



# Anti-money laundering and counter-terrorist financing measures

## Isle of Man

**3<sup>rd</sup> Enhanced Follow-up Report &  
Technical Compliance Re-Rating**

**September 2020**



**The Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism - MONEYVAL** is a permanent monitoring body of the Council of Europe entrusted with the task of assessing compliance with the principal international standards to counter money laundering and the financing of terrorism and the effectiveness of their implementation, as well as with the task of making recommendations to national authorities in respect of necessary improvements to their systems. Through a dynamic process of mutual evaluations, peer review and regular follow-up of its reports, MONEYVAL aims to improve the capacities of national authorities to fight money laundering and the financing of terrorism more effectively.

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The 3<sup>rd</sup> Enhanced Follow-up Report and Compliance Re-Rating on Isle of Man was adopted by the MONEYVAL Committee at its 60<sup>th</sup> Plenary Session (Strasbourg, 16– 18 Sept. 2020).

## Table of Contents

<b>SUMMARY REPORT .....</b>	<b>Error! Bookmark not defined.</b>
<b>1. INTRODUCTION.....</b>	<b>4</b>
<b>2. FINDINGS OF THE MUTUAL EVALUATION REPORT .....</b>	<b>4</b>
<b>3. OVERVIEW OF PROGRESS TO IMPROVE TECHNICAL COMPLIANCE.....</b>	<b>5</b>
<b>3.1. Progress to address technical compliance deficiencies identified in the MER .....</b>	<b>5</b>
<i>Recommendation 23 (Originally rated PC - no re-rating) .....</i>	<i>5</i>
<i>Recommendation 21 (Originally rated LC - re-rated to C).....</i>	<i>6</i>
<b>3.2. Progress on Recommendations which have changed since adoption of the MER.....</b>	<b>6</b>
<i>Recommendation 15 (originally rated C - re-rated as LC).....</i>	<i>6</i>
<b>GLOSSARY OF ACRONYMS.....</b>	<b>9</b>

## *The Isle of Man: 3<sup>rd</sup> Enhanced Follow-up Report*

### 1. INTRODUCTION

1. The mutual evaluation report (MER) of the Isle of Man was adopted in December 2016. This report analyses the progress of the Isle of Man in addressing the technical compliance (TC) deficiencies identified in its MER. Re-ratings are given where sufficient progress has been made. This report also analyses progress made in implementing new requirements relating to FATF Recommendations which have changed since the Isle of Man's 2<sup>nd</sup> enhanced follow-up report was adopted. This concerns notably Recommendation 15. Overall, the expectation is that countries will have addressed most if not all TC deficiencies by the end of the third year from the adoption of their MER. This report does not address what progress the Isle of Man has made to improve its effectiveness. A later follow-up assessment will analyse progress on improving effectiveness which may result in re-ratings of Immediate Outcomes at that time.

### 2. FINDINGS OF THE MUTUAL EVALUATION REPORT

2. The MER and the second enhanced follow-up report rated the Isle of Man as follows for technical compliance:

**Table 1. Technical compliance ratings, July 2019**

R 1	R 2	R 3	R 4	R 5	R 6	R 7	R 8	R 9	R 10
LC	C	C	LC	C	C	LC	LC	C	LC
R 11	R 12	R 13	R 14	R 15	R 16	R 17	R 18	R 19	R 20
C	C	C	LC	C	C	C	LC	C	C
R 21	R 22	R 23	R 24	R 25	R 26	R 27	R 28	R 29	R 30
LC	LC	PC	LC	C	LC	LC	LC	C	C
R 31	R 32	R 33	R 34	R 35	R 36	R 37	R 38	R 39	R 40
C	C	C	LC	LC	LC	LC	LC	C	LC

*Note:* There are four possible levels of technical compliance: compliant (C), largely compliant (LC), partially compliant (PC), and non-compliant (NC).

*Source:* The Isle of Man Mutual Evaluation Report, December 2016, <https://rm.coe.int/anti-money-laundering-and-counter-terrorist-financing-measures-isle-of/168071610e>. The Isle of Man first Enhanced Follow-up Report, July 2018, <https://rm.coe.int/moneyval-2018-9-sr-5th-round-summary-fupmer-isle-of-man/16808d3cca>. The Isle of Man second Enhanced Follow-up Report, July 2019, <https://rm.coe.int/moneyval-2019-4-sr-5th-round-fur-mer-isle-of-man/168097195a>.

3. Given the results of the MER, the Isle of Man was placed in enhanced follow-up. The first enhanced follow-up report submitted by the Isle of Man was discussed at the 56<sup>th</sup> Plenary meeting in July 2018. The Isle of Man was re-rated with the first enhanced follow-up on 8 Recommendations (8 upgrades): Recommendation 16, initially rated as PC in the MER, was re-rated as C; Recommendations 24 and 35, rated as PC in the MER, were re-rated as LC; and Recommendations 5, 6, 29, 32 and 33, initially rated as LC in the MER, were re-rated as C. The second enhanced follow-up report submitted by the Isle of Man was discussed at the 58<sup>th</sup> Plenary meeting in July 2019. The Isle of Man was re-rated with the second enhanced follow-up on 4 Recommendations (all upgrades): Recommendation 25, initially rated as PC in the MER, was re-rated as C; and Recommendations 11, 12, and 17, initially rated as LC, were re-rated as C. Second enhanced follow-up noted also that further steps have been taken to improve compliance with Recommendation 23, but moderate deficiencies remained. With regard to the Recommendations revised since the on-site visit, the Isle of

Man remained rated C with Recommendation 2. Despite steps having been taken to improve compliance with Recommendations 8, 18 and 21, these remained rated as LC. The Plenary invited the Isle of Man to submit a third enhanced follow-up report for the 60<sup>th</sup> MONEYVAL Plenary in June 2020. Given the postponement of the 60<sup>th</sup> MONEYVAL Plenary, the report is being considered by MONEYVAL members in the framework of their 2<sup>nd</sup> Intersessional Consultation via written procedure in accordance with Rule 21, paragraph 9 of the MONEYVAL Rules of Procedure for the 5<sup>th</sup> Round of Mutual Evaluations.

4. The assessment of the Isle of Man request for technical compliance re-ratings and the preparation of this report were undertaken by the following Rapporteur teams (together with the MONEYVAL Secretariat):

- Estonia
- Italy

5. Section III of this report summarises the Isle of Man's progress made in improving technical compliance. Section IV sets out the conclusion and a table showing which Recommendations have been re-rated.

### **3. OVERVIEW OF PROGRESS TO IMPROVE TECHNICAL COMPLIANCE**

6. This section summarises the progress made by the Isle of Man to improve its technical compliance by:

- a) Addressing the technical compliance deficiencies identified in the MER (R.23 for which the Isle of Man requested re-rating and for R.21<sup>1</sup>), and
- b) Implementing new requirements where the FATF Recommendations have changed since the 2<sup>nd</sup> enhanced follow-up report was adopted (R.15).

#### **3.1. Progress to address technical compliance deficiencies identified in the MER**

7. The Isle of Man has made progress to address the technical compliance deficiencies identified in the MER. As a result of this progress, the Isle of Man has been re-rated on Recommendations 15 and 21.

#### ***Recommendation 23 (Originally rated PC – no re-rating)***

8. In its 5<sup>th</sup> Round MER, the Isle of Man was rated PC with R.23 based on the following deficiencies: with respect to all designated non-financial business and professions (DNFBPs), there was no requirement to: appoint a compliance officer at management level; have an independent audit function to test the system; have group-wide programmes against ML/FT (for groups); and apply appropriate additional measures to mitigate the ML/FT risks where a branch or subsidiary is prevented by law from applying the necessary CDD measures. Additionally, tipping-off offences were too narrowly set. With respect to online gambling operators, in addition to the aforementioned, there were no requirements for policies and procedures covering employee screening or on-going training having regard to ML/FT risks or size of operator; and there were no measures in place to actively advise licence holders of any concerns of AML/CFT weakness of other countries.

9. To address the deficiencies under R.23 identified in MER and noted in first enhanced follow-up report, revisions to Anti-Money Laundering and Countering Financing of Terrorism Code 2019

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<sup>1</sup> R.21 is analysed and re-rated for the consistency purposes.

(2019 AML/CFT Code) and 2019 Gambling (Anti-Money Laundering and Countering Financing of Terrorism) Code (2019 Gambling Code) were adopted before second follow-up report. However, second enhanced follow-up report which analysed these revisions noted some remaining deficiencies. In order to address these remaining issues additional revisions were introduced to the 2019 AML/CFT Code and 2019 Gambling Code by the Anti-Money Laundering and Countering the Financing of Terrorism Code (General and Gambling) (Amendment) Code 2019 (2019 Amending Code). The latter came into operation on 25 November 2019. In addition, the sections in the Proceeds of Crime Act 2008 (POCA) relating to tipping-off were amended with the Proceeds of Crime Act (Compliance with International Standards) (No.3) Order 2019, which came into operation on 11 December 2019. With these amendments the Isle of Man addressed all remaining deficiencies with exception of introducing specific requirement in the AML/CFT Code in relation to having an independent audit function and the gap noted in the second follow-up report in relation of having the requirements for groups to have group-wide programmes against ML/TF which would cover the elements of c.18.2 (a)-(c). A final decision has been postponed on this issue pending a discussion by the FATF on the applicability of group-wide requirements to DNFBPs.

### *Recommendation 21 (Originally rated LC – re-rated to C)*

10. In its 5<sup>th</sup> Round MER, the Isle of Man was rated LC with R.21. The assessors in the MER considered that the tipping-off offences were too narrowly set as the offence was restricted to only occurring if an investigation was subsequently prejudiced (c.21.1).

11. POCA has been amended (amendments came into operation on 11 December 2019) to remove the “without prejudice” provisions addressing this deficiency. The same deficiency was noted also under c.23.4 and can be considered as fully addressed. For the consistency purposes **R.21 is re-rated to C**.

## **3.2. Progress on Recommendations which have changed since adoption of the MER**

### *Recommendation 15 (originally rated C – re-rated as LC)*

12. In its 5th round MER, the Isle of Man was rated C with R.15.

13. In June 2019, the FATF adopted the Interpretative Note to Recommendation 15 to address obligations related to virtual assets (VA) and virtual asset service providers (VASPs). These new requirements include: requirements on identifying, assessing and understanding ML/TF risk associated with VA activities or operations of VASPs; requirements for VASPs to be licensed or registered; requirements for countries to apply adequate risk-based AML/CFT supervision (including sanctions) to VASPs and that such supervision should be conducted by a competent authority; as well as requirements to apply measures related to preventive measures and international cooperation to VASPs. Taking into account that R.15 was rated as C in MER, the current report would further consider the progress made by the Isle of Man to comply with R.15 and will assess the compliance with the revised and new elements of R.15.

14. The Isle of Man has taken steps to comply with the new requirements of Recommendation 15. Regarding new requirements under c.15.3(a), the Isle of Man published in January 2020 its second NRA, which contains several pages section on Convertible Virtual Currencies (CVCs)<sup>2</sup>. As part of government policy there is a constant monitoring of risk by the government departments and action taken where appropriate. The risk involving the developing VASPs sector were early identified and policies such as the registration programme under the Isle of Man Financial Supervisory Authority

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<sup>2</sup> CVCs definition is equivalent to VASPs definition in the FATF standards.

(IOMFSA) were introduced. The updating of the NRA has included specifically the new risks brought by the CVCs/VASPs sector and its products.

15. The Isle of Man applies based on their understanding of their risks, a risk-based approach (RBA) to ensure that measures to prevent or mitigate money laundering and terrorist financing are commensurate with the risks identified (c.15.3(b)).

16. AML/CFT Code requires VASPs to take appropriate steps to identify, assess, manage and mitigate their money laundering and terrorist financing risks, as required by criteria 1.10 and 1.11 (c.15.3(c)).

17. The Isle of Man has requirements in place to ensure that VASPs are required to be licensed or registered as prescribed by the FATF standards (c.15.4(a)) and competent authorities take the necessary measures to prevent criminals or their associates from holding, or being the beneficial owner of, a significant or controlling interest, or holding a management function in a VASP (c.15.4(b)).

18. The Isle of Man takes actions to identify natural or legal persons that carry out VASP activities without the requisite license or registration and applies appropriate sanctions to them (c.15.5). Authorities conduct ongoing searches to identify CVC activities conducted without the required registration and appropriate sanctions are available to contravening behaviours.

19. The IOMFSA has also adequate supervisory powers to ensure compliance with the AML/CFT Code by CVCs according to its powers contained in DBRO (c.15.6), including the authority to conduct inspections, compel the production of information and impose a range of disciplinary and financial sanctions, including the power to revoke registration, de-registration, issue public statements, injunctions and remedial orders and civil penalties, where applicable.

20. The IOMFSA has published in May 2020 Virtual Currency Business Sector Specific AML/CFT Guidance Notes and provides the feedback through the outreach to the sector (c.15.7).

21. There is a range of proportionate and dissuasive sanctions available to deal with VASPs that fail to comply with AML/CFT requirements and sanctions are applicable not only to VASPs, but also to their directors and senior management. (c.15.8).

22. POCA sets out those businesses that are caught by the provisions of the 2019 AML/CFT Code and other legislation such as the POCA, which includes CVCs. The latter contains the requirements relating to Recommendation 10-21 (C.15.9(a)). However, c.15.9 (b) requirements (wire transfers) are not met by the Isle of Man.

23. With respect to targeted financial sanctions (c.15.10) POCA sets out those businesses that are caught by the provisions of the AML/CFT Code. As CVCs are included in POCA the full AML/CFT regime, including that for international sanctions, applies to them. Guidance on targeted financial sanctions applies also to CVCs/VASPs.

24. The Isle of Man is able to provide rapidly the widest possible range of international cooperation in relation to money laundering, predicate offences, and terrorist financing relating to virtual assets (c.15.11).

25. Overall, **R.15 is re-rated to LC** due to the absence of wire transfer requirements for CVCs/VASPs (c.15.19(b)).

#### 4. CONCLUSION

26. Overall, the Isle of Man has made a progress in addressing the TC deficiencies identified in its 5<sup>th</sup> Round MER and has been re-rated on two Recommendations. Recommendation 21, initially rated as LC, is re-rated as C. Recommendation 15, initially rated as C is re-rated as LC.

27. Further steps have been taken to improve compliance with the Recommendations 21, 23 and Recommendation 15 that have been revised since the adoption of the MER, but some gaps remain with respect to Recommendations 15 and 23. The Isle of Man is encouraged to continue its efforts to address the remaining deficiencies.

28. A re-examination of measures with regard to R.23 will be undertaken by MONEYVAL following a discussion by the FATF on the applicability of group-wide requirements to DNFBPs.

29. Overall, in light of the progress made by the Isle of Man since its MER was adopted, its technical compliance with the FATF Recommendations has been re-rated as follows:

**Table 2. Technical compliance with re-ratings, June 2020**

R 1	R 2	R 3	R 4	R 5	R 6	R 7	R 8	R 9	R 10
LC	C	C	LC	C	C	LC	LC	C	LC
R 11	R 12	R 13	R 14	<b>R 15</b>	R 16	R 17	R 18	R 19	R 20
C	C	C	LC	<b>LC</b>	C	C	LC	C	C
<b>R 21</b>	R 22	R 23	R 24	R 25	R 26	R 27	R 28	R 29	R 30
<b>C</b>	LC	PC	LC	C	LC	LC	LC	C	C
R 31	R 32	R 33	R 34	R 35	R 36	R 37	R 38	R 39	R 40
C	C	C	LC	LC	LC	LC	LC	C	LC

*Note:* There are four possible levels of technical compliance: compliant (C), largely compliant (LC), partially compliant (PC), and non-compliant (NC).

30. The Isle of Man will remain in enhanced follow-up and will continue to report back to MONEYVAL on progress to strengthen its implementation of AML/CFT measures. The Isle of Man is expected to report back to the Plenary within one year.



## GLOSSARY OF ACRONYMS

AML	Anti-money laundering
C	Compliant
CDD	Customer due diligence
CFT	Countering the financing of terrorism
DNFBP	Designated non-financial business and professions
FI	Financial institution
FIU	Financial Intelligence Unit
FT	Financing of terrorism
GDPR	General Data Protection Regulation
IOMFSA	Isle of Man Financial Services Authority
KYC	Know your customer
LC	Largely compliant
MER	Mutual Evaluation Report
ML	Money laundering
MoU	Memorandum of Understanding
NPOs	Non-profit organisations
PC	Partially compliant
PEP	Politically exposed person
R.	Recommendation
SNPO	Specified NPO
TC	Technical compliance
TCSP	Trust and Company Service Provider

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September 2020

## Anti-money laundering and counter-terrorist financing measures - **Isle of Man**

### **3<sup>rd</sup> Enhanced Follow-up Report & Technical Compliance Re-Rating**

The Summary Report in Annex A of the 3<sup>rd</sup> enhanced follow-up report on the Isle of Man proposes re-ratings for two Recommendations (Recommendations 15 and 21).

In accordance with Rule 21, paragraph 7 of MONEYVAL's Rules of Procedure, this Summary Report consists of an independent analysis by the Secretariat on the basis of the desk-based review undertaken by the Rapporteur Teams.