

Written Questions from the EP PANA Committee to the Channel Islands

Responses from the Government of Guernsey

Introductory note

This note provides answers to the written questions from the members of the PANA Committee sent to the Channel Islands on 26 April 2017, in advance of the hearing on 9 May with representatives from Guernsey and Jersey.

This note should be read in conjunction with the joint letter from the Chief Ministers of Guernsey and Jersey to the Chair of PANA of 10 April and the annex to that letter, both of which are attached.

Guernsey and Jersey have a close relationship with each other and cooperate in many areas, including internationally. This is reflected, for example, in the establishment of the joint government office in Brussels (CIBO). However Guernsey and Jersey are completely separate jurisdictions. Each has its own legal, fiscal and regulatory systems so, although there are many similarities, there are also some differences.

As a Crown Dependency, Guernsey also has a very different relationship with both the UK and the European Union to that of the British Overseas Territories, such as Gibraltar. British Overseas Territories are dependencies of the UK, whereas Guernsey is a dependency of the British Crown. Guernsey also has a different relationship with the EU as clearly set out in the Treaties. However, in light of its relationship with the UK Guernsey will also be affected by the UK exit from the EU in different ways to Gibraltar.

Guernsey welcomes the opportunity to meet with the PANA Committee, as it welcomed the opportunity to meet with the TAXE2 Committee in March 2016. Guernsey is committed to transparency and co-operation on tax and anti-money laundering/combating of financing of terrorism (AML/CFT) issues. As it clarified to the TAXE2 Committee, Guernsey does not provide fiscal state aid, nor does it give tax rulings of the type that would undermine the tax base of other jurisdictions.

With regard to the so-called 'Panama Papers', Guernsey also welcomes the opportunity to reaffirm that the law firm from which the papers were sourced has had no presence in Guernsey. Notwithstanding, Guernsey is not complacent about the content of the papers, and established a Panama Papers Working Group as part of its Financial Crime Group (which comprises representatives of the operational AML/CFT authorities). This Group is investigating under the direction of Guernsey's Chief Minister and the President of Guernsey's Home Affairs Committee (which is responsible for Guernsey Law Enforcement) whether the Papers indicate any criminality in Guernsey or use of Guernsey for criminal purposes. Law Enforcement has confirmed that there is no evidence that Guernsey entities have been used for criminal purposes.

1. Question 1: Could you please explain the rules on due diligence, know-your-customer policy and ultimate beneficial owner principles in the Channel Islands? Are these formalities always required if you want to open a bank account?

- 1.1. Guernsey has a long-standing commitment to implement international AML/CFT standards, namely the standards of the Financial Action Task Force (FATF). Financial services businesses have been subject to AML/CFT obligations since 2000 (with some types of business, such as banks, subject to guidance long before that date). Financial services businesses have had many years to embed compliance with the AML/CFT requirements to which they are subject.
- 1.2. The strong success of Guernsey's compliance with the FATF's standards is evidenced from the public reports of independent and international evaluations since 2000 and from the positive comments made in response to bilateral exchanges of beneficial ownership information by Guernsey with other jurisdictions. The most recent evaluation report, published by the Council of Europe/MONEYVAL in January 2016, further demonstrates the robustness of Guernsey's legal framework for AML/CFT and the implementation of that framework (including in respect of customer due diligence and transparency of beneficial ownership, where Largely Compliant ratings were given).
- 1.3. The 2016 MONEYVAL report stated that financial institutions clearly demonstrated that they are highly knowledgeable of their AML/CFT obligations, and that professional trust and company service providers (TCSPs) met by the evaluation team demonstrated a high level of professionalism and good knowledge of their obligations with respect to the identification and verification of the beneficial owner. The report also states that information on beneficial ownership of legal persons and legal arrangements is available where TCSPs are involved in the formation, management or administration of these entities. These comments echo statements by the IMF in the report arising from its 2010 evaluation that sound measures are in place to ensure that legal persons incorporated in the Bailiwick are transparent and that accurate, adequate and current information concerning beneficial ownership is available to law enforcement and other competent authorities.
- 1.4. Most AML/CFT obligations for financial services businesses and prescribed businesses are contained in:
 - the Criminal Justice (Proceeds of Crime) (Financial Services Businesses) (Bailiwick of Guernsey) Regulations, 2007 as amended;
 - the Guernsey Financial Services Commission (GFSC) Handbook for Financial Services Businesses on Combatting Financial Crime and Terrorist Financing;
 - the Criminal Justice (Proceeds of Crime) (Prescribed Businesses) (Bailiwick of Guernsey) Regulations, 2008 as amended; and
 - the GFSC Handbook for Prescribed Businesses on Combatting Financial Crime and Terrorist Financing.
- 1.5. The financial services businesses regulations and handbook apply to all entities that the FATF describes as financial institutions (such as banks) and also TCSPs. The coverage of the prescribed business regulations and handbook referred to above includes firms of lawyers, accountants and tax advisors (see question 3 below). The GFSC is the AML/CFT supervisor for

financial services businesses and prescribed businesses. The GFSC is independent of government and is established on a statutory basis.

- 1.6. The two sets of regulations and handbooks are almost identical. They were issued at different times (2007 and 2008 respectively) as the initial focus was on financial services businesses and it was not known to what extent the framework for prescribed businesses, which were brought into the AML/CFT framework for the first time in 2008, might need to be different. It is impossible to use Guernsey's finance sector or the services of a prescribed business without being subject to full customer due diligence (know your customer) and beneficial ownership requirements. Hence, in the language of the question, formalities are always required if a person wishes to open a bank account.
- 1.7. The starting point is risk. Guernsey was in advance of the FATF in requiring businesses to carry out and document a suitable and sufficient money laundering and terrorist financing "whole of business" risk assessment. In addition, prior to taking on a customer a business must undertake a risk assessment of the prospective relationship or transaction. This risk assessment must be reviewed so that it is kept up to date and, where changes are required to the assessment, make those changes. Policies, procedures and controls must be effective having regard to the assessed risk.
- 1.8. The regulations and handbooks provide that customers must be identified and that identity must be verified using documents from a reliable and independent source. Any person purporting to act on behalf of the customer must be identified and that identity must be verified. Beneficial owners and any underlying principals must be identified and reasonable measures taken to verify such identity. Measures must be taken to understand the ownership and control structure of legal persons and legal arrangements. A determination must be made as to whether the customer is acting on behalf of another person and, if the customer is so acting, measures must be taken using documents from a reliable and independent source to verify the identity of that person. In addition, information must be obtained on the purpose and intended nature of relationships. A determination must be made as to whether any customer or beneficial owner is a politically exposed person (PEP).
- 1.9. Enhanced due diligence is required where the risks are greater. These include situations where a customer, beneficial owner or underlying principal is a PEP; correspondent banking relationships or similar relationships are involved; where the customer is established or situated in a jurisdiction which insufficiently applies the FATF Standards; or which the business considers to be high risk as a result of its risk assessment. Enhanced due diligence includes obtaining senior management approval for accepting new customers; establishing source of funds and source of wealth of customers, beneficial owners and underlying principals; carrying out more frequent and more extensive monitoring; and taking other steps such as obtaining additional information to understand the purpose and intended nature of each business relationship. While businesses are required to conduct enhanced due diligence where the customer is considered to be high risk, businesses also conduct additional due diligence and apply additional risk reviews for relationships which are considered to be standard risk.
- 1.10. Businesses must perform effective and on-going monitoring of relationships. This includes reviewing information (including beneficial ownership information) held to ensure it is kept up to date and relevant.
- 1.11. Businesses have an obligation to report any suspicion of either money laundering or terrorist financing to Guernsey's Financial Intelligence Unit by way of a STR.

1.12. Information must be maintained by the business for at least five years after a transaction has been performed or at least five years after the expiry of a business relationship in readily retrievable form. This ensures that customer information and documents, including beneficial ownership information and documents, are available to the authorities.

1.13. The above provisions in the regulations are complemented by rules in the GFSC handbooks.

2. Question 2: Could you please provide information on whether there are public beneficial ownership registries and public company registries in Jersey? What are the information disclosure provisions for trusts, foundations and companies in general?

2.1. On 26 April 2017 the States of Guernsey approved the Beneficial Ownership (Guernsey) Law, 2017 which will provide a framework in Guernsey for:

- the establishment of a registrar of beneficial ownership information for legal persons;
- information provided to the registrar by the resident agents of legal persons to be verified by the resident agents (as indicated above, such information is already verified by TCSPs, which are the resident agents for legal persons administered by those TCSPs);
- verification of the information provided to the registrar (by the Guernsey Financial Services Commission in relation to TCSPs as part of its on-going supervision of TCSPs and by the registrar for legal persons not administered by TCSPs);
- penalties for non-compliance by resident agents;
- routine reporting to the States of Guernsey on the effectiveness of the framework.

The draft law will be primary legislation and, therefore, it remains for the UK Privy Council to approve the law so that it can be brought into force in the summer of 2017.

2.2. In general, trusts, foundations and companies are covered by the overarching obligations applicable to TCSPs under the AML/CFT framework to obtain and retain information and make it available to the authorities. In addition, any person who, in the course of business knows, suspects or has reasonable grounds to suspect that a trust, foundation or company is involved in money laundering or terrorist financing must make a STR to Guernsey's Financial Intelligence Unit. This unit has the power to obtain additional information and there are legal gateways in place to permit any information obtained to be provided to other jurisdictions.

2.3. In addition to these general provisions, there is specific provision under Guernsey law for information relating to trusts, foundations and companies, as follows:

- Trusts - under Guernsey trust law, all trustees must keep accurate accounts and records of their trusteeship.
- Foundations - under Guernsey foundation law, all foundations must be registered and only a TCSP can make an application for registration. Information which must be provided in support of the application includes the name and address of the foundation's councillors and any guardian, the address of its registered office (which must be in Guernsey), the purpose of the foundation, and all declarations and other documents filed with the Registrar, are entered onto the register and is available to the authorities.

Every foundation must have an officer who is a TCSP and who is therefore obliged to obtain and record information about the beneficial owners of the foundation and make that information available to the authorities under the AML/CFT framework. As indicated above, the authorities may then make this information available to foreign counterparts.

- Companies - under Guernsey law, all companies must be registered and only a TCSP can make an application for registration. Information that must be provided in support of the application includes the company's objects, its founder members, shareholdings and guarantees, the names and addresses of the directors, its registered office (which must be in Guernsey) and the name and address of the resident agent (who must be a locally resident director or a TCSP). This information is entered on the register and is available to the authorities. Resident agents are obliged to obtain and record information about the beneficial owners of the company and to make that information available to the authorities. Here too, the authorities may then make this information available to foreign counterparts.

3. Question 3: Could you please explain how intermediaries, such as lawyers, tax advisors and accountants are regulated in the Channel Islands? Is there an official authority to investigate banks or intermediaries involved in practices such as money laundering, tax avoidance or tax evasion in the Channel Islands?

- 3.1. In relation to Guernsey, and as explained above in the response to question 1, lawyers, tax advisors and accountants fall within the scope of Guernsey's "prescribed business" framework and banks fall within the "financial services businesses" framework. Under both frameworks prescribed businesses and financial services businesses are subject to the customer due diligence (know your customer) and transparency of beneficial ownership requirements described in the answer to question 1.
- 3.2. As explained under question 1, the GFSC is the AML/CFT supervisor for both prescribed businesses and financial services businesses. These businesses are subject to both onsite and offsite supervision.
- 3.3. All firms supervised for AML/CFT purposes are monitored and risk assessed by the GFSC through the submission of information by businesses on their customer and business profile. This, together with independent information from public and intelligence sources, drives the level of offsite and onsite supervision. The frequency and intensity of the GFSC's AML/CFT supervision of businesses and groups is determined on the basis of:
- (a) the financial crime risks and policies, internal controls and procedures associated with the business or group, as identified by the GFSC's assessment of the firm or group's risk profile;
 - (b) the inherent money laundering/terrorist financing risks present in the jurisdiction; and
 - (c) the characteristics of the businesses and groups, in particular the diversity and number of businesses and the degree of discretion allowed to them under the risk-based approach.

The GFSC's AML/CFT methodology is weighted towards focusing more supervisory effort on TCSPs and private banking. During onsite visits the GFSC interviews Board Members, the

Money Laundering Reporting Officer, the Compliance Officer and client facing staff and carries out a detailed review of client files across the risk spectrum on a sample basis. As part of the client file reviews, the GFSC tests whether appropriate customer due diligence is held on key parties, looking in particular at the thoroughness of measures applied by the business to establish who is the beneficial owner of a legal person/legal arrangement at the commencement of the relationship with a customer and, subsequently, where beneficial ownership may have changed. Additionally, all financial services business including banks are supervised by the GFSC on the basis of impact and risk for prudential and conduct purposes.

- 3.4. The Economic Crime Division of the Guernsey Border Agency is the competent authority for investigating potential criminal offences such as money laundering, terrorist financing or tax evasion. The Director of Income Tax is responsible for the non-criminal investigation of cases of domestic tax evasion and avoidance, and for assisting the tax authorities in other jurisdictions in respect of tax evasion occurring there through relevant bilateral or multilateral tax agreements.

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

- 4.1. Although Guernsey has not had a Mossack Fonseca presence, the AML/CFT authorities have liaised on the implications of the Panama Papers since the release of the Papers. As evidenced in all independent evaluations of Guernsey, Guernsey has a comprehensive AML/CFT legal framework, which is implemented effectively by banks and TCSPs, and which is administered effectively by the AML/CFT authorities. The Guernsey Panama Papers Working Group has not identified any need to enact legislation as a result of the contents of the Papers.

5. Question 5: Could you please inform us if there have been any changes of the system of tax law in the Channel Islands following the Panama Papers revelations?

- 5.1. As one of the AML/CFT authorities, the Income Tax Office is a very active participant in the AML/CFT framework. As indicated above, the AML/CFT authorities have liaised on the implications of the Panama Papers since the release of the Papers. As evidenced in all independent evaluations of Guernsey, Guernsey has a comprehensive AML/CFT legal framework, which is implemented effectively by banks, TCSPs and intermediaries such as lawyers, tax advisors and accountants, and which is administered effectively by the AML/CFT authorities. Also as evidenced elsewhere in this document, the Guernsey Panama Papers Working Group has not identified any need to enact legislation as a result of the contents of the Papers.
- 5.2. Fraudulent conduct in relation to tax is subject to strong penalties under income tax legislation dating back to 1976, as was the case with precursor legislation going back many decades before that. Tax evasion has also long been covered by generic dishonesty offences (again subject to strong penalties) under the criminal justice framework. The range of activity captured by these various offences covers all of the different ways in which tax evasion might be committed (eg making a false declaration, failing to make a tax declaration at all, or concealing income or assets).
- 5.3. In addition, tax evasion has been a predicate offence for money laundering ever since Guernsey introduced money laundering offences in 1999. Money laundering offences under Guernsey law apply to criminal conduct, which is defined as any conduct that constitutes an indictable offence under domestic law (ie an offence capable of being tried in a senior court)

or any conduct overseas that would constitute an indictable offence if it had occurred domestically. This has been applied in tax evasion cases involving the provision of mutual legal assistance and also in the domestic prosecution of money laundering with tax evasion as the predicate offence. This application of the money laundering framework to tax evasion predates the expectation of the FATF in this regard. It was not until 2012 that the FATF Standards included tax evasion in this way.

6. Question 6: According to the Panama Papers revelations, some banks (e.g. Credit Suisse Channel Islands Ltd., Coutts & Co. Trustees (Jersey) Ltd. and Rothschild Trust Guernsey Ltd.) were involved through their subsidiaries in the Channel Islands. To your knowledge, are there any reasons for that?

6.1. As with many other jurisdictions conducting international business, as a general point, Guernsey businesses have used and continue to use service providers in a range of other jurisdictions and the pattern of use varies over time. For example, much Guernsey business is conducted on the recommendation of lawyers (often London lawyers), and their preferred different jurisdictions vary depending on factors such as cost, convenience and targeted marketing. All such business is subject to the robust and comprehensive AML/CFT framework referred to above.

7. Question 7: Do the Channel Islands have a public register of trusts? Are trusts supervised and if so, how?

7.1. TCSPs have been subject to the AML/CFT framework and all of its obligations since 2000. Guernsey was one of the first jurisdictions in the world to introduce such a framework and did so before the provision of professional trust services formed part of the FATF Recommendations.

7.2. Guernsey was also a pioneering jurisdiction as one of the first jurisdictions in the world to establish a statutory framework for the prudential and market conduct regulation and supervision of TCSPs. The legislation, the Regulation of Fiduciaries, Administration Businesses and Company Directors, etc. (Bailiwick of Guernsey) Law, 2000, came into force in 2001.

7.3. Guernsey remains one of the few jurisdictions globally to maintain comprehensive frameworks for the regulation and supervision of TCSPs and for AML/CFT by TCSPs. TCSPs are subject to routine, ongoing onsite and offsite supervision for all aspects of their activities, This combination of legislation and monitoring of compliance ensures that only fit and proper TCSPs are established and operate in Guernsey and that AML/CFT standards are satisfied. This includes AML/CFT standards on the transparency of beneficial ownership of trusts. Full and verified information is available on trusts and their beneficial owners (for these purposes trustees and any other person exercising control, protectors and beneficiaries).

7.4. The large majority of trusts in Guernsey have trustees which are subject to regulation and supervision by regulated trustees. The only trusts that do not have regulated trustees are those where the trustee's services are provided on a purely voluntary basis. In practice, this invariably means trusts where a person is acting in the context of a family or social relationship (eg a parent holding property on behalf of a child, or a person acting as trustee of a trust set up for the purposes of a sports club to which he belongs). Beneficial ownership on these trusts is still obtained in practice, because if the trustee wishes to hold any property or transact in Guernsey on behalf of the trust this involves dealing with a party who is subject to the regulatory and supervisory framework and therefore obliged to carry out customer due

diligence on all persons connected with the trust. (ie a bank or other financial services business in relation to financial assets, and a lawyer and an estate agent in relation to real property).

- 7.5. Therefore, beneficial ownership information on trusts is available within Guernsey. This is tested by the authorities under the supervisory framework, and it is obtained routinely by the Guernsey authorities and provided to the authorities of other jurisdictions.
- 7.6. The proven system described above means that, to date, a separate system of registration of trusts has not been considered to be necessary.
- 7.7. As part of their ongoing work in meeting the FATF Standards, following completion of the registration framework for legal persons specified in the answer to question 2, the AML/CFT authorities in Guernsey will review how best to meet the revised FATF Standards on transparency of legal arrangements.

8. Question 8: According to the national legislation and without going too much into details, could you please describe the procedure of a company registration in the Channel Islands? Could you please inform us how long this procedure normally takes?

- 8.1. As indicated above, companies are created by being entered on the register of companies following an application for incorporation. Applications may only be made by TCSPs. An application for incorporation must be made in a form prescribed by the Registrar and be accompanied by the memorandum of incorporation (which includes information about the company's objects) statements as to its founder members, shareholdings and guarantees, the names and addresses of the directors, the company's registered office (which must be within the jurisdiction) and the name and address of the resident agent, who must be either a locally resident director or a TCSP. The resident agent is responsible for maintaining a record of the beneficial owners of the company at the registered office. The application must also be accompanied by a statement signed by the applicant, that all the requirements of the legislation in respect of the incorporation of the company have been fulfilled. It is a criminal offence subject to strong penalties to provide false, deceptive or misleading information in support of an application without reasonable excuse.
- 8.2. The Registrar enters the memorandum of incorporation onto the register and issues a certificate of incorporation giving the company's registration number and date of incorporation. The certificate is conclusive evidence of incorporation. It is possible for a company to come into existence at a specified later date provided that it is not three months later than the date of the application, in which case the date of incorporation in the certificate will refer to that later date.
- 8.3. The incorporation process within the registry is carried out online, and is a same-day process as long as all requisite information has been provided. However, overall, the process takes longer as it includes the steps taken by TCSPs to carry out customer due diligence and to comply with any other internal client on-boarding processes they have.
- 8.4. There are 18,300 live companies on the register.

9. Question 9: Could you please explain the Channel Islands' relationship with the UK, especially regarding the legal framework and exchange of information in tax matters? Is there a close cooperation between your government and the British government on tax affairs?

- 9.1. Guernsey, Jersey and the Isle of Man are dependencies of the British Crown rather than dependencies of the UK government. This means that they are autonomous in respect of domestic matters but dependent on the UK for certain matters relating to the Crown, namely international relations and defence. In practice the UK Government exercises powers in respect of these matters. As a matter of convention the UK Government generally only acts on behalf of Guernsey with its consent and where this consent is formally registered by the island's authorities.
- 9.2. Guernsey and the other Crown Dependencies are fiscally independent from the UK, which means that they are responsible for their own administration and have tax sovereignty. Guernsey's government raises revenue through the application of direct and indirect personal and business taxes, and that revenue funds Guernsey's public services. Guernsey does not receive funding from the UK government, nor from the European Union or its other Member States.
- 9.3. Guernsey's tax sovereignty is a long-standing constitutional principle that dates back to the origins of the Channel Islands' relationship with the English Crown. This principle was described in a series of successive Royal Charters issued by the Crown, in particular by Queen Elizabeth I in 1560.
- 9.4. In the modern context, Guernsey retains this tax sovereignty to this day, but recognises that taxation has an increasingly developed international element in terms of cooperation and transparency – not just with the UK, but with EU Member States and indeed with the rest of the world. It is for this reason that, whilst the British Crown is ultimately responsible for Guernsey's international agreements, the UK has provided Guernsey with capacity to enter into bilateral and multilateral tax agreements under its own aegis through a process known as "entrustment".
- 9.5. Guernsey now has Double Tax Agreements (DTAs) with 13 jurisdictions (all of which include information exchange Articles to the OECD Model standard), partial DTAs with 12 jurisdictions, and a wide network of international Taxation Information Exchange Agreements (TIEAs) with 60 jurisdictions. Guernsey also participates in the OECD Convention on Mutual Administrative Assistance in Tax Matters, and previously and voluntarily has chosen to commit to the EU Savings Directive, and most recently became an early adopter of the OECD Common Reporting Standard (CRS).
- 9.6. Guernsey has a long held track record of working with the UK to prevent tax avoidance. Back in 1927 the States of Guernsey entered into a bilateral agreement with the UK Government relating to the formation of companies in Guernsey. The agreement required Guernsey's Attorney General to review the objectives of any company in its Memorandum of Association to ensure that the purpose was not to avoid UK taxation. This was later replaced with a Control of Borrowing regime to pre-vet company formation in 1959. This antiquated system has been replaced by a robust modern AML/CFT regime, company law and company registry in order to meet international standards. This includes the requirement for TCSPs to obtain and verify beneficial ownership information, which will be held in a central register from July 2017 onwards. There is an agreement with the UK to ensure that the law enforcement authorities in the UK will have access to this data for purposes including helping to tackle tax evasion. This will be in line with the FATF principles.
- 9.7. In 1952 Guernsey entered into a bilateral Double Taxation Agreement with the UK. This was the island's first such agreement and has been updated from time to time. The last revision

was signed in 6 December 2016 with earlier revisions in 1994, 2009 and 2015. A full renegotiation is currently underway. The revised agreement will take into account the latest international standards arising from the OECD Base Erosion and Profits Shifting (BEPS) programme. In addition, Guernsey entered into a TIEA with the UK in 2009, revising it with a protocol in 2013 to allow for the automatic exchange of information. In 2013 Guernsey entered into a FATCA style intergovernmental agreement with the UK allowing for the automatic exchange of information on tax matters. This has since been replaced by the CRS, because Guernsey and the UK are early adopters of CRS, which means that information exchange with the UK under the CRS will commence this year.

9.8. Guernsey's tax authorities have established a close working relationship with the UK's tax authorities. This information exchange and shared purpose is underpinned by all internationally recognised channels of communication for tax information exchange and cooperation. This enables the authorities in each jurisdiction to combat tax fraud and avoidance.

10. Question 10: On 15 January 2017, Philip Hammond gave an interview to a German newspaper on the outcome of the Brexit agreement. He said: "if we are forced to be something different, then we will have to become something different" and "If we have no access to the European market, [...] if Britain were to leave the European Union without an agreement on market access, [...] we could be forced to change our economic model and we will have to change our model to regain competitiveness. And you can be sure we will do whatever we have to do. [...] We will change our model [...] and we will be competitively engaged."

1) Do you share this opinion?

10.1. This is a matter for the UK and not the Channel Islands. It would not be appropriate for the Guernsey government to comment on the UK Chancellor's comments or the Government objectives set out in the Prime Minister's Lancaster House speech and the subsequent White Paper.

10.2. The Channel Islands share a special relationship with the EU described in Protocol 3 to the UK Act of Accession to the EEC. This placed the islands inside the customs territory of the EU and requires the islands to treat EU nationals in a non-discriminatory manner. The islands are third countries for all other purposes, including the movement of services and capital

10.3. This relationship will end when the UK leaves the Union in accordance with the process described in Article 50 to the Treaty on European Union. This principle has been recognised in the draft European Council guidelines which states: *"On the date of withdrawal, the Treaties will cease to apply to the United Kingdom, to those of its overseas countries and territories currently associated to the Union, and to territories for whose external relations the United Kingdom is responsible."*

10.4. Because Guernsey is not part of the UK nor part of the EU it did not have a vote in the UK's referendum, and it would not have been constitutionally appropriate to have done so. In effect the Channel Islands are not leaving the EU; that is a matter for the UK. The islands will be impacted because of the Protocol 3 relationship and its close trading and constitutional relationship with UK.

10.5. It is for these reasons the islands undertook their own contingency planning in the event that the referendum result supported the UK leaving the EU. This planning enabled Guernsey's

parliament to debate its proposals for mitigating the impact of the ending of the Protocol 3 relationship less than a week after the referendum in June 2016. Since then Guernsey has been working closely with the UK Government to ensure that its interests are taken into account.

- 10.6. The objectives laid out by the UK Government echo the principles laid out in the objectives agreed by the Guernsey parliament in June 2016, namely to respect the right of EU nationals in Guernsey; to maintain the Common Travel Area; to preserve rather than change the existing and long-standing constitutional relationship with the Crown; to maintain free flow of goods with the UK and EU; and to work with the UK in entering into new trading agreements with the EU and the rest of the world.

2) If the UK loses its access to the European market, would it change the nature of your financial activities and if so, how?

- 10.7. Guernsey maintains a close trading relationship with the UK, in particular in financial services. The financial services industry provides a complementary offering to the services in the City of London. Many businesses provide liquidity into the City and some of that onwards into the EU. The island's fund sector also facilitates over £100 billion per year of capital investment into infrastructure and jobs in non-UK EU Member States (KPMG Report International Capital Flows, 2015).

- 10.8. The Channel Islands are generally treated as third countries by the EU, separate from the UK. This means that the market access issues which the UK will need to address are separate to the third country access arrangement that the EU has with the Channel Islands. In turn this means that there is no direct impact of Brexit on the island's economy in respect of financial services.

3) In your opinion what would be your more favourable outcome: turning the UK into "something different" with a "changed economic model" "competitively engaged" or keeping financial access to the European market? Please explain.

- 10.9. This is a matter for the UK and not the Channel Islands. It would not be appropriate for the Guernsey government to comment on the UK Chancellor's comments.

- 10.10. Guernsey agreed its negotiating objectives last June with one overriding principle, to maintain the status quo in respect of Guernsey whilst recognising the UK's EU relationship will change. In this context the most important principle for Guernsey is to maintain our status as a third country with a complementary offering to the City of London as a finance centre; whether the UK is in the EU or not, and whether it has full market access or not. Given the structure of this relationship and how it functions, it is difficult at this stage to envisage how this will change for Guernsey as a direct consequence of Brexit.

11. Question 11: In your opinion, will the outcome of the negotiations between the EU and the UK have an impact on the Channel Islands regarding tax matters and if so, how?

- 11.1. Guernsey has a long-standing commitment to implement international tax transparency standards. Each political term, Guernsey's parliament makes that commitment (and it does so unanimously, despite the absence of political whips given it is a consensus and non-party form of parliamentary government).

- 11.2. Guernsey voluntarily committed to adhering to the Code of Conduct criteria in 2003, and having then participated voluntarily in the process applied to the Member States our corporate tax system was assessed as compliant and non-harmful in December 2012. Our understanding is that Guernsey is one of only three third countries to have undergone such assessment and confirmed as compliant, and this was instrumental in Guernsey also fully meeting the criteria for good tax governance outlined by the EU Commission in 2012. Guernsey's track record and partnership in tax transparency and cooperation was publicly acknowledged and welcomed by Commissioner Moscovici in 2015. In 2016 Commissioner Moscovici very much welcomed the continued active engagement of Guernsey and Jersey in the key international initiatives for fighting tax evasion, fraud and abusive avoidance as important partners of the EU, which he considered reinforced their standing as cooperative jurisdictions.
- 11.3. The OECD has described Guernsey as one of the world's most transparent and co-operative jurisdictions in practice, and Guernsey's active commitment to international standards on tax transparency, information exchange and fair taxation includes:
- Guernsey is a member of the Global Forum on Transparency and Exchange of Information for Tax Purposes and has been rated by the Global Forum for exchange of information as largely compliant;
 - Guernsey voluntarily adopted the EU Savings Directive, moving to full automatic exchange of information from 2011;
 - In October 2014 Guernsey formally committed to the "early adopters group" in signing a multilateral Competent Authority Agreement as a first step in the implementation of the Common Reporting Standard, with first information exchange in 2017. Guernsey enacted legislation to bring the Common Reporting Standard into effect from 1 January 2016;
 - Guernsey joined the Multilateral Convention on Mutual Assistance in Tax Matters with effect from 1 June 2014;
 - Guernsey has signed 23 Tax Information Exchange Agreements and four Double Taxation Agreements with Member States. The remaining Member States have indicated that they will rely on the Multilateral Convention for information exchange;
 - In June 2017 Guernsey will be a co-signatory to the OECD Multilateral Instrument. Guernsey became a BEPS Associate in June 2016, and has participated in a number of meetings and working groups that are part of the BEPS Inclusive Framework. In October 2016 Guernsey signed the multilateral competent authority agreement for country by country reporting (CbCr) and is a member of the CbCr Reporting Group;
 - Guernsey was positively assessed as being compliant with the EU Code of Conduct on Business Taxation in 2012 - an assessment endorsed by ECOFIN;
 - Guernsey's view is that once jurisdictions comply with internationally accepted principles of fair tax competition supported by transparency and information exchange, jurisdictions have the right to set their own tax rates according to their own requirements. Guernsey's general zero rate of tax for companies allows us to provide a simple and clear tax regime which encourages real economic activity and employment,

generating income through personal taxation (20 per cent) which in turn funds public services;

- As an international finance centre, Guernsey's economic model is based on providing a supportive environment to pool capital that can then be efficiently invested across asset classes. Such activity is real and has substance, with around a third of our workforce employed in finance and business services.

11.4. In March 2016 Guernsey provided technical evidence to the European Parliament's TAXE2 Committee, emphasising that Guernsey is a jurisdiction that does not make tax rulings of the type that would undermine the tax base of other jurisdictions.

12. Question 12: Will you be fully complying with the requirements of the EU's Anti-Money Laundering Directive and its subsequent revisions? If not, could you please precise to what extent do you currently comply with the Directive?

12.1. The AML/CFT authorities in Guernsey are currently taking forward legislation to comply with the revised FATF Standards. As indicated above, this programme includes the establishment of a centralised registry of beneficial ownership information for legal persons. Guernsey's long standing policy objective has been to comply with international standards and to ensure that we meet those standards comprehensively. Independent, international evaluations over many years evidence the strong success of this objective.

12.2. In some areas Guernsey has standards equivalent to EU standards. The current EU Anti-Money Laundering Directive is in the process of revision and the States of Guernsey is committed to reviewing the final language after it has been approved at all EU political levels. Following the review, a decision will be made on Guernsey's approach to the Directive. This decision will take into account the requirements under the FATF standards and any other relevant international developments.

4 May 2017