

**Answers by the States of Guernsey
to the supplementary written questions received from the EP PANA Committee**

Question

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?

Guernsey response

Mossack Fonseca did not have an office or any other physical presence in Guernsey. Therefore, the phrase quoted in the Guernsey response is correct. The reference to a Channel Islands presence for Mossack Fonseca in the article in The Guardian relates to the Mossack Fonseca office presence in Jersey, not Guernsey.

Question

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?

Guernsey response

The investigation was tailored to address the specific context of Guernsey's company service provider sector.

This context is as follows. Guernsey was one of the first jurisdictions in the world to require company service providers to comply with AML/CFT obligations. It was also a global pioneer in 2000 in establishing a regime with effect from 2001 for the prudential and market conduct supervision of such service providers so that only service providers which can meet Guernsey's fit and proper standards are able to operate in the market. Company service providers have been subject to AML/CFT onsite inspections since 2000. This is a powerful combination for ensuring that company service providers have high standards of AML/CFT. As part of this framework, for several years prior to the release of the Panama Papers the financial services supervisory authority devoted significant attention during onsite inspections of, and meetings with, company service providers to the implications of involvement of third parties linked with business relationships. At the time of the release of the Panama Papers, therefore, the supervisory authority already had a substantial understanding of the use and implications of involvement by third parties.

There are currently 150 full fiduciary licensees and 30 personal fiduciary licensees in Guernsey. Following the first Panama Papers revelations, Guernsey's FIU (which is a law enforcement FIU)

assigned four officers to undertake a preliminary scoping exercise. The objective of the exercise was to ascertain whether any of the Guernsey entities named within the Panama Papers were known to law enforcement and to review whether the analysis and treatment of any STRs and use or disclosure of other financial intelligence which might have involved Mossack Fonseca needed to be updated in any way.

It was apparent that a large number of the Guernsey entities specified in the Papers no longer exist or had changed name.

The FIU built on the initial scoping exercise by ensuring that all entities, including all intermediaries, were checked against law enforcement databases to identify any suspected criminality and that priority was given to STRs made as a result of the Papers. No evidence of any criminality was identified and, in addition, the investigation found that all financial intelligence had been analysed and disseminated appropriately. After the second publication of information relating to the Panama Papers, further analysis was conducted against law enforcement databases and, again, there were no adverse findings.

The FIU's findings are reviewed at meetings of senior management of Guernsey's law enforcement agencies and discussed within the Panama Papers Working Group, which comprises representatives of law enforcement, the financial services supervisory authority, the tax authority and Government. In addition, the involvement of Guernsey entities in the Panama Papers has been reviewed at other meetings involving different authorities (such as the financial services supervisory authority, the law enforcement agencies and the Attorney General's Chambers). This includes meetings convened specifically to discuss the Panama Papers as well as meetings of standing committees with responsibility for addressing money laundering and financial crime.

There are ongoing work streams to ensure that the findings of the investigation remain robust and up to date. The supervisory authority has reviewed the involvement of third parties, including Mossack Fonseca, during its routine supervision, including onsite inspections. Inspections since the release of the Papers have not led to any concerns regarding the identification and verification of beneficial ownership. Most recently, work has included a coordinated outreach exercise in relation to the private sector. This involved company service providers representing 60% of the sector being contacted as part of a focussed review of the sector's ongoing response to the Panama Papers.

FIU officers continue to undertake analysis of all incoming STRs, mutual legal assistance requests and other requests for assistance against the Panama Papers database to identify any possible links. Any potential positive results are subject to further reviews and analysis to determine the level of exposure to any possible criminality. In addition, open source material is monitored for any relevant links between Guernsey entities and the Papers. Information is disseminated as appropriate both domestically and internationally. This activity informs the discussions of the Panama Papers Working group.

It remains the case that no evidence of any criminality has been identified to date.

Question

Could you please send the PANA Committee the outcome produced by the working group?

Guernsey response

The outcomes include the following findings:

- a significant proportion of the Guernsey intermediaries mentioned in the Papers no longer exists;

- the vast majority of existing relationships which have included use of Mossack Fonseca are very historic;
- Mossack Fonseca was used either by the customer, or by another (predecessor) service provider used by the customer or by the Guernsey company service provider to form companies elsewhere;
- company service providers in Guernsey have carried out reviews of the relationships where Mossack Fonseca has been used;
- whether or not customer relationships involve, or have involved, third parties, Guernsey firms are responsible for meeting all AML/CFT obligations and there is no evidence that use of Mossack Fonseca has led to those obligations not being met;
- no criminality has been identified to date.

Question

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

Guernsey response

Guernsey tax law captures tax evasion by specifying and criminalising the underlying conduct that constitutes a tax offence, rather than by specifically defining tax evasion. The scope of the conduct that is criminalised is very wide and it covers all forms of conduct that might be involved in the commission of a tax offence, such as making false or misleading statements, providing false or misleading information, or failing to provide tax returns or other information required by the Director of Income Tax. In addition, under the criminal justice framework there are generic fraud offences applicable to any form of fraud, including all forms of tax evasion. Here too the scope of the conduct that is covered is very wide. Addressing tax evasion by focusing on conduct rather than by a statutory definition is in line with the approach under Guernsey's proceeds of crime legislation, which defines predicate offences by reference to underlying conduct in Guernsey or elsewhere that could constitute an offence under Guernsey law, rather than by reference to a list of defined offences. The effectiveness of this flexible approach is demonstrated by the fact that Guernsey has successfully prosecuted both domestic tax evasion and money laundering with foreign tax evasion as the predicate offence, and also has for many years provided mutual legal assistance in relation to all forms of tax offences in other jurisdictions.

Question

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?

Guernsey response

The number of suspicious transaction reports (STRs) received varies each year. In the five year period from 2012-2016 a total of 4,561 STRs were received, with 32% coming from banks, 3% from law firms and 3% from accountants.

Looking specifically at 2016, in that year there was a total of 1368 STRs with 320 (23%) being made by banks, 39 (3%) by law firms, and 38 (3%) by accountants.

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