

**WRITTEN QUESTION TO H.M. ATTORNEY GENERAL
BY DEPUTY M.R. HIGGINS OF ST. HELIER
QUESTION SUBMITTED ON MONDAY 15th MARCH 2021
ANSWER TO BE TABLED ON MONDAY 22nd MARCH 2021**

Question

Will H.M. Attorney General –

- (a) advise how fraud cases involving financial services entities and individuals are investigated and prosecuted by the Law Officers' Department and set out the legal roles of the States of Jersey Police and of the Jersey Financial Services Commission (from a regulatory perspective) in such cases, and how these processes have changed (if at all) over the last ten years; and
- (b) state the name, date and nature of fraud cases involving financial service entities and individuals prosecuted over the last 10 years and their outcome, including (if known) any regulatory action or sanctions taken against them by the Commission?

Answer

- a) The Attorney General has statutory investigatory powers in respect of cases of serious or complex fraud under the Investigation of Fraud (Jersey) Law 1991 which grants special compulsory powers to require persons (including businesses and banks) to provide documents and answer relevant questions including those in relation to confidential matters. Moreover since October 2017 a specialised Economic Crime and Confiscation Unit has existed within the Law Officers' Department, carrying out investigations of serious financial crime, money laundering, terrorism financing, failings of systems and controls in regulated financial institutions under the Money Laundering (Jersey) Order 2008, and civil asset forfeiture (including in cases where there is insufficient evidence to prosecute a criminal offence) under the new Forfeiture of Assets (Civil Proceedings) (Jersey) Law 2018. The Unit consists of legal advisers, a forensic accountant and at least one Detective Sergeant of the States of Jersey Police on secondment. An operating protocol agreed between the Attorney General and the Police sets out the relationship between the agencies and the criteria for cases to be adopted by the Unit which includes fraud cases involving financial services entities and individuals.

The Jersey Financial Services Commission is an independent agency established under the Financial Services Commission (Jersey) Law 1998. Its role is described on its website as reducing the risk to the public of losses caused by financial service providers and enhancing Jersey's integrity and international reputation (inter alia). Its statutory responsibilities include supervising compliance by financial institutions and certain designated non-financial businesses and members of professions fixed with statutory anti-money laundering duties. The Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008 provides the Commission with powers including to conduct investigations and on-site examinations, require the production of information and documents, enter and search premises when so authorised, and do anything that is conducive to the performance of its supervisory functions under that Law. The Commission also has a range of powers to sanction poor conduct. These include powers to: revoke or apply a condition to an entity's registration; issue a direction to carry out or desist from carrying out an act, including holding certain types of employment; issue a public statement in a variety of circumstances; and apply to the Royal Court for an injunction or other intervention. Finally, since amendment of the 1998 Law in 2015 the Commission has had the power to impose a civil financial penalty on certain types of business for significant and material breaches of the Commission's Codes of Practice, and in 2018 this power was extended to allow financial penalties to be levied on individuals ("principal persons") involved in any such contravention.

Notwithstanding their independence from one another, the above agencies enjoy a productive working relationship. They meet at least monthly in a “Tripartite” arrangement to discuss strategic issues, learning opportunities, and potential investigations. Since 2019 representatives of each agency have met on a weekly basis to identify matters collaboratively that might be investigated by one or other agency.

b) The following is a summary taken from the published judgments of the Royal Court in the cases that concern “fraud cases involving financial service entities and individuals prosecuted over the last 10 years”. It does not include other kinds of financial crime, or investigations which were discontinued before reaching court, or acquittals or cases conducted entirely in the Magistrates court. As many of the interventions applied by the Commission are not done publicly, it has not been possible to say what action or sanction has been carried out by the Commission in these cases.

Year of Case	Offences	Defendants	Outcome	Details
2012	Fraudulent inducement to invest money/Fraudulent inducement to lend money	John Tasker Lewis, Ian Michael Christmas, Russell Philip Foot and James Cameron	Convicted after assize trial, 4 years six months imprisonment for each Defendant. Disqualified from holding directorships etc on Attorney General’s application	Lewis, Foot and Cameron were regulated independent financial advisers. Christmas was an assistant Magistrate. They set out to speculate in the US residential property but found that their properties were costing more in maintenance than they were generating in rental income. They met the shortfall by falsely promising victims that their funds would be used to acquire identified properties. In fact the new investors funds were absorbed by pressing liabilities.
2014	Larceny/Fraud/Aiding assisting or participating in larceny	Wayne Garraway (& Fiona Kay Hamon)	Guilty pleas. Garraway convicted of 4 years six months imprisonment on all counts. Disqualified from holding directorships etc on Attorney General’s application.	The proprietor of a small accountancy business, whilst under investigation in relation to other offending, defrauded a sum of money from a dentist to whom he was providing services by pretending that he had incurred court costs in chasing bad debtors.
2018	Fraudulent inducement to invest money/Providing false information to the JFSC/Carrying on an unauthorised financial services business/failing to comply with a forthwith notice	Christopher Paul Byrne	Convicted after assize trial. 7 years’ imprisonment. Disqualified from holding directorships etc on Attorney	A Jersey financial adviser gave misleading investment advice to Jersey residents, including selling high risk investments as low/medium risk to retail investors some of whom were vulnerable. He also failed to disclose that he was personally interested in the investment fund.

Year of Case	Offences	Defendants	Outcome	Details
			General's application.	
2018	Fraud/Fraudulent Conversion/Falsification of Accounts	Richard David Arthur	Guilty plea. Sentenced to 7 years imprisonment. Disqualified from holding directorships etc on Attorney General's application	A Jersey accountant who defrauded rich but elderly individuals in his capacity as financial advisor/accountant/managing director of an accountancy firm.