

**WRITTEN QUESTION TO THE CHIEF MINISTER
BY DEPUTY G.P. SOUTHERN OF ST. HELIER
ANSWER TO BE TABLED ON TUESDAY 16TH JANUARY 2018**

Question

Further to his statement to the Assembly on 11th December 2017, will the Chief Minister –

- (a) define the “*certain economic substance tests [undertaken] prior to the approval of new regulated entities*” by the Jersey Financial Services Commission and which contribute evidence that “*Jersey is a jurisdiction of substance*”;
- (b) explain what “*concerns were highlighted by the [E.U.] Code Group that Jersey did not satisfy [the Group’s] Criteria 2.2*” regarding fair taxation and the attraction of profits without real economic activity;
- (c) outline his understanding of the mechanisms which could be regarded by the Code Group as enabling, or permitting, breaches of Criteria 2.2 and explain what changes to the Island’s “*regulatory and legal framework and additional accounting and reporting obligations*” he consequently has under consideration in order to eliminate concerns over Criteria 2.2; and
- (d) commit to publish revised GDP calculations for 2015/2016 to show the full scale of profits recorded by companies associated with the Island, so that the scale of the difference between GNI and GDP as a result of the relocation of profits to the Island for which there is no locally-associated economic activity can be identified?

Answer

It would be inappropriate for to make extensive comment on policy under development, particularly if such comment could undermine Jersey’s interests ahead of the EU Code of Conduct Group (“Code Group”) dialogue.

What I can say in response to each of the questions raised is:

- a) The Deputy is directed to the relevant regulatory laws and policies that are all available in the public domain.

A Jersey company that is to carry on a regulated financial services activity would need to be licensed by the JFSC under one of the following laws:

- Banking Business (Jersey) Law 1991
(covers deposit-takers)
- Financial Services (Jersey) Law 1998
(investment businesses, trust company businesses, general insurance mediation businesses, money service businesses, fund service businesses and AIF Services Business)
- Insurance Business (Jersey) Law 1996
(insurance companies)

In respect of each of those laws, the JFSC has published a licensing policy that sets out the criteria against which the JFSC will assess an application for a licence. The relevant requirements in respect of economic substance are set out in each piece of legislation and accompanying policy.

- b) States Members have been circulated the response sent by the Government of Jersey to the Code Group Secretariat dated 17 November 2017. However, at the specific request of the Code Group Secretariat, the Government of Jersey is not permitted to share any correspondence received from the Code Group. It would therefore be inappropriate to share detailed content of correspondence received from the Code Group at this time.
- c) There is a commitment to dialogue with the Code Group and that process will start in the coming weeks. Until dialogue commences, it is not possible to provide a definitive answer as to what actions might satisfy the substance test contained in the E.U. Code Group's criteria 2.2. There is currently no internationally agreed position on "substance" of companies for tax purposes. Consistent with the approach outlined in other questions on this matter, it would be inappropriate to make extensive comment on policy under development, particularly if such comment were to have the potential of undermining Jersey's interests ahead of the Code Group dialogue.
- d) In line with many other small jurisdictions, Jersey produces a limited portion of the full System of National Accounts ("SNA") based on the "income approach". Jersey produces GDP and Gross Value Added (GVA) figures (see: <https://www.gov.je/Government/JerseyInFigures/BusinessEconomy/Pages/NationalAccounts.aspx>), but does not currently produce Gross National Income (GNI) figures.

GDP is a measure of economic activity that takes place in the Island and in the view of the Chief Statistician no evidence has been provided to date which would indicate that the previously produced GDP figures need to be revised.