



Economic Crime and Confiscation Unit (“ECCU”)

Joint Financial Crimes Unit Operations (“OPs”)

Joint Financial Crimes Unit Financial Intelligence Unit (“FIU”)

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 in July 2017, an ECCU was formed within the LOD.
- 1.2. Hitherto OPs has been the sole investigatory agency in the Island charged with this responsibility working closely with and supported by the LOD. With the establishment of ECCU, this is 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 team working.
- 1.4. Given that this is new territory for the LOD and OPs, 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 is the vital importance of this area of work, which takes into consideration the Island’s National Risk Assessment on Money Laundering released on 30 September 2020 and the Island’s National Risk Assessment on Terrorist Financing scheduled for release in the first half of 2021.

2. Criteria for ECCU case adoption

- 2.1. The following features are not intended to be prescriptive as all investigations require an element of flexibility. Cases will be adopted by the ECCU having regard to the following non-exhaustive factors (the list below is not hierarchical):
 - i. Cases involving a foreign predicate offence where there is a link to a Jersey individual or entity;

- ii. Cases where an individual or entity is not resident in Jersey but predicate offending in another jurisdiction has a link to Jersey;
- iii. Prospects for significant civil forfeiture under the Forfeiture of Assets (Civil Proceedings) (Jersey) Law 2018;
- iv. Prospects for significant conviction-based confiscation;
- v. Quantum of an alleged fraud, and/or money laundering;
- vi. Breaches of the Money Laundering Order 2008, where the conduct involves the risk of money laundering or facilitation of the same;
- vii. Complexity and/or seriousness of the alleged offending;
- viii. Risk of significant damage to the reputation and integrity of the Island;
- ix. 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 civil forfeiture cannot be disregarded, care must be taken to ensure that this does not unduly influence decision-making at the expense of other public and victim interests.

3. Case consideration process

- 3.1. The LOD, Ops, FIU and Jersey Financial Services Commission (“JFSC”) work closely in a tripartite arrangement, at an operational level. This arrangement is considered essential to maximise effectiveness and efficiency. ECCU representation is included as an essential partner in the Island’s operational response to combatting financial crime within the LOD representation at such forums.
- 3.2. For cases which potentially involve all three agencies, reference should be made to the agreed Terms of Reference for tripartite meetings held between the LOD, the JFSC, FIU and OPs in terms of identifying the most appropriately placed lead agency. That process has a case take on criteria and procedure that will assist decision making for the initial scoping and determining of the best placed agency for each investigation. It is however accepted that occasionally there will be a need for an agency to act alone-quickly-in order to preserve evidence or disrupt the occurrence of imminent criminality. So far as is reasonably practicable, the agency so acting will inform participants in the tripartite process that such action is necessary.
- 3.3. A reasonably detailed intelligence profile with supporting underlying documentation (where available), will support any investigation and assist in establishing proper operational parameters (this is challenging in the very early stages of an investigation, but important). Such a profile will be submitted to the participants in

the tripartite process. It will be discussed between all three agencies to ensure adoption by any one of them is appropriate.

- 3.4. There will likely be cases in this field where evidence is still emerging and/or the underlying facts are particularly complex. Funding and resourcing will need to remain a key consideration during the initial stages of this type of case. In novel or particularly complex matters the support of all agencies may be necessary and this again, should be discussed and agreed in advance.
- 3.5. Notwithstanding the above arrangements concerning the scope of the tripartite process, the ECCU and OPs are free to develop its own relationships with other law enforcement agencies. Where the ECCU or OPs is informed directly of criminality within Jersey it will take all necessary steps to determine whether the matter warrants investigation or referral to any relevant agency in the Island. The ECCU and OPs will keep relevant agencies informed of significant developments in its cases to ensure consistency of approach.
- 3.6. A decision taken to commence investigation must be recorded. The secretariat will maintain a record of cases considered for investigation which will identify the lead agency for each case.

4 Financial Intelligence Unit (“FIU”) interface

- 4.1 The FIU is the national centre for the receipt and analysis of suspicious activity reports and other intelligence/information relevant to money laundering, associated predicate offences and terrorist financing, and for the dissemination of the results of that analysis.
- 4.2 There is an efficient and effective interface between OPs, ECCU and the FIU. This must be maintained. OPS and ECCU teams do not have direct access to intelligence systems. However, requests for assistance (“RFA”) are common practice to assist with ongoing investigations. See also paragraph 4.3 below. Work is ongoing to create an updated intelligence database. This will improve access to intelligence for both agencies in the future.
- 4.3 Article 34(1) of the Proceeds of Crime (Jersey) Law 1999 provides for the FIU to share information arising from suspicious activity reporting with the Attorney General, there is no legal impediment to the ECCU having access to such information. The Attorney General has also provided specific consent to “authorised persons” within ECCU to receive information gathered under Article 33 of the Proceeds of Crime (Jersey) Law 1999 for the purpose of proceedings, investigations and applications under the Forfeiture of Assets (Civil Proceedings) (Jersey) Law 2018.

- 4.4 A firewall between intelligence and operational matters must be maintained. This is to comply with international FIU standards (e.g. Egmont requirements) and to maintain consistency with national and local intelligence dissemination practices (inclusive of handling codes). When the contents of SARs are disclosed to the ECCU and OPs it shall be disseminated in accordance with the National Intelligence Report guidelines. Provided the appropriate safeguards are in place there is no obstacle to intelligence sharing between the FIU and prosecutors relevant to investigations and to ensure compliance disclosure obligations.
- 4.5 An intelligence officer from the FIU shall be allocated to each ECCU and OPs investigation to ensure that intelligence is disseminated on a timely and accurate basis, and to ensure that all intelligence of potential relevance is duly assessed for dissemination.
- 4.6 The FIU database (IFIS) contains other information in addition to that arising from local SARs for example, RFAs from other FIUs, and “miscellaneous” reporting. In the same way that the FIU place necessary handling restrictions on intelligence disseminated overseas, external FIUs will do similarly. Although, it is recognised that there may be moderate delay in obtaining consent from the originating agency (i.e. overseas FIU) before the FIU is able to further disseminate intelligence to OPs and ECCU.

5 Case management systems

- 5.1 Careful consideration should be given to adopting a common IT system across ECCU, OPs and FIU. This will take place as part of an ongoing review of IT across the LOD and SOJP and recognises the importance Immediate Outcome 7 of the FATF recommendations and immediate outcomes framework.

6 Mutual support

- 6.1 Both the ECCU, OPs and FIU must collaborate in the spirit of one overall team with the same overriding objectives.
- 6.2 There will undoubtedly be occasions where short term demands exceed operational capacity. For example, when several warrants are to be executed or a large quantity of exhibits and statements has been generated by an investigation.
- 6.3 Each team should 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 joint-working. Where possible, the extent of such support should be agreed in advance.
- 6.4 Legal advice may be necessary on an urgent basis. OPs and FIU should, in the first instance, seek advice from the two LOD legal advisers based at Police Headquarters. However, there is no impediment to contacting ECCU legal

advisers at Morier House where the matter is related to ECCU work. Where legal advice is sought in these circumstances, steps should be taken to record in writing the advice requested including an accurate list of underlying documentation and a clear description of the issues to be considered.

7 Provision and rotation of Financial Investigators “FIs”

- 7.1 As part of the ECCU funding provided by the Government, provision has been made for two SOJP FIs. They have been recruited by SOJP over and above its establishment levels.
- 7.2 There are at present two investigators within the ECCU. The capability of the FIs should be at a sufficient level to allow immediate immersion in ECCU cases. Accordingly, these FIs should have an established financial investigation background. It is intended that deployment will be in the form of suitably experienced FIs recruited by SOJP locally and/or from the UK.
- 7.3 There is however recognition of the value in mutual support, sharing experience, working in different investigative environments and a need for development of investigators. Opportunities will be identified in exposing FIs to different aspects of financial crime investigation structure through working within and alongside colleagues in the FIU, OPs and ECCU. Increasing the capability and experience of investigators is just as crucial as increasing capacity.
- 7.4 The line management within ECCU will cater for day to day supervision of the two FIs and the ongoing performance and review (PRA, development and welfare) shall remain with the Detective Inspector within OPs. Regular meetings between management teams will further support this position.

8 Governance

- 8.1 The activity and results of OPs should be reported when necessary and according to the Memorandum of Understanding made between the Attorney General, the SOJP, the JFSC and the Government of Jersey. The ECCU, when necessary, will similarly provide general information on its activity to the Government. The form and manner in which the ECCU provides information is a matter solely for the Attorney General.
- 8.2 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. Correlation of reporting where cases have a joint nexus, or where multiple agencies have contributed to an investigation, should form part of outcome reporting.

8.3 The Attorney General and Chief Officer SOJP may, when necessary, convene meetings in order to discuss working relationships between ECCU, OPs and FIU. Such meetings may also be attended by the Superintendent Crime Services (SOJP), Director of the Criminal Division (LOD) together with ECCU, OPs and FIU leads.

9 Review

9.1 This Operational Protocol may be amended at any time but should be reviewed on an annual basis.



Signed:.....

Mark Temple QC
HM Attorney General

Date: 15 March 2021



Signed:.....

Detective Superintendent Stewart Gull
Designated Deputy Chief Officer
Head of Crime Services
States of Jersey Police

Date: 13 April 2021