

2016.04.12

#### **4.8 Deputy G.P. Southern of the Chief Minister regarding the registration of financial services companies based in Jersey:**

What steps, if any, will the Chief Minister take to ensure that all financial services companies based in Jersey are registered in the Island rather than in Panama, the British Virgin Islands and similar jurisdictions, to ensure that they are all subject to the stringent regulation, which we are so proud of, of the Jersey Financial Services Commission?

##### **Senator I.J. Gorst (The Chief Minister):**

All financial services businesses based in Jersey that carry out regulated financial services activity are regulated by the Jersey Financial Services Commission, regardless of where they are registered. Regulated activities include deposit taking, provision of investment advice and services, insurance, money services business, and the management and administration of trusts, foundations and companies. These activities are provided through banks, investment managers, fund managers and administrators, together with trust and corporate services providers.

##### **4.8.1 Deputy G.P. Southern:**

Could the Minister suggest why a company registered here, such as Credit Suisse or Coutts Jersey, should suggest to its clients that they should register companies in Panama or the British Virgin Islands when we are a financial services institution with the best regulation in the world; why should they advise someone to go to a less well-regulated jurisdiction? If he cannot say why that might occur, can he ask the J.F.S.C. (Jersey Financial Services Commission) and see if they have a reason?

##### **Senator I.J. Gorst:**

There could be any number of reasons. I am not a financial adviser and it would not be right for me to start second-guessing why, for any particular individual client or structure, it depends where the asset is situ that they might be putting into that company, it depends on where they are raising capital for the venture they might wish to invest in, it depends on where they might wish to invest that, it depends where the investors might be resident, there are any number of reasons why an individual financial services firm might recommend a particular jurisdiction. We are in a competitive market place and we do our best to ensure that people want to come and use Jersey, even if instruments are registered elsewhere because of the quality of our regulation.

##### **4.8.2 Deputy G.P. Southern:**

So, will he answer the second part, which was: will he ask J.F.S.C. to investigate in order to come to us with some explanations?

##### **Senator I.J. Gorst:**

The Deputy is asking me about what could be a thousand myriad different situations on why advice might be provided by a financial institution to a particular client or group of clients, it is just not feasible. So once again, I am afraid, it shows that the Deputy appears to misunderstand totally how financial services operate.

##### **4.8.3 Deputy M.R. Higgins of St. Helier:**

Does the Chief Minister think it is right, following on from Deputy Southern's question, that Jersey institutions would be party to setting up shell companies in the likes of Panama and elsewhere, and also companies, which use bearer shares, which, once the bearer shares have been transferred, there is no notice of who owns those shares? So there are devices being used elsewhere, which we

would not, but would he accept, or think it proper, that Jersey firms give that advice to clients and help them do that?

**Senator I.J. Gorst:**

The Deputy is making assumptions that advice is being issued by Jersey firms to their clients and I currently do not see evidence of that. We know that, in the past, practices have taken place that do not meet the current international standards, and we are very strong on ensuring that people who operate in Jersey, and have set up a financial services company in Jersey, meet the very highest standards when it comes to regulation. Back in 2012, and again in 2014, I made it very clear, and in fact was one of the first individuals to do so, to say that Jersey does not want its companies to be involved in encouraging or operating abusive or aggressive tax schemes. Others now are starting to follow our lead.

**4.8.4 Deputy M.R. Higgins:**

The Chief Minister is saying that our industry is following all the rules, *et cetera*. But is not the truth of the matter that we are always on the back foot because we do not know what every single firm is doing and every type of device or company structure that they are using, and the only time we find out is when it is being revealed in the press or whatever. The Minister cannot give those assurances because he does not know that every single company is playing ball. Is that not the case?

**Senator I.J. Gorst:**

The Deputy wishes us to live, I am not sure what the term of the land is, but the accusation that he makes against financial services is the same accusation that one could make about any given sector anywhere in the world. One cannot know 100 per cent what every single individual, just as I do not know what every States Member does in their spare time. But what I do know is that we have a first class regulator, that we have signed agreements, which will supply information automatically with countries around the world, so that, if there is a concern that something is amiss, it can be dealt with firmly and strongly and appropriately, so that our institutions and Jersey is not used for tax evasion, for money laundering, and for the financing of terrorism and crime. That is the international standard and that is the best approach and that is an approach that we can be proud that we are at the forefront of.

**4.8.5 Deputy J.A.N. Le Fondré:**

I think the Minister has probably answered it, but just to clarify, can the Chief Minister confirm that, in any event, the administration and services provided in Jersey in relation to such entities will be covered and subject to our stringent and high-quality regulations?

**Senator I.J. Gorst:**

I thank the Deputy for his question. He has practised in this area and therefore he knows, as I said in my opening answer, that the answer to his question is a very firm and strong yes, and that is the internationally adopted approach, it is the best approach, and we meet it to the highest standards.

**4.8.6 Deputy M. Tadier:**

The Chief Minister has talked about many jurisdictions following Jersey's example, but will the Chief Minister follow the example set by the U.K. Prime Minister and set up and fund an investigation by the J.F.S.C., the Financial Crimes Unit and the Comptroller of Tax, into any possible instances of aggressive tax avoidance and evasion by the use of Panama-registered companies by Jersey-registered companies?

[10:45]

**Senator I.J. Gorst:**

Of course we are taking notice of information that might come into the public domain that might have reference to Jersey operations and appropriate action and investigation will be undertaken by the appropriate authorities. But I just remind the Deputy, as I reminded Deputy Higgins back in 2012, and then again in 2014, I spoke very clearly about not wanting Jersey to be used for aggressive and abusive tax avoidance and tax evasion. Since then, Jersey Finance has issued a best practice document to the finance industry professionals, making that clear. The financial regulator looks for evidence of tax schemes being administered when undertaking on-site examinations. The Housing and Work Advisory Panel take into consideration these matters prior to issuing new licences. So we are at the forefront, contrary to what the Deputy tries to suggest.

**4.8.7 Deputy M. Tadier:**

There is no suggestion, but I think a similar statement could, and is, and has, been made by the U.K. Prime Minister when he set up this investigation. He is not saying that everything in the City of London is toxic or corrupt; he is saying that they also have mechanisms, but because their reputation is important he is willing to spend money on such a critical industry to the U.K. and London economy to make sure that the world knows it is squeaky clean. Will the Chief Minister perhaps not take a leaf out of the book of his U.K. counterpart?

**Senator I.J. Gorst:**

We have already taken the lead. The fact that the Deputy does not understand the lead that we have taken in this regard to tax evasion and tax avoidance is disappointing. So perhaps it is for others to put in place the structures and the process that we already have put in place, particularly when it comes to aggressive and abusive tax avoidance. But we will of course continue to work with the United Kingdom Government to ensure that institutions and structures in Jersey are not used in such a way that would undermine the law of the United Kingdom.

**4.8.8 The Connétable of St. Mary:**

Does the Chief Minister not agree that the regimes that we have in place and the regulations we have in place and the onerous responsibilities that are placed on individuals working in our finance industry, who become personally liable in some cases, and in other cases, when the financial regulator may give notice about their suitability to continue working and practising in the finance industry, that the matter is becoming almost self-policing? Do you not consider that this is a huge hurdle that anyone wishing to do unscrupulous business in the Island would have to bear in mind and would have to overcome, and does he not feel that this really adds to our own self-regulation?

**Senator I.J. Gorst:**

I thank the Connétable for her question. She is absolutely right. Tax evasion has been a criminal offence in Jersey for many years, others now are catching up. It is about time some Members of this Assembly, rather than being critical and being fed information by our detractors, they understood what happened in our financial services sector and started telling the world the truth of the matter that we are leading and that others should consider following us. Individuals operating in this sector are personally liable if they get something wrong, in such a way that they are not elsewhere, in such a way that we see the United Kingdom Prime Minister suggesting might be a step he is going to take or they are going to take in the United Kingdom, arising out of the so-called Panama papers. We have been doing that for years.

**4.8.9 Connétable C.H. Taylor of St. John:**

With the transparency agreements that Jersey is entering, can the Chief Minister assure us that we have access to local residents' income outside the Island and that we are, therefore, taxing the incomes that are made outside this Island and are due for tax payment in the Island? In other words ...

**The Deputy Bailiff:**

I am sorry, Connétable, that question is far too off-beam from the original question. I do not allow it as a supplementary. Final supplementary, Deputy Southern.

**4.8.10 Deputy G.P. Southern:**

It could be a written next time. Follow it up. I do admire the Chief Minister's passion, and his words, but I am looking for action here. I turn a page on ... if you do not mind I will ask the question, if I may. **[Laughter]** I am turning the page on the U.K. Prime Minister's book of possible actions that he could take. The U.K. Prime Minister has allowed the publication of his tax assessments. Will the Chief Minister discuss the strengthening of the Ministerial Declaration of Interests with P.P.C. (Privileges and Procedures Committee) in order to show that Ministers are above board?

**Senator I.J. Gorst:**

For the benefit of the Deputy, I am pleased to confirm that all my income arising arises offshore, because Jersey is considered to be offshore. Of course Ministers will consider whether there needs to be a strengthening of declarations and how that is declared, but let us remind ourselves that, unlike any other place in the world, Jersey pays every single States Member exactly the same and therefore it would be income arising outside of their States salary that would need to be considered, but assets and income should already be declared in their declaration of interests, which is lodged with the Greffe and is available for public scrutiny. But of course we will consider whether that needs to be strengthened or not.

**The Deputy Bailiff:**

Question 10 falls away because Deputy Rondel is *malade*.