

**IMMEDIATE
ATTENTION**

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November 19, 2003

To: Members of the Executive Board

From: The Secretary

Subject: **Isle of Man—Publication of Offshore Financial Sector Assessments—
Volume I—Review of Financial Sector Regulation and Supervision**

Attached for the **information** of the Executive Directors is Volume I of the staff's offshore financial sector assessment for the Isle of Man, concerning financial sector regulation and supervision. Management has consented to a request by the Isle of Man authorities to publish the assessment, in accordance with the practices and procedures described in SM/01/228 (7/16/01), which they intend to do by the **close of business on Monday, November 24, 2003**. The assessment will also be posted on the Fund's external website on the same day.

Questions may be referred to Mr. Carrington (ext. 38089) in MFD.

This document will shortly be posted on the extranet, a secure website for Executive Directors and member country authorities.

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Department Heads

**ASSESSMENT OF THE SUPERVISION AND REGULATION OF THE
FINANCIAL SECTOR**



**Volume I: Review of Financial Sector Regulation
and Supervision**

Isle of Man

October 2003

“The contents of this report constitute technical advice and recommendations given by the staff of the International Monetary Fund (IMF) to the Isle of Man authorities in response to their request for technical assistance. With the written authorization of the recipient country’s authorities, this report (in whole or in part) or summaries thereof may be disclosed to IMF Executive Directors and their staff, and to technical assistance providers and donors outside the IMF. Disclosure of this report (in whole or in part) or summaries thereof to parties outside the IMF other than technical assistance providers and donors shall require the written authorization of the recipient country’s authorities and the IMF’s Monetary and Financial Systems Department.”

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ACRONYMS

AML	anti-money laundering
AML/CFT	anti-money laundering and combating the financing of terrorism
CIS	collective investment scheme
CP	Core Principle
CSP	corporate service provider
CTP	common trading practices
EU	European Union
FATF	Financial Action Task Force
FCU	Financial Crimes Unit
FSA	UK Financial Services Authority
FSC	Financial Supervision Commission
GAAP	generally accepted accounting principles
IAIS	International Association of Insurance Supervisors
IOSCO	International Organization of Securities Commissions
IPA	Insurance and Pensions Authority
KYC	know your customer
LEG	Legal Department
MFD	Monetary and Financial Systems Department ¹
MLRO	money laundering reporting officer
MSB	money services business, such as bureau de change activities, check cashing and money transmission services
MOU	memorandum of understanding
OGBS	Offshore Group of Banking Supervisors
ROSC	Report on the Observance of Standards and Codes
SRO	self-regulatory organization
STR	suspicious transaction report
TSP	trust service provider

¹ The IMF's Monetary and Exchange Affairs Department (MAE) was renamed the Monetary and Financial Systems Department (MFD) as of May 1, 2003. The new name has been used throughout the report.

PREFACE

In July 2000, the Executive Board approved a program of assessments on the basis of the paper, "Offshore Financial Centers—The Role of the IMF," published in July 2000. In this context, the Government of the Isle of Man invited the IMF to carry out an assessment of the extent to which the regulatory and supervisory arrangements for the financial sector complied with certain internationally accepted standards and measures of good practice (a Module 2 assessment as described in the above-mentioned paper).

The assessments were carried out during a mission that was conducted October 21–30, 2002. The mission was led by Mr. R. Barry Johnston (Monetary and Financial Systems Department (MFD)) and comprised of Messrs. Neville Grant (Deputy Mission Chief, Consultant, MFD); Ian Carrington (MFD); John Darwood (Consultant, MFD); Ross Delston (Consulting Counsel LEG); John Farrell (Consultant, MFD); Jack Heyes (Consultant, MFD); and Marcel Maes (Consultant, MFD). Detective Chief Superintendent, Felix McKenna, served as the independent anti-money laundering expert (IAE) for the AML/CFT assessment.

The mission undertook a review of all relevant current legislation and practices, and held discussions with the regulatory authorities, certain government officials, and a broad cross-section of the private sector practitioners. The mission is most grateful for the excellent cooperation, openness, and hospitality of all the agencies consulted during its visit, and especially to the Isle of Man Financial Supervision Commission (FSC) for the excellent organization of the visit.

EXECUTIVE SUMMARY

The financial regulatory and supervisory system of the Isle of Man complies well with the assessed international standards. The authorities are to be commended for the attention they have given to upgrading the financial regulatory and supervisory system to meet international supervisory and regulation standards in banking, insurance, securities and anti-money laundering and combating the financing of terrorism (AML/CFT), and the introduction of a comprehensive regime for the licensing of corporate service providers (CSPs). The mission noted in particular:

- the comprehensive, if somewhat complex, regulatory framework;
- the proactive approach of the regulators to achieve high standards in the financial services sector; and
- an off-site and on-site supervisory process that addresses key reputational risks.

The jurisdiction has been assessed to have a high level of compliance with the four key standards. Moreover, the legal framework for company and trust service providers (TSPs) is fully consistent with the Offshore Group of Banking Supervisors (OGBS) Statement on Best Practices.

The assessments identify shortcomings in the following areas:

- the independence and accountability of the FSC and Insurance and Pensions Authority (IPA);
- the need to apply more robust supervisory tools in selective areas of the banking sector, and the adequacy of supervisory resources;
- weaknesses in the legal framework for AML/CFT and in the coverage of guidance notes in some areas; and
- the need to complete the implementation of the licensing regime for TSPs.

These shortcomings have not been a major concern to date. However, they are likely to become a more significant issue going forward as the jurisdiction's financial sector continues to develop.

The authorities are, therefore, encouraged to take actions to address these shortcomings.

Specifically:

- adopt legislation to provide for appropriate independence and accountability of the financial regulators;

- upgrade the on-site supervisory process;
- amend the legal framework on AML/CFT and broaden the coverage of the guidance notes in certain areas; and
- enact the Fiduciary Services Bill quickly.

The mission notes that the authorities have already taken action as follows:

- to upgrade the on-site inspection process, a major project has been completed to implement a new approach to supervisory techniques. This includes the issuance to banks of a consultative paper on corporate governance and the start of a pilot program of supervisory visits to banks focusing on corporate governance, and safety and soundness issues, to be followed by a full program covering all banks. Detailed guidance is also being developed on specific areas of risk for banks, such as credit risk, market risk, etc.
- the Anti-Money Laundering Code 1998 has been comprehensively revised to include a number of the mission's recommendations for amending the legal framework on AML/CFT. The revised draft Code was issued for consultation in the jurisdiction at the start of July 2003.

INTRODUCTION

1. **This report provides the findings of the Module 2 assessment of the Isle of Man.** The report is organized in two volumes. Volume I provides an overview and the summary findings. Volume II provides the detailed findings of the assessments of compliance with the Basel Core Principles for Effective Banking Supervision (BCP); the Insurance Core Principles of the International Association of Insurance Supervisors (IAIS); the Objectives and Principles of Securities Regulation of the International Organization of Securities Commissions (IOSCO); the FATF 40+8 Recommendations; and the review of Trust and CSPs based on the draft statement of Best Practice issued by the OGBS.

2. **Volume I is organized as follows:** Section I provides an overview of the financial system, and the regulatory and supervisory framework; Section II summarizes the findings on the strengths and vulnerabilities in the financial system; Section III provides the summaries of compliance with the four standards assessed; and Section IV contains action plans provided by the authorities.

I. FINANCIAL SYSTEM OVERVIEW

A. Background

3. **The financial services sector plays a dominant role in the Isle of Man economy, accounting for some 41 percent of national income.**² The role of the sector in the national economy has grown steadily over the last decade against the background of supportive national policies, especially a favorable tax regime; well developed legal and institutional infrastructure; close proximity to Europe and the London international financial center; and a regulatory approach that has been cognizant of the needs of a small center, such as the Isle of Man, to meet and even exceed international financial regulatory standards. The latter approach has helped to establish the Isle of Man as a reputable offshore financial center, and to underpin its growth.

B. Financial Institutions and Markets

Financial sector structure

4. **The Isle of Man attracts a diverse range of financial business, including banking, insurance, investment, and trust and company business.** The vast majority of transactions are conducted with and between nonresidents. The structure of the financial sector at the end of June 2002 was as follows:

- 59 licensed **banks** and 2 licensed building societies. The banks come from a variety of geographical areas, including Europe, Ireland, South Africa, United Kingdom, and the United States. Total bank deposits were £27.1 billion. The majority of banks are

² The overall importance of the financial sector to the economy of the Isle of Man is recognized to be greater, since the national income calculations do not take into account the secondary sources of income generated by the financial services sector.

engaged in providing private banking services to nonresidents. The services offered by banks are directed toward deposit-taking with lending activity primarily in the international interbank markets. Some banks act as custodians and trustees to collective investment schemes, while others conduct trade, finance, and treasury operations;

- 128 **collective investment schemes** established with licensed fund managers and third-party fund administrators. The value of collective investment funds was £5.2 billion (March 2002). Eighty-seven license holders are authorized to undertake investment business, including brokering life, pension, unit trust products, stock broking, and portfolio management;
- 17 authorized **life assurance companies** are incorporated and managed on the Isle of Man. The majority are subsidiaries of large U.K. or European life assurance and investment groups. These companies manage some £14.7 billion of policyholders funds. Annual premium income for 2001 was £4.9 billion;
- 165 **captive insurance companies** and 22 captive insurance management companies. Typically they are subsidiaries of major industrial organizations and are set up as dedicated insurance vehicles to help those organizations manage their insurance and risk management programs. Funds under management were £6.1 billion and annual premium income in 2001 was £1 billion;
- 35,514 **registered companies**, of which private companies are the vast majority. A variety of different company types and structures have evolved in response to commercial demands. About two-thirds of the companies registered are established and maintained for nonresidents who wish to benefit from the jurisdiction's tax regime and financial services sector;
- 115 licensed **CSPs**, which provide a full range of corporate formation, management and administration services, and an additional number of TSPs;
- A comprehensive range of services—accountants, lawyers, and other professionals support the financial sector.

Supervisory bodies

5. **The Financial Supervision Commission (FSC) was established in July 1983, under the Financial Supervision Commission Order 1983, as a statutory board. It is governed by the Statutory Boards Act of 1987.** The FSC originally regulated both deposit-taking institutions and insurance business and, later, investment business. In 1986, a separate insurance authority to supervise and regulate the insurance industry was established. This has since evolved into the Insurance and Pensions Authority (IPA), which is also constituted as a statutory board governed by the Statutory Boards Act of 1987.

6. **As a statutory board, eight commissioners appointed by the treasury, subject to the approval of the parliament, Tynwald, oversee the FSC's work.** The chairman is a member of Tynwald and the treasury;³ the Chief Executive of the FSC is also a commissioner. The commissioners can be removed at any time by the council of ministers, and both the council of ministers and the treasury can direct the board. The treasury determines the budgets of the statutory boards annually. These provisions effectively make the FSC and the IPA departments of government.

7. **The FSC is responsible for the licensing and supervision of banks; building societies, investment business; collective investment schemes and CSPs; and for the initiation of legislation for the regulation and supervision of these sectors. It will shortly become responsible for the licensing and supervision of TSPs.** Under the Financial Supervision Order 1983, the functions of the FSC are defined as taking "such steps as appear to it to be necessary or expedient for the effective supervision of the private financial and commercial sector in the jurisdiction, but with the exception of the insurance industry."⁴ In practice, the FSC has focused its supervisory efforts on those areas that it considers to pose the greatest reputational risk to The Isle of Man.

8. **In 2000, responsibility for maintaining the companies registry, which incorporates companies and registers documents that are required to be filed under the Companies Acts, and other related legislation, was transferred to the FSC from the general registry.** This transfer reflected, inter alia, the recognized importance of the companies registry to overall offshore activity in the Isle of Man. As part of this transfer of functions, the FSC also became responsible for companies legislation. As at May 2003, the FSC had a complement of some 58.5 staff, of which 20 are assigned to maintaining the companies registry

9. **The treasury, subject to the approval of Tynwald, also appoints the members of the Board of the IPA.** The Chairman of the IPA currently is a member of Tynwald and its chief executive is a member of the board. The IPA is responsible for the authorization and ongoing supervision of companies carrying out insurance business in or from The Isle of Man, and insurance companies incorporated in the jurisdiction, and for the regulation of pension schemes. It is also responsible for the registration of insurance management companies and insurance intermediaries carrying on general business. The IPA has a complement of 12 staff.

³ The treasury consists of the treasury minister, the FSC Chairman, and the IPA Chairman. All are members of the Tynwald. The treasury minister is a member of the council of ministers.

⁴ The FSC has, as part of its mission statement: to protect investors' and depositors' interests; to promote the financial stability of financial institutions; to promote the highest standards of competence and professional qualification; to protect the integrity of the financial community; and to protect the reputation of the Isle of Man.

C. Regulatory Framework Oversight—Market Integrity Arrangements

Legal framework

10. **The Isle of Man is a Crown Dependency and self-governing, and is a separate legal jurisdiction from the United Kingdom.** The parliament, Tynwald, is the legislature. The Isle of Man is a common law jurisdiction and its courts generally follow local and overseas precedents.

11. **The Isle of Man is neither a separate member state nor an associate member of the European Union (EU).** On the United Kingdom's entry into the common market, a Protocol to the Treaty of Accession was negotiated. The Protocol sets out the very limited extent to which EU measures apply within the Isle of Man. Under Protocol 3, the jurisdiction is part of the customs territory of the EU. The common customs tariff levies, and other measures relating to trade apply, and there is free movement of goods in trade between the jurisdiction and the EU; however, no other EU rules apply.

12. **The legislative arrangements in the Isle of Man have evolved over a number of years and constitute a comprehensive, if somewhat complex, regulatory framework.** The complexity of the legislation is recognized in the plans of the FSC for a Financial Supervision Consolidation Bill, currently planned for discussion by Tynwald in 2004. The key financial legislation is as follows:

- the **Statutory Boards Act 1987**, and the **Financial Supervision Commission Order 1983**, which govern the operation of the FSC and also, in the case of the operation of the IPA, the Insurance Act, 1986, and the Retirement Benefits Schemes Act 2000;
- the **Banking Act 1998**, regulates banking business, which may not be carried on in or from within the jurisdiction without a license. The Act confers licensing power to the FSC. The Act provides substantial powers for supervisory, disciplinary, and enforcement purposes;
- the **Building Societies Act 1986**, governs building societies. The Act gives the FSC power to authorize them and to require information about their affairs;
- collective investment schemes are regulated and supervised under the **Financial Supervision Act 1988**. Only schemes that are recognized or authorized by the FSC may be promoted to the general public in the Isle of Man;
- the **Companies Acts 1931–1993**, provide for the incorporation of companies, the issue of company securities; in particular, shares and debentures, and gives the high court the power to appoint inspectors to investigate the affairs of companies. The Acts have been amended several times over the years to take account of changing business products and practices;

- the **Corporate Service Providers Act 2000**, gives the FSC the necessary powers to consider applications, issue licenses, and generally regulate and supervise persons engaged in providing widely defined services in relation to the incorporation, management, and administration of companies. A Fiduciary Services Bill, due for consideration by Tynwald in late 2003, will extend the framework already in place for CSPs to encompass the regulation of TSPs;
- the **Credit Unions Act 1993**, regulates the establishment, registration, and operations of credit unions, and the FSC is responsible for their supervision;
- the **Insurance Act 1986**, and the Insurance Intermediaries (General Business) Act, 1996, provide for the regulation and supervision of insurance companies, insurance management companies, and general insurance intermediaries;
- the **Investment Business Act 1991**, gives the FSC the authority to regulate and supervise investment business. The FSC authorizes persons to carry on the business and can require information, investigate their affairs, and enforce directions;
- the **anti-money laundering regime** is supported by a number of statutes, including the Drug Trafficking Act 1996, which introduced powers to require the production of information and documents, and restrain and confiscate the proceeds of crime. The Prevention of Terrorism Act 1990, created the offence of assisting in the retention or control of terrorist funds. The Criminal Justice Act 1990, extended the production, restraint, detention, and confiscation powers to all crimes and allowed the Isle of Man to assist other jurisdictions. The Criminal Justice Act 1991, included powers to provide mutual assistance in criminal matters. The Criminal Justice (Money Laundering) Act 1998, extended the Criminal Justice Act 1990 to criminalizing the laundering of the proceeds of all serious crimes, and provided for the powers to make anti-money laundering codes—for example, the Anti-Money Laundering Code 1998.

II. STRENGTHS AND VULNERABILITIES IN THE FINANCIAL, REGULATORY, AND SUPERVISORY ARRANGEMENTS

A. Overview

13. **The detailed assessments of compliance show that the financial regulatory system of the Isle of Man generally complies well with the assessed international standards.** These assessments were conducted against the Basel Core Principles for Effective Banking Supervision; the Insurance Core Principles of the IAIS; the Objectives and Principles of Securities Regulation of IOSCO; the OGBS Draft Statement of Best Practice for Company and TSPs; and FATF 40+8 Recommendations. The detailed assessments are contained in Volume II; and section III provides reports on the observance of standards and codes (ROSCs) for the four key standards.

14. **The FSC has generally achieved a high standard of compliance with the Basel and IOSCO Principles in its work as a banking, securities, and investments regulator.** The FSC is a well-established regulator with a wide range of responsibilities for its principal business to be found in both primary and secondary legislation. The FSC has to be commended for its proactive stance in establishing high standards for banking and securities supervision, in order to attract and maintain a reputable international financial center.

15. **In recent years, the bank supervision process has been addressing the key types of reputational risk to the Isle of Man:**

- **The off-site supervisory process has been generally effective.** The FSC requirement that the external auditors provide reasonable assurance as to the accuracy of regulatory returns, at least annually, and the practice of obtaining an annual certificate from senior management of licensed banks confirming their compliance with the Regulatory Code are to be commended. The latter certification brings a helpful degree of accountability to senior management and the boards of licensed banks.
- **The on-site supervisory arrangements on AML/CFT are effective.** The FSC gave a high priority to the need to ensure that licensed banks have effective AML/CFT regimes and, over the past three years, all licensed banks have received special-purpose on-site visits to review the implementation of AML/CFT measures. However, with limited resources, safety and soundness issues have not been adequately addressed as a result of the priority given to AML/CFT.

16. **The IPA has similarly achieved a high degree of compliance with the IAIS Principles.** A small but competent supervisory office smoothly regulates the insurance industry.

17. **A fundamental question, nevertheless, arises about the capacity of the FSC and IPA to maintain appropriate levels of independence in all circumstances.** There are powers in the statutes for the government to issue general and individual directions on matters of policy, and decisions on licensing and inspections. Moreover, the FSC's core responsibilities are not clearly stated in its founding statute. In addition, the FSC and IPA are not required to prepare an annual report on their activities. While the FSC does prepare a report, it is not comprehensive. In particular, it does not include meaningful financial information. The IPA prepares no report. This has important implications in any assessment of accountability of the regulatory bodies. Both the FSC and the IPA are part of a general government annual business planning and budget process, and are subject to periodic examination by the government's internal audit department and by its independent external auditors. However, none of these processes provides effective public accountability.

Sectoral assessments

18. In addition to the above general observations, the following provides a brief summary of the sectoral assessments.

Basel Core Principles

19. The Isle of Man was assessed as achieving a high level of compliance with the Basel Core Principles. The assessment expressed some concerns related to the FSC's operational independence and resources, and raises questions about the practical application of the regulatory and supervisory framework.

IAIS Core Principles

20. The Isle of Man has a high level of compliance with the IAIS Core Principles. The assessment raised some concerns related to the operational independence and accountability of the supervisor in the exercise of its functions and powers, as well as some issues related to an adequate legal framework for derivatives and off-balance-sheet items.

IOSCO Principles

21. The assessment found a high level of compliance with the IOSCO Core Principles. A number of Principles are not applicable, either because the Isle of Man has no secondary market or does not have self-regulatory organizations. Concerns were expressed related to the regulator's independence and accountability, and the lack of procedure for dealing with the failure of a market intermediary.

AML/CFT Standards

22. The assessment found a high level of compliance with the FATF Recommendations. The AML/CFT regime is generally satisfactory, with a developed legal framework and awareness among the industry:

- **the Isle of Man has a developed legal and institutional framework for AML/CFT**, particularly with respect to confiscation of the proceeds of criminal conduct, exchange of information, and international cooperation. The broad regulation of the financial sector is another strength.
- **awareness of AML/CFT issues among the industry is high**, and considerable effort has been undertaken to put appropriate AML/CFT practices into place. The oversight by the FSC and the IPA is generally satisfactory. Both regulators employ a regime of on-site and off-site surveillance, and have visited most licensed institutions over the last three years. Most of the institutions visited had comprehensive documentation on AML policies and procedures.

23. The assessment, nevertheless, identified a number of areas where the legal and institutional framework could be strengthened. The principal instruments through which compliance with the AML/CFT framework is carried out—the FSC guidance notes and the IPA Common Trading Practices (CTP)—could also be improved in certain areas (see below). Since the date of the assessment both the notes and the CTP have been revised and have addressed a number of concerns highlighted in this assessment. The CTP has also been re-titled the Anti-Money Laundering Standards for Insurance Businesses.

Company and trust service providers

24. **The Isle of Man is one of the first jurisdictions to apply a comprehensive regulatory regime to CSPs.** The FSC's legal framework, including licensing policy, and various codes and practices with respect to CSPs and TSPs, was reviewed in light of the recent OGBS "Statement of Best Practice" for trust and company service providers.

25. **The regulatory regime for CSPs is consistent with the OGBS statement and, in some respects, exceeds the best practices.** There are a few areas, however, where some fine-tuning is necessary, and these will be addressed in the forthcoming Fiduciary Services Bill.

26. A regulatory regime for TSPs is not yet in place, but the framework for the regulation and supervision of CSPs provides a satisfactory framework on which to build the supervisory system. The plan is to proceed with the licensing of TSPs under the Fiduciary Services Bill.

27. **With respect to the progress of licensing, while the FSC appears to have dealt with the application process for CSPs well, at the time of the mission's visit there were still a number of CSPs operating under "transitional registration provisions."** Although these companies and individuals all applied for licenses and were covered by the enforcement provisions of the CSP legislation, some had not yet been licensed because the licensing process was not yet complete. Under the transitional arrangements there could have been businesses still operating to a standard not acceptable for a licensed entity.

28. **Since the date of the mission, these risks have been substantially reduced by two measures.** Firstly, the CSP Codes have been extended to all CSPs, including as yet unlicensed applicants, with effect from May 1, 2003, and therefore, the same standards apply to all CSPs. Secondly, a deadline of July 31, 2003, was set for the completion of the licensing of CSPs. The Commissioners considered all the CSP license applications by the July 31 deadline. In accordance with the Commission's published licensing policy, there are a small number of applications which cannot be decided pending the outcome of an investigation or litigation. The remaining unapproved applicants are withdrawing in accordance with programs agreed with the Commission. The small number of CSPs now operating under "transitional registration provisions" due to the licensing policy are covered by the enforcement provisions of the CSP legislation. With respect to TSPs, until the legislation is in place and the vetting process is also completed, the FSC will not be aware whether all of them can meet the OGBS's standards. The FSC envisages that the majority of TSP license applications will be from CSP license holders who have already met the FSC's fitness and propriety criteria.

B. Actions to Strengthen Observance of Standards and Codes

29. The mission agrees with the views expressed by the FSC in their 2002 business planning document that to maintain its position as a well-regulated jurisdiction, the Isle of Man will need to continue to update its supervisory and regulatory framework to reflect the changing international regulatory environment and international standards.

30. The following section outlines some key issues going forward.

Independence and accountability of the regulators

31. A key issue identified in the assessment is the lack of independence and accountability of the regulators. This shortcoming has not been a major concern to date, given the nature of the business activity and the small size of the jurisdiction, with its collegial culture, and commitment to high-quality regulation. However, the mission does consider that establishing the independence of regulation, with clearly defined responsibilities and powers, and with a formal process to ensure proper accountability, is important to the development of the financial services industry.

32. The authorities should enact appropriate legislation to establish independent and accountable financial supervisors. The treasury is considering a review of the functions of the FSC and IPA, and, as noted, a Financial Supervision Consolidation Bill covering FSC legislation is planned for parliamentary discussion in 2004. As part of this review and drafting process Key actions to consider are: (1) revocation of the powers of the council of ministers and the treasury to give directions to the FSC and IPA, and discontinue the practice of appointing members of Tynwald or the treasury to the FSC and the IPA; and (2) introduction of general provisions relating to the qualifications and experience of commissioners, require the FSC and IPA to publish annual reports containing full information about their financial affairs and performance, and to present the reports to parliament

33. In addition, a number of more specific recommended actions are provided in the next section for each of the four assessed standards.

III. OBSERVANCE OF FINANCIAL SYSTEM STANDARDS AND CODES: SUMMARY ASSESSMENTS

A. Basel Core Principles for Effective Banking Supervision⁶

Institutional setting and market structure

34. The majority of banks in the Isle of Man are engaged in providing private banking services to nonresidents. The services offered by banks are directed toward deposit taking with the funds on lent primarily in the international inter bank markets. Some banks act as custodians and trustees to collective investment schemes, while others conduct trade finance and treasury operations.

⁶ The assessment was undertaken by Jack Heyes and Marcel Maes (Consultants to MFD)

General preconditions for effective banking supervision

35. The Banking Act 1998, regulates banking business, which may not be carried on in or from within the jurisdiction without a license. The Act confers licensing powers on the FSC. The Act provides substantial powers for supervisory, disciplinary, and enforcement purposes.

Table 1. Bank Deposits

Date	Sterling (in billions of £)	Non-Sterling (in billions of £)	Total Bank Deposits (in billions of £)
31/12/98	14.98	7.33	22.31
31/12/99	15.20	7.76	22.96
31/12/00	17.83	6.86	24.69
31/12/01	17.72	9.27	26.99
31/03/02	18.08	8.80	26.88
30/06/02	18.48	8.54	27.02
30/09/02	18.31	8.80	27.11

36. Under the Financial Supervision Order 1983, the functions of the FSC are defined as taking “such steps as appear to it to be necessary or expedient for the effective supervision of the private financial and commercial sector in the jurisdiction, but with the exception of the insurance industry.”⁷ In practice, the FSC has focused its supervisory efforts on those areas that it considers to pose the greatest reputational risk to the jurisdiction.

37. The FSC has to be commended for its proactive stance in establishing high standards for banking in order to attract and maintain a reputable international financial center.

Principle-by-principle assessment

38. The detailed assessment of compliance show that the financial regulatory system of the Isle of Man generally complies well with the Basel Core Principles for Effective Banking Supervision.

⁷ The FSC includes the following as part of its mission statement:

- to protect investors’ and depositors’ interests;
- to promote the financial stability of financial institutions;
- to promote the highest standards of competence and professional qualification;
- to protect the integrity of the financial community; and
- to protect the reputation of the Isle of Man.

Objectives, Autonomy, Powers and Resources, CP 1

39. Taken collectively, the banking laws, orders, and guidance notes provided by the supervisor constitute a generally appropriate legal and regulatory framework for banking supervision. However, some deficiencies were observed in relation to the regulator's operational independence and adequacy of resources. These deficiencies raise questions about the practical application of the framework, as noted in the assessment of other principles.

Licensing and Structure, CPs 2–5

40. The Isle of Man achieves a high degree of compliance with these CPs.

Prudential Regulations and Requirements, CPs 6–15

41. Subsequent to the mission, the FSC developed comprehensive guidance covering an effective corporate governance regime for banks. The guidance included references to sound credit policies and loan evaluation, and loan-loss-provisioning techniques and practices. In addition, the FSC has requested banks to refer to the Basel Committee guidance on international "best practices" for credit risk. The FSC has also indicated additional focus on credit risk as part of the extended on-site visitation program going forward. Comprehensive standards on internal control should be developed and best practices regarding internal audit should be elaborated. Anti-money laundering legislation provides a developed legal framework for preventing banks from becoming involved in money laundering.

Methods of Ongoing Supervision, CPs 16–20.

42. Looking into the possibility of increased synergies with the external auditors, a more in-depth on-site visitation program that would require additional resources should enhance validation of supervisory information.

Accounting, CP 21; Remedial Measures, CP 22; Cross-Border Banking, CPs 23–25

43. The Isle of Man achieves a high degree of compliance with these CPs.

Table 2. Recommended Actions to Improve Compliance with the Basel Core Principles

Reference Principle	Recommended Action
CP 1(2)–Operational independence and adequate resources	<ul style="list-style-type: none"> • The existing framework of government dependence and the lack of budgetary autonomy should be addressed. • Perform an in-depth analysis of the resources required to fulfill the supervisory objectives and as a consequence, establish a change plan for the business process of banking supervision.
CP 16–On-site and off-site supervision	<ul style="list-style-type: none"> • Prioritize the completion of the examination methodology for full scope examinations supplemented by formalized quality control procedures. • Explore increased synergies between FSC and external auditors.

Authorities’ response to the assessment

Reference Principle	Action Taken/To be Taken
CP 1 (2) – Operational independence and adequate resources	<ul style="list-style-type: none"> • The Isle of Man Treasury is currently undertaking a full review of the jurisdiction’s regulatory bodies (scheduled for completion by June 2004). This review will have full regard to independence, accountability and proposed changes to the legislative framework.
CP 16 – On-site and off-site supervision	<ul style="list-style-type: none"> • The examination methodology for full scope examinations has now been completed. • Formalized quality control procedures have been put in place. • Within the reorganization of Supervision Division there will be one senior individual assigned responsibility for consistency of approach and quality control for both on-site and off-site supervision. • There will be a validation panel, consisting of experienced supervisors, to validate / challenge risk assessments and supervisory programs for individual license holders. <p>Since the IMF visit, two meetings have taken place with the external auditors of banks. Each audit firm was represented at partner level at both meetings. The first meeting sought to identify synergies between the external auditors and the FSC. The second was to discuss industry wide current auditing and supervisory issues on a non-license holder specific basis. It was agreed that formal half-yearly meetings will take place. In addition, the Commission and the auditors agreed</p>

	to enhance cooperation with each other on specific issues and to consider more regular bilateral or trilateral meetings. The Commission will also consider making greater use of the Reporting Accountants regime.
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B. FATF Recommendations for Anti-Money Laundering and Combating the Financing of Terrorism

44. This Report on the Observance of Standards and Codes for the *FATF 40 Recommendations for Anti-Money Laundering and 8 Special Recommendations Combating the Financing of Terrorism* was prepared by a team composed of staff of the International Monetary Fund, and an expert not under the supervision of Fund staff, who was selected from a roster of experts in the assessment of criminal law enforcement.⁸ The report provides a summary of the level of observance with the FATF 40+8 Recommendations, and also provides recommendations to strengthen observance.

Information and methodology used for the assessment

45. In preparing the detailed assessment, Fund staff reviewed the relevant AML/CFT laws and regulations, and supervisory and regulatory systems in place, to deter money laundering and financing of terrorism among prudentially regulated financial institutions. In addition, the Fund reviewed the regulatory systems in place for CSPs, some of which were fully licensed at the time of the assessment, with a smaller number still at the application stage and being treated under transitional provisions. The FSC was also in the early stages of establishing a framework for the regulation of TSPs. The expert that was not under the supervision of Fund and Bank Staff reviewed the capacity and implementation of criminal law enforcement systems. The mission was undertaken over the course of two visits to the Isle of Man. The assessment is based on information available at the times of the two visits (i.e., October 30, 2002 and February 13, 2003).

Criminal Justice Measures and International Cooperation

Ratification of conventions and the criminalization of ML and FT

46. The Isle of Man's framework for criminalizing money laundering and the financing of terrorism is generally adequate. Money laundering extends to proceeds of criminal conduct and appears to be generally consistent with the Vienna and Palermo conventions. The Prevention of Terrorism Act and the UN Order contain provisions criminalizing the

⁸ The assessment was undertaken by Messrs. Ian Carrington (MFD) and Ross Delston (Consulting Counsel LEG), with the assistance of Mr. Stuart Yikona (Technical Assistance Officer LEG), and Detective Chief Superintendent Felix McKenna (Criminal Asset Bureau Ireland), the independent anti-money laundering expert (IAE). Portions of the assessment attributable to the IAE appear in italicized text.

financing of terrorism. The UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Vienna Convention) and the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime have been extended to the Isle of Man. However, the UN Convention for the Suppression of the Financing of Terrorism and the UN Convention Against Transnational Organized Crime (Palermo Convention) have not been extended to the Isle of Man. However, the Convention for the Suppression of the Financing of Terrorism cannot be extended to the Isle of Man until the Anti-Terrorism and Crime Bill is passed.

Confiscation of proceeds of crime or property used to finance terrorism

47. Laws provide for the confiscation of assets upon conviction and for the forfeiture of the instrumentalities of crime. The attorney general may make an application for a court order to restrain any person from dealing with realizable property held by a defendant, and where such an order is made, the police may seize the property to prevent its removal from the Isle of Man. There is a provision that deals with the seizure and forfeiture of proceeds of criminal conduct with respect to cash moving across the jurisdiction's borders. . There is also provision that enables terrorist funds to be frozen on suspicion.

48. With respect to drug crimes and all other crimes (other than terrorism), the laws provide for the payment of a sum corresponding in value to the benefit to the defendant and are not limited to specific property. The Anti-Terrorism and Crime Bill will do so as well for terrorism crimes. Civil forfeiture currently applies in respect of import and export of drug proceeds cash and cash-related to other crimes (other than terrorism); the Anti-Terrorism and Crime Bill will do so for terrorism crimes.

49. Provision is made to safeguard the rights of third parties who may be affected by restraint orders. There is a right for any person to apply to the high bailiff for the release of cash that has been detained.

The FIU and processes for receiving, analyzing, and disseminating intelligence at the domestic and international levels

50. The Isle of Man Financial Crimes Unit ("FCU") of the Isle of Man Police is the FIU. However, reporting parties are required by law to make their disclosures to "a constable," who includes a police or customs officer for the purposes of the relevant laws; there is no requirement in law that reports be made to the FCU.

51. The FCU is the recognized authority with responsibility for keeping statistics on ML and FT. It keeps records and statistics of all investigations, prosecutions, and convictions on its ML/FT cases, and its statistics database enables it to identify investigations originating from STRs or from other sources. Records are kept relating to STRs resulting in investigation, prosecution, or convictions (to date, there are no ML convictions in the Isle of Man; however, the Isle of Man authorities have assisted in numerous ML investigations with other jurisdictions that have resulted in prosecutions and convictions elsewhere).

52. Detailed records are kept in relation to the requests for assistance received by the FCU and other competent authorities from both foreign and domestic authorities as well as the number of responses provided to the requests received.

53. Although there is no legal requirement to do so, it is normal practice for the Isle of Man financial institutions to make STRs on large currency transactions to the authorities and statistics are maintained and kept.

54. The officer in charge of the FCU is a detective inspector, who is appointed by the Chief Constable of the Isle of Man Police and is answerable to him on the activities of the unit. The Isle of Man FCU operates with a number of personnel dedicated to intelligence (statistics, analysis and dissemination), international cooperation team and an investigative team who specialize in fraud, ML and FT investigations. Investigations into ML and FT are also carried out by an Isle of Man Customs and Excise Team.

Main functions of the FCU

55. The investigation of all serious financial crime involving the finance sector in the jurisdiction; the investigation of serious financial crime involving the Isle of Man but where jurisdiction is unclear, and the conduct of initial investigation into serious financial crime where jurisdiction lies outside the Isle of Man but where evidence needs to be secured or obtained in the jurisdiction. As currently structured, the FIU's functions are too widespread and the unit has become overburdened.

56. The FCU is not authorized to obtain from reporting parties, either directly or through another competent authority, additional documentation needed to assist in its analysis of financial transactions. However, there are laws and procedures regarding the production of records by financial institutions and other persons, the search of persons and premises, seizure, and obtaining of evidence for use in investigations and criminal proceedings. The FCU is authorized to share information of its own volition for the purposes of the prevention or detection of crime, or for the institution of criminal proceedings.

Law enforcement and prosecution authorities, powers, and duties

57. *The Isle of Man FCU and Customs and Excise have responsibility for ensuring that ML and FT offences are properly investigated. There are a number of ongoing ML and FT investigations, and the authorities are taking all necessary steps to ensure that these investigations reach a successful conclusion. There is close liaison between the Attorney General's Chambers, the FCU, and Customs and Excise, in relation to ongoing investigations and the Chambers are available to give advice when required.*

International cooperation

58. There are laws and procedures for mutual legal assistance in relation to money laundering, drug trafficking, the prevention of terrorism, and other crimes regarding the use of compulsory measures, including the production of records by financial institutions and other persons, the search of persons and premises, seizure and obtaining of evidence for use in investigations and criminal proceedings and in related actions in foreign jurisdictions

59. With respect to banking, investment business and CSPs, the FSC may disclose information for a range of purposes, including with respect to criminal proceedings in other countries for the purpose of discharging its functions under the laws administered by it, and for the purpose of assisting authorities in other countries to exercise functions that correspond to the FSC's functions. According to the Isle of Man authorities, there is no statutory prohibition preventing the IPA from disclosing information gained from on-site inspections. In addition, the IPA may disclose certain other categories of information to foreign authorities, which exercise functions corresponding to those of the IPA.

60. The principal areas of concern with respect to criminal justice measures and international cooperation are as follows.

- implementing legislation, in particular, the Anti-Terrorism and Crime Bill, should be adopted by the Isle of Man so that the UN Convention for the Suppression of the Financing of Terrorism and the UN Convention Against Transnational Organized Crime (Palermo Convention) may be extended to the Isle of Man;
- the staffing levels of the FIU are considered to be inadequate and should be increased;
- the Prevention of Terrorism Act does not provide for the forfeiture of property of corresponding value, in the event that property that is subject to confiscation is not available;
- consideration should be given to amending laws to provide for civil forfeiture for crimes other than FT;
- there are currently no explicit provisions that allow the authorities to share assets other than drug assets with other jurisdictions.

Preventive measures for financial institutions

61. The FSC and the IPA have established comprehensive programs for implementing AML/CFT standards amongst prudentially regulated institutions. Prudentially regulated sectors include banking, insurance, and investments. At the time of the assessment, the process of regulating CSPs was well advanced and plans were in place to commence the regulation of TSPs. Both regulators have issued detailed guidance notes and have a strong rapport with the financial services industry. They both undertake on- and off-site surveillance of regulated institutions. The FSC and IPA have visited most banks, fund and investment managers, and insurance companies. The regulatory bodies have been actively involved in training initiatives for the industry.

62. Apart from measures directly related to its AML/CFT regime, the company registration role undertaken by the FSC is also critical. Since the companies registry function is undertaken by the FSC, it has the opportunity to undertake detailed due diligence on all companies, including those seeking to operate as a licensed financial institution.

63. The on-site reviews undertaken by both regulators are thorough and in a number of cases following the conduct of such reviews licensees were directed to undertake remedial action to meet required standards. In some instances, concerns were referred to the attorney general to determine if specific action should be taken against the institutions in question.

64. No members of the IPA staff are employed full time on AML/CFT, but two staff members devote significant portions of their time to AML/CFT matters, and have the ability to call upon the assistance of other staff of the IPA whenever required. All members of the supervisory staff have some experience of AML/CFT matters, and refresher training is undertaken. It is the intention of the IPA that all life assurance companies will be visited at least once in every two years, with follow-up and additional visits, if appropriate. Over the last two years, all but one of the insurance companies have been visited.

65. An enforcement officer at the FSC devotes the vast majority of his time to AML/CFT issues and is able to call upon the assistance of other FSC staff, as required. All staff attend training on AML/CFT annually. Over the last three years, the FSC has visited most licensed banks and fund and investment managers, and 27 CSPs. The AML/CFT reviews are also undertaken through off-site surveillance.

66. In December 2000, the Isle of Man, in conjunction with Guernsey and Jersey, developed the consultation document entitled, "Overriding Principles For a Revised Know Your Customer Framework." On the basis of responses to the document, the Commissions issued a paper outlining the direction to be taken in the AML legal and regulatory frameworks in each jurisdiction. This paper, which does not replace the existing guidance notes, focuses on issues related to the verification of customer identity.

67. Among the many aspects of identity verification addressed in the paper are the issues of introduced business and the verification of customers' identity whose relationship with financial institutions pre-dates the all-crimes anti-money laundering legislation (progressive program). Unlike the existing framework where an introducer can hold verification documents to be made available to the "accepting party" on request, the paper envisages that an "accepting party" will always hold either originals or copies of these documents. In terms of the progressive program, the paper envisages that where FIs discover any deficiencies in existing verification documents, they should seek to obtain necessary information to address the deficiency. It proposes that this work be undertaken on the basis of risk prioritization and trigger events.

68. The IPA has implemented those areas of the Overriding Principles appropriate to the insurance sector within the CTP. This includes a requirement for all license holders to have in place a retrospective review program.

69. Visits to regulated institutions indicated a high level of awareness of AML/CFT issues, policies, and procedures, which generally meet international standards. Most institutions visited had well-documented policies and procedures in place, including a graduated range of measures that are applied on the basis of perceived risks.

70. At the time of the assessment, the FSC had commenced the process of regulating CSPs and plans were in place to commence the regulation of TSPs. The FSC has set a deadline for completion of the licensing process for CSPs by July 31, 2003. However, both CSPs and TSPs are captured by the AML/CFT legal framework. The CSPs are included in the FSC's surveillance activities, and TSPs will be included once the licensing regime is in place. [The FSC does not regulate TSPs yet and, therefore, has no powers to oversee AML/CFT compliance by TSPs and does not do so). At the time of the assessment, 27 CSPs had been visited by the FSC.

71. The principal areas of concern with respect to preventive measures for financial institutions are the following:

- Although the framework is generally effective, the FSC does not have the statutory authority to regulate or monitor compliance for MSBs, which is the responsibility of Customs and Excise. This is considered to be a potential weakness.
- Visits to financial institutions revealed a wide range of KYC practices in relation to the issues addressed by the Overriding Principles Paper. The FSC should continue its efforts to achieve a greater degree of uniformity in the practices used by license holders. This is particularly needed in matters related to introduced business and the retrospective verification of customer identity.
- While the FSC and the IPA have been able to undertake on-site visits to most institutions over a two-year period, this has to some extent been at the expense of adequate surveillance of other areas of risk faced by licensees. It is considered that the current level of resources available to the FSC's Supervision Division are insufficient to enable it to exercise a comprehensive surveillance function across all financial institutions

Summary assessment against the FATF recommendations

72. The Isle of Man has a comprehensive legal and institutional AML/CFT framework with high levels of compliance observed amongst regulated institutions. This report however makes a number of recommendations for further strengthening of the regime. Table 5 summarizes actions required in relation to the 40+8 recommendations.

Table 3. Recommended Action Plan to Improve Compliance with the FATF Recommendations

Reference FATF Recommendation	Recommended Action
40 Recommendations for AML	
Provisional measures and confiscation (FATF 7)	Consideration should be given to the adoption of a civil forfeiture law for crimes other than FT.
Customer identification and record-keeping rules (FATF 10–13)	The relevant laws should be amended to explicitly require that customer identification procedures be followed by reporting parties. The FSC has already undertaken considerable work to direct FIs towards the customer identification standards proposed by the Position Paper. It is nevertheless recommended that these efforts be redoubled to ensure a greater degree of consistency in the approach adopted by licensees.
Measures to cope with countries with insufficient AML measures (FATF 20–21)	Consideration should be given to the imposition of a requirement that all Isle of Man FIs apply Isle of Man legal and regulatory requirements in respect of AML/CFT to their branches and subsidiaries outside of Isle of Man. Consideration should also be given to ensuring that institutions test compliance of AML/CFT systems against home and host country standards.
8 Special recommendations on terrorist financing	
I. Ratification and implementation of UN Instruments	Implementing legislation, in particular the Anti-Terrorism and Crime Act, should be adopted or implemented by the Isle of Man so that the UN Convention for the Suppression of the Financing of Terrorism, and the UN Convention Against Transnational Organized Crime (Palermo Convention) may be extended to the Isle of Man.
II. Criminalizing the financing of terrorism and associated money laundering	The Anti-Terrorism and Crime Act should be implemented so that the financing of terrorism and associated money laundering may be fully criminalized.
VII. Wire transfers	Within the two-year period referred to by FATF, the relevant laws should be amended to require that accurate and meaningful originator information on funds transfers remain with the transfer through the payment chain, and that FIs give enhanced scrutiny to wire transfers that do not contain complete originator information.

Other Recommended Actions

Other recommendations arising from the AML/CFT assessment appear in Table 9 of Volume II.

Authorities' response to the assessment

Reference FATF Recommendation	Action Taken/ Action to be Taken
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Reference FATF Recommendation	Action Taken/ Action to be Taken
40 Recommendations for AML	
Provisional measures and confiscation (FATF 7)	<p>The Anti-Terrorism and Crime Bill (which is mentioned throughout the Report) has passed through all its parliamentary stages in the Isle of Man and Royal Assent was announced in June 2003. The new Act gives significantly more powers to combat FT and enables the forfeiture of assets of corresponding value.</p>
Customer identification and record-keeping rules (FATF 10–13)	<ul style="list-style-type: none"> • The interim review of the Anti-Money Laundering Code 1998 has been completed, with a revised draft 2003 Code issued for consultation at the start of July One of the principal new provisions is that the ongoing obligation to operate identification procedures will be made clearer. • Initiatives to incorporate the provisions of the Overriding Principles Paper in respect of the treatment of professional intermediaries into the legal framework and the notes, will be completed in particular following a decision by FATF on its treatment of such persons. • The notes will be reviewed regarding the requirement to undertake periodic re-verification of personal customers under certain circumstances. • IPA comment: The CTP includes explicit requirements for the verification standards to be followed by the Insurance Business. The CTP also include a requirement for every Insurance Business to have a program in place to retrospectively review all existing client files.
	<ul style="list-style-type: none"> • The interim review of the Anti-Money Laundering Code 1998 has been completed, with a revised draft 2003 Code issued for consultation at the start of July The following are the principal new provisions– a continuing obligation is to be imposed on relevant businesses to verify evidence of identity as soon as reasonable practicable after:- The relevant person becomes aware of anything which causes the relevant person to doubt the identity of the person who, in relation to the formation of the business relationship, was the applicant for business.

Reference FATF Recommendation	Action Taken/ Action to be Taken
40 Recommendations for AML (continued)	
Measures to cope with countries with insufficient AML measures (FATF 20-21)	<ul style="list-style-type: none">• A new section, S2.08, has been included in the new notes to cover the requirement to impose standards of AML/CFT to branches, etc., outside the Isle of Man.• IPA comment: It is a requirement of the CTP that all branches and subsidiaries apply, as a minimum, the Isle of Man standards and requirements to their business wherever situated• The interim review of the Anti-Money Laundering Code 1998, has been completed, with a revised draft 2003 Code issued for consultation at the start of July. One of the principal new provisions is that relevant businesses will have to ensure that branches and subsidiaries outside the Isle of Man will undertake AML procedures that are no less strict than those that are operated by the relevant businesses.

Reference FATF Recommendation	Action Taken/ Action to be Taken
8 Special Recommendations on Terrorist Financing	
I. Ratification and implementation of UN Instruments	The Anti-Terrorism and Crime Bill (which is mentioned throughout the Report) has passed through all its parliamentary stages in the Isle of Man, and royal assent was announced in June 2003. The new Act gives significantly more powers to combat FT.
VII. Wire transfers	S4.04 of the notes refers to the FATF recommendation to establish a requirement for the inclusion of originator information on funds transfer. The FSC accepts that there is a global problem of absence of originator information as a result of IT limitations. The new notes require a license holder to conduct enhanced scrutiny of and monitor funds transfers that do not contain complete originator information. License holders should have a program in place to comply with FATF's recommendations in respect of outgoing fund transfers by December 2003.

C. IAIS Core Principles⁹

General

73. This assessment of the current state of the Isle of Man's compliance with the IAIS Core Principles has been completed as part of the IMF Offshore Financial Center (OFC) assessment program. The assessment was undertaken by John Darwood (Consultant MFD).

74. Completion of a formal assessment serves several purposes. First, it benchmarks the current state of insurance supervision, recognizing that there have been extensive changes in the last years. Second, it suggests a number of further improvements or changes. Thus, this report provides a key input for the development of an action plan to move toward full compliance with the Core Principles.

Information and methodology used for assessment

75. This assessment has been conducted by comparison of the standards and practices of insurance supervision with the Insurance Core Principles and Insurance Core Principles Methodology promulgated by the International Association of Insurance Supervisors (IAIS), of which the Isle of Man is a member. In addition meetings have been held with the various insurance market associations and some individual companies.

Institutional and macroprudential setting-overview

76. The Isle of Man government Insurance and Pensions Authority (IPA) is the responsible body for the supervision of all insurance activity on the Island with the exception of life insurance intermediaries who are registered with the FSC for life business only. The IPA Mission Statement is as follows:

The IPA exists to maintain and develop an effective regulatory framework for insurance and pension business which will:

- provide security for investors;
- prevent and deter the Isle of Man being used for the purposes of financial crime;
- preserve the international reputation of the Isle of Man;
- ensure a flourishing environment for Isle of Man businesses.

77. There are three major strands of insurance business carried on in the Island, international life business, captive insurance business and domestic general and life business.

⁹ The assessment was undertaken by John Darwood (Consultant MFD)

General preconditions for effective insurance regulation

78. Like the other crown dependencies, the jurisdiction has two distinct areas of offshore business, international life companies and captive insurance companies; but in the present case, the former comprises a much more substantial element, which accounts for some £14 billion of policyholders' funds. The latter has a collective premium income of some £1.05 billion. There is only one locally incorporated company writing domestic business.

79. The most obvious benefit the combined insurance sector brings is that of employment; currently, nearly 2,500 persons, about 5.5 percent of the entire workforce, are being engaged in the industry. Spin-off benefits are found in the related business support services, banking, accounting, and legal. The jurisdiction enjoys a good reputation internationally.

80. The responsibility for the supervision of the insurance market (with the exception of life insurance intermediaries) rests with the IPA, an independent statutory board established under the Insurance Act 1986, which, together with regulations and guidance notes, provides the foundation for the supervision. Life insurance intermediaries are registered with the FSC for life business only.

81. The preconditions for effective insurance supervision are provided and the infrastructure is well developed:

- the legal framework in place has worked well to date but has been recognized as being in need of updating which has led to an extensive review and the planned introduction of an insurance (amendment) bill by October 2003;
- the court system is efficient and reliable;
- the applied accounting standards are internationally accepted;
- actuarial and auditing services are available and apply recognized principles;
- sound and effective macroeconomic policies are in place, which allow the insurance industry to operate in a stable environment.

82. The supervisor is fully equipped to exercise its functions adequately. The IPA has an establishment of 12 full-time staff comprising a director, managers, supervisors, and analysts. Two positions are currently unfilled and actuarial services are available by way of consulting actuaries.

Principle-by-principle assessment

83. The jurisdiction has achieved a reasonable degree of compliance with the IAIS Insurance Core Principles.

Organization (Principle 1)

84. The supervisor is expected to be operationally independent from both political authorities and the insurance companies it supervises. Because the IPA operates under the umbrella of the Isle of Man Treasury, which appoints the members of the IPA subject to the approval of Tynwald, and since the chairman is a member of Tynwald (although this is not a statutory requirement), the IPA cannot be considered operationally independent from political authorities. It is recommended that steps be taken to distance the IPA from any possible political influence. The Board of the IPA should not have Tynwald representation.

85. The Insurance Act allows the supervisor's decisions regarding licensing to be appealed to the treasury, although we are advised that such decisions have never been changed. This situation is being addressed within the proposed amendment bill. The revised legislation will place the appeals process in the hands of the council of ministers (via the chief secretary) which will then appoint a committee, which will be independent of the treasury, the authority, the supervisor, and the applicant.

Licensing and Changes in Control (Principles 2 and 3)

86. Licenses for insurers and insurance managers are granted under the provisions of the Insurance Act and Regulations, together with guidelines issued by the supervisor. Licenses for general insurance intermediaries (where appropriate) are granted under the Insurance Intermediaries (General Business) Act 1996, and regulations. Business plans are an all-important part of this process, and capital provisions are always expected to be commensurate with exposures and volumes of business, irrespective of the minimum capital requirements laid down by the Act.

87. The Act requires all parties connected with an application, and the ongoing licensed entity, to be fit and proper; likewise for changes of control. In this regard, the supervisor may consult with other regulators, has access to police checks, computer data bases, and the dedicated resources of the FSC.

Corporate Governance and Internal Controls (Principles 4 and 5)

88. Principle 4 is applicable where the supervisor has responsibilities for setting requirements for corporate governance. Since the Insurance Act does not address this issue, the supervisor does not have any specific legal responsibilities, so the Principle is not applicable.

89. However the supervisor does take an interest in corporate governance and is able, within his existing powers, to satisfy himself as to the roles and responsibilities of directors and senior management. Also, as part of the company's annual return, the auditor countersigns a general statement as to the role and responsibilities of the directors.

90. We are advised that the amendment bill will include enabling provisions to extend the powers of the IPA to make regulations or statutory codes, if appropriate in due course.

91. It is recommended that this principle should be fully recognized within the insurance legislation.

92. Principle 5, Internal Controls, is applicable. The Act gives the supervisor wide powers of enquiry and of taking remedial action, but the supervisor recognizes the need for more specific reference to internal controls within the legislation and this is being addressed in the amendment bill. In the meantime, a code of practice is likely to be issued which will set out the supervisor's expectations in this area.

Prudential Rules (Principles 6 –10)

93. The standards for valuations of assets and liabilities are set out within the Act and Regulations, and provide an adequate framework for basic supervision.

94. All insurers are required to file a full analysis of assets covering technical provisions, together with detailed annual actuarial valuations in respect of life companies. All companies are subject to an annual external audit.

95. The supervisor is able to review liabilities and the matching assets, and to discount relevant assets, if necessary, for solvency purposes.

96. The essential criteria for assets and liabilities also call for the supervisor to be able to check on internal controls and procedures, including those on audit and investment activities. It is important that the on-site inspection program become fully operational.

97. The statutory minimum capital requirements are low, particularly when compared to those of the EU. They are, nevertheless, typical of the captive insurance industry and the solvency margin provisions, which are carefully tracked, and require the solvency to recognize the business mix, risk exposures, and premium volumes on a case-by-case basis. Actual capital is therefore always adequate and there would seem to be no case for raising the minima.

98. The Act has no specific detailed provisions regarding derivatives but the supervisor has issued guidance notes (updated in April 2002) to the life sector and is able to track such investments should they occur. The lack of provisions leads to a recommendation that the reporting requirements under the existing regulations should be expanded.

99. All reinsurance arrangements are to be fully declared in the insurer's business plan and in the annual returns. In determining the acceptability of any program, the supervisor takes into account all aspects of the arrangements and has access to rating agencies' reports on line to facilitate the process. The Act draws no distinction between insurers and reinsurers, so any application from a pure reinsurer, and its subsequent supervision, would be treated as for any other insurer. At present there is no professional reinsurer licensed in the jurisdiction.

Market Conduct (Principle 11)

100. In relation to this principle it is important that on-site inspections be fully implemented.

101. In respect of the day-to-day supervision of the marketplace, the supervisor is able to ensure high levels of integrity and the requisite business standards. Statutory authority comes from both the Insurance Act and the Insurance Intermediaries (General Business) Act 1996, and the respective regulations, together with the Common Trading Practices issue of March 2003.

102. Complaints are reviewed at the appropriate level within the IPA, and any potential breach of regulation or legislation investigated. The IPA has endorsed guidance issued by the Office of Fair Trading for use by its license holders for dealing with complaints from policyholders. If complaints cannot be resolved they may be referred to the recently established Financial Services Ombudsman Scheme.

103. The separation of supervisory responsibilities between the IPA and the FSC (which licenses life intermediaries who also offer advice on investment matters) is not unique to the jurisdiction and, as a practical matter, seems sensible.

104. There are a few general insurance intermediaries representing U.K. insurers who are not required to be registered, provided the insurers recognize in writing their responsibility for their agents' actions. It is recommended that these should be brought within the scope of the Intermediaries Act.

Monitoring, Inspection, and Sanctions (Principles 12–14)

105. The Act provides that all authorized insurers should file comprehensive annual returns, including audited annual accounts and life companies, and must also include an actuarial valuation report within six months of the close of the company's financial year.

106. Similar information is filed by intermediaries who also have to verify continuation of their PI cover. The relatively small number of active managers is to be subject to regular and detailed review of their activities by way of on-site inspections.

107. It is recommended that insurance managers should be required to file an annual return comprising audited accounts and list of managed companies.

108. Accounts are normally drawn up in accordance with U.K. GAAP.

109. Concerning on-site inspections, the supervisor is empowered to obtain whatever information is required, and to inspect and investigate. Anti-money laundering inspections of international life companies are already carried out on a regular basis. Other companies are inspected on an as-needed basis, but an across-the-board program has only just been introduced and needs to be tested over time.

110. It is recommended that staff resources should be carefully monitored, as these inspection programs are developed.

111. Concerning sanctions, the Act provides for most of those covered by the Principle: the supervisor relies upon having detailed information, proactive supervision, and a significant range of possible remedial action; licenses may be revoked, remedial actions taken, and conditions may be imposed. Insolvency and winding-up provisions are available under the Insurance Act together with the Companies Act.

112. Civil penalties and fines are currently not provided for but are to be covered within the proposed amendment bill.

Cross Border Operations, Supervisory Coordination and Cooperation, and Confidentiality (Principles 15–17)

113. All persons carrying on insurance business in the jurisdiction must be licensed and comply with ongoing reporting requirements. New subsidiaries or branches of foreign companies are always subject to consultation between the respective supervisors.

114. The supervisor has the power to, and will cooperate with, any home country supervisor who may wish to conduct an on-site visit within the jurisdiction.

115. The supervisor enjoys good working relationships with the U.K. FSA—important because many of the International Life companies are subsidiaries of U.K. parents (or are also authorized by the UK FSA in respect of UK business)—and with other members of the IAIS, supported by formal MOUs.

116. The Act imposes duties of confidentiality on the supervisor and staff. A person who fails is guilty of an offence. The cases in which the supervisor is permitted to disclose or share information are set out in the Act, but these are not considered to be entirely adequate and consequently they are to be updated as part of the proposed amendment bill.

Table 4. Recommended Action Plan for Observance of IAIS Insurance Core Principles

Reference Principle	Recommended Action
CP 1, Organization	In order to strengthen the operational independence of the supervisor, the Board of the IPA should not have any representation from Tynwald, and powers for making secondary legislation should be transferred from the treasury to the IPA. Efforts to amend the existing legislation should be expedited.
CP 4, 5 Corporate governance and Internal controls	These principles should be fully recognized within the legislation by way of development of appropriate regulations; firstly, because of the very evident present-day need of proper supervision in this area, and, secondly, because several other planks in the present structure, e.g., internal controls and on-site inspections, will not be fully effective without it.
CP 6 and 7, Assets and Liabilities	On-site inspection procedures should be carefully reviewed to ensure that all the appropriate checks are covered.
CP 9 Derivatives	Although there is currently little activity in this area, the existing guidelines should be reviewed, and the reporting requirements under the existing regulations should be expanded to take the Principle fully into account.
CP 11 Market conduct	Consideration should be given to bringing those general insurance intermediaries not currently required to be registered to be brought within the scope of the Intermediaries Act.
CP 12 Financial reporting	Insurance managers should be required to file an annual return for their own business (audited accounts and list of managed companies).

Authorities' response to the assessment

Reference Principle	Action Taken/ To Be Taken
CP 1, Organization	<ul style="list-style-type: none"> • The treasury has undertaken to review the question of Tynwald representation on the Board of the IPA. • In addition, the amendment bill sets out a clear statement of the IPA's regulatory objectives and the division of responsibilities between its board and executive. • The appeals process will be revised by the provisions of the Insurance (Amendment) Bill 2003 and the treasury will be removed from it. Under the Bill, the power to make secondary legislation will also be transferred to the IPA.
CP 4, 5 Corporate governance and Internal controls	The Insurance (Amendment) Bill includes enabling provisions to allow the IPA to make regulations or statutory codes as appropriate in this area and update the IPA's powers of inspection and investigation and the range of sanctions available.
CP 6 and 7, Assets and Liabilities	This will be done as the on-site inspection program develops.
CP 9 Derivatives	This matter will be reviewed to ensure that the Principle is taken fully into account in a way that is appropriate for the type of business involved.
CP 11 Market conduct	The IPA will give consideration to this matter, taking into account current developments in the UK market (to which the jurisdiction's domestic insurance market is very closely linked in this area) and also the development of regulation in this area in the EU.
CP 12 Financial reporting	This point is accepted and consideration will be given to the appropriate way of implementing it.

D. IOSCO Objectives and Principles of Securities Regulation¹⁰

General

117. This report has been prepared in the course of a formal assessment by the IMF of the regulatory and supervisory arrangements of the Isle of Man for its financial sector, and the extent to which these arrangements conform with known international standards and statements of best practice.

Information and methodology used for assessment

118. In essence the assessment was undertaken by analyzing the rules of law, the statements of best practice, and the evidence of current practice and evaluating them against the 30 IOSCO Principles. The mission was required to decide in the case of each principle whether it was (a) implemented; (b) broadly implemented; (c) partially implemented; (d) not implemented; or (e) not applicable. In the course of this assessment, the mission made a number of judgments. We report on these in Table 1 to the report.

119. The mission reviewed many background documents before or in the course of the assessment. These included the IMF's own guidance notes on assessment process and procedures, various IOSCO reports and resolutions, relevant publications of OECD, selected Isle of Man legislation, regulations, orders, codes and guidance notes, various documents on the FSC website, the IOSCO self-assessments prepared by the FSC and various operational documents of the FSC. In reviewing this material the mission paid close attention to the explanatory notes accompanying the IOSCO statement of Objectives and Principles. It also considered the MFP Transparency Code. The mission had extensive discussions with representatives of the government, the FSC, professional bodies and industry associations, and a number of supervised firms that were representative of the various categories of firms licensed to undertake securities and investment business. In the time available the mission did not have the opportunity to confer with independent commentators.

Institutional and macroprudential setting, market structure

120. The core Isle of Man rules of law about the regulation of securities and investments relate to:

- the functions and powers of the FSC;
- the licensing and supervision of those who undertake investment business, in particular, those who deal in investments, arrange deals in investments, manage investments belonging to others, give investment advice, or operate or administer a collective investment scheme (CIS);
- the authorization and supervision of CIS's;

¹⁰ The assessment was undertaken by John Farrell (Consultant MFD)

- the offer of securities and investments to members of the public and others.

121. These rules of law are administered and enforced by the FSC. However, the prosecution of criminal offences under the Companies Acts is a matter for the attorney general.

122. The term “investment” is defined to include the full range of securities and investment products. The principal investment products, which are the subject of regulation, are interests in CIS’s. There are also life insurance policies, which have the character of investments but are regulated as insurance products. These are dealt with elsewhere in the mission’s report. Isle of Man people may also invest in overseas listed securities.

123. A CIS may be an authorized scheme, a recognized scheme, an international scheme or an exempt scheme. Interests in an authorized scheme are available for offer to the general public in the Isle of Man. Authorized schemes, which meet certain requirements of U.K. law, may be offered to the general public in the United Kingdom. Comparable arrangements apply on a reciprocal basis with a limited number of other jurisdictions. A “recognized scheme” is one, which is established outside Isle of Man but is “recognized” by the FSC for marketing within the Island. The international schemes are intended for offer to more experienced or professional investors and, in practice, are not offered to the general public in the Island. Funds under management in CIS’s as at June 30, 2002 were £5.12 billion. In addition, there were £3.5 billion in funds under discretionary management. There were 87 investment business licenses current.

124. There is no stock exchange in the Island and any listing of securities in Isle of Man based schemes or companies will be in another jurisdiction.

General preconditions for effective securities regulation

125. The Isle of Man has a conventional framework of general business law, including a common law system and rules of law about competition. There is a diversity of market participants. The only barriers to entry into the finance sector that were observed were those associated with the operation of the regulatory system.

126. The principal investment product is the collective investment scheme (CIS). The value of CISs in the Isle of Man, as at June 30, 2002, was £5.12 billion. In addition, financial assets under discretionary management were estimated to be £3.5 billion. There were 87 investment business licenses current.

Principle-by-principle assessment

127. The Isle of Man has achieved a high standard of compliance with the IOSCO Principles. The FSC has a good range of regulatory powers. Its work on the authorization and supervision of investment business seems appropriately resourced, and it seems able to maintain consistent standards of supervision within the investment industry.

Regulator (Principles 1–5)

128. The FSC has adequate powers and proper resources to conduct its investment-related work, has adopted clear and consistent processes and has maintained high professional standards for its staff. Principles 3, 4 and 5 are implemented. We gave particular consideration to whether the FSC was operationally independent. The government may give directions on licensing, inspection, and public interest matters. This puts the FSC's independence at risk. Moreover, the rules of law about the accountability of the FSC are not strong and the FSC does not publish comprehensive financial information. The FSC's responsibilities are not clearly stated in the law.

Self-Regulatory Organizations (Principles 6–7)

129. There are no SROs. These principles do not apply.

Enforcement (Principles 8–10)

130. FSC has wide powers of inspection, investigation, and surveillance. It has wide enforcement powers. It makes effective and credible use of its powers and has implemented an effective compliance program.

Cooperation (Principles 11–13)

131. The FSC has wide powers to share information, both public and nonpublic, with domestic and foreign counterparts. The disclosure of customer information under the Investment Business Acts, but not the Insider Dealing Act, is subject to the chief minister's consent. The FSC has entered into six MOUs with foreign counterparts.

Issuers (Principles 14–16)

132. Some of the rules of law about periodic reporting are not rigorous enough. They should be tightened-up. Subject to this, issuers are committed to full, accurate, and timely disclosure of financial and other information to investors, and fair and equitable treatment for investors in the jurisdiction. Accounting and auditing standards are of an internationally acceptable quality, although we have encouraged the Isle of Man to commit resources to its review of accounting and auditing standards, and auditor performance, recognizing that these are under careful scrutiny internationally.

Collective Investment Schemes (Principles 17–20)

133. The Isle of Man has extensive rules of law about collective investment schemes, including standards for operators; rules for legal form and structure; the segregation and protection of client assets; disclosure and the basis for asset valuation; and unit pricing. The FSC maintains an active program of regulation and supervision.

Market Intermediaries (Principles 21–24)

134. There are minimum entry standards for market intermediaries, ongoing capital and other prudential requirements, and standards for internal organization and operational conduct. Principles 21 to 23 have been implemented. The FSC does not have adequate statutory powers at present, and has not prepared a clear contingency plan for dealing with the failure of a market intermediary.

Secondary Market (Principles 25–30)

135. There is no stock exchange or other securities trading system in the Isle of Man. Principles 25 to 27, 29, and 30 are not applicable. There is an offence of insider dealing; and the treasury, but not the FSC, has wide-ranging inspection and investigation powers. These powers can be used to assist other regulators. However, the burdens of proof are such that it may be very difficult to secure a conviction within the Isle of Man. Moreover, the law does not apply explicitly to market manipulation.

Table 5. Recommended Actions to Improve Observance of the IOSCO Objectives and Principles of Securities Regulation

Reference Principle	Recommended Action
CP 2 Principles Relating to Regulator	The FSC and the government should review the relevant laws, policies, and practices with a view to providing for the FSC to become a more independent and more accountable financial services regulator and supervisor.
CP 10 Principles for the Enforcement of Securities Regulation	The FSC should review its template for its on-site inspection report, and ensure that the purpose is clearly and accurately stated. The FSC should review its procedures for inspecting the arrangements between the IFA and the scheme manager; in particular, in relation to the supply and use of offer documents and promotional literature, and consider whether they are adequate for ensuring that customers are well informed and advised.
CP 14 Principles for Issuers	The government and the FSC should review the powers of intervention in the Companies Act in respect of a registered prospectus. The FSC should review the reporting requirements for the international, experienced investor and professional investor schemes.
CP 16 Principles for Issuers	The FSC should review the reporting procedures under the Companies Act. The FSC should continue its review of policies on the authority for financial reporting and audit standards and the review of auditor performance.

Reference Principle	Recommended Action
CP 24 Principles for Market Intermediaries	<p>The government should secure the enactment of rules of law for dealing with the failure of a market intermediary.</p> <p>The FSC should prepare and disseminate a guidance note or other suitable procedure for dealing with the failure of a market intermediary.</p>
CP 28 Principles for the Secondary Market	<p>The government should review aspects of the insider dealing law.</p>

Authorities' response to the assessment

Reference Principle	Authorities Response
CP 2 Principles Relating to the Regulator	<p>Principles 1 and 2</p> <ul style="list-style-type: none"> • The Isle of Man Treasury is currently undertaking a full review of the Isle of Man's regulatory bodies (scheduled for completion by June 2004). The scope of the review has full regard to observations concerning independence, accountability, and will identify any changes required to the legislative framework, including any clarification of the Commission's statutory responsibilities.
CP 10 Principles for the Enforcement of Securities Regulation	<p>Principle 10</p> <ul style="list-style-type: none"> • The FSC is currently reviewing its template for its on-site inspection reports and the comments made will be taken into account in this process. • The Commission has an established regime of detailed on-site inspections for FSC regulated IFAs. Any generic issues relating to IFAs will be the subject of half-yearly meetings with the Insurance Brokers Association which has agreed to take responsibility for the IFA industry.
CP 14–16 Principles for Issuers	<p>Principle 14</p> <ul style="list-style-type: none"> • The Commission will consider powers of intervention in the Companies Acts 1931–1992 and related legislation in respect of a registered prospectus as part of a fundamental review of Company Law to be commenced shortly. • The FSC is currently drafting revised reporting procedures relating to international, experienced investor, and professional investor schemes. • The Commission will consider annual reporting procedures under the Companies Acts as part of the forthcoming review of Company Law referred to above. <p>Principle 16</p> <ul style="list-style-type: none"> • The Commission is currently considering the question of financial and audit standards, and auditor performance. Any required changes will be progressed in line with the forthcoming consolidation legislation.

Reference Principle	Authorities Response
	<ul style="list-style-type: none"> Regular meetings with the large audit practices have been instigated to explore synergies between the FSC and the external auditors.
CP 24 Principles for Market Intermediaries	<p>Principle 24</p> <ul style="list-style-type: none"> The Commission intends to consider the question of rules of law for dealing with the failure of a market intermediary within the forthcoming consolidation legislation. The Commission will also develop guidance for the industry in this area.
CP 28 Principles for the Secondary Market	<p>Principle 28</p> <p>As part of the review of the Isle of Man's regulatory bodies, referred to above, the question of insider dealing legislation will also be considered.</p>

IV. AUTHORITIES' ACTION PLANS

A. Basel Principles

Issue	Action	Scheduled date for Implementation
Operational independence and adequacy of resources	Full review of the Island's regulatory bodies. This review will have full regard to independence, accountability, and proposed changes to the legislative framework.	Review is scheduled for completion by June 2004
On-site supervision	Review of the examination methodology for full scope of on-site examinations.	Completed. Methodology has been fully tested and implemented
On- and off-site supervision	Formalize quality control procedures for on-site and off-site supervision.	Completed. On-site review procedure has been updated. Off-site review procedure will be completed with the delivery of the consolidated license holder database.
On- and off-site supervision	Within the reorganization of the Supervision Division, assign one senior individual with responsibility for consistency of approach and quality control for both on-site and off-site supervision.	Completed. A senior manager within the Supervision Division is assigned to this task.
On- and off-site supervision and risk management	Creation of a validation panel, consisting of experienced supervisors, to validate/challenge risk assessments and supervisory programs for individual license holders.	Completed. A panel chaired by the Head of Supervision and consisting of relevant specialists within the FSC has been formed.

Issue	Action	Scheduled date for Implementation
On- and off-site supervision	<p>Meetings with the external auditors of banks to:</p> <ul style="list-style-type: none"> identify synergies between the external auditors and the FSC; and discuss industry wide current auditing and supervisory issues on a nonlicense-holder-specific basis. <p>The Commission and the auditors to agree to enhance cooperation with each other on specific issues and to consider more regular bilateral or trilateral meetings.</p>	<p><i>Meetings have already taken place. Ongoing formal half-yearly meetings have now been agreed to discuss identified issues.</i></p> <p>Completed and the FSC will make greater use of the Reporting Accountants Regime.</p>
Corporate governance for banking institutions	Enhance the corporate governance framework for banking institutions	Completed. A guidance note was issued to all banking institutions and has been received positively. A review of implementation will form part of the on-site supervisory visit.

B. FATF /Anti-Money Laundering

Issue	Action	Schedule for Implementation
Civil forfeiture	Review of legislative powers to combat FT and forfeiture of assets	The Anti-Terrorism and Crime Bill gained Royal Assent in June 2003. The Act gives significantly more power to combat FT.
Customer ID	Review of Anti-Money Laundering Code 1998 to clarify ongoing obligations to operate identification procedures. Production of the 2003 Code with revisions.	Review completed. Issued a revised 2003 Code for consultation in July 2003
Overriding principles	Incorporate the provisions of the overriding principles paper in respect of professional intermediaries into the legal framework	Joint discussions to be held with the Crown Dependencies on taking this forward.
Record-keeping rules	Review of notes with regard to requirements to undertake periodic re-verification of personal customers under certain circumstances.	Ongoing review. The updated anti-money laundering guidance notes were issued to the industry in April 2003.
Record-keeping rules	Expand CTP to include specific requirements for the verification standards. Expand CTP to include a requirement for Insurance Businesses to have a program in place for retrospective review all existing client files.	Completed
Review of Anti-Money Laundering Code	<p>Review of the Anti-Money Laundering Code 1998. With principal new provisions:</p> <ul style="list-style-type: none"> a continuing obligation is to be imposed on relevant businesses to 	The Anti-Money Laundering Code 2003 contains these provisions and is currently with the industry for consultation.

Issue	Action	Schedule for Implementation
	<p>verify evidence of identity as soon as reasonably practical after: The intermediary becomes aware of anything which causes the it to doubt the identity of the person who, in relation to the formation of the business relationship, was the applicant for business.</p> <ul style="list-style-type: none"> • Relevant businesses to ensure that branches and subsidiaries outside the IOM will undertake AML procedures that are no less strict than those that are operated by the relevant businesses. • Where body corporate are applicants for business, a requirement for evidence verifying the existence of a body corporate, its place of incorporation and its corporate nature. 	
Review of anti-money laundering guidance	Inclusion of a provision in the guidance notes to cover the requirement to impose standards of AML/CFT to branches etc outside the IOM.	Completed. The updated anti-money laundering guidance notes were issued to the industry in April 2003.
Anti-terrorism	Enhance the legislative powers to combat FT through the Anti-Terrorism and Crime Bill.	The New Act received Royal Assent in June 2003. It provides significantly more powers to combat FT.
Wire transfers	Enhance the AML guidance notes to expand the requirement for license holders to conduct enhanced scrutiny of and monitor fund transfers that do not contain complete originator information.	Completed. The updated anti-money laundering guidance notes were issued to the industry in April 2003.
Power to impose regulatory sanctions and remove auditors	Expand legislative framework to include the power to remove or disqualify an auditor and the power to impose civil money penalties (administrative fines) against individuals, such as directors, officers and controllers, as well as legal persons.	Completed. Provisions contained in the Insurance (Amendment) Bill 2003
Power to impose regulatory sanctions and remove auditors	Consideration of expanding the legal framework to enhance the FSC's statutory enforcement sanctions. With specific consideration of powers to remove or disqualify an auditor, appoint a provisional or temporary administrator, with court approval if necessary; and power to impose civil money penalties (administrative fines) against individuals, such as directors, officers and controllers, as well as legal persons.	Ongoing consideration to be reviewed in the financial services consolidation legislation.

Issue	Action	Schedule for Implementation
Asset forfeiture fund	Consider introducing a law for the establishment of an asset forfeiture fund into which all or a portion of confiscated property will be deposited and will be used in the management of seized and confiscated property, as well as for other appropriate purposes.	Ongoing consideration
Sharing of seized assets with other Jurisdictions	Consider amending relevant laws to explicitly provide for the authority to share assets other than drug assets with other jurisdictions along the lines of Section 63 (4) of the Drug Act.	Ongoing consideration
Reporting requirements	Consider clarifying the legal requirement for STR to be submitted to the FCU	Ongoing consideration. For insurers this has been included within the revised Standards (CTP) now in operation.
Authority to issue anti-money laundering guidance notes (FSC)	Consider amending relevant laws to clarify legal authority for the FSC to issue guidance notes.	Ongoing consideration
Authority to issue anti-money laundering guidance notes (IPA)	Consider amending relevant laws to clarify legal authority for the IPA to issue guidance notes and regulation on AML matters.	Completed. Contained in the Insurance (Amendment) Bill 2003
Anti-money laundering guidance notes	Amend the AML guidance notes to explicitly provide for the identification of complex and unusual transactions, and suspicious patterns of behavior	Completed. The updated anti-money laundering guidance notes were issued to the industry in April 2003.
Reporting requirements	Consider amending relevant laws to permit FCU to require submission of additional information by reporting parties.	Ongoing consideration
FCU access to government databases	Consider providing the FCU with the explicit legal authority to access all government databases on a real time basis	Ongoing consideration.
Undercover operations	Consideration of existing bill to regulate undercover techniques and other undercover operations.	Rose Bill passing through legislature prior to IMF visit.
Money Service Businesses	Consider rationalizing the existing regulatory arrangements for MSBs by enacting legislation under which the statutory responsibilities of Customs and Excise for MSBs would be transferred to the FSC.	Ongoing consideration

Issue	Action	Schedule for Implementation
Anti-money laundering exemptions	Consider amending the relevant laws to limit the availability of the AML exemption to those entities regulated in EU States rather than to entities covered under the EU AML directive.	Considered under the review of the AML Code.
FCU staffing level	Increase FCU staffing level to authorized strength	In progress.
FCU powers to give instructions.	Consider providing the FCU with the authority to give instructions to reporting entities and to require FIs to observe instructions of the FCU.	Ongoing consideration
Requirement to appoint a AML/CFT compliance officer.	Consider a requirement to designate an AML/CFT compliance officer for FIs other than banks. In addition a requirement for FIs to report a change in such position to the regulator.	Considered under the AML Code 2003. Ongoing consideration by the FSC to apply to all FIs. Provision for banks contained in the amended banking code. IPA - completed.
Anti-money laundering code	Consider amending the Code to explicitly prohibit the involvement of criminals in FIs and to define minimum standards of "fit and proper" consistent with human rights and other legislation.	Already applies in practice but further considered in the AML Code 2003. Ongoing review.
Regulators staffing resources	IPA and FSC should increase their staffing levels to ensure that they can sustain comprehensive surveillance of all FIs.	Ongoing review of resources. FSC, two additional supervisory staff agreed with effect from April 2003.
Anti-money laundering guidance notes	Expand AML guidance notes to require FIs to give special attention to business relationships and transactions with persons from countries that do not have adequate systems to prevent money laundering, in circumstances other than those related to correspondent banking.	Already in place pre-visit.
Anti-money laundering guidance notes	Strengthen the language used in S3, S3.02, S3.03 and S3.04 of the FSC AML guidance notes.	Completed. The updated anti-money laundering guidance notes were issued to the industry in April 2003.
Anti-money laundering guidance notes	Review language used in S3.07 of the FSC AML guidance notes	Reviewed. The updated anti-money laundering guidance notes were issued to the industry in April 2003.
Anti-money laundering guidance notes	Review notes to provide that a license holder should not accept or continue a business relationship with other high risk customers if it knows or suspects that funds derive from corruption of a misuse of public assets.	Completed. The updated anti-money laundering guidance notes were issued to the industry in April 2003.
Anti-money laundering guidance notes	Review AML guidance notes to formally require license holders to establish and verify the identity of beneficial owners of companies.	Completed. The updated anti-money laundering guidance notes were issued to the industry in April 2003.
Anti-money laundering guidance notes	Amend AML guidance notes in respect of higher risk customers, to require senior management or board level to review decisions to commence the business relationship and review on at least an annual basis.	Completed. The updated anti-money laundering guidance notes were issued to the industry in April 2003.

Issue	Action	Schedule for Implementation
FCU structure	Number of support staff in the FCU should be increased so law enforcement staff can dedicate themselves to the investigation process of ML/FT	Completed. Two staff dedicated to ML/FT operations/investigations.
Cooperation between Police, Customs and Excise	Sign memorandum of understanding between the police and Customs covering ML/FT investigations and also on drugs and other law enforcement issues.	Completed. MOU was signed in April 2003.

C. IAIS Principles

136. The Insurance (Amendment) Bill has now had its first reading in Tynwald, the Island's parliament, and will be progressed to enactment when Tynwald reconvenes after the summer recess 2003.

Issue	Action	Scheduled date for implementation
Organization	Review the issue of Tynwald representation on the board of the IPA.	Review is scheduled for completion by June 2004
Organization	Legislation to set out a clear statement of the IPA's regulatory objectives and the division of responsibilities between its board and executive.	Completed, provisions contained in the Insurance (Amendment) Bill 2003
Organization	Revision of the appeals process and the removal of Treasury from it.	Completed, provisions contained in the Insurance (Amendment) Bill 2003
Organization	Transfer power to make secondary legislation from Treasury to IPA.	Completed, provisions contained in the Insurance (Amendment) Bill 2003
Corporate governance and internal controls	Legislative provisions to allow the IPA to make regulations or statutory codes as appropriate.	Completed, provisions contained in the Insurance (Amendment) Bill 2003
Corporate governance and internal controls	Legislative provisions to update the IPA's powers of inspection and investigation and range of sanctions available.	Completed, provisions contained in the Insurance (Amendment) Bill 2003
Assets and liabilities	Review of on-site inspection procedures to ensure all appropriate checks are covered.	An extensive external review of the on-site inspection program was undertaken during 2002. Ongoing, the program will be frequently reviewed to ensure appropriateness and consistency.
Derivatives	Review of existing guidelines, and the reporting requirements under existing regulations to be expanded.	Ongoing review. The reporting requirements are to be reviewed following the passing of the Insurance (Amendment) Bill.
Market conduct	Consideration to bring general insurance intermediaries (not currently required to be registered) within the scope of the Intermediaries Act.	Ongoing consideration with action taking into account current developments in the UK market and development of EU regulation in this area.
Financial reporting	Implement requirement for insurance managers to file an annual return for their own business (audited accounts and list of managed companies)	Changes to the reporting requirements for insurance managers will be considered as part of the overall review following the passing of the Insurance (Amendment) Bill.

D. IOSCO Principles

Issue	Action	Schedule for Implementation
Regulator independence and accountability	Full review of the Island's regulatory bodies, with regard to independence, accountability and proposed changes to the legislative framework.	Review is scheduled for completion by June 2004
On-site supervision	Review template for on-site inspection reports and clarify the statement of purpose.	Currently under review as part of the reorganization of the Supervision Division.
Powers of intervention	Review of powers of intervention in the Companies Act in respect of a registered prospectus.	Review of Company law now being commenced.
Reporting requirements	Review of the reporting requirements for the international, experienced and professional investor schemes.	PIF reporting requirements were amended to include a requirement for the annual audit of accounts. Further reporting requirements will be reviewed as part of the Company law review.
Disclosure of customer information.	Review Chief Minister's consent to disclose customer information with domestic and foreign counterparts.	Legislation to implement has been drafted.
Reporting requirements	Consideration of reporting procedures under the Companies Act.	Review of Company law now being commenced.
Reporting requirements, audit standards and auditor performance	Review of policies on the authority for financial reporting and audit standards and review of auditor performance.	Provisions to be considered in the consolidation of the financial services legislation. Ongoing meetings with external auditors.
Failure of a market intermediary	Review of enactment of rules of law for dealing with the failure of a market intermediary.	Provisions to be considered in the consolidation of the financial services legislation.
Failure of a market intermediary	Issue guidance note or procedure for dealing with failure of a market intermediary.	Procedures are being reviewed and will be amended to include such guidance.
Insider-dealing legislation	Review of the insider-dealing legislation.	Review is scheduled for completion by June 2004

E. OGBS

Issue	Action	Schedule for Implementation
Licensing of CSPs	Complete CSP licensing process subject to cases which cannot be determined for legal and human rights reasons.	Completed on July 31, 2003.
Fiduciaries Services Bill	Introduce regulation for trust service providers	Introduction of the Bill to House of Keys in Autumn 2003. Estimated licensing to start in 2004.