

States  
of Jersey



JFSC

# **ANTI-MONEY LAUNDERING/ COUNTERING THE FINANCING OF TERRORISM STRATEGY GROUP**

## **AN ISLAND STRATEGY TO COUNTER MONEY LAUNDERING AND THE FINANCING OF TERRORISM**

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# 1 Introduction

- 1.1 The aim of this strategy document is to set out:
  - 1.1.1 The Anti-Money Laundering and Countering the Financing of Terrorism Strategy Group's (the "**Strategy Group**") commitment to preventing and detecting money laundering and terrorist financing, including the investigation and prosecution of money laundering and terrorist financing offences.
  - 1.1.2 The key money laundering and terrorist financing vulnerabilities that Jersey faces, which are similar to those faced by other jurisdictions.
  - 1.1.3 Areas where vulnerabilities have been identified, but where work has already started, and that work continues.
- 1.2 The Strategy Group consists of representatives from the Chief Minister's Department, the Law Officers' Department, the States of Jersey Police Force, the States of Jersey Customs and Immigration Service ("**Customs**"), the Joint Financial Crimes Unit (the "**JFCU**"), the Jersey Financial Services Commission (the "**Commission**"), and the Shadow Gambling Commission.
- 1.3 The strategy document is based on contributions from members of the Strategy Group.

## 2 Commitment

- 2.1 This section sets out why it is so important to prevent and detect money laundering and terrorist financing and the Strategy Group's commitment to do so.
- 2.2 Crime is often committed to enable somebody to benefit from the proceeds of that crime, e.g. theft or fraud. Whilst criminal conduct and the associated laundering of proceeds cannot be wholly prevented, putting obstacles in the way of criminals and making it more difficult and costly to launder the proceeds of a crime can act as a powerful disincentive.
- 2.3 Apart from social reasons, there are also sound economic reasons for preventing and detecting money laundering and terrorist financing. The perception of Jersey as a respectable and well regulated financial centre in which to do business and invest funds depends on its reputation for honesty and integrity.
- 2.4 As a result, Jersey has had in place legislation to prevent money laundering since 1988 and to counter terrorism since 1990. This legislation is updated to deal with new threats as they emerge and international standards as they are revised.
- 2.5 Jersey's defences are heavily dependent on the vigilance and co-operation of the finance sector. In particular, reporting obligations are set on persons carrying on financial services business through the Drug Trafficking Offences (Jersey) Law 1988, Proceeds of Crime (Jersey) Law 1999 (the "**Proceeds of Crime Law**"), and Terrorism (Jersey) Law 2002, and more extensive requirement to prevent and detect money laundering and terrorist financing are set through the Money Laundering (Jersey) Order 2008 (the "**Money Laundering Order**").
- 2.6 Jersey's defences are also dependent upon the work of the Commission, JFCU, and Law Officers' Department, and on each of these agencies continuing to work closely together.
  - 2.6.1 The Commission is responsible for overseeing compliance by persons carrying on financial services business with the obligations that are set out in the legislation referred to above and also in Codes of Practice that are issued under the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008. The Commission has recently formed a specialist compliance unit (the "**AML Unit**") - which is charged initially with monitoring compliance with legislation and Codes of Practice by money service businesses, lawyers, accountants, estate agents, and high value goods dealers. The AML Unit will also support the Commission's Supervision Divisions which are responsible for oversight of businesses that are prudentially supervised by the Commission (except money service businesses).
  - 2.6.2 The JFCU is responsible for receiving, analysing, and disseminating reports that are made under the legislation that is referred to above. The JFCU also has responsibility for the compilation of confiscation reports, specifically for drug trafficking offences, that are later presented to the Royal Court.
  - 2.6.3 Both the JFCU and the Law Officers' Department are responsible for the investigation of money laundering and terrorist financing. Whilst the Law Officers' Department has

responsibility for the investigation of serious or complex fraud, both agencies work closely together in furtherance of such investigations.

2.6.4 The Attorney General is head of the Law Officers' Department which is responsible for the prosecution of money laundering, terrorist financing, and serious or complex fraud.

2.7 The Strategy Group is a high level forum that brings together relevant agencies and government to ensure that the highest priority is given to the prevention and detection of money laundering and terrorist financing. In particular, the Strategy Group is responsible for:

2.7.1 the coordination of policy development;

2.7.2 discussing improvements to, and the effectiveness of, the modus operandi of each of its members; and

2.7.3 more general liaison with the Council of Ministers on money laundering and terrorist financing matters.

2.8 The Strategy Group is committed to recommending legislation to the States of Jersey for adoption that is in line with international standards.

2.9 The Strategy Group also notes:

2.9.1 The Commission's commitment to monitoring compliance by persons carrying on financial services business with legislation and Codes of Practice, and taking regulatory action where there has been failure to comply.

2.9.2 The JFCU's commitment to disseminating information - that is collected in reports that are made by persons carrying on financial services business - outside Jersey and investigating money laundering and terrorist financing where it is appropriate to do so.

2.9.3 The Attorney General's commitment to prosecute money launderers and those who finance terrorism - where it is appropriate to do so.

2.9.4 The importance of each of the above agencies working closely together so that the framework that is in place to prevent and detect money laundering and terrorist financing operates in a way that is effective.

2.10 In order to meet these commitments, the Strategy Group recognises that it is important for the Commission, JFCU, and the Law Officers' Department to have sufficient resources available to them.

2.11 Accordingly, the Strategy Group will continue to liaise with government in order to provide for such resources to be available.

## 3 Key vulnerabilities and goals

- 3.1 This section sets out the key vulnerabilities that the Strategy Group considers are **currently** faced in the Island. It is likely that these vulnerabilities will also be present in other jurisdictions.
- 3.2 For each vulnerability that has been identified, there is a goal, and, for each goal, a number of actions to be taken towards achieving the goal. In a number of cases a multi-agency approach will be needed.
- 3.3 Whilst it has to be recognised that any strategy necessarily has to be ongoing, the aim is that the action points set out herein should be accomplished within three years, at which point a comprehensive fresh review of the vulnerabilities faced by the Island will be carried out and a revised strategy document prepared.
- 3.4 The Strategy Group will, however, carry out an annual review of the vulnerabilities and goals identified in this document, the purpose of which will be to assess the progress that has been made against each action point and an assessment of the effectiveness of the action taken. Where the effectiveness of the action taken towards achieving a goal is less than expected, the Strategy Group will discuss the implementation of corrective or additional measures.
- 3.5 In addition, should it become clear that the Island faces a significant vulnerability(ies) that is not addressed by this strategy document, the Strategy Group will take action as necessary - if need be - by revising the goals and action points set out herein. Inter alia, significant vulnerabilities may be highlighted by:
  - 3.5.1 members of the Strategy Group;
  - 3.5.2 feedback that is received from trade bodies and associations; and
  - 3.5.3 typologies that are published by international bodies such as the Financial Action Task Force (the "FATF").
- 3.6 Whilst this is the first time that vulnerabilities that have been identified have been recorded and presented in a formal document, historically, the Island has been very proactive in identifying and addressing vulnerabilities. For example, trust and company service providers have been subject to requirements set out in the Money Laundering Order since 1999, and a mechanism to oversee compliance with those obligations has been in place since 2002 - both ahead of most other jurisdictions. This partly reflects the size and importance of this sector in Jersey, but also the risk that companies and trusts might be used in money laundering or terrorist financing.
- 3.7 There are also more recent examples:
  - 3.7.1 Jersey finds that is often requested to assist with the investigation of insider dealing and market manipulation that is carried on outside Jersey, but where evidence is held here. It was highlighted that legislation in this area had fallen behind the international "norm" and that this might act to limit the co-operation that could be provided and the

Island's response has been to overhaul legislation that deals with insider dealing and market abuse.

3.7.2 As the number of jurisdictions that permit assets to be forfeited through a civil process (in addition to a criminal process) increases, there was some concern that Jersey might be viewed as being unco-operative if it was not able to provide evidence for use in civil proceedings or to recognise overseas civil forfeiture orders. The Island's response to this has been to introduce new legislation that will allow the Island to assist other jurisdictions with civil asset forfeiture.

3.7.3 The overall effectiveness of systems and control to prevent and detect money laundering and terrorist financing in the "traditional" financial sector has encouraged criminals to seek alternative ways of laundering the proceeds of crime. The Island's response has been to regulate bureaux de change and money transmitters under the Financial Services (Jersey) Law 1998 (the "**Financial Services Law**"), and to add business activities to Schedule 2 of the Proceeds of Crime Law, including activities of the legal and accounting professions.

3.7.4 Customer due diligence to be conducted by persons carrying on financial services business has been enhanced. Measures now deal with the additional risk that is presented when establishing a business relationship or conducting a one-off transaction where the customer is not physically present (which is common in international finance centres such as Jersey), and more explicitly with persons and arrangements where there is separation of beneficial ownership of assets from legal ownership (again a common feature in international finance centres).

3.8 The goals are set out in an annex to the strategy document. They are to:

3.8.1 Raise awareness of obligations that are set out in legislation and Codes of Practice in those sectors considered to have lower awareness.

3.8.2 Raise awareness of typologies that are relevant to Jersey including the risks arising from the nature of the customer base and products associated with Jersey as an international finance centre.

3.8.3 Raise awareness of the importance of considering the competence and probity of employees at the time of recruitment and on an ongoing basis thereafter. For example, there is evidence to show that some applicants for employment provide false information in order to secure employment.

## 4 Work in progress

- 4.1 Given that threats and international standards are constantly changing, an element of the action that is taken by the Strategy Group will always be “work in progress”.
- 4.2 At the time of preparing this strategy, two areas have been identified where legislation has only recently been adopted. Both are concerned, in particular, with the prevention and detection of terrorist financing.
  - 4.3 The first is the registration of non-profit organizations under the Non-Profit Organizations (Jersey) Law 2008, which came into force on 8 August 2008. Whilst there is no evidence to suggest that NPOs in Jersey are assisting or being used to assist terrorism, only limited information is available on the size and nature of the NPO sector in Jersey. As information is received under the NPO Law (and also through the Financial Services Law), the Commission will:
    - 4.3.1 Develop a picture of the size and nature of the sector, and risks that may be presented.
    - 4.3.2 Identify NPOs that may be more vulnerable to use in terrorist financing, and work with such NPOs to reduce that vulnerability.
  - 4.4 The second is a change to the Customs and Excise (Jersey) Law 1999 that will allow Customs’ officers to require any person that is entering or leaving Jersey to disclose whether or not they are carrying cash of €10,000 or more. At the time that this power becomes available, consideration will be given to the FATF’s “International Best Practices” paper for Special Recommendation IX - with a view to implementing the recommendations set out therein.
  - 4.5 The introduction of provisions regulating cross-border physical cash transfers will allow the Island’s authorities to respond to intelligence that “tainted cash” is being brought into or taken out of the Island. This will be particularly important if the effect of increased oversight of money service business activities is to encourage physical cash transfers.
  - 4.6 The Strategy Group will periodically monitor work that is in progress.



# 5 Annex

<p><b>Goal 1:</b></p> <p><b>RAISE AWARENESS OF STATUTORY OBLIGATIONS IN THOSE SECTORS CONSIDERED TO HAVE LOWER AWARENESS</b></p>
<p><b>Vulnerabilities:</b></p> <p>Sections within a number of business sectors - in particular smaller less well-resourced businesses - are considered to have an inadequate awareness of obligations under legislation to counter money laundering and terrorist financing (“AML/CFT”), particularly where those obligations have been introduced only very recently.</p> <p>The legislative framework is carefully designed to ensure that persons carrying on financial services business (and those employed by such persons) play their part in the global fight against money laundering and terrorist financing. An inadequate knowledge of statutory obligations will hamper the Island’s AML/CFT efforts.</p>
<p><b>Action points:</b></p> <ol style="list-style-type: none"><li>1. The Commission will issue Codes of Practice (through handbooks) that cover the legal sector, accounting sector, and estate agents and high-value goods dealers, and provide training thereon.</li><li>2. The Commission will add additional sector specific guidance to the AML/CFT Handbook for Regulated Financial Services Businesses. This will include sections dealing with fund products and trust company business.</li><li>3. The Commission’s AML Unit, in conjunction with the JFCU, will run a programme to raise awareness of obligations, including:<ul style="list-style-type: none"><li>▪ meeting periodically with industry bodies;</li><li>▪ assessing particular knowledge gaps through questionnaires;</li><li>▪ publishing an aide-memoire to summarise statutory requirements;</li><li>▪ visiting the largest and highest risk businesses that have failed to make any, or a surprisingly low number of, suspicious activity reports (“SARs”); and</li><li>▪ using post-inspection reports to reinforce statutory requirements.</li></ul></li></ol> <p><b>Measurement of effectiveness:</b></p> <ol style="list-style-type: none"><li>a) An increase in the number of SARs that are properly submitted by businesses in sectors which, historically, have submitted a disproportionately low number of reports.</li><li>b) A healthy number of reports from sectors that have only recently become subject to statutory requirements.</li><li>c) Weaknesses identified in on-site inspections are addressed promptly and successfully.</li></ol>

**Goal 2:****RAISE AWARENESS OF MONEY LAUNDERING AND TERRORIST FINANCING TYPOLOGIES THAT ARE RELEVANT TO JERSEY****Vulnerabilities:**

Sections within a number of business sectors - in particular, smaller less well-resourced firms - are considered to have an inadequate awareness of the money laundering and terrorist financing risks inherent in: the services or products that they provide; the type of customer/client involved; how the service or product is delivered; and, where the service or product is delivered to.

Potentially, this heightens the risk that such businesses may be targeted by money launderers or terrorist financiers and that businesses may not identify their involvement in money laundering or terrorist financing. This can hamper Island AML/CFT efforts.

**Action points:**

1. The Commission's AML Unit, with assistance from the JFCU and Customs, will produce and publish a booklet on typologies, for use as a training aid by Island businesses that are subject to the Money Laundering Order. The booklet will focus on those typologies that are most relevant to Jersey - as garnered from local prosecutions, intelligence, and co-operation with enquiries and requests from other jurisdictions. The booklet will highlight those typologies associated with the predicate crimes that the Island is considered especially vulnerable to, including: drug trafficking; fraud (including fiscal fraud); corruption; and insider dealing.
2. The Commission's AML Unit, in conjunction with the JFCU, will run a programme to raise awareness of risks that are faced by the finance sector, including:
  - meeting periodically with industry bodies;
  - assessing particular knowledge gaps through questionnaires; and
  - visiting the largest and highest risk businesses that have failed to make any, or a surprisingly low number of, SARs.

**Measurement of effectiveness:**

- a) An increase in the number of SARs that are properly submitted by businesses in sectors which, historically, have submitted a disproportionately low number of reports.
- b) The provision of additional typologies in the proposed booklet (post publication), reflecting greater awareness of risks that are inherent in the financial sector.

**Goal 3:****RAISE AWARENESS OF THE IMPORTANCE OF CONSIDERING THE COMPETENCE AND PROBITY OF EMPLOYEES****Vulnerabilities:**

A business' systems and controls to prevent and detect money laundering and terrorist financing - and consequently the Island's AML/CFT efforts - may be compromised where employees:

- do not have the competence or skills that they claim to have; or
- deliberately do not adhere to policies and procedures and/or AML/CFT obligations.

The latter might occur where an employee is put under pressure by a criminal (for example, where a drug-using employee is being blackmailed by his/her drug supplier) or where an employee is strategically placed in a business by a criminal (for example, where an employer is known by the criminal fraternity to have slack vetting procedures).

**Action points:**

1. The Strategy Group is to promote an amendment to the Money Laundering Order to require a person carrying on a financial services business to have in place adequate screening procedures to apply high standards at the time of staff recruitment and on an ongoing basis thereafter.
2. The Commission's AML Unit will survey local businesses' recruitment techniques with a view to publishing an aide-memoire on vetting that will describe current 'best practice'.
3. The Commission will encourage businesses to develop or review: existing drug use strategies; and internal communication provisions, so that unusual staff activity might not pass unreported to management.

**Measurement of effectiveness:**

- a) The application of consistent and effective recruitment procedures to deal with the screening of potential employees.
- b) The application of internal communication provisions that encourage staff to report unusual behaviour at work.