



# Anti-money laundering and counter-terrorist financing measures

## Isle of Man

### Fifth Round of Mutual Evaluations 1<sup>st</sup> Enhanced Follow-up Report Summary Report

July 2018

Follow-up report



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.

The 1st Enhanced Follow-up Report on Isle of Man and the Summary Report in Annex A were adopted by the MONEYVAL Committee at its 56th Plenary Session (Strasbourg, 2-6 July 2018).

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## **CONTENTS**

I. INTRODUCTION.....	4
II. FINDINGS OF THE MUTUAL EVALUATION REPORT.....	4
III. OVERVIEW OF PROGRESS TO IMPROVE TECHNICAL COMPLIANCE.....	5
3.1. Progress to address technical compliance deficiencies identified in the MER.....	5
3.2. Progress on Recommendations which have changed since adoption of the MER.....	10
CONCLUSION.....	13
GLOSSARY OF ACRONYMS.....	15

## *Isle of Man: 1<sup>st</sup> Enhanced Follow-up Report*

### I. INTRODUCTION

1. The mutual evaluation report (MER) of the Isle of Man was adopted in December 2016. The report analyses the progress of the Isle of Man in addressing the technical compliance (TC) deficiencies identified in its MER, as well as the implementation of new requirements relating to FATF Recommendations which have changed since the MER was adopted (Recommendations 5, 7, 8, 18 and 21). 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.

### II. FINDINGS OF THE MUTUAL EVALUATION REPORT

2. The MER rated<sup>1</sup> the Isle of Man as follows:

IO 1	IO 2	IO 3	IO 4	IO 5	IO 6	IO 7	IO 8	IO 9	IO 10	IO 11
SE	SE	ME	ME	ME	LE	LE	LE	ME	ME	ME

R 1	R 2	R 3	R 4	R 5	R 6	R 7	R 8	R 9	R 10
LC	C	C	LC	LC	LC	LC	LC	C	LC
R 11	R 12	R 13	R 14	R 15	R 16	R 17	R 18	R 19	R 20
LC	LC	C	LC	C	PC	LC	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	PC	PC	LC	LC	LC	LC	C
R 31	R 32	R 33	R 34	R 35	R 36	R 37	R 38	R 39	R 40
C	LC	LC	LC	PC	LC	LC	LC	C	LC

3. Given these results, the Isle of Man was placed in enhanced follow-up.

4. The Isle of Man has submitted requests for re-ratings in relation to R.6, R.16, R.23, R.24, R.25, R.29, R.32, R.33, R.35 and R.40.

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

- Estonia
- Poland

6. Section III of this report summarises the progress made to improve TC. Section IV sets out the conclusion and a table showing which Recommendations have been re-rated.

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<sup>1</sup> There are four possible levels of technical compliance: compliant (C), largely compliant (LC), partially compliant (PC), and non-compliant (NC).

### III. OVERVIEW OF PROGRESS TO IMPROVE TECHNICAL COMPLIANCE

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

- a) Addressing the TC deficiencies identified in the MER, and
- b) Implementing new requirements where the FATF Recommendations have changed since the MER was adopted (R.5, R.7, R.8, R.18 and R.21).

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

8. The Isle of Man has made progress to address the TC deficiencies identified in the MER. As a result of this progress, the Isle of Man has been re-rated on Recommendations 5, 6, 16, 24, 29, 32, 33 and 35.

##### *Recommendation 6 (Originally rated LC – re-rated as C)*

9. The Isle of Man was rated LC with R.6 in light of the following gaps: the freezing obligation did not cover a sufficiently broad range of assets under the EU framework implementing UNSCR 1373; there were no publicly available procedures to deal with “false positives”; and no further guidance was available on obligations to respect de-listing or unfreezing action.

10. Sanctions Notice 26, which provides general information about TFS, including in relation to TF, was updated on 13 January 2017 to provide information on the treatment of “false positives”. Sanctions Notice 26 was further updated on 7 March 2017 to provide information on how Island businesses will be notified of a removal from a sanctions list, what to do and how to record any action taken. News releases were published on 25 January and 8 March 2017 to inform the general public of the updates.

11. Although EU Regulation 2580/2001 does not cover all the categories of funds and other assets to be frozen under c.6.5.b, the Isle of Man clarified in Customs & Excise (CED) paper to FCSB (Paper 030/17) that new domestic legislation (Terrorism and Other Crime (Financial Restrictions) Act, Sections 5A and 44) establishes a freezing obligation that extends to funds and other assets wholly or jointly, and directly or indirectly, owned or controlled by designated entities.

**12. The Isle of Man has addressed the deficiencies under c.6.6. The Isle of Man is re-rated as C with R.6.**

##### *Recommendation 16 (Originally rated PC – re-rated as C)*

13. In the 5<sup>th</sup> Round MER, the main deficiencies noted under R.16 were related to the absence of obligations on beneficiary information; the lack of an obligation to verify payer information in all required cases; the absence of a prohibition for ordering institutions to execute wire transfers that do not comply with the requirements; and the limited requirements for intermediate institutions.

14. EU Regulation 2015/847, which replaced EU Regulation 2006/1781, was introduced in the Isle of Man’s law via the European Union (Information Accompanying transfers of Funds) (Amendment) Order 2017, which came into operation on 23 June 2017. The new EU Regulation requires that wire transfers should be accompanied by beneficiary information (Art.4 to 6); that payer information needs to be verified below the EUR 1,000 threshold if the financial institution (FI) has reasonable grounds for suspecting ML/TF (Art.6(2)); that the ordering FI should not execute

wire transfers if they are not accompanied by the required information (Art.4); that intermediary FIs should ensure that originator and beneficiary information that accompanies a wire transfer is retained with it (Art.10), and implement effective procedures to detect whether originator or beneficiary information is missing (Art.11(2)) and risk-based procedures for determining whether to execute, reject or suspend a transfer in that case and for taking appropriate follow-up action (Art.12(1)); and that beneficiary FIs should implement effective procedures to detect whether originator or beneficiary information is missing (Art.7(2)) and risk-based procedures for determining whether to execute, reject or suspend a transfer of funds in that case and for taking the appropriate follow-up action (Art. 8(1)).

**15. All deficiencies noted in the MER have been addressed. The Isle of Man is re-rated as C with R.16.**

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

16. The 5<sup>th</sup> Round MER found that deficiencies noted under R.18 and R.21 applied in relation to all DNFBPs except online gambling operators. For the latter, there was no requirement to appoint a compliance officer or to have an independent audit function to test the system; no requirement for policies and procedures covering employee screening or on-going training to have regard to ML/TF risks or size of operator; and no specific requirement for groups to have group-wide programmes against ML/TF nor specific requirements to deal with branches or majority-owned subsidiaries (R.18). Also, in relation to online gambling operators, there were no measures in place to actively advise licence holders of any concerns in the AML/CFT weakness of other countries (R.19) and tipping-off offences were too narrowly set (R.21).

17. Concrete progress was only reported in relation to online gambling operators (R.19 shortcoming): the GSC now publish on their website a document (*Higher Risk Jurisdictions*) which advises their licence holders, including online gambling operators, of jurisdictions where there are concerns over weaknesses in the respective AML/CFT regime. An email is sent to its licence holders when the lists are updated.

18. Amendments to the Money Laundering and Terrorist Financing (Online Gambling) Code 2013 are being prepared to address deficiencies related to internal controls and foreign branches and subsidiaries of online gambling operators.

**19. Concrete progress has only been reported in relation to one of the deficiencies. On that basis, the Isle of Man remains rated as PC with R.23.**

***Recommendation R.24 (Originally rated PC – re-rated as LC)***

20. The 5<sup>th</sup> Round MER highlighted the following deficiencies: the Central Registry did not check the accuracy of basic information; it could not be determined that accurate, complete and current beneficial ownership information will be available for 1931 companies, limited partnerships or general partnerships; there were gaps in the application of requirements to companies and partnerships that are dissolved or otherwise cease to exist; and there were insufficient measures to ensure that nominee shareholders are not misused.

21. The Isle of Man has taken several steps in order to address deficiencies noted under R.24.

22. The official government website's dedicated page on beneficial ownership (<https://www.gov.im/categories/business-and-industries/companies-registry/beneficial-ownership/>)

as well as IOMFSA guidance and own dedicated webpage provide information on the process for obtaining and recording beneficial ownership information. More importantly, the Beneficial Ownership Act 2017 was enacted on 21 June 2017, which addresses a number of deficiencies noted in the 2016 MER, in particular:

- a. A beneficial owner (BO) is now defined as a *natural person* who ultimately owns or controls a legal entity, in whole or in part, through direct or indirect ownership or control of shares or voting rights or other ownership interest in that entity, or who exercises control via other means.
- b. Legal owners must give notice to the nominated officer within one month after the legal owner learns of the change or first has reasonable cause to believe that the change has occurred. Breaches of such obligation are punishable by an unlimited fine.
- c. The scope of exemptions from the requirement to appoint a nominated officer has been reduced, and limited partnerships with legal personality are covered by the Act.
- d. The Beneficial Ownership Act 2017 more generally reinforces the mechanisms on collecting BO information, in particular with the creation of the Database of Beneficial Ownership of legal persons. Nominated officers (or CSPs), must take all reasonable steps necessary to ascertain whether a legal entity has a “registrable BO”, defined as a BO who owns or controls more than 25% of the beneficial ownership of a legal entity. The nominated officer must submit registrable BO information to the Database. BOs and intermediate owners must assist a legal owner to ascertain the BOs of an interest in the legal person and notify the legal owner of any changes to those BOs.

23. However, a number of deficiencies have not been addressed, in particular:

- e. The Anti-Money Laundering and Other Financial Crime (Miscellaneous Amendments) Bill 2017 had not been enacted at the time of the preparation of the follow-up report. Amendments modifying the range of sanctions that can be applied by the FIU and LEAs for failing to grant competent authorities timely access to information; requiring that a copy of the foundation rules should be submitted to the Registrar when applying to form a foundation; and clarifying the powers of the Registrar to make enquiries to establish the accuracy of any information submitted for inclusion on the register, are yet to be adopted.
- f. There has been limited progress in relation to ensuring the transparency of nominee shareholders. The revised record-keeping obligation for beneficial ownership information does not fully meet the standard.
- g. No step has yet been taken to ensure that information held by the Central Registry on directors of 2006 companies is kept up-to-date, or to ensure that all relevant basic information is maintained in the Isle of Man.

24. **The Isle of Man has addressed a number of deficiencies, including in relation to key requirements, such as c.24.6. The Isle of Man is re-rated as LC with R.24.**

#### ***Recommendation 25 (Originally rated PC – no re-rating)***

25. In the 5th Round MER, the following deficiencies were noted: there was no explicit requirement placed on the trustee of an express trust that is governed by Manx law where the trustee is resident outside the Isle of Man, or resident in the Isle of Man but non-professional to obtain and hold information in line with c25.1; there was no explicit requirement placed on TCSPs

subject to the AML/CFT Code to obtain information on classes of beneficiaries; there was no explicit requirement for trustees to hold basic information on regulated agents of, and service providers to, a trust; record-keeping requirements did not apply to professional trustees that are resident outside the Isle of Man; not all trustees were required to disclose their status when entering into a business relationship or carrying out a one-off transaction; the common law duty of confidentiality may prevent a trustee providing information to a FI or DNFBP; and the range of sanctions that could be applied by the FIU and LEAs for failing to grant competent authorities timely access to information was not proportionate.

26. The Isle of Man has not reported concrete progress, but indicates that the Anti-Money Laundering and Other Financial Crime (Miscellaneous Amendments) Bill 2017 would include provisions aimed at addressing all deficiencies noted in the MER.

27. **No concrete progress has been reported. The Isle of Man remains rated as PC with R.25.**

*Recommendation 29 (Originally rated LC - re-rated as C)*

28. The 5<sup>th</sup> Round MER noted that the FIU's strategic analysis was limited in nature.

29. Progress was reported by the Isle of Man. The FIU's strategic analysis objective has been institutionalized in its Strategic Delivery Plans. Steps have been taken to enhance the FIU's strategic analysis capabilities (training); disseminate a typologies document to the private sector and the authorities; and initiate analysis on legal persons and arrangements.

30. **From a TC point of view, the requirement for the FIU to conduct strategic analysis appears to be met. The Isle of Man is re-rated as C with R.29.**

*Recommendation 32 (Originally rated LC - re-rated as C)*

31. In the 5<sup>th</sup> Round MER, the following shortcomings were identified: Section 174B of Customs and Excise Management Act 1986 (CEMA) needed to be extended to the FIU (and an MoU was considered probably necessary) to ensure access of the FIU to cash declaration information; and there was no provision in the CEMA requiring the CED to maintain records on (a) declarations, (b) false declarations, and (c) ML/TF suspicions.

32. As recommended in the MER, the Customs and Excise Management Act 1986 (Enforcing Authority) Order 2016 came into force on 1 August 2016 and added the FIU to the list of enforcement authorities with which the CED can exchange information. The Isle of Man notes that whilst an MOU has been signed between the FIU and the CED, it was determined that an MOU was unnecessary for these particular purposes and the practice between the FIU and the CED is now well-established. All cash declaration forms received from the CED are scanned onto THEMIS by the FIU, subjects are created, and the subjects are checked against the FIU databases.

33. The Customs and Excise Act 2018, enacted on 20 February 2018, in Clause 7, contains amendments to the CEMA to require the CED "to record any particulars it thinks fit" in relation to cash declarations or disclosures and any seizures of cash. The authorities report that information is recorded on any case of suspicion of ML/TF.

34. **The Isle of Man has addressed the deficiencies identified in the MER. The Isle of Man remains is re-rated as C with R.32.**

### *Recommendation 33 (Originally rated LC - re-rated as C)*

35. The 5<sup>th</sup> Round MER noted that there was no comprehensive collection and maintenance of statistics, especially in relation to bulk cash smuggling cases and detected amounts, and international cooperation (lack of centrally and regularly updated data).

36. The Isle of Man reports that progress has been made by the authorities, including the FCU, to develop and embed comprehensive data collection on an ongoing basis to ensure that all relevant AML/CFT data is captured and reported centrally and regularly to the Cabinet Office (AML/CFT Policy Office) for consideration by the Financial Crime Strategic Board.

37. The International Cooperation and Asset Recovery Team of the Attorney General's Chambers (ICART) and CED collect information on cash seizures and other bulk cash matters. Aggregate data from ICART and Customs is provided to the AML/CFT Policy Office on a quarterly basis and reported to the Financial Crime Strategic Board.

38. The Isle of Man indicates that MLA statistics are reported to the Financial Crime Strategic Board Progress every quarter and that, in addition, the Attorney General receives a regular report from ICART including relevant MLA information. The ILOR Forum will complement these arrangements as of June 2018.

39. **Based on the information provided, the deficiencies have been addressed. The Isle of Man is re-rated as C with R.33.**

### *Recommendation 35 (Originally rated PC - re-rated as LC)*

40. In the 5<sup>th</sup> Round MER, the following shortcomings were highlighted: not all of the activities or operations listed in the FATF's definition of FI were regulated or supervised; limited administrative powers were available to the GSC; sanctions may not be applied to directors and senior management under the DBRO Act; and civil penalties may not be applied to directors and senior management.

41. The Gambling (Anti-Money Laundering and Countering the Financing of Terrorism) Act 2018, enacted on 16 January 2018, enables the GSC to apply a broad range of sanctions in cases of non-compliance, including administrative fines (payment of civil penalties, section 22(1)).

42. The scope of regulation and supervision of FIs was amended. Art. 4(3) of the Regulated Activities (Amendment) Order 2011, which came into force on 1 January 2018, makes acting as a manager on a commercial basis of a single exempt scheme (a private collective investment scheme) a regulated activity. Simultaneously Regulation 3(3) of the Financial Services (Exemptions) (Miscellaneous Amendments) Regulations 2017, introduces an exemption from the obligation to hold a license for that activity. The authorities indicate that all the IOMFSA's supervisory and enforcement powers are available for investigation into the affairs of the manager or taking appropriate action. The Isle of Man has not, however, provided information on risk to justify the exemption from the licensing obligation (or the exclusion of other FIs from the scope of AML/CFT regulation and supervision).

43. No progress was reported in relation to sanctions for directors and senior management.

44. **Although gaps identified under c.35.2 (rated mostly met in the MER) remain to be addressed, significant progress was reported under c.35.1. The Isle of Man is re-rated as LC**

with R.35.

#### *Recommendation 40 (Originally rated LC – no re-rating)*

45. The deficiencies noted in the 5<sup>th</sup> Round MER were the following: there were no formal rules directing the method by, or timeframes in which, MLA requests should be executed by the AGC; no formal processes for information sharing requests existed in law with respect to the GSC; it was unclear whether the FIU had relevant processes to prioritise and respond to requests on a timely basis; the FIU did not routinely receive any feedback requests from other jurisdictions; and the FSA may not always be able to provide assistance under the DBRO Act to an overseas regulator.

46. Some progress has been reported. A process for MLA with timeframes, and including prioritisation criteria, was established within ICART. The FIU's Handbook has also established processes to prioritise and respond to requests on a timely basis. The FIU is sending feedback forms with any information disseminated to foreign partners. The Gambling (AML/CFT) Act 2018, which came into effect on 24 January 2018, provides in Section 14 that the GSC may share information with a number of domestic authorities, as well as "such other entities as the Commission may prescribe", which the Isle of Man indicates cover foreign authorities.

47. No progress was reported in relation to the FSA's capacity to always provide international assistance under the DBRO Act.

48. **Most deficiencies have been addressed; one minor gap remains. The Isle of Man remains rated as LC with R.40.**

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

49. Since the Isle of Man's 5<sup>th</sup> Round ME onsite visit, the Methodology for assessing Recommendations 5, 7, 8, 18 and 21 has been amended. This section considers the Isle of Man's compliance with the new requirements and progress in addressing deficiencies identified in the MER in relation to these Recommendations.

#### *Recommendation 5 (Originally rated LC – re-rated as C)*

50. In February 2017, the Methodology for assessing R.5 was revised. References to "funds" were replaced by "funds or other assets", and the definition of "funds or other assets" was amended in the Glossary (reference to "oil and other natural resources" and to "any other assets which potentially may be used to obtain funds, goods or services").

51. In its 5<sup>th</sup> Round MER, the Isle of Man was rated LC with R.5 in light of the following shortcomings: the TF offence did not criminalise the financing of unproscribed terrorist organisations in the absence of a link to a specific terrorist act; and there were no specific TF offence provisions which would include financing the travel of individuals who travel to a State other than their States of residence or nationality for the purpose of the perpetration, planning, or preparation of, or participation in, terrorist acts or the providing or receiving of terrorist training.

52. The gaps identified in the MER have been addressed:

- The Anti-Terrorism and Crime Act (Compliance with International Standards) Order 2017 inserted into the Anti-Terrorism and Crime Act 2003 (ATCA) a definition of "terrorist organisations" (subsection (8) of section 1) which includes "an

organisation that, directly or indirectly, — (i) commits an act of terrorism; (ii) prepares or instigates an act of terrorism; or (iii) facilitates the commission, preparation or instigation of an act of terrorism (whether or not, in the case of subparagraphs (ii) or (iii), the act of terrorism occurs)". In addition, section 1(5) of ATCA also states that "a reference to action taken for the purposes of terrorism includes a reference to action taken for the benefit of a proscribed organisation or other terrorist organisation."

- The Anti-Terrorism and Crime Act (Compliance with International Standards) Order 2017 also inserted a new section into ATCA. Section 9A explicitly makes it an offence for someone to provide or facilitate the provision of money or other property which is used to finance the travel of a person for the purpose of the perpetration, planning, or preparation of, or participation in an act of terrorism, or the providing or receiving of terrorist training.

53. The TF offences defined in the ATCA refer to "*money or other property*" or "*terrorist property*". As per Section 75 ATCA, 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; and (d) legal documents and instruments evidencing title to or interest in any such property." The definition of property appears sufficiently broad to cover the FATF's definition of "funds or other assets".

**54. The Isle of Man has corrected the deficiencies identified in the MER and its legislation is in line with the revised R.5. The Isle of Man is re-rated as C with R.5.**

#### ***Recommendation 7 (Originally rated LC - no re-rating)***

55. The Methodology for assessing R.7 was amended in November 2017 in order to reflect the new UNSCRs on proliferation financing (in particular, references to UNSCR 2231).

56. The 5<sup>th</sup> Round MER highlighted the deficiencies identified under the Isle of Man's supervisory regime (R.26-28); the absence of publicly available procedures to deal with "false positives"; and the lack of clear provisions in the law with respect to requirements set out under c.7.5(b).

57. Council Regulation 2015/1861/EU, making amendments to EU legislation in light of UNSCR 2231's JCPOA, was applied in the Isle of Man by the European Union (Iran Sanctions) (Proliferation) (Amendment) (No. 3) Order 2015 and came into operation on 16 January 2016.

58. Sanction Notices 24 (Iran) and 26 (Financial Sanctions Regime) have been amended to provide guidance on TFS, including on requests for de-listing and dealing with false positives. The Terrorism and Other Crime (Financial Restrictions) Act 2014 (Amendment) (No. 2) Order 2017 came into operation on 1 January 2018, and the Terrorism and Other Crime (Financial Restrictions) Act 2014 (Amendment) Order 2018, which came into operation on 1 May 2018, establish explicit provisions to ensure compliance with c.7.5.b.

59. Limited progress was reported in relation to the supervisory regime. The Gambling (Anti-Money Laundering and Countering the Financing of Terrorism) Act 2018, enacted on 16 January 2018, gives the GSC detailed supervisory powers in respect of casinos, bookmakers and online gambling operators. It also provides a broad suite of administrative powers for dealing with issues of non-compliance. As noted under R.35, some steps were taken in relation to the scope of regulation

and supervision of FIs (single exempt schemes).

**60. Progress has been reported in relation to the deficiencies highlighted in the MER, although gaps in the supervisory framework remain. Legislation has been amended to implement the latest relevant UNSCRs. The Isle of Man remains rated as LC with R.7.**

***Recommendation 8 (Originally rated LC – no re-rating)***

61. The Methodology for assessing R.8 was extensively revised in October 2016.

62. The main findings are as follows. An analysis of the NPO sector, focusing on charities, was conducted in 2014 and updated in 2018. In light of the threats identified, the adequacy of measures applying to the NPO sector was reviewed. The subset of at-risk NPOs was defined. A “Specified NPO” (SNPO) is a body corporate or other legal person, the trustees of a trust, a partnership, other unincorporated association or organisation or any equivalent or similar structure or arrangement, established solely or primarily to raise or distribute funds for charitable, religious, cultural, educational, political, social or fraternal purposes with the intention of benefiting the public or a section of the public and which has (a) an annual or anticipated annual income of £5,000 or more; and (b) remitted, or is anticipated to remit, at least 30% of its income in any one financial year to one or more ultimate recipients in or from one or more higher risk jurisdictions (Schedule 4 to the Proceeds of Crime Act 2008).

63. The promotion of accountability, integrity and public confidence in the administration and management of NPOs is reflected in legislation and guidance. The IOMFSA conducts outreach to SNPOs. Guidance was developed in consultation with NPOs. SNPOs have to comply with a number of obligations, including registration, KYC (“customers” being understood as beneficiaries and partners), identification of donors and transaction record-keeping. The IOMFSA monitors SNPOs for compliance with those requirements, including through periodic inspections. The AML/CFT Code provides for penalties for SNPOs failing to comply with reporting requirements. Relevant domestic and international cooperation mechanisms appear to be broadly in place.

64. However, minor gaps remain under c.8.1 (identification of the NPOs meeting the FATF definition) and c.8.2 (outreach to donors and encouragement to use regulated financial channels).

**65. The Isle of Man remains rated as LC with R.8.**

***Recommendation 18 (Originally rated LC – no re-rating)***

66. The Methodology for assessing R.18 was amended in February 2018 to clarify the requirements on sharing of information related to unusual or suspicious transactions within financial groups.

67. The MER found the following deficiencies in relation to R.18: not all FIs were required to appoint a compliance officer at management level or to have an independent audit function; there was no specific requirement for groups to have group-wide programmes against ML/TF; and there was no requirement to apply additional measures to mitigate ML/TF risks where a branch or subsidiary is prevented by law from applying necessary CDD measures.

68. The Isle of Man reported that work on preparing amendments to the AML/CFT Code to address the issues identified in the MER has started.

69. The revised requirement under c.18.2 remains not met given the absence of an obligation for FIs to have group-wide programmes on AML/CFT.

70. **No concrete progress has been reported. The revised requirement remains not met. The Isle of Man remains rated as LC with R.18.**

**Recommendation 21 (Originally rated LC - no re-rating)**

71. The Methodology for assessing R.21 was amended in February 2018 to clarify the interaction between the tipping-off provisions and the revised requirements on information sharing within financial groups (R.18).

72. The MER noted that the tipping-off prohibition set by POCA 2008 was insufficiently broad as it only applied if the disclosure to third parties is “likely to prejudice any investigation that might be conducted” following the disclosure to the FIU. The Financial Intelligence Unit (Tipping Off) Regulations 2018, which came into operation on 1 March 2018, have not removed that condition for the prohibition to apply.

73. As noted under R.18, there is no obligation for FIs to have group-wide AML/CFT programmes. However, it can be noted that, in theory, it seems that the tipping off prohibition would not inhibit the sharing of information within financial groups, as required by revised c.21.2.

74. **The Isle of Man remains rated as LC with R.21.**

**IV. CONCLUSION**

75. Overall, the Isle of Man has made commendable progress in addressing the TC deficiencies identified in its 5<sup>th</sup> Round MER and has been re-rated on 8 Recommendations (8 upgrades). Recommendation 16, initially rated as PC, is re-rated as C. Recommendations 24 and 35, rated as PC in the MER, are re-rated as LC. Recommendations 5, 6, 29, 32 and 33, initially rated as LC, are re-rated as C.

76. Further steps have been taken to improve compliance with the other Recommendations, including those Recommendations that have been revised since the adoption of the MER, but some gaps remain. The Isle of Man is encouraged to continue its efforts to address the remaining deficiencies.

77. 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:

R 1	R 2	R 3	R 4	R 5	R 6	R 7	R 8	R 9	R 10
LC	C	C	LC	<b>C</b>	<b>C</b>	LC	LC	C	LC
R 11	R 12	R 13	R 14	R 15	R 16	R 17	R 18	R 19	R 20
LC	LC	C	LC	C	<b>C</b>	LC	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	<b>LC</b>	PC	LC	LC	LC	<b>C</b>	C
R 31	R 32	R 33	R 34	R 35	R 36	R 37	R 38	R 39	R 40
C	<b>C</b>	<b>C</b>	LC	<b>LC</b>	LC	LC	LC	C	LC

78. 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. In this connection, the Plenary should take note of amended Rule 21.10 of its Rules of Procedure for the 5th Round of Mutual Evaluations. This rule may narrow the margin of the follow-up process for MONEYVAL in case a parallel review of the AML/CFT-system in the Isle of Man is continued at FATF-level.<sup>2</sup>

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<sup>2</sup> This provision states that: "For countries subject to review by the International Cooperation Review Group (on the basis of an agreed ICRG action plan), no reporting is expected on the Recommendations that are included in an ongoing ICRG action plan. However, overall progress on each Recommendation is still expected to be achieved, including on parts of Recommendations that are not covered by the ICRG action plan, under the normal timelines, or as soon as the country has completed its ICRG action plan (if this is after the regular timelines)."

## GLOSSARY OF ACRONYMS

AML	Anti-money laundering
BO	Beneficial ownership
CDD	Customer due diligence
CFT	Countering the financing of terrorism
DNFBP	Designated non-financial business and professions
FI	Financial institutions
FT	Financing of terrorism
HFIU	Hungarian Financial Intelligence Unit
LC	Largely compliant
ML	Money laundering
NGOs	Non-governmental organisations
NPOs	Non-profit organisations
NRA	National risk assessment
PC	Partially compliant
PF	Proliferation financing
R	Recommendation
STR	Suspicious transaction report
TFS	Targeted financial sanctions
UNSCR	United Nations Security Council Resolutions

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July 2018

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

### 1st Enhanced Follow-up Report

#### Summary Report

The Summary Report in Annex A of the 1st enhanced follow-up report on Isle of Man proposes re-ratings for eight Recommendations (Recommendations 5, 6, 16, 24, 29, 32, 33 and 35).

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.