

## Think piece

# Money laundering rules are unfair

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## Table of Contents

<b>Summary</b> .....	1
<b>Introduction</b> .....	2
<b>How suspicious activity reports really work</b> .....	2
<b>How other jurisdictions handle this issue</b> .....	3
<b>Jersey's position: no time limits</b> .....	3
<b>A long-standing issue that has not been addressed</b> .....	4
<b>Competitiveness starts at home</b> .....	6
<b>The structural conflict: a note of caution</b> .....	6
<b>Fair rules underpin competitiveness more than anything else</b> .....	7
<b>Sources and further information</b> .....	7
<b>Biographical note</b> .....	7

## Summary

Jersey's financial services sector accounts for 40% of the Island's economy and a higher proportion of tax receipts. Ministers are keen to make the industry more competitive.

As in other jurisdictions, financial institutions in Jersey are required to file suspicious activity reports (SARs) where there is a suspicion that transactions could be involved with money laundering or terrorist financing. The bar for reporting a SAR is very low.

In most jurisdictions the authorities have a limited time period in which to respond and take action or the transaction can proceed. In Jersey, there are no time limits, so the effect can be that transactions are frozen indefinitely without the customer being told why or having any means of redress.

If Jersey is to be seen internationally as trusted, dependable and fair, then the rules governing SAR consent must reflect those values. It is hard to promote Jersey as a place of certainty with such uncertainty.

Reforming this area of law requires political leadership, but currently the Law Officers simultaneously act as the Government's legal advisers, the Island's principal prosecutors, and often the authorities responsible for investigation decisions arising from SARs.

Guernsey operates a similar practice to Jersey and given that financial institutions operate across both islands there is scope for them to work together to resolve the position.

## Introduction

The Government wants to make financial services more competitive, but Jersey has a significant problem in its anti-money laundering regime which needs attention.

Jersey's financial services sector accounts for 40% of the Island's economy and a higher proportion of tax receipts. Ministers have made clear their intention to promote the industry more visibly, enter new markets and ensure Jersey remains an attractive place for international investment. These are sensible ambitions. But promotion abroad will be effective only if the Island's rules are fair, proportionate, and aligned with international expectations. In one important area of Jersey's anti-money laundering framework, that balance is significantly skewed.

The issue is what happens after a Suspicious Activity Report (SAR) is filed. This sounds technical, but it has significant real-world consequences for individuals, businesses and Jersey's reputation.

## How suspicious activity reports really work

Every country is obliged by international standards to have a mechanism for reporting financial activity that might *potentially* be linked to crime, and Jersey is no exception.

But what may be less well understood is how low the threshold for filing a SAR may actually be. A SAR does not require proof, or even strong indications, of wrongdoing. A concern can arise from something as banal as a basic Google search, an automated screening alert, or a minor discrepancy triggering an internal query. Different firms take different approaches to risk, with some being significantly more cautious than others. The result is that SARs can be filed on minimal grounds.

Once a SAR is submitted, the bank or regulated business will almost always freeze the account or halt the transaction in question. The customer is not told why and legally cannot be told. This is, in principle, a vital safeguard against “tipping off” potential criminals. The real problem is not the reporting itself, but the absence in Jersey of fair and time-bound rules on what happens next.

### **How other jurisdictions handle this issue**

In the United Kingdom, authorities must respond within seven working days. If consent to carry out the activity or transaction is refused, the authorities have a further 31 days to investigate and decide whether to apply for a court-monitored freezing order. If nothing happens within that period, the freeze ends automatically. This model obliges investigators to act quickly and provides clarity to customers and institutions. It also means that investigations need to be carried out in a timely manner.

Switzerland, another major international finance centre, imposes even tighter controls. When a report is made to the Swiss Financial Intelligence Unit, a bank may maintain a freeze only for five working days unless law-enforcement intervenes. If no order is made within that time, the freeze is lifted automatically.

Across the European Union, the direction of travel is similar. Under EU rules governing freezing and confiscation, authorities must take urgent action within as little as 48 hours, and formal decisions must generally be taken within 45 days. These models differ in detail but reflect a shared principle that strong anti-money laundering regimes must be matched by clear deadlines and proper judicial oversight.

### **Jersey's position: no time limits**

Jersey takes a different approach, which makes it an international outlier. Under current law (the Money Laundering (Jersey) Order 2008), once a SAR is filed there is no statutory timeframe for the authorities to respond. There is no seven-day window, no 31-day period, no requirement to seek a court order, and no automatic review. In practice, this can mean that people are unable to access their own money for months or even years, without explanation or recourse. Their only option to challenge the situation is Judicial Review, a costly and complex process that most cannot reasonably pursue. Guernsey and Hong Kong are similar outliers.

For a jurisdiction that promotes itself as predictable, well-governed, and anchored in the rule of law, this is an uncomfortable and increasingly damaging inconsistency.

Although confidentiality rules mean that details of individual cases rarely emerge, anecdotal accounts from lawyers and industry professionals suggest that many clients, both local and international, have found themselves unable to access their funds for extended periods. Some have simply moved their business elsewhere, concluding that Jersey is not a safe and predictable jurisdiction for their assets.

Finance is built on confidence and trust. Once the perception takes hold that Jersey can freeze assets indefinitely based on minimal suspicion, confidence can erode quickly.

### **A long-standing issue that has not been addressed**

This is not a new problem. Successive governments have been made aware of the issue for decades, yet the regime remains unchanged.

No one disputes that Jersey must maintain robust defences against financial crime. This is a core part of its business offering. But robust does not mean indefinite without remedy. A system that allows freezes without judicial involvement and which can be triggered by a suspicion formed on the basis of an algorithmic alert is difficult to justify. The same robustness which is afforded to law enforcement to deal with criminals needs to be afforded to ordinary clients where no criminality is at play.

There is a further concern. Without time limits, how can anyone be confident that cases are being progressed in a timely manner? Very few money-laundering matters have reached the Royal Court in recent years. Jersey's 2024 MONEYVAL report underlined this concern, finding that the Island produces significant financial intelligence but secures comparatively few money-laundering prosecutions or court-supervised outcomes. If so few cases reach prosecution or formal freezing orders, there is a legitimate question about what is happening to the many cases that appear to be stuck in limbo. A system without time limits risks drift, and drift is not an effective tool against crime.

Jersey's Royal Court has itself criticised the indefinite informal freeze. In a 2007 Judgment (Chief Officer States of Jersey Police v Minwalla [\[2007\] JCR 137](#)) it said –

This is clearly capable of causing great hardship and unfairness. There may never be a prosecution, yet the bank may retain its suspicion. The result may be that a person, against whom no criminal charges have been brought and where there lies only a

suspicion, finds his assets informally frozen without there even having been any court order to achieve this. Furthermore, the freezing of the account may continue for an indefinite period.

It is hard to reconcile this situation with the carefully structured protections provided in respect of a saisie, which are clearly intended to ensure that funds are not frozen indefinitely or for an unreasonably long period in the absence of criminal charges. The potential injustice of the situation was recognised in the United Kingdom where the relevant legislation was amended in 2002 so as to provide that the police have seven days from the STR in which to respond. If no response is given they are deemed to have consented to the bank dealing with funds in question. If they respond within the seven days and refuse consent, they have a further thirty one days in which to apply for a restraint order (the equivalent of a saisie). If they have taken no such action at the expiry of thirty one days after their refusal of consent, the bank may safely proceed.

However, no such amendment to the 1999 Law has been made and we must therefore wrestle with the resulting difficulties."

The Court commented that the amended UK legislation struck a fair balance between the competing interests and concluded -

we would urge that immediate consideration be given to introducing amendments similar to those which have been introduced in the UK.

Similarly, Guernsey judges have criticized indefinite freezes as potentially disproportionate (Garnet Investments Ltd v Chief Officer of the Guernsey Police).

## **Human rights considerations**

Jersey's practice also potentially infringes property rights under Article 1 of Protocol 1 to the European Convention on Human Rights –

Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

Similarly, Article 6 (right to a fair trial) might be relevant if individuals lack effective recourse beyond a costly judicial review, and Article 8 (right to privacy) could apply to undisclosed freezes affecting personal finances.

## Competitiveness starts at home

This issue is now even more pressing given the Government's renewed focus on promoting Jersey's financial services sector internationally.

On 24 November 2025, at the Government of Jersey's Financial Services Competitiveness Event attended by a large room of industry professionals and many more watching online, the Minister for External Relations and Financial Services laid out the Island's ambitions. He highlighted that the sector contributes around £3 billion a year to the economy, supports more than 14,000 jobs, and provides nearly 40% of Government revenue. He emphasised that "the financial world is changing rapidly and it is essential that Jersey changes with it." A new Competitiveness Programme, concierge support for incoming business, and increased international engagement were all presented as ways to keep Jersey ahead.

Whether those steps are capable of moving the needle regarding Jersey's competitiveness remains to be seen. It might be better in the first instance for Government to focus its limited resources on rectifying this decade-old issue where a person's assets can be frozen indefinitely, with no clear route to challenge the decision.

If Jersey is to be seen internationally as trusted, dependable and fair, then the rules governing SAR consent must reflect those values. It is hard to promote Jersey as a place of certainty while tolerating such uncertainty.

## The structural conflict: a note of caution

Reforming this area of law requires clear political leadership. Jersey also faces a distinctive constitutional issue. The Law Officers, the Attorney General and the Solicitor General, simultaneously act as the Government's legal advisers, the Island's principal prosecutors, and often the authorities responsible for investigation decisions arising from SARs.

This combination inevitably creates the appearance of a conflict of interest, even where individuals act with complete professionalism. It would be unreasonable to expect those who advise the Government and lead prosecutions to provide impartial recommendations on whether their own powers should be curtailed or restructured. The Government must therefore be cautious not to rely solely on the Law Officers' views when considering reform. Allowing this structural overlap to shape policy risks undermining public confidence and complicating what is already a sensitive situation for Jersey.

Only an independent, politically led process, informed by international best practice and the needs of the wider economy, can deliver meaningful change.

## Fair rules underpin competitiveness more than anything else

If Jersey wants to enhance its competitiveness and grow its financial services sector, it must begin with fair, proportionate, and credible rules for its customers. A regime that allows individuals to be denied access to their own assets indefinitely, without review or oversight, does not meet that standard, particularly where decisions are made where legal advisers and prosecutors share the same office.

As a final thought, our sister Island of Guernsey has the same issue. In an area where both Islands have historically been considered international leaders, this could be an area for joint working where a solution for the problem could be found pan-island. This would surely be welcomed by the many financial services businesses that have presence in both islands to ensure consistency.

Competitiveness is not achieved through promotional campaigns alone. It begins with credibility, fairness, and sound governance. Restoring balance in this part of Jersey's anti-money laundering framework is not just desirable, it is essential for the Island's future as a trusted international finance centre.

## Sources and further information

William Redgrave. [Indefinite Informal Asset Freezes – The Beginning of the End?](#) Baker & Partners, Briefing, 2022.

## Biographical note

Sir Mark Boleat is Senior Adviser to the Policy Centre Jersey. He has undertaken consultancy projects for the Government of Jersey on housing, consumer protection, immigration, financial resilience and Island identity, and for clients in the UK and internationally on housing finance and the development of public policy. He has written several books and numerous papers on public policy in Jersey, the UK and globally. He has held senior positions in Jersey (Chair of Andium Homes, the Jersey Development Company and the Jersey Competition Regulatory Authority) and the UK (Chair of Link Scheme Ltd and the International Business and Diplomatic Exchange, Political Leader of the City of London and Chief Executive of the Building societies Association, the Council of Mortgage Lenders and the Association of British Insurers).