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Sark News
A SARK LARK UPDATE

IMF INSPECTION

On Monday 1st March inspectors from the International Monetary Fund (IMF) finally, after a year's delay due to the financial crisis, embarked upon the first stage of their scrutiny of the regulatory framework governing Guernsey's financial services industry to check that it complies with international standards. It is, however, the second stage of the inspection which is most relevant to Sark and its specific form of 'financial services'. In May, the inspectors will return to Guernsey to have a close look at how its financial sector is handling anti-money laundering regulation and combating the financing of terrorism.

The IMF website (www.imf.org) declares that:

Money laundering is a process in which the illicit source of assets obtained or generated by criminal activity is concealed to obscure the link between the funds and the original criminal activity. Terrorist activities may also be financed with funds that represent the proceeds of illegal activities. Perpetrators of these activities constantly seek new ways to launder the funds in order to use them without drawing the attention of authorities to the source of the funds and the links with the underlying crimes.

The last time an IMF inspection took place in Guernsey was back in October 2003. Afterwards, the IMF produced a report named Review of Financial Sector Regulation & Supervision (available on the website), in which they highlighted certain areas of concern with regard to Guernsey's anti-money laundering compliance. Amongst their concerns were:

112. - *There are a number of areas in which the Notes do not clearly indicate the standard that is expected of institutions and other parties covered by AML/CFT (anti-money laundering and combating the financing of terrorism) legislation.*

- Visits to FIs (financial institutions) revealed a wide range of KYC (know your customer) practices in relation to the issues addressed by the Overriding Principles Paper. The GFSC should redouble its efforts to achieve a greater degree of uniformity in the practices used by financial services businesses. This is particularly needed in matters related to introduced business and the retroactive verification of customer identity.

The GFSC defines its task as follows:

The **Guernsey Financial Services Commission** is the regulatory body for the finance sector in the Bailiwick of Guernsey. The Commission's primary objective is to regulate and supervise financial services in Guernsey, with integrity and efficiency, and in so doing help to uphold the international reputation of Guernsey as a finance centre. (www.gfsc.gg)

In issuing fiduciary licences to operators on Sark, the GFSC obviously considers Sark's operators to come in under their umbrella and must therefore be responsible to the IMF for the actions of Sark's nominee directors. Although this line of business was supposedly stamped out back in the 1990s, it has only changed shape and been given credibility by operating under GFSC licences.

In view of the IMF concern over **expected standards** and **introduced business**, how can Mrs Bertha Cole, wife of Conseiller Peter Cole, prominent politician and Chairman of Sark's Shipping Committee, possibly be considered a suitable candidate for multiple directorships? With no formal education in finance / economics, she is currently the director or company officer for some 20 UK-registered companies and heavens knows how many more based in off-shore tax havens such as the Cayman Islands, Bermuda, the BVIs etc. that give no public access to their company registers.

With regard to the IMF clamp-down on **money laundering**, how can Mrs Cole and her fellow nominee directors on Sark possibly have done her homework and verified the source of all these companies' assets to ascertain that they are not merely shell companies created for the purpose of tax evasion or other, perhaps worse, illegal activities?

On the subject of IMF's requirement to KYC- **know your customer** ó how can any of Sark's prolific off-shore nominee directors possibly have any idea of whom they are acting for when they sign their name on the dotted line and collect their director's fee? Isn't the whole idea of using Sark residents as nominee directors a method for obscuring the true identity of a company's owners, their whereabouts and the source of their funds?

How does the IMF's expressed concern over **uniformity of practices** and **introduced business** sit with the common practice of directorship appointments being casually passed across the kitchen tables amongst the members of the club of insiders on the Island of Sark?

The financial services sector is of crucial importance to Guernsey's economy and it is absolutely vital for the island to obtain a clean bill of health from the IMF inspectors in order to maintain and attract international business. Sark is attracting international business all right, but hardly of the kind that will *help to uphold the international reputation of Guernsey as a finance centre*. Alas, it is highly unlikely that the IMF inspectors will be invited to sit down around certain kitchen tables on Sark.