

**WRITTEN QUESTION TO THE CHIEF MINISTER
BY DEPUTY G. P. SOUTHERN OF ST. HELIER
ANSWER TO BE TABLED ON TUESDAY 24TH MAY 2016**

Question

Further to the announcement by the Jersey Financial Services Commission (JFSC) on 10th May 2016 that it had sent out a structured request for information from financial services firms regulated by the JFSC in order to be as fully sighted as possible on material connections to Jersey following the release of the ‘Panama Papers’, will the Chief Minister undertake to provide members with a summary of the responses the Jersey Financial Services Commission receives to each of the five questions contained in the request?

Answer

Information received by the Jersey Financial Services Commission (“the Commission”) by carrying out its regulatory functions is restricted in its further disclosure by the provisions of the Financial Services (Jersey) Law 1998 (the “Financial Services Law”).

Article 37 of the Financial Services Law deals with limiting disclosure (by the Commission) of information received about persons conducting financial services in Jersey. It is set out in the following terms –

“37 Restricted information

(1) *Subject to paragraph (2) and to Article 38, a person who receives information relating to the business or other affairs of any person –*

- (a) *under or for the purposes of this Law; or*
- (b) *directly or indirectly from a person who has so received it,*

shall be guilty of an offence and liable to imprisonment for a term not exceeding 2 years or a fine, or both, if he or she discloses the information without the consent of the person to whom it relates and (where sub-paragraph (b) applies) the person from whom it was received.

(2) *This Article does not apply to information which at the time of the disclosure is or has already been made available to the public from other sources, or to information in the form of a summary or collection of information so framed as not to enable information relating to any particular person to be ascertained from it.”*

The Commission cannot therefore be expected to disclose information that is disclosed to them from regulated financial services firms concerning material connections to Jersey following the release of the ‘Panama Papers’ without the exercise of the greatest possible care to ensure its staff do not in any way risk committing an offence under the Financial Services Law. This would largely apply to any summary of such responses such as that requested by Deputy Southern although it may be possible for some broad trend aggregate data to be presented that give an indication of the overall findings of the exercise.

The Comments of the Council of Ministers concerning P42/2016 – [‘Financial institutions registered in Jersey: links to Panamanian legal firm Mossack Fonseca’](#) (also lodged by Deputy Southern) outline the importance of the independence of the regulator in relation to international standards and the difficulties in relation to disclosure of confidential restricted information passed to the Regulator.

The working relationship between the Government and the Commission is particularly strong and the JFSC is required to raise with Government, as appropriate and pursuant to its statutory responsibility, any relevant financial services matter or any trends emerging that may affect the reputation of the Island. In this regard, senior representative of the Government, the Commission and Jersey Finance meet on a monthly basis and this meeting is an appropriate forum for consideration of risks that may affect the reputation of the island, which would include any relevant matters arising from the Panama Papers.

The Commission should therefore be permitted to carry out its regulatory functions as per its statutory duty without undue interference by or disclosure to external sources, which includes the Government and the States Assembly.

Finally, Members may be aware that the comments of the Council of Ministers to P42/2016 state the following at Paragraph 22.

“22. States Members will appreciate that it is neither appropriate nor possible to provide details on specific cases, but it can be disclosed that at the current point in time 28 connections have been identified. The Commission is evaluating each reported incidence for: any potential conduct of business concerns; suspicion of exposures to financial crime (including tax evasion) or other potential problems. It should be noted that mention of Jersey among the Panama Papers is not automatically an indication of any misconduct by the named Jersey entities.”

The deadline for disclosure following the structured request sent out on 5 May 2016 was 18 May 2016. Once the Commission has had time to consider and analyse the information disclosed they have agreed to update the number of connections identified.