10th Conference – 22nd April 2021

Financial Crime Division

Fiona Crocker, Director

Good afternoon

Our focus today is risk- specifically what you have concluded is the level of risk is in your business now that we have the National Risk Assessment to help us.

The NRA which is Guernsey first comprehensive assessment of its money laundering ("ML") and terrorist financing ("TF") risks, was published in January 2020.

Slide: National Risk Assessment – Money Laundering Residual Risks

As you can see from this slide summarising the NRA's key findings on risk across each sector, it reinforced that private banking and fiduciaries were our highest risk sectors.

Most banks and fiduciaries recognise in their BRAs and in discussions with us that their business is higher risk, but in other sectors there appear to be some firms who still regard their business as low risk despite conclusions reached in the NRA that the risks in their sectors are not low.

I will illustrate this with what we are finding in the fund sector where the NRA concluded that the risk was medium. We have met fund administrators responsible for administering very significant sums invested in very diverse assets around the world for non-resident investors who described their business as low risk.

They tell us that because their schemes are closed ended their business is low risk; because the schemes are regulated Guernsey collective investment schemes the geographic risk is low and because their clients are institutional investors its low risk.

This thinking might be because these firms are focusing solely and too narrowly on the risk posed by investors or because they have conflated over-familiarity with their day to day operations with risk mitigation, or perhaps the lockdowns were missed opportunities to catch up on some essential reading such as the NRA and its conclusions.

The medium risk rating attributed to the fund sector in the NRA already takes into account that the long term nature of investment in most Guernsey schemes reduces the risk – not eliminates it – of handling criminal proceeds via an investor.

But the NRA also highlights how the fund sector can be exposed to money laundering though a fund promoter - such as a fraud - a good example of which is a Ponzi scheme - and through the investments held by the funds in high risk economic sectors and/or jurisdictions with higher corruption risks as well as the risk from investors of laundering criminal proceeds even in longer term investments to realise later to enjoy or re-invest.

If there is just one key message for you take away from this presentation today please please dip into the NRA and use it in reaching your views on what your ML and TF risks are and the extent of those risks to your business.

The main reason to raise this is obvious – getting the assessment of risk right is fundamental to applying an effective RBA which in turn leads to better use of your resources as they are focused on higher risk areas. If that is wrong your controls are not fully covering where your business is vulnerable to ML or TF.

If that is not a compelling enough to pick up the NRA perhaps these two reasons might be more persuasive:

Firstly we are planning some cross sector themed supervision on business risk assessments ("BRAs") to see how the NRA has been used, to see if last year's presentations and workshops had a benefit as well as take a forward look at current industry thinking on the risk outlook to feed into updates to the NRA in due course.

As usual with these thematics it will involve engaging with a good number of firms across all sectors about their BRAs and extrapolating issues and trends to share with you as well as give anonymised feedback on good and not so good practices.

Another factor is MONEYVAL which will be taking a keen interest in how the private sector assesses risks. I think it was expected that I would mention MONEYVAL as the date for our evaluation now looks set to be Q42023 or Q2024 – only two and half years away.

MONEYVAL will be here for two weeks during which time it will have ample opportunity to meet many more firms than last time in 2014 to determine how well you understand your ML and TF risks and apply a commensurate risk based approach to managing those risks.

They do this because there is specific section of the report dedicated to how well the private sector applies risk based AMLCFT measures and reports suspicious activity, for which the private sector will be rated accordingly.

Guernsey firms earnt good praise last time from MONEYVAL which was assessing us against the 2003 FATF standards as opposed to the 2012 standards.

But how critical might our next MONEYVAL report be if its assessors meet firms who describe as low risk their management and administration of high value investment vehicles holding diverse asset classes for international clients?

So please take the NRA’s findings into account when considering your business risks.

That is all from me but not the end of FCD presentation – now for the new episode of Salarie Financial Services. This is a fictional firm but the script draws on real supervisory issues and themes we come across. Let’s see how this firm has taken the findings from the NRA into account when considering the risks to which it is exposed.

Thank you