



GACO Financial Crime Symposium – 29 January 2014

AML/CFT developments including the upcoming MONEYVAL visit and the National Risk Assessment

William Mason, Director General

I have previously made clear that at the Commission we see ourselves as best helping Guernsey by working to ensure that Guernsey complies with international standards. By complying with those standards, we ensure international respectability and new opportunities for our financial sector to trade with those outside the Bailiwick.

In order to capitalise upon these benefits, it is imperative that the Bailiwick, as a financial centre, is able to demonstrate that it has robust and effective controls to mitigate the risks of money laundering, the financing of terrorism and broader aspects of financial crime. The Commission, in partnership with a number of the Bailiwick's agencies who assist in mitigating financial crime risks, has been working to maintain an appropriate regulatory regime, a regime which also addresses those findings made by the International Monetary Fund following its evaluation in 2010.

MONEYVAL

Representatives from the Bailiwick's agencies attended a MONEYVAL Plenary in December of last year. This was to report on the progress made by the Bailiwick in addressing the IMF's 2010 recommendations. The outcome of this follow up review by MONEYVAL was that it was satisfied with the information provided by Guernsey and with the progress being undertaken in meeting the IMF's recommendations.

MONEYVAL will evaluate the Bailiwick's compliance with the 2003 Financial Action Task Force Recommendations when its representatives visit us in October 2014. That said I don't think that any of us should think that this gives us any excuse to delay implementing the enhancements which are mandated by the new 2012 FATF standards. Continuing our programme of improvements, the Commission – in alliance with others – has brought forward a number of related initiatives and work streams designed to help fight financial crime better and thereby demonstrate to MONEYVAL and the wider international community that Guernsey – as an international financial centre – has robust and effective controls to counteract money laundering and the financing of terrorism. The Commission is also working collaboratively on operations with a number of the Bailiwick's other agencies. Whilst it would obviously be inappropriate to talk about details of cases, the Bailiwick is safer as a result of the pro-active co-operation which takes place between ourselves and others in the Bailiwick who police its laws.

National Risk Assessment

Turning to National Risk Assessments, as most of you will now be aware, the FATF's 2012 standards recommended that every jurisdiction undertake a National Risk Assessment. The Commission has been taking part in discussions with other Bailiwick agencies about this exercise. We see it as an important exercise which will allow the Bailiwick to obtain even more clarity on its key financial crime risks. Using the data gathered as part of this exercise, we and other Bailiwick agencies should be better able to focus our limited resources to safeguard Guernsey. The National Risk Assessment is, in effect, the Bailiwick's financial crime business risk assessment.

The Commission will play a significant role in the assessment exercise, both in relation to the collation and the assessment of relevant data concerning financial crime risks and in the identification of mitigation measures. We are in discussions with the States and other agencies as to the precise timing of the National Risk Assessment.

AML/CFT Handbook Review

Another work stream of which you may already be aware is the Commission's review and revision of the AML Handbooks. The Commission is performing this review in an endeavour to simplify and clarify their contents, as well as making them compliant with the 2012 FATF standards.

We have established a working group of representatives from a wide cross-section of the industry and have already convened two meetings with those representatives. Many thanks to those of you who have stepped forward to give up your valuable time to help us with this important exercise. We are also continuing to liaise the other Crown Dependency regulators to ensure that there is a reasonable alignment in our AML/CFT regimes. The Crown Dependencies are almost inevitably friendly competitors in some matters but we are all agreed that we wish to minimise commercial arbitrage between our respective jurisdictions on all matters relating to financial crime.

What we are looking for

In terms of what we are looking for in terms of financial crime prevention, we consider that businesses need to be alive to the inherent risks in not only their current business relationships but also in the emerging business relationships. Experience from our onsite visits has shown us that successful and sustainable business emanates from having a detailed understanding and knowledge of the natural and legal persons to which a firm is providing services.

In order to mitigate the risks to a firm and assist in combatting financial crime, firms should invest in ensuring that customer facing and compliance personnel are alive to the cumulative effect of risks and to any vulnerabilities in client structures that Guernsey firms provide. Firms should not look solely at each of their risk characteristics in isolation to one another.

The findings from our visits have demonstrated that in a small number of instances there has been no record maintained by the business summarising the basis upon which the given risk rating was assigned.

This has sometimes been noted where a senior member of management has a close and on-going relationship with a long standing customer. The problem arises when that individual leaves the business or is unavailable when a request for information is made by the Financial

Intelligence Unit or the Commission. The lack of records maintenance can mean that you are wholly reliant on anecdotal information.

It is a regulatory requirement that knowledge about relationships and the basis for their risk ratings must be recorded in a manner that is readily retrievable. You – as compliance officers – cannot operate in an effective manner if you do not have ready access to this information.

We would therefore encourage firms to ensure that their policies and procedures reflect the importance of maintaining a record of the reasons or rationale relied upon in assigning a given risk rating. This will allow the business to more accurately review and re-assess those relationships should changes occur to any customer's risk characteristics.

Interaction with the Industry

In terms of how we work with you, I hope that you will already have experienced a positive evolution in how we communicate. My colleagues have tried to offer a greater-level of transparency from the Commission. Our presentations to the Banking and Fiduciary industries in October of last year told those sectors about the proposed MONEYVAL visit as soon as we were notified. We also hope that you will have seen a continued evolution in the onsite visits conducted by our Financial Crime & Authorisations Division.

We are aware and understand that there is an element of hesitancy in some quarters within the industry in terms of coming and talking to the Commission regarding issues that arise with their respective businesses, but I want to reiterate some comments that I made to the committee of the Institute of Directors in August 2013: we want directors and employees to be comfortable coming to tell us about issues when they discover them so that there is a “no surprises” culture.

Where there is serious misconduct or repeated failings we will, of course, reserve the right to take enforcement action but we don't wish to be an enforcement led regulator.

We wish those running firms to be transparent in their dealings with us and to work to resolve issues which they encounter. We see those responsible for the governance of firms as natural partners of the Commission – helping ensure that all Guernsey firms are properly and prudently run. We hope that it will not be necessary for anyone in this audience to use our whistleblower helpline but it is, of course, there as an emergency number so to speak if you are really worried about something and cannot see a proper way to deal with it in a timely manner within your firm's governance structures.

At the Commission we are endeavouring to work collaboratively with the relevant Bailiwick agencies, the other Crown Dependencies, the international community and of course you in your firms in trying to preserve the good reputation of the Bailiwick by ensuring that it is well regulated and supervised and that it is recognised as such. We believe that such an environment, where the rule of law is honoured, should make it easier for you to attract the right business to our shores.