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ESSENTIAL INTELLIGENCE:

Fraud, Asset Tracing & Recovery

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EXPERT ANALYSIS CHAPTERS

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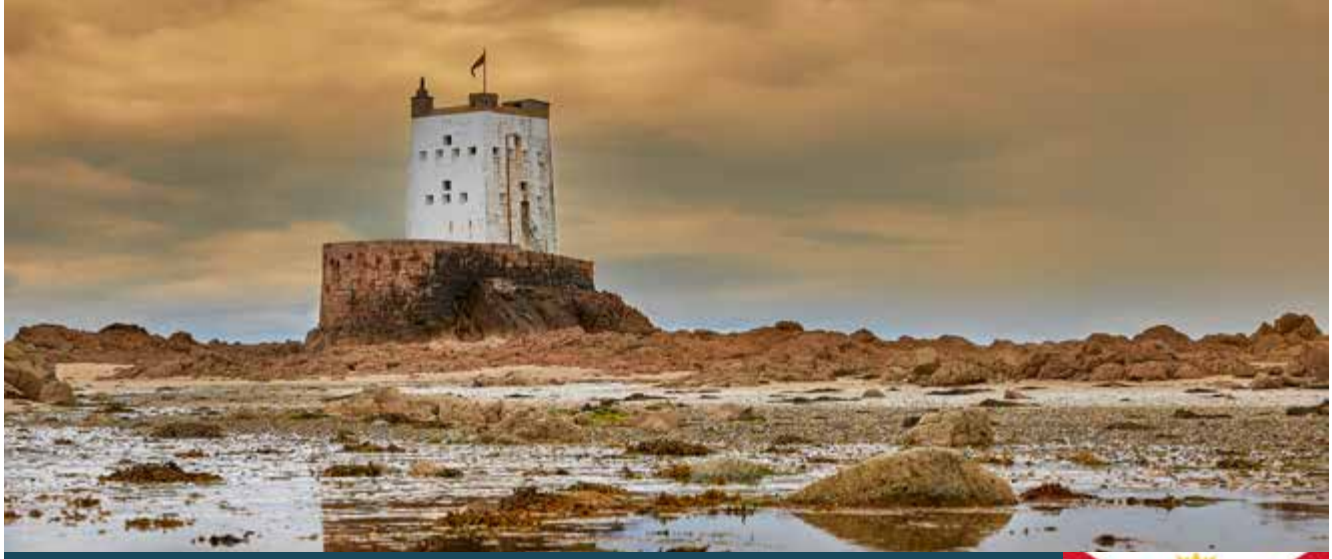

Jersey

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I Executive summary

Jersey is a well-developed offshore financial services centre, jealously proud of its international whitelisting and scrupulous to avoid becoming a treasure island into which fraudulent proceeds may be buried. Its historic independence from the UK and English law, but receptiveness to its influence, allows it judiciously to adopt, adapt and advance appropriate remedies despite a lack of historical domestic precedent for them, including to freeze assets and yield up information from its well-regulated financial services sector.

II Important legal framework and statutory underpinnings to fraud, asset tracing and recovery schemes

Jersey's legal system is a hybrid, characterised by little statutory provision but with a receptive and adaptive approach to rules and remedies fashioned elsewhere in England and other offshore centres.

Jersey is not part of the UK, but was part of the French Duchy of Normandy which began its close association with the English crown when William of Normandy crossed the Channel to take it. As a result, English law was never formally transplanted into Jersey. Instead, the roots of Jersey law lay historically in the law of the Duchy of Normandy, which was itself heavily influenced by the customary law of northern France. Jersey formally split from Normandy in 1204 and, as an island, proceeded to develop its own insular law and institutions, including its own courts (now the Royal Court) and legislature (the States). It continued to look closely to Norman law as its principal influence, including Norman law writers of the 16th and 17th centuries.

Such writers remain authoritative, not least given the dearth of local written sources, as reasoned judgments were not given until the late 20th Century and the only truly local sources are two Island legal writers of the 17th century and one of the early 20th century (1940s) – all three still writing in French. The gaps between these writers, insular and peninsular, were filled (such as Manx "breast law") by the know-how carried in the heads of the Island's advocates – limited to six in number – as to the practice of the Royal Court, giving the Island a truly customary as opposed to written law.

Jersey's modern legal framework underpinning fraud, asset tracing and recovery cases has evolved from this background under the particular impetus of two important phases. First, in the aftermath of the Second World War, French ceased to be the language of legal practice, and the Royal Court was reorganised into its modern shape by the Royal Court (Jersey) Law 1947. Secondly, in the 1980s, Jersey began its modern development as an international finance centre: by this time,

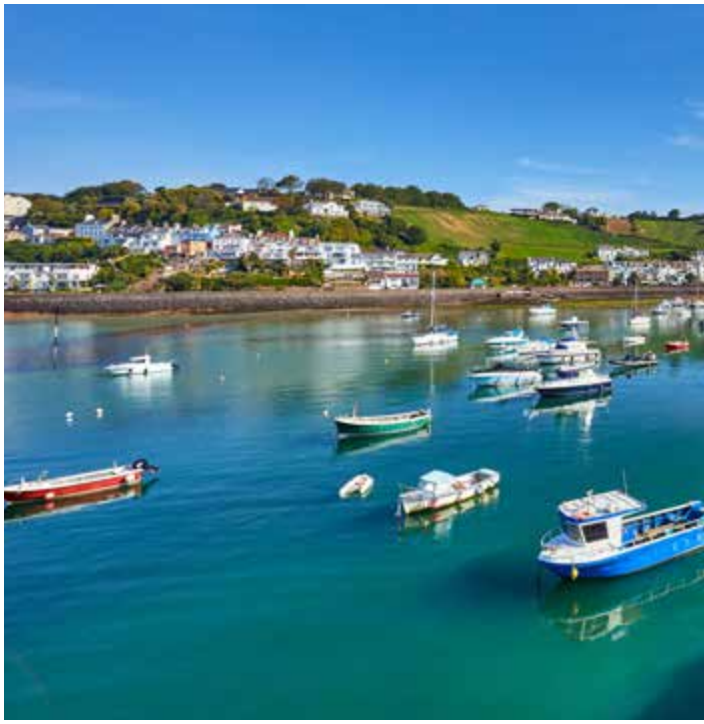
the last vestiges of French training of any advocates and thus judiciary had all but disappeared. As a result, the Royal Court and Jersey law began to resemble and adopt English approaches to issues, while retaining some characteristic procedures, the most important of which, in fraud and asset tracing cases, relate to the method of commencing proceedings and procedure for *ex parte* injunctions, described further below.

The Royal Court (Jersey) Law 1947 provides for the constitution of the Royal Court. It is presided over by a judge – the Bailiff, Deputy Bailiff or a Commissioner. Also sitting with the judge are (typically) two jurats, a characteristically Channel Island office. The jurats are permanent lay appointees to the court who rotate – as do the judges – between different matters. In addition to presiding over proceedings, the judge is the judge of law, including procedure and costs. The jurats are the judges of fact, damages and (in criminal matters) decide the sentence: if they are split, the presiding judge has a casting vote.

The Royal Court Rules 2004 ("RCR") are the current rules of civil procedure governing civil court processes. Unlike other English-speaking offshore centres, Jersey has not adopted the UK Civil Procedure Rules 1998 ("CPR") or rules based on them wholesale, although an overriding objective and revised summary judgment procedure were both introduced in 2017. Nor are the RCR a comprehensive procedural code. Instead, the RCR has reorganised the Jersey procedural approach by grafting certain English procedural approaches onto (now largely forgotten) traditional Jersey approaches, together with Jersey-specific provisions. Subject to the 2017 amendments, and judicial receptiveness to modern English CPR case law (even where there is no corresponding RCR), the RCR remain an amalgam of such traditional Jersey provisions, some of the RSC, and some of the CPR, with many gaps to be filled by practice and judicial development.

The Court of Appeal (Jersey) Law 1961 established a Court of Appeal, in place of the appeal within the Royal Court to a larger bench. The Court of Appeal is modelled on the English Court of Appeal and sits in benches of three. It has no permanent judges but draws on a panel of judges from the courts of Jersey, Guernsey and the Isle of Man, in addition to English and Scottish KCs. An appeal to the Court of Appeal is a review, generally on a point of law, and generally as of right from final judgments and with leave from interlocutory orders. Appeal from the Court of Appeal lies to the Privy Council, with leave: it is from Jersey's right of appeal to the Monarch in Council that the wider Judicial Committee of the Privy Council evolved.

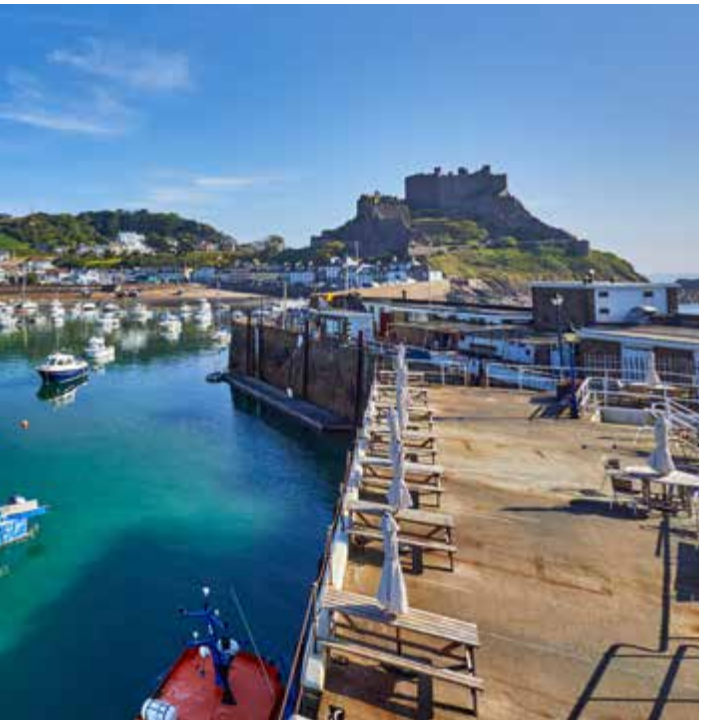
As a result of the above, Jersey's procedure overall resembles the modern English procedure moving through key stages of pleading, discovery, exchange of written witness evidence and trial by the adversarial presentation of cases. It does not have as detailed a code of procedural or substantive law, nor as developed a history of particular remedies and practices. However, it more than makes up for this by being unburdened with certain procedural histories or hidebound orthodoxies (such as the availability of equitable *versus* legal remedies, or jurisdictional limitations on injunctive relief), and has shown itself to be not only receptive but flexible in developing (principally) English remedies to ensure remedies are available for frauds, thus minimising the need for statutory intervention.



Apart from the court itself, the principal statutes of importance to fraud and asset tracing cases are the Financial Services (Jersey) Law 1998 and Proceeds of Crime (Jersey) Law 1999, and regulations and orders enacted under them.

The Financial Services Law is the foundational law for Jersey's regulated financial sector. It is the presence and size of this sector – managing over £1 trillion of assets, with over £1.1 trillion of assets in Jersey trusts, £440.2 billion in Jersey funds, and £131.5 billion on deposit in Jersey banks – which makes Jersey of particular interest as a jurisdiction in fraud and asset tracing cases (see https://www.jerseyfinance.je and https://www.jerseyfsc.org). The Financial Services Law requires financial services businesses to register with the Jersey Financial Services Commission, and the regulatory framework unsurprisingly requires thorough and systematic recordkeeping.

The Proceeds of Crime Law is primarily a criminal statute. It provides for confiscation orders (on sentencing in respect of the benefits of the crimes committed) and *saisies judiciaires* for the interim seizure and ultimate realisation of property in satisfaction of confiscation orders. It also establishes Jersey's Suspicious Activity Report ("SAR") regime and makes it an offence for those engaged in financial services businesses not to report reasonable grounds for suspicion of money laundering. The Money Laundering (Jersey) Order 2008 was promulgated under it. It requires



customer due diligence measures to be taken, to verify customer identities and sources of funds placed with financial services businesses. In 2022, two new provisions in the Proceeds of Crime Law came into force (Amendment No. 5 and No. 7) introducing liability for bodies corporate (specifically, limited liability partnerships, separate limited partnerships and incorporate limited partnerships) and a new offence for a regulated financial services business failing to prevent money laundering by one of its associates.

In addition to their primary preventative functions aimed at criminal conduct, the Proceeds of Crime Law and Money Laundering Order are part of the background against which financial services businesses administering assets in Jersey operate. They can therefore provide important ingredients in civil fraud and recovery claims.

For instance, in *Nolan v Minerva* 2014 (2) JLR 117, the plaintiffs sued a financial services business for dishonestly assisting a fraudster by receiving the money he had defrauded into structures managed by that business. The Royal Court accepted that relevant circumstances in which the defendant's conduct was to be assessed included its obligations under the Financial Services and Proceeds of Crime Laws, extending to reporting and training obligations under the Proceeds of Crime Law, as a result of which regulated financial services businesses should be relatively astute at spotting or looking out for potentially fraudulent conduct.

III Case triage: main stages of fraud, asset tracing and recovery cases

Given Jersey's role as a jurisdiction holding others' assets, most fraud, asset tracing and recovery cases start with urgent applications for injunctions to freeze the assets, and/or further information in respect of them.

As noted above, a characteristic difference in procedure between Jersey and other jurisdictions is the method of commencing proceedings. Historically, all civil pleadings in the Royal Court had to be signed off by the Bailiff: the RCR now expressly provide that advocates may do so where no immediate order is sought.

However, the modern evolution is that proceedings may be commenced by a pleading, called an "*Order of Justice*", which not only pleads the case in the usual way but can also contain interlocutory orders. As a result, fraud cases may be (and usually are) begun by lodging an order of justice for signature with an affidavit, skeleton argument and supporting evidence for an interlocutory application decided not only *ex parte* but also primarily on the papers, with often only a brief, informal appointment (if any) with the applicant's advocate, rather than a fuller (if *ex parte*) hearing.

Further, there tends not to be an interlocutory return date in respect of the application for interim relief; instead, the parties are summoned to a first call in a procedural list (this is the standard procedure, whether the Order of Justice contains interim orders or not) and, if the action is to be defended, it proceeds to be pleaded out in the usual way. It is usually for the defendant to apply for discharge or variation of any injunctions or other orders granted, although this can be done on short (often 24–48 hours') notice to the plaintiff.

The duty of full and frank disclosure applies to *ex parte* applications in Jersey. Given that interlocutory injunctions, including freezing orders, may be ordered without a full *ex parte* or subsequent *inter partes* hearing, the duty is stringently enforced.

Freezing orders

Following English practice, injunctions formerly known as *Mareva* and now as freezing orders are available on similar principles to those of England, whose case law remains important but not followed without question, which can be useful, as noted below.

The basic premise of such an order is that a defendant, or a third party who holds property for the defendant, be restrained from disposing of specific assets or an identifiable class of assets until the plaintiff's claim against them is resolved. It is by nature preservative. In order to obtain a freezing order, a plaintiff must:

i. show that he or she has a good, arguable case on the merits of the substantive action in support of which the order is sought;
ii. make full and frank disclosure of all facts and matters which it is material for the judge (the Bailiff or Deputy Bailiff in chambers) to know;
iii. provide particulars of the claim against the defendant including the grounds for that claim, the amount of that claim and fairly stating the points against that claim;

iv. state the grounds for belief that the defendant has assets within the jurisdiction;
v. explain why there is a risk of dissipation, such risk being more than merely the fact that the defendant resides outside of Jersey; and
vi. give an undertaking in damages.

The Royal Court first adopted this approach in 1985 (*Johnson Matthey Bankers Limited v Ayra Holdings Limited* [1985] JLR 208); it has been followed many times and most recently reaffirmed in (*Cornish v Brelade Bay Limited* [2019] JRC 091).

A "good, arguable case" does not require that a plaintiff show that he or she will inevitably win at trial should it come to that, but merely that there is a substantial question in the dispute to be investigated. A risk of dissipation will be judged objectively and must go beyond merely that there are assets in the jurisdiction which could be dissipated; a plaintiff's expressions of fear that assets will be dissipated, without evidence, are unlikely to persuade the court that a freezing order is justified.

A freezing order cannot, or at least should not, be used to give a plaintiff security for a claim, nor to give it preference over a defendant's other creditors. Accordingly, if the defendant entity is facing insolvency, the matter of a freezing order will need to be approached with care. A freezing order should be understood not to protect a plaintiff's claim (though this is generally an incidental effect) so much as to prevent a defendant from defeating a claim. This is in many cases a distinction without a difference, but it is important to bear in mind that the ordinary rules of insolvency will apply, and a plaintiff cannot expect to receive a preferential claim simply because he or she has litigated to affirm it.

Norwich Pharmacal orders

There are no statutory third party or pre-action disclosure provisions in the RCR or elsewhere in Jersey law that would assist the plaintiff in a fraud or asset tracing case. However, *Norwich Pharmacal* relief, again following and taking its name from the classic English case on the subject, is readily available in Jersey. Given the holding and handling of assets by regulated entities who can be expected to comply with their recordkeeping functions, the remedy has particular potential value where Jersey is engaged as a jurisdiction. To obtain a *Norwich Pharmacal* order, a plaintiff must demonstrate that:

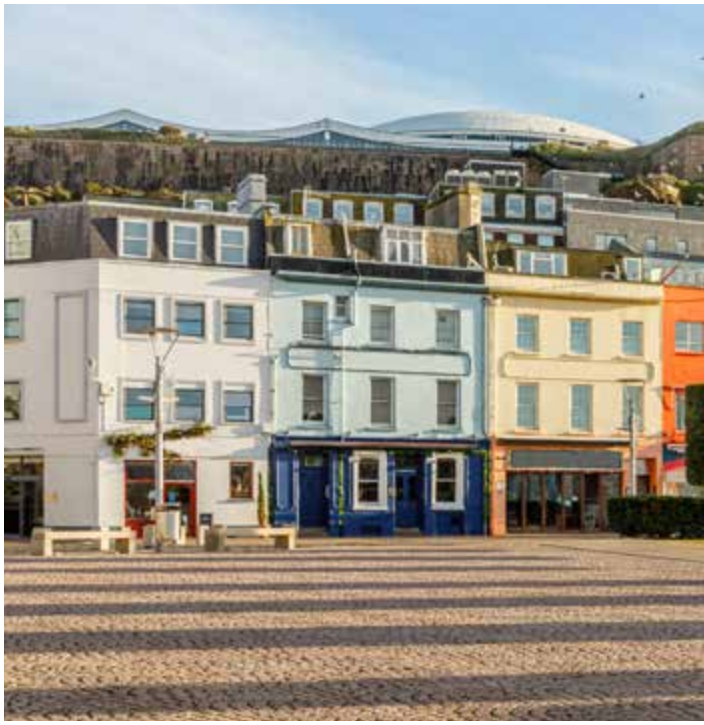
I. there is a good arguable case that the plaintiff is the victim of wrongdoing;
II. there is a reasonable suspicion that the third party, albeit innocently or otherwise, was mixed up in that wrongdoing; and
III. it is in the interests of justice to order the third party to make disclosure.

Again, as with a freezing order, a "good, arguable case" does not require an air of inevitability surrounding a plaintiff's case. The second leg of the test, that there be a "reasonable suspicion" that the third party was involved in the wrongdoing, is deliberately less stringent a test than is a "good, arguable case".

Whether or not disclosure is in the interests of justice is highly dependent on the facts of a given case, and is essentially a balancing of interests by the court. In general, most cases will involve considering the purpose for which the order is sought and the necessity of granting the plaintiff the relief sought. The range of purposes for which a *Norwich Pharmacal* order might be granted are wide, though the courts have made it clear that it should not be used as a substitute for or extension of the ordinary process of discovery during litigation, and certainly not as a means of widening the ambit of discovery when proceedings are taking place in a foreign jurisdiction.

That such an order should only be granted where it is necessary is not generally interpreted to be a very strict threshold. A plaintiff does not need to show that there is literally no other way for him or her to obtain the documents or information he or she seeks, but if there is a practical way for the plaintiff to obtain the same without the order, that will be a factor which weighs in favour of declining the plaintiff's application therefor.

Norwich Pharmacal orders are a routine part of Jersey law, and of a piece with its desire to avoid Jersey becoming a safe haven. They are often used prior to substantive proceedings, and in appropriate cases often at the same time as a freezing order, and similarly are available to assist the formulation of a claim in proceedings outside Jersey. In cases where a *Norwich Pharmacal* order is directed to a third party which is not in league with the fraudster, such as a regulated financial services business, they usefully provide information while provoking a less hostile response than is traditional in litigation, as those institutions are generally concerned only with ensuring that the scope of their obligations under any given order is clear and unequivocal.



Search and seizure *Anton Piller* orders

Search and seizure orders – again, following English practice, being the renamed *Anton Piller* orders – are available in Jersey to allow those who obtain them to enter and search a defendant's premises in order to inspect and even seize documents and other material evidence. However, while freezing orders and *Norwich Pharmacal* orders are considered extreme remedies in law, in practice they are readily available, and given the high assurance that regulated financial services businesses will comply, they generally provide adequate protection and information to the plaintiff.

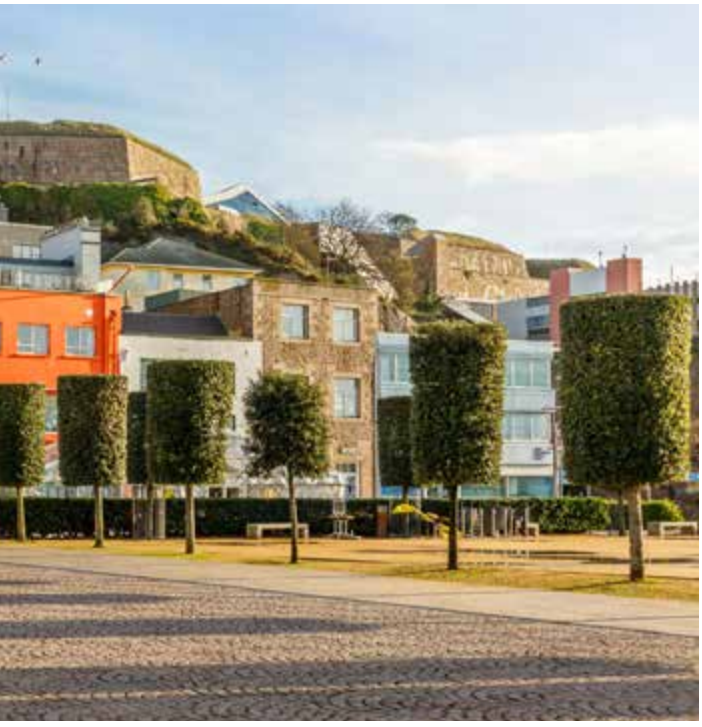
Search and seizure orders are therefore extremely rare and practically unheard of in Jersey, although they are available (see e.g. *Nautech Services v CSS Limited* 2013 (1) JLR 462 (a trade secrets case), and the court has issued a practice direction regarding the availability and form of such orders). As they so obviously interfere with a defendant's privacy and property, such relief is an extreme exercise of the court's jurisdiction and thus they are not granted lightly.

These orders are generally only used when there is a material risk that the defendant has evidence which will be destroyed or otherwise put beyond the reach of the plaintiff, and that allowing such a thing to happen would cause a material injustice to the plaintiff in arguing his or her case.

The court will only grant an order if:

- the plaintiff has an extremely strong *prima facie* case;
- the potential damage to the plaintiff will be very serious; and
- the evidence that the defendant has in his or her possession is very strong.

The above test is clearly framed to be a very high threshold. Whether or not it will be appropriate to grant such an order is highly specific to the facts and circumstances of any given case. The typical use of such an order, if there is such a thing, is to obtain files, hard drives and phones held by the defendant so that the plaintiff may take copies of the information and data stored therein before returning the originals to the defendant, so that the plaintiff has the necessary evidence on hand to prove his or her case before the court.



The above is a description of the orders most likely to be in contemplation when a plaintiff complains of being the victim of a fraud, but it is by no means an exhaustive list of the relief available to a plaintiff in any particular circumstances.

Orders granted *ex parte* usually only become effective once the defendant or other party to whom the order is addressed has been given effective notice. Plaintiffs should thus consider the means by which such an order is to be served, as it is often the case that defendants are located outside of Jersey, and it is thus necessary to seek the court's agreement to the means by which it is proposed that the orders be served.

Another important consideration is that any documents or information obtained in such orders generally come with the implied undertaking that a plaintiff will not use them for any other purpose than in the litigation to which they specifically relate. As such, if it is intended that any documents recovered in Jersey would be used in any current or future proceedings in a foreign jurisdiction, consideration should be given to obtaining the court's permission to do so from the outset, as this will generally be necessary to avoid breaching this implied (and sometimes explicit) obligation.

IV Parallel proceedings: a combined civil and criminal approach

Where a fraud that gives rise to a claim by a plaintiff has occurred, it will generally be in contemplation that a crime has also occurred. As such, there is always the prospect that there will be parallel criminal and civil proceedings in respect of the actions of the fraudster.

In Jersey, the prosecution of crime is the responsibility of the Attorney-General, assisted by the Crown Advocates and the Law Officers' Department. Although the Attorney-General may take the views of an alleged victim into account in deciding whether or not to prosecute an alleged crime, a victim can neither insist upon nor veto a prosecution.

Le criminal tient le civil en état is a maxim of Jersey law that usually means that on a given set of facts, a criminal prosecution should be allowed to take its course before civil proceedings are tried. This does not prevent a plaintiff from initiating proceedings, especially where it is necessary to do so in order to avoid a claim prescribing; nor does it prevent a plaintiff from obtaining interlocutory relief such as is described above where the relevant legal tests are met.

Under Jersey law, a conviction in a criminal claim generally requires proof beyond reasonable doubt,

whereas proof in a civil claim is normally only on the balance of probabilities. It follows that civil proceedings which rely on a set of facts that have secured a conviction will almost inevitably succeed. As such, having obtained the necessary interlocutory relief, a plaintiff in a civil fraud may find it easier to simply allow a fraudster to be prosecuted and convicted of his or her crime and then seek summary judgment, rather than having to do anything so laborious as proving its claim.

V Key challenges

As elsewhere, the principal challenge for Jersey is that in an increasingly globalised world, frauds and movement of assets will be increasingly international and digitised. Jersey will likely be only part of the whole piece. This is not unfamiliar, however, in that Jersey firms and its court are often engaged as part of a larger recovery effort internationally. However, while remedies will continue to be fashioned to evolve as frauds do, the methods of commission and camouflaging of fraudulent activity will also evolve and necessarily be one step ahead of such pursuits. The bigger challenge is to obtain sufficient evidence to point to specific accounts or entities, so that appropriate applications can be targeted and made in time.

VI Coping with COVID-19

COVID-19 brought unprecedented challenges to the smooth operation of Jersey's legal system, as it did in many other jurisdictions. However, the courts were quick to introduce mitigating measures, some of which could even be described as beneficial compared to the position prior to the pandemic. Remote hearings via video link became standard procedure, and rules regarding physical presence when swearing an affidavit for use in proceedings were relaxed.

Jersey has been fortunate in the relatively light impact the pandemic has had on the island compared to its peers, and thus almost all public health restrictions which were put in place have been lifted. However, whilst court hearings have reverted to being *in personam*, the Royal Court has taken a much more relaxed view on allowing interested parties outside of the island to attend via video link. Additionally, permission to allow affidavits to be sworn in front of an advocate by video link remains in place. Both of these measures are particularly helpful in cases – such as most cases of fraud – where the parties themselves are not resident in Jersey.

VII Cross-jurisdictional mechanisms: issues and solutions in recent times

As an international financial centre, fraud matters involving Jersey generally have a significant international element. For example, it is often the case that neither the fraud itself took place in Jersey nor are the proceeds actually located on the island but instead are owned in structures which involve Jersey companies and/or trusts, as discussed above. The courts of Jersey are alive to these realities and it can often be the case that the Jersey court's role is limited to offering only ancillary relief to foreign courts. All of the interlocutory orders described above do not require that the substantive proceedings are brought in Jersey, and all can be sought as being ancillary to foreign proceedings.

The Royal Court long ago confirmed that *Mareva*/freezing relief was available from it as an interim protection not only pending trial in Jersey, but also ancillary to actions proceeding in courts in other jurisdictions. In *Solvalub Ltd v Match Investments Ltd* [1996] JLR 361, the Royal Court preferred Lord Nicholls' dissenting speech in *Mercedes-Benz AG. v Leiduck*, [1996] A.C. 284 and held that such injunctions were permissible and available where appropriate.

Ultimately, however, its decision was motivated less by the jurisprudence and more to avoid becoming known as a safe haven for fraudsters and others with liabilities they wished to evade, holding: "*This is exactly the reputation which any financial centre strives to avoid and Jersey so far has avoided with success.*"

As a court of original jurisdiction independent of any English legal history, the Royal Court was free to do so and not trammelled as were the majority in *Mercedes* in respect of Hong Kong legislation or the British Virgin Islands until the Privy Council finally ruled otherwise in *Broad Idea International Ltd v Convoy Collateral Ltd* [2021] UKPC 24.

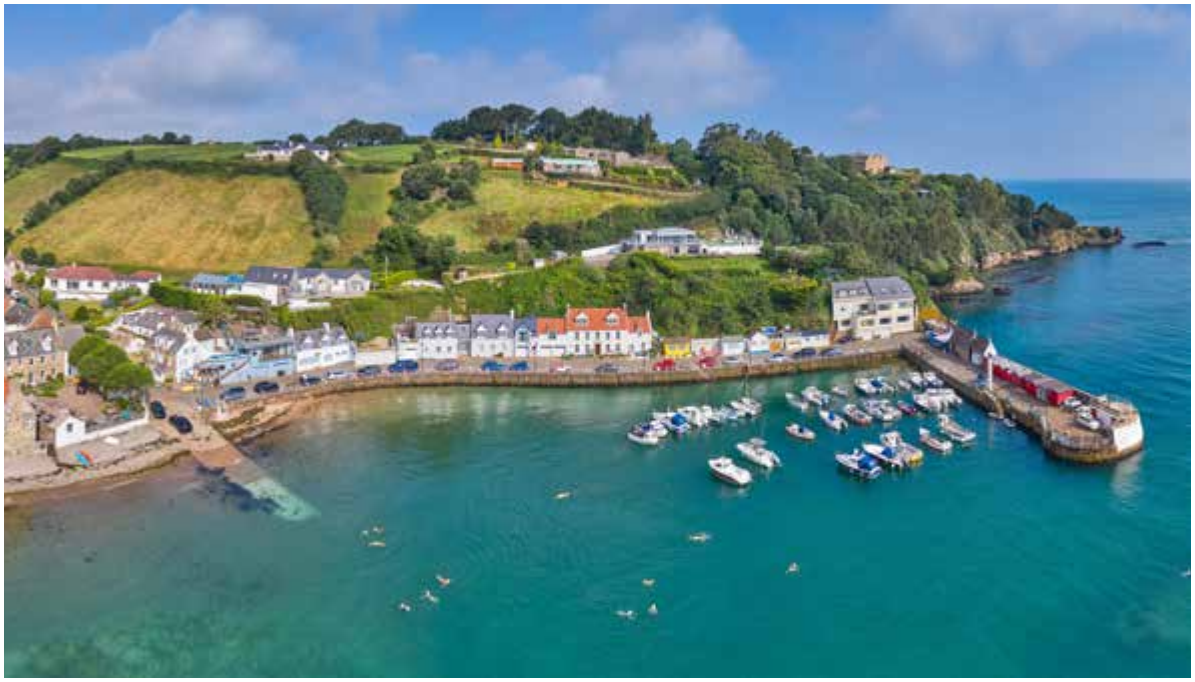
VIII Using technology to aid asset recovery

On the whole, Jersey's involvement in fraud cases arises from frauds committed elsewhere and the placement of the proceeds into Jersey's financial services sector, hence the preventative statutes and ready and familiar availability of the remedies described above. Frauds, including those committed digitally, will also likely remain committed elsewhere and the principal technological advancements relevant to Jersey asset tracing will be data analytics upstream of Jersey, when the above remedies become useful to follow the next steps of the fraudster's getaway.

However, Jersey is succeeding in actively marketing itself as a fintech centre and base for cryptocurrency operations and there are numerous cryptocurrency-connected business concerns established on the island.

The advantage for the fraudster of using cryptocurrencies is that the decentralised payment systems mean it is very difficult for transfers of cryptocurrencies to be halted, and so by exchanging real money for the crypto kind and routing that through numerous wallets, it is easy to create a long trail for a victim to follow.

On the other hand, all transactions recorded on a cryptocurrency's blockchain are publicly readable and, at the scale of the more popular cryptocurren-



cies, verifiable because all verified transactions are distributed throughout the decentralised network. As such, any transfer from one wallet to another can be openly traced. The difficulty is in identifying to whom any given wallet belongs, but where a Jersey financial services business is involved, traditional remedies are likely to be available or capable of being fashioned to assist the necessary identifications or fill in other gaps towards them. Equally, exchange into traditional currency will generally be traceable.

The status of cryptocurrencies under Jersey law has not yet reached the Royal Court. Nevertheless, we would not expect the relative novelty of cryptocurrencies to be beyond legal recognition and analysis given Jersey's track record and relative freedom judicially to fashion remedies as needed, not least given their recognition elsewhere as intangible property (e.g. Singapore in *B2C2 Ltd v Quoine Pte Ltd* [2019] SGHC(I) 03).

IX Highlighting the influence of digital currencies: is this a game changer?

Jersey is fast becoming an established market for fintechs and professional investment firms being home to a number of token issuers, global payment platforms and fintech-focused investment funds. Jersey recognised cryptocurrencies as a separate asset class long before the "ICO Craze" of 2017, when the island's regulator, the JFSC licensed the world's first Bitcoin-focused, regulated fund. From that point onwards, the island has seen a surge in exchange vehicles, token issuers and fintech funds choosing Jersey.

To date, Jersey has not sought to introduce any fintech-specific legislation. The JFSC has sought to cater for fintech businesses within the existing regulatory framework until such time as there is a global consensus on how to regulate aspects of the fintech ecosystem. For example, if the fintech service involves the provision of a financial service, it will fall to be regulated within Jersey's financial services regime under the Financial Services (Jersey) Law 1998 (unless an applicable exemption is available). Similarly, the sale of Bitcoin or other crypto or digital tokens *per se* is not regulated by a specific securities law or commodities law in Jersey. Rather, transactions relating to digital assets and cryptocurrencies are treated as a "sensitive activity" under the JFSC's Sound Business Practice Policy and traditional AML and other regulatory oversight applies.

X Recent developments and other impacting factors

The Taxation (Companies – Economic Substance) (Jersey) Law 2019 came into force on 1 January 2019, to comply with requirements of the EU Code of Conduct Group and for Jersey to be whitelisted, as it was from 12 March 2019. In short, tax-resident companies carrying out relevant activities (including holding company businesses) are required to have board meetings (they are expected to have the majority in Jersey) and other adequate activity in Jersey – such as the presence of employees, expenditure, premises or assets to which they have access.

In *Kea Investments Ltd v Watson*, [2021] JRC 009, the Royal Court declined to confirm an *arrêt entre mains* against the interests of a judgment debtor under a Jersey discretionary trust. The *arrêt entre mains* is a customary law enforcement mechanism, most often compared to a third-party debt or garnishee order but with wider application, capable of arresting or attaching any intangible movable property or 'chose in action'.

The judgment debtor had been found liable to the judgment creditor for various frauds by the English High Court. Although an interim arrest had been granted, the court was plainly uncomfortable with a judgment creditor enjoying the interests of the beneficiary under the trust.

Although the decision appears to turn on the court's exercise of discretion rather than a point of principle, it stands out against the court's general approach to assisting victims of fraud described elsewhere in this chapter and is a setback for such victims of a fraudster with access to a well-resourced trust, into which the victim cannot trace the proceeds of the fraud for whatever reason. CDR

Carey Olsen has one of the largest dispute resolution and litigation teams in the offshore world. We represent clients across the full spectrum of contentious and semi-contentious work.

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CAREY OLSEN

Marcus Pallot is a partner and head of Carey Olsen's Jersey dispute resolution and litigation team. He has over 20 years' experience, advising local and international clients on financial services litigation, fraud and asset tracing, contentious regulatory and insolvency matters and general commercial and trusts litigation. He has been responsible for a number of innovative applications which have expanded the reach of Jersey's insolvency laws, and has been involved in numerous other landmark cases in the Jersey courts. In particular, he is renowned for his ability to persuade the court to exercise its discretion to permit novel processes to be adopted as part of Jersey law so as best to serve the needs of his clients.

Marcus joined the firm in 2001, having previously practised as a Barrister in the Royal Navy. He was called to the English Bar at Middle Temple in 1997, the Jersey Bar in 2004 and the BVI Bar in 2015.

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Tabitha joined Carey Olsen in 2022 having previously trained and qualified at Clifford Chance LLP. Tabitha was admitted as a solicitor in England and Wales in 2017.

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