



Treasury and  
Exchequer



Jersey Financial  
Services Commission



Royal Court of Jersey  
Viscount's Department



## **MEMORANDUM OF UNDERSTANDING: Financial Crime Investigation & Criminal Asset Recovery in Jersey**

between

The Chief Minister of Jersey

and

The States of Jersey Police

The Attorney General of Jersey

The Jersey Customs and Immigration Service

The Financial Intelligence Unit, Jersey

The Viscount of the Royal Court of Jersey

The Jersey Financial Services Commission

The Comptroller of Revenue



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## 1. Preamble

- 1.1 The Chief Minister of Jersey has Ministerial responsibility for financial services in Jersey and has also delegated this authority to a number of Assistant Chief Ministers.
- 1.2 For the purposes of this Memorandum of Understanding (“MOU”) the other parties are collectively referred to as “Financial Crime Agencies”.
- 1.3 In order to set out the commitment of the Government of Jersey to combat financial crime and to remove the profit from crime an MOU was signed in December 2017 (the “2017 MoU”).
- 1.4 The signatories to the 2017 MoU were the Chief Minister, the Chief Officer of the States of Jersey Police (“SoJP”), the Attorney General, and the Chairman of the Jersey Financial Services Commission (“JFSC”).
- 1.5 Jersey has since carried out a series of detailed and comprehensive Financial Crime National Risk Assessments (“NRA”), most importantly the Money Laundering report, dated September 2020<sup>1</sup> and the Terrorist Financing report, dated April 2021 (update report issued May 2023)<sup>2</sup>.
- 1.6 Jersey has also developed and published a National Strategy for Combatting Money Laundering, the Financing of Terrorism, and the Financing of Proliferation of Weapons of Mass Destruction, dated September 2022<sup>3</sup>.
- 1.7 Further, structural developments have taken place since the signing of the 2017 MoU including:
  - 1.7.1 The creation of a new specialist investigative body, the Economic Crime and Confiscation Unit (“ECCU”) to investigate and prosecute those financial crime and asset recovery cases which align most closely with the risk areas identified in the NRA.
  - 1.7.2 The change in structure and model of the Financial Intelligence Unit (“FIU”) from being a small law enforcement department hosted within the SoJP, to a larger and independent administrative agency with a separate reporting and oversight structure. As indicated by the Proceeds of Crime (Financial Intelligence) (Amendment) (Jersey) Regulations 2022.
  - 1.7.3 The National Financial Crime Policy and Strategy Co-Operation and Co-ordination Structure was established in 2021 in line with Financial Action Task Force (“FATF”) Recommendation 2 to ensure that policy-makers, the FIU, law enforcement authorities, supervisors and other relevant competent authorities, at the policy-making and operational levels, have effective mechanisms in place which enable them to cooperate, and, where appropriate, coordinate and exchange information domestically with each other concerning the development and implementation of policies and activities to combat money laundering, terrorist financing and the financing of proliferation of weapons of mass destruction. The structure also ensures that Jersey has national AML/CFT/CPF policies, informed by the risks identified, which are regularly reviewed, and the structure acts as a coordination mechanism for such policies.

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<sup>1</sup> [National Risk Assessment of Money Laundering - September 2020](#)

<sup>2</sup> [National Risk Assessment of Terrorist Financing - April 2021; Terrorist Financing National Risk Assessment update - May 2023](#)

<sup>3</sup> [National Strategy for Combatting Money Laundering. – September 2022](#)

- 1.8 The Chief Minister and the heads of the Financial Crime Agencies have therefore jointly taken the decision to implement a revised MOU between the Government and the Financial Crime Agencies concerning Financial Crime Investigation & Criminal Asset Recovery in Jersey in the terms set out herein.

## **2. Purpose of this Memorandum of Understanding**

- 2.1 The Government of Jersey has an absolute commitment to the international effort to combat financial crime in all of its forms. To fulfil this commitment, the Government must ensure that Financial Crime Agencies in Jersey continue to have appropriate resources and funding to identify, investigate and prosecute financial crime and recover the proceeds of crime linked to Jersey.
- 2.2 The Chief Minister, on behalf of the Government of Jersey, wishes to enter into this MOU with the Chief Officer of the SoJP, the Attorney General, the Director of the Financial Intelligence Unit, the Viscount, the Comptroller of Revenue (“Comptroller”), and the Chairman of the JFSC to clarify certain matters concerning the investigation and prosecution of financial crime in Jersey.
- 2.3 In 2016 MONEYVAL<sup>4</sup> published a report<sup>5</sup> on the compliance of Jersey with the 2003 Recommendations of the FATF<sup>6</sup>. That report contained findings that the number of money laundering convictions and confiscations were relatively low given the size and characteristics of the Island’s financial sector. The report recommended that the authorities review resource levels and the effectiveness of the regime concerning money laundering convictions and confiscations.
- 2.4 This MOU details the considerations of the Financial Crime Agencies in relation to:
- 2.4.1 Financial crime identification.
  - 2.4.2 Sharing of intelligence.
  - 2.4.3 Investigations and prosecutions.
  - 2.4.4 Recovering the proceeds of crime.
- 2.5 The matters considered and covered in this MOU are:
- 2.5.1 Broad/high-level responsibilities of each of the Financial Crime Agencies.
  - 2.5.2 The reporting lines for each agency.
  - 2.5.3 The reporting requirements for each agency.
  - 2.5.4 An effectiveness review process.

## **3. Financial Crime Agencies – Areas of responsibility**

- 3.1 **SoJP and JFCU** – SoJP officers exercise police powers that are vital to the investigation of all crime, including financial crime. The Joint Financial Crimes Unit

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<sup>4</sup> MONEYVAL is the Council of Europe's Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism

<sup>5</sup> [Jersey Report on Fourth Assessment Visit \(coe.int\)](#)

<sup>6</sup> The FATF is an inter-governmental body established in 1989. The objectives of the FATF are to set standards and promote effective implementation of legal, regulatory and operational measures for combating money laundering, terrorist financing and other related threats to the integrity of the international financial system.

(“JFCU”) is a specialist unit within SoJP whose primary focus is upon domestic proceeds generating offences. The JFCU is staffed by SOJP officers and staff, along with seconded Jersey Customs and Immigration Service (“JCIS”) officers. The main purpose of the JFCU is to investigate economic crime impacting upon residents of Jersey, including fraud, money laundering and terrorist financing. In addition to carrying out investigations with a view to prosecution, the JFCU also carries out investigations with a view to tracing, securing and forfeiting the proceeds of crime.

- 3.2 **LOD and ECCU** - The primary focus of ECCU is upon the investigation, prosecution, and recovery of the proceeds of money laundering, terrorist financing, fraud and sanctions evasion, especially those cases involving foreign predicate offences. ECCU has adopted the “Roskill Model” of investigation which involves lawyers and investigators working together from the start of a case. The criteria for the adoption of cases by ECCU is contained within a separate Operating Protocol. Where appropriate, the Law Officers’ Department (“LOD”) may use Deferred Prosecution Agreements (“DPAs”), as provided for in legislation enacted in 2023. The LOD liaises with the JFSC, as appropriate, when a DPA is sought by an entity supervised by it.
- 3.3 **JCIS** - In the context of financial crime, the primary focus of JCIS is upon conducting parallel financial investigations linked to drug trafficking, cash smuggling and illegal immigration. Such investigations will be carried out with a view to both gathering evidence to support money laundering prosecutions (linked to drug trafficking, cash smuggling and illegal immigration) and tracing, securing, and forfeiting the proceeds of crime.
- 3.4 **FIU** - The primary FIU responsibility is for the receipt, analysis, enhancement and dissemination of suspicion and intelligence insight, to relevant parties, including Financial Crime Agencies. This will include both Operational Analysis for specific cases and operations, and Strategic Analysis to assist in threat understanding, investigations, counter-threat planning, and resource allocation. Intelligence is generally used to advise direction rather than shape an approach due to the likely gaps and potential for hypotheses and information to form only part of the picture. Therefore, the FIU disseminates its intelligence packages to other Financial Crime Agencies for their ongoing ownership, prioritisation, determination of investigative/prosecutorial approaches and further clarification of the emerging picture. This dissemination places an emphasis on the receiving agency to take ownership of the case, determine and record their actions and re-engage the FIU as part of the normal intelligence cycle process, to consider relevant investigative strands. In addition, as part of the cyclic nature of intelligence process, the FIU may provide additional insight or support to other Financial Crime Agencies at the discretion of the Director of the FIU. The FIU also plays a key liaison and connection role between countries, FIUs and investigative bodies as well as across the regulated sector both nationally and internationally.
- 3.5 **The Viscount** – The Viscount performs the role of Asset Management Office for Jersey. In this context the Viscount will be responsible for ensuring the efficient management of property frozen or seized under provisional measures orders, and for the subsequent disposal of such property following the issuance of final disposal orders from the Royal Court.
- 3.6 **The JFSC** – The JFSC is the Island’s independent financial services regulator and, in carrying out its functions, is required by statute to have particular regard to the need to counter financial crime both in Jersey and elsewhere. As part of its supervision and enforcement functions the JFSC investigates non-compliance with AML/CFT/CPF regulatory requirements. In addition to the use of regulatory sanctions, in appropriate cases, the JFSC will make referrals to the JFCU or ECCU through the established

Tripartite process for consideration of criminal investigation and prosecution. In accordance with its statutory obligations the JFSC files suspicious activity reports with the FIU, when appropriate. It also provides intelligence to relevant Financial Crime Agencies to assist in the fight against financial crime.

- 3.7 **The Comptroller** - administers Jersey's domestic tax laws and undertakes activities to detect and correct error and fraud in the tax system. As the Delegated Competent Authority for a number of international tax treaties and agreements, the Comptroller collects relevant financial information from Jersey's financial institutions and regulatory bodies to share with overseas tax administrations for the purposes of improving tax compliance in those tax jurisdictions.

#### 4. **Financial Crime Agencies – Accountability/Ministerial Reporting Lines**

- 4.1 **JFCU** – As a police-led agency JFCU reports to the Chief Officer of the SoJP, who is operationally independent but is accountable to the Jersey Police Authority and Minister for Justice and Home Affairs in accordance with the States of Jersey Police Force (Jersey) Law 2012.
- 4.2 **ECCU** – As an agency within the LOD the ECCU reports to the Attorney General who is an independent Crown Officer in accordance with the Departments of the Judiciary and Legislature (Jersey) Law 1965. The Attorney General can be questioned concerning his functions (including general questions concerning ECCU's performance and effectiveness) in the States Assembly.
- 4.3 **JCIS** – For the purposes of reporting performance and effectiveness in its Financial Crime Agency functions (as set out in this document) the Agent of the Impots is operationally independent but reports to/is accountable to the Minister for Justice and Home Affairs.
- 4.4 **FIU** – As an independent agency, the Director of the FIU reports to the FIU Governance Board, which in turn reports to/is accountable to the Chief Minister, in accordance with the Proceeds of Crime (Financial Intelligence) (Amendment) (Jersey) Regulations 2022.
- 4.5 **Viscount** – The Viscount is an officer of the Royal Court and is appointed pursuant to the Departments of the Judiciary and Legislature (Jersey) Law 1965. For the purpose of reporting performance and effectiveness in its Financial Crime Agency functions (as set out in this document) the Viscount reports to/is accountable to the Royal Court.
- 4.6 **The JFSC** – The Executive of the JFSC is accountable to the Board of Commissioners (the JFSC's governing body) through the Regulatory Effectiveness and Executive Risk committees. The JFSC is an operationally independent statutory body accountable for its overall performance to the States of Jersey through the Chief Minister (or through the Minister(s) to whom the Chief Minister has delegated the responsibility for financial services matters).
- 4.7 **The Comptroller** – The Comptroller is operationally independent subject to general oversight from the Treasurer of the States of Jersey and the Minister for Treasury and Resources in accordance with the Revenue Administration (Jersey) Law 2019. For the purpose of reporting performance and effectiveness in Financial Crime Agency functions the Comptroller reports to and is accountable to the Treasurer of the States and the Minister for Treasury & Resources.

## 5. Effectiveness Reporting

- 5.1 It is acknowledged by the parties to this MOU that to ensure the commitment of Jersey to the international effort to combat illicit financial flows, even greater focus on the effectiveness of the Financial Crime Agencies investigating and prosecuting financial crime, and the recovery of the proceeds of crime, is required.
- 5.2 It is equally acknowledged that there is a fundamental distinction between intelligence development, operational investigation, and prosecution of financial crime cases by the Financial Crime Agencies and the role of the Government in ensuring that the jurisdiction is adequately resourced to examine, investigate and prosecute financial crime, and recover the proceeds of crime. All parties acknowledge that this distinction should not be compromised.
- 5.3 Since the 2016 MONEYVAL Report the FATF methodology for assessing a jurisdiction's ability to tackle illicit financial flows (money laundering, terrorist financing and proliferation financing) has evolved to focus more upon the effectiveness of the implementation of the (revised) 40 Recommendations<sup>7</sup> which concern Technical Compliance.
- 5.4 This new assessment methodology has introduced 11 "Immediate Outcomes" ("IOs") by which effectiveness is assessed in addition to Technical Compliance.
- 5.5 Within these 11 IOs there are five which relate specifically to criminal justice:
- 5.5.1 **IO2 – International Cooperation.** The key area measured is the efficiency of the Mutual Legal Assistance system, along with other forms of international information exchange by Financial Crime Agencies.
  - 5.5.2 **IO6 – Financial Intelligence.** This measures not only the ability to gather and analyse financial intelligence but also how well that financial intelligence is used to initiate investigations.
  - 5.5.3 **IO7 – Money laundering investigation and prosecution.** Effectiveness in this IO is measured not only by the number of money laundering investigations, prosecutions and convictions but also whether or not such actions align with the risk profile of the jurisdiction.
  - 5.5.4 **IO8 – Confiscation of the proceeds of crime.** Similarly, with this IO it is important that not only are the proceeds of crime confiscated but that such criminal asset recovery efforts are in line with the jurisdiction's identified risks.
  - 5.5.5 **IO9 – Terrorist financing investigation and prosecution.** In the absence of actual investigations and prosecutions for terrorist financing (which is common in international financial centres and small island states) effectiveness in this IO can be demonstrated by having clear and efficient policies and procedures in place to detect, investigate and prosecute terrorist financing should it occur.
- 5.6 As part of the preparation for the 2023 MONEYVAL assessment a new National Statistics Database is being developed.
- 5.7 This will allow each Financial Crime Agency to populate a consolidated database with all of the metrics required to report effectiveness in line with the above mentioned IOs.

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<sup>7</sup> <https://www.fatf-gafi.org/en/publications/Mutualevaluations/Fatf-methodology.html>



- 5.8 The reporting of this data will be important to MONEYVAL assessments and will also serve as an ongoing mechanism to measure effectiveness and efficiency across the Financial Crime Agencies.
- 5.9 Having implemented a mechanism for collating key financial crime effectiveness data the next step is to implement a mechanism by which effectiveness across the Financial Crime Agencies can be reviewed.
- 5.10 The purpose of the review mechanism will be to examine any strategic level issues which might be negatively impacting upon effectiveness. This would include such issues as resources, training, IT, and legislation.
- 5.11 With this in mind, a standing Government working group – the Financial Crime Agency Review Group (“FCARG”) - will be established with a remit to carry out regular strategic level reviews of effectiveness with the Financial Crime Agencies, and then collaborate to design and deliver solutions to any identified problems.
- 5.12 FCARG shall consist of representatives nominated by the following ministers.
- 5.12.1 The Chief Minister.
- 5.12.2 The Minister for Treasury and Resources.
- 5.12.3 The Minister for Justice and Home Affairs.
- 5.12.4 Any other minister nominated by the Chief Minister.
- 5.13 The Financial Crime Agencies will be members of FCARG for the purposes of reporting on their respective effectiveness IOs. The most appropriate person from each Financial Crime Agency to attend FCARG meetings shall be determined by the head of that agency, taking into account the requirement to ensure representation at the most senior level, reflecting the importance of this commitment to the parties. The Government’s Financial Crime Strategy team shall provide the secretariat of FCARG.
- 5.14 The specific data reporting requirements will be set out in the National Statistics Database (N.B. it will not include any case specific detail) but broadly the individual Financial Crime Agencies reporting areas will be as follows:
- 5.14.1 **JFCU** – Money laundering investigations, referrals through the Tripartite process, prosecutions and convictions emanating from domestic proceeds generating offences.
- 5.14.2 **ECCU** - Money laundering investigations, referrals through the Tripartite process, prosecutions, DPAs, and convictions in line with the NRA. Criminal and civil asset recovery, including non-conviction-based forfeiture.
- 5.14.3 **JCIS** - Money laundering investigations, prosecutions and convictions emanating from cross-border smuggling offences (including cash and narcotics).
- 5.14.4 **FIU** – Receipt, analysis, enhancement, and dissemination of financial intelligence. Focusing on intelligence that is used by local law enforcement agencies and the JFSC to progress cases in Jersey.
- 5.14.5 **Viscount** – Criminal and civil assets frozen, seized, and restrained. Assets ordered to be confiscated or forfeited. The value of criminal assets paid into the Criminal Offences Confiscation Fund or paid over to victims in compensation, and assets paid into the Civil Asset Recovery Fund.

- 5.14.6 **The JFSC** – Investigations, referrals through the Tripartite process, sanctions imposed for breaches of AML/CFT/CPF regulatory requirements.
- 5.14.7 **The Comptroller** – – Investigations into domestic tax fraud or evasion and other revenue offences and assisting international treaty partners in tackling foreign tax fraud or evasion and other revenue offences.
- 5.15 FCARG shall receive reports at quarterly meetings on the respective effectiveness data from each of the Financial Crime Agencies.
- 5.16 In addition, at the FCARG quarterly meetings each Financial Crime Agency will have an opportunity to set out any strategic level issues that may be impacting upon effectiveness.
- 5.17 The FCARG will report onwards to the AML/CFT Political Steering Group (“PSG”).
- 5.18 On an annual basis, the secretariat of FCARG, in collaboration with the Financial Crime Agencies, shall prepare a report which, once the Financial Crime Agencies have agreed by consensus, will be presented to the PSG on the overall effectiveness of the Financial Crime Agencies; a summary of issues impacting effectiveness delivery; and any proposals for addressing strategic level problems (including increased resource allocation or legislative amendments).
- 5.19 The Chief Minister confirms that any proposals to amend resource or legislative requirements for improving financial crime effectiveness will be considered as a high priority by the Government of Jersey. The Ministers who have representatives on FCARG (see 5.12 above) shall ensure that current resource allocation and any additional resource proposal that is put forward (in respect of those Financial Crime Agencies funded by Government) is included in the Government of Jersey's normal financial planning process.
- 5.20 The intention of this process is to ensure a more data-driven and responsive model of resource allocation is adopted across the Financial Crime Agencies recognising the existing statutory responsibilities of each of the Financial Crime Agencies and the commitment of the Government of Jersey to the international effort to combat financial crime in all of its forms, the importance of Jersey as an International Finance Centre and the nature of financial crime investigation and prosecution that can require resource allocation to be amended at relatively short notice.

## **6. Amendments to this Memorandum of Understanding**

- 6.1 This MOU may be amended by the agreement, in writing, of all of the Parties to this agreement.
- 6.2 This MOU will be reviewed annually to ensure it remains fit for purpose.

## **7. Effective Date**

- 7.1 This MOU will be effective from the date of last signature by a party to this Memorandum of Understanding.
- 7.2 This MOU supersedes the 2017 MoU.

**8. Publishing this Memorandum of Understanding**

- 8.1 The Government and/or the parties to this MOU will make a copy of this MOU, or the text of it, publicly available

Signed by the following and in force from 24 July 2023:

Assistant Chief Minister with responsibility for Financial Services (on behalf of the Chief Minister of Jersey)

The States of Jersey Police

The Attorney General of Jersey

The Jersey Customs and Immigration Service

The Financial Intelligence Unit, Jersey

The Viscount of the Royal Court of Jersey

The Jersey Financial Services Commission

The Comptroller of Revenue