

**WRITTEN QUESTION TO THE MINISTER FOR ECONOMIC DEVELOPMENT
BY DEPUTY G.P. SOUTHERN TO ST. HELIER
ANSWER TO BE TABLED ON TUESDAY 20th NOVEMBER 2012**

Question

Does the Minister accept that the Jersey Financial Services Commission's (JFSC) implementation of the "highest standards of regulation" is reliant on disclosure by banks of suspected tax evasion, and that any UK resident who declines to have the interest sent to H.M. Revenue and Customs (HMRC), without evidence of declaration of total income, must be suspected of tax evasion and should be reported to the JFSC?

Will the Minister inform members when he expects to receive reports from the JFSC on the extent of breaches of Anti-Money Laundering/Combating the Financing of Terrorism (AML/CFT) regulations reported in the recent US Senate investigation into the activities of HSBC Middle East and the reports in the Daily Telegraph on HSBC accounts?

Will the Minister give members details of:

- a) JFSC's 66 on-site AML unit investigations reported in the 2011 Annual report, and
- b) The shortcomings in prudential reporting, outlined on page 24 of the Report?

Will the Minister commission an independent enquiry into the powers and resources of the JFSC to investigate whether Jersey has delivered the highest standards of AML/CFT enforcement, not just on paper but in practice, and to make recommendations to improve future practice, and if not why not?

Answer

Each element of the question will be taken in turn:

Does the Minister accept that the Jersey Financial Services Commission's (JFSC) implementation of the "highest standards of regulation" is reliant on disclosure by banks of suspected tax evasion, and that any UK resident who declines to have the interest sent to H.M. Revenue and Customs (HMRC), without evidence of declaration of total income, must be suspected of tax evasion and should be reported to the JFSC?

As evidenced by the IMF assessment in 2009, Jersey has been found to have high standards of regulation. Defrauding the tax authorities is a criminal offence and the provisions of the Proceeds of Crime (Jersey) Law 1999 (POC Law) apply to tax fraud. Where a client is suspected of committing tax fraud, institutions are required under the POC Law to make a report to the Police and Customs Joint Financial Crimes Unit (JFCU). The JFCU can and does share such reports with the JFSC to assist the JFSC in examining the anti-money laundering systems and controls of regulated and registered businesses. In addition, the reporting rates of such businesses are also monitored.

Will the Minister inform members when he expects to receive reports from the JFSC on the extent of breaches of Anti-Money Laundering/Combating the Financing of Terrorism (AML/CFT) regulations reported in the recent US Senate investigation into the activities of HSBC Middle East and the reports in the Daily Telegraph on HSBC accounts?

It is too early to give an indication when the investigations being undertaken by the JFSC will be concluded. However, based on previous evidence, we can be confident that the regulator will act properly and decisively in accordance with its mandate.

The regulatory laws do not permit the release of an investigation report to Members or to the public. At the conclusion of an investigation the JFSC can, and frequently does, exercise a statutory power to issue a public statement setting out its findings, and these can be found on the JFSC's website at:

http://www.jerseyfsc.org/the_commission/general_information/public_statements/public_statements.asp.

Will the Minister give members details of:

- a) *JFSC's 66 on-site AML unit investigations reported in the 2011 Annual report, and*
- b) *The shortcomings in prudential reporting, outlined on page 24 of the Report?*

The following additional information has been published and is therefore in the public domain.

a. The summary findings of the themed on-site examination programme conducted by the AML Unit of the JFSC between 2008 and 2010 have been published on the JFSC's website and can be found at:

[http://www.jerseyfsc.org/pdf/2008 - 2010 AML On-site examination findings Sept 2010.pdf](http://www.jerseyfsc.org/pdf/2008_-_2010_AML_On-site_examination_findings_Sept_2010.pdf)

b. The reference in the question should be to page 26 of the 2011 Annual Report – first section on Banking. This referred to the summary findings of the themed on-site examination programme on prudential reporting conducted by the Banking Division of the JFSC. The details of the findings of the Report are published on the JFSC's website at:

[http://www.jerseyfsc.org/pdf/2011 Prudential Reporting Summary Findings March 2012.pdf](http://www.jerseyfsc.org/pdf/2011_Prudential_Reporting_Summary_Findings_March_2012.pdf)

The conclusion section of that document concluded that, "Overall, the Commission was pleased to note that banks generally were operating within the requirements of the relevant legislation, Codes and guidance. That said, this exercise has highlighted some potential areas for improvement and the Commission would therefore encourage all deposit-takers to consider the findings in this report in the context of their own business."

Will the Minister commission an independent enquiry into the powers and resources of the JFSC to investigate whether Jersey has delivered the highest standards of AML/CFT enforcement, not just on paper but in practice, and to make recommendations to improve future practice, and if not why not?

There is no intention to commission an independent enquiry into the powers and resources of the JFSC because that took place in the IMF assessment in 2008. In that review the IMF found that Jersey was largely compliant or fully compliant with 44 of the 49 FATF recommendations.

With respect to the powers and resources of the JFSC in relation to specific investigations, in addition to an Enforcement Division that has eight investigatory members of staff, the JFSC has the power to call upon external resources by appointing reporting professionals or Inspectors with a particular specialism in the field under investigation. Such powers are exercised on a regular basis and it is regarded as a valuable and effective means of calling upon sufficient resources when a specific need arises.