



Economic Crime and Confiscation Unit (“ECCU”)

Joint Financial Crimes Unit (“JFCU”)

Operating Protocol

1. Introduction

- 1.1. The Law Officers’ Department (“LOD”) has been granted funding for additional resources to assist in combatting serious financial crime, and an ECCU is to be formed within the LOD.
- 1.2. Hitherto the JFCU has been the sole investigatory agency in the Island charged with this responsibility working closely with and supported by the LOD. When the ECCU is established, this will be a shared investigatory role requiring enhanced rigour around decision-making and the criteria for taking cases and investigative pathways.
- 1.3. An operating protocol is required to provide clarity on essential issues such as adoption criteria for ECCU cases, access to financial intelligence and mutual support so as to maximise the efficiency and effectiveness by both agencies and teamworking.
- 1.4. Given that this is new territory for the LOD and JFCU, this protocol should be viewed as a living document. Ongoing regard should also be given over time to the Island’s evolving strategic objectives and international expectations such as the vital importance of this area of work, which will undoubtedly be influenced by the evolution of work on the Island’s National Risk Assessment (scheduled to commence summer 2017).

2. Criteria for ECCU case adoption

- 2.1. The following features are not intended to be strictly prescriptive as the operational landscape requires an element of flexibility, but in considering the adoption of cases by the ECCU regard will be given to:
 - 2.1.1. Prospects for significant confiscation under a local civil forfeiture regime;
 - 2.1.2. Prospects for significant conviction-based confiscation;
 - 2.1.3. Quantum of an alleged fraud, and/or money-laundering;
 - 2.1.4. Complexity and/or seriousness of the alleged offending;

- 2.1.5. Risk of significant damage to the reputation and integrity of the Island;
- 2.1.6. Likelihood of significant compensation to members of the public in the Island or elsewhere.

2.2. Although the financial benefits to the Island of significant confiscations cannot be disregarded, care must be taken to ensure that this does not unduly influence decision-making in the face of other public and victim interests.

3. Case consideration process

- 3.1. The adoption or otherwise by the ECCU of individual cases should be agreed upon by representatives of the States of Jersey Police ("SoJP") (or JFCU) and the LOD (or ECCU) who have the requisite authority ("the Decision Committee").
- 3.2. The Decision Committee should include the Director of the Criminal Division, the ECCU Senior Legal Advisor (as ECCU lead), a JFCU legal advisor, the Detective Chief Inspector (Intelligence) SoJP, and the Detective Inspector of the JFCU operational team.
- 3.3. ECCU representation should already have been present in dialogue on the majority of potential matters for investigation (see section 4 below).
- 3.4. Objectives and investigative parameters (challenging in the very early stages of an investigation, but important) need to be agreed, as supported by an intelligence profile. This needs to be supported by both teams of the JFCU (as well as the JFSC) so as to best ensure adoption by either team is appropriate.

4. Collaborative working with the Jersey Financial Services Commission ("JFSC")

- 4.1 The LOD, JFCU and JFSC have worked closely in a tri-partite arrangement, both at operational and strategic levels. This arrangement is considered essential to maximise effectiveness and efficiency.
- 4.2 ECCU representation should be included as an essential fourth partner in the Island's operational response to combatting financial crime.

It is recognised that partnership working is vital, but regard must be maintained to the inherent challenges involved so as to ensure effectiveness and efficiency.

5 Financial Intelligence Unit ("FIU") interface

- 5.1 The FIU within the JFCU is the national centre for the receipt and analysis of suspicious activity reports and other information relevant to money-laundering, associated predicate offences and terrorist financing, and for the dissemination of the results of that analysis.

- 5.2 There is an interface between the JFCU operational team and the FIU, and a similarly efficient and effective interface with the ECCU is required.
- 5.3 Article 34(1) of the Proceeds of Crime (Jersey) Law 1999 provides for the JFCU to share information arising from suspicious activity reporting with the Attorney General, there is not therefore considered to be any legal impediment to the ECCU having access to such information.
- 5.4 In order to maintain a firewall between intelligence and operational matters, to comply with international FIU standards (e.g. Egmont requirements), and to maintain consistency with national and local intelligence dissemination practices and formats (inclusive of handling codes), intelligence arising from the FIU in respect of SAR material shall be disseminated in National Intelligence Report format to the ECCU and to the JFCU Operational team.
- 5.5 An intelligence officer from the FIU shall be allocated as an FIU conduit to each ECCU investigation to ensure that intelligence is disseminated on a timely basis, and to ensure that all intelligence of potential relevance is duly assessed for dissemination.
- 5.6 The FIU database (IFIS) contains other information in addition to that arising from local suspicious activity reporting for example from requests for assistance from other FIUs, and 'miscellaneous' reporting. In the same way that JFCU place necessary handling restrictions on intelligence disseminated overseas, external FIUs will do similarly. Consequently although there may be a slight delay in, for example, obtaining consent for the JFCU FIU to further disseminate intelligence to the ECCU it is not anticipated that refusal to do so will present as a problem.

6 Case management systems

- 6.1 JFCU Operations are presently reviewing their economic crime case management systems, including review of Econocrime, which may or may not be discontinued in the future.
- 6.2 Careful consideration should be given to the ECCU adopting the same case management system (whatever this may be) so that consistency and common IT systems across the teams can be maintained.
- 6.3 A scoping exercise is currently underway within JFCU Operations and ECCU representation on this is recommended.

7 Mutual support

- 7.1 Both the ECCU and JFCU (operations) teams must collaborate in the spirit of one overall team with the same overriding objectives.
- 7.2 There will undoubtedly be occasions where short term demands exceed operational capacity, for example when warrants are to be executed or a large number of statements required.
- 7.3 Each team should readily recognise this and be receptive to providing short term mutual assistance in support of the other at such peaks of demand, in a spirit of collaborative joint-working and support, with approaches and parameters agreed by the respective supervision teams at a very early stage.
- 7.4 The same principle should apply to any short term urgent demands of legal advisors across the two teams, recognising that all ECCU staff are dedicated to assisting in financial crime and confiscation cases.

8 Provision and rotation of Detective Constables (“DCS”)

- 8.1 As part of the ECCU funding provided by government, provision is also made for two DCs, and such capacity will be recruited by SoJP over and above its establishment levels.
- 8.2 Owing to the limitation on numbers of investigators within the ECCU, capability of these officers should be so as to provide for immediate immersion in ECCU cases, and accordingly these DCs should have a financial investigation background. It is intended that such initial deployment will be in the form of suitably experienced DCs recruited by SOJP from the UK.
- 8.3 There is however recognition of the value in rotation of experience and need for development of investigators. DCs initially appointed to the ECCU should be rotated on a periodic basis. Increasing the capability and experience of investigators and legal advisors is just as crucial as increasing capacity.
- 8.4 Owing to the prolonged nature of financial crime investigations, this should ideally be at a period no more frequent than every two to three years, accepting that there is seldom an ideal time in terms of synchronised case completion to make such transition.
- 8.5 The carrying of an existing case through to completion from one team to another should not in itself prevent such a transition but should be taken into account.

9 Governance

- 9.1 The activity and results of the ECCU as well as the JFCU are to be reported in accordance with the Memorandum of Understanding made between the Attorney General, the States of Jersey Police, the Jersey Financial Services Commission and the Government of Jersey.
- 9.2 Although purely quantitative targets and performance indicators have limitations, these should however form a strong component of a performance measurement system to measure the effectiveness of the new arrangements.
- 9.3 The Attorney General and Chief Officer SoJP will meet to consider progress on a six-monthly basis, supported in such meetings as may be appropriate by the Superintendent Crime Services (SoJP) and Director of the Criminal Division (LOD) together with ECCU, JFCU Operations and FIU leads.

10 Review

- 10.1 This Operational Protocol is recognised as a living document and may be amended at any time, but should be reviewed on an annual basis.

Signed:..... [redacted]
Robert MacRae QC
HM Attorney General

Signed:..... [redacted]
Detective Superintendent Stewart Gull
Head of Crime Services
States of Jersey Police

Date:....20/7/2017.....

Date:..... 20/7/2017.....