

3. Designated Businesses (Registration and Oversight) Bill 2014 – First Reading approved

Mr Braidwood to move:

That the Designated Businesses (Registration and Oversight) Bill 2014 be read a first time.

The President: We will now revert to our main Order Paper to consider Item 3, the Designated Businesses (Registration and Oversight) Bill 2014, and I call on the Hon. Member, Mr Braidwood to take the First Reading.

Mr Braidwood: Thank you, Madam President.

I hope the First Reading of the Designated Businesses (Registration and Oversight) Bill 2014 will have as smooth a passage as the last Bill, the Interpretation (Amendment) Bill 2015.

Madam President, the Designated Businesses (Registration and Oversight) Bill 2014 seeks to provide the Financial Supervision Commission (FSC) with powers and duties for the oversight of the adherence of certain businesses and professions – that is, ‘designated businesses’ – with the Island’s anti-money laundering and countering the finance of terrorism legislation. Madam President, I would like to truncate that to ‘AML/CFT legislation’ during the Reading of the Bill.

The Bill contains four parts and three schedules.

Part 1 is introductory.

Part 2 covers the requirement for designated businesses to register with the FSC and makes it an offence to carry on registrable activity without registration in clauses 7 to 12.

Part 3 covers oversight, including returns, inspections and investigations, requests for information, and actions and enforcement in clauses 13 to 30.

Part 4 contains supplementary provisions in clauses 31 to 37. Schedule 1 details those persons who are designated businesses and those who are exempt for the purposes of the Bill. Schedule 2 details the exceptions to the prohibition on disclosure of information and schedule 3 details minor and consequential amendments to other pieces of legislation.

Madam President, the Bill aims to address deficiencies identified by assessors of the International Monetary Fund during their visit to the Island in 2008. The IMF identified that the Island lacked a suitable AML/CFT oversight regime for designated businesses, and rated the Island as only partially compliant with FATCA recommendations 22 and 23.

MONEYVAL is due to assess the Island in the first quarter of 2016, and will expect progress to have been made in this area. The implementation of this Bill will enable the Island to demonstrate its compliance with international standards in relation to designated businesses and prevent an adverse rating in MONEYVAL’s report.

As the various bodies currently responsible for designated businesses do not have the structures or relevant expertise to implement such a regime, the effect of this Bill is to transfer responsibility for AML/CFT oversight only to the FSC, which does have the necessary expertise. The Bill also empowers the FSC to delegate certain functions to appropriate persons and it is intended that routine inspection visits will be delegated to certain professional bodies where that body has indicated its willingness to undertake such a role, and the standard of inspection meets the FSC’s criteria. The FSC will retain responsibility for registration and enforcement matters.

Madam President, the Bill has been the subject of wide consultation, and all comments received have been addressed. Although designated businesses are already subject to the AML/CFT legislation, the Bill will play some additional administrative burdens on designated businesses, in that they will need to: apply for registration with the FSC; submit an annual return; and be subject to inspection visits.

In addition, designated businesses will be required to pay a small one-off registration fee, plus an annual fee, which will be payable either to the FSC or the designated person’s professional body.

Where the annual fee is payable to the professional body, this amount will be determined by that body.

The annual fee payable to the FSC is still to be finalised but will be based on a tiered approach according to size, and no more than £1,000. The Bill is not expected to increase the expenditure on Government, as the FSC has prioritised the need to administer the regime, and has diverted resources from existing areas to undertake this work.

Rather Government will benefit from the registration fees paid by all registered persons and annual fees charged to those designated businesses directly overseen by the FSC. Such fees are intended to cover the cost of AML/CFT oversight and are not intended to raise general revenue.

Madam President, I beg to move that the Designated Businesses (Registration and Oversight) Bill 2014 be read a first time.

Mr Downie: I beg to second, Madam President, and reserve my remarks.

The President: The Hon. Member, Mr Crowe.

Mr Crowe: Thank you, Madam President.

Just looking at schedule 1 and talking about the presentation we had yesterday on crypto currencies and bitcoins, I was under the impression that this legislation was going to bring in to the registration ambit or orbit of itself of crypto currencies and bitcoins, etc. I was looking at schedule 1 to see if it was covered, and it appears to be possibly under paragraph (1)(h):

‘the business of dealing goods or services of any description [...] whenever a transaction or a series of linked transactions involves...’

So, could I just ask the hon. mover if this is to include crypto currencies, if not specifically mentioned by name?

The President: The Hon. Member, Mr Turner.

Mr Turner: Yes, more of a general query really with the mover. Recently we had a presentation by the Chamber of Commerce, where they were warning about the dangers of regulating ourselves out of existence. I just wondered what the feedback from industry had been, because it is all very well jumping to the tune of certain European bodies, but there has to be a balance. One of the messages we got certainly from business was that we do not have to be the first, and we do not have to be the best. We just need the adequate and appropriate level of regulation.

The Isle of Man has certainly excelled in regulating just about everything to death. I just wonder what the feedback on this particular piece of legislation has been, because the more power you give regulators, the more power they want. We have seen it in the United Kingdom, where numerous quangos have got completely out of control, and yet we are seeing other jurisdictions, who are just getting on with business and are doing very well.

Certainly a lot Overseas British Territories are booming at the moment, and they are not exactly rushing to bring in all these. So I would like to know from the mover what the reaction has been from industry, rather than what the reaction has been from regulators.

The President: The mover to reply.

Mr Braidwood: Thank you, Madam President,.

In response to the Hon. Member, Mr Crowe regarding crypto currencies – which I know all Members who were at the presentation fully understood – (**A Member:** Hear, hear.) the virtual currency will be added by order at a later date. So it will come under the oversight end of the FSC.

Mr Crowe: So can I just ask, Madam President, if this would be a special order going before Tynwald as secondary legislation.

Mr Braidwood: Through you, Madam President, it will be secondary legislation.

Mr Crowe: Thank you.

Mr Braidwood: In regard to Mr Turner and the FSC, yes, we have had full and frank discussions, Treasury has had them with the FSC. I have been in touch with the Law Society. I only spoke to them, the chief executive last week. I have also had communications yesterday from the Law Society. They are quite happy at present for this legislation to go through.

I had meetings with the Chamber of Commerce, in the latter part of last year. Yes, they raised again their concerns. However, there has been full consultation, and this is basically... This legislation is for designated non-financial businesses and professions. Normally the accountants will be covered by their own body, and such as the Law Society as well. All those who are regulated already by the Gambling Supervision Commission or the Insurance and Pensions Authority or the FSC are not included under this legislation.

I hope I have answered those queries, Madam President, and I beg to move.

The President: The motion is that the Bill be read a first time, Hon. Members. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.