

**Answers by the Government of Jersey
to the supplementary written questions received from the EP PANA Committee**

- 1. You mentioned in your written answer that Mossack Fonseca had no presence in your jurisdictions. Taking into account that The Guardian wrote an article in May 2016, stating that Mossack Fonseca's offices were closed following the Panama Papers revelations, after being on the islands for 20 years, could you please provide us with your comments on this information, explaining at the same time what do you mean by the above mentioned phrase?**

Answer

We believe this question refers to the previous written answer by Guernsey. In the case of Jersey, Mossack Fonseca did have a small office in Jersey for some 20 years, although latterly it was not carrying out any regulated activity. As with a number of other Mossack offices, it closed subsequent to the disclosures. The office when operating served to assist those wishing to form companies in Panama and other jurisdictions. However, as stated in the answers given the Committee previously, if such companies were formed those concerned were required to meet all the requirements set under Jersey legislation on knowing who the ultimate beneficial owners were, the source of funds etc.

- 2. According to the Offshore Leaks database from ICIJ, there are 336 intermediaries mentioned in the Panama Papers operating in Jersey and 249 intermediaries for Guernsey. You explained that you have set up a working group after the Panama Papers to investigate the matter but you found no evidence of criminal activities linked to the Channel Islands. Could you please explain the investigation proceedings of this working group? For example, did it look at all intermediaries operating in your jurisdictions, did it conduct a thorough assessment with the help of the Channel Islands' financial supervisors? Could you please provide us with information on how many (human) resources were there dedicated to this investigation and how long did it last? Could you please send the PANA Committee the outcome produced by the working group?**

Answer

The setting up of a working group refers to the written answer by Guernsey. In the case of Jersey, the Jersey Regulatory Authority, the Jersey Financial Services Commission, did not set up a working group. It embarked on a comprehensive review process which we itemised in the answers previously given to the Committee. Those answers, which are attached for ease of reference, also set out what action the FIU had taken.

- 3. Could you please give us the definition of tax evasion, according to national law? Does this definition include all tax offences?**

Answer

Tax evasion is not defined specifically in Jersey's tax law but, simply put, in "common law" occurs where a taxpayer knowingly fails to comply with the tax law with the intention of not paying any taxes due.

In 1999 Jersey enacted the Proceeds of Crime Law which referred to any offence for which a person is liable on conviction to imprisonment for a term of one or more years. This anticipated by 13 years the wording of FATF Recommendation 3 of February 2012. This offence covers tax evasion under Jersey domestic law. This covers fraudulently submitting incorrect accounts in connection with the ascertainment of a person's liability to tax. The Proceeds of Crime Law covers an offence that occurs or has occurred outside Jersey which would have constituted such an offence if occurring in Jersey.

- 4. Could you please give us information on how many suspicious transaction reports do the respective Financial Intelligence Units of the Channel Islands receive per year? More specifically, would you please describe which is the proportion coming from banks, law firms and accountants?**

Answer

The STRs received by the Jersey FIU by category of respondent is shown below.

It should be noted that Jersey has a Suspicious Activity Report (SAR) regime as opposed to a STR regime. The SAR regime requires reporting on a wider range of suspicious activity by the industry and not simply activity related to transactions.

The considered view of the Jersey authorities is that the number of SARs received reflects the importance Jersey practitioners attach to the implementation of AML to preserve the Island's reputation. This has been recognised by Moneyval and other independent commentators. And the number of SARs, considering the economy of Jersey, are comparable in relative number to other jurisdictions assessed by the FATF/MONEYVAL.

SARS BY SECTOR	2011	2012	2013	2014	2015	2016	5YEAR TOTAL
Accountants	20	27	19	20	53	60	199
Bank	1189	1034	1326	1489	1167	1088	7293
Bureaux De Changes	0		2	3			5
Charity	1	1	1	1	1	6	11
CSP Trust	365	472	387	455	630	607	2916
Financial Advisors	30	21	32	24	28	40	175
Fund	39	24	48	64	47	48	270
Insurance	6	5	6	8	23	5	53
Invest	45	32	32	25	39	36	209
Jeweller	0	1	1				2
Legal	40	30	42	40	48	49	249
MSB	54	26	37	55	144	53	369
NON FSB - Estate / property management	2	5	2		3	5	17
Other	4	6	2	8	10	25	55
Regulator	48	65	89	93	122	81	498
Stockbrokers	3	2	2	2	2	2	13
Tax Consultant	1					4	5
Investment							0
Precious Metals Trader						9	9
TOTAL SARS PER YEAR	1847	1751	2028	2287	2317	2118	12348

30 May 2017

Extract from answers previously given to the Committee

4. To your knowledge, have the Channel Islands taken any legal steps regarding intermediaries following the Panama Papers revelations?

Answer

There have been no changes in Jersey's regulatory laws as a direct consequence of the publication of the Panama Papers. Jersey already had a long standing regulatory regime which included the regulation of TCSPs and which had been recognised internationally as being ahead of the practice of other jurisdictions. Following the Panama Papers revelations steps were taken to confirm that the regulated entities were meeting their statutory obligations although there had been no evidence presented by the revelations to suggest that they were not doing so. These steps were taken by the JFSC, the islands financial regulator and the JFCU, the Islands Financial Intelligence Unit. They are detailed below:

Action by the JFSC

In respect of the Panama Papers, the JFSC's response falls into three main categories:

1. Self-reporting by firms

In compliance with the Codes of Practice, there is a strong track record of regulated firms contacting the JFSC to discuss issues which may be of regulatory concern. In the case of the Panama Papers a number of firms contacted the JFSC immediately after their publication to report any business links they had with Mossack Fonseca and reviews they were carrying out of client structures.

2. Follow-up on specific cases

The global media highlighted a number of specific links to Jersey in the Panama Papers material. Often in these reports there was no suggestion of any wrong-doing, merely the factual report of a Jersey entity being part of a client structure, or a Jersey firm asking Mossack Fonseca to establish a company. The JFSC investigated a number of these specific cases to determine whether firms had complied with their legal and regulatory requirements.

3. Survey of firms

The JFSC sent a structured information request to relevant regulated firms asking them to confirm (amongst other things) whether they had carried out a review of business links with Mossack Fonseca and whether any issues of concern had been identified. A press release concerning this exercise can be found here:

http://www.jerseyfsc.org/the_commission/general_information/press_releases/release351.asp

The JFSC also followed-up Panama Paper related topics as part of its normal day-to-day supervision with firms (e.g. through on-site visits).

The Panama Papers highlighted that some entities based in Jersey had used Mossack Fonseca to establish companies. It is important to note that, irrespective of the location of the client, if a Jersey firm is carrying on regulated activity it must follow Jersey laws and requirements. This importantly includes the requirements relating to CDD and Beneficial Ownership and Control identification. There are many reasons why clients of firms may wish to establish non-Jersey companies – for example, proximity, familiarity with the other regime, etc.

Mossack Fonseca had a small office in Jersey, although latterly it was not carrying out any regulated activity. As with a number of other Mossack offices, it closed subsequent to the disclosures.

As with all EU financial regulators, the JFSC is subject to information disclosure restrictions which make it a criminal offence to release much regulatory information except in certain circumstances. The JFSC cannot therefore disclose details of its discussions/actions with individual regulated firms. Should any enforcement activity result in a public statement, this will be included on the webpage set out above.

Action by the Joint Financial Crime Unit – Jersey's FIU

The Joint Financial Crimes Unit (JFCU) is composed of officers from the States of Jersey Police and the Jersey Customs and Immigration Service, supported by a team of civilian staff.

The JFCU is divided into 3 sub-units: Financial Intelligence Unit (FIU), Financial Crime Investigation Team, and Drugs Trafficking Confiscation Unit.

Jersey FIU serves as the national centre regarding the receipt and analysis of suspicious activity reports (SARs), terrorist financing, and associated predicate criminality; and for the dissemination of those results. Every SAR is scrutinised upon receipt and subject to an established grading process, with methodical and structured analysis.

The FIU also receives and responds to requests for assistance from overseas FIUs and competent authorities on AML/CFT enquiries, as well as miscellaneous information reports from a variety of sources.

The intelligence assessment seeks to establish if the suspicions prompting submission of a SAR corresponds to a predicate criminal offence, active criminal investigation or prospect of a criminal investigation in Jersey or any relevant jurisdiction. Analysis triggers consideration of the initiation of a domestic criminal investigation and where appropriate referral to domestic law enforcement.

The FIU make no distinction between fiscal and non-fiscal matters, and no de-minimums financial thresholds are applied. The ethos of Jersey FIU is to share as much possible relevant intelligence with FIUs and law enforcement authorities globally regarding fiscal and non-fiscal matters. Significant spontaneous intelligence sharing is employed, and Jersey FIU does not require reciprocal agreements or MOUs for such activity. For example, 1917 spontaneous

intelligence disseminations were made in 2014, resulting from 2287 SARs received in that year.

Beneficial ownership detail is exchanged with international counterparts as a matter of routine in the course of intelligence disseminations. It rarely features in isolation, generally forming part of a wider information requirement.

A review of all FIU material derived from SARs and other intelligence featuring Mossack Fonseca from 2004 onwards has been conducted. The review demonstrated that intelligence had been analysed and disseminated appropriately.

The release and publicity of the Mossack Fonseca papers resulted in 4 SARs being received by the FIU. In all cases the material was analysed and disseminated in accordance with standard procedures.

For operational reasons, the FIU do not disclose sensitive case information. Work continues with international FIU partners and law enforcement agencies exchanging relevant information in pursuit of money laundering, terrorist financing and associated predicate criminality. This includes tax evasion and economic crime more broadly.

At present, there is 1 active criminal investigation being conducted by the JFCU – Jersey, in which the use of Mossack Fonseca features. The investigation, originating from SAR-based intelligence, is not consequential to the publication of material.