML / CFT to introduced a broader range of prudential requirements and thereby bring it in line with the approach for other classes of regulated activity, especially for the more complex

activities of class 8 2(a) and 8(4) (see below).

From January 2012, the scope of activities covered by Class 8, money transmission services, was as follows:
(1) Operation of a bureau de change.
(2) (a) Provision and execution of payment services directly.
(b) Provision and execution of payment services as agent.
(3) Provision of cheque cashing services.
(4) Issue of electronic money.

Any person undertaking payment services as at 1 January 2012, had until the end of March 2012 to submit a licence application to the FSC. Transitional provisions were put in place so that those that submitted licence applications were allowed to continue trading until the application was determined by the FSC.
All persons undertaking Class 8 activities by way of business from the Isle of Man, excepting where an exemption or exclusion applies to the whole of that activity, need to be licensed by the FSC. As a result those persons will be subject to the FSC's General Licensing Policy.
The General Licensing Policy sets out the criteria that a person must meet in order to satisfy the FSC that it is "fit and proper". The policy sets out detailed criteria, but at a summary level sets out that:
1. In assessing fitness and propriety the FSC considers:
(a) the applicant's integrity, competence, financial standing, structure and organisation (both internally and from a Group perspective);
(b) the integrity, competence and financial standing of the applicant's controllers, directors and key persons; and
(c) the nature of the business the applicant proposes to carry on.

2. That an applicant's business should be structured and carried on in a fit and proper way. An applicant must demonstrate to the FSC that:
its systems, controls and resources are adequate and appropriate for the regulated activities it wishes to conduct; and
it has an honest and fair attitude in its dealings with clients and others.

Key persons includes MLRO and Deputy MLRO and for sub-classes 8 (2)(a) and 8 (4) extends to include Company Secretary, Compliance Officer and any other persons significant powers and responsibility in relation to any regulated activity.

All licenceholders are required to comply with a range of prudential requirements, as set out in the Financial Services Rule Book 2011. The prudential requirements include:

- Maintaining accounting records;
- The need to act with integrity and fair dealing;
- The use of a suitable client agreement;
- Provision of statistical information;
- Notification of changes in ownership or significant changes in shareholdings;
- Notification of appointments and departure from office of people with key person roles; and

- Notification of staff disciplinary matters.

In addition, for sub-classes 8 (2)(a) and 8 (4), the requirements extend to include:

- Submission of an annual return, including the company's annual financial statements;
- Maintaining specified levels of share capital, net tangible assets and liquid capital;
- Complying with rules on the handling of clients' money;
- Audited accounts;
- Maintaining client records; and
- Maintaining professional indemnity cover.

Further enhancements to rules are being proposed for class 8(1), 8(2) (b) and 8(3) licenceholders as part of a consultation in the summer 2013 (for implementation 1 January 2014).

There are currently 6 licenceholders with Class 8 permissions. 3 of these conduct class 8(2)(a) activity (acting as principal) only, and the other 3 are permitted to provide bureau de change activity. Of these 3, other activity is undertaken including payment services as agent (for example for MoneyGram) and in one case cheque cashing. Currently there are no businesses licensed for 8(4) activity.

Under the Financial Services (Exemptions) Regulations 2011, certain persons who conduct class 8 regulated activity (as defined in the Regulated Activities Order 2011) are exempted from the requirement to hold a financial services licence. This does however mean that these persons are "permitted persons" as defined in the Financial Services Act 2008 and that the Commission therefore retains certain powers in respect of the (class 8) business undertaken. This includes the powers of inspection, requesting information, issuing directions, levying civil penalties (in so far as the underlying regulations would apply) and fit and proper / prohibition powers.

There are two main exemptions which are most relevant: de minimis activity and the activity of certain persons. Each are explained in more detail below.

De minimis activity

This applies where the annual turnover (value) of the relevant activity (for example bureau de change, cheque cashing etc.) is below £50,000, and the person has notified the Commission in writing that the carry on, or intend to carry on, the activity. Upon transfer of the registration of money service businesses from Customs and Excise to the Commission, any persons to which the de minimis activity applied were invited to notify the Commission.

There is currently one such person who notified the Commission (early 2009) and their status was reconfirmed in 2012 (foreign exchange only). Due to the low levels of activity no further work has been conducted by the Commission on this business.

In 2012/2013 Commission Officers also noted that a high street shop was offering Western Union Go Cash gift cards (as agent) and had correspondence with that store. We suggested that the business consider the exemption provisions and formally notify the Commission. However they decided to withdraw the product instead.

Activity of certain persons

This exemption automatically applies (i.e. there is no notification requirement) to the following:

- deposit takers in the Island,
- the Isle of Man Post Office,
- the National Savings and Investments (an executive agency of the Chancellor of the Exchequer of the United Kingdom),
- the Isle of Man Treasury, the Bank of England, the European Central Bank and the national central banks of EEA States other than the United Kingdom,
- Government Departments, Statutory Boards and local authorities.

The Commission is aware that the Isle of Man Post Office is active in providing bureau de change services and also acts as agent for MoneyGram. As part of a series of themed AML / CFT visits to class 8 businesses in 2012/13, an on-site inspection visit was conducted on the Isle of Man Post Office and a report was issued.

Supervisory approach and work to date

The supervision of class 8 business is undertaken by the banking supervision team at the FSC. One manager is responsible for the portfolio of businesses that conduct class 8(1), 8(2)(b) and 8(3) activity only. Another manager is responsible for the businesses that conduct 8(2)(a) and 8(4) activity.

Class 8(1), 8(2)(b) and 8(3)

On-site inspection visits have been conducted to all such licenceholders during the FSC's financial year ended 31 March 2013. A visit to the Isle of Man Post Office was also undertaken. These visits were the first conducted since the businesses became licensed and focused on ensuring compliance with the AML / CFT legislation in the Island.

Key themes identified from the visits included:

- The business conducted is primarily local resident face to face;
- Improvements were required in procedures and record keeping, especially for higher value transactions;
- Improvements were required in the risk assessment process, to ensure they covered all potential higher risk factors for the business conducted; and
- Some weaknesses in staff training.

As a result of the above specific AML / CFT guidance has been developed for this sector which was included in the FSC's AML / CFT Handbook from 1 July 2013.

The FSC will continue to work with these licenceholders in 2013 to ensure the points raised in the visit reports are completed satisfactorily. Where necessary follow up visits will be conducted.

Visits will be undertaken in accordance with the FSC's supervisory approach for all licenceholders.

Upon further rules being put in place (not AML related), particularly for Isle of Man incorporated businesses, an annual desk based review of the business will also be undertaken. All of the licenceholders are subject to a risk assessment process.

Class 8(2)(a) and 8(4) only

On-site inspection visits have been conducted to all such licenceholders during the FSC's financial year ended 31 March 2013. These visits were the first conducted since the businesses became licensed and focused on a number of areas including:

- Ensuring compliance with the AML / CFT legislation in the Island;
- Update on business undertaken;
- Controls around the segregated accounts;
- Financial resources compliance; and
- Governance and risk management.

Key themes identified from the visits, in relation to AML, included:

- Of the three businesses, 2 have a limited customer base at present, with one being more active. Business is on a merchant / institutional basis;
- Improvements were required in the risk assessment process, to ensure they covered all potential higher risk factors for the business conducted and understood which customers pose a higher risk of money laundering;
- In some cases, more robust reporting to boards is required; and
- In some cases, better compliance oversight / monitoring is required.

The FSC will continue to work with these licenceholders in 2013 to ensure the points raised in the visit reports are completed satisfactorily. Where necessary follow up visits will be conducted.

Visits will be undertaken in accordance with the FSC's supervisory approach for all licenceholders. Annual business meetings may also be undertaken.

All of the licenceholders are subject to a risk assessment process and an annual desk based review process.

5. Have any steps been taken to ensure that accurate, complete, and current beneficial ownership information is available in respect of legal arrangements administered by trustees who are not covered by, or who are excluded or exempted from the licensing requirements of FSA 2008?

Paragraph 1 of Schedule 4 of the Proceeds of Crime Act 2008 defines "Business in the Regulated Sector" and Subparagraph (1) (r) provides that *"(1) A business is in the regulated sector to the extent that it consists of -...(r) corporate or trust services within the meaning of section 3 of the Financial Services Act 2008 and Classes 4 and 5 of Schedule 1 to the Regulated Activities Order 2011 whether or not exclusions or exemptions for that class contained within the Order or the Financial Services (Exemptions) Regulations 2011 apply."*

Any businesses providing trust services excluded or exempt from the licensing requirements of FSA 2008 are still therefore defined as being within the regulated sector. Any person carrying out such

business is therefore a "relevant person" as defined in the Money Laundering and Terrorist Financing Code 2013 ("the Code") and must abide by the requirements and follow the procedures set out in the Code. This includes the requirement set out in paragraph 6 of the Code as below:

"6 Beneficial ownership and control
(1) This paragraph applies when a relevant person is operating the procedures required by paragraphs 7 to 12 and 16 of the Code.
(2) The relevant person must, in the case of any applicant for business —

(a) identify who is the beneficial owner of the applicant;
(b) take reasonable measures to verify the identity of those persons, using relevant information or data obtained from a reliable source; and
(c) determine whether the applicant is acting on behalf of another person and, if so, identify that other person, and take reasonable measures to verify his or her identity using relevant information or data obtained from a reliable source.

(3) Without limiting sub-paragraph (2), the relevant person must, in the case of an applicant for business that is a legal person or legal arrangement —
(a) verify that any person purporting to act on behalf of the applicant is authorised to do so;
(b) identify that person and take reasonable measures to verify the identity of that person using reliable and independent source documents;
(c) in the case of a legal arrangement, identify any known beneficiaries and the settlor or other person by whom the legal arrangement is made;
(d) verify the legal status of the applicant using relevant information or data obtained from a reliable source;
(e) obtain information concerning the names and addresses of the applicant and any natural persons having power to direct its activities;
(f) obtain information concerning the person by whom, and the method by which, binding obligations may be imposed on the applicant; and
(g) obtain information to understand the ownership and control structure of the applicant.

(4) Without limiting sub-paragraphs (2) and (3), the relevant person must not, in the case of an applicant for business that is a legal person or legal arrangement, make any payment or loan to a beneficiary of the arrangement unless it has —

(a) identified the beneficiary of the payment or loan; and
(b) verified the identity of the beneficiary using relevant information and data obtained from a reliable source.

(5) If the relevant person deals with an applicant for business otherwise than face-to-face, it must, in taking any measures under this paragraph, take adequate steps to compensate for any risk arising as a result.

(6) In this paragraph "applicant for business", in relation to a continuing business relationship, means the person who, in relation to the formation of the business relationship, was the applicant for business."

There is therefore a legal requirement for all businesses and professions to ensure that accurate, complete and current beneficial ownership information is held in respect of legal arrangements administered by trustees including those excluded or exempt from the licensing requirements of FSA 2008.

This information can be obtained by the appropriate Isle of Man authorities using various powers available, for example in Part 4 of the Proceeds of Crime Act 2008 (domestic money laundering and confiscation investigations), Proceeds of Crime (External Investigations) Order 2011 (external money

laundering and confiscation investigations), S21 of the Criminal Justice Act 1991 (MLA) and S24 Criminal Justice Act 1990 (domestic or external serious fraud investigations).

In addition to the above, retirement benefits schemes within the meaning of the Retirement Benefits Schemes Act 2000 ("RBSA2000") are excluded from the licensing requirements of the FSA2008. However, such schemes are included within the licensing requirements of the IPA under the RBSA 2000 and compliance with the requirements of the Code, including the requirement for professional trustees and registered schemes administrators to ensure that the identity of the beneficial owner of the trust is established and verified is assessed through the programme of onsite inspection visits of the Authority.

6. Please provide details of disciplinary measures taken for AML/CFT breaches by financial institutions since the last evaluation.

Compliance with AML/CFT legislation is a key area that is focused on during supervisory inspections by both the FSC and the IPA. This section will briefly describe the escalation process where breaches are identified and will also set out the relevant statistics in relation to disciplinary measures taken since the last evaluation for FSC and IPA licenceholders.

FSC

As stated in the Financial Services Rule Book 2011 at Rule 8.14:

(1) A licenceholder must notify the Commission as soon as it becomes aware of a material breach by the licenceholder of any of the regulatory requirements.
(2) Where a licenceholder gives a notification under paragraph (1), it must also inform the Commission of the steps which it proposes to take to remedy the situation.
(3) A licenceholder must maintain a register of all breaches.

In addition to the above method to identify AML/CFT breaches, all supervisory visits include a review of the licenceholder's compliance with AML/CFT legislation, and also adherence to their own AML/CFT procedures. A full supervisory visit will consider all aspects of the Code. If AML/CFT breaches are identified there may be a series of AML/CFT focused visits to concentrate on this particular issue.

The findings from the visit are communicated in the written visit report. Any breaches identified, including those of an AML/CFT nature, will be highlighted in this report, will be graded to indicate their seriousness and will be deemed to be either material or non-material. In the case of all breaches, regardless of materiality, a breach letter is issued to the licenceholder and further regulatory action would be taken as necessary.

The majority of breaches identified are deemed to be material. Material breaches mainly refer to a breach of legislation (primary or secondary) and also could include a significant deviation from the AML/CFT Guidance issued by the Commission. A non-material breach usually refers to an administrative breach or a "best practice" point to be raised with the licenceholder. Only in exceptional circumstances will a breach be considered to be non-material. In these circumstances it will have to be signed off by the Director of Supervision (or in his absence his Deputy).

Once a breach has been identified, whether on a visit or notified to the FSC by the licenceholder the details of the breach will be set out in writing to the licenceholder (either on the visit report, or in a breach letter). This will also include details of the action plan that must be completed by the licenceholder to rectify the breach and the timescale over which this should take place. The breach will be noted against the licenceholder's supervisory history where the occurrence of breaches will be monitored by the relationship manager and further action taken where necessary.

The table below details the AML/CFT breaches by FSC licenceholders from 2008 to June 2013.

Banking, Investment Business and Services to Collective Investment Schemes

Year	Total AML/CFT breaches noted	Material breaches	Non-Material breaches
2008	1	1	0
2009	43	33	10
2010	34	19	15
2011	20	17	3
2012	15	12	3
2013 to June	4	3	1

Fiduciary services (and from 2012 money transmission services)

Year	Total AML/CFT breaches noted	Material breaches	Non-Material breaches
2008	5	5	0
2009	10	7	3
2010	20	16	4
2011	64	60	4
2012	37	33	4
2013 to June	21	21	0

Usually action taken to remedy any AML/CFT breaches is completed within the specified timescale of the visit report or breach letter. However, if the action is not completed to a satisfactory standard, or is not completed within the specified time scale, a "direction" may be issued to the licenceholder under section 14 of the Financial Services Act 2008 which will direct the licenceholder to take specified action. It should be noted that, if appropriate, the Commission may also take action against certain individuals of a licenceholder under sections 10 and 11 of the Financial Services Act 2008 if there are concerns regarding the conduct of the individuals which might impact on their fitness and propriety.

Progress made in relation to an action plan or direction may be reviewed with the licenceholder in writing, or if it is deemed necessary a further AML/CFT focus visit may take place to review progress made.

Some examples of directions that have been issued to licenceholders are included below:

- In 2008, following adverse visit findings with regard to client due diligence, a Direction was issued to a Fiduciary Services Provider requiring them to submit monthly updates on the scheduled client reviews by the 5th working day of each month.
- In 2009, following adverse visit findings the Commission issued Section 11 warning notices to the directors of a Fiduciary Services Licenceholder. The Commission also issued a direction, requiring the licenceholder to appoint an External compliance resource to review the licenceholder's Compliance and Corporate Governance. The appointment included reference to compliance with the requirements of the Criminal Justice (Money Laundering) Code 2008.
- In 2011, a Direction was issued to a Fiduciary who provided services to an exempt scheme. The Direction required appointment of a skilled person to review of the scheme and its functionaries in a number of areas including the adequacy of Customer Due Diligence held for the current investors in the Scheme against appropriate Anti Money Laundering/Combating the Financing of Terrorism legislation.

If a direction is not complied with the next step would be to refer the case to the FSC's Enforcement

Division for further action which could result in removal of the licence if necessary.

Where serious breaches of AML/CFT primary legislation (Proceeds of Crime Act 2008) or secondary legislation (AML/CFT Codes) are identified, consideration will be given by the Enforcement Division to referral of the licenceholder to the Attorney General's Chambers for possible criminal prosecution.

IPA

The Insurance and Pensions Authority has undertaken a series of onsite inspection visits, considering compliance with licenceholders' obligations under the AML/CFT legislative framework. Focus is undertaken on a risk based approach according to the assessment of exposure to abuse for AML/CFT.

In considering the life sector, this results in all on-site inspection visits to life assurance companies considering to some degree the processes and procedures in place to counter the risk of ML/TF. Whilst all visits to life companies result in a review of a sample of client files to assess the degree of compliance with the CDD requirements, including the timing of verification and the timeliness of any reporting, focus has increasingly been applied to understanding the level of involvement and oversight of the board of directors and senior management in the day to day application of AML/CFT procedures and controls, including the board's ability to understand the risk profile of the business from an AML/CFT perspective and to demonstrably consider the effectiveness of the controls applied and compliance with the obligations of the company under the legislative framework.

Reflecting the lower inherent risk of ML/FT in the general insurance sector, the number of onsite inspection visits which considered specific AML/CFT is lower than those compared to the life sector. A particular area of focus by the IPA since 2012 is the assessment of compliance by the pensions sector with its obligations under the AML/CFT Code 2013.

In 73% of visits with an AML/CFT consideration, conducted since the last IMF assessment, the IPA was satisfied with the level of compliance observed as part of the procedures undertaken as demonstrated with the table below.

Minor Issue	Life	General	Pension
Minor issues / no issues	82%	77%	67%
Required steps to be taken to enhance and improve upon procedural deficiencies or training	18%	23%	23%
Required independent review of business and risk assessments	0%	0%	3%
Directions issued	0%	0%	7%
	100%	100%	100%
Number of visits	17	13	30

In 22% of all visits undertaken by the IPA issues were noted whereby the Authority requested the company to undertake further additional work to enhance or improve systems of control and to address procedural deficiencies identified. These are subject to ongoing review and consideration as part of the onsite review process.

In respect of three individual inspections conducted since the last assessment, the issues identified as part of our onsite inspection were of such significance that further additional enforcement action was considered appropriate.

For one company, whilst CDD had been performed in all instances reviewed, it was not immediately

obvious to the IPA that a proper and appropriate consideration of AML/CFT risks had been undertaken as required by the Code, leading to further deficiencies and possible exposure to risk. As a result the company was required to engage the services of an external consultant to undertake a review of the processes and procedures in place, including the risk assessment and client acceptance procedures. It was then required to implement the changes necessary to ensure full compliance with the AML/CFT Code and to apply those procedures across the whole of the existing book and rectify any CDD deficiencies identified as a result. The company has since been the subject of two further visits to assess progress; remedial action is now considered complete.

With regard to two further companies, the overall governance arrangements of the companies concerned was found to be deficient, with the level of compliance with the legal obligations of the company falling short of the standard required of a regulated entity.

As a result directions were issued by the Supervisor requiring each company to:

- cease all marketing of the company and its products and to close the products to new business;
- bring about the appropriate changes to the board, management, staffing and resources, overall governance structures, risk management and internal control environment;
- review all client files to consider whether the company complied with all applicable legislation, including but not limited to, the Proceeds of Crime (Money Laundering) Code 2010, the Prevention of Terrorist Financing Code 2011 and where necessary take the appropriate remedial action.

The issues identified in these cases remain open and are subject to ongoing consideration and review.

2.5 Questions related to the Third Directive (2005/60/EC) and the Implementation Directive (2006/70/EC)[20]

Implementation / Application of the provisions in the Third Directive and the Implementation Directive	
Please indicate whether the Third Directive and the Implementation Directive have been fully implemented / or are fully applied and since when.	Due to the Isle of Man's limited legal relationship with the EU, unlike the Member States, the Island is not obliged to transpose these Directives into national law. The Proceeds of Crime Act 2008 came into force in sections, but was fully in force by 1st August 2009, the Proceeds of Crime (Money Laundering) Code 2010 came into force on 1st September 2010 and the Prevention of Terrorist Financing Code 2011 on 1st September 2011. The Proceeds of Crime (Money Laundering) Code 2010 and the Prevention of Terrorist Financing Code 2011 were subsequently replaced by the Money Laundering and Terrorist Financing Code 2013 (AML/CFT Code 2013) which came into force on 1st May 2013 and amended on 1 July 2013. The AML/CFT Code 2013 contains substantially the same provisions as the earlier codes but combines them in one piece of legislation. Specific provisions of the Third Directive are applied in Manx legislation as follows: **Chapter I** **Article 1** – Money Laundering and Terrorist Financing are criminalized by sections 139 to 141 and 198 of the Proceeds of Crime Act 2008 and sections 6 to 10 of the Anti-Terrorism and Crime Act 2003. **Articles 2-5** – Application of POCA 2008 and secondary AML/CFT legislation to various institutions, businesses and professions is contained within Schedule 4 of POCA and whilst the definitions contained within Article 3 can be found within various pieces of Manx legislation, they broadly correspond with those found in Article 3 of the directive. **Chapter II** **Article 6 -** Article 6 prohibits the use of anonymous accounts. This is prohibited in the Isle of Man by the AML/CFT Code 2013 at paragraph 26. This is also prohibited by Rule 6.6(2) of the Financial Services Rule Book 2011 which applies to all classes of FSC licenceholders. With regard to insurers Regulation 15 of the Insurance (Anti-Money Laundering) Regulations 2008 (IAMLR 2008) states that: '*Anonomous bonds or contracts in ficticious names are not permitted*'. Since insurers are contractually restricted from terminating a contract of insurance the regulations further provide for limited possibility that such contracts existed at the time the IAMLR 2008 regulations came into effect (1 September 2008) requiring that '*any such business relationship already in place must be treated as high risk and subjected to enhanced customer due diligence and ongoing monitoring'.* **Articles 7– 10 –** Provisions in relation to customer Due Diligence and ongoing monitoring of business relationships are dealt with by paragraph 6-16 of the AML/CFT Code 2013.

[20] **For relevant legal texts from the EU standards see Appendix II.**

	Articles 11-12 – Simplified customer due diligence - Provisions broadly equivalent to Article 11 and 12 are dealt with by paragraphs 7(5) and 9(4) [Acceptable applicants] of the AML/CFT Code 2013. the exclusions permitted by Article 11(5) (a-c) are also broadly consistent to those shown in paragraph 13 of the AML/CFT Code 2013. In respect of article 11(5)(d), there are no concessions permitted for simplified due diligence in respect of e-money providers. Anyone providing e-money services must apply the AML/CFT Code 2013. **Article 13 -** Enhanced Customer Due Diligence is dealt with by paragraph 11 of the AML/CFT Code 2013. The measures to be taken when dealing with PEPS is covered a paragraph 12 of the AML/CFT Code 2013. Correspondent banking relationships are dealt with in paragraph 14 of the Code. Shell banks are dealt with by paragraph 27 of the AML/CFT Code 2013. **Articles 14 - 19** – Performance by third parties is covered by paragraph 10 of the AML/CFT Code 2013which deals with introduced business. **Chapter III** **Article 20 -** This article requires institutions to pay special attention to any complex or unusually large transactions. This is covered at both paragraph 8 and paragraph 16 of the AML/CFT Code 2013. **Articles 21-27** – The Island's FIU is an integral part of the Financial Crime Unit which was established in 1999 in response to the Edwards Review on Financial Regulation in the Crown Dependencies. The FIU meets the criteria set out in article 21 of the Third Directive. The reporting obligations set out in the Third Directive are provided for by Part 3 of POCA 2008 (sections 142-156) and paragraph 21 of the AML/CFT Code 2013. **Articles 28-29** – The provisions in relation to the prohibition of disclosure are contained in paragraphs 145-148 of POCA 2008. **Chapter IV** **Articles 30-32** Paragraphs 17-20 of the AML/CFT Code 2013 contain equivalent provisions in respect of record-keeping to those in the Third Directive. Also, paragraph 15 of the AML/CFT Code 2013 provides information in relation to the application of the AML/CFT measures of the AML/CFT Code 2013 (including record keeping and CDD) to branches or subsidiaries. **Article 33 -** The FIU maintains comprehensive statistics as required by article 33. **Chapter V** **Article 34-35** – Paragraphs 5 and 22-25 of the AML/CFT Code 2013 meet the requirements of the Third Directive in respect of internal procedures, training and feedback.

	Article 36 - The requirement for currency exchange dealers, money transmission businesses and trust and corporate service providers to be licensed or registered can be found in section 3 and 4 of the Financial Services Act 2008 and Schedule 1 to the Regulated Activities Order 2011. The requirement for casinos to be licensed can be found in section 3 of the Casino Act 1986. The AML/CFT Code 2013 is applicable to all of these businesses as they are listed in Schedule 4 of POCA 2008. **Article 37** – AML/CFT monitoring is carried out by the relevant regulatory authority, namely the Financial Supervision Commission, Insurance and Pensions Authority and Gambling Supervision Commission under the provisions of the authority's enabling statute. In the case of each authority the relevant legislation includes the power to compel the production of any information required by the authority and conduct on site visits. All of the requirements of article 37 are met. The relevant enabling legislation is, for the FSC, the Financial Services Act 2008, for the IPA the Insurance Act 2008 and the Retirement Benefits Schemes Act 2000 and for the GSC, the Gambling Supervision Act 2010. **Article 38** – international cooperation in respect of the FSC is provided for by Schedule 5 of the Financial Services Act 2008, for the GSC at section 6 of the Gambling Supervision Act 2010 and for the IPA by Schedule 6 of the Insurance Act 2008 whilst international cooperation in respect of the FIU and other government agencies is provided for by Parts 6 and 7 (sections 210-216) of POCA 2008. **Article 39** – Criminal penalties are to be found in section 150 of POCA 2008 and paragraph 28 of the AML/CFT Code 2013 whilst civil and administrative sanctions are provided for in section 16 of the Financial Services Act 2008. Specific provisions of the **Implementing Directive** are applied in Manx legislation as follows: **Article 2** – Politically Exposed Persons are defined in paragraph 3 of the AML/CFT Code 2013 and are in accordance with the provisions of the Implementation Directive – see section on PEPs below for further details. **Article 3** – Simplified Customer Due Diligence In respect of Article 3 (1), the AML/CFT Code 2013 does not provide a specific concession for customers who are public authorities or public bodies. In respect of Article 3 (2), generally there is the Acceptable Applicant concession at paragraphs 7 (new business relationships) and 9 (one-off transactions) of the AML/CFT Code 2013 which allows that, where the applicant for business is an external regulated business which is regulated under the law and regulations of a country included in the list in the Schedule of the Code, or a nominee company of that external regulated business, verification of identity is not required (though all other aspects of CDD are still required).

	It should be noted that the acceptable applicant concession does not apply where the applicant for business poses a higher risk as assessed by the risk assessment as stated in paragraph 11 (1A) of the AML/CFT Code 2013. The detailed provisions listed at Article 3 (2) of the Implementing Directive are not specifically covered in this detail in the AML/CFT Code 2013. In so far as the AML/CFT Code 2013 covers them this is as follows: Article 3 (2)(a) – The concession at 7(5) and 9(4) of AML/CFT Code 2013 states that verification of identity is not required to be produced where the applicant for business is a "trusted person". The definition of "trusted person" includes: "a person who acts in the course of external regulated business and is regulated under the law and regulations of a country included in the list in the Schedule, or a nominee company of that external regulated business, unless the relevant person has reason to believe that the country does not apply, or insufficiently applies, the FATF Recommendations in respect of the business of that person;". An "external regulated business" is further defined as: ""**external regulated business**" means business outside the Island regulated or supervised for the prevention of money laundering and the financing of terrorism by an authority (whether a governmental or professional body and whether in the Island or in a country outside the Island) empowered (whether by law or by the rules of the body) to regulate or supervise such business;" Article 3 (2)(b) – The concession at 7(5) and 9(4) may only be used in accordance with paragraph 7(5)(a) which requires that: "the identity of the applicant for business is known to the relevant person;" Article 3 (2)(c), (d) and (e) – applicants for business that are external regulated businesses must be regulated or supervised for the prevention of money laundering and the financing of terrorism (as above). The AML/CFT Code 2013 does not provide further detail specifically covering that they must be subject to a licensing requirement for undertaking financial activities, onsite inspections or dissuasive sanctions or administrative measures. Article 3 (2) also states that subsidiaries of such businesses may only be included in so far as the obligations of Directive 2005/60/EC have been extended to them on their own account. The definition of trusted persons in so far as it concerns an external regulated business (as above) does not require that the nominee company of that external regulated business is in itself regulated. However, the parent must be regulated and supervised for AML/CFT purposes and as per the Financial Services (Exemptions) Regulations 2011 must be licensed to undertake that particular activity. The definition of "nominee company" is: "**nominee company**" means a wholly owned subsidiary that complies with paragraphs 2.7 or 3.1 of Schedule 1 to the Financial Services (Exemptions) Regulations 2011 or equivalent regulations in a jurisdiction listed in the Schedule

	to this Code;" Paragraphs 2.7 and 3.1 of Schedule 1 of the Financial Services (Exemptions) Regulations 2011 relate to nominee companies of Class 2 Investment Business Licenceholders and Class 3 Services to Collective Investment Schemes Licenceholders. In respect of Article 3(3) of the Implementing Directive and Article 11 (5) of the Third Money Laundering Directive, paragraphs 13(1) to (6) of the AML/CFT Code 2013 provides for broadly similar concessions as to those permitted by Article 11(5) (a) to (b). Paragraphs 13 (1) to (6) of the AML/CFT Code 2013 state: *"(1) Sub-paragraphs (2) to (6) apply to—* *(a) an insurer effecting or carrying out a contract of insurance; and* *(b) an insurance intermediary who, in the course of business carried on in or from the Island, acts as an insurance intermediary in respect of the effecting or carrying out of a contract of insurance.* *(2) An insurer or insurance intermediary, as the case may be, need not comply with paragraphs 6 to 12 if the contract of insurance referred to in sub-paragraph (1) is a contract where—* *(a) the annual premium is less than €1,000, or a single premium, or series of linked premiums, is less than €2,500; or* *(b) there is neither a surrender value nor a maturity value (for example, term insurance).* *(3) In respect of a contract of insurance satisfying sub-paragraph (2)(a) or (b) an insurer may, having paid due regard to the risk of money laundering or the financing of terrorism, consider it appropriate to comply with paragraphs 6 to 12 but to defer such compliance until a claim is made or the policy is cancelled.* *(4) If a claim is made on the contract of insurance referred to in subparagraph (1) that has neither a surrender value nor a maturity value (for example on the occurrence of an event), and the amount of the settlement is greater than €2,500 the insurer must satisfy itself as to the identity of the policyholder or claimant (if different to the policyholder).* *(5) An insurer or insurance intermediary, as the case may be, need not comply with sub-paragraph (4) if settlement of the claim is to—* *(a) a third party in payment for services provided (for example to a hospital where health treatment has been provided);* *(b) a supplier for services or goods; or* *(c) the policyholder(s) where invoices for services or goods have been provided to the insurer, and the insurer believes the services or goods to have been supplied.* *(6) If a contract of insurance referred to in sub-paragraph (1) is cancelled resulting in the repayment of premiums and the amount of the settlement is greater than €2,500, the insurer or insurance intermediary, as the case may be, must comply with paragraphs 6 to 12.*" Limited concessions apply by virtue of the AML/CFT Code 2013 at paragraphs

	13 (7) and (8) as follows: *"(7) In respect of a pension, superannuation or similar scheme that provides retirement benefits to employees, if contributions are made by way of deduction from wages and the scheme rules do not permit the assignment of a member's interest under the scheme, the relevant person –* *(a) may treat the employer, trustee or any other person who has control over the business relationship, including the administrator or the scheme manager, as the applicant for business; and* *(b) need not comply with paragraph 6(2)(c).* *(8) The relevant person need not comply with paragraph 6(2)(c) if the applicant for business is –* *(a) a collective investment scheme, as defined in section 1 of the Collective Investment Schemes Act 2008 or equivalent in a jurisdiction listed in the Schedule; and* *(b) if the manager or administrator of such a scheme is a regulated person or an external regulated business carrying out equivalent regulated activities in a jurisdiction listed in the Schedule."* [Paragraph 6(2)(c) states: "The relevant person must, in the case of any applicant for business – (a) determine whether the applicant is acting on behalf of another person and, if so, identify that other person, and take reasonable measures to verify his or her identity using relevant information or data obtained from a reliable source."] Paragraph 13(7) provides similar concessions to those applied in Article 11(5)(c) of the Third Directive. The limited concession applying as a result of 13(8) of the AML/CFT Code 2013 falls within the concession available under Article 11(1) of the Third Directive. With the exception of the exclusion of the Isle of Man Post Office from the requirements to undertake CDD in respect of Postal Orders issued or redeemed up to a value of GBP50 (paragraph 13 (9) of the AML/CFT Code 2013), no other exclusion is available under the AML/CFT Code 2013 which would be subject to the implementing measures as detailed in Article 3(3). Whilst it is considered that the concession provided in respect of Postal Orders does not fall within the criteria set within the implementing measures under Article 3(3) for other low risk products to which Article 11(5) can be applied, however, it remains the Isle of Man's view that due to the upper threshold limit applied by the AML/CFT Code 2013 for this product that the risk of ML or FT is low, indeed the relevant person may not apply an concession available under paragraph 13 unless the risk is assessed as low by virtue of paragraph 11(1A) of the AML/CFT Code 2013 which states: *"For the avoidance of doubt, if higher risk within the meaning of subparagraph 1(a) is assessed paragraphs 7(3), 7(5), 9(4), 10(5), 13(2), 13(5), 13(7), 13(8) and 13(9) do not apply."* **Article 4** – financial activity on an occasional or very limited basis **Position re. AML/CFT legislation**

	Schedule 4 of the Proceeds of Crime Act 2008 (POCA 2008) lists categories of business that are subject to the requirements of Money Laundering and Terrorist Financing Code 2013 (as amended) (AML/CFT Code 2013) and the relevant provisions of POCA 2008. In respect of deposit taking (which includes building societies and other societies accepting deposits registered under the Industrial and Building Societies Act 1892) (1(1)(s)), investment business (1(1)(q) and services to collective investment schemes (1(1)(dd)), Schedule 4 makes clear that any exclusions or exemptions which may be applicable for regulatory purposes are to be ignored where the AML/CFT Code 2013 or POCA 2008 are concerned. With respect to the money services activities listed in Schedule 4 at paragraphs 1(1)(x) (bureau de change), 1(1)(z) (any activity involving money transmission services or cheque encashment facilities), 1(1)(ee) (issuing and managing of means of payment) no reference is made to the regulatory legislation. Therefore the application of the AML/CFT Code 2013 and POCA 2008 to money services business is not restricted by any exemptions or exclusions within that regulatory legislation. In respect of deposit taking, investment business, services to collective investment schemes and money services activities the AML/CFT Code 2013 and POCA 2008 apply irrespective of any regulatory exemptions or exclusions. Therefore there is no broad removal of these requirements for financial activity on an occasional or very limited basis. The AML/CFT Code 2013 contains a concession at paragraph 9 which deals with one-off transactions. Where a one-off transaction falls within the definition of an exempted one-off transaction, the relevant person is not required to obtain verification of identity (paragraph 9(4)). However, the identity of the applicant for business must be known to the relevant person and the relevant person must know the nature and intended purpose of the relationship. Other customer due diligence requirements listed at paragraph 9(3) such as taking reasonable measures to establish the source of funds apply. An exempted one-off transaction is defined as: ““**exempted one-off transaction**” means a one-off transaction (whether a single transaction or a series of linked transactions) where the amount of the transaction or, as the case may be, the aggregate in the case of a series of linked transactions, is less in value than — (a) €3,000 in the case of a transaction or series of linked transactions entered into in the course of business referred to in paragraph 1(l) (casinos) or 1(n) (bookmakers) of Schedule 4 to the Proceeds of Crime Act 2008; or (b) €1,000 in the case of a transaction entered into in the course of business referred to in paragraph 1(x) (*bureaux de change)* or 1(z) (money transmission services and cheque encashment) of Schedule 4 to the Proceeds of Crime Act 2008; or (c) €15,000 in any other case;” Under paragraph 9(5) this concession does not apply where there is a suspicious transaction trigger event (as defined) or where there are transactions that are complex or both large and unusual that have no apparent economic or visible lawful purpose. In these circumstances, the enhanced customer due diligence

	requirements of paragraph 11 apply and the relevant person must consider whether an internal disclosure should be made. With respect to the Anti-Terrorism and Crime Act 2003 (ATCA 2003), Schedule 1 lists those businesses in the regulated sector for whom the requirements of ATCA 2003 apply. This includes at 1(f) any regulated activity under the Financial Services Act 2008. Any activities which are covered by an exemption under the Financial Services (Exemptions) Regulations 2011 are still regulated activities and would therefore still be covered by the relevant provisions of the ATCA 2003. However, any activity for which there is an exclusion under the Regulated Activities Order 2011 is not treated as a regulated activity and would not therefore be covered by the requirements within the ATCA 2003 specific to business in the regulated sector. **Supervision** With respect to the supervision of deposit taking, investment business, services to collective investment schemes and money transmission services for AML/CFT purposes, this is governed by the Financial Services Act 2008, the Regulated Activities Order 2011 and the Financial Services (Exemptions) Regulations 2011. Certain activities are excluded from being regulated activities in the Regulated Activities Order 2011 on the basis that they are incidental to or form part of another professional activity undertaken by that person. The FSC's supervisory powers do not apply to excluded activities. In particular see exclusion 2(n) (investment business) and 8(b) and (c) (money transmission services) of the Regulated Activities Order 2011. Though the relevant conditions for falling within these exclusions do not follow all of the criteria laid out in Article 4 of the Implementing Directive, the conditions require that the activity: "(a) is carried on by a specified person, (b) is wholly incidental to, or forms part of, advice given or another professional activity undertaken by that person in his professional capacity; and (c) is carried on at the time when, or within a reasonable period after, the advice is given or the professional activity is undertaken, Unless that person holds himself out as being available to carry on that activity in addition to his professional services." A further exclusion relating to the undertaking of financial activity on a limited basis is in the area of services to collective investment schemes. As stated in the Regulated Activities Order 2011 Class 3 (11) is a regulated activity which covers "Acting as a manager, administrator, trustee, fiduciary custodian or custodian to a collective investment scheme which is an exempt scheme or exempt-type scheme." However, where a person provides one of the above services to no more than one exempt scheme or exempt-type scheme, and no person in the same economic group as that person is acting in the same capacity in relation to an exempt scheme or exempt-type scheme, this is excluded from being regulated. This exclusion is intended to be for private arrangements that utilise an exempt scheme, please see the Collective Investment Schemes Act 2008 for the definition of an exempt scheme. Again, although this activity would be excluded from licensing the AML/CFT Code 2013 would still apply.

Beneficial Owner	
Please indicate whether your legal definition of beneficial owner corresponds to the definition of beneficial owner in the 3rd Directive[21] (please also provide the legal text with your reply)	The legal definition of "beneficial owner" is contained within paragraph 3 of the Money Laundering and Terrorist Financing Code 2013 which states: ***"'beneficial owner'** means the natural person who ultimately owns or controls the applicant for business or on whose behalf a transaction or activity is being conducted; and includes (but is not restricted to)-* *(a) In the case of a legal person other than a company whose securities are listed on a recognised stock exchange, a natural person who ultimately owns or controls (whether through direct or indirect ownership or control, including through bearer share holdings) 25% or more of the shares or voting rights in the legal person; or* *(b) In the case of any legal person, a natural person who otherwise exercises control over the management of the legal person;* *(c) In the case of a legal arrangement, the trustees or other person controlling the applicant."* Thus the legal definition within the Code of beneficial owner satisfies Article 3(6) (a) of the 3rd Directive. In considering Article 3(6)(b), in applying the above definition in conjunction with paragraphs 6(2) to 6(4) of the AML/CFT Code 2013, relevant persons are required to: *(2) The relevant person must, in the case of any applicant for business —* *(a) identify who is the beneficial owner of the applicant;* *(b) take reasonable measures to verify the identity of those persons, using relevant information or data obtained from a reliable source; and* *(c) determine whether the applicant is acting on behalf of another person and, if so, identify that other person, and take reasonable measures to verify his or her identity using relevant information or data obtained from a reliable source.* *(3) Without limiting sub-paragraph (2), the relevant person must, in the case of an applicant for business that is a legal person or legal arrangement —* *(a) verify that any person purporting to act on behalf of the applicant is authorised to do so;* *(b) identify that person and take reasonable measures to verify the identity of that person using reliable and independent source documents;* *(c) in the case of a legal arrangement, identify —* *(i) any known beneficiaries; and* *(ii) the settlor or other person by whom the legal arrangement is made;* *(d) verify the legal status of the applicant using relevant information or data obtained from a reliable source;* *(e) obtain information concerning the names and addresses of the applicant and any natural persons having power to direct its activities;* *(f) obtain information concerning the person by whom, and the method by which, binding obligations may be imposed on the applicant; and* *(g) obtain information to understand the ownership and control structure of*

[21] Please see Article 3(6) of the 3rd Directive reproduced in Appendix II.

	the applicant. *(4) Without limiting sub-paragraphs (2) and (3), the relevant person must not, in the case of an applicant for business that is a legal person or legal arrangement, make any payment or loan to a beneficiary of the arrangement unless it has —* *(a) identified the beneficiary of the payment or loan; and* *(b) verified the identity of the beneficiary using relevant information and data obtained from a reliable source.* Therefore, the AML/CFT Code 2013 requires that in the case of legal arrangements that the identity of all known beneficiaries, irrespective of the degree of participation in the assets of the trust, are established and verified before any payment or loan is made to them.

Risk-Based Approach	
Please indicate the extent to which financial institutions have been permitted to use a risk-based approach to discharging certain of their AML/CFT obligations.	Financial institutions have been permitted and indeed are required to use a risk-based approach when discharging certain of their AML/CFT obligations. The relevant provisions are contained within paragraph 4 of the Money Laundering and Terrorist Financing Code 2013 as follows: **4 Risk assessment** (1) For the purpose of determining the measures to be taken when carrying out customer due diligence, a relevant person must carry out an assessment (a "risk assessment") that estimates the risk of money laundering and the financing of terrorism on the part of the relevant person's customers, having regard to all relevant risk factors, including— (a) the nature, scale and complexity of its activities; (b) the products and services provided; (c) the persons to whom, and the manner in which the products and services are provided; and (d) reliance on third parties for elements of the customer due diligence process. (2) The assessment must be — (a) undertaken as soon as reasonably practicable after the relevant person commences business; (b) regularly reviewed and, if appropriate, amended so as to keep it up to date; and (c) documented in order to be able to demonstrate its basis. (3) When carrying out customer due diligence, whether in relation to an applicant for business, an existing business relationship or a one-off transaction, a relevant person must do so — (a) on the basis of materiality and risk; (b) in accordance with its current risk assessment; and (c) having regard to whether the applicant for business, an existing business relationship or a one-off transaction poses a higher risk. In addition, the FSC's AML/CFT Handbook is produced and regularly updated

	by the Isle of Man Financial Supervision Commission. The purpose of the Handbook is to: (a) assist licenceholders in understanding their obligations and, in so doing, to enable the Island to maintain and further its high standards; (b) summarise and explain the requirements of the primary and secondary AML/CFT legislation in the Isle of Man; (c) outline the regulatory powers which the Commission may exercise and to set out the Commission's requirements of licenceholders; (d) assist licenceholders to comply with the requirements of the Proceeds of Crime Act 2008, the Anti-Terrorism and Crime Act 2003, the Terrorism (Finance) Act 2009 and the Code by specifying best practice; (e) set the minimum criteria to be followed by all regulated licenceholders in the Isle of Man where there is knowledge, suspicion or reasonable grounds to suspect money laundering and/or terrorist financing; (f) promote the use of a proportionate, risk-based approach to CDD measures; (g) provide a defining minimum basis which individual licenceholders can utilise in order to tailor their own policies, procedures and controls for the prevention and detection of money laundering and terrorist financing; (h) ensure compliance with international standards by the Isle of Man; and (i) emphasise the particular money laundering and terrorist financing risks of some of the financial services and products offered by licenceholders in the Isle of Man. The Risk Based Approach is dealt with by section 1.6 of the Handbook which states: **1.6. RISK BASED APPROACH** The Commission believes that AML/CFT arrangements must allow a business to adopt a risk-based approach to money laundering and terrorist financing prevention and detection. Provision for a risk based approach towards AML/CFT is made in the Code. A risk based approach: (a) recognises that the money laundering and terrorist financing threat to a licenceholder varies across customers, jurisdictions, products and delivery channels; (b) allows a licenceholder to differentiate between customers in a way that matches risk in a particular business; (c) allows a licenceholder to apply its own approach to procedures, systems and controls and arrangements in particular circumstances; and (d) helps to produce a more cost effective system. Systems and controls will not detect and prevent all money laundering or terrorist financing. A risk-based approach will, however, serve to balance the cost burden placed on individual licenceholders and on their customers with a realistic assessment of the threat of a business being used in connection with money laundering or terrorist financing. It focuses effort where it is needed and has most impact. Licenceholders should avoid rigid internal systems of control as these can encourage the development of a 'tick box' mentality that can be counter-productive. Internal systems should require employees to properly consider the risks posed by individual customers and relationships and to react appropriately.

	Full details of the factors involved in taking a risk based approach can be found in section 2.4 of the AML/CFT Handbook. In so far as the insurance industry is concerned, the sector-specific requirements (in addition to the Code) are contained in the: • Insurance (Anti-Money Laundering) Regulations 2008 (IAMLR 2008) • Guidance Notes on Anti-Money Laundering and Preventing the Financing of Terrorism – for Insurers (long term business) (IGN 2008) These regulations (applicable to all insurers) and binding guidance notes (applicable to insurers writing long term business) introduce a limited degree of flexibility in so far as risk-based assessment is concerned. Common standards and requirements are set out and these measures are required to be applied as standard. An insurance business is permitted to deviate, in limited circumstances and subject to defined criteria, from these standard requirements where the business' risk assessment identifies the circumstances as lower risk. All risk assessments must be fully documented and recorded and the decision to apply reduced customer due diligence must be approved by a senior member of the business' staff as required by section 1.2 of the Guidance Notes. This will allow the IPA to review such records when conducting its on-site visits. Any decision to apply a deviation against a group of policies must be formally approved, and minuted, at a board meeting of the directors. Section 1.2 of the Guidance Notes state: **1.2 Deviation from paragraph 4 of these guidance notes** It is permitted to deviate from the requirements of paragraph 4 of these Guidance Notes in two ways: (a) on a case by case basis, where such deviation is justified as set out below, and with each relevant file containing appropriate documentation, including the sign off by a senior member of staff; or (b) as a genre of business where deviation from these Guidance Notes has been considered taking into account the risk profile of the applications involved. Where a proposal is made for an insurer to accept an alternative as standard for an entire genre of business, or where alternative procedures are considered suitable, these must be comprehensively documented, and confirmation of the risk consideration and acceptability must be formally provided by the board of directors of the insurer. Executive meetings at which executive directors are present can be used as an interim measure for expediency but the matter must still be presented at the next board meeting for formal approval and minuting. Deviation from these Guidance Notes may be considered appropriate when the insurer is satisfied as to the customer due diligence based on the information obtained (which may be less than, or different from, the minimum set out in these Guidance Notes) and has taken a view on the risk of the application (or policyholder) and other connected parties. Variation may also be considered acceptable when the documents or certifications accepted are not those given

	within the appropriate paragraphs, but are considered to be of equivalent standing, providing that appropriate sign off is obtained. Paragraph 4 of these Guidance Notes sets out the normal or standard minimum level of customer due diligence which the insurer is required to undertake. If the insurer considers that less than these levels is acceptable under the conditions of this paragraph, it will be considered simplified, lesser or reduced due diligence for the purposes of the Regulations and these Guidance Notes. When the insurer decides that the amount of evidence required to verify the identity of an applicant to its satisfaction, prior to accepting the business, is less than the standard set out in these Guidance Notes, consideration must be given to implementing enhanced customer due diligence when the monies are to be paid out into an account other than one in the name of the original applicant and particularly when the proceeds are to be paid to a third party. **The ability to vary the number and type of documents received does not alter the requirement to identify to the satisfaction of the insurer the beneficial owner(s) of any application, or remove the requirements for the insurer to be satisfied in respect of the source of funds and source of wealth. The insurer must also be in compliance with the requirements under the Regulations and Statutory Code which may not be varied.** All business is subject to ongoing due diligence and a customer's risk profile may change in which case due attention must be given to current circumstances and appropriate action taken. Section 2.5 of the IPA's Guidance Notes sets out the general verification requirements with sections 1.2 and 2.6 introducing the ability to apply a risk based approach. As set out in section 2.6, the general rule is that all customers should be subject to the recommended minimum standards. However, structured and considered deviation on a risk assessed basis is permitted in accordance with defined requirements and responsibilities and this must include formal consideration at board level in respect of any deviation applied to a class of business, or senior management consideration on an otherwise case by case basis. 2.6 of the Guidance Notes states: **Risk assessment** The [IDENTIFICATION] requirements set out in paragraph 4 must be considered as the recommended minimum standards. However, an insurer may adopt a risk based approach when assessing the documents and/or information required, and may, subject to regulation 13 of the Regulations and these Guidance Notes, require additional or less evidence. The assessment of risk by an insurer is also appropriate to situations where a list of persons are able to act on behalf of a company (or other entity), when, taking a risk based approach, the insurer must also consider whether it would be appropriate to identify some or all of the signatories. The risk assessment referred to throughout these Guidance Notes is primarily the risk of the policy being used to launder money or to finance terrorism, although this must not reduce the consideration given by an insurer to its normal risk assessment of any policy.

	The factors which may be taken into account when assessing the risk of an application or policy will include, amongst others: (a) the size of the investment; (b) the applicant and any other party(ies) involved, and their status, including whether there are considerations in respect of politically exposed persons; (c) the location of the party, whether this is their normal residence, temporary residence, place of incorporation or branch location etc; (d) the information/documentation/verification obtained; (e) the introducer; (f) the product applied for; (g) any previous relationship in respect of the applicant or other parties to the application; (h) time scale, especially in relation to early encashment (whether for the current application or previous investments); (i) the complexity of the structure(s) involved; and (j) the involvement of additional parties to the application. While these Guidance Notes utilise a split between recognised jurisdictions and non-recognised jurisdictions, the insurer must consider the risk profile of each location, regardless of whether the jurisdiction involved appears on the recognised jurisdiction list contained within the Statutory Code or not. The starting position must be that all applicants must be subject to the standard range of customer due diligence measures, including the requirement to identify the beneficial owner. Nevertheless there are circumstances where the risk of money laundering or terrorist financing is lower, where information on the identity of the applicant or customer and the beneficial owner of a customer is publicly available, or where adequate checks and controls exist elsewhere in national systems. In such circumstances it could be considered reasonable for an insurer to apply simplified or reduced customer due diligence measures when identifying and verifying the identity of the applicant. Reduced or simplified customer due diligence must not be applied where the insurer has reason to suspect money laundering or terrorist financing activity. In respect of businesses authorised by the IPA, IPA Regulation 18(1) requires that an insurance business must remain alert to, and conscious of, developments throughout the life of a policy and they may at any time decide that additional information is required. Trigger event processing is described in section 5.1 of the IPA's Guidance Notes and requires that business is reviewed on the happening of a trigger event with a view to rectifying any deficiencies that exist (if any). This requirement is further set out in sections 5.2 and 5.4. Section 1.4 of the IPA's Guidance Notes requires that any policy subjected to enhanced CDD is flagged and subjected to specific and targeted ongoing due diligence and monitoring. The IPA's Guidance Notes are binding guidance issued under section 51 of the Insurance Act 2008. Under section 51(3) of that Act whilst a failure of the part of any person to observe any provision of Guidance Notes shall not of itself render that person liable to civil or criminal proceedings, under section 51(2) the Supervisor may take such supervisory action as the Supervisor believes to be

	appropriate and proportionate in the event of a failure on the part of an insurer, insurance manager, insurance intermediary or any other person involved in the management or administration of the licenceholder to observe any provision of Guidance Notes.

Politically Exposed Persons	
Please indicate whether criteria for identifying PEPs in accordance with the provisions in the Third Directive and the Implementation Directive[22] are provided for in your domestic legislation (please also provide the legal text with your reply).	The term Politically Exposed Person ("PEP") is defined in paragraph 3 of the Money Laundering and Terrorist Financing Code 2013 as follows: *"**politically exposed person**" means any of the following resident in a country outside the Island —* *(a) a natural person who is or has been entrusted with prominent public functions, including —* *(i) a head of state, head of government, minister or deputy or assistant minister;* *(ii) a senior government official;* *(iii) a member of parliament;* *(iv) a senior politician;* *(v) an important political party official;* *(vi) a senior judicial official;* *(vii) a member of a court of auditors or the board of a central bank;* *(viii) an ambassador, chargé d'affaires or other high-ranking officer in a diplomatic service;* *(ix) a high-ranking officer in an armed force;* *(x) a senior member of an administrative, management or supervisory body of a State-owned enterprise;* *(xi) a senior official of an international entity or organisation; and* *(xii) an honorary consul;* *(b) any of the following family members of a person mentioned in sub-paragraph (a) —* *(i) a spouse;* *(ii) a partner considered by national law as equivalent to a spouse;* *(iii) a child or the spouse or partner of a child;* *(iv) a brother or sister (including a half-brother or half-sister);* *(v) a parent;* *(vi) a parent-in-law;* *(vii) a grandparent; and* *(viii) a grandchild;* *(c) any close associate of a person mentioned in sub-paragraph (a), including —* *AML/CFT Handbook Appendix A(a)* *Isle of Man Financial Supervision Commission May 2013* *(i) any natural person known to have joint beneficial ownership of a legal entity or legal arrangement, or any other close business relations, with such a person;* *(ii) any natural person who has sole beneficial ownership of a legal entity or legal arrangement known to have been set up for the benefit of such a person;* *(iii) any natural person known to be beneficiary of a legal arrangement of which such a person is a beneficial owner or beneficiary;* *(iv) any natural person known to be in a position to conduct substantial financial transactions on behalf of such a person;*

[22] Please see Article 3(8) of the 3rd Directive and Article 2 of Commission Directive 2006/70/EC reproduced in Appendix II.

	The criteria for identifying PEPs in our domestic legislation is therefore in accordance with the provisions of the Third Directive and the Implementation Directive.

"Tipping off"	
Please indicate whether the prohibition is limited to the transaction report or also covers ongoing ML or TF investigations.	Articles 28 and 29 of the Third Directive provide for the prohibition of disclosure. This area is dealt with in respect of money laundering by Part 3 and specifically section 145 of the Proceeds of Crime Act 2008. Section 145 provides: ***145 Tipping off: regulated sector*** *(1) A person commits an offence if —* *(a) the person discloses any matter within subsection (2);* *(b) the disclosure is likely to prejudice any investigation that might be conducted following the disclosure referred to in that subsection; and* *(c) the information on which the disclosure is based came to the person in the course of a business in the regulated sector.* *(2) The matters are that the person or another person has made a disclosure under this Part —* *(a) to a constable or customs officer serving (in either case) with the Financial Crime Unit of the Isle of Man Constabulary; or* *(b) to a nominated officer,* *of information that came to that person in the course of a business in the regulated sector.* *(3) A person commits an offence if —* *(a) the person discloses that an investigation into allegations that an offence under this Part has been committed, is being contemplated or is being carried out;* *(b) the disclosure is likely to prejudice that investigation; and* *(c) the information on which the disclosure is based came to the person in the course of a business in the regulated sector.* *(4) A person guilty of an offence under this section is liable —* *(a) on summary conviction, to custody for a term not exceeding 3 months, or to a fine not exceeding £5,000, or to both;* *(b) on conviction on information, to custody for a term not exceeding 2 years, or to a fine, or to both.* *(5) This section is subject to —* *(a) section 146 (disclosures within an undertaking or group);* *(b) section 147 (other permitted disclosures between institutions); and* *(c) section 148 (other permitted disclosures etc).* It can therefore be seen from S145(3) that the prohibition of disclosure is not limited to the transaction report but also covers ongoing ML investigations. In respect of Terrorist Financing, this area is dealt with by section 27 of the Anti-Terrorism and Crime Act 2003 which provides:

	27 Disclosure of information to prejudice terrorist investigations *(1) Subsection (2) applies where a person knows or has reasonable cause to suspect that a constable is conducting or proposes to conduct a terrorist investigation.* *(2) The person commits an offence if he —* *(a) discloses to another anything which is likely to prejudice the investigation, or* *(b) interferes with material which is likely to be relevant to the investigation.* *(3) Subsection (4) applies where a person knows or has reasonable cause to suspect that a disclosure has been or will be made under any of sections 11 to 13 or 26.* *(4) The person commits an offence if he* *(a) discloses to another anything which is likely to prejudice an investigation resulting from the disclosure under that section, or* *(b) interferes with material which is likely to be relevant to an investigation resulting from the disclosure under that section.* *(5) It is a defence for a person charged with an offence under subsection (2) or (4) to prove —* *(a) that he did not know and had no reasonable cause to suspect that the disclosure or interference was likely to affect a terrorist investigation, or* *(b) that he had a reasonable excuse for the disclosure or interference.* *(6) Subsections (2) and (4) do not apply to a disclosure which is made by a professional legal adviser —* *(a) to his client or to his client's representative in connection with the provision of legal advice by the adviser to the client and not with a view to furthering a criminal purpose, or* *(b) to any person for the purpose of actual or contemplated legal proceedings and not with a view to furthering a criminal purpose.* *(7) A person guilty of an offence under this section shall be liable —* *(a) on conviction on information, to custody for a term not exceeding 5 years, to a fine or to both, or* *(b) on summary conviction, to custody for a term not exceeding 12 months, to a fine not exceeding £5,000 or to both.* *(8) For the purposes of this section —* *(a) a reference to conducting a terrorist investigation includes a reference to taking part in the conduct of, or assisting, a terrorist investigation, and* *(b) a person interferes with material if he falsifies it, conceals it, destroys it or disposes of it, or if he causes or permits another to do any of those things.* It can therefore be seen from S27 that the prohibition of disclosure is not limited to the transaction report but also covers ongoing TF investigations.
With respect to the prohibition of "tipping off" please indicate whether there are circumstances where the prohibition is lifted and, if so,	In the case of money laundering, the prohibition of disclosure is lifted in circumstances provided for by sections 146, 147 and 148 which provide: ***146 Disclosures within an undertaking or group, etc.*** *[P2002/29/333B]* *(1) An employee, officer or partner of an undertaking does not commit an offence under section 145 if the disclosure is to an employee, officer or partner of the same undertaking.* *(2) A person does not commit an offence under section 145 in respect of a*

the details of such circumstances.	*disclosure by a credit institution or a financial institution if —* *(a) the disclosure is to a credit institution or a financial institution;* *(b) the institution to whom the disclosure is made is situated in a country or territory prescribed by the Department of Home Affairs in —* *(i) an order; or* *(ii) a code made under section 157; and* *(c) both the institution making the disclosure and the institution to whom it is made belong to the same group.* *(3) In subsection (2) 'group' is to be construed in accordance with any order made by the Department of Home Affairs under subsection (5).* *(4) A professional legal adviser or a relevant professional adviser does not commit an offence under section 145 if —* *(a) the disclosure is to professional legal adviser or a relevant professional adviser;* *(b) both the person making the disclosure and the person to whom it is made carry on business in a country or territory prescribed by the Department of Home Affairs in —* *(i) an order; or* *(ii) a code made under section 157; and* *(c) those persons perform their professional activities within different undertakings that share common ownership, management or control.* *(5) The Department of Home Affairs may by order prescribe what is a 'group' for the purposes of subsection (2) and this may be by reference to a prescription made by a body specified in the order and may be by reference to a prescription made by that body from time to time (that is, after as well as before the making of the order).* ***147 Other permitted disclosures between institutions, etc.*** *[P2002/29/333C]* *(1) This section applies to a disclosure —* *(a) by a credit institution to another credit institution;* *(b) by a financial institution to another financial institution;* *(c) by a professional legal adviser to another professional legal adviser; or* *(d) by a relevant professional adviser of a particular kind to another relevant professional adviser of the same kind.* *(2) A person does not commit an offence under section 145 in respect of a disclosure to which this section applies if —* *(a) the disclosure relates to —* *(i) a client or former client of the institution or adviser making the disclosure and the institution or adviser to whom it is made;* *(ii) a transaction involving them both; or* *(iii) the provision of a service involving them both;* *(b) the disclosure is for the purpose only of preventing an offence under this Part of this Act;* *(c) the institution or adviser to whom the disclosure is made is situated in a country or territory prescribed by the Department of Home Affairs in —* *(i) an order; or* *(ii) a code made under section 157; and* *(d) the institution or adviser making the disclosure and the institution or adviser to whom it is made are subject to equivalent duties of professional confidentiality and the protection of personal data (within the meaning of section 1 of the Data Protection Act 2002).* ***148 Other permitted disclosures, etc.***

	(1) A person does not commit an offence under section 145 if the disclosure is — *(a) to the authority that is the supervisory authority for that person; or* *(b) for the purpose of —* *(i) the detection, investigation or prosecution of a criminal offence (whether in the Island or elsewhere);* *(ii) an investigation under this Act; or* *(iii) the enforcement of any order of a court under this Act.* *(2) A professional legal adviser or a relevant professional adviser does not commit an offence under section 145 if the disclosure —* *(a) is to the adviser's client; and* *(b) is made for the purpose of dissuading the client from engaging in conduct amounting to an offence.* *(3) A person does not commit an offence under section 145(1) if the person does not know or suspect that the disclosure is likely to have the effect mentioned in section 145(1)(b).* *(4) A person does not commit an offence under section 145(3) if the person does not know or suspect that the disclosure is likely to have the effect mentioned in section 145(3)(b).* In the case of terrorist financing, the prohibition of disclosure is lifted in circumstances provided for by section 15 of ATCA 2003 which provides: ***15 Protected disclosures*** *(1) A disclosure which satisfies the following three conditions is not to be taken to breach any restriction on the disclosure of information (however imposed).* *(2) The first condition is that the information or other matter disclosed came to the person making the disclosure (the discloser) in the course of a business in the regulated sector.* *(3) The second condition is that the information or other matter —* *(a) causes the discloser to know or suspect, or* *(b) gives him reasonable grounds for knowing or suspecting,* *that another person has committed an offence under any of sections 7 to 10.* *(4) The third condition is that the disclosure is made to a constable or a nominated officer as soon as is practicable after the information or other matter comes to the discloser.* *(5) A disclosure to a nominated officer is a disclosure which -* *(a) is made to a person nominated by the discloser's employer to receive disclosures under this section, and* *(b) is made in the course of the discloser's employment and in accordance with the procedure established by the employer for the purpose.* *(6) The reference to a business in the regulated sector must be construed in accordance with Schedule 1.* *(7) The reference to a constable includes a reference to a person authorised for the purposes of this section by the Attorney General.*

"Corporate liability"	
Please indicate whether corporate liability can be applied where an infringement is committed for the benefit of that legal person by a person who occupies a leading position within that legal person.	The money laundering provisions of the Proceeds of Crime Act 2008 and Anti-Terrorism and Crime Act 2003 (ATCA) and the terrorist financing provisions of ATCA apply to any "person" without differentiating between natural and legal persons. The Interpretation Act 1976 defines "person" to include any person, natural or legal – see below: "**person**" includes any body of persons, corporate or unincorporated. Paragraph 28 of the Money Laundering and Terrorist Financing Code 2013 deals with offences resulting from contravention of the Code and specifically provides at paragraph 28(4): *(4) If an offence under this paragraph is committed by a body corporate and it is proved that the offence —* *(a) was committed with the consent or connivance of, or* *(b) was attributable to neglect on the part of, an officer of the body.* *the officer, as well as the body, is guilty of the offence and liable to the penalty provided for it.* Paragraph 28(6) defines "officer" as meaning: *(6) In this paragraph "officer" includes —* *(a) a director, manager or secretary;* *(b) a person purporting to act as a director, manager or secretary;* *(c) a member, if the affairs of the body are managed by its members.* Corporate liability can therefore be applied where an infringement is committed for the benefit of a legal person by a person who occupies a leading position within that legal person.
Can corporate liability be applied where the infringement is committed for the benefit of that legal person as a result of lack of supervision or control by persons who occupy a leading position within that legal person.	As can be seen above, paragraph 28(4)(c) of the Money Laundering and Terrorist Financing Code 2013 provides that an offence can be committed by a legal person where the offence was attributable to neglect on the part of an officer of the legal person. This would include situations where the offence was attributable to lack of supervision or control by officers of the legal person.

DNFBPs	
Please specify whether the obligations apply to all natural and legal persons	Schedule 4 of the Proceeds of Crime Act 2008 (as amended by the Proceeds of Crime (Business in the Regulated Sector) Order 2013 includes at paragraph 1(1)(bb) *The business of dealing in goods of any description (including dealing as an*

trading in all goods where payments are made in cash in an amount of € 15 000 or over.	*auctioneer)) wherever a transaction involves accepting a total cash payment of euro 15,000 or more.* Such business is therefore included in the definition of business in the regulated sector and is caught by the provisions of the Money Laundering and Terrorist Financing Code 2013. All obligations found within the 2013 Code therefore apply. The Designated Businesses (Registration and Oversight) Bill 2013 proposes to amend the Supply of Goods and Services Act 1996 to make it illegal to accept payments of cash for the supply of goods and services where the amount is €15,000 or more.

2.6 Statistics

2.6.1 Money laundering and financing of terrorism cases

2008													
	Investigations		Prosecutions		Convictions (final)		Proceeds frozen		Proceeds Seized				Proceeds Confiscated	
	Cases	Persons	Cases	Persons	Cases	Persons	Cases	Amount	Cases	Amount GBP	Amount Euro	Amount $	Cases	Amount GBP
ML	7	15	30		22	9	0	NIL					14	24,945.99
FT														

2009														
	Investigations		Prosecutions		Convictions (final)		Proceeds frozen		Proceeds Seized				Proceeds Confiscated	
	Cases	Persons	Cases	Persons	Cases	Persons	Cases	Amount	Cases	Amount GBP	Amount Euro	Amount $	Cases	Amount GBP
ML	5	9	6		2	2	0	NIL	2	53,266.76	620,971.93	NIL	14	11,515.57
FT														

2010														
	Investigations		Prosecutions		Convictions (final)		Proceeds frozen		Proceeds Seized				Proceeds Confiscated	
	Cases	Persons	Cases	Persons	Cases	Persons	Cases	Amount	Cases	Amount GBP	Amount Euro	Amount $	Cases	Amount GBP
ML	9	33	36		25	15	0	NIL	1	NIL	88,980.00	NIL	22	844,036.55
FT														

2011														
	Investigations		Prosecutions		Convictions (final)		Proceeds frozen		Proceeds Seized				Proceeds Confiscated	
	Cases	Persons	Cases	Persons	Cases	Persons	Cases	Amount	Cases	Amount GBP	Amount Euro	Amount $	Cases	Amount GBP
ML	12	39	104		45	24	0	NIL	1	90,000.00			23	28,981.82
FT														

2012														
	Investigations		Prosecutions		Convictions (final)		Proceeds frozen		Proceeds Seized				Proceeds Confiscated	
	Cases	Persons	Cases	Persons	Cases	Persons	Cases	Amount	Cases	Amount GBP	Amount Euro	Amount $	Cases	Amount GBP
ML	18	45	61		37	18	0	NIL	4	950,000.00	5,000,000.00	1,340,505.00	22	40,208.80
FT														

January to April 2013														
	Investigations		Prosecutions		Convictions (final)		Proceeds frozen		Proceeds Seized				Proceeds Confiscated	
	Cases	Persons	Cases	Persons	Cases	Persons	Cases	Amount	Cases	Amount GBP	Amount Euro	Amount $	Cases	Amount GBP
ML	3	3	3		2	2	0	NIL	1	139,000.00			7	2,827.55
FT														

2.6.2 STR/CTR

2008															
Statistical Information on reports received by the FCU								**Judicial proceedings**							
Monitoring entities	**Reports about transactions above threshold**	**Reports about suspicious transactions**		**Cases opened by FCU**		**Notifications to Law Enforcement/ Prosecutions**		**Indictments**				**Convictions**			
								ML		**FT**		**ML**		**FT**	
		ML Drugs	**FT**	**ML**	**FT**	**ML**	**FT**	**Cases**	**Persons**	**Cases**	**Persons**	**Cases**	**Persons**	**Cases**	**Persons**
Accountant	9														
Banks/Building Soc	524	6	2												
TCSP's	135														
Financial Advisor	3														
Investment/Fund Manager	20		2												
Lawyer	16	1													
Life Assurance/ Insurance Company	185		2												
Money Service	13		1												
Online Gaming	1														
Other	6														
Post Office	2														
Regulator	2														
Stockbroker	2														
TOTAL	**918**														

2009															
Statistical Information on reports received by the FCU								**Judicial proceedings**							
Monitoring entities	**Reports about transactions above threshold**	**Reports about suspicious transactions**		**Cases opened by FCU**		**Notifications to Law Enforcement/ Prosecutions**		**Indictments**				**Convictions**			
								ML		**FT**		**ML**		**FT**	
		ML Drugs	**FT**	**ML**	**FT**	**ML**	**FT**	**Cases**	**Persons**	**Cases**	**Persons**	**Cases**	**Persons**	**Cases**	**Persons**
Accountant	14														
Banks/Building Soc	941	13	4												
TCSP's	207		2												
Financial Advisor	0														
Investment/Fund Manager	24														
Lawyer	27														
Life Assurance/ Insurance Company	137														
Money Service	7														
Online Gaming	6														
Other	3														
Post Office	2														
Regulator	7														
Stockbroker	7														
TOTAL	**1382**														

2010																
Statistical Information on reports received by the FCU								Judicial proceedings								
Monitoring entities	Reports about transactions above threshold	Reports about suspicious transactions		Cases opened by FCU		Notifications to Law Enforcement/ Prosecutions		Indictments				Convictions				
								ML		FT		ML		FT		
		ML	FT	ML	FT	ML	FT	Cases	Persons	Cases	Persons	Cases	Persons	Cases	Persons	
Accountant	16															
Banks/Building Soc	949															
TCSP's	195		1													
Financial Advisor	4															
Investment/Fund Manager	16															
Lawyer	41															
Life Assurance/ Insurance Company	166		5													
Money Service	5															
Online Gaming	28															
Other	5															
Post Office	5															
Regulator	4															
Stockbroker	8															
TOTAL	**1442**															

2011																
Statistical Information on reports received by the FCU								**Judicial proceedings**								
Monitoring entities	**Reports about transactions above threshold**	**Reports about suspicious transactions**		**Cases opened by FCU**		**Notifications to Law Enforcement/ Prosecutions**		**Indictments**				**Convictions**				
								ML		**FT**		**ML**		**FT**		
		ML	**FT**	**ML**	**FT**	**ML**	**FT**	**Cases**	**Persons**	**Cases**	**Persons**	**Cases**	**Persons**	**Cases**	**Persons**	
Accountant	9															
Banks/Building Soc	1162		1													
TCSP's	216															
Financial Advisor	1															
Investment/Fund Manager	35															
Lawyer	60															
Life Assurance/ Insurance Company	168		3													
Money Service	4															
Online Gaming	992															
Other	5															
Post Office	3															
Regulator	6															
Stockbroker	7															
TOTAL	**2668**															

2012																
Statistical Information on reports received by the FCU								**Judicial proceedings**								
Monitoring entities	**Reports about transactions above threshold**	**Reports about suspicious transactions**		**Cases opened by FCU**		**Notifications to Law Enforcement/ Prosecutions**		**Indictments**				**Convictions**				
								ML		**FT**		**ML**		**FT**		
		ML	**FT**	**ML**	**FT**	**ML**	**FT**	**Cases**	**Persons**	**Cases**	**Persons**	**Cases**	**Persons**	**Cases**	**Persons**	
Accountant	17		2													
Banks/Building Soc	711															
TCSP's	196		4													
Financial Advisor	2															
Investment/Fund Manager	22															
Lawyer	46															
Life Assurance/ Insurance Company	129		1													
Money Service	1															
Online Gaming	97															
Other	4															
Post Office	6															
Regulator	4															
Stockbroker	9															
TOTAL	**1244**															

January to April 2013																
Statistical Information on reports received by the FCU								**Judicial proceedings**								
Monitoring entities	**Reports about transactions above threshold**	**Reports about suspicious transactions**		**Cases opened by FCU**		**Notifications to Law Enforcement/ Prosecutions**		**Indictments**				**Convictions**				
								ML		**FT**		**ML**		**FT**		
		ML	**FT**	**ML**	**FT**	**ML**	**FT**	**Cases**	**Persons**	**Cases**	**Persons**	**Cases**	**Persons**	**Cases**	**Persons**	
Accountant	5															
Banks/Building Soc	289															
TCSP's	55															
Financial Advisor	1															
Investment/Fund Manager	8															
Lawyer	17															
Life Assurance/ Insurance Company	44															
Money Service	0															
Online Gaming	13															
Other	1															
Post Office	2															
Regulator	5															
Stockbroker	2															
TOTAL	**442**															

3. Appendices

3.1 APPENDIX I - Recommended Action Plan to Improve the AML / CFT System

AML/CFT System	Recommended Action (listed in order of priority)
1. General	
2. Legal System and Related Institutional Measures	
2.1 Criminalisation of Money Laundering (R.1 & 2)	• Amend Articles 17C CJA 1990 and 45 DTA 1996 to: o provide for two alternative purposes for the acts of converting and transferring proceeds, namely to avoid prosecution for the predicate offense or to conceal the illicit origin of the funds, and; o eliminate the purpose requirement for the acts of converting and transferring proceeds of crime. • The defense (payment of adequate consideration) provided for in Sections 17B(3) CJA 1990 and 47(3) DTA 1996 is not provided for in the Vienna and Palermo Conventions and should be eliminated as it may allow money launderers to abuse the provision to avoid criminal liability for the acquisition, possession, or use of criminal proceeds/proceeds. • Amend Section 10 ATCA 2003 to cover all material elements of the money laundering provisions of the Palermo and Vienna Conventions. • Amend the offenses of acquisition, possession, or use in the CJA 1990 and the DTA 1996 as well as the money laundering offense contained in the ATCA 2003 to include criminal proceeds obtained through the commission of a predicate offense by the self launderer. • The authorities should: o (i) address any barriers to stand-alone ML prosecutions, including the level of proof needed to determine that property stems from the commission of a specific predicate offense; and o (ii) take steps to develop jurisprudence on autonomous money laundering to establish that ML is a stand-alone offense.
2.2 Criminalisation of Terrorist Financing (SR.II)	• Amend Article 1 ATCA 2003 to include a reference not only to governments but also to international organisations. • Amend the definition of "terrorism" in Section 1 ATCA 2003 to extend to all terrorism offenses as defined in the

	nine Conventions and Protocols listed in the Annex to the FT Convention. • Consider the impact of the including in the FT offense "intention of advancing a political, religious or ideological cause" on IOM's ability to successfully prosecute in factual settings contemplated by the FT Convention.
2.3 Confiscation, freezing and seizing of proceeds of crime (R.3)	• The law should be amended to address the deficiencies affecting the scope of the ML and FT offenses and thereby also improve the quality of the criminal confiscation regime. • The law should be amended to: o allow equivalent value seizure at any stage of the investigation; and o - address in ATCA 2003 the issue of equivalent value confiscation in the context of FT-related assets. • Case law should be developed on stand-alone money laundering confiscations. • The authorities should address the low effectiveness of the current asset recovery measures, particularly by focusing on the timely tracing and immobilization of recoverable or realizable assets.
2.4 Freezing of funds used for terrorist financing (SR.III)	• Put in place a formal procedure governing the receipt and assessment of requests based on foreign freezing lists, as required by UNSCR 1373. • Amend the legal framework implementing the UN Resolutions and EC Regulations to expressly extend the definition of 'funds' subject to freezing to cover assets 'jointly' or 'indirectly' owned or controlled by the relevant persons. • Amend the legal framework for the implementation of the EC Regulations to provide a procedure for considering requests for delisting or unfreezing. • Provide for and publicize a clear procedure enabling access to UNSCR 1267 frozen funds for humanitarian purposes and to cover basic expenses.
2.5 The Financial Intelligence Unit and its functions (R.26)	• The authorities should supplement the current informal arrangement by providing formally for access by the FIU to additional information held by covered entities, for use in its analytical work. • The FCU and other authorities should implement steps to

	improve the effectiveness of the reporting system to support an increase in the number of investigations and (potentially) prosecutions and in funds and other assets frozen.
2.6 Law enforcement, prosecution and other competent authorities (R.27 & 28)	• The authorities should implement steps to improve effectiveness by seeking to increase the number of investigations and prosecutions pursued domestically.
2.7 Cross Border Declaration & Disclosure	• The cross-border control requirements should be extended to cover cash transportation by mail between the UK and the IOM.
3. Preventive Measures – Financial Institutions	
Risk of money laundering or terrorist financing	none
3.2 Customer due diligence, including enhanced or reduced measures (R.5 to 8)	**Recommendation 5** • The authorities should take steps to eliminate any residual inconsistencies in AML/CFT legal requirements and terminology. • The authorities should expand the current list of categories of higher-risk customers and consider including, for example, private banking and business involving trusts or other legal arrangements. • The authorities should conduct a risk-based review of the current scope of the Acceptable Applicant facility and, if warranted, limit its availability for consistency with the FATF Recommendations. To comply with the FATF Recommendations, financial institutions should be required in all cases to determine whether a customer is acting on behalf of another person and should take reasonable steps to obtain sufficient identification data to verify the identity of that other person. • If the exceptions to the CDD requirements of secondary legislation as currently set out in the FSC Handbook are to be retained, the authorities should amend the secondary legislation as necessary to provide for them. • Should the authorities decide to continue allowing source of funds to be used as principal evidence of identity in certain lowrisk circumstances, the requirements should be tightened further to eliminate any remaining risk of abuse for ML or FT purposes. • The authorities should review on a risk basis the implementation of the concession allowing operations to commence prior to completion of full CDD procedures to

	ensure it is not being misused. • The authorities should ensure that insurance managers and insurance intermediaries are included within the scope of all relevant AML/CFT requirements. • The authorities should consider reducing significantly the current EUR15,000 threshold for the application of CDD measures to one-off transactions by MVT service providers. **Recommendation 8** • To support the implementation of the basic requirement in this area, the authorities should issue more detailed guidance on the specific ML and FT risks of new technologies, for example in relation to e-money and e-commerce.
3.3 Third parties and introduced business (R.9)	• The authorities should review the range of business introducers in respect of which concessions are applied to ensure that all categories are subject to equivalent AML/CFT requirements. • By means of on-site supervision or otherwise, the regulatory authorities should assess the effectiveness of CDD being obtained from Eligible Introducers or Introducers including, in the case of insurers, the use and effectiveness of Introducer's Certificates. • The authorities should remove any residual inconsistencies in secondary legislation following the coming into force of the AML Code 2008.
3.4 Financial institution secrecy or confidentiality (R.4)	• The authorities should bring into force the provision that financial institutions do not breach their confidentiality duty in exchanging customer information between themselves for AML/CFT purposes.
3.5 Record keeping and wire transfer rules (R.10 & SR.VII)	**Special recommendation VII** • The FSC should reconsider whether the current implementation of the risk-based approach for incoming wire transfers lacking full originator information accurately reflect the level of underlying risk. • The FSC should continue to include wire transfers within its program of on-site supervision.
3.6 Monitoring of transactions and relationships (R.11 & 21)	• The authorities should formalize appropriate means of applying counter-measures to countries that do not or insufficiently apply the FATF Recommendations.

3.7 Suspicious transaction reports and other reporting (R.13-14, 19, 25 & SR.IV)	**Recommendation 13** • The FCU and supervisory authorities should take steps to enhance the timeliness of reporting of suspicious transactions to the FCU. • The law should be amended to provide comprehensively that suspicious attempted transactions must be reported promptly to the FCU. **Recommendation 14** • The authorities should amend the law to extend the protection for persons reporting suspicions to the FIU to cover all aspects in the international standard and limit the protection to reporting in good faith. • The authorities should consider introducing measures to ensure the confidentiality, including in Court proceedings, of persons reporting suspicions to the FIU. **Special recommendation IV** • The authorities should amend the law as needed to address the deficiencies in the scope of ATCA 2003 and thereby provide the required scope of coverage for STR reporting. • The FCU and supervisory authorities should take steps to enhance the timeliness of reporting of suspicious transactions to the FCU, including for suspicions of FT. • The law should be amended to provide comprehensively that suspicious attempted transactions must be reported promptly to the FCU.
3.8 Internal controls, compliance, audit and foreign branches (R.15 & 22)	• The authorities should supplement current provisions by introducing in law, regulation, or other enforceable means a requirement that, having regard to the size and nature of the business, financial institutions maintain an adequately resourced and independent audit function to test compliance with AML/CFT procedures.
3.9 Shell banks (R.18)	
3.10 The supervisory and oversight system - competent authorities and SROs. Role, functions, duties and powers (including sanctions) (R.23, 29, 17 & 25)	**Recommendation 17** • The FSC should consider issuing further regulations to allow it to impose additional administrative sanctions, where warranted. **Recommendation 23** • The authorities should apply AML and CFT requirements directly to any category of financial institutions not

	currently covered, having regard to such underlying ML and FT risks as may arise. • The FSC should proceed as planned to implement a supervisory regime for money-services businesses, including bureaux de change, as soon as possible. **Recommendation 29** • The FSC and IPA should make more frequent and extensive use of their powers to conduct AML/CFT on-site inspections of banks and insurance businesses, respectively.
3.11 Money value transfer services (SR.VI)	• The FSC should proceed at an early date to conduct AML/CFT supervision of MVT service providers. • The authorities should implement ongoing measures to identify any informal MVT service providers in the IOM. • The authorities should consider reducing significantly the current EUR15,000 threshold for the application of CDD measures to one-off transactions by MVT service providers.
4. Preventive Measures – Non-Financial Businesses and Professions	
4.1 Customer due diligence and record-keeping (R.12)	• The authorities should keep under review the list of categories of higher-risk customers and consider including additional categories on a risk-related basis. • The authorities should conduct a risk-based review of the current scope of the Acceptable Applicant facility and, if warranted, limit its availability for consistency with the FATF Recommendations. • In the case of CSPs and TSPs, if the exceptions to the CDD requirements of secondary legislation as currently set out in the FSC Handbook are to be retained, the authorities should amend the secondary legislation as necessary to provide for them. • The authorities should review on a risk basis the implementation of the concession allowing operations to commence prior to completion of full CDD procedures to ensure it is not being misused, particularly in the case of advocates. • The DHA should proceed as quickly as possible with the planned arrangements to ensure that effective AML/CFT arrangements are place for accountancy professionals, including on a risk-sensitive basis those that are not

	members of either of the two main bodies. • The DHA should proceed as soon as possible with the planned implementation on a risk-sensitive basis of AML/CFT measures for dealers in high-value goods engaged in cash transactions. • The requirement to consider filing an STR if unable to adequately complete CDD measures should be extended to casinos.
4.2 Suspicious transaction reporting (R.16)	• Clarify the position of legal privilege in relation to ML and FT issues and STR reporting in a manner supportive of the AML/CFT system. • The authorities should continue their efforts, through awareness raising and otherwise, to increase the effectiveness of STR reporting by DNFBPs, particularly for those categories that rarely report suspicions. • The authorities should amend the law to extend the protection for persons reporting suspicions to the FIU to cover all aspects in the international standard and limit the protection to reporting in good faith. • The authorities should consider introducing measures to ensure the confidentiality, including in Court proceedings, of persons reporting suspicions to the FIU. • The authorities should introduce a requirement in law, regulation, or other enforceable means to maintain an adequately resourced and independent audit function to test compliance with AML/CFT procedures in line with the nature, size and activity of the DNFBP. • The authorities should amend the law to require the reporting of suspicious attempted transactions.
4.3 Regulation, supervision and monitoring (R.24-25)	The authorities should: • Provide for and implement a system of regular and full audits for advocates based on onsite visits to monitor more closely the level of compliance with their AML/CFT obligations. • Ensure that registered legal practitioners are supervised to ensure their compliance with the provisions of the AML Code 2008. • Finalize the agreement between the DHA and the professional accounting bodies, issue guidance adapted to the IOM's AML/CFT requirements, and implement an AML/CFT on-site supervisory regime for the industry.

	• Formalize the basis for on-site assessments for DNFBPs that do not fall within the mandate of the FSC, GSC, or the IOM Law Society. • Proceed with planned legislative amendments to provide the DHA with adequate powers in undertaking registration and regulation for AML/CFT purposes of DNFBPs within its mandate and provide the DHA with resources consistent with that mandate. • Assess the adequacy of the GSC's staffing capacity and specialist skills base to ensure it is well positioned from an AML/CFT perspective to deal with the expected growth in online and terrestrial casino business.
4.4 Other non-financial businesses and professions (R.20)	• The authorities should proceed with their program of awareness raising to determine what categories of NFBP should be within the scope of the AML/CFT requirements.
5. Legal Persons and Arrangements & Non-Profit Organisations	
5.1 Legal Persons – Access to beneficial ownership and control information (R.33)	• The authorities should seek to put in place measures to ensure that accurate, complete, and current beneficial ownership information is available for all 1931 Companies and LLCs. • The authorities should consider extending the formal monitoring of all corporate service providers for compliance with the requirements of the AML Code 2008 to include those "exempted" or "excluded" from the licensing requirements of the FSA 2008.
5.2 Legal Arrangements – Access to beneficial ownership and control information (R.34)	• The authorities should seek to put in place measures to ensure that accurate, complete and current beneficial ownership information is available for legal arrangements administered by a trustee who is not covered by the licensing requirements of FSA 2008. • The authorities should consider extending the formal monitoring of all trust service providers for compliance with the requirements of the AML Code 2008 to include those "exempted" or "excluded" from the licensing requirements of the FSA 2008.
5.3 Non-profit organisations (SR.VIII)	• The authorities should complete the current review of the NPO laws and regulations and consider, based on an FT risk assessment, the merits of expanding the current coverage of charities to include other NPOs.

	• The authorities should conduct periodic vulnerability reviews and outreach to the NPO sector regarding the risk of abuse for FT purposes.
6. National and International Co-operation	
6.1 National co-operation and coordination (R.31)	
6.2 The Conventions and UN Special Resolutions (R.35 & SR.I)	• IOM should request extension to it of the Palermo Convention. • The authorities should ensure that all provisions of the Palermo and Vienna Conventions are fully implemented. • The authorities should ensure that all provisions of the United Nations International Convention for the Suppression of Financing of Terrorism are implemented.
6.3 Mutual Legal Assistance (R.36-38 & SR.V)	• Amend the law to correct the deficiencies affecting the criminalization of ML and FT offenses, and thus facilitate full compliance with MLA requests related to seizure and confiscation where the dual criminality principle applies. • Remove the current restriction limiting MLA involving coercive conservatory and recovery matters to 'designated countries'. • In amending the law in respect of the equivalent value confiscation and seizure in FT matters, remove also obstacles to related international mutual assistance.
6.4 Extradition (R.39, 37 & SR.V)	• Amend the law to correct the deficiencies affecting the criminalization of ML and FT offenses, and thus remove possible obstacles to complying with extradition requests where the dual criminality principle applies.
6.5 Other Forms of Co-operation (R.40 & SR.V)	
7. Other Issues	
7.1 Resources and statistics (R. 30 & 32)	**Recommendation 30** • Consideration should be given to assigning some additional resources to AML/CFT supervision of banks and insurance businesses, particularly to allow for an increase in on-site inspections. • Some additional resources needed by the GSC and DHA.

	• The authorities should take steps to maintain comprehensive statistics on seizures and confiscations.
7.2 Other relevant AML/CFT measures or issues	
7.3 General framework – structural issues	

3.2 APPENDIX II – Relevant EU texts

Excerpt from Directive 2005/60/EC of the European Parliament and of the Council, formally adopted 20 September 2005, on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing

Article 3 (6) of EU AML/CFT Directive 2005/60/EC (3rd Directive):

(6) "beneficial owner" means the natural person(s) who ultimately owns or controls the customer and/or the natural person on whose behalf a transaction or activity is being conducted. The beneficial owner shall at least include:

(a) in the case of corporate entities:

(i) the natural person(s) who ultimately owns or controls a legal entity through direct or indirect ownership or control over a sufficient percentage of the shares or voting rights in that legal entity, including through bearer share holdings, other than a company listed on a regulated market that is subject to disclosure requirements consistent with Community legislation or subject to equivalent international standards; a percentage of 25 % plus one share shall be deemed sufficient to meet this criterion;
(ii) the natural person(s) who otherwise exercises control over the management of a legal entity:

(b) in the case of legal entities, such as foundations, and legal arrangements, such as trusts, which administer and distribute funds:

(i) where the future beneficiaries have already been determined, the natural person(s) who is the beneficiary of 25 % or more of the property of a legal arrangement or entity;
(ii) where the individuals that benefit from the legal arrangement or entity have yet to be determined, the class of persons in whose main interest the legal arrangement or entity is set up or operates;
(iii) the natural person(s) who exercises control over 25 % or more of the property of a legal arrangement or entity;

Article 3 (8) of the EU AML/CFT Directive 2005/60EC (3rd Directive):

(8) "politically exposed persons" means natural persons who are or have been entrusted with prominent public functions and immediate family members, or persons known to be close associates, of such persons;

Excerpt from Commission directive 2006/70/EC of 1 August 2006 laying down implementing measures for Directive 2005/60/EC of the European Parliament and of the Council as regards the definition of 'politically exposed person' and the technical criteria for simplified customer due diligence procedures and for exemption on grounds of a financial activity conducted on an occasional or very limited basis.
Article 2 of Commission Directive 2006/70/EC (Implementation Directive):

Article 2
Politically exposed persons

1. For the purposes of Article 3(8) of Directive 2005/60/EC, "natural persons who are or have been entrusted with prominent public functions" shall include the following:
(a) heads of State, heads of government, ministers and deputy or assistant ministers;
(b) members of parliaments;
(c) members of supreme courts, of constitutional courts or of other high-level judicial bodies whose decisions are not subject to further appeal, except in exceptional circumstances;

(d) members of courts of auditors or of the boards of central banks;
(e) ambassadors, chargés d'affaires and high-ranking officers in the armed forces;
(f) members of the administrative, management or supervisory bodies of State-owned enterprises.
None of the categories set out in points (a) to (f) of the first subparagraph shall be understood as covering middle ranking or more junior officials.
The categories set out in points (a) to (e) of the first subparagraph shall, where applicable, include positions at Community and international level.

2. For the purposes of Article 3(8) of Directive 2005/60/EC, "immediate family members" shall include the following:
(a) the spouse;
(b) any partner considered by national law as equivalent to the spouse;
(c) the children and their spouses or partners;
(d) the parents.

3. For the purposes of Article 3(8) of Directive 2005/60/EC, "persons known to be close associates" shall include the following:
(a) any natural person who is known to have joint beneficial ownership of legal entities or legal arrangements, or any other close business relations, with a person referred to in paragraph 1;
(b) any natural person who has sole beneficial ownership of a legal entity or legal arrangement which is known to have been set up for the benefit de facto of the person referred to in paragraph 1.

4. Without prejudice to the application, on a risk-sensitive basis, of enhanced customer due diligence measures, where a person has ceased to be entrusted with a prominent public function within the meaning of paragraph 1 of this Article for a period of at least one year, institutions and persons referred to in Article 2(1) of Directive 2005/60/EC shall not be obliged to consider such a person as politically exposed.

3.3 APPENDIX III Extracts from the Proceeds of Crime Act 2008

PART 3 – MONEY LAUNDERING

Offences

139 Concealing, etc.

(1) A person commits an offence if that person —

(a) conceals criminal property;
(b) disguises criminal property;
(c) converts criminal property;
(d) transfers criminal property;
(e) removes criminal property from the Island.

(2) But a person does not commit such an offence if —

(a) that person makes an authorised disclosure under section 154 and (if the disclosure is made before the person does the act mentioned in subsection (1)) the person has the appropriate consent;
(b) that person intended to make such a disclosure but had a reasonable excuse for not doing so;
(c) the act the person does is done in carrying out a function the person has relating to the enforcement of any provision of this Act or of any other enactment relating to criminal conduct or benefit from criminal conduct.

(3) Nor does a person commit an offence under subsection (1) if —

(a) that person knows, or believes on reasonable grounds, that the relevant criminal conduct occurred in a particular country or territory outside the Island; and
(b) the relevant criminal conduct —

(i) was not, at the time it occurred, unlawful under the criminal law then applying in that country or territory; and
(ii) is not of a description prescribed by an order made by the Department of Home Affairs.

(4) In subsection (3) 'the relevant criminal conduct' is the criminal conduct by reference to which the property concerned is criminal property.

(5) A deposit-taking body that does an act mentioned in subsection (1)(c) or (d) does not commit an offence under that subsection if —

(a) it does the act in operating an account maintained with it; and
(b) the value of the criminal property concerned is less than the threshold amount determined under section 156 for the act.

(6) Concealing or disguising criminal property includes concealing or disguising its nature, source, location, disposition, movement or ownership or any rights with respect to it.

140 Arrangements

(1) A person commits an offence if that person enters into or becomes concerned in an arrangement which the person knows or suspects facilitates (by whatever means) the acquisition, retention, use or control of criminal property by or on behalf of another person.

(2) But a person does not commit such an offence if —

(a) that person makes an authorised disclosure under section 154 and (if the disclosure is made before the person does the act mentioned in subsection (1)) the person has the appropriate consent;

(b) that person intended to make such a disclosure but had a reasonable excuse for not doing so;
(c) the act the person does is done in carrying out a function the person has relating to the enforcement of any provision of this Act or of any other enactment relating to criminal conduct or benefit from criminal conduct.

(3) Nor does a person commit an offence under subsection (1) if —

(a) that person knows, or believes on reasonable grounds, that the relevant criminal conduct occurred in a particular country or territory outside the Island; and
(b) the relevant criminal conduct —

(i) was not, at the time it occurred, unlawful under the criminal law then applying in that country or territory; and
(ii) is not of a description prescribed by an order made by the Department of Home Affairs.

(4) In subsection (3) 'the relevant criminal conduct' is the criminal conduct by reference to which the property concerned is criminal property.

(5) A deposit-taking body that does an act mentioned in subsection (1) does not commit an offence under that subsection if —

(a) it does the act in operating an account maintained with it, and
(b) the arrangement facilitates the acquisition, retention, use or control of criminal property of a value that is less than the threshold amount determined under section 156 for the act.

141 Acquisition, use and possession

(1) A person commits an offence if that person —

(a) acquires criminal property;
(b) uses criminal property;
(c) has possession of criminal property.

(2) But a person does not commit such an offence if —

(a) that person makes an authorised disclosure under section 154 and (if the disclosure is made before the person does the act mentioned in subsection (1)) the person has the appropriate consent;
(b) that person intended to make such a disclosure but had a reasonable excuse for not doing so;
(c) [Repealed]20
(d) the act the person does is done in carrying out a function the person has relating to the enforcement of any provision of this Act or of any other enactment relating to criminal conduct or benefit from criminal conduct.

(3) Nor does a person commit an offence under subsection (1) if —

(a) that person knows, or believes on reasonable grounds, that the relevant criminal conduct occurred in a particular country or territory outside the Island; and
(b) the relevant criminal conduct —

(i) was not, at the time it occurred, unlawful under the criminal law then applying in that country or territory; and
(ii) is not of a description prescribed by an order made by the Department of Home Affairs.

(4) In subsection (3) 'the relevant criminal conduct' is the criminal conduct by reference to which the property concerned is criminal property.

(5) A deposit-taking body that does an act mentioned in subsection (1) does not commit an offence under that subsection if —

(a) it does the act in operating an account maintained with it; and
(b) the value of the criminal property concerned is less than the threshold amount determined under section 156 for the act.

(6) For the purposes of this section —

(a) a person acquires property for inadequate consideration if the value of the consideration is significantly less than the value of the property;
(b) a person uses or has possession of property for inadequate consideration if the value of the consideration is significantly less than the value of the use or possession;
(c) the provision by a person of goods or services which the person knows or suspects may help another to carry out criminal conduct is not consideration.

142 Failure to disclose: regulated sector

(1) A person commits an offence if the conditions in subsections (2) to (5) are satisfied.21

(2) The first condition is that the person —

(a) knows or suspects; or
(b) has reasonable grounds for knowing or suspecting,

that another person is engaged in money laundering.

(3) The second condition is that the information or other matter —

(a) on which the person's knowledge or suspicion is based; or
(b) which gives reasonable grounds for such knowledge or suspicion,

came to that person in the course of a business in the regulated sector.

(4) The third condition is —

(a) that the person can identify the other person mentioned in subsection (2) or the whereabouts of any of the laundered property; or
(b) that the person believes, or it is reasonable to expect the person to believe, that the information or other matter mentioned in subsection (3) will or may assist in identifying that other person or the whereabouts of any of the laundered property.

(5) The fourth condition is that the person does not make the required disclosure to —

(a) a nominated officer; or
(b) a constable or customs officer serving (in either case) with the Financial Crime Unit of the Isle of Man Constabulary,

as soon as is practicable after the information or other matter mentioned in subsection (3) comes to that person.

(6) The required disclosure is a disclosure of —

(a) the identity of the other person mentioned in subsection (2), if the person knows it;
(b) the whereabouts of the laundered property, so far as the person knows it; and
(c) the information or other matter mentioned in subsection (3).

(7) The laundered property is the property forming the subject-matter of the money laundering that the person knows or suspects, or has reasonable grounds for knowing or suspecting, that other person to be engaged in.

(8) But a person does not commit an offence under this section if —

(a) that person has a reasonable excuse for not making the required disclosure;
(b) that person is a professional legal adviser or relevant professional adviser and —
(i) if the person knows either of the things mentioned in subsection (6)(a) and (b), the person knows the thing because of information or other matter that came to the person in privileged circumstances, or

(ii) the information or other matter mentioned in subsection (3) came to the person in privileged circumstances; or

(c) subsection (9) or (11) applies to that person.

(9) This subsection applies to a person if —

(a) the person does not know or suspect that another person is engaged in money laundering; and

(b) the person has not been provided by the person's employer with such training as is specified by the Department of Home Affairs by order for the purposes of this section.

(10) Nor does a person commit an offence under this section if —

(a) that person knows, or believes on reasonable grounds, that the money laundering is occurring in a particular country or territory outside the Island; and

(b) the money laundering —

(i) is not unlawful under the criminal law applying in that country or territory; and

(ii) is not of a description prescribed by an order made by the Department of Home Affairs.

(11) This subsection applies to a person if —

(a) the person is employed by, or is in partnership with, a professional legal adviser or a relevant professional adviser to provide the adviser with assistance or support;

(b) the information or other matter mentioned in subsection (3) comes to the person in connection with the provision of such assistance or support; and

(c) the information or other matter came to the adviser in privileged circumstances.

(12) In deciding whether a person committed an offence under this section the court must consider whether the person —

(a) complied with other relevant legal obligations in connection with the making of disclosures under this section, including any obligations imposed by the Department of Home Affairs in a code made under section 157; and

(b) followed any relevant guidance which was at the time concerned issued by a supervisory authority or any other appropriate body and which has been published in a manner approved as appropriate in the opinion of the authority or body to bring the guidance to the attention of persons likely to be affected by it.

(13) A disclosure to a nominated officer is a disclosure which —

(a) is made to a person nominated by the alleged offender's employer to receive disclosures under this section; and

(b) is made in the course of the alleged offender's employment.

(14) But a disclosure which satisfies paragraphs (a) and (b) of subsection (13) is not to be taken as a disclosure to a nominated officer if the person making the disclosure —

(a) is a professional legal adviser or relevant professional adviser;

(b) makes it for the purpose of obtaining advice about making a disclosure under this section; and

(c) does not intend it to be a disclosure under this section.

(15) Information or other matter comes to a professional legal adviser or relevant professional adviser in privileged circumstances if it is communicated or given to the adviser —

(a) by (or by a representative of) a client of the adviser in connection with the giving by the adviser of legal advice to the client;

(b) by (or by a representative of) a person seeking legal advice from the adviser; or

(c) by a person in connection with legal proceedings or contemplated legal proceedings.

(16) But subsection (15) does not apply to information or other matter which is communicated or given with the intention of furthering a criminal purpose.

(17) Schedule 4 has effect for the purpose of determining what is —

(a) a business in the regulated sector;
(b) a supervisory authority.

(18) An appropriate body is any body which regulates or is representative of any trade, profession, business or employment carried on by the alleged offender.

(19) A relevant professional adviser is an accountant, auditor or tax adviser who is a member of a professional body which is established for accountants, auditors or tax advisers (as the case may be) and which makes provision for —

(a) testing the competence of those seeking admission to membership of such a body as a condition for such admission; and
(b) imposing and maintaining professional and ethical standards for its members, as well as imposing sanctions for non-compliance with those standards.

143 Failure to disclose: nominated officers in the regulated sector

(1) A person nominated to receive disclosures under section 142 commits an offence if the conditions in subsections (2) to (5) are satisfied.

(2) The first condition is that the person —

(a) knows or suspects; or
(b) has reasonable grounds for knowing or suspecting,

that another person is engaged in money laundering.

(3) The second condition is that the information or other matter —

(a) on which the person's knowledge or suspicion is based; or
(b) which gives reasonable grounds for such knowledge or suspicion,

came to that person in consequence of a disclosure made under section 142.

(4) The third condition is —

(a) that the person knows the identity of the other person mentioned in subsection (2), or the whereabouts of any of the laundered property, in consequence of a disclosure made under section 142;
(b) that that other person, or the whereabouts of any of the laundered property, can be identified from the information or other matter mentioned in subsection (3); or
(c) that the person believes, or it is reasonable to expect the person to believe, that the information or other matter will or may assist in identifying that other person or the whereabouts of any of the laundered property.

(5) The fourth condition is that the person does not make the required disclosure to a constable or customs officer serving (in either case) with the Financial Crime Unit of the Isle of Man Constabulary as soon as is practicable after the information or other matter mentioned in subsection (3) comes to that person.

(6) The required disclosure is a disclosure of —

(a) the identity of the other person mentioned in subsection (2), if disclosed to the person under section 142;
(b) the whereabouts of the laundered property, so far as disclosed to the person under section 142; and
(c) the information or other matter mentioned in subsection (3).

(7) The laundered property is the property forming the subject-matter of the money laundering that the person knows or suspects, or has reasonable grounds for knowing or suspecting, that other person to be engaged in.

(8) But a person does not commit an offence under this section if the person has a reasonable excuse for not making the required disclosure.

(9) Nor does a person commit an offence under this section if —

(a) the person knows, or believes on reasonable grounds, that the money laundering is occurring in a particular country or territory outside the Island; and

(b) the money laundering —

(i) is not unlawful under the criminal law applying in that country or territory; and

(ii) is not of a description prescribed by an order made by the Department of Home Affairs.

(10) In deciding whether a person committed an offence under this section the court must consider whether the person —

(a) complied with other relevant legal obligations in connection with the making of disclosures under this section, including any obligations imposed by the Department of Home Affairs in a code made under section 157; and

(b) followed any relevant guidance which was at the time concerned issued by a supervisory authority or any other appropriate body and which has been published in a manner approved as appropriate in the opinion of the authority or body to bring the guidance to the attention of persons likely to be affected by it.

(11) Schedule 4 has effect for the purpose of determining what is a supervisory authority.

(12) An appropriate body is a body which regulates or is representative of a trade, profession, business or employment.

144 Failure to disclose: other nominated officers

(1) A person nominated to receive disclosures under section 153 or 154 commits an offence if the conditions in subsections (2) to (5) are satisfied.

(2) The first condition is that the person knows or suspects that another person is engaged in money laundering.

(3) The second condition is that the information or other matter on which the person's knowledge or suspicion is based came to the person in consequence of a disclosure made under the applicable section.

(4) The third condition is —

(a) that the person knows the identity of the other person mentioned in subsection (2), or the whereabouts of any of the laundered property, in consequence of a disclosure made under the applicable section;

(b) that that other person, or the whereabouts of any of the laundered property, can be identified from the information or other matter mentioned in subsection (3); or

(c) that the person believes, or it is reasonable to expect the person to believe, that the information or other matter will or may assist in identifying that other person or the whereabouts of any of the laundered property.

(5) The fourth condition is that the person does not make the required disclosure to a constable or customs officer serving (in either case) with the Financial Crime Unit of the Isle of Man Constabulary as soon as is practicable after the information or other matter mentioned in subsection (3) comes to that person.

(6) The required disclosure is a disclosure of —

(a) the identity of the other person mentioned in subsection (2), if disclosed to the person under the applicable section;
(b) the whereabouts of the laundered property, so far as disclosed to the person under the applicable section; and
(c) the information or other matter mentioned in subsection (3).

(7) The laundered property is the property forming the subject-matter of the money laundering that the person knows or suspects that other person to be engaged in.

(8) The applicable section is section 153 or, as the case may be, section 154.

(9) But a person does not commit an offence under this section if the person has a reasonable excuse for not making the required disclosure.

(10) Nor does a person commit an offence under this section if —

(a) the person knows, or believes on reasonable grounds, that the money laundering is occurring in a particular country or territory outside the Island; and
(b) the money laundering —
(i) is not unlawful under the criminal law applying in that country or territory; and
(ii) is not of a description prescribed by an order made by the Department of Home Affairs.

Interpretation

158 Interpretation of Part 3

(1) This section applies for the purposes of this Part.

(2) Criminal conduct is conduct which —

(a) constitutes an offence in the Island; or
(b) would constitute an offence in the Island if it occurred there.

(3) Property is criminal property if —

(a) it constitutes a person's benefit from criminal conduct or it represents such a benefit (in whole or part and whether directly or indirectly); and
(b) the alleged offender knows or suspects that it constitutes or represents such a benefit.

(4) It is immaterial —

(a) who carried out the conduct;
(b) who benefited from it;
(c) whether the conduct occurred before or after the passing of this Act.

(5) A person benefits from conduct if that person obtains property as a result of or in connection with the conduct.

(6) If a person obtains a pecuniary advantage as a result of or in connection with conduct, that person is to be taken to obtain as a result of or in connection with the conduct a sum of money equal to the value of the pecuniary advantage.

(7) References to property or a pecuniary advantage obtained in connection with conduct include references to property or a pecuniary advantage obtained in both that connection and some other.

(8) If a person benefits from conduct, that person's benefit is the property obtained as a result of or in connection with the conduct.

(9) Property is all property wherever situated and includes —

(a) money;
(b) all forms of property, real or personal, heritable or moveable;
(c) things in action and other intangible or incorporeal property.

(10) The following rules apply in relation to property —

(a) property is obtained by a person if the person obtains an interest in it;
(b) references to an interest, in relation to land in the Island are to any legal estate or equitable interest or power;
(c) references to an interest, in relation to property other than land, include references to a right (including a right to possession).

(11) Money laundering is an act which —

(a) constitutes an offence under section 139, 140 or 141;
(b) constitutes an attempt, conspiracy or incitement to commit an offence specified in paragraph (a);
(c) constitutes aiding, abetting, counselling or procuring the commission of an offence specified in paragraph (a); or
(d) would constitute an offence specified in paragraph (a), (b) or (c) if done in the Island.

(12) For the purposes of a disclosure to a nominated officer —

(a) references to a person's employer include any body, association or organisation (including a voluntary organisation) in connection with whose activities the person exercises a function (whether or not for gain or reward); and
(b) references to employment must be construed accordingly.

(13) 'Deposit-taking body' means —

(a) a business which engages in the activity of accepting deposits; or
(b) the National Savings Bank.

3.4 APPENDIX IV – Sections 6 and 10 of the Anti-Terrorism and Crime Act 2003 as amended by The Anti-Terrorism and Crime (Amendment) Act 2011

6 Terrorist property

(1) In this Act "terrorist property" means —

(a) money or other property which is likely to be used for the purposes of terrorism (including any resources of a proscribed organisation),
(b) proceeds of the commission of acts of terrorism, and
(c) proceeds of acts carried out for the purposes of terrorism.

(2) In subsection (1) —

(a) a reference to proceeds of an act includes a reference to any property which wholly or partly, and directly or indirectly, represents the proceeds of the act (including payments or other rewards in connection with its commission), and
(b) the reference to an organisation's resources includes a reference to any money or other property which is applied or made available, or is to be applied or made available, for use by the organisation.

10 Money laundering

(1) A person commits an offence if he facilitates the retention or control of terrorist property —

(a) by concealment,
(aa) by disguise,
(ab) by conversion,
(b) by removal from the jurisdiction,
(c) by transfer to nominees, or
(d) in any other way.

(2) [Repealed]

(3) A person guilty of an offence under this section shall be liable —

(a) on conviction on information, to custody for a term not exceeding 14 years, to a fine or to both, or
(b) on summary conviction, to custody for a term not exceeding 12 months, to a fine not exceeding £5,000 or to both.19

(4) Concealing or disguising terrorist property includes concealing or disguising its nature, source, disposition, movement or ownership or any rights with respect to it.

11 Disclosure of information: duty

(1) This section applies where a person —

(a) believes or suspects that another person has committed an offence under any of sections 7 to 10, and
(b) bases his belief or suspicion on information which comes to the person's attention —

(i) in the course of a trade, profession or business; or
(ii) in the course of the person's employment (whether or not in the course of a trade, profession or business).

but does not apply if the information came to the person in the course of a business in the regulated sector.

(2) The person commits an offence if he does not disclose to a constable as soon as is reasonably practicable —

(a) his belief or suspicion, and

(b) the information on which it is based.

(3) It is a defence for a person charged with an offence under subsection (2) to prove that he had a reasonable excuse for not making the disclosure.

(4) Where —

(a) a person is in employment,
(b) his employer has established a procedure for the making of disclosures of the matters specified in subsection (2), and
(c) he is charged with an offence under that subsection,

it is a defence for him to prove that he disclosed the matters specified in that subsection in accordance with the procedure.

(5) Subsection (2) does not require disclosure by a professional legal adviser of —

(a) information which he obtains in privileged circumstances, or
(b) a belief or suspicion based on information which he obtains in privileged circumstances.

(6) For the purpose of subsection (5) information is obtained by an adviser in privileged circumstances if it comes to him, otherwise than with a view to furthering a criminal purpose —

(a) from a client or a client's representative, in connection with the provision of legal advice by the adviser to the client,
(b) from a person seeking legal advice from the adviser, or from the person's representative, or
(c) from any person, for the purpose of actual or contemplated legal proceedings.

(7) For the purposes of subsection (1)(a) a person shall be treated as having committed an offence under one of sections 7 to 10 if —

(a) he has taken an action or been in possession of a thing, and
(b) he would have committed an offence under one of those sections if he had been in the Island at the time when he took the action or was in possession of the thing.

(8) In this section —

(a) the reference to a business in the regulated sector must be construed in accordance with Schedule 1,
(b) the reference to a constable includes a reference to a person authorised for the purposes of this section by the Attorney General.

(9) A person guilty of an offence under this section shall be liable —

(a) on conviction on information, to custody for a term not exceeding 5 years, to a fine or to both, or
(b) on summary conviction, to custody for a term not exceeding 12 months, or to a fine not exceeding £5,000 or to both.

3.5 APPENDIX V – Convention Offences as set out in Schedule 13A to the ATCA

SCHEDULE 13A

CONVENTION OFFENCES

Section 75(1)

Explosive offences

1. An offence under any of the following provisions of the Explosive Substances Act 1883 —

   (a) section 2 (causing an explosion likely to endanger life);
   (b) section 3 (preparation of explosions);
   (c) section 5 (ancillary offences).

Biological weapons

2. An offence under section 1 (biological agents and weapons) of the Biological Weapons Act 1974 (of Parliament).

Offences against internationally protected persons

3. (1) An offence mentioned in section 1(1)(a) of the Internationally Protected Persons Act 1978 (of Parliament) (attacks against protected persons committed outside the Island) which is committed (whether in the Island or elsewhere) in relation to a protected person.

   (2) An offence mentioned in section 1(1)(b) of that Act (attacks on relevant premises etc) which is committed (whether in the Island or elsewhere) in connection with an attack —

   (a) on relevant premises or on a vehicle ordinarily used by a protected person; and
   (b) at a time when a protected person is in or on the premises or vehicle.

   (3) An offence under section 1(3) of that Act (threats etc in relation to protected persons).

   (4) Expressions used in this paragraph and section 1 of that Act have the same means in this paragraph as in that section.

Hostage-taking

4. An offence under section 1 of the Taking of Hostages Act 1982 (of Parliament) (hostage-taking).

Hijacking and other offences against aircraft

5. Offences under any of the following provisions of the Aviation Security Act 1982 (of Parliament) —

   (a) section 1 (hijacking);
   (b) section 2 (destroying, damaging or endangering safety of aircraft);
   (c) section 3 (other acts endangering or likely to endanger safety of aircraft);
   (d) section 6(2) (ancillary offences).

Offences involving nuclear material

6. (1) An offence mentioned in section 1(1)(a) to (d) of the Nuclear Material (Offences) Act 1983 (of Parliament) (offences in relation to nuclear material committed outside the Isle of Man) which is committed (whether in the Isle of Man or elsewhere) in relation to or by means of nuclear material.

   (2) An offence mentioned in section 1(1)(a) or (b) of that Act where the act making the person guilty of the offence (whether done in the Island or elsewhere) —

   (a) is directed at a nuclear facility or interferes with the operation of such a facility; and
   (b) causes death, injury or damage resulting from the emission of ionising radiation or the release of radioactive material.

   (3) An offence under any of the following provisions of that Act —

(a) section 1B (offences relating to damage to environment);
(b) section 1C (offences of importing or exporting etc nuclear material: extended jurisdiction);
(c) section 2 (offences involving preparatory acts and threats).

(4) Expressions used in this paragraph and that Act have the same meanings in this paragraph as in that Act.

7. (1) Any of the following offences under the Customs and Excise Management Act 1986 —

(a) an offence under section 47(2) or (3) (improper importation of goods) in connection with a prohibition or restriction relating to the importation of nuclear material;
(b) an offence under section 69(2) (exportation of prohibited or restricted goods) in connection with a prohibition or restriction relating to the exportation or shipment as stores of nuclear material;
(c) an offence under section 178(1) or (2) (fraudulent evasion of duty) in connection with a prohibition or restriction relating to the importation, exportation or shipment as stores of nuclear material.

(2) In this paragraph 'nuclear material' has the same meaning as in the Nuclear Material (Offences) Act 1983 (of Parliament) (see section 6 of that Act).

Offences relating to aviation and maritime security

8. (1) An offence under section 1 of the Aviation and Maritime Security Act 1990 (of Parliament) (endangering safety at aerodromes).

(2) Offences under any of the following provisions of the Maritime Security Act 1995 —

(a) section 1 (hijacking of ships);
(b) section 2 (seizing or exercising control of fixed platforms);
(c) section 3 (destroying ships or fixed platforms or endangering their safety);
(d) section 4 (other acts endangering or likely to endanger safe navigation);
(e) section 5 (offences involving threats relating to ships or fixed platforms);
(f) section 6 (ancillary offences).

Offences involving chemical weapons

9. An offence under section 2 of the Chemical Weapons Act 1996 (of Parliament) (use, development etc of chemical weapons).

Terrorist funds

10. An offence under any of the following provision of this Act —

(a) section 7 (terrorist fund-raising);
(b) section 8 (use or possession of terrorist funds);
(c) section 9 (facilitating funding for terrorism);
(d) section 10 (money laundering of terrorist funds).

Directing terrorist organisation

11. An offence under section 44 (directing a terrorist organisation) of this Act.

Offences involving nuclear weapons

12. An offence under section 49B (use etc of nuclear weapons) of this Act.

Conspiracy etc

13. Any of the following offences —

(a) conspiracy to commit a Convention offence;
(b) inciting the commission of a Convention offence;
(c) attempting to commit a Convention offence;

(d) aiding, abetting, counselling or procuring the commission of a Convention offence.

14. The Department may by order —

(a) amend this Schedule so as to add an offence to the offences listed in this Schedule;
(b) amend this Schedule so as to remove an offence from the offences so listed;
(c) make supplemental, incidental, consequential or transitional provision in connection with the addition or removal of an offence.

Interpretation

15. In this Schedule, a reference to an Act of Parliament, or a provision of an Act of Parliament, is a reference to that Act, or a provision of that Act, as it has effect in the Island.

3.6 APPENDIX VI – Paragraph 21 of the Money Laundering and Terrorist Financing Code 2013

21 Money Laundering Reporting Officer and disclosures

(1) A relevant person must appoint a Money Laundering Reporting Officer (MLRO) to exercise the functions conferred by this paragraph.

(2) The MLRO must —

(a) be sufficiently senior in the organisation of the relevant person or have sufficient experience and authority; and
(b) have a right of direct access to the directors or the managing board (as the case may be) of the relevant person, to be effective in the exercise of his or her functions.

(3) A relevant person must establish, maintain and operate written internal reporting procedures that, in relation to its business in the regulated sector, will —

(a) enable all its directors or, as the case may be, partners, all other persons involved in its management, and all appropriate employees and workers to know to whom they should report any knowledge or suspicions of money laundering or the financing of terrorism activity or suspicions of attempted money laundering or the attempted financing of terrorism activity;
(b) ensure that there is a clear reporting chain under which those suspicions will be passed to the MLRO;
(c) require reports to be made to the MLRO ("internal disclosures") of any information or other matter that comes to the attention of the person handling that business and that in that person's opinion gives rise to a knowledge or suspicion that another person is engaged in money laundering or the financing of terrorism or attempted money laundering or the attempted financing of terrorism;
(d) require the MLRO to consider any report in the light of all other relevant information available to him or her for the purpose of determining whether or not it gives rise to a knowledge or suspicion of money laundering or the financing of terrorism or attempted money laundering or the attempted financing of terrorism;
(e) ensure that the MLRO has full access to any other information that may be of assistance to him or her and that is available to the relevant person; and
(f) enable the information or other matter contained in a report ("external disclosure") to be provided as soon as is practicable to a constable who is for the time being serving with the organisation known as the Financial Crime Unit if the MLRO knows or suspects that another is engaged in money laundering or the financing of terrorism or attempted money laundering or the attempted financing of terrorism.

(4) A relevant person must establish and maintain separate registers of –

(a) all internal disclosures; and
(b) all external disclosures.

(5) However, the registers of internal disclosures and external disclosures may be contained in a single document if the details required to be included in those registers under subparagraph (6) can be presented separately for internal disclosures and external disclosures upon request by a competent authority.

(6) The registers must include details of –

(a) the date on which the report is made;
(b) the person who makes the report;
(c) whether it is made to the MLRO or deputy MLRO or, for external disclosures, the constable's name; and

(d) information sufficient to identify the relevant papers.