

**FINANCIAL INTELLIGENCE UNIT BILL 2015**

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**Explanatory Memorandum**

1. This Bill is promoted by Mr Watterson MHK on behalf of the Cabinet Office.
2. *Clauses 1-3* deal with the short title of the resulting Act, its commencement and the interpretation of certain terms used in it.
3. *Clause 4* establishes the Financial Intelligence Unit (“FIU”) as a body corporate and enables the application of provisions of the *Statutory Boards Act 1987* by order of the Department of Home Affairs (“DHA”). Reference is made to the provisions of Schedule 1 to the Bill which contains provision about the constitution, functions, Director, Board and staff of the FIU and other matters related to it.
4. *Clause 5* sets out the general functions of the FIU.
5. *Clause 6* sets out the general powers of the FIU.
6. *Clause 7* sets out the powers of the FIU in relation to sharing information relating to financial crime within its possession and control.
7. *Clause 8* makes provision for the general operation control of the FIU to be carried out in accordance with paragraph 1 of Schedule 1 to the Bill and provides that the staff of the FIU and any officer serving with the FIU are under the control and direction of the FIU.
8. *Clause 9* provides that the DHA may issue codes of practice relating to the exercise by the FIU of its functions.
9. *Clause 10* defines certain terms used in Part 2 of the Bill and further provides that the DHA may amend the definitions in clause 10(1) of the Bill by order to be approved by Tynwald.
10. *Clause 11* enables the FIU to designate members of its staff as having the powers of a constable or an officer of Customs and Excise for a limited or unlimited period and subject to any limitations contained in the designation.
11. *Clause 12* sets out in more particular detail the powers and privileges exercisable for the purposes of the functions of the FIU by any person designated by the FIU as a constable.
12. *Clause 13* sets out in more particular detail the powers exercisable for the purposes of the functions of the FIU by any person designated by the FIU as an officer of Customs and Excise.
13. *Clause 14* sets out the circumstances in which a person designated by the FIU as a constable or officer of Customs and Excise must produce evidence of their designation.

14. *Clause 15* makes it an offence for any person to assault, restrict or obstruct a designated person in the exercise of their powers or a person assisting a designated person and sets out the penalties for such offences.
15. *Clause 16* enables the DHA by order to amend any enactment to apply in relation to designated persons or the exercise of their powers subject to Tynwald approval.
16. *Clause 17* sets out various defined terms used in Part 3 of the Bill.
17. *Clause 18* empowers and sets out the procedure for the FIU to gather additional information from an initial provider of information, a person who is identifiable from the information or a person who the FIU reasonably believe holds relevant information. Any information disclosed is not admissible in evidence in criminal proceedings against the person providing the information or their employees other than in relation to an offence under clause 20 of the Bill.
18. *Clause 19* sets out the criteria for the FIU making a request for additional information pursuant to clause 18(4) of the Bill (“a Request”) and the categories of information that may be requested. After having consulted with the FIU and its Board the DHA may by order to be approved by Tynwald amend the categories of information that may be requested.
19. *Clause 20* makes certain offences in relation to a failure to comply with a Request, the obstruction of a person from complying with a Request and the making of a statement to the FIU which contains materially false information and sets out the penalties for such offences.
20. *Clause 21* defines certain terms used in Part 4 of the Bill.
21. *Clause 22* empowers the FIU to use information obtained in connection with the exercise of its functions in connection with the exercise of any of its other functions.
22. *Clause 23* empowers the FIU to disclose any information obtained in connection with the exercise of its functions for any purpose permitted in clause 28(1) of the Bill and (subject to clause 33 of the Bill) provides that such a disclosure does not breach certain obligations of confidence.
23. *Clause 24* provides for the disclosure of information to the FIU and (subject to clause 33 of the Bill) provides that such a disclosure does not breach certain obligations of confidence.
24. *Clause 25* imposes restrictions on the further disclosure of information on the recipient of any information disclosed by the FIU other than in certain circumstances, one of which being with the written consent of the FIU.
25. *Clause 26* makes the failure to comply with clause 25 of the Bill by any person or an officer of a body corporate, an offence and sets out the penalties for such offences.
26. *Clause 27* empowers the DHA to amend any enactment (*other than the Data Protection Act 2002*) by order subject to Tynwald approval.

27. *Clause 28* defines certain terms used in Part 5 of the Bill.
28. *Clause 29* sets out the procedure for the prosecution by the Attorney General of offences or alleged offences relating to financial crime.
29. *Clause 30* imposes a duty upon the Chief Constable and Collector of Customs and Excise to pass information relating to crime or conduct in the Island, to the FIU which appears to be relevant to the exercise by the FIU of its functions.
30. *Clause 31* imposes a duty to assist the FIU in the exercise of its functions, upon certain specified persons. The list of persons to whom the duty applies may be amended by the DHA by order, subject to Tynwald approval.
31. *Clause 32* provides that the DHA may make regulations and sets out the matter for which such regulations may provide, subject to Tynwald approval.
32. *Clause 33* provides that nothing in the Bill authorises a disclosure of personal data in breach of the Data Protection Act 2002.
33. *Clause 34* provides for the cessation of the organisation known as the Financial Crime Unit (“FCU”) and applies Schedule 2 to the Bill to the transfer of property, rights, liabilities and employees from the FCU to the FIU.
34. *Clause 35* provides that any expenses of the FIU and DHA arising as a result of the Bill shall be paid out of money provided by Tynwald.
35. *Clause 36* provides for the Acts specified in Schedule 3 to the Bill to be amended as set out in that schedule.
36. No additional costs, which are not currently met from within existing budgets, associated with the separation of the dedicated intelligence resources from the Financial Crime Unit of the Constabulary, have been identified. A separate review will be undertaken once the FIU has been established to determine the extent to which international expectations and standards are being and can continue to be met.
37. In the opinion of the member moving the Bill its provisions are compatible with the Convention rights within the meaning of the Human Rights Act 2001.





*Ellan Vannin*

## FINANCIAL INTELLIGENCE UNIT BILL 2015

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*Ellan Vannin*

## FINANCIAL INTELLIGENCE UNIT BILL 2015

1 **A BILL** to establish a Financial Intelligence Unit; to confer functions on it; and  
 2 for connected purposes.

**BE IT ENACTED** by the Queen’s Most Excellent Majesty, by and with the advice and consent of the Council and Keys in Tynwald assembled, and by the authority of the same, as follows:—

### 3 **PART 1 – INTRODUCTORY**

#### 4 **1 Short title**

5 The short title of this Act is the Financial Intelligence Unit Act 2015.

#### 6 **2 Commencement**

7 (1) This Act, except section 1 and this section, comes into operation on such  
 8 day or days as the Department of Home Affairs (“**DHA**”) may by order  
 9 appoint.

10 (2) An order under subsection (1) may include such supplemental,  
 11 incidental, consequential and transitional provisions as appear to the  
 12 DHA to be necessary or expedient.

#### 13 **3 Interpretation**

14 (1) In this Act —

15 “**Board**” means the FIU Board appointed under Schedule 1;

16 “**DHA**” means the Department of Home Affairs;

17 “**Director**” means the Director of the FIU appointed under Schedule 1;

18 “**financial crime**” includes —

19 (a) money laundering;

20 (b) terrorist financing and proliferation; and

21 (c) other crime which the Board, with the agreement of the DHA,  
 22 considers to be financial crime for the purposes of this Act;

1 “FIU” means the Financial Intelligence Unit;

2 “financial year”, in relation to the FIU, means —

3 (a) the period beginning with the date on which the FIU is  
4 established and ending with the following 31st March; and

5 (b) each successive period of 12 months ending with 31st March; and

6 “the police force” means the Isle of Man Constabulary.

7 (2) For the purposes of this Act —

8 (a) crime includes alleged crime; and

9 (b) detecting crime includes —

10 (i) considering whether any crime or alleged crime has been  
11 committed;

12 (ii) establishing by whom, for what purpose, by what means  
13 and generally in what circumstances any crime was  
14 committed; and

15 (iii) the apprehension of the person by whom any crime was  
16 committed,

17 and any reference to preventing or detecting crime is to be  
18 construed accordingly.

19 (3) The DHA may by order amend the definition of financial crime in  
20 subsection (1).

21 (4) Before it makes an order under subsection (3), the DHA must consult the  
22 FIU and the Board.

23 (5) An order under subsection (3) must not come into operation unless it is  
24 approved by Tynwald.

## 25 PART 2 — FINANCIAL INTELLIGENCE UNIT

### 26 4 Establishment of Financial Intelligence Unit

27 (1) The Financial Intelligence Unit (“FIU”) is established as a body  
28 corporate.

29 (2) Schedule 1, which makes provision about the constitution, functions,  
30 Director, Board and staff of the FIU and other matters relating to it, has  
31 effect.

32 (3) The *Statutory Boards Act 1987* applies to the FIU to such extent as may be  
33 specified in an order made by the DHA (but not otherwise).

34 (4) Before it makes an order under subsection (3), the DHA must consult the  
35 FIU and the Board.

36 (5) An order under subsection (3) must not come into operation unless it is  
37 approved by Tynwald.



**5 FIU's general functions**

- (1) The FIU has the functions of —
- (a) receiving, gathering, analysing, storing and sharing information about financial crime (whether in the Island or elsewhere);
  - (b) assisting with the prevention and detection of crime, and in particular, financial crime (whether in the Island or elsewhere);
  - (c) cooperating with law enforcement agencies (see section 10); and
  - (d) contributing to the reduction of crime, and in particular, financial crime and to the mitigation of its consequences.
- (2) The FIU also has such other functions as are conferred on it under this Act (including regulations made under section 32) or under any other statutory provision.

**6 FIU's general powers**

P2005/15/5

- (1) The FIU may in pursuance of any of its functions —
- (a) request the Attorney General to recommend to the appropriate person that an investigation is carried out concerning an offence or alleged offence in relation to financial crime;
  - (b) at the request of the Chief Constable, act in support of any activities of the police force;
  - (c) at the request of the chief officer of any police force or constabulary outside the Island, act in support of any activities of that force or constabulary;
  - (d) at the request of any law enforcement agency (see section 10), act in support of any activities of that agency;
  - (e) enter into other arrangements for co-operating with bodies or persons (in the Island or elsewhere); and
  - (f) provide or assist with the provision of awareness training in relation to financial crime.
- (2) The “appropriate person” for the purposes of section 6(1)(a) means —
- (a) the Collector of Customs and Excise in relation to an offence or alleged offence under “the customs and excise Acts” as defined in section 184 of the *Customs and Excise Management Act 1986*; or
  - (b) in any other case, the Chief Constable.
- (3) The FIU also has such other powers as are conferred on it under this Act (including regulations made under section 32) or under any other statutory provision.
- (4) The FIU may, in respect of any matter in connection with any of its functions, furnish such assistance as it considers appropriate in response

1 to requests made by any government or other body exercising functions  
2 of a public nature in any country or territory outside the Island.

## 3 **7 Powers of FIU as to information relating to financial crime**

4 P2005/15/3

- 5 (1) The FIU may share information in its possession or control relating to  
6 financial crime with —
- 7 (a) the police force;
- 8 (b) any other police force or constabulary outside the Island;
- 9 (c) the Collector of Customs and Excise;
- 10 (d) law enforcement agencies (see section 10); or
- 11 (e) such other persons (in the Island or elsewhere) as it considers  
12 appropriate in connection with any of its functions.
- 13 (2) Subsection (1) is subject to sections 23 (disclosure of information by FIU)  
14 and 25 (restrictions on further disclosure).

## 15 **8 Operational control**

- 16 (1) General operational control in relation to the activities carried out in the  
17 exercise of the FIU's functions is to be undertaken in accordance with  
18 paragraph 1 of Schedule 1.
- 19 (2) Every member of staff of the FIU, including each officer (permanent or  
20 temporary) serving (whether as employee, secondee or otherwise) with  
21 the FIU, is under the direction and control of the FIU.
- 22 (3) This section does not affect the generality of paragraph 1 of Schedule 1.

## 23 **9 Codes of practice**

24 P2005/15/10

- 25 (1) The DHA may issue codes of practice relating to the exercise by the FIU  
26 of any of its functions.
- 27 (2) Before issuing a code of practice the DHA must consult the FIU and the  
28 Board and may consult such other persons as it considers appropriate.
- 29 (3) Codes of practice under this section must be laid before Tynwald as soon  
30 as practicable after they are made, and if Tynwald at the sitting at which  
31 a code is laid or at the next following sitting resolves that it is to be  
32 annulled, it ceases to have effect.

## 33 **10 Interpretation of Part 2**

- 34 (1) In this Part —
- 35 “**assigned matters**” has the meaning given by section 184(1) of the *Customs and*  
36 *Excise Management Act 1986*;



- 1           **“law enforcement agency”** means —
- 2           (a)     in respect of assigned matters and revenue matters, the Treasury;
- 3           (b)     the Isle of Man Financial Services Authority;
- 4           (c)     the Isle of Man Gambling Supervision Commission;
- 5           (d)     in relation to matters of consumer protection and trading
- 6                 standards, the Isle of Man Office of Fair Trading;
- 7           (e)     any other person who is charged with the duty of investigating
- 8                 offences or charging offenders; and
- 9           (f)     any other person who is engaged outside the Island in the
- 10                 carrying on of activities similar to any carried on by the FIU, the
- 11                 police force, the Collector of Customs and Excise or a law
- 12                 enforcement agency mentioned in paragraphs (a) to (e); and
- 13           **“revenue matters”** includes matters of direct taxation or indirect taxation and
- 14                 further includes mutual assistance work undertaken by —
- 15           (a)     the Collector of Customs and Excise (including cooperation in
- 16                 relation to value added tax and customs and excise matters); and
- 17           (b)     the Income Tax Division of the Treasury (including cooperation in
- 18                 relation to tax information exchange matters).
- 19           (2)     The DHA may by order amend a definition in subsection (1).
- 20           (3)     Before it makes an order under subsection (2), the DHA must consult the
- 21                 FIU and the Board.
- 22           (4)     An order under subsection (2) must not come into operation unless it is
- 23                 approved by Tynwald.

### 24           **PART 3 — SPECIAL POWERS OF DESIGNATED FIU STAFF**

#### 25           **11     Designation of FIU staff as persons having powers of constable etc**

26           P2005/15/43

- 27           (1)     For the purposes of discharging its functions the FIU may designate
- 28                 members of the staff of the FIU as one or more of the following —
- 29           (a)     a person having the powers of a constable;
- 30           (b)     a person having the powers of an officer of Customs and Excise.
- 31           (2)     A designation under subsection (1) —
- 32           (a)     may be made subject to any limitations specified in the
- 33                 designation (whether as to the powers exercisable by virtue of it,
- 34                 the purposes for which they are exercisable or otherwise); and
- 35           (b)     has effect either for a period so specified or without limit of time.
- 36           (3)     Subsection (2) applies subject to any modification or withdrawal of the
- 37                 designation by the FIU.

- 1 (4) A member of the staff of the FIU may be designated as a person having  
2 any of the powers mentioned in subsection (1) whether or not that  
3 member —
- 4 (a) already has (for any reason) any powers falling within that  
5 subsection; or
- 6 (b) had any such powers before becoming a member of staff of the  
7 FIU.
- 8 (5) But a person must not be designated as a person having any of the  
9 powers mentioned in subsection (1) unless the FIU is satisfied that that  
10 person—
- 11 (a) is capable of effectively exercising the powers that would be  
12 exercisable by virtue of the designation;
- 13 (b) has received adequate training in respect of the exercise of those  
14 powers; and
- 15 (c) is otherwise a suitable person to exercise those powers.
- 16 (6) Where a member of staff of the FIU —
- 17 (a) before becoming such a member, held an office by virtue of which  
18 that person had any powers falling within subsection (1); and
- 19 (b) has not resigned that office,
- 20 the powers and duties of that office are to be treated as suspended so  
21 long as that person remains a member of staff of the FIU, and revive if  
22 (and only if) on ceasing to be a member of staff of the FIU the person  
23 returns to service as the holder of that office.
- 24 (7) References in this section to the powers of a constable or the powers of  
25 an officer of Customs and Excise are to be read and construed in  
26 accordance with the following provisions of this Part.

## 27 **12 Person having powers of a constable**

28 P2005/15/46

- 29 (1) This section applies to a member of the staff of the FIU who is for the  
30 time being designated under section 11 as a person having the powers of  
31 a constable.
- 32 (2) The designated person has all the powers and privileges of a constable in  
33 the Island.
- 34 (3) If any of those powers and privileges, when exercisable by a constable,  
35 are exercisable elsewhere than in the Island or the waters adjacent to the  
36 Island, they are similarly exercisable by the designated person.
- 37 (4) The designated person also has any powers exercisable by virtue of  
38 subsection (5).
- 39 (5) Any enactment under which a constable may be authorised by warrant  
40 to exercise any power in relation to any matter has effect, for the purpose

- 1 of enabling the designated person to be authorised to exercise the power  
2 in relation to any such matter, as if the designated person were a  
3 constable.
- 4 (6) Subsections (2) to (5) have effect subject to any limitation specified in the  
5 designation in accordance with section 11(2).
- 6 (7) In this section references to the powers and privileges of a constable are  
7 references to the powers and privileges of a constable whether under any  
8 enactment or otherwise.

### 9 **13 Person having powers of officer of customs and excise**

10 P2005/15/48

- 11 (1) This section applies to a member of the staff of the FIU who is for the  
12 time being designated under section 11 as a person having the powers of  
13 an officer of Customs and Excise.
- 14 (2) The designated person has the same powers as an officer of Customs and  
15 Excise.
- 16 (3) If any of those powers, when exercisable by an officer of Customs and  
17 Excise, are exercisable elsewhere than in the Island or the waters adjacent  
18 to the Island, they are similarly exercisable by the designated person.
- 19 (4) The designated person also has any powers exercisable by virtue of  
20 subsection (5).
- 21 (5) Any enactment under which an officer of Customs and Excise may be  
22 authorised by warrant to exercise any power in relation to any customs  
23 matter has effect, for the purpose of enabling the designated person to be  
24 authorised to exercise the power in relation to any such matter, as if the  
25 designated person were an officer of Customs and Excise.
- 26 (6) Subsections (2) to (5) have effect subject to any limitation specified in the  
27 designation in accordance with section 11(2).
- 28 (7) In this section references to the powers of an officer of Customs and  
29 Excise are references to the powers of an officer of Customs and Excise  
30 whether under any enactment or otherwise.

### 31 **14 Evidence of designation**

32 P2005/15/50(1)

33 If a designated person —

- 34 (a) exercises any power in relation to another person in reliance on  
35 the designation under section 11(1); or
- 36 (b) purports to do so,
- 37 that designated person must produce evidence of designation to the other  
38 person if requested to do so.

## 15 Assaults, obstruction or deception in connection with designated persons

P2005/15/51

- (1) A person commits an offence if that person assaults —
  - (a) a designated person acting in the exercise of a relevant power; or
  - (b) a person who is assisting a designated person in the exercise of such a power.
- (2) A person commits an offence if that person resists or wilfully obstructs —
  - (a) a designated person acting in the exercise of a relevant power; or
  - (b) a person who is assisting a designated person in the exercise of such a power.
- (3) A person commits an offence if, with intent to deceive, that person —
  - (a) impersonates a designated person;
  - (b) makes any statement or does any act calculated falsely to suggest that the person is a designated person; or
  - (c) makes any statement or does any act calculated falsely to suggest that the person has powers as a designated person that exceed the powers the person actually has.
- (4) A person guilty of an offence under subsection (1), (2) or (3) is liable on summary conviction —
  - (a) to custody for a term not exceeding 6 months; or
  - (b) to a fine not exceeding £5,000,or to both.
- (5) In this section “**relevant power**”, in relation to a designated person, means a power or privilege exercisable by that person by virtue of the designation under section 11(1).

## 16 Modification of enactments: designated persons

P2005/15/52

- (1) The DHA may by order provide for any enactment (or description of enactments) to apply in relation to —
  - (a) designated persons; or
  - (b) the exercise of powers by such persons,with such modifications as it considers necessary or expedient.
- (2) An order under this section may include provision for or in connection with —
  - (a) extending to such persons any exemption or protection afforded by an enactment to any other description of persons;

- 1 (b) providing for the disclosure of information to, or the doing of  
2 other things in relation to, such persons under any enactment;
- 3 (c) conferring on the Director functions exercisable in relation to such  
4 persons.
- 5 (3) Subsection (2) does not affect the generality of subsection (1).
- 6 (4) In this section any reference to designated persons includes a reference to  
7 any description of such persons.
- 8 (5) Before exercising the power conferred by subsection (1) in relation to an  
9 enactment which (expressly or otherwise) confers any function on —
- 10 (a) the Treasury in respect of any tax, duty or import or export  
11 restriction; or
- 12 (b) an officer of Customs and Excise,  
13 the DHA must consult the Treasury.
- 14 (6) An order under this section must not come into operation unless it is  
15 approved by Tynwald.

## 16 17 Interpretation of Part 3

17 P2005/15/54

- 18 (1) In this Part —
- 19 “**designated person**” means a person for the time being designated under  
20 section 11; and
- 21 “**waters adjacent to the Island**” means the sea and other waters within the  
22 seaward limits of the Island’s territorial sea.
- 23 (2) Any reference in this Part to the exercise of powers by virtue of a  
24 designation under section 11(1) is, in a case where any limitations were  
25 imposed under subsection (2) of that section, a reference to their exercise  
26 in conformity with those limitations.

## 27 PART 4 — GATHERING INFORMATION

### 28 18 Power to gather additional information

- 29 (1) This section applies where —
- 30 (a) the FIU receives information provided by an initial provider (see  
31 section 21); and
- 32 (b) the FIU reasonably considers that, for the proper fulfilment of any  
33 of its functions, it is necessary or expedient to seek additional  
34 information from a person specified in subsection (3).
- 35 (2) The information provided under subsection (1) may be, but does not  
36 have to be, information comprising a disclosure under —

- 1 (a) Part 3 (money laundering) of the *Proceeds of Crime Act 2008*;
- 2 (b) Part III (terrorist property) of the *Anti-Terrorism and Crime Act*
- 3 2003; or
- 4 (c) any other statutory provision prescribed in regulations made
- 5 under section 32.
- 6 (3) The person referred to in subsection (1)(b) may be —
- 7 (a) the initial provider; or
- 8 (b) a person who is not the initial provider but who —
- 9 (i) is mentioned in or is otherwise identifiable from the
- 10 information received; or
- 11 (ii) to the reasonable knowledge or belief of the FIU, holds
- 12 information that is relevant to the analysis of the
- 13 information received.
- 14 (4) Where this section applies the FIU may make a request to the person
- 15 referred to in subsection (3), in accordance with the criteria specified in
- 16 section 19, for the provision of additional information.
- 17 (5) Upon receipt of a request under subsection (4), the person must provide
- 18 the additional information in such form and by such time or within such
- 19 date as the FIU reasonably requires.
- 20 (6) Information provided under this section is not admissible in evidence in
- 21 criminal proceedings against the person providing it or any of the
- 22 person's employees, except in relation to an offence under section 20.
- 23 (7) Subject to section 33 (*Data Protection Act 2002* not affected), the provision
- 24 of information under this section does not breach —
- 25 (a) any obligation of confidence owed by the person providing it; or
- 26 (b) any other restriction on the disclosure of information (however
- 27 imposed).

## 28 **19 Criteria for making a request**

- 29 (1) A request under section 18(4) is duly made if —
- 30 (a) it is made reasonably;
- 31 (b) it relates to information falling within a category specified in
- 32 subsection (2);
- 33 (c) it specifies the nature of the information sought;
- 34 (d) it specifies a reasonable period within, or date by which, the
- 35 information must be provided; and
- 36 (e) it is made in writing.
- 37 (2) The categories of information which may be sought are —



- 1 (a) information which may be obtained as a result of the application  
2 of the AML/CFT requirements (see section 21) to a person  
3 carrying on business in the regulated sector;
- 4 (b) any other information which is necessary to determine whether a  
5 person is a customer (see section 21) or beneficial owner (see  
6 section 21) in relation to a transaction or activity of any nature; or
- 7 (c) the particulars of specified transactions or activities which have  
8 been carried out during a specified period.
- 9 (3) The DHA may by order amend subsection (2) to vary the categories of  
10 information that may be sought.
- 11 (4) Before it makes an order under subsection (3), the DHA must consult the  
12 FIU and the Board.
- 13 (5) An order under subsection (3) must be laid before Tynwald as soon as  
14 practicable after it is made, and if Tynwald at the sitting at which the  
15 order is laid or at the next following sitting resolves that it is to be  
16 annulled, it ceases to have effect.

17 **20 Offence for failing to comply with request**

- 18 (1) A person who fails to comply with a request under section 18(4) commits  
19 an offence.
- 20 (2) It is a defence for a person charged under subsection (1) to prove —
- 21 (a) that the information requested was not in the person's possession;  
22 or
- 23 (b) that it was not reasonably practicable for the person to comply  
24 with the request.
- 25 (3) A person who wilfully obstructs another person in complying with a  
26 request under section 18(4) commits an offence.
- 27 (4) A person commits an offence if, when giving information to the FIU, the  
28 person —
- 29 (a) makes a statement which the person knows is false in a material  
30 particular; or
- 31 (b) recklessly makes a statement which is false in a material  
32 particular.
- 33 (5) A person guilty of an offence under subsection (1), (3) or (4) is liable on  
34 summary conviction —
- 35 (a) to custody for a term not exceeding 2 years; or  
36 (b) to a fine not exceeding £5,000,  
37 or to both.
- 38 (6) Subsection (7) applies if an offence under this section is committed by a  
39 body corporate and it is proved that an officer of the body authorised,

permitted, participated in, or failed to take all reasonable steps to prevent, the commission of the offence.

(7) The officer, as well as the body, is guilty of the offence and is liable to the penalty provided for the offence.

(8) In this section, “**officer**” includes —

- (a) a director, secretary or other similar officer;
- (b) a person purporting to act as a director, secretary or other similar officer;
- (c) if the affairs of the body are managed by its members, a member; and
- (d) if the body has a registered agent (within the meaning of section 74 of the *Companies Act 2006*), the registered agent.

## 21 Interpretation of Part 4

In this Part —

“**AML/CFT requirements**” has the meaning given by paragraph 3(1) of the *Anti-Money Laundering and Countering the Financing of Terrorism Code 2015*<sup>1</sup>;

“**beneficial owner**” has the meaning given by paragraph 3(1) of the *Anti-Money Laundering and Countering the Financing of Terrorism Code 2015*;

“**business in the regulated sector**” has the meaning given by paragraph 1 of Schedule 4 to the *Proceeds of Crime Act 2008*;

“**customer**” has the meaning given by paragraph 3(1) of the *Anti-Money Laundering and Countering the Financing of Terrorism Code 2015*;

“**initial provider**” means —

- (a) a person who makes a disclosure under Part 3 (money laundering) of the *Proceeds of Crime Act 2008* or Part III (terrorist property) of the *Anti-Terrorism and Crime Act 2003*;
- (b) a person carrying on business in the regulated sector;
- (c) an officer of the police force;
- (d) an officer of a police force or constabulary outside the Island;
- (e) the Collector of Customs and Excise; and
- (f) a person representing a law enforcement agency (within the meaning of section 10).

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<sup>1</sup> SD 2015/0102

1                   **PART 5 — USE AND DISCLOSURE OF INFORMATION**

2           **22     Use of information by FIU**

3           P2005/15/32

4           Information obtained by the FIU in connection with the exercise of any of its  
5           functions may be used by the FIU in connection with the exercise of any of its  
6           other functions.

7           **23     Disclosure of information by FIU**

8           P2005/15/33

- 9           (1)     Information obtained by the FIU in connection with the exercise of any of  
10           its functions may be disclosed by the FIU if the disclosure is for any  
11           permitted purposes (see section 28(1)).
- 12           (2)     Subject to section 33, a disclosure under this section does not breach —
- 13           (a)     any obligation of confidence owed by the person making the  
14           disclosure; or
- 15           (b)     any other restriction on the disclosure of information (however  
16           imposed).

17           **24     Disclosure of information to FIU**

18           P2005/15/34

- 19           (1)     Any person may disclose information to the FIU if the disclosure is made  
20           for the purposes of the exercise by the FIU of any of its functions.
- 21           (2)     Subject to section 33, a disclosure under this section does not breach —
- 22           (a)     any obligation of confidence owed by the person making the  
23           disclosure; or
- 24           (b)     any other restriction on the disclosure of information (however  
25           imposed).

26           **25     Restrictions on further disclosure**

27           P2005/15/35

- 28           (1)     Information disclosed by the FIU under section 23 to any person or body  
29           must not be further disclosed except —
- 30           (a)     for a purpose connected with any function of that person or body  
31           for the purposes of which the information was disclosed by the  
32           FIU, or otherwise for any permitted purposes; and
- 33           (b)     with the written consent of the FIU.
- 34           (2)     Consent under subsection (1) may be given —
- 35           (a)     in relation to a particular disclosure; or

- (b) in relation to disclosures made in circumstances specified or described in the consent.

## 26 Offence for failing to comply with restriction on further disclosure

- (1) A person who fails to comply with section 25 commits an offence.
- (2) A person guilty of an offence under subsection (1) is liable on summary conviction —
- (a) to custody for a term not exceeding 2 years; or
  - (b) to a fine not exceeding £5,000,
- or to both.
- (3) Subsection (4) applies if an offence under this section is committed by a body corporate and it is proved that an officer of the body authorised, permitted, participated in, or failed to take all reasonable steps to prevent, the commission of the offence.
- (4) The officer, as well as the body, is guilty of the offence and is liable to the penalty provided for the offence.
- (5) In this section, “**officer**” includes —
- (a) a director, secretary or other similar officer;
  - (b) a person purporting to act as a director, secretary or other similar officer;
  - (c) if the affairs of the body are managed by its members, a member; and
  - (d) if the body has a registered agent (within the meaning of section 74 of the *Companies Act 2006*), the registered agent.

## 27 Amendment of enactments: disclosure of information

- (1) The DHA may by order amend any enactment relating to the disclosure or information so as to give better effect to the provisions of this Part.
- (2) But nothing in this section authorises the amendment of the *Data Protection Act 2002*.
- (3) Before exercising the power conferred by subsection (1), the DHA must consult the FIU and the Board and may consult such other persons as it considers appropriate.
- (4) An order under this section must not come into operation unless it is approved by Tynwald.

## 28 Interpretation of Part 5

- (1) In this Part, “**permitted purposes**” means the purposes of any of the following —

- 1 (a) the prevention, detection, investigation or prosecution of criminal  
2 offences, whether in the Island or elsewhere;
- 3 (b) the prevention, detection or investigation of conduct for which  
4 penalties other than criminal penalties are provided under the law  
5 of the Island or of any country or territory outside the Island;
- 6 (c) the exercise of any function conferred on the FIU (so far as not  
7 falling within paragraph (a) or (b)); and
- 8 (d) the exercise of any function which appears to the DHA to be a  
9 function of a public nature and which it designates by order.
- 10 (2) Before it makes an order under subsection (1)(d), the DHA must consult  
11 the FIU and the Board.
- 12 (3) An order under subsection (1)(d) must be laid before Tynwald as soon as  
13 practicable after it is made, and if Tynwald at the sitting at which the  
14 order is laid or at the next following sitting resolves that it is to be  
15 annulled, it ceases to have effect.

## 16 PART 6 – MISCELLANEOUS AND SUPPLEMENTARY

### 17 29 Prosecution of offences relating to financial crime

18 P2005/15/38

- 19 (1) The Attorney General may institute criminal proceedings concerning an  
20 offence or alleged offence relating to financial crime.
- 21 (2) The Attorney General must provide such advice as he or she thinks  
22 appropriate, to such persons as he or she thinks appropriate, in relation  
23 to —
- 24 (a) a criminal investigation relating to financial crime; or  
25 (b) criminal proceedings that arise out of such an investigation.
- 26 (3) For the purposes of this section —
- 27 (a) “**criminal investigation**” means any process —
- 28 (i) for considering whether an offence has been committed;
- 29 (ii) for discovering by whom an offence has been committed;  
30 or
- 31 (iii) as a result of which an offence is alleged to have been  
32 committed; and
- 33 (b) proceedings for an offence are instituted —
- 34 (i) when a justice of the peace issues a summons or warrant  
35 under section 4 of the *Summary Jurisdiction Act 1989* (issue  
36 of summons or warrant) in respect of an offence;
- 37 (ii) when a person is charged with the offence after being  
38 taken into custody without a warrant; or

(iii) when an information is preferred by the Attorney General in a case where there have been no committal proceedings, and where the application of this paragraph would result in there being more than one time for the institution of proceedings, they are to be taken to have been instituted at the earliest of those times.

### 30 General duty to pass information

P2005/15/36

The Chief Constable and the Collector of Customs and Excise must keep the FIU informed of any information relating to crime or conduct in the Island that appears to be likely to be relevant to the exercise by the FIU of any of its functions.

### 31 General duty to assist FIU

P2005/15/37

- (1) It is the duty of every person or body to which this section applies to assist the FIU in the exercise of its functions.
- (2) This section applies to —
  - (a) any constable;
  - (b) any officer of Customs and Excise;
  - (c) the Income Tax Division of the Treasury; and
  - (d) where applicable, each Department and each Statutory Board.
- (3) The DHA may by order amend subsection (2) to vary the persons or bodies to which this section applies.
- (4) Before it makes an order under subsection (3), the DHA must consult the FIU and the Board.
- (5) An order under subsection (3) must not come into operation unless it is approved by Tynwald.

### 32 Regulations

- (1) The DHA may make regulations —
  - (a) in accordance with this Act; and
  - (b) in respect of any matter which the DHA considers that regulations are necessary or expedient to give effect to this Act.
- (2) Regulations under subsection (1) may —
  - (a) provide for their contravention to be an offence and prescribe a penalty for commission of the offence of a fine not exceeding £5,000 on summary conviction;
  - (b) exempt a person from a provision of this Act to which the regulations relate;

- 1 (c) permit a person to exercise a discretion in respect of any matters  
2 specified in the regulations;
- 3 (d) require compliance with standards or the adoption of practices  
4 recommended or specified from time to time (whether before or  
5 after the making of the regulations) by a person or body specified  
6 in the regulations; and
- 7 (e) contain consequential, incidental, supplementary and transitional  
8 provisions which the DHA considers to be necessary or expedient.
- 9 (3) The power conferred by subsection (2)(e) includes the power to modify,  
10 adapt or amend any provision of this Act or any other enactment.
- 11 (4) Before it makes regulations under subsection (1), the DHA must consult  
12 the FIU and the Board.
- 13 (5) Regulations under this section must not come into operation unless  
14 approved by Tynwald.

### 15 **33 Data Protection Act 2002 not affected**

16 Nothing in this Act authorises a disclosure, in contravention of any provisions  
17 of the *Data Protection Act 2002*, of personal data which are not exempt from  
18 those provisions.

### 19 **34 Transfer of staff and property**

- 20 (1) The organisation known as the Financial Crime Unit of the Isle of Man  
21 Constabulary ceases to exist.
- 22 (2) Schedule 2 has effect with respect to the transfer of property, rights,  
23 liabilities and employees from or pertaining to the Financial Crime Unit  
24 of the Isle of Man Constabulary to the FIU.

### 25 **35 Expenses**

26 There are to be paid out of money provided by Tynwald any expenses of the  
27 FIU and the DHA under or arising as a result of this Act.

### 28 **36 Amendments**

- 29 (1) The Acts specified in Schedule 3 are amended in accordance with that  
30 Schedule.
- 31 (2) Without limiting Schedule 3, a reference in any enactment, whether or  
32 not specified in that Schedule, to the “**Financial Crime Unit**” or the  
33 “**Financial Crime Unit of the Isle of Man Constabulary**” is also to be  
34 taken as a reference to the FIU.
- 35 (3) In this paragraph, “**enactment**” includes —  
36 (a) an Act;

- 1 (b) a public document; and
- 2 (c) any legislation of the United Kingdom, or any part of it, that
- 3 applies to the Island —
- 4 (i) expressly or by implication (with or without modification);
- 5 (ii) by virtue of an Order in Council; or
- 6 (iii) by virtue of an Act of Tynwald or a provision made under
- 7 an Act of Tynwald.
- 8



1

## SCHEDULE 1

2

## Section 4

3

## FINANCIAL INTELLIGENCE UNIT

4

## PART 1 — FIU PROCEEDINGS

5

**1 Exercise of functions**

6

The functions of the FIU are to be exercised by the Director in the name and on behalf of the FIU but subject to any directions given by the Board and any code of practice under section 9.

7

8

9

**2 Incidental powers**

10

(1) In connection with the exercise of its functions the FIU may (subject to the provisions of this Act) —

11

12

(a) enter into contracts and other agreements (whether legally binding or not);

13

14

(b) acquire and dispose of property; and

15

(c) do such other things as the FIU considers necessary or expedient.

16

(2) But the powers conferred by sub-paragraph (1) may be exercised only with the consent of the Board.

17

18

(3) A consent under sub-paragraph (2) may be given —

19

(a) with respect to a particular case or with respect to a class of cases;

20

(b) subject to such conditions as the Board considers appropriate.

21

**3 Work**

22

The FIU is to organise its work in accordance with the directions of the Director.

23

**4 Annual plans**

24

(1) Before the beginning of each financial year the FIU must issue a plan setting out how it intends to exercise its functions during that year (“**the annual plan**”).

25

26

27

(2) The annual plan must also include a statement of —

28

(a) any priorities which the FIU has determined for that year;

29

(b) any current strategic priorities determined by the Board under paragraph 11;

30

31

(c) any current performance targets established by the FIU; and

- 1 (d) the financial resources that are expected to be available to the FIU  
2 for that year.
- 3 (3) Before issuing its annual plan for any financial year, the FIU must  
4 consult the Board and may consult such other persons as it considers  
5 appropriate.
- 6 (4) The FIU must send a copy of the annual plan to —  
7 (a) the DHA;  
8 (b) the Board; and  
9 (c) such other persons as the FIU considers appropriate.
- 10 (5) The DHA must lay a copy of the annual plan before Tynwald.

## 11 5 Annual reports

- 12 (1) As soon as practicable after the end of each financial year the FIU must  
13 issue a report on the exercise of its functions during that year (an  
14 “annual report”).
- 15 (2) The annual report must include an assessment of the extent to which the  
16 annual plan (see paragraph 4) for that year has been carried out.
- 17 (3) The FIU must arrange for the annual report to be published in such  
18 manner as it considers appropriate.
- 19 (4) The FIU must send a copy of the annual report to —  
20 (a) the DHA;  
21 (b) the Board; and  
22 (c) such other persons as the FIU considers appropriate.
- 23 (5) The DHA must lay a copy of the annual report before Tynwald.

## 24 PART 2 — DIRECTOR

### 25 6 The Director

- 26 (1) The Director is to be —  
27 (a) appointed (and, where relevant, re-appointed) by the DHA; and  
28 (b) employed by DHA on such terms and conditions as it determines.
- 29 (2) Before appointing (or re-appointing) a person as Director the DHA must  
30 in any event consult —  
31 (a) the Board; and  
32 (b) the Council of Ministers.
- 33 (3) To avoid doubt, the Director is an employee of the FIU.

1 **7 Duty of Director to assist Board**

2 It is the duty of the Director to —

- 3 (a) assist the Board in the exercise of its functions; and
- 4 (b) keep the Board informed of any information relating to crime in
- 5 the Island or elsewhere that appears to be likely to be relevant to
- 6 the exercise by the Board of any of its functions.

7 **8 Delegation of functions of Director**

- 8 (1) Anything authorised or required to be done by the Director may be done
- 9 by any other member of the staff of the FIU who is authorised for the
- 10 purpose by the Director (whether generally or specially).
- 11 (2) This paragraph does not apply in any case in relation to which specific
- 12 provision for the delegation of any function of the Director is made by
- 13 this Act or any other enactment.

14 **9 Evidence**

15 Any document purporting to be signed by the Director or the FIU staff member,

16 or on behalf of the FIU must be received in evidence and, unless the contrary is

17 proved, is to be taken to be so signed.

18 **PART 3 — FIU BOARD**

19 **10 Membership of the Board**

- 20 (1) The FIU Board (“**the Board**”) is to consist of —
- 21 (a) the Attorney General;
- 22 (b) the Chief Constable; and
- 23 (c) the Collector of Customs and Excise.
- 24 (2) A member of the Board ceases to be such a member on ceasing to hold
- 25 the office specified in sub-paragraph (1).
- 26 (3) The Director may attend meetings of the Board as an adviser and has the
- 27 right of access to the papers of the Board but such rights do not have
- 28 effect in respect of any matter relating to the employment or continued
- 29 employment of the Director.
- 30 (4) Section 21 of the *Interpretation Act 1976* (delegation of functions by public
- 31 officer) has effect in relation to the functions of the members of the
- 32 Board.
- 33 (5) The DHA may by order amend sub-paragraph (1) to provide for a
- 34 different composition of the Board.

- 1 (6) Before it makes an order under sub-paragraph (5), the DHA must in any  
2 event consult —
- 3 (a) the Board; and  
4 (b) the Council of Ministers.
- 5 (7) An order under subsection (5) must not come into operation unless it is  
6 approved by Tynwald.

## 7 **11 Functions of the Board**

- 8 (1) The Board —
- 9 (a) has the functions conferred on it under this Act and any other  
10 statutory provision;
- 11 (b) determines the general policy and principles by reference to  
12 which the FIU is to perform its functions and gives guidance and  
13 directions to the FIU accordingly;
- 14 (c) determines strategic priorities for the FIU including the  
15 determination of matters in respect of which the FIU is not to  
16 exercise its functions;
- 17 (d) supervises and keeps under review the exercise of functions by  
18 the Director;
- 19 (e) keeps under review the question of whether the FIU is, in  
20 exercising its functions, using resources in an efficient and  
21 economic manner;
- 22 (f) considers and makes recommendations or issues directions to the  
23 FIU as a result of —
- 24 (i) reviews carried out by it; or  
25 (ii) any report made to it by the Director; and
- 26 (g) otherwise gives guidance and directions to the Director.
- 27 (2) The Board must consult the Director and such other persons as it  
28 considers appropriate before exercising its powers under sub-paragraph  
29 (1)(b) and (c).

## 30 **12 General duty of Board**

- 31 The Board must exercise the powers conferred on it under this Act in such  
32 manner and to such extent as appear to it to be best calculated to —
- 33 (a) promote the efficiency and effectiveness of the FIU;  
34 (b) promote law enforcement.

1

**PART 4 – ORGANISATION AND STAFF**

2

**13 FIU's staff**

3

(1) The FIU may have such employees as it appoints.

4

(2) The FIU may make arrangements for persons to be seconded to it to serve as members of its staff.

5

6

(3) Persons appointed by the FIU under sub-paragraph (1) are employees of the Public Services Commission and, in relation to them, the Public Services Commission is to be treated as the stationed employer (within the meaning of section 3(1) of the *Public Services Commission Act 2015*).

7

8

9

10

(4) Persons seconded to the FIU under sub-paragraph (2) are to be treated as employees of the Public Services Commission whilst they remain so seconded and, in relation to them, the FIU is to be treated as the stationed employer (within the meaning of the *Public Services Commission Act 2015*).

11

12

13

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15

(5) References in any enactment to members of staff of the FIU are (unless the context otherwise requires) references to persons who either are appointed by the FIU under sub-paragraph (1) or have been seconded to the FIU under sub-paragraph (2) to serve as members of its staff.

16

17

18

19

**14 Remuneration and pensions of employees**

20

(1) Persons appointed by the FIU under paragraph 13(1) are employed on such terms and conditions as the Board, with the approval of the DHA, determines.

21

22

23

(2) Before requesting approval, the Board must consult the Public Services Commission.

24

25

(3) The FIU may pay, or make payments in respect of, such pensions, allowances or gratuities to or in respect of its employees or former employees as the Board, with the approval of the DHA, determines.

26

27

28

**15 Complaints**

29

(1) For the avoidance of doubt, Schedule 1 to the *Police Act 1993* (complaints against the police) continues to apply to members of the police force during any period of service as a member of staff of the FIU.

30

31

32

(2) Such procedures as apply in respect of complaints against officers of Customs and Excise continue to apply in respect of such officers during any period of service as a member of staff of the FIU.

33

34

- 1 **16 Employment provisions – designated persons who were constables**
- 2 (1) This paragraph sets out the treatment under other legislation of a person
- 3 who—
- 4 (a) is for the time being designated under section 11 as a person
- 5 having the powers of a constable; and
- 6 (b) immediately before becoming a member of staff of the FIU was a
- 7 constable.
- 8 (2) For the purposes of the following provisions of the *Employment Act 2006*,
- 9 a person designated under section 11 as a person having the powers of a
- 10 constable is not to be treated as employed under a contract of
- 11 employment by the Chief Constable.
- 12 (3) The provisions are —
- 13 (a) section 59 (application of Part IV and related provisions to
- 14 police) and the provisions mentioned in that section;
- 15 (b) section 73 (application to police of section 61 and related
- 16 provisions);
- 17 (c) section 115 (health and safety cases);
- 18 (d) paragraphs 3 and 4 of Schedule 4 so far as relating to police
- 19 service (which deal respectively with Crown employment
- 20 and police service).
- 21 (4) For the purposes of section 25 of the *Trade Unions Act 1991* the person is
- 22 not to be treated as excluded from the concept of a “worker”.
- 23 (5) The person is not to be regarded as a constable (or a member of the
- 24 police force) for the purposes of the *Police Act 1993*, other than in relation
- 25 to —
- 26 (a) section 9 (complaints against the police) of that Act;
- 27 (b) any regulations made under section 8 (police regulations) or 8A
- 28 (regulations for special constables) of that Act pertaining to
- 29 matters referred to in section 8(2)(e) or (f) or section 8A(2)(c) or (d)
- 30 which arise in the context of a complaint against the person under
- 31 section 9 of that Act; and
- 32 (c) any other matter specified in regulations made under section 32 of
- 33 this Act.
- 34 (5) Despite sub-paragraph (4), if the person resumes service with the police
- 35 force after having been a member of staff of the FIU, the period of service
- 36 with the FIU is to be treated as if that service had been with the police
- 37 force for the purposes of remuneration and pension contributions and
- 38 rights.

1

**PART 5 — REPORTS AND INSPECTIONS**

2

**17 Duty of Board to report to DHA**

3

(1) The DHA may require Board to submit a report to it on such matters —

4

(a) connected with the exercise of the FIU's functions; or

5

(b) otherwise connected with any of the FIU's activities,

6

as are specified in the requirement.

7

(2) A report submitted under sub-paragraph (1) must be in such form and be

8

undertaken by such person or body as is so specified.

9

(3) The DHA may —

10

(a) arrange; or

11

(b) require the Board to arrange,

12

for a report under this paragraph to be published in such manner as the DHA considers appropriate.

13

14

(4) The DHA may exclude any part of a report from publication under sub-paragraph (3) if, in its opinion, publication of that part —

15

16

(a) would be against the interests of national security;

17

(b) could prejudice the prevention or detection of crime or the apprehension or prosecution of offenders;

18

19

(c) could jeopardise the safety of any person; or

20

(d) would breach the *Data Protection Act 2002* or an obligation of confidence imposed by statute or otherwise.

21

22

**18 Inspections**

23

(1) The DHA may arrange for an appropriate person or body (“**inspectors**”) to inspect the FIU generally or in respect of a particular matter and to report on the efficiency and effectiveness of the FIU.

24

25

26

(2) It is the duty of the FIU, the Director and all members of staff of the FIU to —

27

28

(a) assist inspectors undertaking an inspection; and

29

(b) provide all such information which is required by the inspectors for the proper performance of the inspection.

30

31

(3) Before arranging an inspection the DHA must consult the Board.

32

(4) The report of inspectors must be in such form as the DHA directs.

33

(5) The DHA must arrange for every report which it receives under this paragraph to be published in such manner as it considers appropriate.

34

35

(6) The DHA may exclude from publication under sub-paragraph (5) any part of a report if, in its opinion, publication of that part —

36

- 1 (a) would be against the interests of national security;
- 2 (b) could prejudice the prevention or detection of crime or the
- 3 apprehension or prosecution of offenders;
- 4 (c) could jeopardise the safety of any person; or
- 5 (d) would breach the *Data Protection Act 2002* or an obligation of
- 6 confidence imposed by statute or otherwise.
- 7 (7) The DHA must send a copy of the published report to the FIU and the
- 8 Board.
- 9 (8) The FIU must —
- 10 (a) prepare comments on the published report; and
- 11 (b) send them to the DHA and the Board.
- 12 (9) The DHA must arrange for the comments of the FIU which it receives
- 13 under this paragraph to be published in such manner as it considers
- 14 appropriate.
- 15 (10) The DHA may exclude from publication under sub-paragraph (9) any
- 16 part of the comments if, in its opinion, publication of that part —
- 17 (a) would be against the interests of national security;
- 18 (b) could prejudice the prevention or detection of crime or the
- 19 apprehension or prosecution of offenders; or
- 20 (c) could jeopardise the safety of any person.

21 **19 Power to direct remedial action**

- 22 (1) This paragraph applies where the conclusion to be drawn from a report
- 23 made under paragraph 17 or 18 is that —
- 24 (a) in the opinion of the person making the report, the whole or any
- 25 part of the FIU is (whether generally or in particular respects) not
- 26 efficient or not effective; or
- 27 (b) in that person's opinion, the whole or part of the FIU will cease to
- 28 be efficient or effective (whether generally or in particular
- 29 respects) unless specified measures are taken.
- 30 (2) The DHA may direct the FIU to undertake such remedial measures as are
- 31 specified in the direction within such reasonable time as is so specified.
- 32 (3) Nothing in this paragraph authorises the DHA to direct the FIU to do or
- 33 not to do anything in relation to a particular case or person.
- 34



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## SCHEDULE 2

2

## Section 34

3

## TRANSFER OF FUNCTIONS

4

**1 Order for transfer**

5

(1) The DHA may make an order for the transfer of any of the property, rights and liabilities from or pertaining to the Financial Crime Unit of the Isle of Man Constabulary to the FIU.

6

7

8

(2) In sub-paragraph (1), “**the Financial Crime Unit of the Isle of Man Constabulary**” includes the DHA and the police force in respect of their respective property, rights and liabilities in relation to the Financial Crime Unit of the Isle of Man Constabulary.

9

10

11

12

(3) An order under this Schedule must not come into operation unless it is approved by Tynwald.

13

14

(4) An order may set out the property, rights and liabilities to be transferred in one or more of the following ways —

15

16

(a) by specifying or describing them in particular;

17

(b) by identifying them generally by reference to a function or an undertaking from which they are to be transferred; or

18

19

(c) by identifying them by reference to a specified part of an undertaking from which they are to be transferred.

20

21

**2 Effect of order**

22

Where an order provides for the transfer of property, rights or liabilities, or for the creation of interests, rights or liabilities —

23

24

(a) at the time when the order comes into force, the property or interests, rights or liabilities vest, without further assurance, in the transferee; and

25

26

27

(b) the provisions of that order in relation to that property or those interests, rights or liabilities have effect from that time.

28

29

**3 Supplementary provisions of orders**

30

(1) An order may make such incidental, supplemental, consequential and transitional provision in connection with the transfers to be made in accordance with the order as the DHA considers appropriate.

31

32

33

(2) In particular, an order may make provision, in relation to transfers in accordance with the order —

34

35

(a) for the transferee to be treated as the same person in law as the transferor;

36

- 1 (b) for agreements made, transactions effected or other things done  
2 by or in relation to the transferor to be treated, so far as is  
3 necessary for the purposes of or in connection with the transfers,  
4 as made, effected or done by or in relation to the transferee;
- 5 (c) for references in an agreement, instrument or other document to  
6 the transferor, or to an employee or office holder of the transferor,  
7 to have effect, so far as is necessary for the purposes of or in  
8 connection with a transfer, with such modifications as are  
9 specified in the order; and
- 10 (d) for proceedings commenced by or against the transferor to be  
11 continued by or against the transferee.
- 12 (3) Sub-paragraph (2)(c) does not apply to references in an enactment or in  
13 subordinate legislation.
- 14 (4) In this paragraph references to a transfer in accordance with an order  
15 include references to the creation of an interest, right or liability in  
16 accordance with an order.  
17

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## SCHEDULE 3

3

## Section 36

4

## AMENDMENTS

5

**1 Anti-Terrorism and Crime Act 2003**

6

(1) The *Anti-Terrorism and Crime Act 2003* is amended as follows.

7

(2) In section 11 (disclosure of information: duty) —

8

(a) in subsection (2), for “a constable” substitute “the FIU”;

9

(b) subsection (8)(b) is repealed.

10

(3) In section 12 (disclosure of information: permission) —

11

(a) in subsections (1), (2) and (4), for “a constable” substitute “the FIU”;

12

(b) subsection (5) is repealed.

13

14

(4) In section 13 (co-operation with police), for “a constable”, wherever occurring, substitute “the FIU”.

15

16

(5) In section 14 (failure to disclose: regulated sector) —

17

(a) in subsection (4), for “a constable” substitute “the FIU”;

18

(b) subsection (14) is repealed.

19

(6) In section 15 (protected disclosures) —

20

(a) in subsection (4), for “a constable” substitute “the FIU”;

21

(b) subsection (7) is repealed.

22

(7) In section 75(1) (interpretation), after the definition of “explosive” insert the following definition —

23

24

““FIU” means the Financial Intelligence Unit” established by the
<i>Financial Intelligence Unit Act 2015</i> ”.

25

26

(8) In section 76 (index of defined expressions), after the entry for “Facilitates” insert the following entry —

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28

““FIU (in Part III).....Section 75”.
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29

**2 Personal Liability (Ministers, Members and Officers) Act 2007**

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(1) The *Personal Liability (Minsters, Members and Officers) Act 2007* is amended as follows.

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32

(2) In section 3(2) (liability of designated persons), after paragraph (k) insert —

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34

“(ka) the Director of the Financial Intelligence Unit;

(kb) the staff of the Financial Intelligence Unit (whether serving as employees, secondees or otherwise);”.

### 3 Proceeds of Crime Act 2008

- (1) The *Proceeds of Crime Act 2008* is amended as follows.
- (2) In section 142(5)(b) (failure to disclose: regulated sector), for “a constable or customs officer serving (in either case) with the Financial Crime Unit of the Isle of Man Constabulary” substitute “the FIU”.
- (3) In section 143(5) (failure to disclose: nominated officers in the regulated sector), for “a constable or customs officer serving (in either case) with the Financial Crime Unit of the Isle of Man Constabulary” substitute “the FIU”.
- (4) In section 144(5) (failure to disclose: other nominated officers), for “a constable or customs officer serving (in either case) with the Financial Crime Unit of the Isle of Man Constabulary” substitute “the FIU”.
- (5) In section 145(2)(a) (tipping off: regulated sector), for “a constable or customs officer serving (in either case) with the Financial Crime Unit of the Isle of Man Constabulary” substitute “the FIU”.
- (6) In subsections (1)(b), (2)(a), (3) and (4)(a) of section 151 (appropriate consent), for “a constable or customs officer serving (in either case) with the Financial Crime Unit of the Isle of Man Constabulary” substitute “the FIU”.
- (7) In section 152 (nominated officer: consent) —
  - (a) in subsections (2)(a), (3)(a) and (4)(a), for “a constable or customs officer serving (in either case) with the Financial Crime Unit of the Isle of Man Constabulary” substitute “the FIU”;
  - (b) in subsection (2)(b), for “such constable or customs officer” substitute “the FIU”;
  - (c) in subsection (3)(b), for “such a constable or customs officer” substitute “the FIU”; and
  - (d) in subsection (4)(b), for “such a constable or customs officer” substitute “the FIU”.
- (8) In section 153(4)(a) (protected disclosures), for “a constable or customs officer serving (in either case) with the Financial Crime Unit of the Isle of Man Constabulary” substitute “the FIU”.
- (9) In section 154(1)(a)(i) (authorised disclosures), for “a constable or customs officer serving (in either case) with the Financial Crime Unit of the Isle of Man Constabulary” substitute “the FIU”.
- (10) In section 156 (threshold amounts) —

- 1 (a) in subsections (3) and (4), for “a constable or customs officer  
2 serving (in either case) with the Financial Crime Unit of the Isle of  
3 Man Constabulary” substitute “the FIU”;
- 4 (b) in subsection (3)(a), for “such constable or customs officer”  
5 substitute “the FIU”.
- 6 (11) In section 158 (interpretation of Part 3), after subsection (13) insert —  
7 “ (14) “FIU” means the Financial Intelligence Unit established by the  
8 *Financial Intelligence Unit Act 2015*.”
- 9 (12) In section 211 (disclosure of information in connection with the exercise  
10 of functions) —
- 11 (a) in subsection (5)(e), for “a constable (whether or not serving with  
12 the Financial Crime Unit of the Isle of Man Constabulary)”  
13 substitute “the FIU (see section 158(14))”; and  
14 (b) subsection (5)(f) is repealed.

#### 15 **4 Interpretation Act 2015**

- 16 (1) The *Interpretation Act 2015* is amended as follows.
- 17 (2) In paragraph 1 of the Schedule (definitions for all Manx legislation),  
18 insert the following definitions at the appropriate places in the  
19 alphabetical list —
- 20 ““**Financial Intelligence Unit**” or “**FIU**” see section 4 of the *Financial*  
21 *Intelligence Unit Act 2015*;” and  
22 ““**staff of the Financial Intelligence Unit**” see paragraph 13(5) of  
23 Schedule 1 to the *Financial Intelligence Unit Act 2015*;”.

IN THE KEYS

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**FINANCIAL INTELLIGENCE UNIT BILL 2015**

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A **BILL** to establish a Financial Intelligence Unit; to confer functions on it; and for connected purposes.

Approved by the Council of Ministers  
for introduction in the House of Keys.

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MR WATTERSON

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DECEMBER 2015