Economy

Financial Crime
MONEYVAL Briefing

6 June 2023

COMBATTING FINANCIAL CRIME TOGETHER

Gouvèrnément d'Jèrri

MONEYVAL in 60 seconds

What is MONEYVAL?

One of a network of global bodies that assesses jurisdictions against the standards set by the Financial Action Task Force (FATF). These aim to tackle money laundering, terrorist and proliferation financing. We were last assessed in 2015.

What does it have to do with me?

If you are part of the Financial Crime Strategy Team, it is all you think about.

If part of the finance industry, it is an assessment that will determine the status of Jersey as an IFC on the world stage.

If just living here, the success of the assessment has a potential impact on everyone.

When is it happening?

It is already happening.

2023 is not the year of the MONEYVAL assessment, it is the year of the MONEYVAL on-site visit.

The assessment will look at the past five years.

MONEYVAL in 60 seconds

What impact could it have?

A clean bill of health means business as usual.
Grey listing would have a negative impact.
The significance of this is difficult to predict.
We can glean some information from what has happened with other jurisdictions.

Who is involved in preparing for the evaluation?

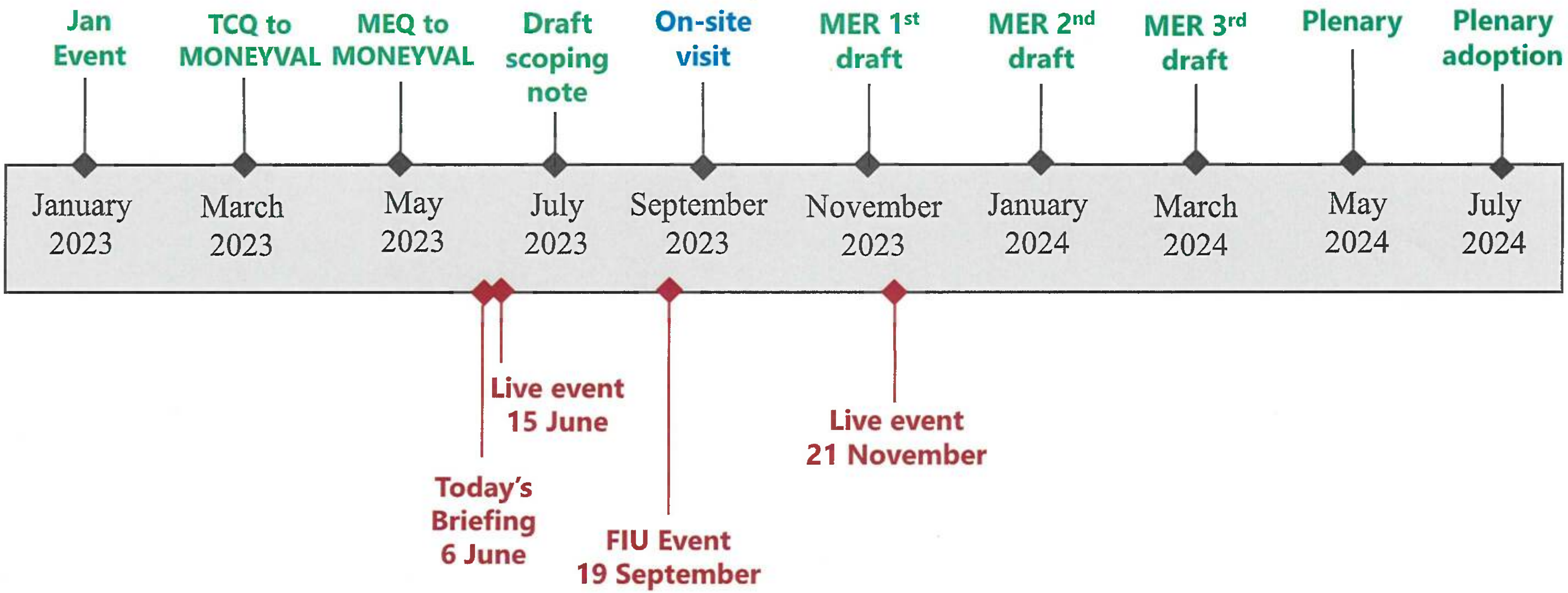
Financial Crime Strategy Team sits within the Economy Department
Up to 20 different agencies and groups involved
Political Steering Group includes the Financial Services Minister, Treasury Minister and Minister for External Affairs.

What preparations have been made?

(See next slide)

MONEYVAL preparation as a visual representation

Timeline 2023 to 2024



Work done already - TCQ and MEQ

- The Technical Compliance Questionnaire (TCQ) relates to the 40 FATF Recommendations
- Each Recommendation needs to address the relevant legislation / other requirements in place to combat money laundering
- The TCQ was a substantial piece of work almost of almost 500 pages

- The Mutual Evaluation Questionnaire (MEQ) deals with the 11 Immediate Outcomes
- The MEQ was almost 700 pages long.
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- Both documents submitted prior to deadline.

It is all about the risk

- We have to demonstrate that we know what the risk levels are
- These are different for each sector
- Within the DNFBP sector itself there are different relevant typologies
- The FATF are not against high-risk business <u>so long as the risk is mitigated</u>
- We need to be able to demonstrate that we are aware, and have taken appropriate steps
- This covers money laundering, terrorist financing, and proliferation financing

What does risk look like?

The shape of risk

- Rolling programme of NRAs – risk is not static
- First ML NRA published September 2020
- Subsequent NRAs:
  - April 2021: Terrorist Financing NRA
    - Response to FATF Recommendations 1 and 8
    - Recommends an assessment of NPO sector
    - Risk of TF abuse of financial services assessed as medium-low
  - April 2022: Non-Profit Organisations NRA
    - Found that 90% of NPOs fell in low or standards risk areas
    - Recommended a dedicated TF supervisor
  - May 2022: VASP overview
    - Sector not large enough for a full NRA
    - Need for legislative and regulatory regimes to be kept under review POC (Amendment No 6)

More assessments in the pipeline

- Rolling out this summer:
  - TF NRA 2023 (update published)
    - Should be read alongside the 2021 TF NRA
    - Shows progress in past two years
  - Legal Persons and Legal Arrangements NRA 2023
    - Involved a lot of data coming from industry
    - Confirmed much of what was suspected, but is now evidence based
    - Due to be published 16 June 2023
  - ML NRA 2023 (update):
    - Should be read alongside the 2020 ML NRA
    - Divided into two sections:
      - Updating national risk
      - Further detail on specific sectors
    - Due to be published July 2023

The DNFBP sector

- A catch-all term that includes a huge range of entities
- While the overall threat of ML/TF/PF applies to the whole sector, each entity can tailor their approach to risk
- There are available resources on Gov.je, including the NRAs, Strategy and Risk Appetite to cover the overall approach
- More specific information is available, both from FATF itself and from our own typologies

Red flags - Lawyers

- Transaction is inconsistent with the size, age, or activity of the legal entity or natural person
- Transactions unusual because of their size, nature, frequency, or manner of execution
- Legal person or arrangement, including NPOs, that request services for purposes or transactions which are not compatible or not typical for those organisations
- Transaction involves a disproportional amount of private funding, bearer cheques or cash, especially if it is inconsistent with the socio-economic profile of the individual or the company's economic profile
- Funds received from or sent to a foreign country when there is no apparent connection between the country and the client
- Funds received from or sent to high-risk countries.
- Client is using multiple bank accounts or foreign accounts without good reason.
- Mortgages repeatedly repaid significantly prior to the initially agreed maturity date, with no logical explanation.

Red flags - Lawyers

- Asset is purchased with cash and then rapidly used as collateral for a loan
- There is a request to change the payment procedures previously agreed upon without logical explanation, especially when these not appropriate / common practice
- Collateral provided for the transaction is located in a high risk country
- A significant increase in capital for a recently incorporated company or successive contributions over a short period of time to the same company, with no logical explanation.
- An increase in capital from a foreign country, which either has no relationship to the company or is high risk.
- Company receives an injection of capital or assets in kind that is excessively high in comparison with the business, size or market value of the company performing, with no logical explanation.
- Large financial transactions, especially if requested by recently created companies, where these transactions are not justified by the corporate purpose, the activity of the customer or the possible group of companies to which it belongs or other justifiable reasons

Typologies – FATF view of Estate Agents

- Real estate is a popular choice for investment, but it also attracts criminals who use real estate in their illicit activities or to launder their criminal profits.
- In some countries, these practices also contribute to driving up the prices of real estate, making housing inaccessible to many.
- <u>FATF assessments show that the real estate sector often has poor understanding of these risks and regularly fails to mitigate them.</u>
- Appropriate measures include effective customer due diligence, such as access to information about the true, beneficial owner(s) of the real estate transaction.
- FATF see a need for greater clarity in Guidance for the real estate sector and related professions (lawyers, notaries and financial institutions)

TYPOLOGY 9

Where the proceeds have been used to support extravagant lifestyles or to support a failing business venture.

On 2nd July, 2018, the Superior Number of the Royal Court sentenced the defendant to a total sentence of imprisonment of 7 years for multiple offences of fraud, fraudulent conversion and falsification of accounts.

> “All three victims were elderly clients of a Jersey financial services business, who had placed complete trust in the defendant.”

The total amount lost by the victims was £1,927,601. The frauds involved a trust established by a local resident, a company owned by a French resident, and a local resident. All three victims were elderly clients of a Jersey financial services business, who had placed complete trust in the defendant. The most serious offences related to the local resident whose trust was defrauded of some £1,768,601. The French resident's company was defrauded of £69,000 and the local resident was defrauded of £90,000.

Richard Arthur ("Mr Arthur") was a Chartered Accountant who at all material times was the Managing Director of a local accountancy firm that operated in Jersey.

The offences involved Mr Arthur persuading the victims to make a series of fraudulent loans from the funds held in the trusts/companies. In addition to the fraud offences Mr Arthur also pleaded guilty to falsification of accounts. Mr Arthur produced or caused to be produced a series of false accounts for the purpose of hiding from one of the victims the moneys which Arthur had fraudulently taken from the victim's family trust and its underlying company.

Mr Arthur pleaded guilty to obtaining and using for his own benefit the total sum of £2,637,401. The proceeds of the fraud were used to support a lavish lifestyle, support failing business ventures and repay disenchanted investors. In the subsequent confiscation proceedings, the prosecution realised assets from Mr Arthur's wine and art collection together with the proceeds derived from the sale of his substantial family home.

TYPOLOGY 10

Estate Agents – on the front line as criminals move to launder their money into property – Hypothetical case study

Real estate is as attractive to criminals as it is to any investor (especially here in Jersey with property prices continuing to rise). It is also functional, (as the property can be used as a second home or rented out, generating income. Real estate also provides a veneer of respectability, legitimacy and normality. This applies to both residential and commercial properties as part of a reliable and profitable investment strategy. Real estate transactions can involve large sums and are, in some jurisdictions subject to limited scrutiny with regard to money-laundering risks, when compared to other financial sector transactions.In Jersey property sales involve estate agents and lawyers thereby ensuring that SOW/SOF fund checks are applied with vigour.

> “Buying a hotel, a restaurant or other similar investment offers further advantages”

The use of real estate to launder money seems to afford criminal organisations a triple advantage, as it allows them to introduce illegal funds into the system, while earning additional profits and in some jurisdictions even obtaining tax advantages (such as rebates, subsidies, etc.).

The OECD reports that the three most common methods and schemes used by criminals are: price manipulation (escalating prices makes it easier to manipulate the prices of properties and transactions), undeclared income / transactions and the use of nominees and/or false identities, and corporations or trusts used to hide the identity of the beneficial owners - **OECD Report**

Real estate is commonly acquired in what is known as the integration or final phase of money laundering. Buying property offers criminals an opportunity to make an investment while giving it the appearance of financial stability. Buying a hotel, a restaurant or other similar investment offers further advantages, as it brings with it a business activity in which there is extensive use of cash.

The challenge is to spot the money laundering behind the real estate transaction. Possible indicators of money laundering (red flags) help the risk-based assessment. Guidance has been established as a tool for the sector at both global and national levels. More on this can be found in the European Parliament Briefing note which can be accessed via this link - **Understanding money laundering through real estate transactions (europa.eu)**

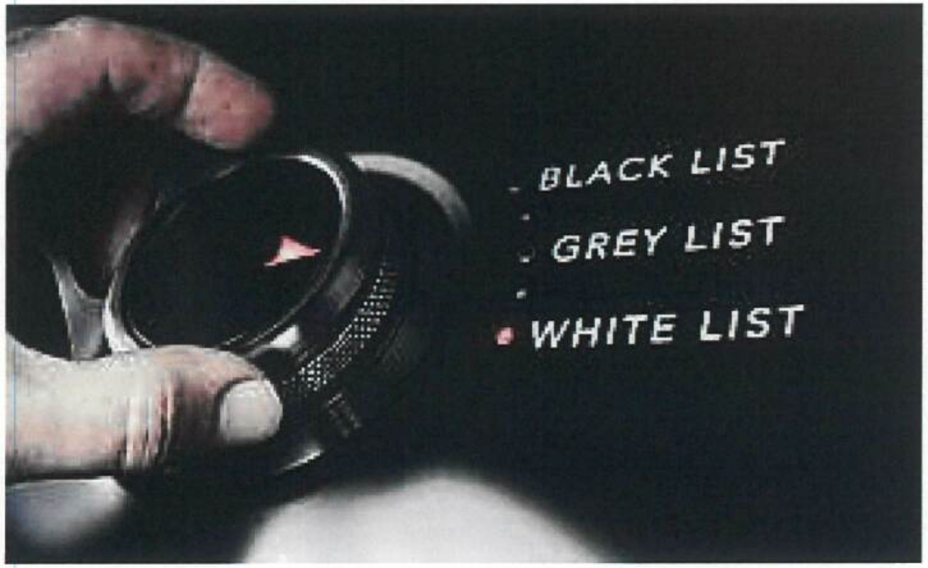
Vulnerabilities – Accountants

- Financial and tax advice – criminals seeking assistance to place assets out of reach
- Company and trust formation to confuse or disguise the links between the proceeds of crime and the perpetrator
- Buying or selling property
- Performing financial transactions on behalf of others
- Gaining introductions to other financial institutions

The lists – Grey and Black

Black List (aka call to action)

Democratic People's Republic of Korea
Iran
Myanmar



Grey List (aka increased monitoring)

- Albania
- Barbados
- Burkina Faso
- ~~Cambodia~~
- Cayman Islands
- Democratic Republic of Congo
- Gibraltar
- Haiti
- Jamaica
- Jordan
- Mali
- ~~Morocco~~
- Mozambique
- Nicaragua
- Nigeria
- ~~Pakistan~~
- Panama
- Philippines
- Senegal
- South Africa
- South Sudan
- Syria
- Tanzania
- Turkey
- Uganda
- UAE
- Yemen

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What do we know?

- It's not a sprint, or even a marathon; it's an ultra marathon
- As an Island we have been preparing for this for some time
- A huge amount of work has already been completed
- Most of the necessary legislative changes have been approved by the States over the past two years
- No-one can guarantee the outcome, we can guarantee that we have prepared
- **Recommended Actions are unavoidable**, but the preparation we have done, and are doing, aims to reduce the scope and amount of those RAs
- While it is difficult to compare Jersey with other jurisdictions, or even other IFCs, recent reports do provide some insight