



## **Attorney General's Guidance**

### **Financial Action Task Force Recommendation 30**

### **Parallel Financial Investigations**

#### **Context**

- 1) Jersey is an international financial centre. There is a risk that some of the funds passing to and through any international financial centre might constitute the financing of terrorism, the financing of weapons-proliferation or the laundering of the proceeds of these and other crimes.
  
- 2) The Financial Action Task Force (FATF) represents many of the world's leading economies and acts to co-ordinate a global response to the risks of those crimes. FATF's published Recommendation 30 states that *"Countries should ensure that designated law enforcement authorities have responsibility for money laundering and terrorist financing investigations within the framework of national AML/CFT policies. At least in all cases related to major proceeds-generating offences, these designated law enforcement authorities should develop a pro-active parallel financial investigation when pursuing money laundering, associated predicate offences and terrorist financing. This should include cases where the associated predicate offence occurs outside their jurisdictions. Countries should ensure that competent authorities have responsibility for expeditiously identifying, tracing and initiating actions to freeze and seize property that is, or may become, subject to confiscation, or is suspected of being proceeds of crime. Countries should also make use, when necessary, of permanent or temporary multi-disciplinary groups specialised in financial or asset investigations. Countries should ensure that, when necessary, cooperative investigations with appropriate competent authorities in other countries take place."*
  
- 3) The FATF further defines 'financial investigation' to mean an enquiry into the financial affairs related to a criminal activity, with a view to: (i) identifying the extent of criminal networks and/or the scale of criminality; (ii) identifying and tracing the

proceeds of crime, terrorist funds or any other assets that are, or may become, subject to confiscation; and (iii) developing evidence which can be used in criminal proceedings.

- 4) The investigative agencies in Jersey and the Law Officers Department have always sought to pursue financial investigations in respect of serious domestic and cross-jurisdictional crime.
- 5) In that regard – and for the avoidance of doubt - I have directed the staff of the Economic Crime and Confiscation Unit to note and comply with the following guidance. I encourage those with responsibility for other agencies to do the same.

### **Investigations**

- 6) Subject to the overarching principle that each case must be assessed on its merits, the following guidance applies.
- 7) Where offences of terrorism-finance or weapons-proliferation are suspected, and there is sufficient evidence to prosecute, it will generally be in the public interest to prosecute any such case.
- 8) In the event of a terrorist attack within Jersey, or the suspicion of a domestic aspect to any foreign terrorism or the funding of terrorism or weapons-proliferation, there should be an independent financial investigation in Jersey.
- 9) Given the seriousness of the foreign predicate offending with which it is typically associated, and the risk that it presents to Jersey's international reputation, it will generally be in the public interest to prosecute any case of money laundering.
- 10) In all cases where there is a suspicion of laundering in Jersey of the proceeds of a foreign predicate offence, there should be an independent financial investigation in Jersey.
- 11) Investigations should reflect current international best practice and guidance issued by my Department from time to time, applied to the circumstances of each case.

- 12) Investigations of suspected money laundering should not be discontinued without sound evidential reasons for doing so, and advice must be taken from my Department.
- 13) Any prosecution for regulatory failings should generally be considered a corollary of a money laundering investigation, not a substitute for one.
- 14) Civil asset forfeiture should only be pursued where a prosecution for money laundering is not practicable and advice has been taken from my Department. There should be a documented rationale for any decision that a money-laundering prosecution is not practicable.
- 15) In all other cases related to significant funds, a financial investigation should be launched, in parallel with any other investigation.

### **Investigative Agencies**

- 16) Cases involving money laundering, terrorist financing, weapons proliferation or corruption will generally be investigated by multi-disciplinary teams within the Economic Crime and Confiscation Unit and the Joint Financial Crimes Unit.
- 17) Where money laundering is detected as part of a case investigated by a law-enforcement agency other than the ECCU and the JFCU and the suspected offending has no substantive cross-jurisdictional element, the money-laundering aspect of the offending might be investigated by the original agency. In any such case advice should be taken from my Department.
- 18) The financial investigation in any given case should be undertaken by the agency that is best-placed to carry it out, which may not be the first agency to become involved in the case. In appropriate cases an investigation might be shared between agencies and/or staff might be seconded from one agency to another and/or the general investigation and parallel financial investigation of a case might be handled by separate agencies. My Department will advise where appropriate, including as to the appointment of external counsel and/or other support.

28 June 2022