



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 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 Money Laundering Order and also in Codes of Practice that are issued under the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008. The Commission has formed a specialist compliance unit (the "**AML Unit**") - which is charged with monitoring compliance with legislation and Codes of Practice by money service businesses, lawyers, accountants, estate agents lenders, and high value goods dealers. The AML Unit also supports 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

Methodology

- 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 strategy document, including the vulnerabilities and goals identified in the document, the purpose of which will be to:
 - 3.4.1 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.
 - 3.4.2 Ensure that the document remains current and relevant.
- 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 When the first Island Strategy to counter Money Laundering and the Financing of Terrorism was published in October 2008 it was the first time that vulnerabilities had been identified, 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 controls 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).

Vulnerabilities and goals

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 issues involved in dealing with higher risk jurisdictions.
- 3.9 It will be noted that Goal 3 “Raise awareness of the importance of considering the issues involved in dealing with higher risk jurisdictions” has replaced the original Goal 3, “Raise awareness of the importance of considering the competence and probity of employees”.
- 3.10 Members of the AML/CFT Strategy Group, in particular the Commission and the JFCU, have expended significant resources to address this original goal since it was first published

in 2008. There have been a number of high-profile criminal prosecutions leading to convictions of people employed in the financial sector who have falsely claimed educational qualifications that they did not attain. Further, the Goal had been the focus of concerted work by the Commission on its supervision and outreach programmes, to ensure that the perceived vulnerabilities highlighted by the Goal were identified and mitigated by the use of effective systems and controls at such businesses.

- 3.11 Analysis of the results of these supervision programmes has revealed that there is now a tangible awareness in all parts of the financial sector of the importance of assessing competence and financial probity, which is reflected in the policies and procedures seen and tested during supervision visits.
- 3.12 Such analysis affords some comfort that this vulnerability has now been effectively addressed and it is considered that one other vulnerability that has become apparent requires more urgent action.
- 3.13 This vulnerability has emerged in the current economic climate and follows on from an increasing tendency of persons carrying on financial services business to seek business in new markets, which often includes jurisdictions that are considered to present higher money laundering and terrorist financing risks. Risks may be higher, for example, where beneficial owners and controllers of customers are connected to higher risk jurisdictions or where a customer conducts activities in such a jurisdiction.
- 3.14 Such vulnerabilities may be exacerbated for a variety of reasons. These may include, for example, a lack of specialist resources or insufficiently developed systems and controls to deal with additional risks.
- 3.15 It cannot be stressed too highly, however, that higher risk jurisdictions should not necessarily be avoided by persons carrying on financial services business. Appropriate risk management systems and controls may adequately mitigate the inherent risks involved in such business, but must be documented and regularly reviewed in order to determine their effectiveness.
- 3.16 In line with the AML/CFT Handbook for Regulated Financial Services Businesses (and other handbooks), such risks must be identified through a business risk assessment (“**BRA**”), and addressed through appropriate strategies, and adequate systems and controls (including policies and procedures).

International sanctions

- 3.17 One other vulnerability identified by the Strategy Group but which is outside the scope of its remit, is the implementation in Jersey, and awareness of, international sanctions. It was felt that there was considerable scope for offering more effective industry guidance, improving cooperation between members of the Strategy Group, and improving the interface between these agencies and industry.
- 3.18 As a result, the Commission has launched a comprehensive sanctions website, which may be found at www.jerseyfsc.org/the_commission/sanctions/index.asp.

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 were identified where legislation had only recently been adopted. Both were concerned, in particular, with the prevention and detection of terrorist financing.
- 4.3 The first was the registration of non-profit organizations under the Non-Profit Organizations (Jersey) Law 2008, which came into force on 8 August 2008. Whilst there was no evidence to suggest that NPOs in Jersey were assisting or being used to assist terrorism, only limited information was available on the size and nature of the NPO sector in Jersey. As a result of information received under the NPO Law (and also through the Financial Services Law), the Commission was able to:
 - 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, with a view to working with such NPOs to reduce that vulnerability.
- 4.4 In January 2010, the Commission’s AML Unit submitted a memorandum to the AML/CFT Strategy Group outlining the risk assessments conducted on the 569 NPOs registered by the Commission and the 1,081 “regulated” NPOs, i.e. those NPOs administered by persons carrying on financial services business under the Financial Services Law.
 - 4.4.1 The risk assessment sought to ensure that those operating the NPO had enough information to be satisfied:
 - 4.4.1.1 where the funds raised originated; and
 - 4.4.1.2 the ultimate destination of the funds disbursed.
- 4.5 The NPO sector will continue to be monitored, but as a result of the work that has been conducted, NPOs are not currently regarded as an area of significant vulnerability.
- 4.6 The second was a change to the Customs and Excise (Jersey) Law 1999 to 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. The introduction of provisions regulating cross-border physical cash transfers allows the Island’s authorities to respond to intelligence that “tainted cash” is being brought into or taken out of the Island.
- 4.7 To date, a number of cash seizures have been made. Structured risk-testing exercises have also been conducted which suggest that the Jersey disclosure system is effective and appropriate to the Island.
- 4.8 The current system has been implemented with due consideration to the recommendations made in the FATF’s International Best Practices paper for Special Recommendation IX. This

will be particularly important if the effect of increased oversight of money service business activities is to encourage physical cash transfers.

- 4.9 Having bedded in, both areas are no longer felt to be “work in progress”.
- 4.10 Readers should note that the Terrorism (United Nations Measures) (Channel Islands) Order 2001, which includes provisions on the freezing of terrorist assets, was replaced by the [Terrorist Asset Freezing \(Jersey\) Law 2011](#) on 1 April 2011. The effect of this Law is that any person subject to an asset freeze under equivalent terrorist legislation in the UK or EU will automatically be so designated in Jersey.
- 4.11 Another piece of relevant legislation due to be placed before the States of Jersey for debate this year will be the Money Laundering and Weapons Development (Directions) (Jersey) Law 201-.
- 4.12 The Commission is also working on guidance to Industry on weapons proliferation, a subject which is receiving increasing international attention.

5 Annex

<p>Goal 1:</p> <p>RAISE AWARENESS OF STATUTORY OBLIGATIONS IN THOSE SECTORS CONSIDERED TO HAVE LOWER AWARENESS</p>
<p>Vulnerabilities:</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 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>Action points:</p> <ol style="list-style-type: none"> 1. The Commission has issued Codes of Practice (through handbooks) that cover the legal sector, accounting sector, and estate agents and high-value goods dealers, and provided training thereon. Such Codes of Practice will be periodically updated to reflect changes in legislation, regulatory practice and feedback from industry. 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 fund services businesses. 3. The Commission’s AML Unit, in conjunction with the JFCU, will continue run a programme to raise awareness of obligations, including: <ul style="list-style-type: none"> ▪ meeting periodically with industry bodies; ▪ assessing particular knowledge gaps though questionnaires; ▪ using post-inspection reports to reinforce statutory requirements, and ▪ visiting the largest and highest risk businesses that have failed to make any, or a surprisingly low number of suspicious activity reports <p>Measurement of effectiveness:</p> <ol style="list-style-type: none"> 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) A healthy number of reports from sectors that have only recently become subject to statutory requirements. c) Weaknesses identified in on-site inspections are addressed promptly and successfully.

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, has produced and published a booklet on typologies, for use as a training aid by Island businesses that are subject to the Money Laundering Order. The booklet focuses 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 and will be updated as necessary. The booklet highlights 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; 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 ISSUES INVOLVED IN DEALING WITH HIGHER RISK JURISDICTIONS****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 persons carrying on financial services business do not properly factor in the need for specialist resources or additional systems and controls (including policies and procedures) to deal with the risks that are inherent when:

- beneficial owners and controllers of customers are connected to higher risk jurisdictions;
- a customer conducts activities in such a jurisdiction.

Persons carrying on financial services business may be tempted to take on such business (without being properly equipped to do so when substantial fees and commissions are available).

Action points:

1. The Commission has amended its licensing policies (under the Banking Business (Jersey) Law 1991, Insurance Business (Jersey) Law 1996, and the Financial Services Law) to reflect the importance that it attaches (at the time of application and thereafter on an ongoing basis) to systems and controls (including policies and procedures) to deal with the risks that are inherent when dealing with higher risk jurisdictions.
2. The Commission will provide additional guidance in its Codes of Practice (handbooks) to facilitate the identification of higher risk jurisdictions and measures to be taken to effectively mitigate identified risks.

Measurement of effectiveness:

- a) The application of consistent and effective systems and controls to identify and mitigate risks involved in dealing with higher risk jurisdictions without unnecessarily limiting new business opportunities.