

**STATEMENT TO BE MADE BY THE MINISTER FOR EXTERNAL RELATIONS
ON TUESDAY 12th MARCH 2019**

**Response to proposed amendments to the United Kingdom Financial Services
(Implementation of Legislation) Bill, purporting to legislate for Jersey**

On Friday 1 March a series of amendments were tabled by U.K. parliamentarians to the U.K. Government's Financial Services (Implementation of Legislation) Bill.

Among other measures, those proposed amendments sought to impose public registers of beneficial ownership on all Crown Dependencies and Overseas Territories, including Jersey.

The successful passage of those proposed amendments would be contrary to the established constitutional relationships that exist between the United Kingdom and each of the Crown Dependencies and, if passed, would produce inoperable legislation.

It is a clear constitutional rule that the U.K. does not legislate for Jersey on domestic matters without our consent. This is clearly a domestic matter.

The authors of the proposed amendments have argued that public registers are now a matter of United Kingdom national security and, therefore, are constitutionally under the jurisdiction of the U.K.

This is simply not a viable argument and, in my opinion, is wholly without merit.

I want to be very clear that Jersey, and our colleagues in Guernsey and the Isle of Man, are committed to the highest standards of financial services regulation and transparency.

Jersey has had a central register of beneficial ownership information since 1989, tax evasion was included as a predicate offence in anti-money laundering legislation enacted in 1999 and trust and company service providers have been licensed and regulated since 2000.

Jersey has enhanced its existing central register of beneficial ownership information by regular updating by trust and company service providers ("TCSPs") of the beneficial ownership information held on the Register.

That information is verified by both TCSPs and independently by Jersey's Companies Registry. This is something that is not replicated in the U.K.'s Register.

In fact, the movers of the amendments confirmed to me again last Monday that they recognised that the quality, process and governance of our Register is superior to the U.K.'s own solution.

When moving their amendments – and in separate discussions we have held - the authors have set three reasons: protecting the United Kingdom's national security, combatting tax evasion and preventing illicit financial flows.

Our existing regime already answers these concerns, and I will address each in turn.

On the matter of national security and combatting criminal conduct, in 2016, Jersey entered into an Exchange of Notes with the U.K. to enhance the existing provisions to exchange beneficial ownership between law enforcement and tax authorities.

That agreement provides for information to be provided, as standard, within 24 hours of request – or in urgent matters, within an hour.

This provides law enforcement authorities with adequate, accurate and current information on beneficial ownership of Jersey companies in an extremely short time period and therefore enhances law enforcement and protects against issues of security and criminality in both Jersey and the U.K.

In April 2018, the U.K. and Jersey Governments carried out a review of the Exchange of Notes Agreement. That review was summarised in a Report to the States Assembly and in a Written Ministerial Statement to Parliament in the United Kingdom and confirmed:

“The Exchange of Notes arrangements have, since their coming into effect in July 2017, provided law enforcement officers with enhanced access to company beneficial ownership information, as originally envisaged in 2016, and are being used to facilitate ongoing criminal investigations.”

The 2019 review of the Exchange of Notes arrangements is currently underway.

Turning to combatting tax evasion. In November 2016, Jersey also joined with some 50 jurisdictions, including all the E.U. Member States, in a commitment to a proposed new initiative on automatic exchange of beneficial ownership information to be taken forward by the OECD.

Jersey continues to play an active role in the OECD Base Erosion and Profit Shifting programme, although there is no evidence that Jersey has much, if any involvement, in profit shifting.

Finally, Jersey has not appeared on any E.U. list of non-cooperative jurisdictions. Jersey made commitments in December 2017 to address concerns identified by the E.U. Code of Conduct Group on Business Taxation as to “economic substance”. Today the members of ECOFIN will meet to discuss the progress of those commitments.

Finally, turning to the matter of preventing illicit financial flows.

Jersey has played a role in the Financial Action Task Force over a number of years, has been a member of MONEYVAL since 2012 and has been consistently engaged in the worldwide fight against economic crime in all of its forms.

Jersey has been involved in a number of working groups and peer evaluations in both FATF and MONEYVAL. This has covered topics including the availability of beneficial ownership information, the use of intermediaries in money laundering and terrorist financing, and, most recently, the use of new technology in the fight against money laundering and terrorist financing.

All of this activity demonstrates how Jersey contributes to the global policy agenda on AML and peer evaluations against the international standard.

In relation to AML, the evidence of Jersey’s compliance with the international standards is to be found in IMF assessments and most recently in an assessment by MONEYVAL published in 2016.

In this assessment, Jersey was rated as Compliant or Largely Compliant with 48 of the 49 Financial Action Task Force Recommendations. That outcome was the joint-highest-rated outcome of any jurisdiction rated in that evaluation round.

It is clear from what I have set out, and from independent assessment by supranational bodies, that the transparency standards applied by our jurisdictions are equal to, or greater than, those of the United Kingdom.

In terms of the beneficial ownership registers operated by both jurisdictions, it is certain that Jersey’s register contains information that is significantly more accurate and up to date.

Notwithstanding our leading position, and the acceptance of that position by the authors of the amendments, they remain ideologically committed to the implementation of public registers of beneficial ownership.

We are supportive of developing standards to increase the effectiveness of registers of beneficial ownership, not just in Jersey, but around the world. But this should not be at the demand of a single national parliament.

We remain willing to work with the U.K. Government and the relevant international bodies to achieve this objective and have reached out in this regard to instigate discussions.

In the future development of the Island's own policy we have committed to the adoption of an interconnected registry solution with the E.U., which could include the U.K. following the U.K.'s exit from the E.U.

This would be consistent with a commitment made to the E.U. in 2018 following the work with the European Commission and the European Council to implement legal substance requirements for certain businesses.

Furthermore, as we have indicated, we are supportive of the further exploration of the effectiveness of different models of beneficial ownership registers and the proactive development of an international standard in this regard. Officials are already engaged with a Financial Action Task Force initiative designed to identify best practice on beneficial ownership matters.

We are keen to work with the authors of the amendments, the U.K. government and the relevant international bodies to expedite that work.

I want Members to be in no doubt that we will robustly defend Jersey's constitutional position, using all avenues available to us, in the event that the U.K. parliament seeks to legislate for the Island, in direct conflict with the legislative supremacy of this Assembly.

But, we are equally committed to achieving agreement with the U.K. Government, and the authors of the amendments, on a way of moving forward in a collaborative fashion.

An agreement that does not put our jurisdictions in the position of unpleasant and unnecessary constitutional conflict, but one that moves towards the adoption of an international standard on registers of beneficial ownership, and furthers the aim of combatting global financial crime and tax evasion.