



Government of  
**JERSEY**



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**MEMORANDUM OF UNDERSTANDING**

**between**

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**The Chief Minister of Jersey**

**and**

**The States of Jersey Police;**

**The Attorney General of Jersey;**

**The Jersey Financial Services Commission**

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**The Investigation and Prosecution of Financial Crime in Jersey**

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**December 2017**

Memorandum of Understanding  
The Investigation and Prosecution of Financial Crime in Jersey

**1 Recitals**

The States of Jersey Police Force (the “SOJP”) is the police force of the Island of Jersey established with responsibility for policing the island of Jersey and providing a critical service to the criminal justice system of the Island.

The SOJP houses the Joint Financial Crimes Unit (the “JFCU”) whose main purpose is to combat economic crime in Jersey, including fraud, money laundering and terrorist financing. The JFCU has three core functions:

- i) The Islands’ Financial Intelligence Unit (“FIU”),
- ii) Financial Crime Investigations, and
- iii) Asset Recovery (including drug trafficking confiscations by officers of Jersey Customs and Immigration Service).

The Attorney General is responsible for criminal prosecutions in Jersey and the Law Officers’ Department act as legal advisers to the Government of Jersey.

The Jersey Financial Services Commission (the “Commission”) is the Island’s financial services regulator and is established under Article 2 of the Financial Services Commission (Jersey) Law 1998 (the “Law”) as a body corporate with perpetual succession. By virtue of Article 7 of the Law, in exercising its functions the Commission is required to have particular regard to the need to counter financial crime both in Jersey and elsewhere.

All of the parties to this agreement are critical parties to the commitment of the Government of Jersey to the international effort to combat financial crime in all of its forms. Together these parties will be referred to as the “Financial Crime Agencies”

**2 Purpose of this Memorandum of Understanding**

The Government of Jersey has an absolute commitment to the international effort to combat financial crime in all of its forms. In order to fulfil this commitment, the Government must ensure that relevant authorities in Jersey continue to have appropriate resources and funding to investigate and prosecute financial crime linked to Jersey in all of its forms.

The Chief Minister, on behalf of the Government of Jersey, wishes to enter into this Memorandum of Understanding with the Chief of Police, the Attorney General and the Chairman of the Commission to clarify certain matters concerning the investigation and prosecution of financial crime in Jersey.

In 2016 MONEYVAL<sup>1</sup> published a report<sup>2</sup> on the compliance of Jersey with the 2003 Recommendations of the Financial Action Task Force (the “FATF”)<sup>3</sup> That report contained

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<sup>1</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>2</sup><http://www.coe.int/t/dghl/monitoring/moneyval/Evaluations/round4/MONEYVAL%282015%2917-Jersey.pdf>

<sup>3</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.

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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.

This Memorandum of Understanding details the considerations of the insular authorities in relation to financial crime investigation and prosecution.

The matters considered and covered in this Memorandum of Understanding are:

- Level of resource allocated for investigation and prosecution of financial crime
- Review of resource allocated for investigation and prosecution of financial crime
- Restrictions on resource allocated for investigation and prosecution of financial crime
- Review of Effectiveness of financial crime investigation and prosecution
- Domestic capacity building concerning financial crime investigation and prosecution

**3 Level of Resource allocated for investigation and prosecution of financial crime & Review of resource allocated for investigation and prosecution of financial crime**

The Chief Minister has considered in detail the resource committed from Government funding for financial crime investigation and prosecution up until the end of 2016. This has involved a detailed analysis of resource allocated to the States of Jersey Police and the Law Officers' Department for financial crime investigation and prosecution. Equally, whilst not funded by Government, the Government have considered with the Jersey Financial Services Commission the resource allocated within the regulator in relation to the prevention of financial crime.

The Chief Minister acknowledges that there has not been a significant review of resource allocation in this area since 2009 and that a more regular process of review needs to occur in an area where resourcing requirements may change with relatively short notice.

The Chief Minister has therefore determined, after consultation with the Minister for Treasury and Resources, that there is required to be an immediate resource increase in the States of Jersey Police and the Law Officers' Department for financial crime investigation and prosecution. The exact resource increase is detailed at Schedule 1 to this Memorandum of Understanding.

In addition to the initial resource increase, which is to be effective from 2017, there is to be a mechanism established to provide for a more regular review of resource allocation or financial crime investigation and prosecution.

The Chief Minister has determined that a standing Government working group should be established to review the resource allocated to financial crime investigation and prosecution and fulfil other functions as outlined in this Memorandum of Understanding. The Financial Crime Enforcement Government Oversight Group ("FCE-GOG") shall consist of representatives of the following Government departments:

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- The Chief Minister's Department
- The Treasury and Resources Department
- The Community and Constitutional Affairs Department

The Financial Crime Agencies will be members of FCE-GOG for the purposes of reporting on matters concerning financial crime investigation and prosecution.

FCE-GOG shall receive reports at quarterly meetings on the effectiveness of the resource allocated to financial crime investigation and prosecution in the Financial Crime Agencies.

On an annual basis, FCE-GOG shall receive a report that will be presented to Ministers on the overall effectiveness of the current resource allocated to financial crime investigation and prosecution and any proposal for amendments to that resource allocation.

The Chief Minister confirms that any proposals to amend resource requirements for financial crime investigation and prosecution will be considered as a high priority by the Government of Jersey. FCE-GOG shall ensure that current resource allocation and any additional resource proposal that is put forward is included in the Government of Jersey's normal financial planning process.

The intention of the new process is to ensure a more pragmatic model of resource allocation is adopted across the Financial Crime Enforcement 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.

**4 Restrictions on resource allocated for investigation and prosecution of financial crime**

The parties to this Memorandum of Understanding acknowledged that in an island community the size of Jersey it is important to have law enforcement and prosecution authorities that are flexible and can adapt to deal with a variety of situations. Equally, as an International Finance Centre with a commitment to the international effort to combat financial crime in all of its forms, Jersey must deploy the resource allocated at all times to ensure financial crime can be adequately investigated and prosecuted.

The Chief Minister acknowledges that the States of Jersey Police operate a rotational shift pattern which is considered to be important to keep general policing skills active amongst the police. It is acknowledged that this may cause short-term temporary abstractions from officers in the Joint Financial Crimes Unit.

It was equally acknowledged that in the past, longer term officer abstractions had taken place where there was a need to ensure resource could be available at short notice in another part of the States of Jersey Police.

It is acknowledged by all parties to this Memorandum of Understanding that the importance of not impairing Jersey's ability to investigate and prosecute financial crime is paramount.

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It is therefore agreed by the parties that whilst short-term abstractions from the Joint Financial Crimes Unit may occur on the basis of a rotational shift pattern, any long-term abstractions should only occur in the event of a "national emergency". Should abstractions of this nature occur, FCE-GOG should be informed at the earliest possible time after such time as an abstraction takes place so as to consider the resource implications for Jersey.

It is equally acknowledged by the parties to the Memorandum of Understanding that the resourcing in the Law Officers' Department for prosecution of financial crime matters has, in the past, not been accounted for separately to the whole department. It is accepted by the parties that the resourcing of the Law Officers' Department for prosecution of financial crime will now be accounted for separately to FCE-GOG. The Law Officers' Department is committed to ensuring that the Island has sufficient resources in the area of prosecution to ensure the island's commitment to the international effort to combat financial crime in all of its forms.

In fulfilling the commitment of the Attorney General, it is acknowledged that the Attorney General as head of the Law Officers' Department may look to establish dedicated resource to fulfil this commitment inside the Law Officers' Department. In establishing this dedicated resource, the Attorney General commits to discussing the possibility of secondments, resource sharing or placements with the other Financial Crime Agencies and other appropriate bodies.

**5 Review of Effectiveness of Financial Crime Investigation and Prosecution**

It is acknowledged by the parties to this Memorandum of Understanding that to ensure the commitment of Jersey to the international effort to combat financial crime in all of its forms, greater focus on the effectiveness of the Financial Crime Agencies investigating and prosecuting financial crime is required.

It is equally acknowledged that there is an important distinction between 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 investigate and prosecute financial crime. All parties acknowledge that this important barrier should not be compromised.

It is agreed that at all quarterly meetings of FCE-GOG there will be an agreed form of reporting by the Financial Crime Agencies to the Government representatives on the current effectiveness of financial crime investigation and prosecution in Jersey. This reporting will include only that level of operational detail on ongoing matters necessary to facilitate an assessment of the adequacy of resources thus critically maintaining respect for the important distinction between the JFSC's role in respect of investigating regulatory breaches, operational investigation and prosecution of financial crime cases, and the role of the Government in ensuring appropriate resource allocation. The focus of the reporting will be to ensure that resource levels are appropriate and effectively used.

It is equally acknowledged that the Chief of Police, the Attorney General and the Director General of the JFSC should attend alternate meeting of the FCE-GOG or as regularly as determined by the Chair to ensure representation at the most senior level, reflecting the importance of this commitment to the parties.

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**6 Domestic Capacity Building concerning financial crime investigation and prosecution**

The parties to this Memorandum of Understanding recognise that more can be done to build domestic capacity and capability inside the Financial Crime Agencies so that the island has a long-term solution for resourcing the investigation and prosecution of financial crime.

The Government requests that the Financial Crime Agencies give consideration and bring forward regular reports to FCE-GOG on how Jersey can ensure that the island develop a long-term resourcing and training programme for financial crime investigation and prosecution. It is acknowledged that reports on this area will consider education, training, career-progression and external support to develop a domestic source of expert resource in financial crime investigation and prosecution.

**7 Amendments to this Memorandum of Understanding**

This Memorandum of Understanding may be amended by the agreement, in writing, of all of the Parties to this agreement.

This Memorandum of Understanding will be reviewed annually to ensure it remains fit for purpose.

**8 Effective date**

This Memorandum of Understanding will be effective from the date of its signing by all of the parties to this Memorandum of Understanding.

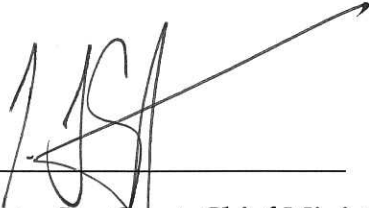
**9 Publishing this Memorandum of Understanding**

The Government and/or the parties to this Memorandum of Understanding will make a copy of this Memorandum of Understanding, or the text of it, publicly available.

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Executed by the parties:

**The Chief Minister**



Senator Ian Gorst, Chief Minister

Date: 19<sup>th</sup> Dec 2017.

**The States of Jersey Police**



Rob Bastable, Chief Officer

Date: JULIAN GLAZIER SCD  
7/2/18

**Attorney General**



Robert MacRae QC, Attorney General

Date: 7/7/18

**Jersey Financial Services Commission**



Lord Eatwell, Chairman

Date: 18 Dec 2017

