



Conference of the States Parties to the United Nations Convention against Corruption

Distr.: General
20 March 2019

Original: English

Implementation Review Group

Tenth session

Vienna, 27–29 May 2019

Item 2 of the provisional agenda*

Review of implementation of the United Nations Convention against Corruption

Executive summary

Note by the Secretariat

Addendum

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* [CAC/COSP/IRG/2019/1](#).



II. Executive summary

United Kingdom of Great Britain and Northern Ireland

1. Introduction: overview of the legal and institutional framework of the United Kingdom of Great Britain and Northern Ireland in the context of implementation of the United Nations Convention against Corruption

The United Kingdom of Great Britain and Northern Ireland signed the Convention on 9 December 2003 and ratified it on 9 February 2006. The Convention entered into force for the United Kingdom on 11 March 2006.

The implementation by the United Kingdom of chapters III and IV of the Convention was reviewed in the second year of the first review cycle, and the executive summary of that review was published on 22 March 2013 ([CAC/COSP/IRG/II/2/1/Add.12](#)).

The United Kingdom is a constitutional monarchy and parliamentary democracy. The Parliament at Westminster in England remains the seat of Government for the United Kingdom, but Scotland, Wales and Northern Ireland have varying degrees of devolved government. The Crown Dependencies are the Bailiwick of Jersey, the Bailiwick of Guernsey and the Isle of Man. They are self-governing dependencies of the Crown with their own elected legislative assemblies, administrative, fiscal and legal systems and courts of law. The Crown Dependencies are recognized internationally as territories for which the United Kingdom is responsible, and the Convention has been extended to them, together with 2 of the country's 14 Overseas Territories, the British Virgin Islands and Bermuda.

The United Kingdom is a dualist State with a legal system that comprises both laws applicable to the entire United Kingdom and laws that apply to only England and Wales, Scotland, and/or Northern Ireland. While many legal provisions are statutory in nature, some are contained in the common law, the historical legal tradition of the United Kingdom.

The national legal framework to prevent and combat corruption includes, principally: Constitutional Reform and Governance Act 2010 (CRGA), Public Contracts Regulations 2015 (PCR), Freedom of Information Act 2000 (FOIA), Financial Services and Markets Act 2000 (FSMA), Companies Act 2006 (CompA), Proceeds of Crime Act 2002, Bribery Act 2010, Fraud Act 2006, Theft Act 1968, Criminal Finances Act 2017 and common-law offence of misconduct in public office.

Institutions principally involved in preventing and countering corruption include: Joint Anti-Corruption Unit (JACU), Home Office, Cabinet Office and relevant central government departments (Her Majesty's Treasury, Department for Business, Energy and Industrial Strategy, Department for International Development, Foreign and Commonwealth Office), Civil Service Commission and operational bodies such as the Serious Fraud Office (SFO), National Crime Agency (NCA), Financial Conduct Authority (FCA), Crown Prosecution Service (CPS), Financial Intelligence Unit (UKFIU), and Information Commissioner's Office (ICO). There are also dedicated governance bodies, such as the Inter-Ministerial Group (IMG) on Anti-Corruption, cross-Government Anti-Corruption Directors Board and focused forums such as the Economic Crime Strategic Board (ECSB), the Economic Crime Delivery Board (ECDB), the Private Sector Steering Group, Joint Money Laundering Intelligence Taskforce (JMLIT) and Joint Fraud Analysis Centre (JFAC).

2. Chapter II: preventive measures

2.1. Observations on the implementation of the articles under review

Preventive anti-corruption policies and practices; preventive anti-corruption body or bodies (arts. 5 and 6)

The United Kingdom has developed coordinated anti-corruption policies that promote the participation of society and reflect the principles of the rule of law and transparency.

The key anti-corruption commitments of the United Kingdom are found principally in the national Anti-Corruption Strategy 2017–2022, published following commitments made at the 2016 London Anti-Corruption Summit. The Strategy follows the 2014 United Kingdom Anti-Corruption Plan and is complemented by other policies, namely the 2018 Serious and Organised Crime (SOC) Strategy; the 2015 National Security Strategy; and the 2016 Action Plan for Anti-Money Laundering and Counter-Terrorist Finance. The Government has committed to reporting to Parliament on Strategy implementation progress on an annual basis. A first annual update on the Strategy was published in December 2018. Resources for the commitments in the Strategy were allocated prior to its development.

JACU was created in 2015 to oversee policy coordination between departments and agencies and implementation of international and domestic commitments. The Prime Minister's Anti-Corruption Champion is responsible for overseeing the Government's response to both domestic and international corruption. The dedicated IMG on Anti-Corruption provides coordinated governance on anti-corruption at the ministerial level and coordination is also led by other Ministerial-level boards. JACU leads the Government's anti-corruption dialogue with wider society, and the Prime Minister's Anti-Corruption Champion has been mandated to engage with external stakeholders, including business and civil society organizations. The commitments in the Anti-Corruption Strategy are reviewed regularly by JACU and the Anti-Corruption Champion, as well as the cross-Government Anti-Corruption Directors Board and the IMG.

The United Kingdom conducts assessments of corruption risk factors, which also informed priority areas of the Anti-Corruption Strategy. Public bodies publish information on how they meet those standards, with a view to using transparency to drive accountability. The United Kingdom Counter Fraud Profession further offers a professional structure, standards and guidance for counter-fraud specialists working in central Government, including bribery and corruption standards. The Home Office has recently begun work to strengthen the evidence base to measure domestic corruption risk as part of its efforts to assess and counter domestic corruption.

In addition to the United Kingdom, the Crown Dependencies and the British Virgin Islands assess both domestic and international aspects of corruption risks which result from their status as international financial centres. Such assessments include increased focus on the adequacy of the AML regimes and collecting relevant information from financial institutions.

Anti-corruption policy responsibility is led by JACU (Home Office), which coordinates domestic anti-corruption policy. JACU works closely with operational partners such as CPS, SFO and NCA to improve the response of the United Kingdom to corruption threats. There are legal safeguards for the independence of these bodies and a variety of corruption-related training is available to staff, commensurate with their functions.

JACU receives its financial allocation out of the Home Office budget. The Head of JACU is responsible for the administration of the budget, with oversight from the Home Office finance directorate.

In its Strategy the United Kingdom also commits to supporting the implementation of the Convention at the global and regional levels, including by supporting international organizations in anti-corruption programming and promoting standards and good

practices; and to continue raising anti-corruption issues at relevant international meetings, such as the G7 and the G20.

The United Kingdom supports other countries to tackle corruption through its development programmes and by contributing to the work of international organizations.

The performance of the relevant primary and secondary criminal legislation is subject to continual monitoring and where necessary proactive review and statutory criminal law is subject to a post-legislative scrutiny process. The Law Commission works to keep the law of England and Wales under review and recommends reform where needed, as does the Scottish Law Commission for Scotland. Civil society is indirectly involved in the consultative process leading to the law reforms.

Public sector; codes of conduct for public officials; measures relating to the judiciary and prosecution services (arts. 7, 8 and 11)

The United Kingdom has comprehensive measures and procedures for the recruitment, hiring, retention, promotion and retirement of civil servants and non-elected public officials. This includes measures for the promotion of education and training programmes and systems designed to promote transparency and prevent conflicts of interest.

The CRGA put the Civil Service Commission and Civil Service Code (CSC) on a statutory footing. The principles of the CSC are honesty, integrity, objectivity and impartiality. The Civil Service Management Code (CSMC) draws on these principles and outlines more detailed terms and conditions for civil servants, including remuneration, redeployment and leaving the civil service. The independent Civil Service Commission regulates recruitment to the civil service, providing assurance that appointments are on merit after fair and open competition. The United Kingdom Civil Service has introduced an Internal Fraud Policy and Data-Collection Hub, which helps govern recruitment by sharing the data of civil servants who are investigated for fraud and subsequently dismissed. Anyone who is placed on the Hub is banned from re-employment in the civil service for a period of five years. United Kingdom Government departments and agencies are responsible for their own dismissal, disciplinary and grievance arrangements. Vulnerable positions are subject to enhanced selection procedures as determined by the various departments.

In the Crown Dependencies and the British Virgin Islands, oversight of civil service recruitments and appointments is conducted either by individual bodies (Guernsey and Isle of Man), relevant commissions (British Virgin Islands) or centrally with oversight from an independent appointments commission in relation to senior appointments (Jersey). However, hiring bodies retain discretion to determine which positions are vulnerable to corruption and what enhanced selection methods to apply.

Counter-fraud, bribery and corruption awareness training is available online via the Civil Service Learning and departments can make this mandatory. Electoral law in the United Kingdom is spread across 17 statutes and some 30 sets of regulations. The House of Commons Disqualification Act 1975 and the Representation of the People Act 1981 (as amended) prescribe criteria concerning candidature for and election to public office and rules for disqualification of individuals from holding elected office. A recent project of the Law Commission would more closely consider electoral law reform.

The Representation of the People Act 1983 governs donations to candidates (sections 71A ff.), while the Political Parties, Elections and Referendums Act 2000 (PPERA) sets rules about donations to political parties (Part IV) and established the Electoral Commission, which regulates political party finances (Part I). The Electoral Commission publishes details of donations to political parties and maintains a public database containing records of private donations and public funding (section 69 PERA).

Codes of conduct have been adopted for government ministers, special advisers and civil servants. These include the Ministerial Code, the Code of Conduct for Special Advisers, as well as the CSC and CSMC. Internal codes, policies and procedures have also been developed by individual public bodies, Parliament and the judiciary concerning conflicts of interest, gifts and hospitality. Cabinet Office is responsible for maintaining and providing advice on the application of the Codes.

In addition, the Seven Principles of Public Life (Nolan Principles) set the ethical standards expected from all public office-holders, including ministers. The Seven Principles were espoused in 1995 by the Committee on Standards in Public Life (CSPL), an independent advisory non-departmental public body which advises the Prime Minister on ethical standards across the whole of public life in England. CSPL monitors and reports on issues relating to the Seven Principles and the standards of conduct of all public office holders. Its secretariat and budget are provided by Cabinet Office.

The CSMC sets out the principles guiding the management terms and conditions for civil servants, including guidance for all civil servants on conflict of interest, and declaring private interests. Gifts given to civil servants in their official capacity are regulated in the CSMC, and reporting rules are established by agencies and departments.

The relevant principles in relation to managing conflicts and declaring interests include prohibitions on the misuse of official positions or information, and on receiving gifts, hospitality and other benefits; and declarations of business interests and shareholdings.

Permanent Secretaries are responsible for ensuring adherence to these standards whereas government departments translate the Codes into their own policies and procedures.

The Business Appointment Rules for Civil Servants (Annex A, CSMC) are non-statutory rules which address potential conflict in post-public employment for civil servants. For members of the Senior Civil Service and equivalents, including special advisers of equivalent standing, the Rules continue to apply for two years after the last day of paid Civil Service employment. For those below the Senior Civil Service and equivalents, including special advisers of equivalent standing, the Rules continue to apply for one year after leaving the Civil Service, unless, a longer period of up to two years has been exceptionally applied. There are no sanctions for non-compliance with the Rules.

Permanent Secretaries, Second Permanent Secretaries, Director Generals and special advisers of equivalent standing are required to apply for permission for any new appointment or employment within two years after leaving office. Such applications are referred to the Independent Advisory Committee on Business Appointments (ACOBA), which is sponsored by Cabinet Office. In most cases, the Prime Minister takes the final decision based on ACOBA's advice. All Permanent Secretaries are subject to a minimum waiting period of three months after leaving paid Civil Service, although ACOBA may advise a waiver or extension. A two-year lobbying ban is in place as a general principle at this level.

On appointment Ministers notify their relevant interests to their Departmental Permanent Secretaries (section 7, Ministerial Code). This is reviewed by the Permanent Secretary and by the Independent Adviser on Ministers' Interests. A public statement covering Ministers' interests is published twice yearly. Cabinet Office oversees regular transparency publications, including for Government Ministers: gifts and hospitality received, overseas travel, meetings with external organizations, and senior media figures; and for special advisers: gifts and hospitality received and meetings with senior media figures. Restrictions on the activities of former ministers are in place under the Ministerial Code (section 7.25) and Business Appointment Rules.

In the Crown Dependencies and the British Virgin Islands, registrable interests, gifts and hospitality of Ministers and members of the legislature beyond specified values and thresholds must also be declared. However, the declarations are lodged at different time intervals (usually once a year) and failure of a public official to disclose their private interests may result in sanctions, such as a fine, or suspension from sitting or voting in the House of Assembly, or both. As per Section 1.4 of the Ministerial Code, allegations of any breach of the Code are referred to the Prime Minister, who determines the appropriate consequences. If the Prime Minister, having consulted with the Cabinet Secretary, considers that the matter warrants further investigation, the Prime Minister will refer the matter to the Independent Adviser on Ministers' Interests. As per section 1.6 of the Ministerial Code, the Prime Minister is the ultimate judge of the standards of behaviour expected of a Minister and the appropriate consequences of a breach of those standards. The Independent Adviser does not have a statutory basis for his or her activity as his or her mandate is purely advisory. Cases investigated by the Independent Adviser are a matter of public record.

The Office of the Registrar of Consultant Lobbyists was set up following the Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014, in order to create and administer the statutory Register of Consultant Lobbyists.

All Civil Service departments across the United Kingdom have adopted whistle-blowing policies and procedures to afford employees protection, as detailed in the Public Interest Disclosure Act 1998. Departmental Nominated Officers have been appointed to provide support and advice to whistle-blowers. Integrity Units established in all government agencies are responsible for detection, verification and complaints management (Service Circular No. 6 of 2013). Outside the civil service reporting channels, the Prescribed Persons Order 2014 sets out a list of over 60 organizations and individuals that workers may approach outside their workplace to report suspected wrongdoing, and guidance for prescribed person has been published.

The Constitutional Reform Act 2005 (CRA) established the independent Judicial Appointments Commission (JAC) and regulates the appointment, discipline and removal of judges in the United Kingdom (CRA, s. 63(3)). Judges are appointed on merit, following the recommendation of the JAC. The JAC selects candidates for judicial office in courts and tribunals in England and Wales, and for some tribunals whose jurisdiction extends to Scotland or Northern Ireland.

In contrast, appointments to top judicial positions in certain Crown Dependencies are usually made by the Crown upon recommendation of chief executives of the respective governments. The British Virgin Islands are part of the Eastern Caribbean Supreme Court (ECSC), whose judges are appointed by the Caribbean Community and assigned to the British Virgin Islands by the Chief Justice, on recommendation from the Judicial and Legal Services Commission.

United Kingdom judges are required to take a judicial oath on appointment (Promissory Oaths Act 1868, s. 4 and Schedule). Judges are subject to the Guide to Judicial Conduct. Newly appointed judges receive training on the Guide and already appointed judges receive continuing training on ethics. The Guide provides guidance on, inter alia, issues that may affect the principles of impartiality, integrity or propriety, such as managing extrajudicial activities, receipt of gifts and hospitality, and disclosure of interests. In particular, members of the salaried judiciary are precluded by statute from engaging in political activities. No judge may preside over cases in which the judge or their family members have any significant financial interest in the outcome of the case.

Judicial conduct can be subject to investigation overseen by the Judicial Conduct Investigations Office, an independent statutory body which supports the Lord Chancellor and Lord Chief Justice in their joint responsibility for judicial discipline. The procedure to handle complaints is provided in Judicial Discipline Regulations 2014. Senior judges can only be removed from office by the Queen (on an address

from both Houses of Parliament). Removal of other judges is subject to agreement by the Lord Chancellor and Lord Chief Justice, following an independent disciplinary investigation. There are some minor differences in respect of the devolved administrations, Crown Dependencies and the British Virgin Islands.

The Crown Prosecution Service (CPS) was formed under the Prosecution Offences Act 1985, and the Director of Public Prosecutions (DPP) was established under that statute. The SFO, a specialist prosecuting authority tackling serious fraud, bribery and corruption, was established under the Criminal Justice Act 1987. All recruitment by the CPS and SFO is conducted in accordance with internal policies and the Civil Service Commissioners Principles.

Prosecutors exercise their powers regarding the institution and conduct of proceedings under the law and the framework of principles set out in the CPS Code of Conduct. The CPS Code requires all employees to declare an interest or a conflict, whether real or potential, to line management. Additional measures are in place for the devolved administrations. For example, the Public Prosecution Service for Northern Ireland (PPSNI) was established by the Justice (Northern Ireland) Act 2002 and is headed by the Director of Public Prosecutions for Northern Ireland. The PPSNI Code for Prosecutors defines the standards of conduct and practice expected from prosecutors in Northern Ireland. In addition, public prosecutors in the PPSNI, as members of the Northern Ireland Civil Service (NICS), are obliged to act in accordance with the NICS Code of Ethics.

The SFO Code of Conduct aims to ensure that employees are demonstrably honest and impartial in the exercise of their duties as guided by the Code of Conduct Policy. Records are kept of information relating to complaints made, gifts and hospitality received and a register of interests. Members of the SFO and CPS are also bound by the Civil Service Code.

Public procurement and management of public finances (art. 9)

Public procurement in the United Kingdom is decentralized. The relevant European Union Procurement and Remedies Directives have been transposed into national legislation (e.g., PCR in England, Wales and Northern Ireland and Public Contracts (Scotland) Regulations 2015 in Scotland). Cabinet Office is responsible for the legal framework and leads on development and implementation of governmental policies in public procurement in the non-defence sectors. Cabinet Office may also issue Procurement Policy Notes to give guidance on best practice for public sector procurement in England, Wales and Northern Ireland. The Scottish Government provides guidance in the form of Scottish Procurement Policy Notes for public sector procurements in Scotland.

Procurement frameworks in other jurisdictions are established independently and vary with regard to, inter alia, thresholds for mandatory publication of tender notices and contract awards, standstill periods and appeal procedures. Procurement decisions and processes may involve parliamentary scrutiny (Guernsey) or a peer review by officials from other jurisdictions (Jersey) for particular types of contracts.

Pursuant to PCR, public contracts above the relevant European Union thresholds can be awarded only if a call to competition has been published. Exceptionally, the prior publication requirement may be waived. In limited circumstances, procuring authorities may award public contracts by a negotiated procedure without prior publication (Regulation 32 of PCR). Under Regulation 50 PCR, the procuring authority is required to publish information about the contract awarded, including the type of award procedure, and in the case of negotiated procedure without prior publication, the justification for using it. The call for competition must be published in the Official Journal of the European Union and, for certain procuring authorities that do not implement European Union obligations and for contracts of a specific value below the European Union thresholds, on the national portals, Contracts Finder, Public Contracts Scotland, Sell2Wales, eSourcing NI and eTendersNI.

The United Kingdom has also implemented the Open Contracting Data Standard, proactive disclosure of information and scrutiny of suppliers' costs and margins (Open Book Contract Management).

Pursuant to Regulation 57 of PCR, bidders must be excluded from European Union-regulated procurements for five years under mandatory exclusion grounds (prior conviction for bribery, money-laundering, etc.) and may be excluded for three years under discretionary exclusion grounds (existence of a conflict of interest which cannot be remedied, grave professional misconduct, etc.).

Suppliers may raise complaints or submit appeals with procuring authorities directly or via the Cabinet Office Public Procurement Review Service. The Service is, however, limited to enquiries relating to specific procurements in England. The devolved administrations run similar services to the PPRS for procurements concerning a contracting authority based in those regions. For Scotland it is the Single Point of Enquiry, for Wales, the Supplier Feedback Service and for Northern Ireland, the CPD Supplier Charter. Complaints may also be made to the European Commission.

In addition to annual training on counter-fraud, bribery and corruption for civil servants, individual government departments have internal guidance covering conflicts of interest, including processes for declaration of interests, including in relation to procurement staff.

Her Majesty's Treasury (HMT) is responsible for coordinating and planning the United Kingdom budget or Financial Statement. This may involve an extensive programme of consultation with the public and key stakeholders. The Financial Statement is presented before Parliament each autumn for debate and scrutiny. Public sector entities must publish an audited combined annual report and accounts document (ARA) covering the financial year. A Statement of Parliamentary Supply is also prepared which reports the outturn for a departmental group against annual spending limits.

Reporting entities must comply with the Financial Reporting Manual (FReM) issued by HMT in preparation of their financial statements, which are audited in general by the Comptroller and Auditor General.

Each central government entity must have an accounting officer who is responsible for regularity and probity and accounting accurately for the entity's financial position and transactions. Public bodies should use internal and external audits to improve their controls and performance.

Additionally, individual reporting entities have governance arrangements which include appropriate asset and risk management strategies. Where a central government entity fails to comply with budget controls, financial reporting requirements and risk management procedures, the audit opinion may be affected accordingly and reported to Parliament, and the entity may be required to take corrective action. Section 5 of the Government Resources and Accounts Act 2000 allows HMT to direct departments on how to prepare ARAs and to ensure they present a true and fair view, conform to accounting standards and HMT's guidance. This includes requirements for accounting officers managing public money to ensure proper accounting records are kept.

Public reporting; participation of society (arts. 10 and 13)

The FOIA allows anyone to request to gain access to recorded information held by public authorities. FOIA established the independent ICO which is responsible for upholding information rights in the public interest and data privacy for individuals. Although not required, most public bodies have dedicated teams responsible for public reporting and FOI.

When a FOI request is made, the public authority must confirm whether the information is held, unless confirming or denying the information held would reveal

information that an exemption protects. If the information is held, it must be provided to the requestor, unless disclosure exemptions apply; some exemptions are absolute, but most are qualified and subject to a public interest balancing test. Appeals against decisions are possible, first internally with the relevant public authority, and then to the ICO. Requestors and public authorities have the right to appeal ICO decision notices through the First Tier Tribunal. Tribunal decisions can be appealed to the Upper Tribunal, the Court of Appeal and thereafter to the Supreme Court. The United Kingdom is a founding member of the Open Government Partnership and is currently implementing its third National Action Plan (NAP). NAP was co-created with civil society and includes commitments to produce a cross-government Anti-Corruption Strategy, improve access to information, civic participation, public accountability, and technology and innovation. Implementation of NAP is monitored and regularly reported on and scrutinized through quarterly meetings of government commitment leads and civil society representatives. After each implementation meeting, a set of short updates on each commitment is developed and published along with the minutes of each meeting on the Open Government Network's website. In addition, progress is set out in the midterm self-assessment report.

The United Kingdom also regularly publishes open data that allow the public access to data which can help prevent corruption. The United Kingdom has released over 40,000 datasets as open data. This is available at <https://data.gov.uk>.

There are several avenues for members of the public to report corruption, including the police, Crimestoppers, SFO and NCA's International Corruption Unit.

Private sector (art. 12)

The United Kingdom has adopted a number of legislative and policy measures to prevent corruption in the private sector. It regularly develops relevant guidance, promotes corporate governance standards, incentivizes business to develop appropriate internal prevention measures, promotes cooperation between private sector and law enforcement agencies, etc.

FCA requires all firms regulated under the FSMA to conduct their business with integrity (Principle 1 of the FCAs Principles for Businesses), to maintain adequate risk management systems (Principle 3) and to manage conflicts of interest fairly (Principle 8). Firms are also required to establish and maintain effective systems and controls for countering the risk that they might be used to further financial crime. Similarly, listed companies must adhere to the Corporate Governance Code and establish systems of management, corporate reporting, financial control and audit.

The FCA maintains a public Financial Services Register which contains records of firms and individuals that it regulates and authorizes. Firms are required to disclose who has control or influence over their business. FCA approval is required before a person can become a controller of a regulated firm.

FSMA provides for criminal (e.g., sections 23–25 and 191F) and administrative (sections 206 and 206A) sanctions for non-compliance with the above rules. The FCA may also take action against a firm with deficient anti-bribery and corruption systems and controls regardless of whether or not bribery or corruption has taken place.

Since 2010, the FCA has convened and run a Money Laundering Reporting Officer (MLRO) risk and policy forum which addresses various topics, including the sharing of best practice on risk management. The FCA also holds or attends as a guest speaker various conferences on anti-corruption in addition to organizing dedicated webinars.

The strict liability of companies for failure to prevent bribery under Section 7 of the Bribery Act 2010 incentivizes businesses to assess the bribery risks and to put in place proportionate measures to mitigate those risks. The Government published guidance on implementing bribery prevention regimes that are proportionate to the size and structure of the company and the degree of bribery risk.

Regarding post-employment restrictions for public officials, see information under article 7 above.

The CompA sets the overall accounting framework. Accounting standards are set by the Financial Reporting Council under that Act. Chapter 2 of Part 15 places a duty on every company to keep adequate accounting records and specifies where and for how long these records (three years for public and six years for private companies, section 388) are to be kept. All United Kingdom limited companies must prepare and publish audited accounts, except those that are subject to the small companies' audit exemption, on the Companies House register.

The quality of accounting is enforced through the statutory audit framework, which consists of the CompA, the Statutory Auditors and Third Country Auditors Regulations 2016, and the Companies (Disclosure of Auditor Remuneration and Liability Limitation Agreements) Regulations 2008.

The Income Tax (Trading and Other Income) Act 2005 (section 55) and Corporation Tax Act 2009 (section 1304) disallow both income and corporate tax deductions for any payment which constitutes a criminal offence, including for payments made outside the United Kingdom that would constitute a criminal offence if made in the United Kingdom.

Measures to prevent money-laundering (art. 14)

The United Kingdom has a comprehensive AML regulatory and supervisory regime. In particular, the Money Laundering Regulations 2017 (MLRs) impose customer due diligence (CDD) requirements (Part 3, chapters 1–3), ensuring that financial institutions (FIs) and designated non-financial businesses and professions (DNFBPs) identify their customers and beneficial owners, and requirements for record-keeping (Regulation 40).

Under the FSMA, all individuals and firms that carry out regulated activity in the United Kingdom must be regulated by the FCA and are supervised for compliance with the FCA Handbook. Exempt persons are supervised by other statutory regulators or self-regulatory organizations (SROs), but are nonetheless classified as “relevant persons” and subject to the MLRs. SYSC 3.2.6R and SYSC 6.1.1R of the Handbook require firms to establish and maintain effective systems and controls to prevent AML risks.

The Proceeds of Crime Act 2002 (POCA) criminalizes (sections 327, 328, 329) all forms of money-laundering (ML) and failure of the regulated sector to report suspicion of ML, knowledge of another person's ML, or where there are reasonable grounds for knowing or suspecting ML to the NCA (sections 330 and 331). Outside the regulated sector, criminal liability is also placed on nominated officers for failure to report knowledge or suspicion of ML (section 332).

In 2017 the United Kingdom published its second comprehensive national risk assessment (NRA) of ML/CFT risk and was again assessed by the FATF. The United Kingdom recently completed its fourth-round mutual evaluation by the FATF and the final report was published in December 2018.¹ The Fourth Money Laundering Directive (4MLD) is incorporated into various pieces of United Kingdom law, such as POCA and the AML/CFT Regulations.

Since June 2016 the United Kingdom has implemented a publicly accessible central registry of company beneficial ownership information, which contains information about who ultimately owns and controls United Kingdom corporate entities. Upcoming legislation will create a new public register in 2021 for overseas entities that own or wish to purchase land in the United Kingdom.

¹ www.fatf-gafi.org/publications/mutualevaluations/documents/mer-united-kingdom-2018.html.

Her Majesty's Revenue and Customs (HMRC) is the primary supervisor of money- or value-transfer service providers ("Money Service Businesses"), which are required to register with HMRC.

The United Kingdom operates a written declaration scheme for travellers carrying more than 10,000 euros; these regulations do not apply to intra-European Union cash movements. European Regulation 1889/2005 (Cash Controls Regulation) was introduced in June 2007 under The Control of Cash (Penalties) Regulations 2007 (SI 2007/1509).

The United Kingdom requires payment service providers to provide specific information when transferring funds under Regulation (EU) 2015/847 (the Fund Transfer Regulation), which came into force in the United Kingdom on 26 June 2017. The Regulation is enforced in the United Kingdom since June 2017 by the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (SI 2017 No 692).

FCA has a general duty to cooperate with counterpart authorities in the United Kingdom and overseas or in relation to the prevention or detection of financial crime (section 354A FSMA) and has the power (under FSMA sections 169, 165, 171–172) to compel information and documents to assist overseas regulators. FSMA (as amended) allows FCA to disclose confidential information in response to a request for assistance or proactively, when certain requirements are met.

Requests for assistance are made under international agreements, European Union legislation, bilateral memorandums of understanding and Mutual Legal Assistance (MLA) Treaties, as well as through the Egmont Group of FIUs, the European Union Agency for Law Enforcement Cooperation (Europol), the International Criminal Police Organization (INTERPOL) and international asset recovery networks.

A variety of law enforcement networks and arrangements exist, e.g., the ECSB, ECDB, JMLIT and its Expert Group on Bribery and Corruption, Cross-Whitehall group on Anti-Corruption, Threat Sanctions Evasion and Bribery and Corruption Group, National Crime Agency's SARS Committee, JFAC and the Foreign Bribery Clearing House. FCA also plays a prominent role in supporting information-sharing between law enforcement agencies, both domestically and overseas (FIN-NET) and between firms and law enforcement (JMLIT).

2.2. Successes and good practices

- The ongoing efforts of the United Kingdom to extend the Convention to Overseas Territories, as appropriate.
- Structures and governance for the coordination of anti-corruption activity, including a national anti-corruption strategy, a Prime Minister's Anti-Corruption Champion, an Inter-Ministerial Group on Anti-Corruption and a cross-government Joint Anti-Corruption Unit.
- Broad participation of civil society organizations and the private sector in the planning, development and implementation of national anti-corruption policies and practices as shown by their engagement in this review.
- Implementation of public beneficial ownership registers, including their planned extension to overseas entities that own property in the United Kingdom.
- The work of the United Kingdom to link anti-corruption to overseas development; and its leading and active participation in international and regional anti-corruption initiatives and programmes.

2.3. Challenges in implementation

It is recommended that the United Kingdom:

- Continue to ensure adequate resources and prioritization of government response to domestic corruption threats, including strengthening the evidence base of domestic corruption risks (art. 5(1));
- Consider identifying positions in the public sector especially vulnerable to corruption and adopting further procedures for the selection and training of public officials holding such positions (art. 7(1)(b));
- Consider amending electoral laws by implementing recommendations of the independent review into electoral fraud and lowering or eliminating permissible donation thresholds to prevent anonymous donations (art. 7(3));
- Endeavour to strengthen the mechanism for analysing and mitigating risks around conflict of interests and corruption by those in top executive functions, as already outlined in the conclusions of the parliamentary select committee, including by:
 - Establishing a more centralized process of conflicts of interest management and reporting by ministers and senior civil servants;
 - Strengthening the application of the Business Appointment Rules and the remit and powers of ACOBA;
 - Reviewing and strengthening the remit of the Independent Advisor on Minister's Interests and giving the Advisor greater powers to investigate conflicts of interest and conduct;
 - Clarifying and broadening the scope of what are considered "relevant interests" in ministers' declarations of interest; expanding the scope and coverage of the registry of consultant lobbyists (arts. 7(4), 8(5) and 12(2)(e)).
- Continue efforts to enhance efficiency and transparency in public procurement, including by:
 - Publishing more data on Contracts Finder and expanding the types and amount of data subject to mandatory publication;
 - Strengthen the scope, remit and powers of the CO Public Procurement Review Service by including a wider group of procuring entities and allowing for complaints of procurement procedures and processes beyond specific procurements;
- Continue monitoring the application of the Freedom of Information Act to ensure timely responses to information requests (art. 10(a));
- While United Kingdom authorities possess and utilize the ability to cooperate on money-laundering and with overseas authorities and regulators, due to the complexity of the United Kingdom mechanisms, undertake continued care and monitoring to assure that communication and cooperation at both the domestic and international levels operate efficiently and effectively (art. 14).

3. Chapter V: asset recovery

3.1. Observations on the implementation of the articles under review

General provision; special cooperation; bilateral and multilateral agreements and arrangements (arts. 51, 56 and 59)

The United Kingdom has a comprehensive legal and regulatory framework for asset recovery and has demonstrated effective inter-agency coordination leading to international cooperation on asset recovery.

The United Kingdom regulates MLA under the Crime (International Co-operation) Act 2003 (CICA) and POCA (External Requests and Orders) Order 2005 (POCA Order), introduced to help meet the obligations of the United Kingdom under the Convention. The Home Office published detailed MLA guidelines for requesting countries in 2015 (12th edition, Central Authority (UKCA) guidelines).

The UKCA acts as central authority for formal MLA requests for the United Kingdom. In Scotland, the Crown Office's International Co-operation Unit (ICU) performs a similar function where the requesting State recognizes the central authority of Scotland.

The United Kingdom has received several requests on the basis of this Convention in relation to non-treaty partners. All outgoing requests thus far have been made to treaty partners.

In relation to asset-sharing and asset return, there is no explicit provision in United Kingdom domestic law aside from cases involving European Union member States under the Criminal Justice and Data Protection (Protocol No. 36) Regulations 2014 ("CJDP Regulations") which implemented two European Union framework decisions, requiring 50 per cent of assets of 10,000 euros or more recovered to be shared. The United Kingdom routinely draws up case-specific agreements in relation to the return of confiscated assets.

Spontaneous exchange of information with foreign countries is possible under United Kingdom legislation, bilateral MLA treaties, or via police cooperation through NCA, which acts as the United Kingdom INTERPOL gateway. Guidance is provided in the 2015 MLA Guidelines.

Several law enforcement agencies (LEAs) can receive enquiries directly from foreign counterparts, in some cases subject to a data-sharing agreements or memorandums of understanding: NCA; HMRC; Police Services; UKFIU; Asset Recovery Offices; United Kingdom Visas and Immigration.

Prevention and detection of transfers of proceeds of crime; financial intelligence unit (arts. 52 and 58)

The United Kingdom possesses comprehensive legislative, administrative and enforcement mechanisms enabling the restraint, freezing and confiscation of proceeds of corruption. Regulation 28 of the 2017 MLRs sets out CDD measures, which include: identifying and verifying the customer, identifying the Beneficial Owner (BO) and taking reasonable steps to verify the BO, with additional measures for legal persons or legal arrangements (MLRs 28). CDD must be undertaken when a relevant person (including FI) establishes a business relationship; carries out an occasional transaction amounting to a transfer of funds within the Fund Transfer Regulation, exceeding 1,000 Euros; suspects money-laundering or terrorist financing; or doubts the veracity or adequacy of documents, data or information previously obtained for the purposes of identification or verification (MLRs 27).

Regulation 33(1) requires firms to apply Enhanced Due Diligence (EDD) in addition to CDD in cases, including when there is an identified high risk of ML/TF, and if a FI or DNFBP has determined that a customer or potential customer is a Politically Exposed Person (PEP), or family member or known close associate of a PEP. Regulation 35 sets out specific requirements for firms dealing with PEPs.

FCA published a Guide to Financial Crime, which includes specifics on CDD, PEPs' source of wealth and funds, and other thematic issues. NCA and other agencies issue alerts and advisories to make the financial services sector aware of particular threats and risk typologies, and JMLIT, among others (including the UKFIU), is a route for more tactical and specific intelligence-sharing with the sector.

Record-keeping is addressed in the FCA's SYSC 3.2.20 and SYSC 9.1.5. Records of business relationships or occasional transactions must be kept for a period of

five years from the date of the transaction or when the business relationship ends (MLRs 40(3)).

Financial and credit institutions operating in the United Kingdom must be authorized by the Prudential Regulation Authority (PRA), and regulated by the FCA and the PRA (Section 19, FSMA). In line with 4MLD and FATF requirements, these institutions must not enter into, or continue, a correspondent relationship with a shell bank (MLRs 34(2)) or with a FI or credit institution which allows its accounts to be used by a shell bank (MLRs 34(3)).

Under the Ministerial Code, Ministers are asked on appointment to notify their relevant interests in a number of categories: all financial interests (including any interests overseas), directorships and shareholdings, investment property, public appointments, charities and non-public organizations, relevant interests of spouse, partner or close family member. On appointment to each new office, Ministers must provide their Permanent Secretary with a full list of all interests. Ministers report any changes in their interests to Cabinet Office and then through the Independent Adviser on an ongoing basis. Details on the Ministerial Code are included under article 7 above.

The Civil Service Management Code sets out the high-level terms and conditions for civil servants, including on declarations of interest, as described above. There is no specific requirement for civil servants to disclose foreign accounts.

The UKFIU is an autonomous unit, housed within the NCA, responsible for receiving and disseminating suspicious activity reports (SARs) and conducting analysis in line with NCA's statutory mandate. Suitably accredited staff within LEAs have direct access to the UKFIU's SAR database, which contains over 2.3 million SARs.

Measures for direct recovery of property; mechanisms for recovery of property through international cooperation in confiscation; international cooperation for purposes of confiscation (arts. 53, 54 and 55)

Section 130 of the Powers of Criminal Courts (Sentencing) Act 2000 allows the courts to make compensation orders following a criminal conviction as part of the sentencing procedure. Under POCA, courts also have the power to order that money collected under a confiscation order be paid in settlement of a compensation order, if the criminal is unable to pay both orders. Restitution orders allow for restoring property to the rightful owner (section 148, Sentencing Act 2000). Other countries can initiate legal actions in the United Kingdom civil courts, in effect as private litigants, as illustrated by case examples.

Under POCA confiscation orders issued by overseas courts may be recognized and enforced in the United Kingdom, including non-conviction-based orders. Among European Union member States, the 2014 CJDP Regulations allow for the mutual recognition of confiscation orders in relation to criminal proceedings. The Criminal Justice (International Co-operation) Act 1990 (Enforcement of Overseas Forfeiture Orders) Order 2005 separately deals with the instrumentalities of crime, including corruption.

The confiscation provisions under Parts 2, 3 and 4 of POCA provide for the recovery of assets from any offence and have no de minimis threshold. POCA provides for value-based confiscation of assets, wherever located, to satisfy a confiscation order requiring the individual to pay that amount to the court.

The United Kingdom has two schemes of non-conviction-based recovery under Part 5 of POCA: (a) in rem civil recovery in the High Court or Court of Session (Scotland); and (b) recovery in summary proceedings of cash bank accounts and other moveable assets derived from or intended for use in crime.

The POCA (External Requests and Orders) 2005 Order, as amended by the POCA (External Requests and Orders) (Amendment) Order 2013, provides the ability to freeze property in non-conviction-based cases prior to a final recovery order being

obtained in the requesting country. There is mutual recognition of freezing orders in criminal cases among European Union member States, as provided in United Kingdom law by the 2014 CJD Regulations. The Criminal Finances Act 2017 expands the powers of LEAs to recover criminal assets. The Act also introduced unexplained wealth orders (UWOs).

The United Kingdom traces (UKFIU) and investigates (UKCA) proceeds and instrumentalities through dedicated asset-tracing teams whose primary function is to provide timely assistance to international partners seeking to recover stolen assets. There is specific legislation to provide financial investigation powers for both conviction and non-conviction-based cases. The UKFIU provides a single point for all international tracing requests.

The UKFIU assists investigators in tracing and identifying property which may become subject of a subsequent restraint, freezing, seizure or confiscation order. It also disseminates information spontaneously. The team processes inbound and outbound requests for criminal asset-tracing intelligence through the Asset Recovery Office (ARO) and CARIN.

Under the POCA Order and its amendments, United Kingdom authorities can take temporary measures to preserve assets until the domestic forfeiture proceedings are completed. United Kingdom law provides that a restraint order freezing assets can be obtained on the basis of a criminal investigation having started in the country from which the external request was made, which allows for the preservation of property before an arrest or criminal charge.

CPS and SFO consult with requesting States before lifting provisional measures. There is an explicit requirement to communicate with European Union member States (regulation 18, 2014 CJD Regulations). United Kingdom enforcement authorities have proceeds of crime divisions, which are centres of excellence that liaise with requesting authorities to ensure sufficient evidence is provided within necessary time frames. The UKCA also employs asset recovery specialists to advise and liaise with requesting authorities for the same purposes.

If a restraint order is granted, anyone affected by the order can apply to the court for it to be varied or discharged. These applications can be made on as little as two days' notice to the United Kingdom prosecutor.

Return and disposal of assets (art. 57)

While the United Kingdom Government is a proponent of asset-sharing without the need for formal agreements, the United Kingdom does have formal specific asset-sharing agreements with Canada, Kuwait and the United States of America and MLATs containing asset-sharing provisions with various States, including British Overseas Territories and Crown Dependencies. In the absence of a formal agreement, the United Kingdom may share the proceeds of confiscated assets with other countries on a case-by-case basis.

Following a proposal at the London Anti-Corruption Summit in 2016, the SFO, CPS and NCA have agreed a set of Compensation Principles, which establish a framework to identify cases where compensation to overseas victims of economic crime is appropriate, and to act swiftly to return funds to affected countries, companies or people. Under these principles the SFO, CPS and NCA commit to ensuring a transparent, accountable and fair process of assessing the case for compensation or asset recovery. All departments also agree to collaboratively identify suitable means to pay back victims in a manner that minimizes the risk of re-corruption. The Compensation Principles are publicly available online.

The United Kingdom Anti-Corruption Strategy 2017–2022 commits Government to “apply these principles to all relevant cases, and to support countries to deliver their own principles and continue to raise awareness internationally with the aim of achieving a consensus that overseas victims should benefit from the positive outcome of bribery and corruption cases” (6.10).

The MLA Guidelines of the United Kingdom make specific reference to the obligations under this Convention in the section on asset disposal. Realized assets will be disposed of under one of three processes: (a) stolen State assets that fall under the provisions of the Convention against Corruption will be returned to the recipient country, less reasonable expenses; (b) cases that do not fall under the provisions of the Convention can be shared with the recipient country if it enters into an asset-sharing agreement with the United Kingdom – the United Kingdom seeks to establish asset-sharing agreements wherever possible (under Article 16 of Council Framework Decision 2006/783/JHA there is an asset share of 50:50 in cases involving 10,000 euros and above); or (c) if there is no formal agreement, administrative arrangements allow for asset-sharing on a case-by-case basis. In the absence of any asset-sharing agreement, the assets will be retained by the United Kingdom and disposed of according to domestic law.

Property is distributed in accordance with established United Kingdom policy for a variety of purposes, including victim compensation, crime reduction, community projects and law enforcement under the Asset Recovery Incentivisation Scheme. Data on asset disposal using POCA has been published by the Home Office since 2017.

Ordinarily the United Kingdom will meet the costs of executing requests, with exceptions as outlined in the MLA Guidelines (page 14). Expenses leading to the return or disposition of confiscated property are dealt with on a case-by-case basis by operational agencies, and subject to agreement between parties.

3.2. Successes and good practices

- To facilitate successful asset recovery, the United Kingdom places specialist advisers, some as liaison magistrates and CPS prosecutors, in priority countries to assist with MLA, extradition and European Arrest Warrants, or as criminal justice or asset recovery advisers.
- Transparency of asset recovery procedures and practices, including on disposal of property.
- Tools and mechanisms to enhance asset recovery, such as UWOs, account freezing orders and worldwide restraint orders to enable effective economic enforcement against proceeds of crimes committed outside of the United Kingdom.

3.3. Challenges in implementation

It is recommended that the United Kingdom:

- Continue efforts to enhance efficiency of the suspicious activity reporting process; steps under way by the Law Commission as tasked by Home Office to review the framework, including application of the defence against charges of money-laundering for persons reporting SARs under POCA, are important steps in this direction (art. 52).
- As part of the existing financial disclosure obligations concerning general business interests, consider establishing an explicit requirement to disclose interests in foreign accounts (art. 52(6)).
- Continue to carefully monitor the operation of the asset recovery mechanisms to assure that they are being applied to the fullest possible extent to seize, confiscate and return proceeds coming into the United Kingdom (art. 55).

The following annexes relate to the Crown Dependencies of the United Kingdom, the Bailiwick of Guernsey, the Bailiwick of Jersey and the Isle of Man, as well as the British Virgin Islands. The Convention was only extended to Bermuda in 2018 and so it was therefore not part of the review. For further information, including challenges and good practices, please refer to the review reports of these jurisdictions, which are contained in the annexes to the country review report of the United Kingdom.

Annex I

Bailiwick of Guernsey

Chapter II

The Foreign Bribery and Corruption Strategy and the Focussed Anti-Bribery and Corruption Policy Framework constitute the main policy framework of Guernsey to prevent and fight corruption. Overall oversight and coordination are carried out by a cross-government Anti-Bribery and Corruption Committee, which reports to the AML/CFT Advisory Committee. Other relevant authorities include Law Enforcement's Economic Crime Division (comprising the Financial Crime Team responsible for preventing and detecting corruption, Financial Intelligence Service (FIS) and police) and Financial Services Commission (FSC).

Legislative measures to prevent corruption include, principally, the Prevention of Corruption Law 2003 (PCL), the Reform Law 1948, the Disclosure Law 2007 and the Financial Services Commission Law 1987.

Guernsey and its relevant agencies actively participate in international initiatives, including MONEYVAL, CARIN, the Egmont Group, Group of International Finance Centre Supervisors, European Judicial Network, FATF, etc.

Guernsey promotes appropriate standards of conduct among public officials. In addition to the Anti-Bribery and Corruption Guidance for States Members and Employees, there are several codes of conduct for different categories of public officials, and a code of conduct for the judiciary is being drafted. Civil servants are required to declare conflicts of interest and members of the legislature must declare their private interests. A Whistle-blowing Policy is also established. There is no financial disclosure system.

Public procurement in Guernsey is decentralized and governed by the States Rules for Financial and Resource Management, Procurement Policy and related Standard Terms and Conditions, as well as the Code of Purchasing Ethics, which establish rules governing, inter alia, selection (e.g., contract and supplier selection) and contract award. Appropriate rules and procedures regulating the adoption of the budget, internal control and risk management in public bodies, audit, and preservation of the integrity of financial records are in place.

Access to information is regulated under the policy on Access to Public Information and its Code of Practice. The policy is based on the principles of presumption of disclosure, corporate approach, culture of openness, proactive publication and effective record management.

Preventive measures in the private sector include the Companies Law 2007, which sets record-keeping and auditing requirements and anti-money-laundering (AML) legislation for financial and non-financial institutions. The Code of Corporate Governance issued by FSC establishes compliance rules for financial services businesses and obliges them to submit annual audited accounts to the FSC. The FSC also issues codes of practices, rules and other documents identifying good business practices. A Beneficial Ownership of Legal Persons (Guernsey) Law 2017 and corresponding legislation for Alderney are established, among other measures. The failure of businesses and organizations to prevent bribery is covered by general offences under the PCL.

Both financial and non-financial businesses and professions are subject to the AML regulatory regime under the Criminal Justice (Proceeds of Crime) Regulations of 2007 and 2008. Compliance is supervised and enforced by the FSC. The FIS is the financial intelligence unit of Guernsey. A National Risk Assessment is being finalized.

Chapter V

The legal and administrative framework of Guernsey, as detailed in its Asset Recovery Policy 2014, ensures that information about the source of funds of foreign origin is available, is communicated to the FIS, is shared with domestic and international authorities and is followed by action to freeze, confiscate and return funds. The FIS is responsible for collecting, analysing and disseminating information received via suspicious activity reports, and for spontaneous disseminations of financial intelligence. Intelligence other than financial intelligence may be spontaneously shared with other authorities. “Shell banks” and correspondent relationships with “shell banks” are prohibited (section 6, Banking Supervision (Bailiwick of Guernsey) Law, 1994; regulation 8(1), Criminal Justice (Proceeds of Crime) (Financial Services Businesses) (Bailiwick of Guernsey) Regulations, 2007).

There is a comprehensive legal mechanism to prevent and detect transfers of proceeds of crime and allow cooperation and information exchange, including spontaneous exchange, both domestically and internationally.

The European Convention on Mutual Legal Assistance of 1959 and a number of bilateral MLA treaties concluded by the United Kingdom of Great Britain and Northern Ireland have been extended to Guernsey.

Foreign confiscation orders are directly enforceable once registered at the Royal Court of Guernsey according to the Criminal Justice Ordinance 1999, which modifies the Proceeds of Crime Law 1999. The courts may also make compensation orders against offenders in favour of foreign States or other victims of crime under the Criminal Justice (Compensation) (Bailiwick of Guernsey) Law, 1990. Non-conviction-based confiscation is also provided for designated countries. Freezing or seizing orders may be enforced if relevant proceedings or criminal investigations have been or are to be instituted in the requesting State. The Attorney General publishes MLA guidance to assist requesting States. A dedicated International Cooperation and Asset Recovery Team (ICART) has been established as a joint legal and law enforcement initiative with a primary focus on detection, freezing and confiscation of criminal proceeds of foreign origin and the return of those proceeds.

Foreign States can initiate civil proceedings in Guernsey courts to recover assets and be recognized as legitimate owners of properties in domestic confiscation proceedings.

Confiscated assets are paid into a Seized Assets Fund managed by the Attorney General. The return or sharing of confiscated assets is at the discretion of the Attorney General but it is his or her policy to give priority to legitimate owners of property and victims wherever possible.

Annex II

Bailiwick of Jersey

Chapter II

Jersey relies on a set of legislative and policy measures to prevent and fight corruption. Key legislation on prevention includes the Corruption Law 2006, the States of Jersey Law 2005, the Public Finances Law 2005 (PFL), and the Freedom of Information Law 2011 (FOIL).

The Jersey Financial Crime Strategy Group is responsible for the overall development, implementation and oversight of the anti-corruption policy of Jersey, while specific prevention mandates are spread across several public bodies.

The relevant institutions of Jersey collaborate with other States, international and regional organizations in a variety of ways on corruption prevention issues.

In addition to a general anti-fraud and corruption policy for public officials, Jersey has the necessary framework, including codes of conduct, which sets ethical standards, disciplinary procedures and complaints as well as a whistle-blowing policy for all public sector employees. Codes of conduct are also provided for elected officials, ministers and assistant ministers, as well as the judiciary. Elected States' members, ministers and assistant ministers are required to declare their private interests.

The Public Finances Law 2005 and relevant mandatory Financial Directions issued by the Treasury and Resources Department regulate matters on, inter alia, public procurement, administration of the public finances, internal audit and retention of financial records. The Comptroller and Auditor General Law 2014 regulates external audit.

The FOIL grants access to information rights to members of the public. The Data Protection Law 2005 provides the statutory basis for the Office of Information Commissioner, and an Ombudsman is established under the Financial Services Ombudsman Law 2014.

To prevent corruption in the private sector, Jersey has introduced accounting standards which provide for effective, proportionate and dissuasive civil, administrative or criminal penalties for failure to comply with such measures. The Jersey Financial Services Commission (JFSC), using powers provided by legislation, has issued codes of practice setting out principles and detailed requirements that must be complied with in the conduct of financial services business, including required notifications to the JFSC.

The Proceeds of Crime Law 1999, the Money Laundering Order 2008, the Proceeds of Crime (Supervisory Bodies) Law 2008 and the accompanying regulations provide a comprehensive regulatory and supervisory regime on anti-money-laundering (AML) with emphasis on requirements for customer and beneficial owner identification, record-keeping and the reporting of suspicious transactions. The JFSC is the supervisory body for financial institutions. Work on a National Risk Assessment has begun.

Chapter V

The Jersey Financial Intelligence Unit (JFCU) is responsible for collecting, analysing and disseminating information received via suspicious activity reports, and for spontaneous disseminations of financial intelligence. Intelligence other than financial intelligence may be spontaneously shared by the Police Force Intelligence Bureau among others. "Shell banks" and correspondent relationships with "shell banks" are prohibited (article 10(1), Banking Business (Jersey) Law 1991; article 23A(1), Money-Laundering (Jersey) Order 2008).

The Proceeds of Crime (Enforcement of Confiscations Orders) Regulations 2008 provide the mechanism for granting restraint orders, registering and enforcing foreign confiscation orders, and for the subsequent sharing of assets when a request for assistance is received from an overseas country or territory. Non-conviction-based confiscation orders may be registered and executed pursuant to the Civil Asset Recovery (International Co-operation) Law 2007, which provides a similar mechanism for sharing of assets when a request is received.

Furthermore, the Attorney General publishes Mutual Legal Assistance Guidelines in English, French and Arabic that deal, inter alia, with the content of requests for assistance and the manner of transmission.

Civil proceedings may be instituted in the Royal Court by foreign States by way of Orders of Justice claiming title to or ownership of monies in Jersey acquired through the commission of an offence. The Royal Court may also order offenders to pay compensation or damages under the Criminal Justice (Compensation Orders) Law, 1994.

Confiscated assets are paid into the Criminal Offences Confiscations Fund or the Civil Asset Recovery Fund and managed by the Minister for Treasury and Resources. In the absence of any asset-sharing agreement, the Minister retains complete discretion in all cases involving asset-sharing and the binding provisions of the Convention on mandatory return of assets will be considered by the Minister when exercising the discretion in appropriate cases.

Annex III

Isle of Man

Chapter II

The Isle of Man has adopted several anti-corruption policies, such as the Anti-Bribery Policy and the Financial Crime Strategy 2017–2020. The latter is implemented and coordinated by a cross-governmental Financial Crime Strategic Board. Other notable legislation includes the Bribery Act 2013, Fraud Act 2017, Freedom of Information Act 2015 (FOI), Government Financial Regulations, Financial Intelligence Unit Act 2016, Guidance for Commercial Organizations on the Bribery Act, and Government Code.

The Isle of Man and its relevant bodies participate in several regional and international forums, including INTERPOL, the Egmont Group, Group of International Finance Centre Supervisors, FIN-NET, the OECD Global Forum on Transparency and Exchange of Information for Tax Purposes, MONEYVAL and CARIN network.

The Government Code provides guidance on the expected standards of conduct of both elected and non-elected public officials, including parliamentarians and ministers, and covers issues of conflicts of interest, gifts or benefits, etc. The Civil Service Regulations 2015 further establish standards of ethical conduct for civil servants. A code of conduct is also in place for the judiciary. An Anti-Fraud, Bribery and Corruption Strategy for all persons or organizations working in or with the Government is in place and a Whistle-blowing Policy is also established. Selected public officials must disclose their private interests, including financial interests, if these may lead to a conflict of interest.

Public procurement is decentralized. The government procurement policy, issued by Treasury, is subject to the Government's Financial Regulations. Relevant rules and procedures are in place to comprehensively regulate the adoption of the national budget, internal and external audit, and preserve the integrity of public financial records.

The FOIA grants access to information rights to members of the public. The Data Protection Act 2018 and regulations provide the statutory basis for regulating the processing of information relating to individuals, including obtaining, use or disclosure of information.

To prevent corruption in the private sector, the Isle of Man has enacted the Bribery Act 2013 which establishes a strict liability offence for companies that fail to prevent corruption by associated persons. Furthermore, the Companies Act 1931 and the Companies Act 2006 contain corporate governance, financial accounting and reporting requirements for companies. A Beneficial Ownership Act was established in 2017.

The Financial Services Authority is the AML/CFT regulatory supervisory body for the entire financial sector. Regulated businesses are defined in the Regulated Activities Order 2009 (as amended), Insurance Act 2008, Retirement Benefit Schemes Act 2000 and Designated Businesses (Registration and Oversight) Act 2015. The AML/CFT Code 2015 provides a comprehensive regime for customer risk assessment, customer and beneficial owner identification, record-keeping, reporting and disclosures, and compliance. A National Risk Assessment was finalized in 2015. Furthermore, the Council of Ministers has endorsed the Isle of Man Government Financial Crime Strategy 2017–2020.

Chapter V

The Isle of Man has a comprehensive legal and policy framework, consisting mainly of the Proceeds of Crime Act 2008 (POCA) and its secondary legislation, to enable

identification, restraint, and confiscation of proceeds of all crimes, including corruption. A dedicated International Cooperation and Asset Recovery Team (ICART) has been established within the Attorney General's Office and is tasked with dealing with all mutual legal assistance (MLA) requests.

Foreign restraint and confiscation orders may be registered and enforced as domestic orders under the Proceeds of Crime (External Requests and Orders) Order 2008 (POCERO). Non-conviction-based confiscation is possible under civil provisions of POCA, POCERO and the Proceeds of Crime (External Investigations) Order 2011. Foreign orders may be refused due to de minimis value of assets.

The Financial Intelligence Unit is a statutory body tasked, inter alia, with assisting with the prevention and detection of crime. It actively engages with domestic and international partners in its work and may spontaneously or upon request share information on proceeds of corruption offences with other States. The IOM may and has previously taken proactive measures to preserve property in anticipation of a foreign freezing or confiscation order. "Shell banks" and correspondent relationships with "shell banks" are prohibited under the IOMFSA General Licensing Policy.

Foreign States may directly recover assets by instituting civil proceedings in the courts of the Isle of Man if they meet specified jurisdictional and procedural requirements.

The Treasury may, where it is deemed appropriate, return confiscated property, either in whole, in part or upon other terms and conditions, to a requesting country or territory which participated in the recovery or confiscation, if such transfer is authorized in an asset-sharing agreement (section 222, POCA). Full compensation would be applied before any asset-sharing arrangement is considered. No formal asset-sharing agreements are presently in place.

Annex IV

British Virgin Islands

Chapter II

British Virgin Islands policies to prevent and fight corruption are enshrined in various laws, principally the Virgin Islands Constitution Order 2007, the Public Finance Management Act 2004 (PFMA), the Service Commissions Act 2011 (SCA) and the Register of Interests Act 2006 (RIA).

There is currently no anti-corruption body in the British Virgin Islands. The preventive mandate is spread across different bodies, such as the Public Service Commission, Financial Services Commission (FSC), Financial Investigation Agency (FIA) and Complaints Commissioner (Ombudsman). The British Virgin Islands and its agencies participate in relevant regional and international networks, including the Caribbean Financial Action Task Force (CFATF), Egmont Group, INTERPOL, Caribbean Customs Law Enforcement Council (CCLEC) and Asset Recovery Inter-Agency Network Caribbean (ARIN-CARIB).

Measures to prevent corruption in the public sector include, notably, the SCA, its subsidiary legislation, and a number of administrative policies (e.g., Public Service General Orders 1982). Members of the legislature must declare their financial interests, including those of their family members, in accordance with the RIA. Other public officials are expected to declare conflicts of interests to the Deputy Governor. The Criminal Code sets out an offence of conflict of interest and requires public officials to disclose certain interests to their respective public bodies. Disciplinary measures may also be applied for violations of relevant regulations and policies including on conflicts of interest. A Ministerial Code of Conduct, Public Service Management Bill and whistle-blowing policy are being developed. The Department of Human Resources (Deputy Governor's Office) has also established a grievance policy. However, there is no legal framework for the protection of whistle-blowers.

The PFMA and PFM Regulations 2005 (PFMR) provide public procurement rules and procedures and establish a Central Tenders Board (CTB) to receive and evaluate tenders and recommend procurement decisions to Cabinet. The Procurement Unit in the Ministry of Finance promulgates all procurement processes as determined by the CTB. A procurement law is being developed. The Constitution, PFMA and PFMR prescribe the manner, processes, procedures and principles for the management of public finances, including the adoption of the budget and appropriate control and audit of public accounts, as detailed in the Audit Act 2003 and Internal Audit Act 2011.

There is no central legal or policy framework to regulate public access to information. The British Virgin Islands have not established a legal framework for the funding of candidates for elected public office and political parties.

The British Virgin Islands Business Companies Act 2004 sets out a broad corporate governance framework for British Virgin Islands business companies. A register of beneficial owners is maintained by FIA.

To prevent money-laundering, the British Virgin Islands has adopted the Proceeds of Criminal Conduct (Amendment) Act, 2008, the Anti-Money Laundering and Terrorist Financing Code of Practice 2008, Anti-Money Laundering Regulations 2008, Financial Investigations Agency Act 2003, and Financing and Money Services Act 2009 among others. They provide specific mechanisms to prevent and detect transfers of proceeds of crime and allow cooperation and information exchange, both domestically and internationally, which is carried out principally through FIN-NET and the Egmont Group. FSC and FIA conduct AML supervision for the regulated financial sector and DNFBPs, respectively. A Joint Anti-Money Laundering and Terrorist Financing Advisory Committee (JALTFAC) was established in 2008.

“Shell banks” and correspondent relationships with “shell banks” are prohibited under the AML Code, 2008.

Chapter V

The Criminal Justice (International Cooperation) Act 1993 (as amended) is the principal legislation for international cooperation, together with the Mutual Legal Assistance (United States) Act 1990 for the United States of America.

The Criminal Justice (International Cooperation) (Enforcement of Overseas Forfeiture Orders) Order 2017 and Proceeds of Criminal Conduct (Enforcement of External Confiscation Orders) Order 2017 establish the legal framework for the registration and execution of foreign confiscation orders and for the issuance of restraint orders. Non-conviction-based confiscation is not available. Unless a request to preserve property for confiscation is received from another State, there is no provision to preserve property for confiscation. To date there have been no cases where a foreign confiscation order was registered or where authorities of the British Virgin Islands have frozen, seized or traced property based on a foreign mutual legal assistance request. The British Virgin Islands Handbook on International Cooperation and Information Exchange 2013 deals, inter alia, with the content of requests for assistance and the manner of transmission.

Civil proceedings to directly recover assets located in the British Virgin Islands may be instituted by foreign States in accordance with the jurisdictional and procedural requirements of the Eastern Caribbean Supreme Court.

Forfeited property shall be disposed of in accordance with the court’s directions and may be returned to a foreign State if directed by the court. The British Virgin Islands has shared assets with Bermuda pursuant to a memorandum of understanding in a specific criminal case. If required, the British Virgin Islands would consider entering into appropriate legal instruments for the disposal of assets with other States. Decisions would be taken on a case-by-case basis, upon mutual agreement.
