**U.S. Department of Justice**
Washington, DC 20530

Supplemental Statement
Pursuant to Section 2 of the Foreign Agents Registration Act
of 1938, as amended

OMB NO. 1124-0002

For Six Month Period Ending 9/30/2010
(Insert date)

# I - REGISTRANT

1. (a) Name of Registrant
White & Case LLP

(b) Registration No.
2579

(c) Business Address(es) of Registrant
1155 Avenue of the Americas
New York, New York 10036

2. Has there been a change in the information previously furnished in connection with the following:

| | | | |
|---|---|---|---|
| (a) | If an individual: | | |
| | (1) Residence address(es) | Yes ☒ | No ☐ |
| | (2) Citizenship | Yes ☐ | No ☒ |
| | (3) Occupation | Yes ☐ | No ☒ |
| (b) | If an organization: | | |
| | (1) Name | Yes ☐ | No ☒ |
| | (2) Ownership or control | Yes ☒ | No ☐ |
| | (3) Branch offices | Yes ☐ | No ☒ |

(c) Explain fully all changes, if any, indicated in items (a) and (b) above.
Item 2(a)(1) - Partner resident changes are attached

Item 2(b)(2) - Changes in Partnership are indicated in Item 4.

**IF THE REGISTRANT IS AN INDIVIDUAL, OMIT RESPONSE TO ITEMS 3, 4 AND 5(a).**

3. If you have previously filed Exhibit C[1], state whether any changes therein have occurred during this 6 month reporting period.
Yes ☐ No ☒

If yes, have you filed an amendment to the Exhibit C? Yes ☐ No ☐

If no, please attach the required amendment.

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1 The Exhibit C, for which no printed form is provided, consists of a true copy of the charter, articles of incorporation, association, and by laws of a registrant that is an organization. (A waiver of the requirement to file an Exhibit C may be obtained for good cause upon written application to the Assistant Attorney General, National Security Division, U.S. Department of Justice, Washington, DC 20530.)

**Formerly CRM-154**

FORM NSD-2
SEPTEMBER 2007

4. (a) Have any persons ceased acting as partners, officers, directors or similar officials of the registrant during this 6 month reporting period? Yes ☒ No ☐

If yes, furnish the following information:

| Name | Position | Date connection ended |
|---|---|---|

SEE ATTACHED PAGES

(b) Have any persons become partners, officers, directors or similar officials during this 6 month reporting period? Yes ☒ No ☐

If yes, furnish the following information:

| Name | Residence address | Citizenship | Position | Date assumed |
|---|---|---|---|---|

SEE ATTACHED PAGES

5. (a) Has any person named in item 4(b) rendered services directly in furtherance of the interests of any foreign principal? Yes ☐ No ☒

If yes, identify each such person and describe his service.

(b) Have any employees or individuals, who have filed a short form registration statement, terminated their employment or connection with the registrant during this 6 month reporting period? Yes ☒ No ☐

If yes, furnish the following information:

| Name | Position or connection | Date terminated |
|---|---|---|
| Alastair Sutton | Lawyer | 6/30/2010 |

(c) During this 6 month reporting period, has the registrant hired as employees or in any other capacity, any persons who rendered or will render services to the registrant directly in furtherance of the interests of any foreign principal(s) in other than a clerical or secretarial, or in a related or similar capacity? Yes ☐ No ☒

If yes, furnish the following information:

| Name | Residence address | Citizenship | Position | Date assumed |
|---|---|---|---|---|

6. Have short form registration statements been filed by all of the persons named in Items 5(a) and 5(c) of the supplemental statement? Yes ☐ No ☐

If no, list names of persons who have not filed the required statement.

## II - FOREIGN PRINCIPAL

7. Has your connection with any foreign principal ended during this 6 month reporting period?
Yes ☐ No ☒

If yes, furnish the following information:

Name of foreign principal | Date of termination

8. Have you acquired any new foreign principal[2] during this 6 month reporting period?
Yes ☒ No ☐

If yes, furnish the following information:

| Name and address of foreign principal | Date acquired |
|---|---|
| Kingdom of Jordan<br>The Embassy of The Hashemite Kingdom of Jordan<br>to the Unites States<br>3504 International Drive, NW<br>Washington, D.C. 20008 | On or about September 9, 2010 |

9. In addition to those named in Items 7 and 8, if any, list foreign principals[2] whom you continued to represent during the 6 month reporting period.

The Great Socialist People's Libyan Arab Jamahiriya
States of Guernsey
Isle of Mann
States of Jersey

10. **EXHIBITS A AND B**

(a) Have you filed for each of the newly acquired foreign principals in Item 8 the following:

Exhibit A[3] Yes ☐ No ☒
Exhibit B[4] Yes ☐ No ☒

If no, please attach the required exhibit.

(b) Have there been any changes in the Exhibits A and B previously filed for any foreign principal whom you represented during the 6 month period? Yes ☐ No ☒

If yes, have you filed an amendment to these exhibits? Yes ☐ No ☐

If no, please attach the required amendment.

2 The term "foreign principal" includes, in addition to those defined in Section 1(b) of the Act, an individual organization any of whose activities are directly or indirectly supervised, directed, controlled, financed, or subsidized in whole or in major part by a foreign government, foreign political party, foreign organization or foreign individual. (See Rule 100(a) (9).) A registrant who represents more than one foreign principal is required to list in the statements he files under the Act only those principals for whom he is not entitled to claim exemption under Section 3 of the Act. (See Rule 208.)

3 The Exhibit A, which is filed on Form NSD-3 (Formerly CRM-157), sets forth the information required to be disclosed concerning each foreign principal.

4 The Exhibit B, which is filed on Form NSD-4 (Formerly CRM-155), sets forth the information concerning the agreement or understanding between the registrant and the foreign principal.

## III - ACTIVITIES

11. During this 6 month reporting period, have you engaged in any activities for or rendered any services to any foreign principal named in Items 7, 8, and 9 of this statement? Yes ☒ No ☐

If yes, identify each such foreign principal and describe in full detail your activities and services:

SEE ATTACHED PAGE

12. During this 6 month reporting period, have you on behalf of any foreign principal engaged in political activity[5] as defined below? Yes ☒ No ☐

If yes, identify each such foreign principal and describe in full detail all such political activity, indicating, among other things, the relations, interests and policies sought to be influenced and the means employed to achieve this purpose. If the registrant arranged, sponsored or delivered speeches, lectures or radio and TV broadcasts, give details as to dates and places of delivery, names of speakers and subject matter.

SEE ATTACHED SCHEDULES

13. In addition to the above described activities, if any, have you engaged in activity on your own behalf which benefits any or all of your foreign principals? Yes ☐ No ☒

If yes, describe fully.

5 The term "political activities" means any activity that the person engaging in believes will, or that the person intends to, in any way influence any agency or official of the Government of the United States or any section of the public within the United States with reference to formulating, adopting or changing the domestic or foreign policies of the United States or with reference to the political or public interests, policies, or relations of a government of a foreign country or a foreign political party.

## IV - FINANCIAL INFORMATION

14. (a) **RECEIPTS -MONIES**
During this 6 month reporting period, have you received from any foreign principal named in Items 7, 8, or 9 of this statement, or from any other source, for or in the interests of any such foreign principal, any contributions, income or money either as compensation or otherwise? Yes ☒ No ☐

If no, explain why.

If yes, set forth below in the required detail and separately for each foreign principal an account of such monies[6].

| Date | From whom | Purpose | Amount |
|---|---|---|---|
| SEE ATTACHED PAGES | | | |
| | | | Total |

(b) **RECEIPTS – FUND RAISING CAMPAIGN**
During this 6 month reporting period, have you received, as part of a fund raising campaign[7], any money on behalf of any foreign principal named in items 7, 8, or 9 of this statement? Yes ☐ No ☒

If yes, have you filed an Exhibit D[8] to your registration? Yes ☐ No ☐

If yes, indicate the date the Exhibit D was filed. Date ____________

(c) **RECEIPTS – THINGS OF VALUE**
During this 6 month reporting period, have you received any thing of value[9] other than money from any foreign principal named in Items 7, 8, or 9 of this statement, or from any other source, for or in the interests of any such foreign principal?
Yes ☐ No ☒

If yes, furnish the following information:

| Name of foreign principal | Date received | Description of thing of value | Purpose |
|---|---|---|---|

6, 7 A registrant is required to file an Exhibit D if he collects or receives contributions, loans, money, or other things of value for a foreign principal, as part of a fund raising campaign. (See Rule 201(e).)
8 An Exhibit D, for which no printed form is provided, sets forth an account of money collected or received as a result of a fund raising campaign and transmitted for a foreign principal.
9 Things of value include but are not limited to gifts, interest free loans, expense free travel, favored stock purchases, exclusive rights, favored treatment over competitors, "kickbacks," and the like.

15. (a) **DISBURSEMENTS – MONIES**
During this 6 month reporting period, have you

(1) disbursed or expended monies in connection with activity on behalf of any foreign principal named in Items 7, 8, or 9 of this statement? Yes ☒ No ☐

(2) transmitted monies to any such foreign principal? Yes ☐ No ☐

If no, explain in full detail why there were no disbursements made on behalf of any foreign principal.

If yes, set forth below in the required detail and separately for each foreign principal an account of such monies, including monies transmitted, if any, to each foreign principal.

| Date | To whom | Purpose | Amount |
|---|---|---|---|
| SEE ATTACHED PAGES | | | |

Total

(b) **DISBURSEMENTS – THINGS OF VALUE**

During this 6 month reporting period, have you disposed of anything of value[10] other than money in furtherance of or in connection with activities on behalf of any foreign principal named in Items 7, 8, or 9 of this statement?

Yes ☐ No ☒

If yes, furnish the following information:

| Date disposed | Name of person to whom given | On behalf of what foreign principal | Description of thing of value | Purpose |
|---|---|---|---|---|

(c) **DISBURSEMENTS – POLITICAL CONTRIBUTIONS**

During this 6 month reporting period, have you from your own funds and on your own behalf either directly or through any other person, made any contributions of money or other things of value[11] in connection with an election to any political office, or in connection with any primary election, convention, or caucus held to select candidates for political office?

Yes ☐ No ☒

If yes, furnish the following information:

| Date | Amount or thing of value | Name of political organization | Name of candidate |
|---|---|---|---|

10, 11 Things of value include but are not limited to gifts, interest free loans, expense free travel, favored stock purchases, exclusive rights, favored treatment over competitors, "kickbacks" and the like.

## V - INFORMATIONAL MATERIALS

16. During this 6 month reporting period, did you prepare, disseminate or cause to be disseminated any informational materials [12]?
Yes ☒ No ☐

IF YES, RESPOND TO THE REMAINING ITEMS IN SECTION V.

17. Identify each such foreign principal.

States of Jersey

States of Guernsey

18. During this 6 month reporting period, has any foreign principal established a budget or allocated a specified sum of money to finance your activities in preparing or disseminating informational materials? Yes ☐ No ☒

If yes, identify each such foreign principal, specify amount, and indicate for what period of time.

19. During this 6 month reporting period, did your activities in preparing, disseminating or causing the dissemination of informational materials include the use of any of the following:

☐ Radio or TV broadcasts ☐ Magazine or newspaper articles ☐ Motion picture films ☒ Letters or telegrams
☐ Advertising campaigns ☐ Press releases ☐ Pamphlets or other publications ☐ Lectures or speeches
☐ Internet ☒ Other (specify) E-mail and meetings

20. During this 6 month reporting period, did you disseminate or cause to be disseminated informational materials among any of the following groups:

☒ Public officials ☐ Newspapers ☐ Libraries
☒ Legislators ☐ Editors ☐ Educational institutions
☒ Government agencies ☐ Civic groups or associations ☐ Nationality groups
☐ Other (specify)

21. What language was used in the informational materials:

☒ English ☐ Other (specify)

22. Did you file with the Registration Unit, U.S. Department of Justice a copy of each item of such informational materials disseminated or caused to be disseminated during this 6 month reporting period? Yes ☒ No ☐

23. Did you label each item of such informational materials with the statement required by Section 4(b) of the Act?
Yes ☒ No ☐

12 The term informational materials includes any oral, visual, graphic, written, or pictorial information or matter of any kind, including that published by means of advertising, books, periodicals, newspapers, lectures, broadcasts, motion pictures, or any means or instrumentality of interstate or foreign commerce or otherwise. Informational materials disseminated by an agent of a foreign principal as part of an activity in itself exempt from registration, or an activity which by itself would not require registration, need not be filed pursuant to Section 4(b) of the Act.

## VI – EXECUTION

In accordance with 28 U.S.C. §1746, the undersigned swear(s) or affirm(s) under penalty of perjury that he/she has (they have) read the information set forth in this registration statement and the attached exhibits and that he/she is (they are) familiar with the contents thereof and that such contents are in their entirety true and accurate to the best of his/her (their) knowledge and belief, except that the undersigned make(s) no representation as to the truth or accuracy of the information contained in the attached Short Form Registration Statement(s), if any, insofar as such information is not within his/her (their) personal knowledge.

| (Date of signature) | (Type or print name under each signature[13]) |
|---|---|
| 28 OCTOBER 2010 | Anthony F. Kahn |
| | |
| | |
| | |

13 This statement shall be signed by the individual agent, if the registrant is an individual, or by a majority of those partners, officers, directors or persons performing similar functions, if the registrant is an organization, except that the organization can, by power of attorney, authorize one or more individuals to execute this statement on its behalf.

UNITED STATES DEPARTMENT OF JUSTICE
FARA REGISTRATION UNIT
NATIONAL SECURITY DIVISION
WASHINGTON, D.C. 20530

**NOTICE**

Please answer the following questions and return this sheet in triplicate with your Supplemental Statement:

1. Is your answer to Item 16 of Section V (Informational Materials – page 8 of Form NSD-2, formerly Form CRM-154 Supplemental Statement):

YES ✓ or NO ____

(If your answer to question 1 is "yes" do not answer question 2 of this form.)

2. Do you disseminate any material in connection with your registration:

YES ____ or NO ____

(If your answer to question 2 is "yes" please forward for our review copies of all material including: films, film catalogs, posters, brochures, press releases, etc. which you have disseminated during the past six months.)

Signature

28 OCTOBER 2010
Date

Anthony F. Kahn
Please type or print name of Signatory on the line above

Partner
Title

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NSD/CES/REGISTRATION UNIT

o

**U.S. Department of Justice**

National Security Division

*Washington, DC 20530*

THIS FORM IS TO BE AN OFFICIAL ATTACHMENT TO YOUR CURRENT SUPPLEMENTAL STATEMENT - PLEASE EXECUTE IN TRIPLICATE

SHORT-FORM REGISTRATION INFORMATION SHEET

SECTION A

The Department records list active short-form registration statements for the following persons of your organization filed on the date indicated by each name. If a person is not still functioning in the same capacity directly on behalf of the foreign principal, please show the date of termination.

**Short Form List for Registrant: White & Case, LLP**

| Last Name | First Name and Other Names | Registration Date | Termination Date | Role |
|---|---|---|---|---|
| Erb | Nicole | 06/03/2003 | | |
| ~~Sutton~~ | ~~Alastair~~ | ~~11/15/2005~~ | 6/30/10 | Lawyer |
| Carlisle | Linda E. | 10/26/2007 | | |
| Curran | Christopher | 11/05/2007 | | |
| Nunneley | Devon | 05/06/2008 | | |
| Lee | Adams C. | 10/02/2008 | | |
| Ritcey-Donohue | Joanna | 10/02/2008 | | |
| Delelle | Claire | 10/31/2008 | | |

**U.S. Department of Justice**

**National Security Division**

*Washington, DC 20530*


SECTION B

In addition to those persons listed in Section A, list below all current employees rendering services directly on behalf of the foreign principals(s) who have not filed short-form registration statements. (Do not list clerks, secretaries, typists or employees in a similar or related capacity). If there is some question as to whether an employee has an obligation to file a short-form, please address a letter to the Registration Unit describing the activities and connection with the foreign principal.

| Name | Function | Date Hired |
|---|---|---|
| NONE | | |
| | | |
| | | |
| | | |
| | | |
| | | |

Signature: Anthony F. Kahn     Date: 28 OCTOBER 2010

Title: Partner

Item 2(a)(1)

**WHITE & CASE LLP**
**PARTNER ADDRESS CHANGES LISTING**
**April 1, 2010 - September 30, 2010**

| NAME | ADDRESS | CHANGE DATE |
|---|---|---|
| Ahrens, Boerries | Im Kamp 18<br>Stemmen, 27389<br>Germany | 09/16/10 |
| Airisto, Timo | Krogiuksentie 6<br>Apt. E<br>Helsinki, 00340<br>Finland | 09/16/10 |
| Akamatsu, Akira | 2-7-5-601 Sekimachi Higashi<br>Nerima-Ku<br>Tokyo, 177-0<br>Japan | 09/16/10 |
| Allchurch, Kate | 12 Trevose Crescent<br>Singapore, 29802<br>Singapore | 09/09/10 |
| Alvarez, Pedro | 5785 S.W. 118th Street<br>Coral Gables, FL 33156<br>United States | 07/09/10 |
| Arriola Penalosa, Iker Ignacio | Platon 280-100<br>Col. Chapultepec Polanco<br>Mexico, 11560<br>Mexico | 08/09/10 |
| Artzinger-Bolten, Jochen | Esperantostrasse 43<br>Frankfurt Am Main, 60598<br>Germany | 09/16/10 |
| Aseborn, Goran | Saevstigen 6<br>Saltsjoebaden, 13335<br>Sweden | 09/16/10 |
| Asner, Karen | 12 West 96th Street<br>Apt. 2A<br>New York, NY 10025<br>United States | 07/09/10 |
| Baehr, Biner | Steffenstrasse. 7<br>Duesseldorf, 40545<br>Germany | 09/16/10 |
| Baker, David | 57 Disraeli Road<br>Putney<br>London, SW15<br>United Kingdom | 09/16/10 |

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NSD/CES/REGISTRATION UNIT

**WHITE & CASE LLP**
**PARTNER ADDRESS CHANGES LISTING**
**April 1, 2010 - September 30, 2010**

| NAME | ADDRESS | CHANGE DATE |
|---|---|---|
| Baker, Donald | Rua Campo Verde 300<br>Apt. 51<br>Sao Paulo, 01456<br>Brazil | 09/16/10 |
| Baker, Ellis | 351 Shakespeare Tower<br>Barbican<br>London, EC2Y<br>United Kingdom | 09/16/10 |
| Ballard, Ashley | Hillcroft<br>Petworth Road Witley<br>Surrey, GU8 5<br>England | 09/16/10 |
| Barta, Ivo | Trojska 215<br>Prague 7 - Troja, 170 0<br>Czech Republic | 09/16/10 |
| Barwise, David | 8 Warrington Street<br>Formosa Street<br>London, W9 2Q<br>United Kingdom | 09/16/10 |
| Bayim-Adomako, Magdalene | 22 Canonbury Grove<br>London, N1 2H<br>United Kingdom | 09/16/10 |
| Beasley, Adrian | 48 Kingfisher House<br>Battersea Reach<br>London, SW181<br>United Kingdom | 09/16/10 |
| Beaven, Damian | Nebusicka 192<br>Prague 6, 16000<br>Czech Republic | 09/16/10 |
| Benson, Justin | 54 Watford Road<br>Radlett<br>Hertfordshire, WD78L<br>United Kingdom | 09/16/10 |
| Berger, Henning | Reichshofer Str. 7<br>Berlin, 14195<br>Germany | 09/16/10 |
| Biensan, Paule | 19 Rue De Blemur<br>Piscop, 95350<br>France | 09/16/10 |

**WHITE & CASE LLP**
**PARTNER ADDRESS CHANGES LISTING**
**April 1, 2010 - September 30, 2010**

| NAME | ADDRESS | CHANGE DATE |
|---|---|---|
| Boman, Mats | Burevagen 5<br>Djursholm, 18263<br>Sweden | 09/16/10 |
| Bond, David | 15205 S.W. 80th Avenue<br>Miami, FL 33157<br>United States | 07/09/10 |
| Bosly, Thierry | Orban 79<br>Brussels, 1150<br>Belgium | 09/16/10 |
| Bouillon, Jacques | "La Restanque"<br>725, Chemin Saint-Jaumes<br>Eguilles, 13510<br>France | 09/16/10 |
| Bouvet, Frederic | 8 Rue Huysmans<br>Paris, 75006<br>France | 08/27/10 |
| Brettle, Oliver | 11 Platt'S Lane<br>London, NW3 7<br>United Kingdom | 09/16/10 |
| Brod, Carter | 1 Fawley Road<br>West Hempstead<br>London, NW6 1<br>United Kingdom | 09/16/10 |
| Broke, Philip | 41 Thornhill Road<br>London, N1 1J<br>United Kingdom | 09/16/10 |
| Burke, Alan | 4 Beningfield Drive<br>London Colney<br>Herts, AL21U<br>United Kingdom | 09/16/10 |
| Cakmak, Mesut | Angora Evleri Camlica Cad.<br>No. 10 Beysukent<br>Ankara, 06530<br>Turkey | 09/16/10 |
| Cakmak, Zeynep | Angora Evleri Camlica Cad.<br>No. 10 Beysukent<br>Ankara, 06530<br>Turkey | 09/16/10 |

**WHITE & CASE LLP**
**PARTNER ADDRESS CHANGES LISTING**
**April 1, 2010 - September 30, 2010**

| NAME | ADDRESS | CHANGE DATE |
|---|---|---|
| Capper, Phillip | Flat 601 City Pavilion<br>33 Britton Street<br>London, EC1M5<br>United Kingdom | 09/16/10 |
| Carberry, Paul | 73 Warren Street<br>Apt. 5<br>New York, NY 10007<br>United States | 08/11/10 |
| Castillo-Bernaus, Mark | 36 Cambridge Street<br>London, SW1V4<br>United Kingdom | 09/16/10 |
| Chang, Colin | 5 Garrett Street<br>Flat 14<br>London, EC1Y0<br>United Kingdom | 09/16/10 |
| Chen, Guan Feng | Unit 9a South Tower 8 Residence Bel-Air<br>38 Bel-Air Avenue Island South<br>Hong Kong,<br>Hong Kong | 09/07/10 |
| Choi, Barbara | 123 Burbage Road<br>Dulwich, SE219<br>United Kingdom | 09/16/10 |
| Chow, Hallam | 41 Stubbs Road<br>Bellevue Court<br>Hong Kong, SAR<br>Hong Kong | 08/03/10 |
| Clemm, Nils | Dachsberg 15<br>Berlin, 14193<br>Germany | 09/16/10 |
| Corta-Fernandez, Vicente | Fuego 989<br>Col. Jardines Del Pedregal<br>D.F., 01900<br>Mexico | 08/09/10 |
| Cowan, Paul | 84 Queens Avenue<br>Finchley<br>London, N32NP<br>United Kingdom | 09/20/10 |
| Cox, David | The Old Rectory<br>The Green Sarratt<br>Hertfordshire, WD3 6<br>United Kingdom | 09/20/10 |

**WHITE & CASE LLP**
**PARTNER ADDRESS CHANGES LISTING**
**April 1, 2010 - September 30, 2010**

| NAME | ADDRESS | CHANGE DATE |
|---|---|---|
| Cuillerier, Ian | 515 East 72nd Street<br>Unit 22E<br>New York, NY 10021<br>United States | 06/15/10 |
| Czabanski, Jacek | Ul. Iwonicka 53<br>Warsaw, 02-92<br>Poland | 09/20/10 |
| Czarnocki, Christopher | 48C Courtfield Gardens<br>South Kensington<br>London, SW5 0 | 06/17/10 |
| Daniel, Saul | Flat 12<br>13-17 Baron Street<br>London, N19HP<br>United Kingdom | 09/20/10 |
| Danilowicz, Witold | Ul. Myslowicka 5<br>Warsaw, 01-61<br>Poland | 09/20/10 |
| De La Hoz, Fernando | Rua Vicente Felix 60<br>Apt. 172<br>Sao Paulo, 01410<br>Brazil | 08/05/10 |
| De La Laurencie, Jean-Patrice | 133 Avenue Emile Zola<br>Paris, 75015<br>France | 09/20/10 |
| Diamond, Colin | 318 West 100th Street<br>Apt. 6D<br>New York, NY 10025<br>United States | 07/09/10 |
| Dlouhy, Alexander | Heinrich-Walbroehl-Weg 23<br>Duesseldorf, 40489<br>Germany | 09/20/10 |
| Dlouhy, Michal | Na Cerne Hore 22<br>Prague 6, 16000<br>Czech Republic | 09/20/10 |
| Dmitrieva, Irina | Profsoyusnaya 85-1-234<br>Moscow, 11727<br>Russia | 09/20/10 |

**WHITE & CASE LLP**
**PARTNER ADDRESS CHANGES LISTING**
**April 1, 2010 - September 30, 2010**

| NAME | ADDRESS | CHANGE DATE |
|---|---|---|
| Dokei, Toshio | 12-6 Higashi-Jujo 3 Chome<br>Kita-Ku<br>Tokyo, 114-0<br>Japan | 07/09/10 |
| Donovan, Maureen | 1 Gracie Terrace<br>Apt. 18A<br>New York, NY 10028<br>United States | 06/18/10 |
| Dontsov, Andrei | 9 Bl. 1 Lyalin Apt. 9<br>Pereulok<br>Moscow, 10502<br>Russia | 09/20/10 |
| Doran, Michael | 22 Highgate Close<br>Highgate<br>London, N6 4S<br>United Kingdom | 09/21/10 |
| Duffy, Jeremy | Flat 3<br>34 Comyn Road<br>Batter Sea, SW111<br>United Kingdom | 09/20/10 |
| Eisenberg, David | Flat 3<br>27 Redington Road<br>London, NW3 7<br>United Kingdom | 09/20/10 |
| Engel, Brice | 20 Avenue Du Cardinal De Retz<br>Maisons-Laffitte, 78600<br>France | 09/20/10 |
| Etienne-Cummings, Shamita | 1520 Kingman Place N.W.<br>Washington, DC 20005<br>United States | 07/09/10 |
| Evers, Frank | Eppendorfer Landstr. 55<br>Hamburg, 20249<br>Germany | 09/20/10 |
| Fine, Anthony | 11 Prothero Gardens<br>London, NW4 3<br>United Kingdom | 09/20/10 |
| Finkelnburg, Klaus | Franzstr. 3<br>Berlin, 12247<br>Germany | 09/20/10 |

**WHITE & CASE LLP**
**PARTNER ADDRESS CHANGES LISTING**
**April 1, 2010 - September 30, 2010**

| NAME | ADDRESS | CHANGE DATE |
|---|---|---|
| Finlay, Peter | 53 Edgerton Crescent<br>London, 5W3 2<br>United Kingdom | 09/20/10 |
| Fiszer, Janusz | Ul. Bitwypod Rokitna 1/75<br>Warsaw, 01-50<br>Poland | 09/20/10 |
| Fitzherbert-Brockholes, Franci | 11 Hesper Mews<br>London, SW5 O<br>United Kingdom | 09/20/10 |
| Flatten, Thomas | Neumannstrasse 45<br>Frankfurt, 60433<br>Germany | 09/20/10 |
| Forrester, Ian | Manoir<br>La Roche-En-Ardenne<br>Samree, 6982<br>Belgium | 09/20/10 |
| Frampton, Christopher | 435 E. 79th Street<br>Apt. 9B<br>New York, NY 10075<br>United States | 08/20/10 |
| Gabel, Detlev | Deutschherrnufer 42<br>Frankfurt, 60594<br>Germany | 09/20/10 |
| Gilicinski, Lech | Ul. Storczykow 20<br>Piaseczno-Josefostaw, 05-50<br>Poland | 09/20/10 |
| Glengarry, Mark | Garden Flat<br>143 Abbey Road<br>London, NW64S<br>United Kingdom | 09/20/10 |
| Goldberg, David | 14 Rodney Court<br>6-8 Maida Vale<br>London,<br>United Kingdom | 09/24/10 |
| Goodrich, Mark | 202 Providence<br>12-3 Daikyo-Cho<br>Tokyo, 160-0<br>Japan | 08/31/10 |

**WHITE & CASE LLP**
**PARTNER ADDRESS CHANGES LISTING**
**April 1, 2010 - September 30, 2010**

| NAME | ADDRESS | CHANGE DATE |
|---|---|---|
| Gragg, K. Lawrence | 714 Calatrava Avenue<br>Coral Gables, FL 33143<br>United States | 06/16/10 |
| Graham, Alistair | 31 Napier Avenue<br>London, SW6 3<br>United Kingdom | 09/20/10 |
| Greenacre, Nicholas | 68 Kew Green<br>Richmond Surrey<br>London, TW9 3<br>United Kingdom | 09/20/10 |
| Grimwood, Shamilah | 76 Kilkenny Road<br>Parkview, 2193<br>South Africa | 09/20/10 |
| Grosse Honebrink, Josef | Joseph-Haydn-Strasse 21<br>Kelkheim, 65779<br>Germany | 09/20/10 |
| Habighorst, Oliver | Mainstrasse 20<br>Bad Homburg, 61352<br>Germany | 09/20/10 |
| Hamilton, Jonathan | 701 Thirteenth Street N.W.<br>Washington, DC 20005<br>United States | 08/11/10 |
| Hamilton, Mark | 258 Riverside Drive<br>Apt. 8C<br>New York, NY 10025<br>United States | 06/04/10 |
| Hartline, Sharon | Flat 18A, Block 3, Garden Terrace<br>No. 8A Old Peak Road<br>Hong Kong, 00000<br>Hong Kong | 08/03/10 |
| Hauptmann, Markus | Moerikestrasse 11<br>Frankfurt Am Main, 60320<br>Germany | 09/20/10 |
| Haussila, Petri | Kauppiaankatu 7 A 21-22<br>Helsinki, 00160<br>Finland | 09/20/10 |
| Heuchemer, Frank | Leerbachstrasse 79<br>Frankfurt Am Main, 60322<br>Germany | 09/20/10 |

**WHITE & CASE LLP**
**PARTNER ADDRESS CHANGES LISTING**
**April 1, 2010 - September 30, 2010**

| NAME | ADDRESS | CHANGE DATE |
|---|---|---|
| Heuer, Dennis | Hoehenstrasse 78<br>Kronberg, 61476<br>Germany | 09/20/10 |
| Higham, John | 27 Southwood Avenue<br>Highgate<br>London, N6 5S<br>United Kingdom | 09/20/10 |
| Hingst, Kai-Michael | Agnesstr. 54<br>Hamburg, 22301<br>Germany | 09/20/10 |
| Hoffmann, Martin | Jurgensallee 134<br>Hamburg, 22605<br>Germany | 09/21/10 |
| Hueesker, Hans-Juergen | Wilhelm-Bonn-Strasse 8e<br>Kronberg, 61476<br>Germany | 09/21/10 |
| Huet, Nicolas | 4 Rue Henri Simon<br>Versailles, 78000<br>France | 09/21/10 |
| Igarashi, Yasuo | 2-8-23 Hayamiya<br>Nerima-Ku<br>Tokyo, 179-0<br>Japan | 09/21/10 |
| Ippolito, Alexandre | 147 Avenue De Suffren<br>Paris, 75015<br>France | 09/21/10 |
| Irving, Robert | Viragarok Utca. 11<br>Budapest, 1026<br>Hungary | 09/21/10 |
| Jacobs, Christian | P.O. Box 302807<br>Hamburg, 20310<br>Germany | 09/21/10 |
| Johansson, Ulf | Gronviksvagen 138<br>Bromma, S1677<br>Sweden | 09/21/10 |
| Judd, Matthew | Flat 4<br>11 Bentinck Street<br>London, W1U 2<br>United Kingdom | 09/21/10 |

**WHITE & CASE LLP**
**PARTNER ADDRESS CHANGES LISTING**
**April 1, 2010 - September 30, 2010**

| NAME | ADDRESS | CHANGE DATE |
|---|---|---|
| Jurcewicz, Witold | Blizne Jasinskiego<br>Ul. Chopina 27<br>Stare Babice, 05-08<br>Poland | 09/21/10 |
| Karasavidis, Simela | 2 Woodman Mews<br>Richmond<br>Surrey, TW94A<br>United Kingdom | 09/21/10 |
| Kasch, Matthias | Mechtildstrasse 23<br>Frankfurt Am Main, 60320<br>Germany | 09/21/10 |
| Kecker, Jan-Peter | Strandweg 24<br>Hamburg, 22587<br>Germany | 09/21/10 |
| Kerr, Jason | Hedgerow The Warren<br>Ashtead<br>Surrey, KT21<br>United Kingdom | 09/21/10 |
| Khokhar, Someera | 140 West 124th Street<br>Apt. 8A<br>New York, NY 10027<br>United States | 07/09/10 |
| Kiernan, Joshua | Merchant House<br>Flat 4<br>London, W9 1H<br>United Kingdom | 09/21/10 |
| Killick, James | Avenue De La Couronne 111<br>Brussels, 1050<br>Belgium | 09/21/10 |
| Kim, Jin | 130 West 30th Street<br>Apt. 6A<br>New York, NY 10001<br>United States | 07/09/10 |
| Kirschner, William | 1A One Tree Hill<br>#10-02 One Tree Hill Residence<br>Singapore, 24866<br>Singapore | 07/09/10 |
| Klengel, Jurgen Detlef | Neue Mauerstrasse 14 G<br>Bad Homburg, 61348<br>Germany | 09/21/10 |

**WHITE & CASE LLP**
**PARTNER ADDRESS CHANGES LISTING**
**April 1, 2010 - September 30, 2010**

| NAME | ADDRESS | CHANGE DATE |
|---|---|---|
| Kotthoff, Jost | Lichtensteinstrasse 2<br>Frankfurt Am Main, 60322<br>Germany | 09/21/10 |
| Kraffel, Joerg | Koenigsweg 80<br>Berlin, 14163<br>Germany | 09/21/10 |
| Kreppel, Ulf | Prinzeregentenstrasse 74<br>Munich, 81675<br>Germany | 09/21/10 |
| Krogius, Sven | 43 Palace Gardens Terrace<br>London, W8 4S<br>United Kingdom | 09/21/10 |
| Kuebel, Klaus | Westendstr. 15<br>Frankfurt, 60325<br>Germany | 04/23/10 |
| Kurtz, Glenn | 1230 Park Avenue<br>Apt. 2D<br>New York, NY 10128<br>United States | 07/09/10 |
| Land, Volker | Duwockskamp 9<br>Hamburg, 21029<br>Germany | 09/21/10 |
| Laplante, Eric | 72ter. Rue De Longchamp<br>Nevilly-Sur-Seine, 92200<br>France | 09/21/10 |
| Leloup, Francois | 25 Rue Pierre Nicole<br>Paris, 75005<br>France | 08/27/10 |
| Lembke, Gerd | Elmshorner Str. 100<br>Pinneberg, 25421<br>Germany | 09/21/10 |
| Lettau, Endrik | Hoelderlinweg 21<br>Bad Homburg, 61350<br>Germany | 09/21/10 |
| Lever, Jack | 791 Crandon Blvd.<br>Unit 1205<br>Key Biscayne, FL 33149<br>United States | 07/22/10 |

**WHITE & CASE LLP**
**PARTNER ADDRESS CHANGES LISTING**
**April 1, 2010 - September 30, 2010**

| NAME | ADDRESS | CHANGE DATE |
|---|---|---|
| Li, Xiaoming | No. 3222 Beijing Ming Du Yuan<br>Shunyi District<br>Beijing, 10130<br>China | 09/08/10 |
| Lightfoot, Charles | 8 Frobisher Court<br>Old Woolwich Road<br>London, SE10<br>United Kingdom | 09/21/10 |
| Lindegren, Annica | Ginnheimer Strasse 21<br>Frankfurt, 60487<br>Germany | 09/21/10 |
| Lindfelt, Pontus | Rue Camille Lemonnier 33<br>Brussels, 1050<br>Belgium | 09/21/10 |
| Little, Gregory | 157 East 74th Street<br>Apt. 3C<br>New York, NY 10021<br>United States | 07/09/10 |
| Llewelyn, David | 16 Jalan Aruan<br>Singapore, 22912<br>Singapore | 09/21/10 |
| Loewinger, Doron | 59 Bakers Passage<br>London, NW31R<br>United Kingdom | 09/21/10 |
| Lombach, Jan | Sjovagen 4<br>Saltsjobaden, 13336<br>Sweden | 09/21/10 |
| MacLennan, Jacquelyn | Avenue Des Chenes 27<br>Rhode St. Genese, 1640<br>Belgium | 09/21/10 |
| Majerholc, Norbert | 2, Avenue Hoche<br>Paris, 75008<br>France | 09/21/10 |
| Martin, Juan | Bosque De Alerces 631<br>Bosque De Las Lomas<br>Mexico, 11700<br>Mexico | 08/09/10 |
| Matejcek, Jan | Nad Sarkou 122<br>Prague 6, 160 0<br>Czech Republic | 08/18/10 |

**WHITE & CASE LLP**
**PARTNER ADDRESS CHANGES LISTING**
**April 1, 2010 - September 30, 2010**

| NAME | ADDRESS | CHANGE DATE |
| --- | --- | --- |
| Melnikas, Maya | 54 2nd Tverskaya-Yamskaya Str.<br>Apt. 129<br>Moscow, 12531<br>Russia | 09/24/10 |
| Menon, Peita | 5 Regents Close<br>Radlett<br>Herts, WD77D<br>United Kingdom | 09/29/10 |
| Michailov, Eric | 21/1 Plotnikov Per.<br>Apt. 9<br>Moscow, 11900<br>Russia | 09/24/10 |
| Miller, Brian | 45 Mount Sinai Rise<br>#17-02 Beaverton Court<br>Singapore, 27695<br>Singapore | 09/21/10 |
| Mincemoyer, Robert | 100 Settrington Road<br>London, SW6 3<br>United Kingdom | 04/12/10 |
| Moeser, Ekkehard | Deutschherrnufer 49<br>Frankfurt Am Main, 60594<br>Germany | 09/21/10 |
| Morin, Vincent | 2 Sq Charles Laurent<br>Paris, 75015<br>France | 09/21/10 |
| Mueller, Julia | Schoene Aussicht 48a<br>Eschborn/Niederhoech, 65760<br>Germany | 09/21/10 |
| Muller, Eric | 106 Due Monge<br>Paris, 75005<br>France | 08/27/10 |
| Nacimiento, Patricia | Myliusstr. 25a<br>Frankfurt, 60323<br>Germany | 09/21/10 |
| Nairäc, Charles | 74 rue de Paris<br>Meudon, 92190<br>France | 09/21/10 |

WHITE & CASE LLP
PARTNER ADDRESS CHANGES LISTING
April 1, 2010 - September 30, 2010

| NAME | ADDRESS | CHANGE DATE |
|---|---|---|
| Nam, Daniel | 300 East 77th Street<br>Apt. 9D<br>New York, NY 10075<br>United States | 07/09/10 |
| Naylor, Jeremy | 124 West 79th Street<br>Apt. 15D<br>New York, NY 10024<br>United States | 07/09/10 |
| Nelivigi, Nandan | 245 W. 99th Street<br>Apt. 12A<br>New York, NY 10025<br>United States | 06/30/10 |
| Nesvetova, Irina | 6 Dolgorukovskaya St.<br>Apt. 36<br>Moscow, 10300<br>Russia | 09/22/10 |
| O'Malley, Sean | 4 West 21st Street<br>Apt. 4D<br>New York, NY 10010<br>United States | 09/20/10 |
| Odeurs, Stefan | Nieuwe Steenweg 49<br>Heers, 3870<br>Belgium | 08/26/10 |
| Ohashi, Koichiro | 5-16-6 Kitashinagawa<br>Shinagawa-Ku<br>Tokyo, 141-0<br>Japan | 08/31/10 |
| Ojantakanen, Risto | Risto Rytintie<br>3D<br>Helsinki, 0570<br>Finland | 09/22/10 |
| Olofsson, Rolf | Avenue De L'Observatoire 102<br>Brussels, 1180<br>Belgium | 09/22/10 |
| Onder, Sebnem | Park Vadi Evleri<br>A-5 Blok No.63<br>Anakara, 06550<br>Turkey | 09/22/10 |
| Orozco Waters, Rodrigo | Galeana<br>No. 20<br>Mexico City, 01000<br>Mexico | 09/20/10 |

**WHITE & CASE LLP**
**PARTNER ADDRESS CHANGES LISTING**
**April 1, 2010 - September 30, 2010**

| NAME | ADDRESS | CHANGE DATE |
|---|---|---|
| Orzechowski, Daren | 915 West End Avenue<br>Apt. 11A<br>New York, NY 10025<br>United States | 07/09/10 |
| Ostapets, Igor | Gilyarovskogo Street 4 Bld 1<br>Apt. 42<br>Moscow, 12909<br>Russia | 09/22/10 |
| Pace, Jack | 177 E. 77th Street<br>Apt 2D<br>New York, NY 10075<br>United States | 08/09/10 |
| Pajunk, Axel | Niedenau 58<br>Hesse, 60325<br>Germany | 09/22/10 |
| Panek, Petr | Evropska 24<br>Prague, 16000<br>Czech Republic | 09/22/10 |
| Parbhu, Joshua | 102 Abbeville Road<br>London, SW4 9<br>United Kingdom | 09/22/10 |
| Payne, Stephen | C/O White & Case LLP<br>Beijing Representative Office<br>Chaoyang District, 10002<br>China | 07/09/10 |
| Peel, Douglas | 45 Lengkok Merak<br>Residence 8<br>Singapore, 24888<br>Singapore | 09/22/10 |
| Peigney, Gilles | 97 Boulevard Raspail<br>Paris, 75006<br>France | 09/22/10 |
| Peter, Franck | 56 Rue Carnot<br>Boulogne Billancourt, 92100<br>France | 09/22/10 |
| Pettersson, Lennart | St. Eriksgatan 54<br>London, 11234<br>United Kingdom | 09/22/10 |

**WHITE & CASE LLP**
**PARTNER ADDRESS CHANGES LISTING**
**April 1, 2010 - September 30, 2010**

| NAME | ADDRESS | CHANGE DATE |
|---|---|---|
| Pilkington, Christian | 80 Kyrle Road<br>London, SW11<br>United Kingdom | 09/22/10 |
| Pinkusiewicz, Tomer | 252 Seventh Avenue<br>Apt. 101<br>New York, NY 10001<br>United States | 08/17/10 |
| Pochhammer, Andreas | Ruesternallee 15<br>Berlin, 14050<br>Germany | 09/22/10 |
| Polkinghorne, Michael | 6 Rue Des Coutures St. Gervais<br>Paris, 75003<br>France | 09/22/10 |
| Polonsky, Marc | Springfield<br>443 Cherry Hinton Road<br>Cambridge, CB18D<br>United Kingdom | 09/22/10 |
| Powell, Mark | Avenue Des Touristes 19<br>Brussels, 1150<br>Belgium | 09/22/10 |
| Proudian, Kaya | 7 Tan Boon Cong Avenue<br>Singapore, 27631<br>Singapore | 09/22/10 |
| Quigley, Michael | 2126 Connecticut Avenue N.W.<br>#74<br>Washington, DC 20008<br>United States | 04/26/10 |
| Raney, Steven | 45 Avonwold Road<br>Saxonwold<br>Johannesburg, 2196<br>South Africa | 09/22/10 |
| Ravenscroft, Stephen | 13 Sussex House<br>3 Maidstone Building Mews<br>London, SE11G<br>United Kingdom | 09/22/10 |
| Rawlinson, Antonia | 3 Doria Road<br>London, SW6 4<br>United Kingdom | 09/22/10 |

**WHITE & CASE LLP**
**PARTNER ADDRESS CHANGES LISTING**
**April 1, 2010 - September 30, 2010**

| NAME | ADDRESS | CHANGE DATE |
|---|---|---|
| Reczicza, Istvan | 6 Zapor<br>Budaors, 2040<br>Hungary | 09/22/10 |
| Relden, Anders | Klappstigen 3<br>Bromma, 16859<br>Sweden | 09/22/10 |
| Reuter, Alexander | Freytagstrasse 38<br>Duesseldorf, 40237<br>Germany | 09/22/10 |
| Reynolds, Carmen | 31 Chelsea Park Gardens<br>London, SW3 6<br>United.Kingdom | 09/22/10 |
| Reynolds, John | 72 Cromwell Avenue<br>Highgate<br>London, N6 5H<br>United Kingdom | 09/22/10 |
| Richard, Raphael | 31 Avenue De La Princesse<br>Le Vesinet, 78110<br>France | 09/22/10 |
| Rodemann, Carsten | Kurstrasse 14<br>Berlin, 10117<br>Germany | 09/22/10 |
| Rohnke, Christian | Pfeilshofer Weg 14<br>Hamburg, D-223<br>Germany | 08/26/10 |
| Rover, Edward | 1111 Park Avenue<br>New York, NY 10128<br>United States | 08/12/10 |
| Rovzar, Alexis | 661 Steamboat Road<br>Greenwich, CT 06830<br>United States | 08/25/10 |
| Sano, Jeannine | 410 Austin Street<br>San Francisco, CA 94109<br>United States | 06/18/10 |
| Sarrailhe, Philippe | 21 Villa Madrid<br>Neuilly Sur Seine, 92200<br>France | 09/23/10 |

| NAME | ADDRESS | CHANGE DATE |
|---|---|---|
| Schmitt, Hermann | Rosinka Residential Complex<br>P/O Otradnoye Village Angelova<br>Moscow Rural, 14344<br>Russia | 09/23/10 |
| Schmudde, Bettina | Grenzstrasse 37<br>Halstenbek, 25469<br>Germany | 09/23/10 |
| Seppala, Christopher | 17 Avenue Du Parc St. James<br>Neuilly-Sur-Seine, 92200<br>France | 09/23/10 |
| Sepulveda Cosio, Alberto | Blvd. Manuel Avila Camacho<br>No. 24PH<br>Col. Lamas De Chapul, 11000<br>Mexico | 08/10/10 |
| Sepulveda De La Fuente, Albert | Sierra Madre 520<br>Col. Lomas De Chapultepec<br>Mexico D.F., 11000<br>Mexico | 08/10/10 |
| Shenberg, Michael | 6 Dickel Road<br>Scarsdale, NY 10583<br>United States | 09/23/10 |
| Shum, John | Flat 7h Block 15A<br>Laguna Verde<br>Hung Hom,<br>Hong Kong | 08/03/10 |
| Sizemore, Laura | 185 W. Houston Street<br>Apt. 5C<br>New York, NY 10014<br>United States | 08/17/10 |
| Smrek, Michal | Sazavska<br>Apt. 914/8<br>Praha 2, 12000<br>Czech Republic | 09/23/10 |
| Staron, Marek | Gajova 11<br>Bratislava, 81109<br>Slovakia | 09/22/10 |
| Stilcken, Andreas | Wilhelm-Beer-Weg 65<br>Frankfurt Am Main, 60599<br>Germany | 09/23/10 |

**WHITE & CASE LLP**
**PARTNER ADDRESS CHANGES LISTING**
**April 1, 2010 - September 30, 2010**

| NAME | ADDRESS | CHANGE DATE |
|---|---|---|
| Stonefield, Greg | 64 Woodhall Gate<br>Pinner<br>Middlesex, HA5 4<br>United Kingdom | 09/23/10 |
| Sundberg, Anna | Riddarvagen 21 A<br>Lidingo, 18132<br>Sweden | 09/23/10 |
| Tang, Karen | 55 Zhen Ning Road<br>Tower D Room 301<br>Shanghai, 20005<br>China | 09/20/10 |
| Taylor, Allan | 1 Genoa Avenue<br>Putney<br>London, SW15<br>United Kingdom | 09/23/10 |
| Tetiwa, Werner | Klettenbergstrasse 16<br>Frankfurt Am Main, 60322<br>Germany | 09/23/10 |
| Topping, Mara | 202 11th Street S.E.<br>Washington, DC 20003<br>United States | 07/09/10 |
| Tornkvist, Tanja | Harjutie<br>Apt. 3 B 1<br>Espoo, 02730<br>Finland | 09/23/10 |
| Tran Thiet, Jean-Paul | 234 Rue Du Faubourg<br>Saint-Honore<br>Paris, 75008<br>France | 09/23/10 |
| Undritz, Sven-Holger | Wellingsbutteler Landstrasse 237<br>Hamburg, 22337<br>Germany | 09/24/10 |
| Ungemach, Manfred | Gneisenaustrausse 30<br>Duesseldorf, 40477<br>Germany | 09/24/10 |
| Uslu-Akol, Meltem | Nakkaztepe Evleri No. 3<br>Abdullahaga Caddesi<br>Nakkoztepe Istanbul,<br>Turkey | 09/24/10 |

**WHITE & CASE LLP**
**PARTNER ADDRESS CHANGES LISTING**
**April 1, 2010 - September 30, 2010**

| NAME | ADDRESS | CHANGE DATE |
|---|---|---|
| Utting, Christopher | Flat 3<br>60 Canfield Gardens<br>London, NW6 3<br>United Kingdom | 09/24/10 |
| Verrier, Hugh | 210 Central Park South<br>Apt. 6C<br>New York, NY 10019<br>United States | 07/09/10 |
| Von Einem, Christoph | Kobellstrasse 2<br>Stockdorf, 82131<br>Germany | 09/24/10 |
| Von Krause, Christophe | 1 Villa Dancourt<br>Paris, 75018<br>France | 09/24/10 |
| Wagner-Cardenal, Kersten | Nienstedtener Str. 38<br>Hamburg, 22609<br>Germany | 09/24/10 |
| Wall, Duane | 39 East 10th Street<br>Apt. 2W<br>New York, NY 10003<br>United States | 07/19/10 |
| Wang, Xiaogang | 250 West 19th Street<br>Apt. 12N<br>New York, NY 10011<br>United States | 06/04/10 |
| Weber, Robert | Zeppelinstrabe 46<br>New- Isenburg, 63263<br>Germany | 09/24/10 |
| Wecker, Claus | Neusser Tor 17 A<br>Dusseldorf, 40625<br>Germany | 09/24/10 |
| Weiler, Andrew | 45 Doneraile Street<br>London, SW6 6<br>United Kingdom | 09/24/10 |
| Weinberg, Jonathan | Divadelni 22<br>Flat 3<br>Prague 1, 11000<br>Czech Republic | 09/20/10 |

**WHITE & CASE LLP**
**PARTNER ADDRESS CHANGES LISTING**
**April 1, 2010 - September 30, 2010**

| NAME | ADDRESS | CHANGE DATE |
|---|---|---|
| Wells, Christopher | Ark Towers West #2102<br>1-3-40 Roppongi<br>Tokyo, 106-0<br>Japan | 08/02/10 |
| Wennerhorn, Magnus | Brahegatan 3<br>Stockholm, 11437<br>Sweden | 09/24/10 |
| Westcott, Victoria | 11 Rue Riocreux<br>Sevres, 92310<br>France | 09/24/10 |
| Wheal, Robert | 39 Hillview Road<br>Hatch End Pinner Mid, HA54P<br>United Kingdom | 09/24/10 |
| Willems, John | 13 Avenue D'Eylau<br>Paris, 75016<br>France | 09/24/10 |
| Wimmer, Norbert | Ilsensteinweg 20<br>Berlin, 14129<br>Germany | 09/24/10 |
| Winsor, Tom | Chittenden<br>Slip Mill Road<br>Hawkhurst/ Kent, TN184<br>United Kingdom | 09/24/10 |
| Winton, Ashley | Uppercross<br>Woodspeen<br>Newbury, RG208<br>United Kingdom | 09/24/10 |
| Wirth, Christian | Rodelbahnpfad 5<br>Berlin, 13465<br>Germany | 09/24/10 |
| Xylander, Karl-Jorg | Ruppiner Strasse 44<br>Berlin, 10115<br>Germany | 09/24/10 |
| Yamada, Mizuho | #1923 Gotenyama Trust Court<br>4-7-37 Kita-Shinagawa<br>Tokyo, 140-0<br>Japan | 08/11/10 |

**WHITE & CASE LLP**
**PARTNER ADDRESS CHANGES LISTING**
**April 1, 2010 - September 30, 2010**

==========================================================================

| NAME | ADDRESS | CHANGE DATE |
|---|---|---|
| Yardley, Jason | 6 Wilby Mews<br>Notting Hill<br>London, W11 3<br>United Kingdom | 09/24/10 |
| Yildirim Ozturk, Mehtap | Yildizevler Mah. 737 Sk. No: 4/1<br>Ege Botanik Konutlari A. Blok Cankaya<br>Ankara, 06550<br>Turkey | 09/24/10 |
| Zettermarck, Claes | Lutzengatan 5a<br>Stockholm, 11520<br>Sweden | 09/24/10 |

Item 4

# WHITE & CASE LLP
## NEW PARTNERS
## April 1, 2010 - September 30, 2010

| NAME | PARTNERSHIP DATE | CITIZENSHIP | RESIDENCE ADDRESS |
|---|---|---|---|
| Beaussier, Michel | 09/01/10 | | 13 rue Bernouilli<br>Paris,75008<br>France |
| Caruso, Kenneth | 09/01/10 | United States | 15 West 72nd Street<br>Apt. 20-O<br>New York,NY 10023<br>United States |
| Dontsov, Andrei N. | 05/01/10 | Russia | 9 Bl. 1 Lyalin Apt. 9<br>Pereulok<br>Moscow,105022<br>Russia |
| Doran, Michael | 06/14/10 | Netherlands Antilles | 22 Highgate Close<br>Highgate<br>London,N6 4SD<br>United Kingdom |
| Fenayrou-Degas, Isabelle | 09/01/10 | France | 14 Rue de l'Amiral Courbet<br>Saint Mande,94160<br>France |
| Goldberg, David | 07/26/10 | United Kingdom | 14 Rodney Court<br>6-8 Maida Vale<br>London,<br>United Kingdom |
| Hamilton, Mark T. | 06/07/10 | United States | 258 Riverside Drive<br>Apt. 8C<br>New York,NY 10025<br>United States |
| Loewinger, Doron | 05/01/10 | Israel | 59 Bakers Passage<br>London,NW31RH<br>United Kingdom |
| Nagel, Trevor | 07/12/10 | United States | 8600 Bradley Blvd.<br>Bethesda,MD 20817<br>United States |

**WHITE & CASE LLP**
**NEW PARTNERS**
**April 1, 2010 - September 30, 2010**

| NAME | PARTNERSHIP DATE | CITIZENSHIP | RESIDENCE ADDRESS |
|---|---|---|---|
| Pilkington, Christian | 04/26/10 | United Kingdom | 80 Kyrle Road<br>London,SW11 6BA<br>United Kingdom |
| Sano, Jeannine | 05/26/10 | United States | 410 Austin Street<br>San Francisco,CA 94109<br>United States |
| Van Blerkom, Lee | 07/12/10 | United States | 8112 Split Oak Drive<br>Bethesda,MD 20817<br>United States |
| Wang, Xiaogang | 04/26/10 | China | 250 West 19th Street<br>Apt. 12N<br>New York,NY 10011<br>United States |

***Total New Partners:* 13**

10/26/10;10:00

# WHITE & CASE LLP
# PARTNER DEPARTURES
## April 1, 2010 - September 30, 2010

| REGION | LOCATION | NAME | DEPATURE DATE |
|---|---|---|---|
| CEE | Almaty | Maltsev, Yuriy V | 05/30/10 |
| CEE | Moscow | Morgan, Simon HP | 07/31/10 |
| Latin America | Mexico | Gonzalez Bernal, Juan M | 09/30/10 |
| US | New York | Caplan, Stuart | 05/04/10 |
| US | New York | Cross, Wayne A | 08/25/10 |
| US | Los Angeles | Hunnius, Patrick O | 06/21/10 |
| US | New York | Pakenham, Kathleen | 06/11/10 |
| US | New York | Raskin, Kenneth A | 04/30/10 |
| US | Palo Alto | Yokoyama, Jennifer | 04/02/10 |
| WEMEA | London | Bellhouse, John MH | 09/30/10 |
| WEMEA | London | Sacklen, Mats | 04/15/10 |
| WEMEA | Brussels | Sutton, Alastair | 06/30/10 |

***Total Partner Departures:*** ***12***

Item 11

During this 6 month reporting period, have you engaged in any activities for or rendered any services to any foreign principal named in Items 7, 8, and 9 of this statement?

| | |
|---|---|
| Isle of Man | -General legal representation |
| States of Jersey | -General legal representation |
| States of Guernsey | -General legal representation |
| Great Socialist People's Libyan Arab Jamahiriya | -The Registrant has provided legal services in connection with pending or threatened U.S. litigation against the foreign principal. These legal services have included communications with U.S. government officials related to U.S. litigation and civil enforcement matters. The Registrant has also advised the foreign principal regarding public relations issues related to U.S. litigation matters. |
| Kingdom of Jordan | -The Registrant has provided legal services in connection with pending or threatened U.S. litigation against the foreign principal. These legal services have included communications with U.S. government officials related to U.S. litigation and civil enforcement matters. The Registrant has also advised the foreign principal regarding public relations issues related to U.S. litigation matters. |

**States of Jersey**
**Schedule of Contacts with U.S. Government Officials involving Political Activities**

| Date of Contact | Name & Title of U.S. Government Official Contacted | Manner in which Contact made | Description of Subject Matter Discussed |
|---|---|---|---|
| 7/6/2010 | Colin Powell<br>and<br>Department of Treasury | Letter | Jersey - Foreign Account Tax Compliance |

Item 12

**States of Guernsey**
**Schedule of Contacts with U.S. Government Officials involving Political Activities**

| Date of Contact | Name & Title of U.S. Government Official Contacted | Manner in which Contact made | Description of Subject Matter Discussed |
|---|---|---|---|
| 5/3/2010 | Joe Huddleston<br>Executive Director<br>Multistate Tax Commission | Office Meeting | re: MTC model statute and GAO tax haven report |
| 5/3/2010 | Robert L. Roach, Esq.<br>Counsel & Chief Investigator<br>Permanent Subcommittee on Investigations | Office Meeting | re: MTC model statute and GAO tax haven report |
| 5/3/2010 | Melissa Mueller, Esq.<br>Tax Counsel<br>Rep. Richard E. Neal | Office Meeting | re: MTC model statute and GAO tax haven report |
| 5/3/2010 | Jeffrey Ziarko. Esq.<br>Tax Legislative Counsel<br>Chariman Sander M. Levin | Office Meeting | re: MTC model statute and GAO tax haven report |
| 5/4/2010 | James D. Carroll<br>Program Manager, Exchange of<br>Information and Overseas Operations<br>Internal Revenue Service<br>AND<br>Pamela J. Drenthe<br>Executive Assistant to Michael Danilack | Office Meeting | re: MTC model statute and GAO tax haven report |

Item 12

**States of Guernsey**
**Schedule of Contacts with U.S. Government Officials involving Political Activities**

| Date of Contact | Name & Title of U.S. Government Official Contacted | Manner in which Contact made | Description of Subject Matter Discussed |
|---|---|---|---|
| | Deputy IRS Commissioner (International) | | |
| 5/4/2010 | Aharon Friedman, Esq<br>Tax Counsel (Minority)<br>Ways & Means Committee | Office Meeting | re: MTC model statute and GAO tax haven report |
| 5/4/2010 | Michael F. Mundaca<br>Assistant Secretary for Tax Policy<br>Treasury Department<br>AND<br>Stephen E. Shay<br>Deputy Assistant Secretary<br>International Tax Affairs<br>Treasury Department | Office Meeting | re: MTC model statute and GAO tax haven report |
| 5/5/2010 | Thomas A. Barthold<br>Chief of Staff<br>Joint Committee on Taxation | Office Meeting | re: MTC model statute and GAO tax haven report |
| 5/5/2010 | Mary Burke Baker<br>Professional Tax Staff<br>Senate Finance Committee | Office Meeting | re: MTC model statute and GAO tax haven report |
| 5/5/2010 | Nicholas A. Wyatt<br>Tax Professional Staff Member | Office Meeting | re: MTC model statute and GAO tax haven report |

Item 12

## States of Guernsey
## Schedule of Contacts with U.S. Government Officials involving Political Activities

| Date of Contact | Name & Title of U.S. Government Official Contacted | Manner in which Contact made | Description of Subject Matter Discussed |
|---|---|---|---|
| | Senate Finance Committee | | |
| 5/5/2010 | Sen. Max Caucus | Office Meeting | re: MTC model statute and GAO tax haven report |
| 5/5/2010 | Mark Gage<br>Deputy Staff Director/Director of Eurasian Affairs<br>Foreign Affairs Committee<br>AND<br>Sarah Blocher<br>Professional Staff Member | Office Meeting | re: MTC model statute and GAO tax haven report |

Item 14(a)

Foreign Agents Registration Act

| Client Name | Date | Fees Received | Purpose |
|---|---|---|---|
| GUERNSEY | 5/5/2010 | 21,645.44 | Legal Work |
| | 5/20/2010 | 22,393.87 | Legal Work |
| | 6/22/2010 | 6,289.31 | Legal Work |
| | 7/26/2010 | 8,324.32 | Legal Work |
| | 8/6/2010 | 6,504.93 | Legal Work |
| | 5/5/2010 | 23,951.57 | Legal Work |
| | 5/20/2010 | 25,664.24 | Legal Work |
| | 6/22/2010 | 35,652.47 | Legal Work |
| | 7/26/2010 | 35,831.65 | Legal Work |
| | 8/6/2010 | 14,378.10 | Legal Work |
| IOM | 4/1/2010 | 17,100.92 | Legal Work |
| | 5/14/2010 | 20,194.23 | Legal Work |
| | 6/30/2010 | 5,054.04 | Legal Work |
| | 7/28/2010 | 7,136.56 | Legal Work |
| | 8/23/2010 | 6,407.01 | Legal Work |
| | 4/1/2010 | 5,284.05 | Legal Work |
| | 5/14/2010 | 6,569.58 | Legal Work |
| | 7/28/2010 | 2,799.28 | Legal Work |
| | 8/23/2010 | 9,591.41 | Legal Work |
| JERSEY | 4/6/2010 | 18,879.74 | Legal Work |
| | 6/21/2010 | 149,759.49 | Legal Work |
| | 7/5/2010 | 16,828.57 | Legal Work |
| | 7/19/2010 | 24,934.44 | Legal Work |
| | 8/16/2010 | 16,792.76 | Legal Work |
| LIBYA | | 0 | |
| KINGDOM OF JORDAN | 4/30/2010 | 2930.75 | Legal Work |

Item 15 (a)

## Foreign Agents Registration Act

| Client Name | Date | USD Collected | Purpose | Date of Travel | Traveller name | Destination | Purpose of Travel |
|---|---|---|---|---|---|---|---|
| Libya | 6/23/10 | $ 2,413 | Office Expense | | | | |
| States of Guernsey | 4/30/10 | $ 3,850 | Travel | 1/15/2010 | A. Sutton | Stockholm | Meet with Client |
| | 5/5/10 | $ 4,025 | Office Expense | | | | |
| | 6/22/10 | $ 1,521 | Office Expense | | | | |
| | 7/26/10 | $ 1,867 | Office Expense | | | | |
| Isle of Man | 4/19/10 | $ 656 | Office Expense | | | | |
| | 4/19/10 | $ 752 | Travel | 2/10/2010 | A. Sutton | Isle of Man | Meet with Client |
| | 6/23/10 | $ 525 | Office Expense | | | | |
| | 7/20/10 | $ 825 | Travel | 6/4/2010 | A. Sutton | Isle of Man | Meet with Client |
| Kingdom of Jordan | 7/22/10 | $ 3,501 | Office Expenses | | | | |
| | 4/30/10 | $ 6 | Office Expenses | | | | |
| States of Jersey | 4/16/10 | $ 90 | Travel | 2/11/2010 | A. Sutton | Geneva | Meeting to discuss WTO |
| | 6/21/10 | $ 1,932 | Office Expense | | | | |
| | 7/5/10 | $ 2,575 | Office Expense | | | | |
| | 8/16/10 | $ 983 | Office Expense | | | | |

Notes:

1. Office expenses include: binding, fax, filing fees, photocopy, postage, local taxi, telephone, computer legal research, and secretarial services

2. There were no US Government officials or media representatives for whom travel or entertainment expenses were incurred or were guests of the Registrant.

# Section V – Informational Materials

Copy of materials disseminated by the Registrant on behalf of The States of Jersey to Department of Treasury and Congressional Committees via email as indicated in item 12 on the tax and financial systems of the States of Jersey.

LEC
7/6/10

SECOND DRAFT

## FOREIGN ACCOUNT TAX COMPLIANCE

In March, 2010 a delegation from the Government of Jersey met with Treasury Assistant Secretary Michael Mundaca in Washington. At that meeting the delegation referred to the IMF's endorsement of Jersey's high level of compliance with international standards of financial regulation, and to the valuable information being provided to the US tax authorities in response to requests received in accordance with the provisions of the Tax Information Exchange Agreement signed between Jersey and the United States in 2002. The delegation expressed the hope that these factors would be taken into account by the US when applying the Foreign Account Tax Compliance Act to Jersey based financial institutions, and Assistant Secretary Mundaca asked the Jersey delegation to submit in writing their views on how this might best be achieved. This note is in response to that request.

Sub-title A - Foreign Account Tax Compliance of Title (V) - Offset Provisions in the "Hiring Incentives to Restore Employment Act places the following obligations on the Secretary for the US Treasury -

- reaching agreement with any foreign financial institution (as defined) under which the institution agrees -

  (A) to obtain such information regarding each holder of each account maintained by such institution as is necessary to determine which (if any) of such accounts are United States accounts.

  (B) to comply with such verification and due diligence procedures as the Secretary may require with respect to the identification of United States accounts.

  (C) in the case of any United States account maintained by such institution, to report on an annual basis the information described in sub-section (c) with respect to such account.

- the information required to be reported in aspect to each United States account maintained by the foreign financial institution includes two matters on which the Secretary has a degree of discretion -

  - the account balance or value (determined at such time and in such manner as the Secretary may provide);
  - except to the extent provided by the Secretary, the gross receipts and gross withdrawals or payments from the account (determined for such period and in such manner as the Secretary may provide).

Applying the verification and due diligence procedures that the US Secretary may require with respect to the identification of ~~United States~~ accounts, could be extremely burdensome for a foreign financial certain                                                                 those jurisdictions,

institution if it ~~is~~ required to approach every one of ~~its~~ account holders and ask them to show proof of the fact that they are not a US person. For this reason it is proposed that a risk based approach should be adopted. Jurisdictions, such as Jersey, have been independently assessed by bodies such as the IMF to be fully or virtually fully compliant with international standards of know your customer/customer due diligence. ~~In these cases~~ we believe it should be accepted that ~~the~~ the know your customer/customer due diligence procedures in place - which require identification and verification of customers and of the beneficial owners of legal persons and legal arrangements, and the ongoing due diligence of the business relationship which includes scrutiny of transactions - are such that the Secretary's requirements can be said to be met. Should anything more be required it is proposed that consideration could be given to whether, for an individual financial institution, agreement on the modalities could be supported by an "audit" or "independent assessment" to be undertaken by the Jersey Regulatory Authority, the JFSC, to confirm that the required standards are being met by each financial institution concerned.

a government body, such as

This it is suggested also might be a reasonable approach to adopt in respect of a foreign financial institution that is required to satisfy the Secretary that it complies with such procedures as the Secretary may require to ensure that the institution does not maintain ~~United States~~ US accounts.

In respect of the information required to be reported on US accounts, the Secretary could provide a "safe harbour" from the requirement that the foreign financial institution report on the account balance or value and the gross receipts and gross withdrawals or payments from the account. It is suggested that the Secretary apply a monetary limit whereby only if this is exceeded should the information requested need to be reported, provided the ~~In addition some form of safe harbour might be enjoyed by~~ foreign financial institutions ~~that are~~ are based in a jurisdiction, such as Jersey, that is certified as meeting the international standards of financial regulation and has a tax information exchange agreement with the USA.

5 July 2010

# Section V – Informational Materials

Copy of materials disseminated by the Registrant on behalf of The States of Guernsey to Department of Treasury, State Department and Congressional Committees via an office meeting as indicated in item 12 on the tax and financial systems of the States of Guernsey.

WHITE & CASE

# Guernsey Delegation Visit
# May 1-5, 2010
# Master Schedule

**Delegation Members:**

- Lyndon Trott, Chief Minister (Cell phone: 07781-103261); and
- Mike Brown, Chief Executive (Cell phone: 07781-102171).

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**White & Case LLP Staff:**

- Linda E. Carlisle, Partner
  Office: (202) 626-3666; Cell: (202) 256-1217
  lcarlisle@whitecase.com
- Patrick Holten, Government Affairs Specialist
  Office: (202) 626-3650; Cell: (202) 256-3821
  pholten@whitecase.com

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**Car Service:**

Sunny's Executive Sedan Service Inc.
5252 Cherokee Ave, Suite # 220
Alexandria, VA 22312
(866) 877- 8669 or (800) 949-0949
sunny@sunnylimo.com

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**Saturday, May 1, 2010**

**1:40 PM:** Delegation arrives at Dulles International Airport on British Airways flight #217T.

Car Service to Hotel: Sunnys Sedan Service. Phone: (866) 877-8669. Reservation number: 1000143501.

Hotel:

Grand Hyatt Washington
1000 H Street, NW
Washington, DC 20001
(202) 582-1234

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**Sunday, May 2, 2010**

No scheduled activities.

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**Monday, May 3, 2010**

**11:15 PM:** Prebrief luncheon meeting at White & Case LLP office, Conference Room 11-C. Sandwiches will be served.

White & Case LLP
Room 11-C
701 13th Street, 11th Floor
Washington, DC 20005

**1:00 PM:** Meeting with the Multistate Tax Commission ("MTC") Executive Director Joe Huddleston regarding the MTC model statute that would blacklist Guernsey by reference to the OECD list and California blacklist bill that references GAO tax haven report.

Joe Huddleston, Esq.*
Executive Director
Multistate Tax Commission
444 North Capitol Street, NW, Suite 425
Washington DC 20001
(202) 624-8699
jhuddleston@MTC.gov

**2:00 PM:** Meeting with Robert Roach and Republican staff from the Senate Permanent Subcommittee on Investigations, which is chaired by Sen. Carl Levin, lead sponsor of the Stop Tax Haven Abuse Act.

Robert L. Roach, Esq.*
Counsel & Chief Investigator
Permanent Subcommittee on Investigations
199 Russell Senate Office Building
Washington, DC 20510
(202) 224-9505
Email: bob_roach@hsgac.senate.gov

**3:00 PM:** Meeting with Melissa Mueller, Legislative Director/Tax Counsel for House Ways and Means Subcommittee on Select Revenue Chairman Richard Neal (D-MA). **Note: Meeting location may occur at 1102 Longworth or Rep. Neal's office below (TBD):**

Melissa Mueller, Esq.*
Tax Counsel
Rep. Richard E. Neal
Chairman
House Subcommittee on Select Revenue Measures
2208 Rayburn Building
Washington, DC 20515
(202) 225-5601
melissa.mueller@mail.house.gov

**4:00 PM:** Meeting with Jeffrey Ziarko, Tax Legislative Counsel to Ways and Means Committee Chairman Sander Levin (D-MI).

Jeffrey Ziarko, Esq.*
Tax Legislative Counsel
Chairman Sander M. Levin
House Ways and Means Committee
1236 Longworth Building
Washington, D.C. 20515
(202) 225-4961
Jeffrey.ziarko@mail.house.gov

**6:00 PM:** Dinner with the Delegation

Ten Penh
1001 Pennsylvania Avenue, NW
Washington D.C. 20004
(202) 393-4500

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**Tuesday, May 4, 2010**

**8:30 AM:** U.S. Capitol Tour. Confirmation Number: 4604-5064-6067. Note tour starts at 8:50 PM.

Capitol Building
Capitol Visitor Center
East Capitol St NE & 1st St NE
Washington, DC
(202) 226-8000

**10:00 AM:** Meeting with J.D. Carroll, Program Manager, Exchange of Information and Overseas Operations, and Pamela J. Drenthe, Executive Assistant to Deputy IRS Commissioner (International), Michael Danilack.

James D. Carroll
Program Manager, Exchange of
Information and Overseas Operations
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, D.C. 20224
J.D.Carroll@irs.gov
(202) 435-5104

Pamela J. Drenthe
Executive Assistant to Michael Danilack
Deputy IRS Commissioner (International)
1111 Constitution Avenue, NW
Washington, D.C. 20224
Pamela.j.drenthe@irs.gov
(202) 435-5100

Note: Passports are needed to clear security.
**Meeting location:**
Mint Annex Building
799 9th Street, NW
Washington, DC 20001

**11:30 AM:** Meeting with Aharon Friedman, Counsel to House Ways and Means Committee Ranking Member David Camp (R-Michigan).

Aharon Friedman, Esq.*
Tax Counsel (Minority)
Ways and Means Committee
1102 Longworth Building
Washington D.C. 20515
(202) 225 3074
Aharon.friedman@mail.house.gov

**12:30 PM:** Lunch at White & Case LLP. Room 11-E

**3:30 PM:** Meeting with Michael F. Mundaca, Acting Assistant Secretary for Tax Policy, Stephen E. Shay, Deputy Assistant Secretary (International Tax Affairs), and Manal Corwin, International Tax Counsel.

Michael F. Mundaca*
Assistant Secretary for Tax Policy
Treasury Department
1500 Pennsylvania Avenue, Room 3120
Washington, DC 20220
Phone: (202) 622-0642
Michael.Mundaca@do.treas.gov

Stephen E. Shay
Deputy Assistant Secretary (International Tax Affairs)
Treasury Department
1500 Pennsylvania Avenue, Room 3439 MT
Washington, DC 20220
Phone: (202) 622-1270
Stephen.shay@do.treas.gov

Note: Passports are needed to clear security. Elsa Montoya: (202) 622-1765.

**6:00 PM:** Dinner with the Delegation

KAZ Sushi Bistro
1915 I (eye) Street, NW
Washington, DC 20006
Phone: 202-530-5500

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**Wednesday, May 5, 2010**

**8:30 AM:** Depart Grand Hyatt for Bureau of Engraving and Printing Tour.

Pickup at Hotel:
Grand Hyatt Washington
1000 H Street, NW
Washington, DC 20001
(202) 582-1234

**9:00 AM:** Tour of U.S. Bureau of Engraving and Printing. (Confirmation # 101)

Tour arranged by Scott Mahle
U.S. Bureau of Engraving and Printing
14th and C Streets, SW
Washington, DC 20228

Report your confirmation number to the tour guide at the main entrance. Contact Scott Mahle if you have any problems at (202) 874-1202 or Michael.Mahle@bep.gov

**10:00 AM:** Meeting with Joint Committee on Taxation staff.

Thomas A. Barthold*
Chief of Staff
Joint Committee on Taxation
1015 Longworth House Office Building
Washington, DC 20515
(202) 225-3621
thomas.barthold@mail.house.gov

**12:00 PM:** Meeting with Mary Baker, Professional Tax Staff for Senate Finance Committee Chairman Max Baucus (D-MT) and Nicholas Wyatt, Tax Professional Staff for Senate Finance Committee Ranking Member Charles Grassley (R-Iowa).

Mary Burke Baker
Professional Tax Staff
Senate Finance Committee
219 Dirksen Building
Washington, DC 20510
Phone: (202) 224-1794
Mary_baker@finance-dem.senate.gov

Nicholas A. Wyatt
Tax Professional Staff Member
Senate Finance Committee
219 Dirksen Building
Washington, DC 20510
Phone: (202) 244-4515
Nick_Wyatt@finance-rep.senate.gov

**1:00 PM:** Lunch in Dirksen Cafeteria. **Carlisle to attend separate meeting with Chairman Baucus staff.**

Sen. Max Baucus
511 Hart Building
Washington, DC 20510
(202) 224-2651

Meeting Contact:
William A. Signer
The Carmen Group
1919 Pennsylvania, NW
5th Floor
Washington D.C. 20006
Direct: 202-515-2345
Cell: 202-365-9019
Home: 202-248-7374

**3:00 PM:** Meeting with the office of Rep. Ileana Ros-Lehtinen (R-FL), Ranking Member of the House Foreign Affairs Committee.

Mark Gage
Deputy Staff Director/Director of Eurasian Affairs
Foreign Affairs Committee
B-360 Rayburn Building
Washington, DC 20515
(202) 226-8467
mark.gage@mail.house.gov

Sarah Blocher
Professional Staff Member
B-360 Rayburn Building
Washington, DC 20515
(202) 226-8467
sarah.blocher@mail.house.gov

**10:05 PM:** Depart Dulles International Airport on British Airways flight number 292C.

Sunnys Sedan Service will take the delegation to the airport.

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**Pending Meeting Requests:**

Frank Lowenstein, Chief Counsel (Majority) for the Senate Foreign Relations Committee chaired by Chairman John Kerry (D-MA), and Michael J. Mattler, Chief Counsel (Minority) for Ranking Member Richard Lugar (R-IN).

Jayme R. White, Staff Director, Senate Finance Subcommittee on International Trade, Customs, and Global Competitiveness, chaired by Sen. Ron Wyden (R-OR). John O'Neill Tax Counsel to Sen. Wyden.

Rep. Howard Berman (D-CA), Chairman of the Foreign Affairs Committee.

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* Indicates that Guernsey met with this person in 2007 and/or 2009.

# STATES OF GUERNSEY

**May 2010**

Since Guernsey's visit to Washington in May 2009, the United States has enacted new legislation to address the issue of offshore tax evasion by U.S. persons. The Foreign Account Tax Compliance Act ("FATCA") imposes a new withholding tax and information reporting regime on most, if not all, types of foreign financial institutions holding assets of U.S. taxpayers. Guernsey appreciates that FATCA has not adopted the approach followed in other proposed legislation to combat offshore tax evasion of using a list of purported "tax havens," but instead focuses on enhancing the tax information reporting obligations of offshore financial institutions. Consistent with its long record of cooperating in matters of international tax enforcement and information exchange, Guernsey is prepared to provide whatever information may be requested to assist the Treasury Department and the Internal Revenue Service in drafting guidance to implement FATCA.

Guernsey has continued its strong commitment to meeting international standards to combat money laundering, tax evasion, and financial crimes. Since Guernsey last visited, TIEAs have been signed with Australia and New Zealand, and TIEA negotiations are underway with India, Italy, Korea, Portugal, Argentina, South Africa and other nations. (See Tab 1.) Guernsey now has 15 Tax Information Exchange Agreements ("TIEAs") with other nations, including the United States.

As we noted in our last meeting, the Organisation for Economic Co-operation and Development ("OECD") listed Guernsey, alongside the United States and the United Kingdom, as having met the internationally agreed standard regarding the exchange of tax information. (See Tab 2.) Subsequently, the OECD established a Peer Review Group ("PRG") to assess the legal and regulatory framework that underlies the commitment of over 90 jurisdictions to the OECD standard on the exchange of tax information and to assess the efficacy of those commitments in practice. Guernsey's legal and regulatory framework underlying its tax information exchange agreements will be assessed this year by the PRG and the efficacy of its tax information exchange agreements in practice will be assessed in 2012. (See Tab 3.)

In October 2009, Michael Foot issued an evaluation of the UK offshore financial centers commissioned by the UK Treasury (the "Foot Report"). The Foot Report commended Guernsey for its well-regulated financial sector, especially in comparison to other British Territories that were evaluated, including Anguilla, Bermuda, British Virgin Islands, Cayman Islands, Gibraltar, and Turks and Caicos Islands. (See Tab 4.) The Foot Report further noted Guernsey's commitment to fighting financial crime, its ability to weather the current global downturn, and its establishment of a depositor compensation program to protect investors.

Guernsey is currently under review by the International Monetary Fund ("IMF") for compliance with international standards on anti-money laundering and deterring financial crime. In its last evaluation of Guernsey in 2003, the IMF stated "The financial, regulatory, and supervisory system of the Bailiwick of Guernsey complies well with the assessed international standards." Guernsey fully expects an equally positive evaluation later this year.

Guernsey is also currently reviewing its corporate tax system and is committed to meeting the emerging international consensus on corporate taxation. (See Tab 5.) A key objective of this internal review is to ensure that any revised regime meets the criteria of international acceptability.

*Guernsey is committed to remaining a leader in the international community regarding international cooperation and compliance with global standards.*

# STATES OF GUERNSEY
# WASHINGTON
# BRIEFING PACK

## MAY 2010



STATES OF GUERNSEY

# BIOGRAPHIES

**Deputy Lyndon Trott**

- **Chief Minister of Guernsey**
- **Chairman, Bailiwick of Guernsey Emergency Powers Authority**

Lyndon Trott has extensive corporate governance experience from a broad range of commercial and political environments together with proven strategic thinking skills and delivery record.

He was born in 1964 and was educated at Elizabeth College before training as an accountant. In 1984 he joined the merchant bank Guinness Mahon & Co. Ltd. (now known as Investec Bank) as assistant Finance Director. In 1986 he moved to the bank's treasury department and had particular responsibility for the bank's foreign exchange trading book. Following secondment to head office in the City of London, Lyndon returned to Guernsey to become a manager in its Guernsey treasury operation.

For nine years, until the summer of 2008, Lyndon was the Financial Controller and Company Secretary of the major firm of Chartered Architects & Chartered Surveyors in the Channel Islands.

In 2000 he was elected to the States of Guernsey at the first attempt and became its then youngest member. Early political responsibilities included trade and industry. In 2004 Lyndon was re-elected and became the Island's first Treasury & Resources Minister.

As a Minister, Deputy Trott was also a Member of the Policy Council and had particular involvement in Guernsey's fiscal and economic reform, which resulted in substantial changes to the Island's corporate tax regime.

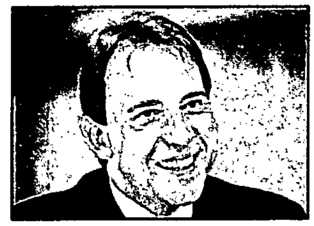
In May 2008, Lyndon was elected Chief Minister of the Island of Guernsey, a position he will hold until 2012.

As Chief Minister, his role involves chairing the Island's Policy Council which comprises 11 members – the Chief Minister and 10 Ministers. Each Minister is responsible for one of the 10 Guernsey Government Departments.

In addition, he is Chair of the External Relations Group, which carries out the Policy Council's functions relating to international agreements and constitutional and external relationships. This has seen Lyndon actively engaging in external relations and promoting Guernsey on the international stage.

**Mike Brown**

**Chief Executive of The States of Guernsey**



Mike Brown commenced his career in the accounting profession in London and qualified as a Chartered Accountant in 1977. He joined the Guernsey Treasury in 1978. He was later appointed as Deputy States Treasurer and then States Treasurer in 1986 where he had executive responsibility for all governmental finances including the annual budget and the Island's currency.

In 1993 he was promoted to States Supervisor, a post which became the Chief Executive of the States of Guernsey in 2004, and head of the Island's Civil Service. Since that time Mike has had lead executive responsibility for international relations particularly focusing on international tax issues. He played a lead role in the discussions with the European Commission on the EU Tax Package, in particular the Directive on Taxation of Savings which included the negotiation of 27 bilateral tax agreements with the EU Member States.

In parallel, Mike has also represented Guernsey in discussions with the OECD Secretariat which resulted in an agreement with the OECD in 2002 that Guernsey was recognised as a cooperative jurisdiction. Mike has also represented Guernsey at a number of Global Forum meetings.

Mike was directly involved in discussions leading to the signing of a Tax Information Exchange Agreement (TIEA) with the United States and attended the signing ceremony in Washington in 2002. Mike is the executive lead involved in the continuing discussions with other OECD member states on TIEAs.

Together with Guernsey's Attorney General he has visited Washington on a number of occasions to develop and maintain links with contacts at the US Treasury, IMF, the World Bank and the offices of the District Attorney of New York.

As Chief Adviser to the States of Guernsey Policy Council he has had particular involvement in fiscal and economic reform, which has resulted in substantial changes to the Islands corporate tax regime.

**Contact Details**

Deputy Lyndon Trott, Chief Minister: lyndon.trott@gov.gg
Mike Brown, Chief Executive: mike.brown@gov.gg

Tel +44 1481 717000

Address: Sir Charles Frossard House,
La Charroterie
St Peter Port
Guernsey
GY1 1FH
Channel Islands

# STATES OF GUERNSEY

## WASHINGTON BRIEFING PACK
## MAY 2010

## Table of Contents



## Background Information

**SECTION C: Regulation**

a. Summary of Financial Regulation
b. Further Information

**SECTION D: Companies Law**

a. Summary of New Company Law
b. Further Information

**SECTION E: Identity Framework Document**

**SECTION F: Guernsey Annual Economic Overview 2009**

**SECTION G: TIEA between the Governments of the United States and Guernsey**

**SECTION H: Letter from IRS to the Guernsey Administrator of Income Tax regarding a TIEA request**

**SECTION I: Guernsey Consultation Document on the EUSD Automatic Exchange of Information**

**SECTION J: Guernsey's Statement for the Hearing Record – House Ways and Means Subcommittee on Select Revenue Measures "Banking Secrecy Practices and Wealthy American Taxpayers" March 31, 2009**

TREASURY AND RESOURCES
A STATES OF GUERNSEY GOVERNMENT DEPARTMENT

# Summary of Progress on Tax Information Exchange Agreements ("TIEAs") and Double Taxation Arrangements ("DTAs")

## TIEAs signed

As at 31 December 2009, Guernsey had signed 15 TIEAs with:

- Australia (7 October 2009).
- Denmark (28 October 2008).
- Faroe Islands (28 October 2008).
- Finland (28 October 2008).
- France (24 March 2009).
- Germany (26 March 2009).
- Greenland (28 October 2008).
- Iceland (28 October 2008).
- Ireland (26 March 2009).
- Netherlands (25 April 2008).
- New Zealand (21 July 2009).
- Norway (28 October 2008).
- Sweden (28 October 2008).
- United Kingdom (20 January 2009).
- United States (19 September 2002).

A TIEA only comes into force once both Guernsey and the other territory complete their necessary internal procedures for giving effect to the TIEA and notify each other that they have done so. Guernsey has completed this procedure in relation to all 15 of the TIEAs detailed above.

The following parties have notified Guernsey that they have also completed their internal procedures, so the following TIEAs are in force:

- Denmark (6 June 2009).
- Faroe Islands (21 August 2009).
- Finland (5 April 2009).
- Greenland (25 April 2009).
- Iceland (26 November 2009).
- Netherlands (11 April 2009).
- Norway (8 October 2009).
- Sweden (23 December 2009).
- United Kingdom (27 November 2009).
- United States (30 March 2006).

**Completed negotiations**

Negotiations on the text of a TIEA have been completed with the following countries and the TIEA has been sent to the Ministry of Justice in the UK for comment prior to arrangements being made for the TIEA to be signed:

- Canada.
- Mexico.
- San Marino.

**Substantially advanced negotiations**

Negotiations have been held with the following countries and the text of the TIEA has been substantially agreed:

- Italy.
- Korea.
- Portugal.
- South Africa.

**Countries which have indicated they wish to enter into a TIEA or DTA with Guernsey**

The following countries have indicated their wish to negotiate a TIEA with Guernsey:

- Argentina.
- Austria.
- Belgium.
- Brazil.
- China.
- Czech Republic.
- India.
- Isle of Man.
- Japan.
- Jersey.
- Kazakhstan.
- Latvia.
- Liechtenstein.
- Luxembourg.
- Malta.
- Spain.

**<u>Countries that Guernsey has approached and who are considering whether or not to enter into a TIEA/DTA</u>**

The following countries have indicated that they are considering whether they are prepared to enter into a TIEA or a DTA with Guernsey:

- Cyprus.
- Lithuania.
- Romania.
- Slovak Republic.
- Slovenia.

**<u>Countries which have been approached to open TIEA negotiations but which have not responded</u>**

The following countries have not responded to invitations to enter into discussions on a TIEA:

- Bulgaria.
- Estonia.
- Greece.
- Indonesia.
- Poland.
- Saudi Arabia.
- Switzerland.
- Turkey.

The following countries have indicated they are not prepared to enter into discussions on a TIEA with Guernsey:

- Russia.
- Singapore.

Jan 2010

# A PROGRESS REPORT ON THE JURISDICTIONS SURVEYED BY THE OECD GLOBAL FORUM IN IMPLEMENTING THE INTERNATIONALLY AGREED TAX STANDARD[1]

**Progress made as at 2nd April 2009 (latest version of report: www.oecd.org/tax/progressreport)**

| Jurisdictions that have substantially implemented the internationally agreed tax standard | | | |
|---|---|---|---|
| Argentina | Germany | Korea | Seychelles |
| Australia | Greece | Malta | Slovak Republic |
| Barbados | Guernsey | Mauritius | South Africa |
| Canada | Hungary | Mexico | Spain |
| China[2] | Iceland | Netherlands | Sweden |
| Cyprus | Ireland | New Zealand | Turkey |
| Czech Republic | Isle of Man | Norway | United Arab Emirates |
| Denmark | Italy | Poland | United Kingdom |
| Finland | Japan | Portugal | United States |
| France | Jersey | Russian Federation | US Virgin Islands |

| Jurisdictions that have committed to the internationally agreed tax standard, but have not yet substantially implemented | | | | | |
|---|---|---|---|---|---|
| **Jurisdiction** | **Year of Commitment** | **Number of Agreements** | **Jurisdiction** | **Year of Commitment** | **Number of Agreements** |
| **Tax Havens[3]** | | | | | |
| Andorra | 2009 | (0) | Marshall Islands | 2007 | (1) |
| Anguilla | 2002 | (0) | Monaco | 2009 | (1) |
| Antigua and Barbuda | 2002 | (7) | Montserrat | 2002 | (0) |
| Aruba | 2002 | (4) | Nauru | 2003 | (0) |
| Bahamas | 2002 | (1) | Neth. Antilles | 2000 | (7) |
| Bahrain | 2001 | (6) | Niue | 2002 | (0) |
| Belize | 2002 | (0) | Panama | 2002 | (0) |
| Bermuda | 2000 | (3) | St Kitts and Nevis | 2002 | (0) |
| British Virgin Islands | 2002 | (3) | St Lucia | 2002 | (0) |
| Cayman Islands[4] | 2000 | (8) | St Vincent & Grenadines | 2002 | (0) |
| Cook Islands | 2002 | (0) | Samoa | 2002 | (0) |
| Dominica | 2002 | (1) | San Marino | 2000 | (0) |
| Gibraltar | 2002 | (1) | Turks and Caicos Islands | 2002 | (0) |
| Grenada | 2002 | (1) | Vanuatu | 2003 | (0) |
| Liberia | 2007 | (0) | | | |
| Liechtenstein | 2009 | (1) | | | |
| **Other Financial Centres** | | | | | |
| Austria[5] | 2009 | (0) | Guatemala | 2009 | (0) |
| Belgium[5] | 2009 | (1) | Luxembourg[5] | 2009 | (0) |
| Brunei | 2009 | (5) | Singapore | 2009 | (0) |
| Chile | 2009 | (0) | Switzerland[5] | 2009 | (0) |



| Jurisdictions that have not committed to the internationally agreed tax standard | | | |
|---|---|---|---|
| **Jurisdiction** | **Number of Agreements** | **Jurisdiction** | **Number of Agreements** |
| Costa Rica | (0) | Philippines | (0) |
| Malaysia (Labuan) | (0) | Uruguay | (0) |

1. The internationally agreed tax standard, which was developed by the OECD in co-operation with non-OECD countries and which was endorsed by G20 Finance Ministers at their Berlin Meeting in 2004 and by the UN Committee of Experts on International Cooperation in Tax Matters at its October 2008 Meeting, requires exchange of information on request in all tax matters for the administration and enforcement of domestic tax law without regard to a domestic tax interest requirement or bank secrecy for tax purposes. It also provides for extensive safeguards to protect the confidentiality of the information exchanged.
2. Excluding the Special Administrative Regions, which have committed to implement the internationally agreed tax standard.
3. These jurisdictions were identified in 2000 as meeting the tax haven criteria as described in the 1998 OECD report.
4. The Cayman Islands has enacted legislation that allows it to exchange information unilaterally and has identified 12 countries with which it is prepared to do so. This legislation is being reviewed by the OECD.
5. Austria, Belgium, Luxembourg and Switzerland withdrew their reservations to Article 26 of the OECD Model Tax Convention. Belgium has already

Global Forum on Transparency and Exchange of Information for Tax Purposes

# LAUNCH OF A PEER REVIEW PROCESS

## Schedule of Reviews



2010

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OECD

## SCHEDULE OF REVIEWS

1. At its meeting in Mexico on 1-2 September 2009, the Global Forum decided on a three-year mandate with the possibility, if needed, to extend it, aimed at monitoring and peer review of its members and other relevant jurisdictions based on the Global Forum standards of transparency and information exchange for tax purposes.

2. The Global Forum also established a Peer Review Group (PRG) to develop the methodology and detailed terms of reference for the peer review process and agreed that "there will be two phases for the peer review". Phase 1 will examine the legal and regulatory framework in each jurisdiction whereas Phase 2 will evaluate the implementation of the standards in practice. It was also agreed that all jurisdictions would be reviewed under Phase 1 during the first mandate, which is not necessarily the case for Phase 2.

3. The attached schedule of reviews is based on the guidelines set out below.

4. The schedule attempts to balance a number of considerations and no inference should be drawn about a particular jurisdiction from the timing of the reviews. All members of the Global Forum will ultimately be reviewed under both Phase 1 and Phase 2 even though it will not be possible to complete all of the Phase 2 reviews during the first mandate. In some cases where jurisdictions have a long standing commitment to the Global Forum standards, an adequate treaty network and a history of exchange of information with other jurisdictions, a combined Phase 1-2 review has been scheduled. Moreover, a number of jurisdictions have volunteered for an early combined Phase 1-2 review to be scheduled. However, not all jurisdictions which might prefer and be suitable for combined Phase 1-2 have been scheduled for such combined reviews because of resources issues.

5. The following factors were taken into account in developing the schedule:

- Achieving a regional balance, a balance between OECD and non OECD reviews over the period of the mandate and a balance between those that committed to the standard early and those that have made more recent commitments.

- Jurisdictions lacking exchange of information agreements have been scheduled later for Phase 2 reviews as they do not have sufficient experience in implementing the standard in practice.

- The schedule takes into account exceptional circumstances so as not to overburden jurisdictions which would undergo other peer reviews around the same time (for instance FATF).

- Jurisdictions which are not members of the Global Forum but are considered to be relevant to be reviewed have been scheduled early for Phase 1 reviews.

6. Note that the schedule is provisional, particularly as relates to Phase 2 reviews, and may need to be adjusted to take account of circumstances as they arise.

## SCHEDULE OF REVIEWS[1]

| 2010 | | 2010 | | 2011 | | 2011 | |
|---|---|---|---|---|---|---|---|
| 1st Half | | 2nd Half | | 1st Half | | 2nd Half | |
| **Phase 1** | **Phase 1** | **Phase 1** | **Phase 1** | **Phase 1** | **Phase 1** | **Phase 1** | **Phase 1** |
| **Australia** | **Canada** | Belgium | Bahrain | Anguilla | Andorra | Chile | Cook Islands |
| Barbados | **Denmark** | **France** | Estonia | Antigua and Barbuda | Brazil | China | Czech Republic |
| Bermuda | **Germany** | **Isle of Man** | Guernsey | Turks and Caicos | Brunei | Costa Rica | Grenada |
| Botswana | India | **Italy** | Hungary | Austria | Hong Kong, China | Cyprus | Liberia |
| Cayman Islands | Jamaica | Liechtenstein | **Japan** | British Virgin Islands | Macao, China | Gibraltar | Malta |
| Ghana | **Jersey** | **New Zealand** | Philippines | Indonesia | Malaysia | **Greece** | Russian Federation |
| **Ireland** | Monaco | San Marino | Singapore | Luxembourg | **Spain** | Guatemala | Saint Lucia |
| **Mauritius** | Panama | Saudi Arabia | Switzerland | **Netherlands** | United Arab Emirates | Korea | Slovak Republic |
| **Norway** | Seychelles | The Bahamas | Aruba | Netherlands Antilles | Uruguay | Mexico | **South Africa** |
| Qatar | Trin. and Tobago | **United States** | **United Kingdom** | Saint Kitts and Nevis | Vanuatu | Montserrat | St. Vincent and the Gren. |

| 2012 | | 2012 | | 2013 | | 2013 | | 2014 | |
|---|---|---|---|---|---|---|---|---|---|
| 1st Half | | 2nd Half | | 1st Half | | 2nd Half | | 1st Half | |
| **Phase 1** | **Phase 1** | **Phase 2** | **Phase 2** | **Phase 2** | **Phase 2** | **Phase 2** | **Phase 2** | **Phase 2** | **Phase 2** |
| amoa | **Turkey** | Belgium | British Virgin Islands | Bahrain, Kingdom of | Malaysia | Anguilla | Andorra | Belize | Czech Republic |
| rgentina | Portugal | Bermuda | Austria | Estonia | Samoa | Antigua and Barbuda | Botswana | Dominica | Gibraltar |
| elize | **Finland** | Cayman Islands | Hong Kong, China | Jamaica | Slovak Republic | Chile | Ghana | Marshall Islands | Hungary |
| ominica | **Sweden** | Cyprus | India | Philippines | Slovenia | China | Grenada | Nauru | Netherlands Antilles |
| srael | **Iceland** | Guernsey | Liechtenstein | Argentina | U. S. Virgin Islands | Costa Rica | Israel | Niue | Poland |
| larshall Islands | Slovenia | Malta | Luxembourg | Turks and Caicos | Vanuatu | Guatemala | Liberia | Saudi Arabia | |
| auru | | Qatar | Monaco | United Arab Emirates | Indonesia | Korea | Russian Federation | Cook Islands | |
| iue | **Phase 2** | San Marino | Panama | Barbados | | Mexico | Saint Kitts and Nevis | Portugal | |
| oland | Brazil | Singapore | Switzerland | Brunei | | Montserrat | Saint Lucia | Uruguay | |
| S Virgin Islands | Seychelles | The Bahamas | | Macao, China | | Trinidad and Tobago | St. Vincent and the Gren. | Aruba | |

1 Those jurisdictions having a combined Phase 1-2 review are marked in bold.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT
OECD

# Tax transparency: Global Forum launches country-by-country reviews

18/03/2010 - The international fight against cross-border tax evasion has entered a new phase with the launch by countries participating in the Global Forum on Transparency and Exchange of Information of a peer review process covering a first group of 15 jurisdictions: Australia, Barbados, Bermuda, Botswana, Canada, Cayman Islands, Denmark, Germany, India, Ireland, Jamaica, Jersey, Mauritius, Monaco, Norway, Panama, Qatar, Trinidad & Tobago.

The reviews are a first step in a three-year process approved in February by the Global Forum in response to the call by G20 leaders at their Pittsburgh Summit in September 2009 for improved tax transparency and exchange of information. In addition to a complete schedule of forthcoming reviews, the Global Forum also published three other key documents:

- the Terms of Reference explaining the information exchange standard countries must meet;

- the Methodology for the conduct of the reviews;

- the Assessment criteria explaining how countries will be rated.

Welcoming this new step forward for the international tax compliance agenda, OECD Secretary-General Angel Gurría said: "The Global Forum has been quick to respond to the G20 call for a robust peer review mechanism aimed at ensuring rapid implementation of the OECD standard on information exchange. This is the most comprehensive peer review process in the world, and it is based on decades of experience at the OECD of conducting reviews of this kind in many other areas of policy making. I look forward to seeing the first results later this year".

The Global Forum brings together 91 countries and territories, including both OECD and non-OECD countries. At a meeting in Mexico in September 2009, participants agreed that all members as well as identified non members will undergo reviews on their implementation of the standard.
These reviews will be carried out in two phases: assessment of the legislative and regulatory framework (phase 1) and assessment of the effective implementation in practice (phase 2).

The review reports will be published once they have been adopted by the Global Forum, whose next meeting will take place in Singapore at the end of September 2010.

Mike Rawstron, chair of the Global Forum, stated: "This is the most comprehensive, in-depth review on international tax co-operation ever. There has been a lot of progress over the past 18 months, but with these reviews we are putting international tax co-operation under a magnifying glass. The peer review process will identify jurisdictions that are not implementing the standards. These will be provided with guidance on the changes required and a deadline to report back on the improvements they have made".

For more information, contact Jeffrey Owens, Director of the OECD's Centre for Tax Policy and Administration, (jeffrey.owens@oecd.org or +33 1 45 24 91 08) or Pascal Saint-Amans, Head of the Global Forum Secretariat (pascal.saint-amans@oecd.org or +33 1 45 24 97 46) or visit www.oecd.org/tax/transparency and www.oecd.org/tax/evasion.

**Also available:**

- Transparence fiscale : le Forum mondial lance des examens par pays (French)

HM TREASURY

Newsroom & speeches





98/09

29 October 2009

# Michael Foot publishes final report

Michael Foot has today published his independent review of British offshore financial centres.

Michael Foot was asked by the Chancellor of the Exchequer to conduct a review of the long-term opportunities and challenges facing the British Crown Dependencies (CDs) and Overseas Territories (OTs) as financial centres.

The report covers a number of important areas that impact on the future sustainability of these jurisdictions and sets out a series of robust and sensible standards that Crown Dependencies and Overseas Territories will be expected to meet.

The report clearly states that British offshore financial centres must ensure they meet international standards on tax information exchange, financial regulation, anti-money laundering and countering the financing of terrorism, as well as ensuring, they put their public that finances on a firmer footing by diversifying their tax bases.

Financial Secretary to the Treasury, Stephen Timms said:

“I welcome Michael Foot’s report which comes amidst a real step change in the international determination to tackle tax and regulatory havens under the UK’s leadership of the G20.

This report sends a strong signal to overseas financial centres that they must ensure that they have the correct regulation and supervision in place, while also ensuring their tax bases are more diverse and sustainable to withstand economic shocks – this is essential to their long term stability”

Minister for the Overseas Territories, Chris Bryant said:

"I welcome Michael Foot's balanced and intelligent report. I have argued for some time that the Overseas Territories need to have robust governance of financial institutions, transparency in financial systems, proper regulation of off-shore financial services and a broader tax base.

The Overseas Territories have made substantial progress, especially in relation to financial transparency. I shall be working closely with the governments and governors to ensure that these recommendations are taken forward. There is still work to be done, but the Overseas Territories play a unique - and uniquely British - role, which I want to protect. "

Lord Bach, Ministry of Justice Minister for the Crown Dependencies:

“I welcome the publication of this considered and helpful review. As it recognises, the Crown Dependencies have much to be proud of in terms of meeting high international standards.

This is, however, a fast changing and increasingly complex financial environment. The report is clear that there is no room for complacency and we are confident that the Crown Dependencies will continue to lead the way in terms of meeting new standards as they evolve"

## Notes for editors

1. The full report can be found on the **Treasury's website**

2. The full terms of reference were developed following consultation with the Governments of the Crown Dependencies and Overseas Territories and are available on the Treasury's website

3. The PBR announcement of this review can be found at paragraphs 3.55 and 3.56 of the Pre Budget Report.

4. Only those Crown Dependencies and Overseas Territories with significant financial sectors were included in the scope of the review. In scope are: Jersey, Guernsey, Isle of Man, Bermuda, Cayman Islands, Gibraltar, Turks and Caicos Islands, British Virgin Islands, Anguilla. Out of scope are: Falkland Islands, Montserrat, South Georgia and the South Sandwich Islands, British Antarctic Territory, British Indian Ocean Territory, Sovereign Base Areas of Akrotiri and Dhekelia, Pitcairn Island, Saint Helena.

5. UK Government is committed to working with international partners (including Crown Dependencies and Overseas Territories) in seeking global solutions to current economic circumstances. UK's international engagement has been guided by The Prime Minister's 5 principles of transparency, in relation to risks and balance sheets; integrity, and the absence of conflicts of interest in the system; responsibility of management for the risks they undertake; sound banking practices, with respect to risk and capital adequacy; and co-ordination across borders in recognition of global markets.

Non-media enquiries should be addressed to the Treasury Correspondence and Enquiry Unit on 020 7270 4558 or by e-mail to **public.enquiries@hm-treasury.gov.uk**

This Press Release and other Treasury publications are available on the HM Treasury website: **www.hm-treasury.gov.uk** For the latest information from HM Treasury you can subscribe to our RSS feeds or email service.

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# POLICY COUNCIL
THE STATES OF GUERNSEY

**MEDIA RELEASE – THURSDAY 29 OCTOBER 2009**

**FOR IMMEDIATE RELEASE**

## GUERNSEY WELCOMES CONCLUSIONS OF THE 'FOOT REVIEW'

The States of Guernsey has welcomed the final report of the 'Foot Review'.

Guernsey's Chief Minister Deputy Lyndon Trott said:

'In my view this report vindicates the position of Guernsey and the other Crown Dependencies. Mr Foot finally confirms the issue that the three Crown Dependencies do provide a positive economic benefit to the UK.

'Once again an independent expert has found Guernsey to be a favourable, compliant and transparent international financial centre, which can offer high quality professional services for the benefit of the global economy.'

Deputy Trott also welcomed comments from Lord Bach, Minister for the Crown Dependencies at the Ministry of Justice, who described the report as considered and helpful.

'Lord Bach has expressed his confidence that the Crown Dependencies will continue to lead in terms of meeting new financial standards. I too am confident that we will continue to be regarded as an example for other offshore financial centres to follow.'

The Foot Review was commissioned by the UK Government to examine the long-term opportunities and challenges facing the Crown Dependencies and Overseas Territories as financial centres.

**Issued by James Falla, for Policy Council, States of Guernsey**

**Telephone: 01481 717000**

**Email: james.falla@gov.gg**

Guernsey Response to UK 'Foot Review'

**29 October 2009**

AN INDEPENDENT review of British Offshore Financial Centres, published today, is a solid endorsement of Guernsey's economic contribution to the UK economy, the island's economic management, robust regulatory regime and adherence to international standards on tax information and transparency.

In particular the review noted that:

Guernsey and the Crown Dependencies set an example for other offshore financial centres to follow

Guernsey and the Crown Dependencies provide significant economic benefit to the UK and the City of London, providing a gateway for funds to flow into the UK economy which would not otherwise route into the United Kingdom. UK banks had net financing from Guernsey of $74.1 billion at the end of June 2009

The finance industries in the Crown Dependencies generate significant professional fees for UK lawyers, accountants, fund managers, compliance and advisors, and that the Crown Dependencies are an important factor in London's pre-eminence as a global financial centre

Guernsey and the Crown Dependencies have conducted prudent and successful economic policies in recent years through the building up of reserves

Guernsey and the Crown Dependencies have developed, to a significant degree, robust medium-term fiscal and economic planning and strategies which have better placed the Crown Dependencies to withstand the rigours of recent global economic turmoil

The decision of the Channel Islands to review their fiscal strategies, and the way that Crown Dependencies are taking action to combat the effect of reduced revenues due to the economic downturn, have been noted positively

Guernsey and the Crown Dependencies commitment to

External links

The States of Guernsey are not responsible for the content of external websites

> **HM Treasury Website** - Full 'Foot Review' Report

**Address:** Sir Charles Frossard House, La Charroterie, St Peter Port, Guernsey, GY1 1FH
**Tel:** 01481 717000
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meeting international regulatory standards and co-operation and Guernsey's introduction of a depositor compensation scheme

Guernsey's commitment to fighting financial crime and its commitment to properly staffing and resourcing its Financial Intelligence Units.

Chief Minister Deputy Lyndon Trott welcomed the findings of the report today.

He said:

'In my view this report vindicates the position of Guernsey and the other Crown Dependencies. Mr Foot finally confirms the issue that the three Crown Dependencies **do** provide a positive economic benefit to the UK.

'There is also a positive endorsement of our decision to review our fiscal strategy.

'At the time of its announcement, we believed that the Foot Review would be an opportunity to dispel some myths about our financial services sector. I believe unequivocally now that we have been proved correct.'

Lord Bach, Minister for the Crown Dependencies at the Ministry of Justice, said:

'I welcome the publication of this considered and helpful review. As it recognises, the Crown Dependencies have much to be proud of in terms of meeting high international standards.

'This is, however, a fast-changing and increasingly complex financial environment. The report is clear that there is no room for complacency and we are confident that the Crown Dependencies will continue to lead the way in terms of meeting new standards as they evolve.'

The UK Government commissioned the review at the end of 2008. It was carried out by Michael Foot, a former managing director of the UK Financial Services Authority, an appointment which followed a long career at the Bank of England. He visited Guernsey earlier this year as part of his investigations.

The States of Guernsey positively welcomed the review and fully engaged and supported Mr Foot's team. The review also received submissions about the local finance industry from a number of bodies, including the States, GIBA and individual businesses.

The wide ranging review covered the Crown Dependencies (Guernsey, Jersey and the Isle of Man) and British Overseas Territories which are involved in international finance.

The review was commissioned as a result of the global economic downturn and was designed to look at a host of areas including future financial supervision, transparency, taxation, management and international co-operation as well as the role of these jurisdictions in the global financial services industry.

**Contact information**

James Falla, for Policy Council

Printer Friendly Version

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# Final report of the independent Review of British offshore financial centres

Michael Foot

**October** 2009

ISBN 978-1-84532-471-1
PU886

# Contents

# Foreword

The three Crown Dependencies and six Overseas Territories within the scope of my Review are facing the worst global economic downturn for over 60 years and intense international focus on the operation of their respective financial centres.

The smallest economies are particularly exposed to the downturn, but none of the nine jurisdictions I have reviewed can afford to be complacent. Most are heavily reliant on financial services and tourism for economic output, government revenue and employment.

It was clear early in the Review process that economic decisions taken by some of the jurisdictions during the long period of economic growth had weakened their resilience in a downturn. Events have proved this to be the case.

Some now face difficult decisions and will need to look afresh at options for controlling public expenditure and increasing revenue. Even those jurisdictions which are not under immediate fiscal pressure may wish to consider whether existing tax regimes expose them to international pressure which might ultimately have a material impact on their economic sustainability whilst potentially also reducing their 'tax take' more than necessary.

Meeting international standards on tax transparency, financial sector regulation and financial crime is an absolute must if the jurisdictions wish to continue to hold themselves out as internationally active financial centres, but international pressure must also be maintained on competitor jurisdictions to raise their standards.

A number of the jurisdictions I have reviewed have a good story to tell, but there is no room for complacency. Others have more to do, particularly on regulation and tackling financial crime.

Some will need technical assistance to help with the fight against financial crime, but the local governments must first demonstrate that they are committed to taking the action necessary to secure the benefits of this assistance in the long-term. There can be no second chances.

At a domestic level, the jurisdictions must take all possible steps to prevent the collapse of financial institutions of systemic importance to the local economy and have workable resolution plans if a collapse cannot be prevented.

The recommendations in my Report addressed to the jurisdictions provide benchmark standards against which each can assess itself. I invite the jurisdictions I have reviewed to consider what action they may need to take to achieve these standards.

I also invite the UK government to discuss and consider governance arrangements with the jurisdictions to ensure that there is a shared understanding of respective responsibilities and expectations.

Michael Foot

# 1 Overview

## Introduction

1.1 This Review was commissioned by the Chancellor of the Exchequer in December 2008 to work co-operatively with the three Crown Dependencies (Guernsey, Isle of Man and Jersey) and six Overseas Territories (Anguilla, Bermuda, British Virgin Islands, Cayman Islands, Gibraltar, Turks and Caicos Islands) to identify the opportunities and challenges generated by turmoil in the financial markets and the subsequent impact on the world economy[1].

1.2 The Review was commissioned against the backdrop of:

- worldwide economic and financial sector difficulties, and specifically the collapse of Icelandic banks impacting on Guernsey and the Isle of Man;
- a report by the Public Accounts Select Committee[2] which concluded that the Overseas Territories had not reached the regulatory standards attained by the Crown Dependencies across the areas of banking, insurance, securities and money laundering; and
- the G20's commitment to raise regulatory standards in the financial sector and a developing focus on the role of offshore 'tax havens' (of which there are many around the world) in facilitating tax evasion and financial crime.

## Approach

1.3 The financial centres in the nine jurisdictions have distinct characteristics. Understanding these characteristics, and the reasons for them, has formed an important part of the open and constructive dialogue the Review has had with the jurisdictions.

1.4 Preparing a detailed explanation of the differences between the jurisdictions would not, however, have served well the objective of delivering a report of value to the United Kingdom authorities and the governments of the jurisdictions. The Review has, therefore, pursued the thematic approach set out in the Progress Report published in April 2009 and which provided the basis for consultation with a range of stakeholders.

1.5 The Review has benefited from the willingness of non-governmental organisations (NGOs), financial services providers and individuals to give generously of their time to explain their views during the consultation.

1.6 The thematic approach has inevitably produced recommendations for action that will require more significant action by some jurisdictions than others. But those recommendations addressed to the jurisdictions are intended to provide benchmark standards against which each can assess itself and a basis for considering what action may be necessary, in some cases with technical assistance, to ensure a sustainable future.

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[1] The terms of reference for the Review are reproduced in Annex A to the Report.

[2] Foreign and Commonwealth Office: Managing Risk in the Overseas Territories, HC 176, published 1 May 2008.

1.7 The jurisdictions already publish information relevant to their performance against the standards in some of the Review's recommendations. The jurisdictions should consider incorporating this into a single document, published periodically, reporting on how the benchmark standards are being met, or on how and when they will be met.

## International significance

1.8 Many of the jurisdictions have developed important niche positions in international financial markets; but their importance in global terms, as measured by financial flows through the banking system, is modest.

**Box 1.A: Niche positions in international financial markets**

- The Cayman Islands are the world's leading centre for hedge funds and also a significant wholesale banking centre, with high volumes of overnight banking business from the United States.
- Bermuda is the third largest reinsurance centre in the world and the second largest captive insurance domicile, with firms based in the jurisdiction writing significant volumes of business in the United Kingdom and the US.
- The British Virgin Islands are the leading domicile for international business companies, with much business coming from the Far East in addition to strong business links with the US.
- Gibraltar offers a gateway to the European single market.
- The Crown Dependencies provide a gateway to route funds to other financial centres, including London; and they also service the financial needs of many UK nationals living abroad.

1.9 Within the offshore market (as defined in chapter 2), the nine jurisdictions account for over 60 per cent of total financial flows through the banking system. However, this total is significantly inflated by short-term US dollar flows routed through the Cayman Islands in response to prohibitions on the payment of interest on demand deposits in the US.

1.10 Financial flows involving the other eight jurisdictions are broadly equal in total to those recorded for Switzerland.

## Significance to the UK

1.11 The significance of the nine jurisdictions to the UK arises from financial flows between them and the UK, and the reputational and financial risks resulting from the UK's responsibility for ensuring the good governance of the Crown Dependencies and Overseas Territories (including meeting international standards) and representing their interests in international fora.

### Financial flows

1.12 The UK has consistently been the net recipient of funds flowing through the banking system from the nine jurisdictions, with large regular inflows from the Crown Dependencies partly offset by net outflows to the Cayman Islands.

1.13 The Crown Dependencies make a significant contribution to the liquidity of the UK market. Together, they provided net financing to UK banks of $332.5 billion in the second quarter of calendar year 2009, largely accounted for by the 'up-streaming' to the UK head office of deposits collected by UK banks in the Crown Dependencies.

1.14 Financial flows are also generated by insurance business and fees earned by UK based asset managers, accountants and lawyers. For example, Bermuda insurers and reinsurers reportedly wrote 30 per cent of the 2008 premium at Lloyd's of London, a total of £5.4 billion.

## Constitutional relationship

1.15 The UK's constitutional relationship with the Crown Dependencies and Overseas Territories exposes it to reputational risks if, for example, a jurisdiction fails to meet international standards on taxation, financial regulation or fighting financial crime. The UK is also responsible for Gibraltar's compliance with European Union requirements and the financial consequences of any compliance failure might ultimately fall on the UK.

1.16 The UK's degree of financial risk exposure to the other eight jurisdictions varies. There is no track record of the UK providing a subsidy to the Crown Dependencies for crystallised financial risks and no expectation in the Crown Dependencies that the UK would provide financial support should they get into difficulties.

1.17 The UK has, however, taken action in the past to support its Overseas Territories and the National Audit Office has concluded that 'the UK bears the ultimate risk from potential liabilities' arising from the actions of Territory governments[3]. The precise nature of the constitutional relationship (discussed in Annex C and which varies between the jurisdictions) is likely to have a bearing on the degree of financial risk exposure.

1.18 The Foreign and Commonwealth Office (FCO) monitors the Territories' public finances and seeks to mitigate fiscal risk by requiring all the Overseas Territories (with the exception of Gibraltar) to obtain approval by the Secretary of State when seeking to borrow. Borrowing guidelines are set for a number of the Territories which require their respective governments to keep within agreed levels of indebtedness and to maintain a minimum level of liquid reserves.

1.19 The effective operation of this regime is, however, sometimes hampered by the absence of up-to-date and reliable financial data and a consistently proactive approach by the FCO to working with the local governments to ensure that emerging risks are detected early and credible responses developed and implemented.

1.20 The assumption made by some Overseas Territories that there are circumstances in which they should be entitled to financial support may also act as a disincentive to take the difficult decisions that may sometimes be required to meet the objectives of the regime.

1.21 One of the Overseas Territories suggested to the Review that the UK should act as lender of last resort in the event of a shock to a jurisdiction's financial system and economy which was beyond the resources of that jurisdiction to deal with in the short-term. This would be a significant undertaking by the UK and it would be important to ensure that local governments had a strong incentive to put in place and enforce measures to reduce the risk of such circumstances arising.

1.22 If the UK Government wished to explore a loan facility, it would most likely be broadly similar to the kind of facilities that would be available to these jurisdictions if they were eligible for membership of the IMF. The circumstances in which a loan would be provided and the conditionality attached would need to be clear.

1.23 Even if such a facility is not explored, the UK government should discuss and consider governance arrangements with the jurisdictions to ensure that there is a shared understanding

[3] Paragraph 1.1 of the National Audit Office report Foreign and Common Wealth Office, Managing risk in the Overseas Territories , HC 4 Session 2007-2008, 16 November 2007.

of respective responsibilities and expectations. In particular, there is scope to discuss and clarify with the jurisdictions:

- how responsibility for delivering good governance is shared between the jurisdictions and the UK;
- the circumstances (if any) in which the UK might be prepared to provide financial support to a jurisdiction; and
- how risks will be managed to reduce the exposure of the parties.

## Managing economic risks

1.24 One way of reducing risks is to ensure that action is taken to improve the resilience of each jurisdiction's economy during periods of economic stress.

1.25 The global economic downturn has tested the resilience of the nine jurisdictions. Although the impact has not been uniform, most have seen public revenue fall below expectations and upward pressure on public spending.

1.26 The negative impact on public revenues has so far been greatest in those jurisdictions where tourism and construction (which is often closely related to tourism) represent a significant proportion of the economy. In some cases, this has combined with a downturn in a jurisdiction's respective financial sector niche.

1.27 The impact has been pronounced in Anguilla, the Cayman Islands and the Turks and Caicos Islands resulting in depleted public sector cash reserves. Bermuda and the British Virgin Islands have also experienced a decline in government income, but the impact has been less severe. Revenues have held up better in the Crown Dependencies and Gibraltar.

1.28 Past economic decisions taken by the local governments in the jurisdictions have inevitably had an impact on their resilience during the downturn. For example, the Crown Dependencies' decision to build up reserves in recent years during a period of rapid economic growth has served to increase their resilience. They had also invested effort in improving the quality of data they obtained, compiled medium-term economic forecasts and 'stress-tested' against economic shocks.

1.29 Decisions taken by some of the Overseas Territories to use increased revenues to raise current and capital public spending, sometimes combined with insufficient attention to data quality and the absence of robust medium-term planning, has left local governments facing difficult short-term choices to restore the public finances. This is clearly illustrated by recent events in the Cayman Islands.

1.30 The lasting impact of the economic downturn will to a large extent depend upon its length and severity. While there is reason to hope that some pressures (particularly on tourism) will ease as the global economy picks up, many of the longer term effects on the financial sector may not have been felt fully as many large financial services firms have yet to implement the results of strategic reviews of their future geographical 'footprint' and product ranges.

1.31 In any event, the global downturn has provided a sharp reminder of the need for some of the jurisdictions to take urgent measures to ensure that robust economic planning and fiscal control measures are in place and observed.

1.32 The UK should satisfy itself that each jurisdiction indeed has a framework capable of identifying and responding to external shocks and encourage local governments to undertake responsible adjustment programmes. Where these programmes are realistic and there is a clear commitment to take the necessary measures, there is a place for allowing suitably controlled additional public sector borrowing to facilitate adjustment.

1.33 None of the jurisdictions can afford to be complacent. Many of the economic responses to a downturn available to sovereign states are not available to them and the significance of the financial services, construction and tourism sectors in the economies of the majority of the nine jurisdictions combine to suggest the need for a cautious approach to economic planning. Each jurisdiction needs to identify the main changes in the external environment to which it could be vulnerable and plan accordingly.

1.34 Chapter 3 makes a number of recommendations to the jurisdictions which provide benchmark standards against which to review current practice and consider what action might best deliver improved economic resilience and hence sustainability.

1.35 The Review also commends these benchmark standards to the Ministry of Justice and the FCO for the purposes of discharging their oversight of the Crown Dependencies and Overseas Territories respectively. Enactment will not provide a 'quick fix' to current public sector finance problems but should help jurisdictions in their short-term efforts and, importantly, limit the risk of future problems.

## The role of tax

1.36 The recommendations in chapter 3 include giving consideration to developing a diversified tax base (where this does not already exist) to maximise sources of revenue to complement measures to increase efficiency in government. Each jurisdiction will need to take its own decisions based on a detailed analysis of its current and future revenue needs.

1.37 Most – if not all – jurisdictions in the developed world seek to make their tax regimes internationally competitive. The jurisdictions would, therefore, also need to consider the impact on their position in this competitive landscape of any decision to broaden the tax base.

1.38 At a practical level, any jurisdiction considering introducing new taxes (or fees) must have the ability to administer them to ensure that they are not avoided. It would be in the UK's interest to provide technical assistance were it requested by a jurisdiction.

1.39 An evaluation of the importance of the Crown Dependencies and Overseas Territories in tax avoidance by UK corporates commissioned by the Review and conducted by Deloitte (see Annex E) should be a useful input into the thinking of any jurisdiction considering tax changes to ensure sustainability.

1.40 As part of that evaluation, Deloitte explored the extent to which the nine jurisdictions' business models depended on tax competition strategies which stood outside the growing international consensus on tax policy norms.

1.41 Deloitte tentatively concluded that the Crown Dependencies and the Overseas Territories were distinguished within the developed world by differentiating themselves from the international consensus, sometimes through tax rates but more often through the absence or near absence of certain forms of taxation. Whilst there were other drivers for doing business in these jurisdictions (including, for example, a stable legal environment and authorities who were responsive to market developments), tax was an important motivating factor.

1.42 Deloitte considered the scope for the jurisdictions moving towards consensus models in the areas of Value Added Tax (VAT) and corporation tax (CT), should local governments wish to consider doing so.

1.43 Deloitte concluded that there was a compelling case for those of the nine jurisdictions which do not already operate VAT or Goods and Services Tax (GST) to consider introducing such a system to increase the sustainability of their business models by broadening their revenue bases. Deloitte noted that this would be of particular importance for the Overseas Territories should the global trend for reducing reliance on customs duties continue.

1.44 Deloitte also concluded that the Crown Dependencies' industry bases were sufficiently diverse that they had the potential to raise worthwhile levels of revenue from a CT system more aligned with international 'best practice' than the regimes currently in place. By contrast, some of the Overseas Territories' focus on a narrower financial sector niche suggested that the introduction of a broad-based CT would offer less scope for a significant tax take.

1.45 Deloitte concluded that, in any event, the downside of a properly constructed 'best practice' CT system would appear to be relatively limited and would bring the jurisdictions more into the mainstream of the international community. It might also curtail some scope for tax avoidance, but Deloitte estimated that the amount of UK tax avoided by UK corporates using the nine jurisdictions was likely to be significantly lower than estimates produced by previous studies have suggested.

## Meeting international standards

1.46 **Improved tax transparency** is one of three important and inter-related elements of international standards which have been considered by the Review (discussed in chapter 4).

1.47 The principles of transparency and exchange of information developed by the Organisation of Economic Co-operation and Development's (OECD) Global Forum have been endorsed by countries around the world. The G20 London Summit in April 2009 continued the push to implement the minimum standard of each jurisdiction signing at least 12 tax information exchange agreements (TIEAs) with other countries that would allow the latter to obtain information about income earned by their taxpayers outside of their home jurisdiction.

1.48 This renewed international focus on tax transparency encouraged leading international financial jurisdictions such as Switzerland and Singapore to commit to the standard for the first time.

1.49 By the G20 meeting in April 2009, the Crown Dependencies were all considered to have 'substantially implemented' the agreed standard. Bermuda, the British Virgin Islands, the Cayman Islands and Gibraltar have subsequently also 'substantially implemented' the standard, with the remaining two jurisdictions making progress towards it.

1.50 It is anticipated that standards in this area will continue to rise and even those of the nine jurisdictions within the scope of this Review that have met or exceeded the current standard of 12 TIEAs should continue to enter further agreements with relevant countries. This imperative is well understood and it is appropriate that the commitment to tax transparency shown by a number of the jurisdictions has been recognised in statements by the UK Government.

1.51 The nine jurisdictions must show a commitment not just to the letter but also the spirit of international standards. Effective implementation will be an important test of this and evidence will be provided by the OECD's Global Forum through a monitoring and peer review process. It is vital that competitor jurisdictions show the same commitment.

1.52 In the longer term, the trend for greater transparency is likely to result in pressure to move to a system of automatic exchange of information with the aim of combating tax evasion by individuals on a cross-border basis. This is already the objective under the European Union Savings Directive (EUSD) agreed in 2003, although some EU Member States have taken advantage of a transitional arrangement to instead levy a withholding tax on interest payments of 20 per cent (increasing to 35 per cent in July 2011). There is, however, pressure to remove the withholding tax option and a proposal to apply the EUSD to a broader range of savings income.

1.53 The Crown Dependences are outside the EU but participate in the EUSD framework under Savings Agreements with the Member States. The Crown Dependencies apply the transitional withholding tax option, which under their Savings Agreements they must give up in favour of automatic exchange of information when the three Member States applying withholding tax move to automatic exchange.

1.54 The Isle of Man has committed to moving to automatic exchange of information by July 2011. Guernsey is reviewing its position and Jersey has said that it is ready to introduce automatic exchange of information as soon as the EU brings the transitional period to an end. The Review encourages both jurisdictions to announce a firm date for a move to automatic exchange. At the same time, the UK should call on all EU Member States and third party countries which currently apply the withholding tax option to also make a similarly firm commitment.

1.55 Of the Overseas Territories, Gibraltar is directly subject to the EUSD and in most cases applies automatic exchange. Anguilla and the Cayman Islands have adopted the EUSD and apply automatic exchange. The British Virgin Islands and the Turks and Caicos Islands have adopted the withholding tax option. Again, the Review encourages all the Territories within the scope of this Review to commit to moving to automatic exchange.

1.56 During the course of the consultation, a number of NGOs raised concerns about the **extent to which international standards still permit a lack of transparency in the ownership of corporate vehicles in the jurisdictions.** This, they feared, facilitated financial crime (including tax evasion).

1.57 The Review shares these concerns (which are discussed in chapter 7), but such transparency issues also arise to a greater or lesser extent in most major jurisdictions.

1.58 The G20 recognised the need to prioritise work to strengthen standards on customer due diligence, beneficial ownership and transparency at its meeting in Pittsburgh in September 2009.

1.59 Although attractive in principle, action by the UK and the nine jurisdictions ahead of changes to international standards would be likely to result in a loss of business to other jurisdictions rather than a resolution of the underlying concerns. The Review has therefore concluded that the UK should take the lead internationally in encouraging improvements to:

- 'know your customer' international minimum standards (particularly in respect of the role of 'eligible introducers');
- the monitoring of 'politically exposed persons' (PEPs); and
- the transparency of beneficial ownership of companies and trusts.

1.60 The third aspect of international standards that was of particular concern to the Review was **raising regulatory standards in the financial sector and on measures to tackle financial crime** (discussed in chapters 5 and 7 respectively). Reviews by the International Monetary Fund and the Financial Action Task Force have been critical components of a long-standing attempt to raise international standards in these areas. The Review drew heavily on work done by these bodies which was followed up in discussions with the jurisdictions concerned.

1.61 The majority of the jurisdictions have a good story to tell though, as minimum standards continue to rise, there is no room for complacency. Others have more to do.

1.62 Action by some of the Overseas Territories to improve governance arrangements within their regulator (in part by recruiting external experts to the board), and to separate responsibility for promotion from the regulator in both letter and spirit, may present relatively quick improvements.

1.63 Increasing the quantum and expertise of resources available to the Financial Services Commissions in Anguilla and the Turks and Caicos Islands to bring them up to international standards may take longer. These jurisdictions must, however, explain how and when they will provide these resources. Delivering these commitments is a necessary condition if these jurisdictions wish to continue to offer themselves as international financial services centres.

1.64 At a domestic level, the Review identified several jurisdictions containing locally owned banks which are large in the context of the local economy. Problems in any of these banks could cause significant economic disruption and might lead to requests to the UK Government for liquidity or capital assistance to avoid it. The Review offers a recommendation in chapter 6 on how the risk of such disruption crystallising might be kept to a minimum.

1.65 Anguilla, the British Virgin Islands and the Turks and Caicos Islands recognise that the technical and human resources to fight financial crime also need to be boosted. Bermuda must also remain focussed on continuing to address deficiencies in its approach to tackling financial crime identified in the IMF's Review published in October 2008. Gibraltar and the Isle of Man have more to do to improve compliance with the FATF's 'key and core' recommendations in particular.

1.66 The priority in the fight against financial crime is to provide human and technical assistance to those jurisdictions most in need of it. This must, however, be accompanied by a clear commitment from the local government to tackling financial crime by ensuring that legislation keeps pace with developments and gives both the regulator and the investigating authority the powers they need to detect and prosecute financial crime. The local government must also make a commitment to fund the provision of sufficient resources to secure the benefits of the technical assistance they receive. Again, this is a necessary condition for these jurisdictions continuing to operate as international financial services centres.

1.67 Where such commitments are forthcoming, the UK should discuss with the relevant jurisdictions what mechanisms might be put in place to deliver them in practice. One option would be to establish a unit, recognised by both the jurisdictions and the UK, whose functions might include quality assurance to ensure that the full benefits of technical assistance are secured on a long-term basis. These discussions could also be extended to those jurisdictions which are not in need of immediate technical assistance to discuss how they might contribute to and benefit from any such unit.

1.68 In summary, some of the jurisdictions have consciously chosen to move ahead of the pack of their international rivals and raise their standards further and faster than the minimum international standards now required. It is important that those that move swiftly are seen to benefit from improved international acceptance. It is crucial that international political pressure is maintained on key competitors as the absence of co-ordinated action would generate arbitrage opportunities and encourage a shift of business away from jurisdictions which have met international standards.

## Dealing with the retail sector

1.69 Two issues in this area were brought to the Review's attention during the consultation process.

1.70 First, a growing number of the jurisdictions have, or plan to have, a deposit protection scheme for retail bank deposits. Sensibly, those that have introduced such schemes have recognised that the jurisdiction must not face a potentially unlimited liability and that the banks there will also not accept such a commitment. The result has been that some jurisdictions have capped the aggregate amount of compensation that can be paid in any given period. Chapter 6 provides some observations on the risk of confusing depositors to which this may lead.

1.71 Second, in the Crown Dependencies, where UK nationals (often 'ex-pats') purchase many financial products, one important element of consumer protection in the UK is typically missing. Only in the case of the Isle of Man does an Ombudsman complaints scheme exist along the lines of that in the UK. The jurisdictions should consider whether such a scheme is justified.

## Recommendations

1.72 The following chapters consider in more depth the issues discussed in this overview. For ease of reference, the main recommendations made are set out below.

1 The UK should discuss and consider governance arrangements with the jurisdictions to ensure that there is a shared understanding of respective responsibilities and expectations.

2 The quality and extent of financial planning in the jurisdictions should be aligned with that in the best performers (the Crown Dependencies). In particular, jurisdictions should implement a prudent approach to managing government finances by developing: a diversified tax base to maximise sources of revenue; mechanisms to measure and control public spending; and by building financial reserves during periods of economic growth.

3 The UK should be proactive in satisfying itself that the Overseas Territories in particular have frameworks capable of identifying and responding to external shocks and encouraging local governments to undertake responsible adjustment programmes where these are necessary.

4 To meet international standards, jurisdictions which have not already done so should:

- meet the international standard on tax transparency set by the OECD and continue, even after meeting the current minimum of 12 TIEAs, to negotiate further TIEAs, giving priority to those jurisdictions with which they have significant financial links;
- set up the administrative procedures necessary to ensure full delivery of the OECD standard, to a level of compliance that will satisfy the peer review process that is being put in place;
- make an early commitment, with a timetable for implementation, to automatic exchange of tax information under the EU Savings Directive;
- ensure that the regulatory authorities have the necessary resources and expertise to implement and enforce international financial sector regulatory standards;
- move to amend laws and procedures as necessary to achieve compliance with the FATF 16 'key and core' Recommendations.

5 At an international level, the UK should press for improvements in 'know your customer' minimum standards and promote moves towards improved transparency of beneficial ownership of companies and trusts and the monitoring of politically exposed persons.

6 All jurisdictions should ensure that:

- governance arrangements in their regulatory authorities are sufficient to maintain the integrity and independence of all decisions taken;
- responsibility for promotion of the financial centre is separated from the regulator in both letter and spirit.

7 Those jurisdictions that offer (or propose to offer) protection to retail depositors must ensure that compensation schemes can be understood by those depositors.

8 Jurisdictions that lack an Ombudsman scheme should consider whether one is justified.

9 Any jurisdiction that has not already done so should undertake a thorough examination of the range of powers to resolve a crisis in its financial services sector.

10 Local governments should require the regulator to maintain close oversight of any large locally incorporated financial institutions, the failure of which might lead to requests for financial help from the UK. This should be backed by the option of a periodic independent and external review, paid for by the institution itself, commissioned by the local authorities on their own initiative or at the request of the UK.

11 The UK should discuss with those jurisdictions in need of technical assistance to fight financial crime how that assistance might be delivered and the benefits of assistance secured in the longer-term.

# 2 Financial flows

## Introduction

2.1 Many offshore financial centres are closely integrated into global financial services markets. Financial flows are generated by activities that are booked and often carried out in offshore financial centres such as banking, fund management and insurance business. Whilst on an individual basis most offshore centres account for only a small share of global financial flows, some have developed niche positions which give them a significant international profile.

2.2 This chapter examines:

- the international significance of the nine jurisdictions within the scope of this Review both in terms of their niche positions and financial flows through the banking system;
- the significance of the nine jurisdictions to the UK in terms of financial flows between them and the UK; and
- discusses evidence provided to the Review on other income that accrues to the UK from the financial service sectors in these jurisdictions.

## International significance

2.3 Many of the jurisdictions have developed important niche positions in international financial markets which underlines the need for each jurisdiction to meet international standards. But to understand the relative importance of these jurisdictions in global financial markets also requires an analysis of financial flows.

**Box 2.A: Niche positions in international financial markets**

- Bermuda is the third largest centre for reinsurance in the world and the second largest captive insurance domicile. It is the leading non-United States supplier of reinsurance to US insurers and reportedly wrote 30 per cent of the 2008 premiums at Lloyds of London (a total of £5.4 billion).
- The Cayman Islands are the world's leading centre for hedge funds and also a significant wholesale banking centre, with high volumes of overnight banking business from the US.
- The British Virgin Islands are the leading domicile for international business companies, with much business coming from the Far East in addition to strong links with the US.
- Gibraltar offers a gateway to the European single market.
- The Crown Dependencies provide a gateway to route funds to other financial centres, including London; and they also service the financial needs of many UK nationals living abroad.

## International financial flows

2.4 International financial flows through the banking system are captured on a point in time basis by data collected by the Bank of International Settlements (BIS). Banks in 42 jurisdictions[1] ('BIS reporting banks') report the claims they have on individuals and entities located in specific jurisdictions. Most claims are in the form of loans made by banks to these individuals and entities.

2.5 The same banks also provide data on their liabilities. Most liabilities are in the form of deposits placed with the banks by individuals and entities located in other jurisdictions.

2.6 By way of example, the data shows that at the end of 2008 banks in the other 41 BIS reporting jurisdictions had claims of just under $5.3 trillion on individuals and entities located in the US and liabilities of just over $4.0 trillion to individuals and entities in the US. So, in broad terms, loans made to residents in the US exceeded deposits made by US residents with banks in other countries by $1.3 trillion.

2.7 The BIS classifies about 20 centres as being 'offshore', including eight of the jurisdictions within the scope of this Review[2]. The Review has made one small amendment by classifying the Turks and Caicos Islands as an offshore centre, rather than, as in the BIS data, part of the Latin America/Caribbean region.

## Claims on offshore centres

2.8 Cross-border financial flows into the offshore financial centres, as measured by claims by BIS reporting banks on individuals and entities resident in them, amounted to $3.6 trillion at the end of the fourth quarter of 2008. Chart 2.A shows each offshore centre's percentage share of this total.

[1] There are 42 BIS reporting countries – Australia, Austria, Bahamas, Bahrain, Belgium, Bermuda, Brazil, Canada, Cayman Islands, Chile, Chinese Taipei, Cyprus, Denmark, Finland, France, Germany, Greece, Guernsey, Hong Kong SAR, India, Italy, Ireland, Isle of Man, Japan, Jersey, Luxembourg, Macao SAR, Malaysia, Mexico, Netherlands, Netherlands Antilles, Norway, Panama, Portugal, Singapore, South Korea, Spain, Sweden, Switzerland, Turkey, United Kingdom, United States

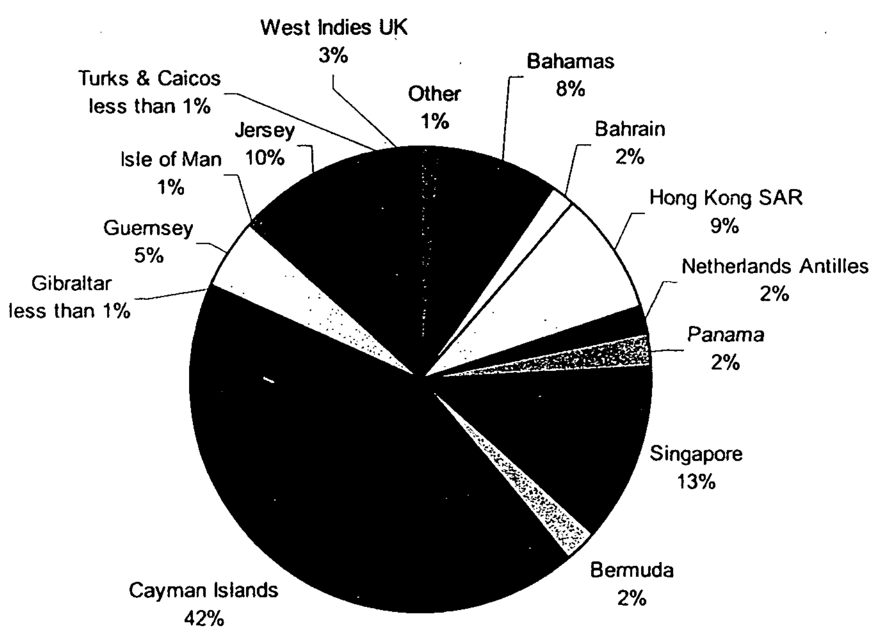
[2] BIS defines the following jurisdictions as offshore centres: Aruba, Bahamas, Bahrain, Barbados, Bermuda, Cayman Islands, Gibraltar, Guernsey, Hong Kong SAR, Isle of Man, Jersey, Lebanon, Macao SAR, Mauritius, Netherlands Antilles, Panama, Samoa, Singapore, Vanuatu and West Indies UK. West Indies UK includes Anguilla and the British Virgin Islands plus four other jurisdictions.

2.9 The aggregate claims by BIS reporting banks on the nine jurisdictions covered by this Review amounted to $2.3 trillion at the end of the fourth quarter of 2008, about 63 per cent of the total claims on all offshore centres. The balance of around 37 per cent was primarily accounted for by claims on Hong Kong, Singapore and the Bahamas.

2.10 BIS reporting banks' claims on the Cayman Islands at the end of 2008 amounted to $1.5 trillion, about 42 per cent of the total. This was higher than any other offshore centre and inflated by the long-standing consequence of US Federal Reserve regulations. Since 1933, the US Federal Reserve has not allowed the payment within the US of interest on overnight (demand) deposits. One result has been that US banks and other residents have routed such deposits through the Cayman Islands, where interest can be paid. It is not possible to estimate precisely the total size of this effect but it may account for more than one-third of the banking funds being placed through the Cayman Islands at any point in time.

2.11 Of the remaining eight jurisdictions within the scope of this Review, all but Guernsey and Jersey had a 3 per cent share or less of the total claims.

**Chart 2.A: Claims by BIS reporting banks on offshore centres – Q4 2008**



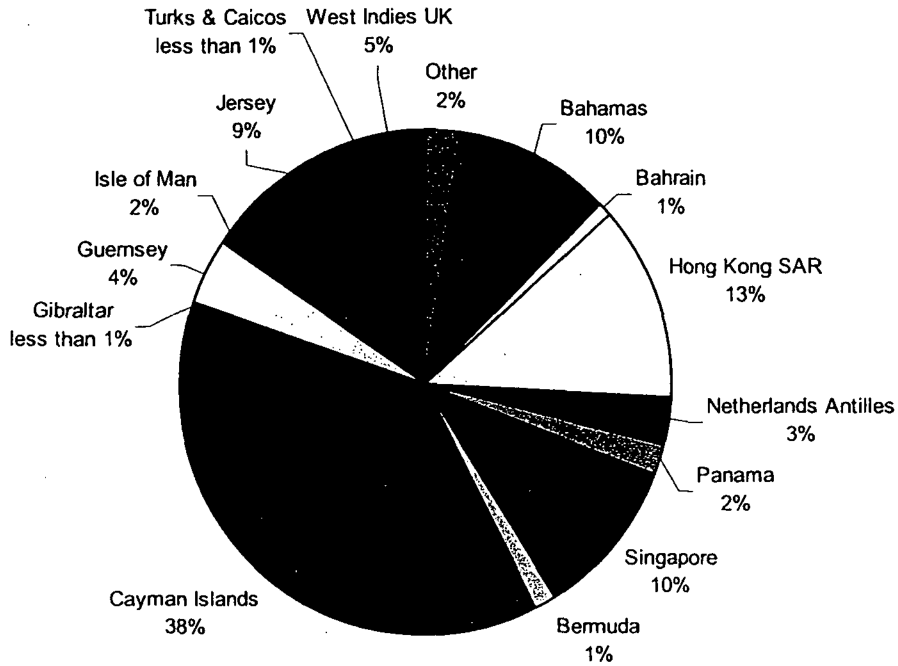

## Claims by offshore centres

2.12 Cross-border financial flows from the offshore financial centres to banks in other BIS reporting countries, as measured by claims on individuals and entities resident in other BIS reporting countries, amounted to $4.8 trillion at the end of 2008. Chart 2.B shows each offshore centre's percentage share of this total.

2.13 The nine jurisdictions within the scope of this Review had claims of around $2.8 trillion, some 58 per cent of the total. Again, a significant element was represented by claims from the Cayman Islands ($1.8 trillion or 37 per cent of the total) much of which is likely to be the recycling back to the US of the demand deposits described in paragraph 2.10 above.

2.14 Of the remaining eight jurisdictions covered by the Review, all but Guernsey and Jersey had a 2 per cent share or less of the total.

**Chart 2.B: Claims by offshore centres on BIS reporting banks – Q4 2008**




## A wider comparison

2.15 In summary, the BIS data shows that, excluding the Cayman Islands, financial flows to and from the jurisdictions within the scope of this review are modest within the offshore market. It was, however, suggested to the Review that this comparison would not give a global perspective of the relative importance of the financial centres.

2.16 Undertaking such a wider comparison inevitably requires a selection of other jurisdictions to be made. The Review has chosen Ireland, Luxembourg and Switzerland as three jurisdictions mostly frequently cited during consultations as key competitors of many (but not all) of the nine jurisdictions. Including these competitors in the analysis further illustrates that, in terms of financial flows through the banking system, the importance of the majority of the jurisdictions within the scope of this Review is modest. As Table 2.A shows, financial flows involving eight of the British jurisdictions in aggregate were broadly equal for those recorded for Switzerland at the end of 2008.

**Table 2.A: Summary of BIS reporting banks' claims on and liabilities to offshore centres and their 'competitors' at end-2008**

| | Claims of BIS reporting banks $ trillion | Liabilities of BIS reporting banks $ trillion |
|---|---|---|
| Cayman Islands | 1.5 | 1.8 |
| Other 8 British jurisdictions | 0.8 | 1.0 |
| All other 'offshore centres' | 1.3 | 2.0 |
| Ireland | 1.2 | 0.6 |
| Switzerland | 0.7 | 1.2 |
| Luxembourg | 1.0 | 0.9 |
| **Total** | **6.5** | **7.5** |

## Significance to the UK

2.17 The Bank of England produces detailed data on the claims by UK banks on the nine jurisdictions covered by this Review and their liabilities to these jurisdictions. This data includes flows between, on the one hand, banks resident in the UK and both banks and non-banks resident in the jurisdictions.

2.18 Claims by banks resident in the UK on banks and non-banks in the jurisdictions (the closest match to the claims numbers quoted in paragraphs 2.8-2.11 above) totalled $413.9 billion at the end of June 2009[3]. The largest claims by banks in the UK were on the Cayman Islands ($243.6 billion) and on Jersey ($95.7 billion).

2.19 Table 2.B below summarises the claims by UK banks on entities in the nine jurisdictions. It shows a rapid increase in balances between 2002 and 2007, followed by a sharp drop after the onset of the financial crisis.

**Table 2.B: Claims by UK banks on entities in the nine jurisdictions**

| | Q2 2009 $billion | Q4 2008 $billion | Q4 2007 $billion | Q4 2005 $billion | Q4 2002 $billion |
|---|---|---|---|---|---|
| Bermuda | 13.1 | 16.6 | 32.2 | 16.6 | 7.5 |
| Cayman Islands | 243.6 | 240.2 | 372.2 | 228.5 | 90.9 |
| Gibraltar | 4.2 | 3.6 | 3.5 | 2.7 | 1.4 |
| Guernsey | 18.0 | 18.7 | 21.9 | 9.1 | 6.4 |
| Isle of Man | 16.5 | 14.3 | 19.1 | 6.5 | 4.1 |
| Jersey | 95.7 | 97.7 | 127.7 | 78.3 | 27.3 |
| Turks and Caicos | 0.3 | 0.3 | 0.1 | 0.1 | 0.1 |
| West Indies UK | 22.5 | 27.1 | 26.2 | 18.0 | 8.6 |
| **Total** | **413.8** | **418.5** | **602.9** | **359.8** | **146.3** |

[3] The Bank of England (BoE) defines loans from UK resident banks to non-residents as claims. It includes the reporting institutions' loans and advances to non-residents; claims under sale and repurchase agreements to non-residents; commercial bills and other negotiable paper drawn on non-residents; lending under ECGC special schemes for exports including amounts refinanced; sterling acceptance given on behalf of non-residents; and assets leased out under finance leases and holdings of certain investments outside the UK with an original maturity of one year or more.

2.20 Claims by the nine jurisdictions on banks resident in the UK (the latter's 'liabilities') totalled some $670.9 billion at the end of June 2009[4] (see table 2.C below). The largest creditors were Jersey ($314 billion), Cayman Islands ($172.5 billion), Guernsey ($92.1 billion) and the Isle of Man ($56.6 billion).

2.21 Again, claims rose sharply in most cases between 2002 and 2007 and have fallen back since. The end-June 2009 aggregate figure was around 28 per cent below the level at end-2007.

**Table 2.C: Claims on UK banks by entities in the nine jurisdictions**

| | **Q2 2009 $billion** | **Q4 2008 $billion** | **Q4 2007 $billion** | **Q4 2005 $billion** | **Q4 2002 $billion** |
|---|---|---|---|---|---|
| Bermuda | 16.9 | 17.4 | 42.4 | 17.6 | 8.5 |
| Cayman Islands | 172.5 | 228.0 | 316.2 | 223.1 | 71.1 |
| Gibraltar | 3.5 | 5.1 | 8.4 | 4.7 | 2.6 |
| Guernsey | 92.1 | 88.0 | 80.0 | 53.0 | 36.4 |
| Isle of Man | 56.6 | 39.2 | 55.3 | 32.7 | 21.7 |
| Jersey | 314.0 | 328.8 | 407.9 | 203.1 | 134.6 |
| Turks and Caicos | 0.5 | 0.5 | 0.1 | 0.2 | 0.1 |
| West Indies UK | 14.7 | 15.9 | 18.2 | 13.1 | 7.5 |
| **Total** | **670.8** | **722.9** | **928.5** | **547.5** | **282.5** |

## Net position

2.22 Claims by UK banks on these nine jurisdictions less their liabilities to the nine jurisdictions is a measure of the net financing provided by the jurisdictions to the UK. In aggregate, the UK was a net recipient of funds from the nine jurisdictions of $257 billion at end-June 2009. While this was down significantly from $304.3 billion at end-2008 and $325.6 billion at end-2007, it conforms to the long-standing pattern that the UK has consistently been a net recipient of funds. Much of the decline over the last 2 years in the net position has come from changes in flows to and from the Cayman Islands, which is likely to be connected with the problems of the hedge fund industry over that period.

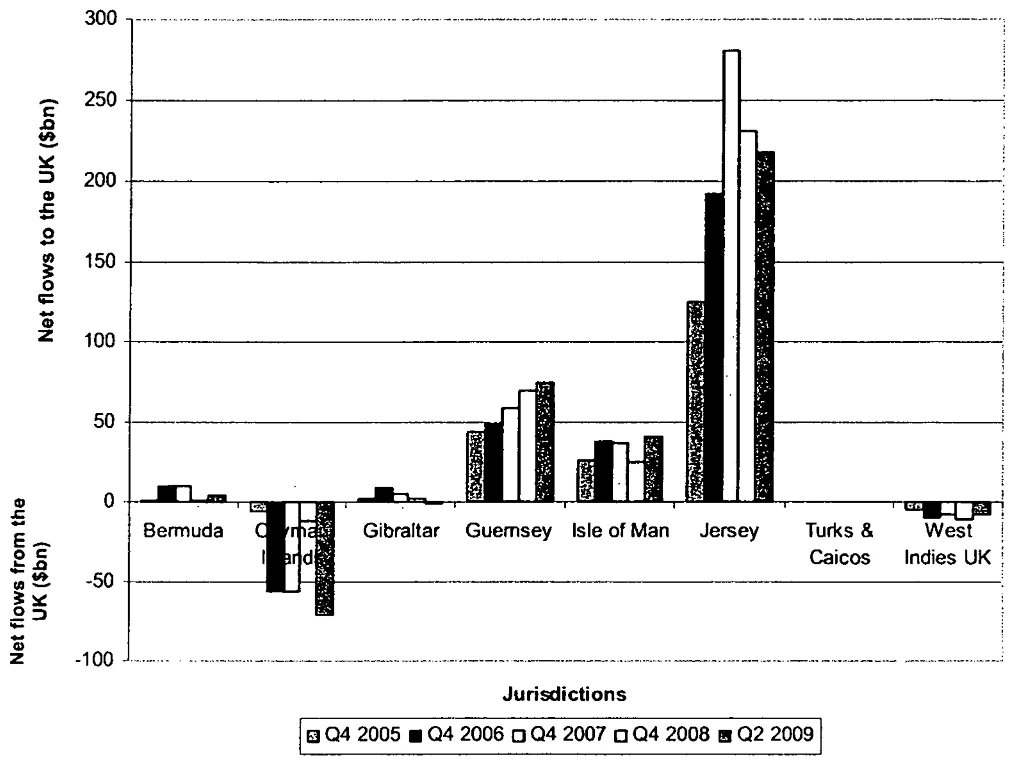
2.23 Typically, UK banks lend net to entities in Cayman Islands and receive a larger volume of funds net from entities in the Crown Dependencies. At end-June 2009, UK banks had net financing of approximately $218.3 billion from Jersey, $74.1 billion from Guernsey and $40.1 billion from the Isle of Man.

2.24 'Up-streaming' allows deposits to be gathered by subsidiaries or branches in a number of different jurisdictions and then concentrated in one centre, in this case the UK, where the bank has the necessary infrastructure to manage and invest these funds. This model is followed by many large banks around the world and is not confined to 'British' jurisdictions. All the major UK clearing banks have significant deposit-gathering capacity in the Crown Dependencies as, of course, did some Icelandic banks up to October 2008.

[4] BoE defines deposits received by jurisdictions as 'UK liabilities'. These comprise deposits and advances received by reporting institutions from non-residents, liabilities arising from acceptances given on behalf of non-residents and certificates of deposit issued in London by reporting institutions and held by non-residents.

2.25 Chart 2.C below provides a summary of the UK's net financing position with the nine jurisdictions.

**Chart 2.C: UK's net financing position**




2.26 To provide a broader picture, Table 2.D below provides a summary of the UK's financing position with the three 'competitor' jurisdictions identified in paragraph 2.16.

**Table 2.D: Summary of net financing position for 'competitor' jurisdictions**

| | **Q2 2009 $billion** | **Q4 2008 $billion** | **Q4 2007 $billion** | **Q4 2005 $billion** | **Q4 2002 $billion** |
|---|---|---|---|---|---|
| Ireland | -77.8 | -97.5 | -134.6 | -63.0 | -29.9 |
| Luxembourg | -9.9 | -18.2 | -12.3 | -14.3 | 11.7 |
| Switzerland | 8.4 | -36.4 | 137.1 | 134.2 | 122.0 |
| **Total flows to/(from=-) UK** | **-79.3** | **-152.1** | **-9.8** | **56.9** | **103.8** |

2.27 Over the period from end-2007 to end-June 2009, Ireland and Luxembourg were consistently the net recipient of funds from the UK, although this net position has decreased from $134.6 billion and $12.3 billion respectively at end-2007 to $77.8 billion and $9.9 billion at end-June 2009. Conversely, the UK has typically been the net recipient of funds from Switzerland ($8.4 billion at end-June 2009, down considerably from $137.1 billion at end-2007).

## Other flows of business between the UK and the nine jurisdictions

2.28 During the consultation, the Review was provided with indicative information on other business flows between the UK and the nine jurisdictions.

2.29 Bermuda insurers and reinsurers support the UK's global position as a centre for specialty insurance services through their involvement with the Lloyd's Market. Insurance groups controlled by Bermudian interests reportedly wrote 30 per cent of the 2008 premium at Lloyd's of London, a total of £5.4 billion.

2.30 The Association of Investment Companies (AIC)[5] submitted research they had carried out on fees generated by UK service providers who provide support services to their offshore members.

2.31 The AIC estimated that 108 companies, which they regarded as being investment companies and which are domiciled in the Channel Islands and Isle of Man, paid management fees into the UK of over £300 million a year in recent years.

2.32 Significant UK fund management fee income is also likely to be earned from firms based in jurisdictions such as Bermuda and the Cayman Islands, but aggregate data is not available.

2.33 The Review was also provided with evidence showing the importance of the provision from the UK of auditing and accounting services, tax compliance and transaction advice and legal advice. It is not possible to aggregate this information to provide a central estimate of the annual net total of fees received; but it is clear that the UK professions earn a significant net income from work generated in the jurisdictions.

## Conclusions

2.34 In summary, many of the nine jurisdictions covered by this Review have successfully developed niche positions within the global financial services market; but their importance in global terms, as measured by banking flows, is relatively modest.

2.35 Within the offshore market, the nine jurisdictions do account for over 60 per cent of total financial flows. However, this total is significantly inflated by short-term US dollar flows routed through the Cayman Islands in response to prohibitions on the payment of interest on demand deposits in the US. Financial flows involving the other eight jurisdictions in aggregate are broadly equal to those recorded for Switzerland.

2.36 The UK has consistently been the net recipient of funds flowing from the nine jurisdictions, with a large regular inflow from the Crown Dependencies, offset in part by net outflows to the Cayman Islands.

2.37 There are also other significant business flows between the nine jurisdictions and the UK, generated by activities such as asset management. Sizeable net fees are also earned from the provision out of the UK of legal, accounting and other professional services to these jurisdictions.

[5] The AIC represents closed-ended investment companies with shares traded on UK markets.

# 3 Identifying and managing economic risks

## Introduction

3.1 The world is experiencing the worst economic downturn for over 60 years. Economic growth, jobs and government finances have all suffered as a result. The nine jurisdictions covered by this Review are not immune from these impacts, but the extent and severity of the impact has not been uniform.

3.2 The ability of each jurisdiction to deal with these challenges differs and to a large extent has been influenced by the approach to financial planning each has adopted.

3.3 This chapter examines:

- the structure of the economies of the nine jurisdictions;
- the impact of the economic downturn on their respective public finances; and
- the measures which local governments should consider putting in place to improve the resilience of their respective economies during periods of economic stress.

## Structure of economies

3.4 The economies in the nine jurisdictions vary significantly in size, with total output ranging from £161 million to £4.3 billion[1] in 2007-2008 (fiscal year ends vary between jurisdictions so direct comparisons should be made with caution[2]). Financial services and tourism are typically major generators of economic output, government revenue and employment. In some jurisdictions, the economy is built almost wholly round these two sectors.

3.5 According to local government statistics, the combined contribution of financial services and tourism to the economy ranges from 35 per cent of gross domestic product (GDP) in Anguilla to 74 per cent in the Cayman Islands. The proportion of government revenue generated by these two sectors is around 50 per cent for the majority of jurisdictions, whilst they account for between 23 per cent and 48 per cent of employment. In the Caribbean, the construction sector is also closely linked to the state of the tourism sector.

[1] The local currency is used for all jurisdictions except Anguilla and the Cayman Islands. The exchange rates used for 2008 are: Anguilla: £1:EC$3.940; US$1:EC$2.70; and the Cayman Islands: US$1:CI$1.2.

[2] Year ends: 31 December: - Anguilla, British Virgin Islands, Guernsey, Jersey; 30 June – Cayman Islands; 31 March – Bermuda, Gibraltar, Isle of Man, Turks and Caicos Islands.

**Chart 3.A: Sources of GDP by jurisdiction, 2007-8[3]**

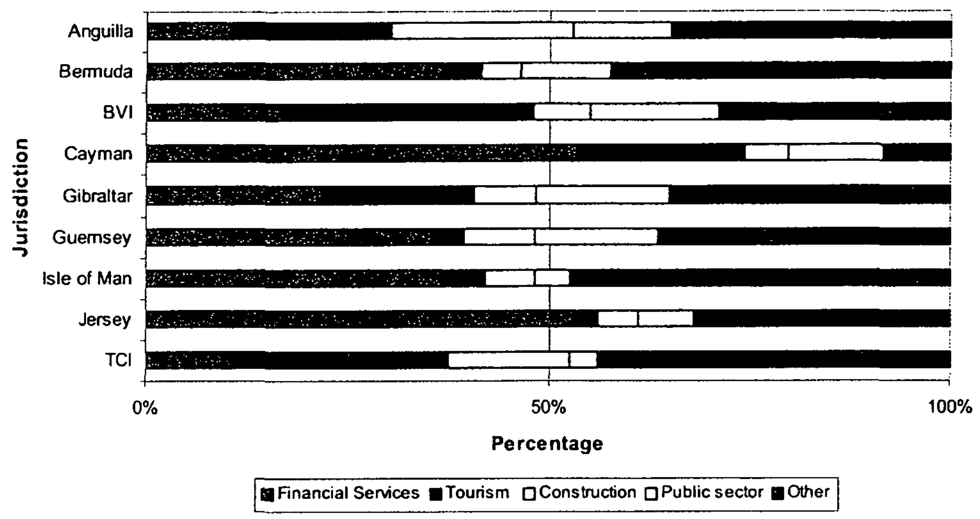
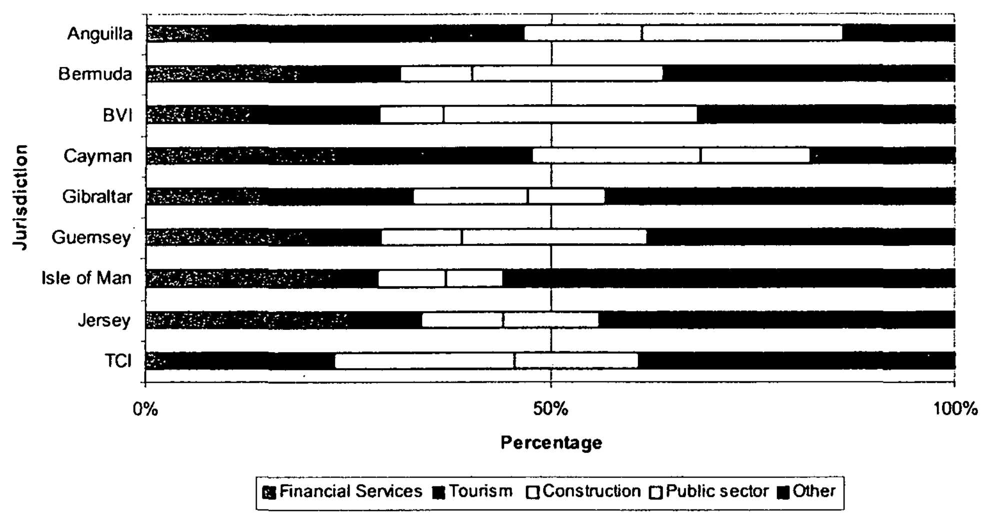



**Chart 3.B: Sources of employment by jurisdiction[4]**




3.6 Government revenue in the Caribbean Territories[5] and Bermuda is mainly derived from a combination of import duties, financial sector licence fees and other specific charges (including payroll taxes in some of the jurisdictions). There are, however, no taxes levied on income, profits and capital gains, and no sales or value added taxes.

[3] Based on 2007-8 year end official government statistics. Categorisation of sectors is not consistent between jurisdictions and therefore some approximations have been made based on available data. The Cayman Islands sector data is based on the preliminary estimates presented in the inaugural report *'The Cayman Islands' System of National Account 2006-2007.' Estimates are subject to future revisions.*

[4] Based on 2007-8 year end official government statistics apart from Anguilla (2001) and British Virgin Islands (2005). Categorisation of sectors is not consistent between jurisdictions and therefore some approximations have been made based on available data.

[5] Defined as Anguilla, British Virgin Islands, Cayman Islands and Turks and Caicos Islands.

3.7 The Crown Dependencies have a wider tax base but the rates of tax charged, on employment income for example, are lower than those applied in the UK. Gibraltar has a fiscal policy closest to the growing international consensus on tax norms identified by Deloitte and discussed in chapter 4.

3.8 Public sector running costs typically account for a significant proportion of government expenditure across the jurisdictions. For example, 43 per cent of government expenditure in the British Virgin Islands in 2008 was on salaries, benefits and pensions for the civil service.

3.9 The concentrated structure of the economies of the majority of the nine jurisdictions leaves them particularly exposed to economic shocks. They also have fewer responses available to them than to sovereign states. Their respective currencies are typically tied to sterling or the United States dollar; and depreciation, even where technically feasible, would be of little or no value given the nature of the jurisdictions' economies. Nor do the jurisdictions have the option of an independent interest rate policy.

## Economic growth and employment

3.10 The nine jurisdictions all experienced a period of sustained economic growth between 2004 and 2007. None of the jurisdictions is immune from the impact of the global economic downturn, but the reversal in fortunes has been most pronounced in the Caribbean Territories.

3.11 The economies in the **Crown Dependencies** have grown strongly in recent years, recording growth of around 5 per cent in real terms. However, all are now forecasting a contraction of their economies or a slowing of growth. **Jersey** has forecast a decline in real Gross Value Added (GVA) of between 4 per cent and 6 per cent in 2009 and between 1 per cent and 3 per cent in 2010. Growth in GDP is expected to slow in **Guernsey** to 1 per cent in 2009, while the **Isle of Man** has forecast real GDP growth of 2.5 per cent in 2009-10, down from 6 per cent growth in 2008-09.

3.12 There have also been increases in unemployment in the **Crown Dependencies**, though it has generally stayed at relatively modest levels. **Guernsey** has seen an increase in unemployment from 0.8 per cent at 30 June 2008 to 1.3 per cent at 30 June 2009. There has also been an increase in unemployment in the **Isle of Man** to 2.3 per cent at 31 August 2009, up 0.7 per cent over a year. Unemployment in **Jersey** increased from 2.0 per cent in June 2008 to 2.7 per cent in June 2009.

3.13 **Gibraltar** has also recorded strong growth in recent years and to date appears less affected by the downturn. The Government of Gibraltar estimated in its 2009 budget that growth in GDP to the year ended 31 March 2009 was almost 6 per cent and employment was rising 'to record levels'. This robust position may in part be explained by the fact that Gibraltar has one of the most diversified economies of the nine jurisdictions.

3.14 Real GDP growth in **Bermuda** averaged 4.4 per cent a year between 2003 and 2007. Official figures recorded a fall of 2.2 per cent in real GDP growth in 2008 and GDP is projected to decline by between 1.0 per cent and 1.5 per cent in 2009. Bermuda has close economic ties to the United States and has been affected by the downturn there. This has been offset by the buoyant insurance sector (Bermuda's major financial sector niche), although there has been a sizeable fall in the number of new insurance companies incorporating in Bermuda, which may reflect the maturity of the market. Employment appears to have held up relatively well in Bermuda, but employment data for 2009 was not available to verify this.

3.15 Growth in the Caribbean economies has been strong in recent years, ranging from average real GDP growth in the **Cayman Islands** of over 3 per cent to almost 14 per cent in **Anguilla** in the five year period 2003-7 (according to local government statistics). However, all four jurisdictions are now projecting a slowing in growth or a decline in GDP. Although no precise forecast is available, the **British Virgin Islands** expect a contraction in GDP in 2009. The **Cayman Islands** is forecasting a decline in GDP of 3.3 per cent for 2009, with **Anguilla** and the **Turks and Caicos Islands** also likely to experience a contraction.

3.16 The **British Virgin Islands** have suffered from a synchronised downturn in the tourist sector and a sharp fall in international business company incorporations (the jurisdiction's financial sector niche). New company incorporations were down by 44 per cent between September and December 2008 compared to the same period in 2007 and recorded a year on year fall of around 20 per cent in the first quarter of 2009. The British Virgin Islands do not have up-to-date employment statistics, the most recent available data relates to 2005.

3.17 The picture in the **Cayman Islands** is more severe with a downturn in tourism coinciding with a decline in the hedge fund industry for which the jurisdiction is the world's leading domicile. New hedge fund launches fell by 18 per cent in 2008 and 10 per cent of all existing funds were terminated (a much higher rate than in previous years). There has also been a marginal increase in estimated unemployment from 5.2 per cent at 30 June 2008 to 5.5 per cent at 30 June 2009.

3.18 **Anguilla** and the **Turks and Caicos Islands** have suffered particularly badly from the fall in tourism and construction. Anguilla is forecasting a decline in GDP of 8.2 per cent in 2009, but does not have up-to-date unemployment statistics. The Turks and Caicos Islands do not have GDP forecasts or up-to-date unemployment statistics available.

## Impact on public finances

3.19 The global downturn has also had an impact on the public finances of the jurisdictions. As with GDP, the impact has not been uniform. Most of the nine jurisdictions have, however, seen public revenue fall below expectations and upward pressures on public spending.

3.20 Past economic decisions taken by the local governments in the jurisdictions have inevitably had an impact on the resilience of the public finances during the downturn. Decisions taken by some of the Overseas Territories to use increased revenues during a period of growth to raise current and capital spending has left governments now facing difficult short-term choices.

3.21 Chart 3.C. illustrates the fiscal deficits/surpluses for the past two years and forecast for the fiscal year 2009-10. Chart 3.D illustrates the percentage increases (actual and forecast) in outstanding government debt for each jurisdiction over the same time period. Although direct comparisons between all nine jurisdictions are not possible because of the inconsistency in time periods (and variation in the reaction time of the economies to the downturn), general trends in the data can still be observed.

3.22 The **Crown Dependencies** are all forecasting a decline in government revenues. The **Isle of Man** has forecast a fall in total tax receipts of 4.5 per cent for the 2009-10 fiscal year against the prior year but expects a modest budget surplus of £0.2 million.

3.23 **Guernsey** has also budgeted for a downturn in revenues for 2009, but is again forecasting a modest budget surplus of £9 million. **Jersey** has, however, forecast deficits of £63 million in 2010 and £72 million in 2011 based on their central economic forecasts.

3.24 **Guernsey** and **Jersey** have both experienced, and are continuing to forecast, a decline in revenue following changes to the structure of business taxation. It was announced on 14 October 2009, however, that these two jurisdictions had agreed to work together to comprehensively review their fiscal strategies.

**Chart 3.C: Fiscal surplus/deficit as percentage of GDP, 2007-8 to 2009-10[6]**

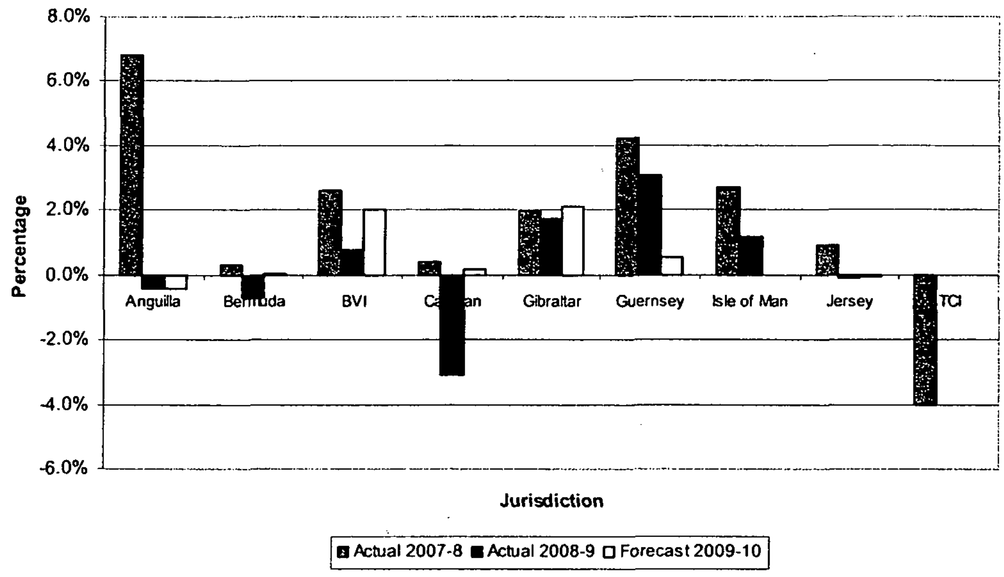
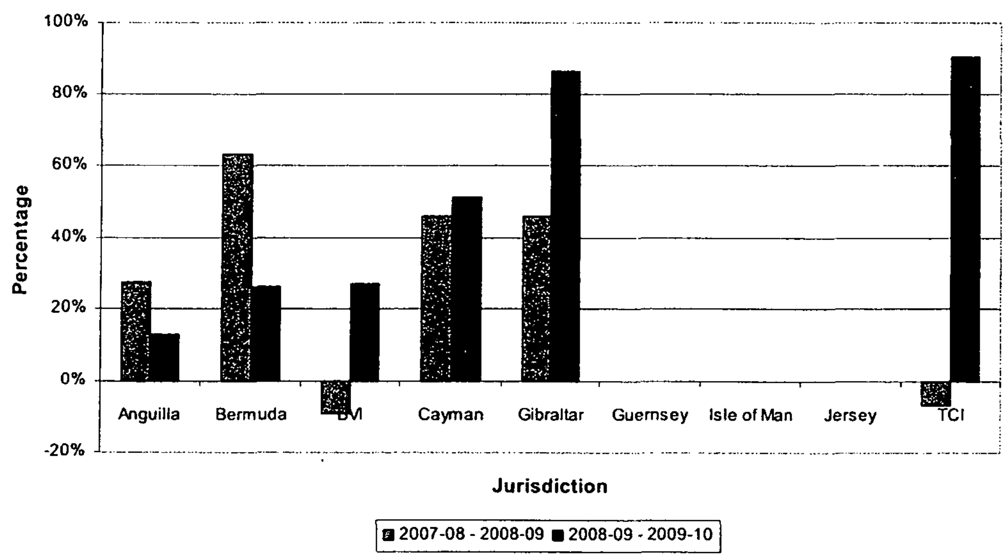



**Chart 3.D: Percentage increase in borrowing by jurisdiction, 2007-8 to 2009-10**




3.25 None of the Crown Dependencies have, however, taken on significant levels borrowing. This is a measure of the economic resilience achieved by pursuing a policy of building up reserves during a period of rapid economic growth to provide a cushion during a downturn. The

[6] The Turks and Caicos Islands do not have actual outcomes for the 2008-9 fiscal year or forecast data for the 2009-10 fiscal year. The figures for Jersey are expressed as a percentage of GVA.

reserves range from £582 million (at 31 December 2008) in **Jersey** to £221.3 million (at 31 December 2008) in **Guernsey**. The reserve fund in the **Isle of Man** stood at £337 million at 31 March 2009.

3.26 There is also evidence that the **Crown Dependencies** are taking further action to help combat the effect of reduced revenues. For example, **Jersey** has identified savings of £17 million in its 2010 Business Plan, whilst also implementing a public sector pay freeze.

3.27 **Gibraltar** has recently reported an overall budget surplus of £15 million to the year ended 31 March 2009 and has forecast a surplus of £19 million for the year ending 31 March 2010. However, total borrowing is forecast to grow to £350 million for the year ended March 2010, an increase of more than 80 per cent from 2009. This is partially offset by a forecast increase of reserves over the same period to £234 million in 2010 from £129 million in 2009. Net public debt is therefore forecast to increase by 86 per cent from £62.2m (or 7.3 per cent of GDP) in 2009 to £115.8m (or 12.9 per cent of GDP) in 2010.

3.28 **Bermuda** recorded a modest deficit in fiscal year 2008 and had limited borrowing totalling about 6 per cent of GDP. For the year ended 31 March 2009, the Government of Bermuda recorded a total deficit of around 4 per cent of GDP which was financed by additional borrowing that left total borrowing at around 10 per cent of GDP. Spending in most government departments is planned to reduce by 10.5 per cent in the 2010 fiscal year.

3.29 The downturn in fee income from international business company incorporations has contributed to the deterioration in the public finances in the **British Virgin Islands**. The national debt increased by 27 per cent to $102.4 million in 2009 and annual debt servicing obligations have grown by 34.6 per cent since 2008. Revenue is forecast to decline by 5 per cent in 2009 compared with the previous year.

3.30 The impact on the public finances in the **Cayman Islands** has been particularly severe. The Government has recently reported a budget deficit of $67.6 million at 30 June 2009 (compared with a small surplus in the prior year). As Chart 3.D illustrates, central government debt increased significantly on the 2007-8 fiscal year and is forecast to rise again by a further 51 per cent in 2009-10.

3.31 The Cayman Islands Government has acknowledged that the state of the public finances is 'severely challenged'. The principles of responsible financial management contained in the Public Management and Finance Law were not satisfied at the start of the financial year (1 July 2009), removing the option for the local government to increase borrowing without seeking the approval of the Foreign and Commonwealth Office (FCO) in the UK[7]. However, in return for increases in current revenue measures (forecast to bring in additional income of $105.3 million) announced in the latest 2009-10 budget, the FCO has agreed to an increase in government borrowing. The Cayman Islands Government has forecast that it will be fully compliant with all the principles of responsible financial management, despite resisting calls for a widening of the tax base.

3.32 The Government of **Anguilla** has not confirmed its current fiscal position. However, the latest data available to the Review show that government revenue was 15 per cent below budget during 2008 and a budget deficit in excess of the $5.7 million forecast for 2009 is in prospect (the deficit was $11.9 million at 31 August 2009). If realised, the Government's financial reserves, which totalled $13.5 million in December 2008, would be exhausted by the end of 2009. Anguilla's problems were compounded by a decision to increase public service pay by 25 per cent in September 2008. (Public service pay was subsequently cut by 10 per cent from

[7] See Annex D for an explanation of the FCO's borrowing guidelines.

July 2009.) Anguilla has pressed for an increase in government borrowing, adding to existing debt that totalled just over 25 per cent of GDP in September 2008.

3.33 The public finances of the **Turks and Caicos Islands** have also deteriorated significantly. The fiscal year 2007-8 was forecast to produce a small surplus but actually produced a deficit of $35.7 million; the true deficit may be higher. Government reserves have been exhausted and unpaid creditors were owed at least $50 million at 30 June 2009.

## Improving economic resilience

3.34 The lasting impact of the economic downturn will to a large extent depend upon its length and severity. While there is reason to hope that some pressures (particularly on tourism) will ease as the global economy picks up, many of the longer term effects on the financial sector may not have been felt fully as many large financial service firms have yet to implement the results of strategic reviews of their future geographical 'footprint' and product ranges. In individual cases, these reviews could bring additional employment (where, for example, a financial institution chooses to reduce the number of its international operations and concentrates more work in one of the jurisdictions). However, overall the reviews are likely to lead to a net loss of employment across the jurisdictions over time.

3.35 In any event, the global downturn has provided a sharp reminder of the need for some of the jurisdictions to take urgent measures to ensure that robust economic planning and fiscal control measures are in place and observed.

3.36 The Review has identified a number of benchmark standards which will not provide a 'quick fix' to current public sector finance problems but which, if enacted, should help jurisdictions in their short-term efforts and, importantly, limit the risk of future problems.

**Box 3.A: Benchmark standards**

- Timely and accurate measurement of economic variables including public revenues and public expenditure.
- Effective measures to control public spending and improve public sector efficiency.
- Identification of options to maximise sources of revenue, including diversifying the tax base.
- Building sufficient reserves to improve economic resilience.
- Medium-term economic planning (ideally with independent input) to support the fiscal planning process.

3.37 The measurement and planning of economic variables, government revenues and government expenditure and the interpretation of the resulting data are fundamental to effective economic management. The absence of timely and reliable data and of the expertise to analyse trends will limit a government's ability to forecast, plan and take well-targeted action as has been seen in some of the Overseas Territories.

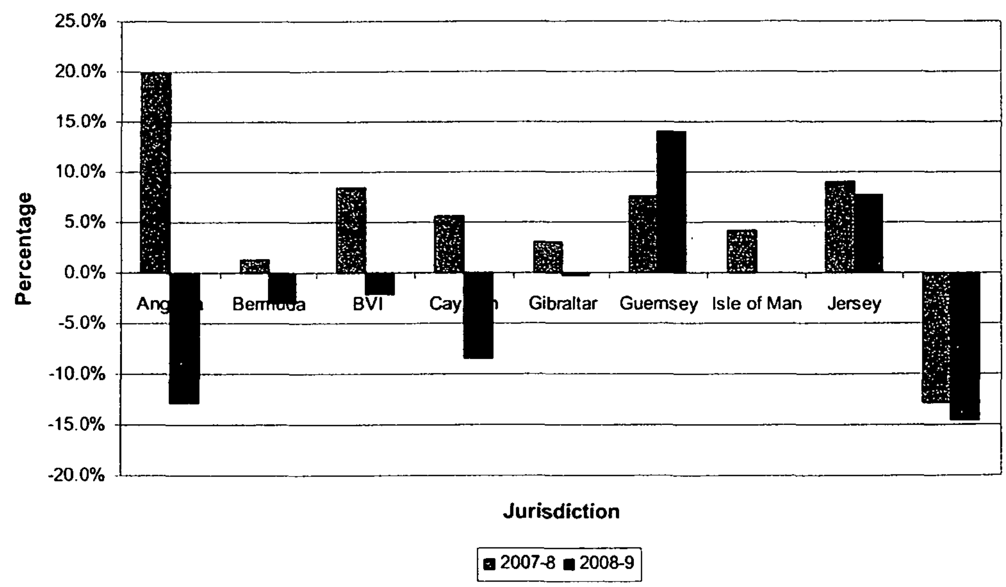
3.38 Weaknesses in data quality have been recognised is some cases. For example, the **British Virgin Islands** have commissioned an economic impact study better to understand the internal and external contributions of the financial services industry. However, more needs to be done to improve the timeliness and accuracy of economic and financial information. Ensuring that annual accounts for government finances are independently audited on a timely basis and made publicly available would complement efforts in this area.

3.39 Weaknesses in medium-term planning must also be addressed and the **Crown Dependencies** provide examples of good practice in this area. Each has built-up economic analytical capacity, sometimes involving the use of a panel of external advisors to enhance objectivity. Medium-term scenarios and possible stresses for the economy are produced as an integral aid to economic planning in several jurisdictions.

3.40 The **Crown Dependencies** had a better track record than other jurisdictions in forecasting future budget positions. This is illustrated in Chart 3.E, which compares forecast and actual government revenue in 2007-8 (when economic conditions were still relatively good) and 2008-9 (when conditions were worsening). Any inferences must be made with caution because the downturn was more severe in some jurisdictions than others.

3.41 However, all the governments (apart from the Government of the **Turks and Caicos Islands**) underestimated their revenue takes for the financial years 2007-8[8], when the global economic upturn was nearing an end. Once the global economic downturn began, there appeared to be clear differences in forecasting ability (as illustrated by the year ends 2008-9[9]). Forecasts produced by the **Crown Dependencies** and **Gibraltar** were on target or underestimated the actual revenue takes. In contrast, all the **Caribbean Territories** and **Bermuda** overestimated their revenue takes during this period, though in some cases by small amounts.

**Chart 3.E: Accuracy of government revenue forecasts versus actual results for 2007-8 and 2008-9**




## Conclusions

3.42 The benchmark standards outlined above will only bear fruit if those local governments that have not already done so demonstrate a clear commitment to improving economic management. This is their primary responsibility.

3.43 However, the UK's interest in the good governance of the jurisdictions means that the UK should satisfy itself that each jurisdiction indeed has a framework capable of identifying and responding to external shocks and encourage local governments to undertake responsible

[8] For these purposes, this sample includes results for the year ends 31 December 2007, 31 March 2008, and 30 June 2008.

[9] For these purposes, this sample includes results for the year ends 31 December 2008, 31 March 2009, and 30 June 2009.

adjustment programmes. Where these programmes are realistic and there is a clear commitment to take the necessary measures, there is a place for allowing suitably controlled additional public sector borrowing to facilitate adjustment.

## Recommendations

The Review recommends that:

- the quality and extent of financial planning in the jurisdictions should be aligned with that in the best performers (the Crown Dependencies). In particular, jurisdictions should implement a prudent approach to managing government finances by developing: a diversified tax base to maximise sources of revenue; mechanisms to measure and control public spending; and by building financial reserves during periods of economic growth;
- the UK should be proactive in satisfying itself that the Overseas Territories in particular have frameworks capable of identifying and responding to external shocks and encouraging local governments to undertake responsible adjustment programmes where these are necessary.

# 4 The role of tax in sustaining business models

## Introduction

4.1 The international response to the global financial crises has put consideration of tax practices centre stage. Particularly close attention has been paid to the tax practices adopted by jurisdictions with offshore financial centres.

4.2 The international focus has been on whether so-called 'low tax' jurisdictions are pursuing tax practices which are harmful and on the willingness of all jurisdictions to share tax information to reduce the scope for tax evasion by companies and individuals.

4.3 How the nine jurisdictions measure up to the emerging international consensus around tax norms and international standards on tax transparency is material to their economic sustainability. In recent months, a number of multinational companies and financial institutions have announced plans to leave some of the jurisdictions, citing international pressure on tax. Even without these international pressures, the fiscal pressures discussed in chapter 3 of this Report could be expected to encourage governments to consider options for increasing revenue.

4.4 This chapter draws on an evaluation of the importance of the Crown Dependencies and Overseas Territories in tax avoidance by UK corporates commissioned by the Review and conducted by Deloitte (reproduced in full in Annex E). The evaluation did not consider tax evasion and avoidance by individuals which the international community is addressing through improved transparency.

4.5 This chapter:

- examines the extent to which the sustainability of the business models in the nine jurisdictions is dependent on the continuation of existing tax models; and
- reviews the progress that has been made by the nine jurisdictions in meeting the international standards for tax transparency.

## The role of tax

4.6 The nine jurisdictions operate in a global market where most (if not all) countries seek to make their tax regimes competitive. Most developed economies raise revenues through a wide range of taxes. Treaties between different jurisdictions to avoid double taxation (i.e. the imposition of two or more taxes in different jurisdictions on the same income, asset or transaction) facilitate cross-border economic activity, although not all jurisdictions have such treaties.

4.7 At a simplified level, Deloitte has divided jurisdictions into three categories:

- 'full-tax' treaty jurisdictions which have a fully developed range of taxes levied at significant levels and extensive double taxation agreement (DTA) networks;

- 'tax arbitrage-oriented' treaty jurisdictions which have similarly well developed tax systems but which may be viewed as making their territories available for international tax arbitrage;
- 'limited/no treaty' jurisdictions which typically have fewer forms of taxation and limited DTA networks.

4.8 Deloitte tentatively concluded that the Crown Dependencies and Overseas Territories (which fall within the third category) were distinguished within the developed world by differentiating themselves from the international consensus, sometimes through tax rates but more often through the absence or near absence of certain forms of taxation.

4.9 The tax regimes in most of the Overseas Territories have not evolved beyond the imposition of specific transaction and consumption taxes: they operate a range of customs duties on imports, on which they are heavily reliant for revenue. With the exception of Gibraltar, the Overseas Territories have not introduced income taxes, corporation taxes, or value added tax (VAT) or goods and services tax (GST).

4.10 The tax regimes in the Crown Dependencies and Gibraltar have developed to include income and corporation taxes, with the latter consistently levied at a lower rate than the main rate in the UK.

4.11 The development of indirect taxes in the Crown Dependencies has been more diverse. Guernsey does not currently apply VAT or GST. Jersey introduced a system of GST in 2008 with an international services exemption fee which allows financial services companies to pay a flat fee in return for an opt-out from the regime. The Isle of Man operate VAT as part of the European Union VAT territory: receipts collected in the UK and the Isle of Man are pooled and then shared in accordance with an agreed formula.

## Adapting to a changing global tax environment

4.12 Whilst there were other drivers for doing business in these jurisdictions (including, for example, a stable legal environment and authorities who were responsive to market developments), Deloitte concluded that tax was an important motivating factor.

4.13 Deloitte noted that the jurisdictions' main competitors were increasingly countries with developed tax systems and tax treaty networks such as Switzerland, Luxembourg and Ireland. The Review was keen to understand the impact on the competitive position of the nine jurisdictions should local governments wish to move closer to developing international tax norms.

4.14 Deloitte considered the scope for the jurisdictions moving towards consensus models in the areas of VAT and corporation tax (CT).

4.15 Deloitte concluded that there was a compelling case for those of the nine jurisdictions which do not already operate VAT or GST to consider introducing such a system to increase the sustainability of their business models by broadening their revenue bases. Deloitte noted that this would be of particular importance for the Overseas Territories should the global trend for reducing reliance on customs duties continue.

4.16 Deloitte also concluded that the Crown Dependencies' industry bases were sufficiently diverse that they had the potential to raise worthwhile levels of revenue from a CT system more aligned with international 'best practice' than the regimes currently in place. By contrast, some of the Overseas Territories' focus on a narrower financial sector niche suggested that the introduction of a broad-based CT would offer less scope for a significant tax take.

4.17 Deloitte concluded that, in any event, the downside of a properly constructed 'best practice' CT system would appear to be relatively limited and would bring the jurisdictions more into the mainstream of the international community. It might also curtail some scope for tax avoidance.

4.18 However, Deloitte recognised that given the diverse tax regimes and industry bases of the Crown Dependencies and Overseas Territories, a single template for all the jurisdictions might not be appropriate. A detailed impact assessment of the effect of introducing tax changes in individual jurisdictions would also need to be undertaken. (The report suggests a methodology for producing a more comprehensive impact assessment.)

4.19 At a practical level, any jurisdiction considering introducing new taxes (or fees) must have the ability to administer them to ensure that they are not avoided. It would be in the UK's interest to provide technical assistance were it requested by a jurisdiction.

4.20 It is also of interest to the UK that Deloitte concluded that were the Crown Dependencies and Overseas Territories to take action which reduced their competitiveness, the business would be unlikely to flow to the UK.

## Quantifying the 'tax gap'

4.21 Deloitte considered UK corporates' use of the Crown Dependencies and Overseas Territories and identified some activities which could be considered tax avoidance. To assess the impact of these activities on the UK, Deloitte built on previous studies, which had attempted to quantify the UK corporate 'tax gap' due to tax avoidance, and estimated (based on companies' published accounts) the 'expectations gap' between the tax these companies might broadly be expected to pay and the tax actually paid. Deloitte estimated that the amount of UK corporate tax potentially avoided by UK corporates was likely to be up to £2.0billion per annum, with avoidance through the nine jurisdictions an unidentified sub-component.

## Tax information exchange agreements

4.22 The principles of transparency and exchange of information developed by the OECD's Global Forum have been endorsed by countries around the world. The G20 London Summit in April 2009 continued the push to implement the minimum standard of each jurisdiction signing at least 12 tax information exchange agreements (TIEAs) with other countries that would allow the latter to obtain information about income earned by their taxpayers outside of their home jurisdiction.

4.23 This renewed international focus on tax transparency encouraged leading international financial jurisdictions such as Switzerland and Singapore to commit to the standard for the first time.

4.24 In April 2009, the OECD published a three tier list that categorised jurisdictions into those that had 'substantially implemented' information sharing agreements, those that had pledged to do so and those that had not agreed to share information.

4.25 The Crown Dependencies were all considered to have 'substantially implemented' the agreed standard. However, in general the Overseas Territories were behind the Crown Dependencies. Bermuda and more recently the Cayman Islands, British Virgin Islands and Gibraltar have subsequently 'substantially implemented' the agreed standard. The Turks and Caicos Islands have signed five TIEAs and Anguilla has signed four agreements.

4.26 It is anticipated that standards in this area will continue to rise and even those of the nine jurisdictions within the scope of this Review that have met or exceeded the current standard of

12 TIEAs should continue to enter further agreements, giving priority to those jurisdictions with which they have significant financial links.

4.27 This imperative is well understood and it is appropriate that the commitment to tax transparency shown by a number of the jurisdictions has been recognised in statements by the UK Government.

4.28 The nine jurisdictions must show a commitment not just to the letter but also the spirit of international standards. Effective implementation will be an important test of this and evidence will be provided by the OECD's Global Forum through a monitoring and peer review process. It is vital that competitor jurisdictions show the same commitment.

4.29 The peer review process will be carried out in two phases. The preliminary stage will be to monitor and review the legal and regulatory framework to identify possible domestic law obstacles to information exchange. The second phase of the review will identify any practical barriers to the effectiveness of exchange of information.

## Automatic information exchange

4.30 In the longer term, the trend for greater transparency is likely to result in pressure to move to a system of automatic exchange of information with the aim of combating tax evasion by individuals on a cross-border basis. Automatic information exchange is the systematic and periodic transmission of taxpayer information by the source country to the residence country and is supported by a number of NGOs in the UK.

4.31 This is already the objective under the European Union Savings Directive (EUSD) agreed in 2003, although some EU Member States have taken advantage of a transitional arrangement to instead levy a withholding tax on interest payments of 20 per cent (increasing to 35 per cent in July 2011). There is, however, pressure to remove the withholding tax option and a proposal to apply the EUSD to a broader range of savings income.

4.32 The Crown Dependences are outside the EU but participate in the EUSD framework under Savings Agreements with the Member States. The Crown Dependencies apply the transitional withholding tax option, which under their Savings Agreements they must give up in favour of automatic exchange of information when the three Member States applying withholding tax move to automatic exchange.

4.33 The Isle of Man has committed to moving to automatic exchange of information by July 2011. Guernsey is reviewing its position and Jersey has said that it is ready to introduce automatic exchange of information as soon as the EU brings the transitional period to an end. The Review encourages both jurisdictions to announce a firm date for a move to automatic exchange. At the same time, the UK should call on all EU Member States and third party countries which currently apply the withholding tax option to also make a similarly firm commitment.

4.34 Of the Overseas Territories, Gibraltar is directly subject to the EUSD and in most cases applies automatic exchange. Anguilla and the Cayman Islands have adopted the EUSD and apply automatic exchange. The British Virgin Islands and the Turks and Caicos Islands have adopted the withholding tax option under the EUSD. Again, the Review encourages all the Territories within the scope of this Review to commit to moving to automatic exchange.

## Conclusions

4.35 The governments in the jurisdictions might wish to reflect on how they measure up to the emerging international consensus around tax norms and on what this may imply for their economic sustainability to complement consideration of potential responses to fiscal pressures discussed in chapter 3.

4.36 The jurisdictions have participated in international moves to deliver greater co-operation between jurisdictions on the exchange of tax information. Efforts to improve information exchange are likely to continue. The jurisdictions within the scope of this Review must keep pace with international developments and move towards full automatic information exchange wherever possible. However, it is vital that pressure is maintained on competitor jurisdictions also to meet the standards to ensure that international objectives are delivered.

## Recommendations

The Review recommends that the jurisdictions:

- meet the international standard on tax transparency set by the OECD and continue, even after meeting the current minimum of 12 TIEAs, to negotiate further TIEAs, giving priority to those jurisdictions with which they have significant financial links;
- set up the administrative procedures necessary to ensure full delivery of the OECD standard, to a level of compliance that will satisfy the peer review process that is being be put in place;
- make an early commitment, with a timetable for implementation, to automatic exchange of tax information under the EU Savings Directive where they have not already done so.

# 5 Delivering effective regulation

## Introduction

5.1 Effective regulation of financial services business, which is compliant with international standards, is a requirement for a sustainable business model and not an option. This is recognised by the nine jurisdictions within the scope of the Review but the standards achieved in practice have been mixed.

5.2 This chapter:

- examines the compliance of the nine jurisdictions with international regulatory standards; and
- identifies areas for improvement.

## International assessment process

5.3 The nine jurisdictions within the scope of this Review are subject to the International Monetary Fund's Financial Sector Assessment Programme. The programme assesses each jurisdiction against the supervisory principles promulgated by the Basel Committee on Banking Supervision, the International Organisation of Securities Commissions and the International Association of Insurance Supervisors; and the anti-money laundering standards published by the Financial Action Task Force, which are discussed in chapter 7.

5.4 The initial phase of the programme was completed in 2005. A further round of assessments was subsequently launched and assessments of Bermuda and Gibraltar had been completed before the Review started work (both were published in 2008).

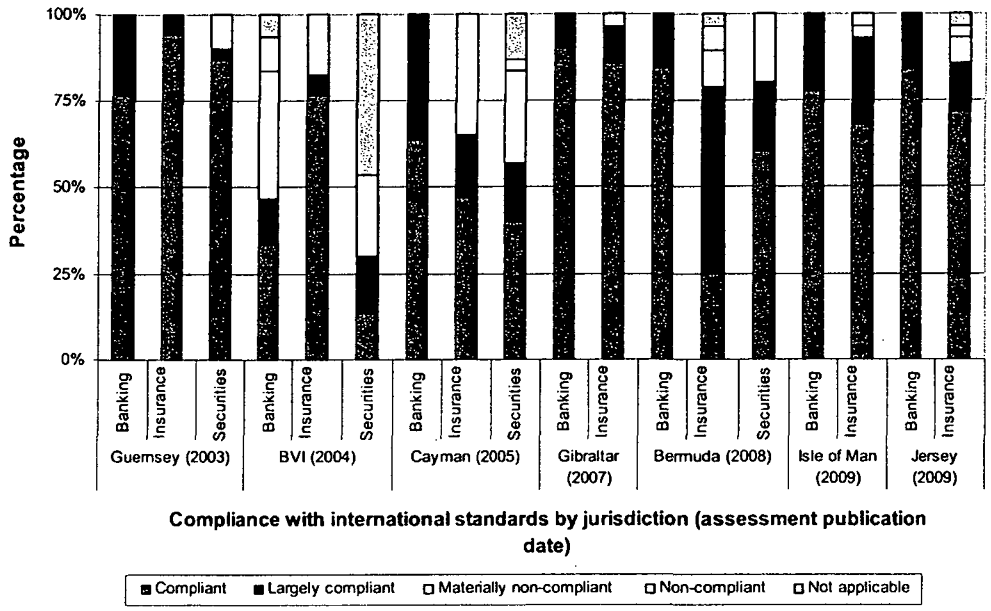
5.5 The Review drew on the findings of these detailed assessments, which were followed up in discussions with the jurisdictions.

5.6 Second round assessments of the Cayman Islands, the Isle of Man and Jersey were underway during the course of the Review and the information prepared by the authorities for this process provided a ready source of information for the Review. The IMF published its assessments of the Isle of Man and Jersey in September 2009.

## Compliance with international standards

5.7 The IMF assessment programme shows a mixed picture on compliance with international regulatory standards across the jurisdictions within the scope of this Review (see Chart 5.A). The Crown Dependencies have received positive IMF assessments, but there is scope for improvement in some of the Overseas Territories. This is most evident in the smaller Territories (not shown in the chart), where compliance costs bear most heavily because of a lack of economies of scale and the difficulty of attracting staff with the necessary expertise.

**Chart 5.A: Comparative levels of compliance with IMF assessed principles of regulation in banking (Basel), insurance (IAIS) and securities (IOSCO)**[1]




5.8 None of the jurisdictions can afford to be complacent as international standards continue to rise. Each jurisdiction must be willing and able to co-operate with other regulatory authorities and exchange regulatory information.

5.9 The Financial Stability Board has responded to the G20's call to identify non-cooperative jurisdictions and to initiate a peer review process, and has announced that it will report on the development of a framework to strengthen adherence to international regulatory and prudential standards at the November 2009 meeting of G20 Finance Ministers and Central Bank Governors.

## Resources

5.10 No regulatory authority can expect to satisfy the requirements of the peer review process unless the quantum and expertise of resources employed are sufficient.

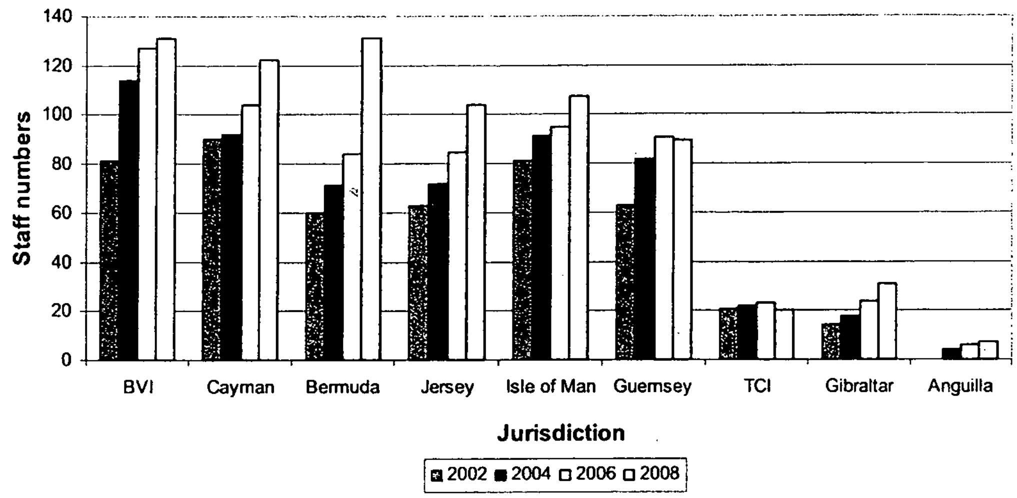
5.11 Chart 5.B gives an indication of the comparative size of the regulatory authority in each jurisdiction, although specific comparisons should be made with caution because of the variation in the functions performed by the regulatory authorities. For example, around 50 per cent of the staff employed by the Financial Services Commission in the Turks and Caicos Islands are employed in the registry of companies.

5.12 Chart 5.B shows clearly, however, that total staff numbers have generally been on a rising trend. The jurisdictions have recognised the need to increase capacity to: meet the demands of international standards; deliver effective front-line supervision; and also to secure the competitive advantages derived from being a well regulated jurisdiction.

[1] Comparisons between those jurisdictions with only first round assessments and those with second round assessments should be made with care because of developments in the methodology applied by the IMF. Gibraltar, Jersey and the Isle of Man were not assessed against IOSCO principles in the most recent assessments. The ratings shown for banking supervision and securities for Bermuda reflect the Bermuda Monetary Authority's analysis of the IMF's assessment which did not itself include compliance ratings for these areas. Anguilla and the Turks and Caicos Islands have not been included in the Chart, as the assessments published in 2003 and 2005 respectively did not provide compliance ratings.

5.13 Bermuda and Gibraltar have more than doubled the number of staff employed since 2002, whilst the British Virgin Islands and Jersey have both increased staff resources by more than 60 per cent.

**Chart 5.B: Total number of staff employed by financial services regulatory authorities 2002 - 2008**




5.14 Anguilla has also seen an increase in staff resources, but the picture in the Turks and Caicos Islands is more variable. However, both jurisdictions employ fewer than ten staff to supervise licensed financial services providers. This is below the 'critical mass' that can be effective in implementing prudential and anti-financial crime requirements across a range of financial institutions.

5.15 The ratio of staff allocated to the regulation of licensed entities has also outpaced the increase in licences issued in most of the jurisdictions (Chart 5.C). This crude measure does not, of course, take account of 'critical mass' requirements or factors such as the real or perceived degree of regulatory risk generated by different licence classes.

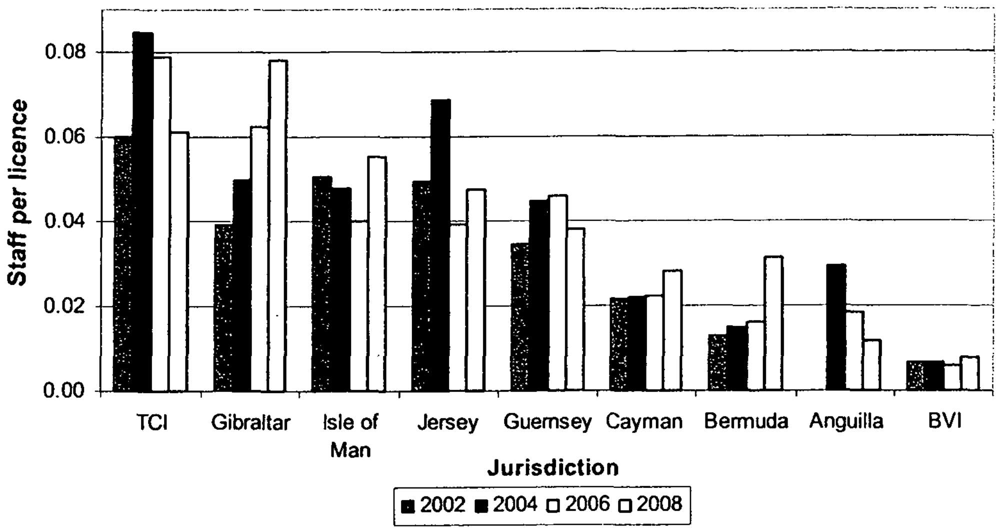
5.16 The limitations of the measure are illustrated by the results for the Turks and Caicos Islands. Whilst the Financial Services Commission appears comparatively well resourced, the burden of regulation appeared to the Review to fall disproportionately on a small number of senior staff and there is little on-site examination capacity.

5.17 The analysis for the Cayman Islands excludes almost 10,000 mutual funds (on 2008 figures) which were registered by the Cayman Islands Monetary Authority (CIMA) but did not require a licence. This suggests that the introduction of more intrusive regulation of hedge funds could put pressure on CIMA's resources.

5.18 Whatever the limitations of the analysis, the challenge for all jurisdictions will be to maintain resource levels during a period when fee income has or may reduce as the economic effects of the global downturn are felt.

5.19 The immediate challenge for the authorities in Anguilla and the Turks and Caicos Islands is to increase the quantum and expertise of resources available to their respective Financial Services Commissions. These jurisdictions must explain how and when these resources will be provided. Delivering these commitments is a necessary precondition if these jurisdictions wish to continue to offer themselves as international financial services centres.

**Chart 5.C: Ratio of staff allocated to the regulation of licensed entities 2002-2008**




## Technical assistance

5.20 Even with a clear political commitment, recruiting additional high quality regulatory staff in Anguilla and the Turks and Caicos Islands will take some time. This raises the question of whether the UK should provide an oversight function to reinforce the regulator to reduce reputational and potential financial risks to the UK. (The Governor retains responsibility for international financial services regulation in both jurisdictions.)

5.21 The responsibility for operating an oversight function would most naturally fall to the Financial Services Authority (FSA) in the UK. In practice, the function could only be discharged by the FSA setting up an office in Anguilla and the Turks and Caicos Islands. This would confuse lines of accountability, provide a disincentive for these jurisdictions to take responsibility for their own actions and increase the UK's financial risk exposure to the jurisdictions. It would also be likely to require legislation to extend the FSA's powers. In short, it has little to commend it.

5.22 The alternative would be to provide technical assistance. This might, in the first instance, better be targeted at the fight against financial crime (see chapter 7). Such a focus would, however, permit assistance to the regulator to boost its capacity to tackle financial crime.

## Regulatory co-operation

5.23 Some of the jurisdictions work closely with the UK to ensure that mutual regulatory objectives are secured. In the case of the Crown Dependencies, this co-operation is formalised in memoranda of understanding. The Crown Dependencies' concerns about how the arrangements operated in practice at the height of the banking crises have been widely reported. The Review has not sought to reach conclusions on those cases. It is, however, important that there is effective co-operation between the FSA and the regulators in the nine jurisdictions when this is required to deliver effective regulation.

5.24 There must equally be effective co-operation between the nine jurisdictions and other regulators with whom they deal, whether that is the Securities and Exchange Commission in the US or the regulator in one of the eight other jurisdictions within the scope of the Review.

5.25 The nine jurisdictions already co-operate with each other on policy development and the sharing of information. The Review considers, however, that more could be done and that a greater degree of co-operation on policy issues could help the jurisdictions to influence the debate on raising international regulatory standards.

## Independence and integrity

5.26 Improvements to governance structures in the financial services commissions in Anguilla and the Turks and Caicos Islands could be achieved relatively quickly to bring them into line with best practice. This process has already started in the case of the latter.

5.27 Independent non-executive board members not linked to the local financial services industry are a necessary requirement of good governance, which typically means that some of the regulatory Commissioners should be drawn from outside the jurisdiction. Evidence across the jurisdictions is that a number of regulators are accountable to bodies that include evidently independent and external members. This involves additional travel and other expenses but the potential benefits justify this initiative.

5.28 Even where good governance arrangements are in place, the independence and integrity of regulatory decisions can come under pressure. The potential for pressure is, however, particularly high in jurisdictions such as those within the scope of the Review where the financial services industry is a major contributor to the local economy and lines of communication between government, regulator and industry are short.

5.29 The Public Accounts Committee in the UK has recognised the challenges posed for small jurisdictions where direct personal or family relationships often exist between officials and citizens[2]. And a number of NGOs in the UK saw the 'capture' of local politicians and regulators by the industry in a small jurisdiction as a major problem.

5.30 One way this pressure is likely to manifest itself is through a blurring of the line between financial regulation and promotion of the financial centre. In most cases, promotion and regulatory functions are institutionally separate, but the potential for a blurring of the boundaries is ever present. It is incumbent on the regulator and those responsible for the administration, licensing or registration of financial services business not to assume a dual role in promoting, facilitating or negotiating the introduction of business.

5.31 In the case of Anguilla, responsibility for financial promotion should be removed from the Registrar of Companies where it currently lies.

## Conclusions

5.32 Those jurisdictions with high regulatory standards must remain focussed on ensuring that they keep pace with rising international standards. Jurisdictions which do not currently meet international standards must, as a matter of priority, explain how and when they expect to do so. Local governments in these jurisdictions must take responsibility for this process and show clear leadership if they wish to retain an internationally active financial services centre.

[2] Foreign and Commonwealth Office: Managing Risk in the Overseas Territories, HC 176, chapter 3.

## Recommendations

The Review recommends that:

- those jurisdictions which have not already done so should ensure that the regulatory authorities have the necessary resources and expertise to implement and enforce international financial sector regulatory standards;
- all jurisdictions should ensure that governance arrangements in their regulatory authorities are sufficient to maintain the integrity and independence of all decisions taken;
- responsibility for promotion of the financial centre should be separate from the regulator in both letter and spirit.

# 6 Financial sector crisis management and resolution arrangements

## Introduction

6.1 The importance of effective arrangements to resolve a financial crisis was very much in the public eye in the UK when this Review was commissioned. The impact of the crisis had also been directly felt in Guernsey and the Isle of Man following the collapse of two Icelandic banks.

6.2 Jurisdictions without deposit protection schemes were prompted by the crisis to consider their introduction. But experience has shown that consideration of resolution arrangements must extend beyond such schemes to consider, for example, the operation of insolvency and bankruptcy law.

6.3 The effectiveness of financial crisis management and resolution arrangements is clearly important for the jurisdictions themselves. It is, however, also of interest to the UK given its good governance responsibilities and potential financial contingent liabilities in some cases.

6.4 This chapter:

- outlines the deposit protection principles published by the Basel Committee on Banking Supervision and the International Association of Deposit Insurers (IADI);
- reviews the deposit protection schemes currently in place in the jurisdictions within the scope of this Review;
- proposes preventative measures that could be put in place to reduce the exposure of jurisdictions to risk of the failure of a major local financial institution; and
- considers the potential impact of the failure of such an institution and the sufficiency of resolution arrangements in the event of such a collapse.

## Deposit protection principles

6.5 Protection of retail deposits (within defined limits) is a requirement in the European Union and is also widely provided in other parts of the world. In the immediate aftermath of the problems in the banking sector around the world, the existence of deposit protection schemes was increasingly seen as necessary to provide assurance to retail depositors. Although pressure from depositors has abated, a number of jurisdictions within the scope of this Review which do not currently have schemes are pursuing plans to introduce them.

6.6 This renewed interest in deposit protection, and the strain placed on existing schemes by large banks getting into difficulties, encouraged the Basel Committee on Banking Supervision and the International Association of Deposit Insurers (IADI) jointly to publish core principles on deposit protection. (Those most relevant to the Review are reproduced in Box 6.A below).

**Box 6.A: Core Principles for Effective Deposit Insurance Systems**

Principles

**Mitigating moral hazard:** Moral hazard should be mitigated by ensuring that the deposit insurance system contains appropriate design features and through other elements of the financial system safety net.

**Governance:** The deposit insurer should be operationally independent, transparent, accountable and insulated from undue political and industry influence.

**Relationships with other safety-net participants:** A framework should be in place for close co-ordination and information sharing, on a routine basis as well as in relation to particular banks, among the deposit insurer and other financial system safety-net participants.

**Compulsory membership:** Membership in the deposit insurance system should be compulsory for all financial institutions accepting deposits from those deemed most in need of protection (e.g. retail and small business depositors) to avoid adverse selection.

**Coverage:** Policymakers should define clearly in law, prudential regulations or by-laws what an insurable deposit is. The level of coverage should be limited but credible and be capable of being quickly determined. It should cover adequately the large majority of depositors to meet the public policy objectives of the system and be internally consistent with other deposit insurance system design features.

**Funding:** A deposit insurance system should have available all funding mechanisms necessary to ensure prompt reimbursement of depositors' claims including a means of obtaining supplementary back-up funding for liquidity purposes when required.

**Public awareness:** In order for a deposit insurance system to be effective it is essential that the public be informed on an ongoing basis about the benefits and limitations of the system.

**Early detection and timely intervention and resolution:** The deposit insurer should be part of a framework within the financial system safety net that provides for the early detection and timely intervention and resolution of troubled banks.

**Reimbursing depositors:** The deposit insurance system should give depositors prompt access to their insured funds.

## Deposit protection schemes

6.7 Some jurisdictions within the scope of this Review have compensation schemes which extend beyond deposit protection. The analysis in this chapter focuses, however, on deposit protection schemes which were the main focus of attention in the jurisdictions.

6.8 The Isle of Man has had a deposit protection scheme in operation since 1991. Compensation is paid out of levies collected from deposit takers in the jurisdiction, from sums loaned to the scheme by the Isle of Man Government and from any other sums that may be borrowed by the scheme manager. There is no standing fund (i.e. money is not collected before a bank failure).

6.9 All licensed banks in the Isle of Man are members of the scheme, which sets the compensation limit at £50,000 of net deposit for current and deposit accounts and up to £20,000 for most other categories of depositor such as companies and trusts.

6.10 The scheme manager determines the total liability under the scheme in any financial year of the scheme. The total amount which could be levied on scheme participants is currently capped at £200 million. If the total amount owed to eligible depositors was greater than £200 million, the amount per depositor would be reduced proportionately to ensure that the liability cap was not exceeded.

6.11 The scheme introduced by Guernsey in November 2008 similarly sets the compensation limit at £50,000 and includes a liability cap of £100m in any five-year period. Again, there is no standing fund but the local government has agreed in principle to assist the scheme by guaranteeing an insurance policy of £20 million (a sum it can afford) to provide liquidity to the scheme.

6.12 The scheme in Gibraltar (introduced in 1998) applies the requirements of the EU Deposit Guarantee Schemes Directive and does not include a liability cap (which would not be consistent with the terms of the Directive). Gibraltar's potential liability would be increased if the EU increases depositor compensation limits to €100,000 in 2010.

6.13 The Gibraltar authorities have stated that the absence of a liability cap poses no consequent threat because the majority of the 12 banks operating in Gibraltar are large multi-national operations, which have either significant home state public ownership or have tacit or explicit state support. The remaining banks are primarily smaller wealth managers.

6.14 The remaining jurisdictions within the scope of this Review do not currently have deposit protection schemes in place. Jersey is, however, consulting on introducing one and Bermuda and the Turks and Caicos Islands are known also to be considering the possibility of introducing schemes.

## Issues for consideration

6.15 The liability caps which feature in the deposit protection schemes in the Isle of Man and Guernsey seek to strike a balance between providing comfort to retail depositors and not leaving banks within the jurisdiction facing a potentially unlimited liability. In practice, the liability cap means that the compensation paid to depositors in the event of a bank failure could be significantly less than £50,000 if payments at that level would exceed the cap.

6.16 The effect of the cap would be to vary the maximum payment to depositors depending on the size of the bank which had failed. Depositors with a large failed bank might receive less than £50,000 because the cap had been triggered, whilst depositors in a small failed bank would be more likely to receive compensation up to the £50,000 depositor limit.

6.17 Some depositors may not understand the implications of the liability cap. Misunderstandings could potentially result in accusations by depositors that they had been misled. Any jurisdiction within the scope of the Review which currently has, or is considering introducing, a scheme with a liability cap should therefore:

- review its scheme in the light of the Basel Committee's principles and consider in particular whether the existence of the 'cap' is or can be adequately explained to depositors, and whether clearer guidance could be introduced; and
- consider whether the future business model for that jurisdiction requires a deposit protection scheme for all depositors or whether the jurisdiction should not be seeking to attract foreign retail deposits. Reduction or elimination of these might allow jurisdictions to provide protection to local residents (who typically and reasonably want to bank locally) without the need for a liability cap.

6.18 Whatever the structure of the scheme in place, the ability to pay out quickly in the event of a bank failure is key. The Basel Committee and IADI identified the need to give depositors prompt access to their insured funds as one of their key principles. The need for the quick, efficient and transparent operation of the scheme were also lessons from the failure of Kaupthing Singer and Friedlander (Isle of Man) Limited[1].

**Box 6.B Lessons from the Isle of Man**

Framework: Coverage of the deposit protection scheme and to what level should be clearly defined.

Planning: Quick, efficient and transparent operation of the deposit protection scheme must be planned for robustly prior to any default, and periodically reviewed and tested rigorously.

Communication: Means of communication to key stakeholders should be clearly defined, and organised through implementation.

Funding: The deposit protection scheme should be affordable, with sources of funding identified and in place.

Legislation: Other legislation (e.g. liquidation and insolvency law) with which the deposit protection scheme may interact, should be identified, examined and reviewed.

Payment: The time period within which claims are paid out should be clearly set out and any early payment mechanisms should be carefully defined.

6.19 The Basel Committee has said that deposit protection schemes should have a means of obtaining supplementary back-up funding for liquidity purposes when required. This would be provided by an ability to borrow, including from the local government.

6.20 The availability of a loan for liquidity purposes is particularly important where there is no standing fund or where such a fund is in the early years of being built. Without it, sufficient funds may not be available to pay out quickly in the event of a bank failure.

6.21 In practice, loan finance would most likely come from the local government in the event of a significant bank failure. Jurisdictions which are considering introducing a deposit protection scheme should identify the sources of funding to deliver the prompt settlement of depositors' claims.

6.22 Jurisdictions should also review how the settlement of claims by the scheme would interact with other aspects of the legal framework such as insolvency and bankruptcy law and make any changes which might be appropriate.

## Ombudsman schemes

6.23 A separate but related issue to deposit protection insurance was brought to the Review's attention during the consultation process. In the Crown Dependencies, where UK nationals (often 'ex-pats') purchase many financial products, one important element of consumer protection in the UK is typically missing. Only in the case of the Isle of Man does an

[1] In October 2008, the Isle of Man Financial Supervision Commission suspended Kaupthing Singer and Friedlander (Isle of Man) Limited ('KS&FIOM') banking licence, accordingly KS&FIOM ceased to trade as a bank. The Isle of Man Court also made a Provisional Liquidation Order in relation to KS&FIOM. The Isle of Man sought to introduce an alternative to liquidation of the company (Scheme of Arrangement) and activation of the Island's Depositors Compensation Scheme. However, this failed after the proposed Scheme of Arrangement did not gain the necessary levels of support when creditors voted on it in May. The bank was subsequently placed into liquidation in May 2009 and the DCS activated for depositors of the bank. However the Isle of Man government had already paid out £85m to depositors under the Government's two Early Payments Schemes, providing advance payments of up to £10,000 per depositor.

Ombudsman complaints scheme exist along the lines of that in the UK. The jurisdictions should consider whether such a scheme is justified.

## Resolution

6.24 The Basel Committee and the IADI recognised that deposit insurance systems could not, by themselves, deal with systemically significant bank failures or a systemic crisis. In these cases, it was the responsibility of all participants (including the state) within the financial system to work together to resolve the crisis and this has been evident in responses in the UK and elsewhere to the crisis in the banking sector.

6.25 In the context of the jurisdictions within the scope of this Review, systemic risks can flow from the collapse of a foreign-owned bank with a presence in the jurisdiction and from the collapse of a locally-owned bank.

6.26 In the case of foreign-owned banks, the bulk of deposits collected in one of the jurisdictions will typically be remitted to the parent bank located elsewhere, limiting the chances of securing these deposits if the parent bank collapses.

6.27 Whilst this risk cannot be eliminated without undermining the business model which encouraged the bank to establish a presence in the first place, it can be reduced by a combination of tough licensing conditions and close contact with the parent bank's regulator. The Review was encouraged that a number of jurisdictions already give careful consideration to the type and standing of foreign-owned banks when considering licence applications.

6.28 In the case of locally-owned banks, the regulator's objective must be to limit the risk of a collapse. This is particularly the case for such banks where serious liquidity or solvency problems would have damaging consequences for the local economy were they to occur. The Review has identified a small number of locally owned banks in the Overseas Territories that are systemically important in the context of the local economy.

6.29 In one case, the Government of Bermuda acted swiftly during the course of the Review to commit $200 million to underwrite a preference share issue of a local bank. Such prompt action helped the share issue to be oversubscribed, leaving the local Government without any short-term financing obligation.

6.30 This demonstrated the importance of the regulator maintaining close oversight of systemically important banks (and other financial institutions) and being ready to act decisively in the event of problems occurring. To reinforce this process, the local authorities on their own initiative or at the request of the UK should have the power to require a periodic independent and external review of any such institution, paid for by the institution itself.

6.31 More generally, any jurisdiction that has not already done so should undertake a thorough examination of the range of powers available to resolve a crisis in its financial services sector. Jurisdictions might also consider (where they have not done so already) whether there are parts of the financial sector which should be scaled back to reduce risk exposure.

6.32 One of the Overseas Territories suggested to the Review that the UK should act as lender of last resort in the event of a shock to a jurisdiction's financial system and economy which was beyond the resources of that jurisdiction to deal with in the short-term. This could include the local consequences of the failure of a financial institution.

6.33 A lender of last resort facility would be a significant undertaking by the UK and it would be important to ensure that local governments had a strong incentive to put in place and enforce measures to reduce the risk of such circumstances arising.

6.34 If the UK Government wished to explore a loan facility, it would most likely be broadly similar to the kind of facilities that would be available to these jurisdictions if they were eligible for membership of the IMF. The circumstances in which a loan would be provided and the conditionality attached would need to be clear. But as this Review makes clear, there are a number of ways for a jurisdiction to reduce the risk of getting into a position where such a facility is needed.

## Conclusions

6.35 It is important that all the jurisdictions within the scope of this Review learn the lessons from the financial crises. The means to fund deposit protection schemes must be identified and the terms of such schemes must be clear to retail depositors.

6.36 All possible steps must be taken to guard against the collapse of a financial institution of systemic importance to the economy of a jurisdiction. Contingency plans should, however, also be in place to resolve such a situation should it occur. These plans should take full account of other parts of the legal framework, particularly insolvency and company law, to ensure that the plans would be deliverable in practice.

## Recommendations

The Review recommends that:

- those jurisdictions that offer (or propose to offer) protection to retail depositors must ensure that compensation schemes can be understood by those depositors;
- jurisdictions that lack an Ombudsman scheme should consider whether one is justified;
- any jurisdiction that has not already done so should undertake a thorough examination of the range of powers to resolve a crisis in its financial services sector;
- local governments should require the regulator to maintain close oversight of any large locally incorporated financial institutions, the failure of which might lead to requests for financial help from the UK. This should be backed by the option of a periodic independent and external review, paid for by the institution itself, commissioned by the local authorities on their own initiative or at the request of the UK.

# 7 Fighting financial crime

## Introduction

7.1 One of the major concerns expressed about offshore jurisdictions is that they do not do enough to help combat cross-border financial crime. Weaknesses often cited include an excessive importance given to protecting the secrecy of beneficial owners of funds, and lack of active co-operation with overseas investigators.

7.2 The internationally active fraudster will seek out the weakest jurisdictions to conduct their business. The jurisdictions covered by this Review need to be – and to be seen to be – active in seeking out and turning away dubious financial business. If not, their reputation (and that of the UK) will suffer.

7.3 Over time, international efforts to fight financial crime have moved forward considerably but weaknesses remain in international standards.

7.4 This chapter:

- reviews the record on fighting financial crime of the nine jurisdictions within the scope of this Review;
- discusses what action should be taken by the jurisdictions, in some cases with the support of the UK; and
- considers the scope for improvements to existing international standards.

## International assessment process

7.5 International standards to fight financial crime are set by the Financial Action Task Force (FATF), an inter-governmental body established to develop and promote policies to combat money laundering and terrorist financing. The FATF (or one of the associated bodies) conducts periodic reviews of jurisdictions to see how they measure up against the FATF 40+9 Recommendations to counter money laundering and terrorist financing. Sixteen of these Recommendations are designated as 'key and core'.

7.6 The IMF's Financial Sector Assessment Programme (discussed in chapter 5) includes an assessment of compliance with the FATF's Recommendations. Anguilla, Bermuda, the British Virgin Islands, the Cayman Islands and the Turks and Caicos Islands are members of the Caribbean FATF and are also subject to its peer review process.

## Compliance with FATF Recommendations

7.7 Compliance with the FATF's Recommendations requires an effective partnership between the authorities in the jurisdictions, the financial services industry and those, such as lawyers, who provide support services to the industry and its clients.

7.8 Governments must demonstrate a clear political commitment to tackling financial crime. In the first instance, this can be achieved by ensuring that legislation to tackle financial crime keeps pace with developments and provides regulatory authorities, investigators and prosecutors with the powers they need. Such legislation provides an important signal to private sector practitioners and to potential criminals.

7.9 Legislation is, however, only as good as its enforcement. It will not be effective unless the financial services regulator has the resources to ensure that regulated entities are acting with due diligence and investigators have the resources and expertise to investigate suspicious activity. Prosecutors must also have the resources they need to prosecute financial crime within the jurisdictions and to assist prosecutors in other jurisdictions.

7.10 Some of the jurisdictions within the scope of this Review have made considerable efforts to tackle financial crime and have a good story to tell. Others have taken their eye off the ball or have so far failed to demonstrate the necessary commitment.

7.11 Jersey has, for example, received a positive IMF assessment of compliance against the FATF 40+9 Recommendations and was rated as compliant or largely compliant with 15 out of the 16 'key and core' Recommendations. Bermuda, on the other hand, was assessed as having considerable room for improvement as was the Turks and Caicos Islands, whilst Gibraltar and the Isle of Man have more to do to improve compliance with the 'key and core' Recommendations in particular.

7.12 In some cases, weaknesses have been recognised. For example, the Bermuda authorities' response to the IMF's assessment recognised the need to enhance and accelerate the jurisdiction's efforts to fight financial crime.

7.13 The state of play on compliance is illustrated in Charts 7.A and 7.B. The charts use IMF assessments of Jersey, Isle of Man, Bermuda and Gibraltar. CFATF assessments are used for the British Virgin Islands, the Cayman Islands and the Turks and Caicos Islands as the most recent available for these jurisdictions.

7.14 No compliance ratings have been published for Anguilla during the period covered by the charts, but the jurisdiction was preparing for a CFATF peer review when the Review visited in June 2009. Guernsey was last assessed by the IMF in 2003 but the results have been excluded from Charts 7.A and 7.B because of changes to the methodology and criteria applied since then. The IMF is expected to assess Guernsey in 2010.

**Chart 7.A: FATF 40+9 compliance**

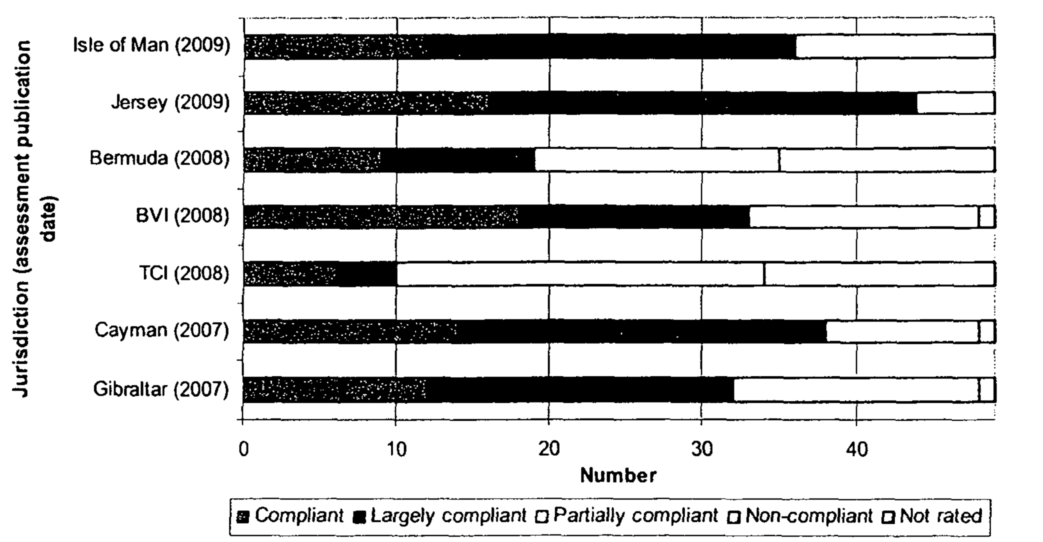
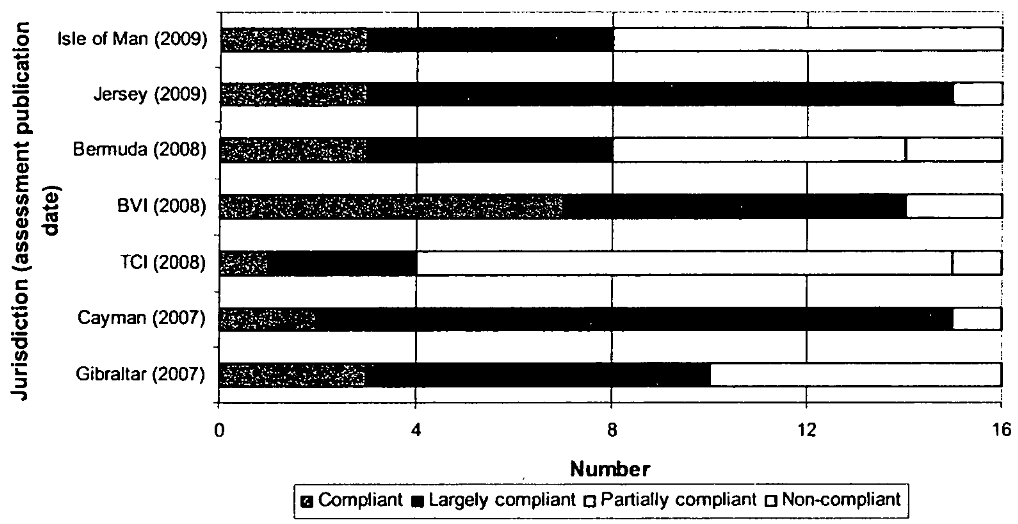


**Chart 7.B: FATF 'key and core' Recommendations compliance**



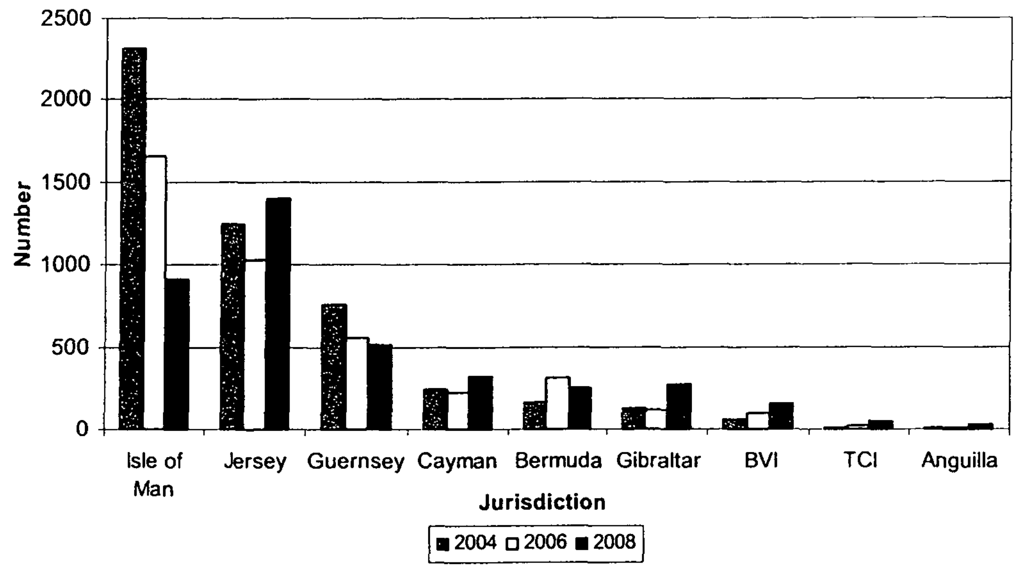

## Detection

7.15 Looking at the picture in more detail, the number of suspicious transaction reports (which are mostly made by local regulated financial institutions to the local financial intelligence unit when financial crime is suspected) provides an illustration of attitudes in a jurisdiction. Although there is no 'correct' number of suspicious transaction reports (STRs), the financial sector niche in the jurisdiction can be used to provide a rule of thumb. For example, a jurisdiction with a large banking sector will tend to record more STRs than one with a small banking sector because of (a) the key role that banks play in transmitting funds and (b) the banking sector typically has more advanced techniques for identifying financial crime. It is also typical for a jurisdiction with an international business company sector to attract a higher incidence of financially suspicious activity while funds and insurance business typically have a lower incidence.

7.16 Although data provided by the jurisdictions (and reproduced in Annex D) shows that the number of STRs in the Overseas Territories are broadly on a rising trend, the numbers of STRs in 2008 were lower than might be expected in Anguilla (30) and the British Virgin Islands (153), both of which have international business companies as their international niche. On the face of it, the number of STRs in the Turks and Caicos Islands also appears low (50).

7.17 Both Guernsey and the Isle of Man were exceptions to the rising trend in the number of STRs, with the Isle of Man recording a fall of more than 60 per cent between 2004 and 2008. The Guernsey authorities attributed the fall to the 2004 figure being inflated by the effect of an international tax amnesty in a third country. The Isle of Man authorities also cited this reason combined with the education of the financial services industry producing fewer but better quality STRs. The Isle of Man anticipates, however, that the implementation of its 2008 Proceeds of Crime Act, with its wider reporting requirements, will see the return to a rising trend.

**Chart 7.C: Suspicious Transaction Reports received by Financial Intelligence Units**




7.18 Customer due diligence (CDD) must of course be undertaken in order to identify suspicious transactions. Again, there is a need for a number of the jurisdictions within the scope of this Review to improve compliance against the FATF's main CDD Recommendation (Recommendation 5). None of the jurisdictions has been assessed as better than partially compliant and Bermuda and the Turks and Caicos Islands were last assessed as non-compliant.

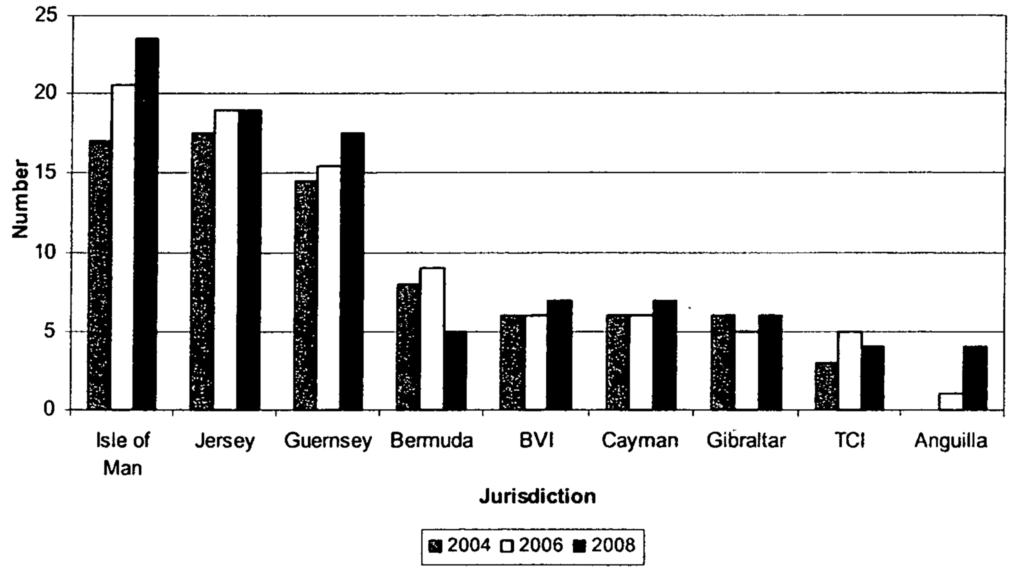
7.19 A number of NGOs in the UK were particularly concerned about the track record of some jurisdictions in complying with FATF Recommendation 6 on enhanced due diligence for politically exposed persons (PEPs). Compliance with this recommendation is important to prevent people in positions of power, often in developing countries, from misusing the financial resources of those countries for their own ends. Bermuda and the Turks and Caicos Islands were both rated as non-compliant in 2008. It is likely that Anguilla will also need to take steps to improve compliance with Recommendation 6.

## Investigation

7.20 The financial services regulator also has an important role to play in holding regulated entities to account and supplying information to the financial crime investigatory authority, variously called the financial intelligence unit (FIU) or the financial crime unit.

7.21 Chart 7.D shows that the number of staff employed in FIUs increased or remained stable in most jurisdictions between 2004 and 2008.

**Chart 7.D: Number of staff in financial intelligence units**




7.22 The appropriate number of staff required for an FIU to be effective will, in part, depend on the number of STRs, which in turn may be influenced by the prevailing attitudes to fighting financial crime in a jurisdiction.

7.23 The number of staff employed in the FIUs in the Overseas Territories appears low, particularly when a complex case can consume significant resources. The FIUs in some jurisdictions confirmed to the Review that resource stretch was a concern.

7.24 The shortage of expertise in some areas was also a concern in some cases. For example, the absence or shortage of staff with the skills to undertake a forensic examination of computer hard drives would undermine the effectiveness of an FIU. As with the financial regulator, staff levels below a certain minimum are always likely to lead to problems.

## Prosecution

7.25 On the face of it, prosecutions in some jurisdictions are running at a lower level than might be expected.

7.26 In 2008, there was one prosecution for financial crime in Guernsey, two in the Isle of Man and eight in Jersey. Prosecutions in the Overseas Territories in the same year ranged from 15 in Gibraltar (three for money laundering and 12 for fraud) to one (for money laundering) in Bermuda.

7.27 The jurisdictions with low prosecution rates tend to argue that the perpetrators of financial crime are typically located in other jurisdictions and so prosecutions will take place elsewhere. Those jurisdictions which have achieved high levels of compliance with the FATF Recommendations also argue that improvements in the detection of financial crime have deterred criminals from using the jurisdiction.

7.28 Whilst these arguments carry some weight, it is likely that suspicions will remain in some quarters about the vigour with which prosecutions are pursued. The direct personal relationships between officials and citizens which exist in small jurisdictions (also discussed in chapter 5) may expose prosecutors to pressure, which may be subtle, not to pursue cases against individuals who may play a prominent role in the life of the jurisdictions.

7.29 Jurisdictions should continue to make every effort to guard against such pressure and may, in some cases, wish to bring in personnel from outside the jurisdiction to limit any potential conflict of interest.

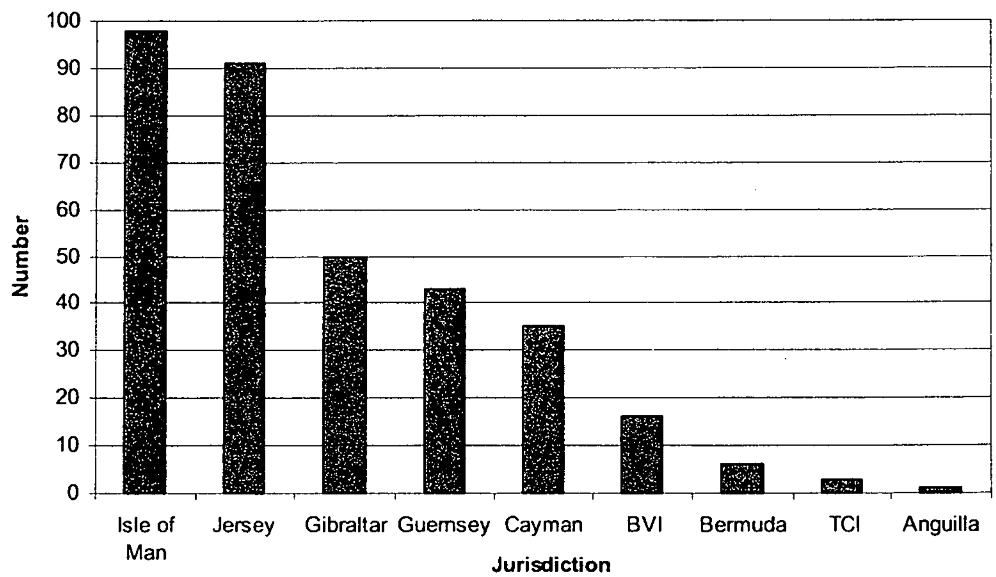
## International co-operation

7.30 The nine jurisdictions must also co-operate fully with other jurisdictions to assist the prosecution process. In broad terms this can take two forms: the dissemination of information in STRs to other jurisdictions and responding to formal requests for assistance from other jurisdictions.

7.31 The dissemination of STRs to other jurisdictions is an important plank of international co-operation to tackle financial crime. The data on the number of STRs disseminated (see Annex D) shows that the jurisdictions within the scope of this Review do share information with the authorities in other jurisdictions.

7.32 All of the nine jurisdictions have received requests from other jurisdictions for mutual legal assistance (see Chart 7.E). (Some of the jurisdictions within the scope of this Review have formal mutual legal assistance treaties with other jurisdictions.)

**Chart 7.E: Requests for mutual legal assistance received from overseas jurisdictions in 2008**




7.33 Requests for assistance must be acted upon in a timely manner. To achieve this, jurisdictions must ensure that Attorneys General have sufficient and appropriately qualified staff at their disposal.

7.34 Fighting financial crime is expensive but in addition to the benefits of meeting international standards, tangible financial benefits can also be secured. For example, in 2007 the British Virgin Islands and Bermuda shared $46 million of forfeited assets.

## Delivering improved compliance with international standards

7.35 Taking effective steps to tackle financial crime is a requirement not an option. The Review has concluded that the technical and human resources devoted to the fight against financial crime in Anguilla and the Turks and Caicos Islands need to be boosted to achieve compliance with FATF Recommendations. Bermuda must also remain focussed on addressing the deficiencies in its approach to tackling financial crime identified in the IMF's assessment published in October 2008; while in the case of the British Virgin Islands, the authorities should review carefully whether their FIU should not be more proactive in dealing with suspicions in the international business company sector.

7.36 The priority is to provide human and technical assistance to those jurisdictions most in need of it. This must, however, be accompanied by a clear commitment from the local government to tackling financial crime by ensuring that legislation keeps pace with developments and gives both the regulator and the investigating authority the powers they need to detect and prosecute financial crime. The local government must also make a commitment to fund the provision of sufficient resources to secure the benefits of the technical assistance they receive. This is a necessary condition for these jurisdictions continuing to operate as international financial services centres.

7.37 Where such commitments are forthcoming, the UK should discuss with the relevant jurisdictions what mechanisms might be put in place to deliver them in practice. One option would be to establish a unit, recognised by both the jurisdictions and the UK, whose functions might include quality assurance to ensure that the full benefits of technical assistance are secured on a long-term basis. These discussions could also be extended to those jurisdictions which are not in need of immediate technical assistance to discuss how they might contribute to and benefit from any such unit.

## International standards

7.38 During the course of the consultation, a number of NGOs raised concerns about the extent to which the lack of transparency in the ownership of corporate vehicles in the jurisdictions facilitated financial crime (including tax evasion).

7.39 The Review shares these concerns, but such transparency issues also arise to a greater or lesser extent in most major jurisdictions. For example, within the UK, most trusts are not subject to financial regulation and therefore no agency monitors the ownership or behaviour of these trusts.

7.40 In the US, a more egregious loophole exists in the fact that a number of individual States, notably Delaware, permit the creation of international business companies without adequate monitoring of their beneficial ownership.

7.41 There are also understandable concerns in relation to international minimum standards with respect to 'know your customer' rules. The Review highlights two where the adequacy of existing standards is doubtful.

7.42 Both issues are complex and are described only in summary. The first relates to what are known as 'eligible introducers' of new customers. At present a regulated financial firm in jurisdiction A is allowed to take on a corporate or individual client from jurisdiction B, on the assurance from a suitably qualified intermediary in B that the client meets the necessary standards of probity and has provided the information about the client that FATF standards require. Such an intermediary providing these assurances is known as an eligible introducer.

7.43 The Review was encouraged to find that in the British Virgin Islands, home to some 800,000 international business companies, the local regulator does require that a licensed company service provider (who actually handles and services the incorporation of each company) can at any time require full know your customer (KYC) information on the client. Indeed, the local regulator goes further and requires, on a random check basis, that this KYC information be remitted back to the British Virgin Islands for checking.

7.44 Nevertheless, the current minimum standards mean that a professional intermediary many thousands of miles away may vouch for the bona fides of the company being registered in a jurisdiction like the British Virgin Islands. The Review considers that the FATF should conduct tougher checks than it currently does in its peer group reviews of the standards in these third jurisdictions. The Review also believes that there is a compelling case for all relevant KYC information to be passed to the company service agent in the jurisdiction at the time of incorporation, rather than relying on the information being passed when and if requested.

7.45 The second issue relates to politically exposed persons (PEPs). Each jurisdiction should have in place systems to detect and identify PEPs and share information with other jurisdictions. The Review supports the call by Transparency International[1] for the UK to press the FATF to raise international standards in this area.

7.46 The G20 recognised the need to prioritise work to strengthen standards on customer due diligence, beneficial ownership and transparency at its meeting in Pittsburgh in September 2009.

7.47 Although attractive in principle, action by the UK and the nine jurisdictions ahead of changes to international standards would be likely to result in a loss of business to other jurisdictions rather than a resolution of the underlying concerns. The Review has, therefore, concluded that the UK should take the lead internationally in encouraging improvements to:

- 'know your customer' international minimum standards (particularly in respect of the role of 'eligible introducers');
- the monitoring of PEPs; and
- the transparency of beneficial ownership of companies and trusts.

## Conclusions

7.48 There can be no let up in the fight against financial crime. Jurisdictions within the scope of this Review should move rapidly to achieve full compliance with the FATF 'key and core' Recommendations. Some will need technical assistance to do so, but the benefits of such assistance will only be secured on a long-term basis if the local government makes and keeps a clear commitment to tackle financial crime and fund sufficient resources. There can be no second chances.

7.49 The international community has recognised the need to improve international standards to fight financial crime. The UK should take the lead in encouraging improvements. Improving compliance in the jurisdictions within the scope of this Review would strengthen the UK's hand.

[1] Transparency International UK: Combating Money Laundering And Recovering Looted Gains – raising the UK's game. Published June 2009

## Recommendations

The Review recommends that:

- to meet international standards, jurisdictions which have not already done so should move to amend laws and procedures as necessary to achieve compliance with the FATF 16 'key and core' Recommendations;
- at an international level, the UK should press for improvements in 'know your customer' minimum standards and promote moves towards improved transparency of beneficial ownership of companies and trusts and the monitoring of politically exposed persons;
- the UK should discuss with those jurisdictions in need of technical assistance to fight financial crime how that assistance might be delivered and the benefits of assistance secured in the longer-term.

# A Terms of reference

A.1 The UK Government's decision to commission an independent review of British offshore financial centres; their role in the global economy; and their long-term business strategies was announced in the 2008 Pre-Budget Report.

## Terms of reference

A.2 HM Treasury published the terms of reference for the independent review on 2 December 2008. These are set out below:

### Purpose

A.3 The Chancellor of the Exchequer has asked Michael Foot to conduct an independent review of the long-term opportunities and challenges facing the British Crown Dependencies and Overseas Territories as financial centres, which have been brought into focus by recent financial and economic events.

### Scope

A.4 The review will work first with Crown Dependencies then Overseas Territories with significant financial centres to identify opportunities and current and future risks (and mitigation strategies) to their long-term financial services sector, including:

- financial supervision and transparency;
- taxation, in relation to financial stability, sustainability and future competitiveness;
- financial crisis management and resolution arrangement; and
- international co-operation.

A.5 The review will take account of Crown Dependencies' and Overseas Territories' respective constitutional relationships with the UK. Changes to the UK's constitutional relationship with Crown Dependencies and Overseas Territories are out of scope for the review.

### Timing

A.6 The Review will report to the Chancellor of the Exchequer, copied to the Lord Chancellor, Foreign Secretary, and the Governments of the UK's Crown Dependencies and Overseas Territories; and will produce interim conclusions for Budget 2009; with fuller conclusions later in the year.

## Financial centres covered

A.7 Only those Crown Dependencies and Overseas Territories with significant financial centres are included within the scope of the review. These are:

### Crown Dependencies

- Guernsey;
- Jersey; and
- Isle of Man.

### Overseas Territories

- Anguilla;
- Bermuda;
- British Virgin Islands;
- Cayman Islands;
- Gibraltar; and
- Turks and Caicos Islands.

# B Consultation

B.1 The Review has consulted the authorities in the jurisdictions within the scope of the Review.

B.2 It has also consulted HM Treasury, HM Revenue and Customs, the Foreign and Commonwealth Office, the Ministry of Justice, the Department for International Development and the Financial Services Authority in the UK.

B.3 The Review has also benefited from the willingness of a wide range of other interested parties to give generously of their time. These organisations and individuals are listed below and include non-governmental organisations, financial services providers and individual members of the public:

Action Aid

Anguilla Bar Association

Anguilla Financial Services Association

Association of Bermuda Insurers and Reinsurers

Association of British Insurers

Association of Guernsey Banks

Association of Investment Companies

Association of Private Client Investment Managers

Bank of Bermuda

Bank of Butterfield

Bank of England

Bankers Association of the Turks and Caicos

Barclays Bank

Bermuda Bar Council

Bermuda International Business Association

BNP Paribas Jersey Trust Corporation Ltd

CAFOD

Cains Advocates Ltd

Capital International Ltd

Cayman Islands Bankers' Association

Cayman Islands Bar Association

Cayman Islands Fund Administrators

Cayman Islands Law Society

Cayman National Bank and Trust Company (Isle of Man) Ltd

Christian Aid

Citibank (Channel Islands) Ltd

CMI Financial Management Services Ltd

Deloitte

Depositors of Kaupthing, Singer & Friedlander (Isle of Man) Bank (KSFIOM)

Ernst & Young

Financial Ombudsman Service, UK

Global Witness Ltd

Guernsey Association of Trustees

Guernsey Society of Trust and Estate Practitioners

Guernsey Bar Council

Guernsey Society of Chartered and Certified Accountants

Guernsey Insurance Companies Management Association

Guernsey International Business Association

Guernsey Investment Funds Association

HSBC Bank International Ltd

Insurance Managers Association of Cayman

Investment Management Association

Isle of Man Finance

Isle of Man Bankers Association

Isle of Man Fund Management Association

Jersey Finance Ltd

KPMG

Linklaters

Lloyds Banking Group

Lloyd's of London

Marsh Management Services

Michael Hardy

Mourant

National Bank of Anguilla

Ogier

Organisation of Economic Co-operation and Development

Oxfam

Ozannes

Peter Beckett and Vilma Rocha

Pricewaterhouse Coopers

Royal Bank of Scotland

Royal Anguilla Police

Society of Trust and Estate Practitioners

Tax Justice Network

TCI Bank

TCI Bankers' Association

TCInvest

TISEF Limited

TUC

Transparency International

Trustee Investment Strategy for Endowments and Foundations

Volaw Trust and Corporate Services Ltd

Walkers

# C Summary of Constitutional Relationships

## Crown Dependencies

C.1 Jersey, Guernsey and the Isle of Man are dependencies of the Crown. Her Majesty The Queen is Head of State of each Dependency and appoints a Lieutenant Governor as her personal representative.

C.2 The Dependencies are not part of the UK.

### Domestic policies

C.3 Each Crown Dependency determines its own domestic policies through a directly elected legislative assembly. UK legislation does not extend to the Dependencies, but they may request its extension to them by an Order in Council.

C.4 Each Dependency determines its own fiscal policy and raises its own public revenue.

C.5 The Crown Dependencies also have their own legal systems and courts of law.

### International representation

C.6 The UK ordinarily represents the Crown Dependencies internationally. When the UK ratifies a treaty it does so on behalf of the United Kingdom of Great Britain and Northern Ireland and any of the Crown Dependencies that wish the treaty to apply to them.

C.7 In certain circumstances, the Crown Dependencies may be authorised to represent their own interests internationally by a process of entrustment.

C.8 The UK is also responsible for the defence of the Crown Dependencies. Each makes an annual voluntary contribution towards the costs of their defence and international representation by the UK.

### European Union

C.9 The Crown Dependencies are not members of the European Union. They do, however, have a special relationship with the EU. Protocol 3 of the UK's Treaty of Accession to the European Community makes them part of the customs territory of the Community, and the common customs tariff, levies and agricultural import measures apply to trade between the Crown Dependencies and non-member countries. Other Community rules do not generally apply.

## Overseas Territories

C.10 The Overseas Territories are constitutionally not part of the United Kingdom. All of them have separate Constitutions made by an Order in Council. All those within the remit of this Review have Governors. Each Governor is appointed by and represents Her Majesty The Queen. The Governor both represents Her Majesty in the Territory, and represents the Territory's interests to the UK Government.

C.11 Each Governor is responsible to the Secretary of State and, through him, to The Queen and the UK government, for the security and proper governance of the Territory.

## Self-government

C.12 The degree of self-government enjoyed by an Overseas Territory depends on its stage of constitutional development. In most Overseas Territories, the Governor has special responsibility for defence, external affairs, internal security, including the police, the public service, and the administration of justice. In Anguilla and the Turks and Caicos Islands this extends to international financial services. Territory governments are responsible for the proper management of their local economies.

C.13 Most Overseas Territories' constitutions provide for certain reserve powers to protect the UK Government's overall responsibility for the good governance of the Overseas Territories. These include the power of a Secretary of State to instruct the Governor in the exercise of his functions; the power to disallow Overseas Territories legislation; and (except Bermuda) the power to legislate for the peace, order and good government of the Territory by Order in Council.

C.14 Bermuda has almost full internal self-government, with a premier presiding over a cabinet, whose meetings the Governor does not attend.

C.15 In Gibraltar, which also has a large measure of internal self-government, the Governor is responsible for defence, external affairs, internal security and certain functions in relation to appointments to public offices. The Chief Minister chairs the Council of Ministers meetings, which the Governor does not attend.

C.16 Gibraltar is within the EU and so its financial centre is required to comply with EU requirements on regulation, money laundering and exchange of information.

C.17 The 2006 Turks and Caicos Islands Constitution was amended by an Order in Council on 14 August 2009[1] for the next two years. The amendment order suspended the legislature, dissolved the cabinet and scrapped the constitutional right to jury trial. In place of the previous structure the Governor may take advice from an Advisory Council and receive recommendations from a Consultative Forum. Prior to the amendment to the 2006 Constitution, the Governor was inter alia responsible for the regulation of international financial services; he now has control of all aspects of government, including finance and financial services.

## International representation

C.18 Unless expressly authorised to do so by the UK Government, Overseas Territories do not have the authority to become party to treaties in their own right. The UK must, therefore, extend treaties to the Overseas Territories. This is done either at the time of the UK's ratification or later following a consultation process.

C.19 The Territory Government is, however, sometimes entrusted with authority to conclude international agreements. Bermuda and the British Virgin Islands have a standing entrustment which allows them to negotiate treaties in specific areas.

## UK objectives

C.20 A UK government objective is to maintain financial stability within the Overseas Territories' financial services centres. Other objectives are to support international standards, and manage

[1] Statutory Instrument No. 701, 2009, *The Turks and Caicos Islands Constitution (Interim Amendment) Order 2009*.

the reputational risk and the risk of contingent liabilities to the UK. It is the FCO's goal that all Overseas Territories fully implement international standards of regulation and supervision.

C.21 The UK government understands that the Overseas Territories' economies are significantly reliant upon revenue from financial services business and a substantial downturn in this sector, for whatever reason, could result in pressure on the UK Government to provide direct economic aid.

## Borrowing Guidelines

C.22 To mitigate the risk of excessive Overseas Territory borrowing creating contingent liabilities for the UK, the FCO has agreed Borrowing Guidelines with a number of territories. The guidelines define three ratios, which together specify a prudential framework for Overseas Territory government and government-guaranteed borrowing. The ratios impose maximum limits for the total volume of outstanding debt and the annual cost of debt-service, and a minimum level for Government reserves. If all three ratios are not met, further Overseas Territory borrowing will not ordinarily be approved by the UK Government.

C.23 The FCO has Borrowing Guidelines in place for Anguilla, the British Virgin Islands, the Cayman Islands and the Turks and Caicos Islands. The Cayman Islands have enshrined these guidelines in local legislation.

C.24 Although there are no guidelines in place for Bermuda and Gibraltar, Bermudian law limits debt to a percentage of GDP, which the FCO monitor. In Gibraltar, the law places an upper financial limit on net public debt in addition to restrictions on the percentage of GDP, recurrent revenue and the debt service ratio.

# Financial crime and regulatory resources

D.1 This Annex records data provided by the jurisdictions during the course of the Review. Where no data is given for a year, it is either not available for that year or has not been provided.

## Anguilla

**Table D.A: Regulatory resources[1]**

| | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 |
|---|---|---|---|---|---|---|---|
| Resources | | | | | | | |
| Total staff in post | - | - | 4 | 6 | 6 | 6 | 7 |
| Total annual revenue (US$000) | - | - | 267 | 516 | 645 | 791 | 1,012 |
| Licences | | | | | | | |
| Licences in issue | - | - | 102 | 179 | 248 | 325 | 417 |
| Licences in each class: | | | | | | | |
| Banking | - | - | 7 | 7 | 7 | 7 | 7 |
| Corporate service providers | - | - | 30 | 30 | 35 | 42 | 45 |
| Trust service providers | - | - | 13 | 16 | 18 | 19 | 19 |
| Insurance[2] | - | - | 47 | 99 | 138 | 180 | 263 |
| Collective investment schemes (Mutual Funds) | - | - | 5 | 27 | 50 | 77 | 83 |
| Inspections | | | | | | | |
| On site inspections completed | 2 | 15 | 7 | 8 | 10 | 9 | 28 |
| Inspections by licence class: | | | | | | | |
| Banking | - | 3 | - | - | - | 3 | 4 |
| Corporate service providers | 2 | 12 | 6 | 7 | 7 | 2 | 14 |
| Trust service providers | - | - | 1 | 1 | 3 | 1 | 3 |
| Investment business | - | - | - | - | - | 1 | 7 |
| Collective investment schemes (Mutual Funds) | - | - | - | - | - | - | - |
| Money transfer agents | - | - | - | - | - | 2 | - |

[1] The Anguilla Financial Services Commission did not exist until 2004. The Financial Services Commission was preceded by the Financial Services Department which conducted onsite examinations during 2002 and 2003.

[2] As at 31 December 2008, 184 of the insurance providers were captive insurers.

**Table D.B: Financial crime**

| | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 |
|---|---|---|---|---|---|---|---|
| Total staff in post | - | - | - | 1 | 1 | 1 | 4 |
| **Suspicious transaction reports:** | | | | | | | |
| Received | 6 | 8 | 5 | 9 | 7 | 6 | 30 |
| Investigated | 6 | 8 | 5 | 9 | 7 | 6 | 30 |
| Not pursued | - | - | - | - | - | - | - |
| Disseminated to local agencies | - | - | - | - | 1 | - | 3 |
| Disseminated to international agencies | - | 3 | - | - | - | - | 6 |
| Other types of disposal | - | 4 | - | 2 | - | 1 | 25 |
| **International co-operation and assistance** | | | | | | | |
| Letters of request for assistance | 1 | - | - | 1 | - | - | 1 |
| Number of requests made to other jurisdictions | - | - | - | 1 | - | - | 44 |
| **Prosecutions** | | | | | | | |
| Local prosecutions for financial crime | - | - | - | - | 2 | 3 | 8 |
| Prosecutions in other jurisdictions where evidence contributed | 1 | - | - | - | 1 | - | 1 |
| **Proceeds of crime asset recovery** | | | | | | | |
| Assets frozen (US$000) | - | - | - | - | - | - | 1,476 |
| Assets seized (US$000) | - | - | - | - | - | - | 60 |
| Assets confiscated | - | - | - | - | - | - | - |

# Bermuda

**Table D.C: Regulatory resources**

| | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 |
|---|---|---|---|---|---|---|---|
| **Resources** | | | | | | | |
| Total staff in post | 60 | 66 | 71 | 83 | 84 | 107 | 131 |
| Total annual revenue (Bd$000) | 10,039 | 12,237 | 15,414 | 23,596 | 22,483 | 28,971 | 29,250 |
| **Licences** | | | | | | | |
| Licences in issue | 2,639 | 2,795 | 2,647 | 2,694 | 2,857 | 2,879 | 2,645 |
| Licences in each class: | | | | | | | |
| Banking | 5 | 5 | 5 | 5 | 5 | 5 | 5 |
| Investment business | 52 | 54 | 52 | 53 | 57 | 57 | 61 |
| Trust business | 29 | 32 | 31 | 33 | 33 | 32 | 31 |
| Collective investment schemes | 912 | 1,022 | 1,149 | 1,182 | 1,302 | 1,303 | 1,133 |
| Fund administrators[3] | - | - | - | - | - | - | 41 |
| Money service business[4] | - | - | - | - | - | 1 | 2 |
| Insurance | 1,641 | 1,682 | 1,410 | 1,421 | 1,460 | 1,481 | 1,372 |
| **Inspections** | | | | | | | |
| On site inspections completed | 16 | 20 | 17 | 32 | 26 | 43 | 34 |
| Inspections by licence class[5]: | | | | | | | |
| Banking | 6 | 3 | 5 | 5 | 4 | 4 | 2 |
| Investment business | 10 | 15 | 7 | 11 | 2 | 7 | 4 |
| Trust business | - | 2 | 5 | 12 | 7 | 5 | 2 |
| Collective investment schemes/funds | - | - | - | - | - | - | - |
| Fund administrators | - | - | - | - | - | - | 6 |
| Money service business | - | - | - | - | - | - | 0 |
| Insurance | - | - | - | 4 | 13 | 27 | 20 |

[3] Fund administrators were required to be licensed from 7 March 2008.

[4] Money service businesses required licenses from 16 January 2007.

[5] There is no on site regime in place for investment funds. The trust business onsite programme began in 2003. The effective start date for the onsite program for fund administrators was 7 March 2008.

**Table D.D: Financial crime**

| | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 |
|---|---|---|---|---|---|---|---|
| Total staff in post[6] | 4 | 5 | 8 | 7 | 9 | 9 | 5 |
| **Suspicious transaction reports:** | | | | | | | |
| Received | 2570[7] | 275 | 162 | 200 | 314 | 246 | 256 |
| Investigated | 42 | 16 | 26 | 14 | 1 | 4 | 24 |
| Not pursued | - | - | - | - | - | - | - |
| Disseminated to local agencies | - | - | - | - | - | - | 5 |
| Disseminated to international agencies | 23 | 50 | 49 | 39 | 45 | 37 | 25 |
| Other types of disposal | 2528[8] | 259 | 136 | 186 | 314 | 204 | 232 |
| **International co-operation and assistance** | | | | | | | |
| Letters of request for assistance | 2 | 3 | 9 | 8 | 6 | 7 | 6 |
| Number of requests made to other jurisdictions | - | 3 | 4 | 4 | 4 | 8 | 6 |
| **Prosecutions** | | | | | | | |
| Local prosecutions for financial crime | 7 | 6 | 9 | 5 | 9 | 6 | 8 |
| Prosecutions in other jurisdictions where evidence contributed | 3 | 1 | 7 | 6 | 10 | 16 | 5 |
| **Proceeds of crime asset recovery** | | | | | | | |
| Assets frozen (Bd$000) | - | - | - | - | - | - | - |
| Assets seized (Bd$000) | - | 207 | 149 | 525 | 1,771 | 129 | 45,703 |
| Assets confiscated (Bd$000) | - | 121 | 93 | 467 | 1,724 | 85 | 22,894 |

[6] 2002-2007 figures relate to the Financial Investigation Unit of the Bermuda Police Service. Figures for 2008 and 2009 relate to the Financial Investigation Agency.

[7] The high number of STRs received during 2002 can be attributed to the activities of certain entities that were closed down during that period.

[8] STRs retained for intelligence value.

## British Virgin Islands

**Table D.E: Regulatory resources**

| | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 |
|---|---|---|---|---|---|---|---|
| **Resources** | | | | | | | |
| Total staff in post | 81 | 97 | 114 | 121 | 127 | 130 | 131 |
| Total annual revenue (US$000) | 113,837 | 112,940 | 121,789 | 145,947 | 159,065 | 178,243 | 184,599 |
| **Licences** | | | | | | | |
| Licences in issue | 3013 | 3010 | 3285 | 3589 | 3836 | 3995 | 4153 |
| Licences in each class: | | | | | | | |
| Banking | 13 | 11 | 10 | 8 | 9 | 9 | 9 |
| Fiduciary | 194 | 221 | 235 | 232 | 231 | 234 | 206 |
| Investment business | 2446 | 2391 | 2613 | 2886 | 3112 | 3280 | 3534 |
| Insurance | 360 | 387 | 427 | 463 | 484 | 472 | 404 |
| **Inspections** | | | | | | | |
| On site inspections completed | 7 | - | 6 | 18 | 27 | 27 | 52 |
| Inspections by licence class: | | | | | | | |
| Banking and fiduciary: banks | - | - | - | 1 | 1 | - | 6 |
| Banking and fiduciary: trust companies | 7 | - | 5 | 5 | 10 | 14 | 22 |
| Investment business | - | - | - | - | - | - | 4 |
| Insurance | - | - | 1 | 13 | 16 | 13 | 14 |
| Insolvency | - | - | - | - | - | - | 5 |

**Table D.F: Financial crime**

| | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 |
|---|---|---|---|---|---|---|---|
| Total staff in post | - | - | 6 | 6 | 6 | 7 | 7 |
| **Suspicious transaction reports:** | | | | | | | |
| Received | 140 | 65 | 61 | 101 | 102 | 104 | 153 |
| Investigated | 140 | 65 | 61 | 101 | 102 | 75 | 104 |
| Not pursued | - | - | - | - | - | 29 | 49 |
| Disseminated to local agencies | - | - | - | - | 2 | - | 6 |
| Disseminated to international agencies | - | - | - | - | - | - | 12 |
| Other types of disposal | - | - | - | - | - | - | - |
| **International co-operation and assistance**[9] | | | | | | | |
| Letters of request for assistance | - | - | 33 | 52 | 26 | 33 | 16 |
| Number of requests made to other jurisdictions | 3 | - | - | 4 | 3 | 7 | 1 |
| **Prosecutions** | | | | | | | |
| Local prosecutions for financial crime | - | - | 130 | 12 | 43 | 21 | 2 |
| Prosecutions in other jurisdictions where evidence contributed | - | - | - | - | - | - | - |
| **Proceeds of crime asset recovery** | | | | | | | |
| Assets frozen (US$000) | - | - | 1,700 | 52,071 | - | 1,600 | 45,455 |
| Assets seized / confiscated (US$000) | - | - | 445 | 4,138 | 2,622 | 46,314 | 45,455 |

[9] These figures include AML and general statistics. Additional data on FSC and FIU has not been included.

# Cayman Islands

**Table D.G: Regulatory resources**

| | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 |
|---|---|---|---|---|---|---|---|
| **Resources** | | | | | | | |
| Total staff in post | 90 | 88 | 92 | 95 | 104 | 116 | 122 |
| Total annual revenue (KY$000) | 10,012 | 5,572[10] | 11,999 | 12,515 | 17,517 | 18,834 | 19,300 |
| **Licences** | | | | | | | |
| Licences in issue | 2,399 | 2,307 | 2,337 | 2,357 | 2,367 | 2,386 | 2,374 |
| Licences in each class: | | | | | | | |
| Banks | 382 | 347 | 318 | 305 | 291 | 281 | 278 |
| Fiduciary Services | 347 | 333 | 320 | 318 | 333 | 320 | 318 |
| Insurance | 742 | 786 | 837 | 871 | 907 | 940 | 951 |
| Investment and securities[11] | 922 | 835 | 856 | 856 | 829 | 838 | 820 |
| Money services businesses | 6 | 6 | 6 | 7 | 7 | 7 | 7 |
| **Inspections** | | | | | | | |
| On site inspections completed | 94 | 33 | 53 | 50 | 53 | 53 | 51 |
| Inspections by licence class: | | | | | | | |
| Banking[12] | 68 | 15 | 31 | 20 | 19 | 9 | 23 |
| Fiduciary services[13] | 19 | 9 | 12 | 2 | 4 | 6 | 3 |
| Insurance[14] | 6 | 8 | 9 | 12 | 8 | 11 | 13 |
| Investment and securities | 1 | 1 | 1 | 16 | 22 | 27 | 12 |

[10] The figures reflect the half-year position as the Authority transitioned from calendar year to fiscal year ending in June.

[11] Registered mutual funds are not included in the investments and securities or licences in issue total as they are not subject to licensing. These figures are: 2002 – 3,593, 2003 – 4,168, 2004 – 5,249, 2005 – 6,429, 2006 – 7,481, 2007 – 8,751, 2008 – 9,231.

[12] All fiscal years ending June, except for 2002, which was on a calendar year basis.

[13] Calendar year.

[14] Inspections have been under-reported in the past. An insurance manager may have several insurance companies under management that have to be inspected.

**Table D.H: Financial crime**

| | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 |
|---|---|---|---|---|---|---|---|
| Total staff in post | - | - | 6 | 6 | 6 | 7 | 7 |
| **Suspicious transaction reports:** | **2002** | **2003-4** | **2004-5** | **2005-6** | **2006-7** | **2007-8** | **2008-9** |
| Received | 443 | 282 | 244 | 221 | 219 | 247 | 320 |
| Investigated | - | - | 195 | 170 | 189 | 213 | 284 |
| Not pursued | - | - | 49 | 51 | 30 | 34 | 36 |
| Disseminated to local agencies | - | - | 36 | 27 | 28 | 36 | 87 |
| Disseminated to international agencies | - | - | 20 | 19 | 33 | 34 | 22 |
| Other types of disposal | - | - | 32 | 44 | 26 | 45 | 57 |
| **International co-operation and assistance** | **2002** | **2003** | **2004** | **2005** | **2006** | **2007** | **2008** |
| Letters of request for assistance | 46 | 55 | 46 | 46 | 45 | 27 | 35 |
| Number of requests made to other jurisdictions | 6 | 1 | 1 | 2 | - | 4 | 3 |
| **Prosecutions** | | | | | | | |
| Local prosecutions for financial crime | - | - | - | 3 | 16 | 14 | 9 |
| Prosecutions in other jurisdictions where evidence contributed | 7 | 5 | 9 | 2 | 6 | 4 | 2 |
| **Proceeds of crime asset recovery** | | | | | | | |
| Assets frozen (KY$000) | 7,700 | 64,400 | 31,827 | 178 | 21,376 | 227 | 298 |
| Assets seized | - | - | - | - | - | - | - |
| Assets confiscated (KY$000) | - | 3,604 | - | - | 4,677 | 902 | 103 |

## Gibraltar

**Table D.I: Regulatory resources**

| | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 |
|---|---|---|---|---|---|---|---|
| **Resources** | | | | | | | |
| Total staff in post | 14 | 16 | 18 | 21 | 24 | 27 | 31 |
| Total annual revenue (£000)[15] | - | 913 | 1,279 | 1,237 | 1,464 | 1,591 | 1,708 |
| **Licences** | | | | | | | |
| Licences in issue | 229 | 231 | 242 | 258 | 273 | 307 | 308 |
| Licences in each class: | | | | | | | |
| Banking | 19 | 18 | 17 | 18 | 18 | 18 | 19 |
| Insurance | 58 | 64 | 73 | 83 | 88 | 94 | 97 |
| Investment | 74 | 71 | 72 | 75 | 85 | 108 | 120 |
| Trust and company service providers | 78 | 78 | 80 | 82 | 82 | 87 | 72 |
| **Inspections** | | | | | | | |
| On site inspections completed | 28 | 38 | 63 | 61 | 58 | 83 | 88 |
| Inspections by licence class: | | | | | | | |
| Banking | 21 | 15 | 36 | 21 | 18 | 16 | 14 |
| Fiduciary | 7 | 21 | 13 | 14 | 19 | 33 | 25 |
| Insurance | - | - | 1 | 13 | 12 | 12 | 24 |
| Investment | - | 2 | 13 | 13 | 9 | 22 | 25 |

[15] Annual revenue is from the audited financial statements as at 31 March of the following years: 2002-3. 2003-4, 2004-5, 2005-6, 2006-7, 2007-8 and 2008-9.

**Table D.J: Financial Crime**

| | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 |
|---|---|---|---|---|---|---|---|
| Total staff in post | 7 | 7 | 6 | 5 | 5 | 5 | 6 |
| **Suspicious transaction reports:** | | | | | | | |
| Received | 180 | 130 | 123 | 108 | 118 | 142 | 270 |
| Investigated | 140 | 82 | 80 | 49 | 81 | 97 | 148 |
| Not pursued | 40 | 48 | 43 | 59 | 37 | 45 | 122 |
| Disseminated to local agencies | 140 | 82 | 80 | 49 | 81 | 97 | 148 |
| Disseminated to international agencies | 48 | 28 | 35 | 24 | 32 | 63 | 42 |
| Other types of disposal | - | - | - | - | - | - | - |
| **International co-operation and assistance** | | | | | | | |
| Letters of request for assistance | - | 56 | 32 | 47 | 50 | 46 | 50 |
| Number of requests made to other jurisdictions | - | - | - | - | - | - | - |
| **Prosecutions** | | | | | | | |
| Local prosecutions for financial crime | 25 | 19 | 14 | 39 | 39 | 28 | 35 |
| Prosecutions in other jurisdictions where evidence contributed | 15 | 23 | 19 | 34 | 36 | 29 | 42 |
| **Proceeds of crime asset recovery** | | | | | | | |
| Assets frozen | - | - | - | - | - | - | - |
| Assets seized | - | - | - | - | - | - | - |
| Assets confiscated | - | - | - | - | - | - | - |

# Guernsey

**Table D.K: Regulatory resources**

| | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 |
|---|---|---|---|---|---|---|---|
| **Resources** | | | | | | | |
| Total staff in post[16] | 63 | 77 | 82 | 89 | 91 | 94.1 | 89.3 |
| Total annual revenue (£000) | 5,805 | 6,610 | 7,198 | 7,799 | 8,662 | 9,683 | 10,013 |
| **Licences** | | | | | | | |
| Licences in issue | 1,415 | 1,364 | 1,386 | 1,423 | 1,505 | 1,590 | 1,737 |
| Licences in each class: | | | | | | | |
| Banking | 67 | 61 | 54 | 50 | 50 | 47 | 48 |
| Fiduciary | 200 | 202 | 201 | 198 | 205 | 203 | 203 |
| Investment[17] | 428 | 428 | 446 | 486 | 554 | 636 | 680 |
| Insurance | 720 | 673 | 685 | 689 | 696 | 704 | 806 |
| **Inspections** | | | | | | | |
| On site inspections completed[18] | 133 | 128 | 123 | 96 | 107 | 97 | 115 |
| Inspections by licence class: | | | | | | | |
| Banking | 26 | 26 | 22 | 12 | 20 | 17 | 16 |
| Fiduciary | 53 | 52 | 51 | 48 | 43 | 40 | 27 |
| Insurance | 28 | 31 | 27 | 20 | 30 | 28 | 31 |
| Investment | 26 | 19 | 24 | 16 | 14 | 12 | 32 |

[16] Staff numbers are actual numbers until 2006 and on a full-time equivalent basis from 2007.

[17] Investment funds are not included within the investment numbers, nor within total licences in issue. These figures are: 2002 – 672, 2003 – 662, 2004 – 703, 2005 – 778, 2006 – 691, 2007 – 1,122, 2008 – 1,216.

[18] The on site inspections to licensees also cover entities managed and administered by the licensee. This applies particularly in the investment and insurance areas where, for example, a review of the effectiveness of the AML/CFT frameworks of licensed managers, also encompasses those licensed insurers which they manage. In 2008, the onsite inspections figure includes 9 inspections of registered businesses.

**Table D.L: Financial crime**

| | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 |
|---|---|---|---|---|---|---|---|
| Total staff in post[19] | - | 14.5 | 14.5 | 14.5 | 15.5 | 16.5 | 17.5 |
| **Suspicious transaction reports:** | | | | | | | |
| Received | 777 | 705 | 757 | 650 | 555 | 760 | 519 |
| Investigated | 638 | 583 | 634 | 534 | 383 | 557 | 418 |
| Not pursued | 139 | 122 | 123 | 116 | 172 | 203 | 101 |
| Disseminated to local agencies | 628 | 556 | 434 | 445 | 304 | 393 | 436 |
| Disseminated to international agencies | 1,174 | 661 | 617 | 552 | 370 | 427 | 543 |
| Other types of disposal | - | - | - | - | - | - | - |
| **International co-operation and assistance** | | | | | | | |
| Letters of request for assistance | - | - | 35 | 60 | 52 | 46 | 43 |
| Number of requests made to other jurisdictions | - | - | - | - | 1 | 1 | 2 |
| **Prosecutions** | | | | | | | |
| Local prosecutions for financial crime | - | 1 | - | 1 | 1 | 5 | 1 |
| Prosecutions in other jurisdictions where evidence contributed | - | - | 35 | 60 | 52 | 46 | 43 |
| **Proceeds of crime asset recovery** | | | | | | | |
| Assets frozen (£000) | - | 4,195 | 107,999 | 3,483 | 105,160 | 3,252 | 234 |
| Assets seized (£000) | - | 24 | - | 17 | - | - | - |
| Assets confiscated (£000) | - | 92 | 25 | 336 | 83 | 336 | 68 |

[19] Includes police Fraud staff outside of FIU.

## Isle of Man

**Table D.M: Regulatory resources**

| | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 |
|---|---|---|---|---|---|---|---|
| Resources | | | | | | | |
| Total staff in post[20] | 81 | 88 | 91.5 | 91.16 | 94.76 | 96.76 | 107.16 |
| Total annual revenue[21] (£000) | 8,585 | 7,940 | 8,111 | 7,612 | 8,128 | 7,248 | 12,609 |
| **Licences[22]** | | | | | | | |
| Licences in issue | 515 | 582 | 607 | 609 | 676 | 750 | 778 |
| Licences in each class: | | | | | | | |
| Banking | 61 | 60 | 57 | 56 | 51 | 48 | 44 |
| Corporate services | 91 | 140 | 166 | 175 | 179 | 172 | 185 |
| Investment | 82 | 88 | 86 | 88 | 88 | 92 | 87 |
| Trust services | - | - | - | - | 26 | 91 | 120 |
| Insurance | 263 | 277 | 280 | 275 | 313 | 327 | 318 |
| Gambling | 18 | 17 | 18 | 15 | 19 | 20 | 24 |
| **Inspections** | **2002** | **2003** | **2004** | **2005** | **2006** | **2007** | **2008** |
| On site inspections completed[23] | 162 | 210 | 164 | 254 | 252 | 241 | 287 |
| Inspections by licence class: | | | | | | | |
| Banking | 31 | 22 | 17 | 19 | 41 | 48 | 59 |
| Investment | 52 | 46 | 33 | 71 | 74 | 89 | 47 |
| Corporate and trust services | - | 28 | 34 | 64 | 59 | 43 | 100 |
| Insurance | N/C | 35 | 41 | 61 | 33 | 18 | 37 |
| Gambling | 79 | 79 | 39 | 39 | 45 | 43 | 44 |

[20] Includes staff from FSC (including Companies Registry), Insurance and Pensions Authority and Gambling Supervision Commission.

[21] FSC only.

[22] Includes staff from FSC, Insurance and Pensions Authority and Gambling Supervision Commission.

[23] Includes FSC, Insurance and Pensions Authority and Gambling Supervision Commission. In the years 2005-07, joint inspections carried out by FSC for licence classes 'banking', 'investment' and 'corporate and trust services' were recorded separately. In other years, joint visits were allocated to the lead team, removing double counting.

**Table D.N: Financial crime**

| | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 |
|---|---|---|---|---|---|---|---|
| Total staff in post | 18 | 17 | 17 | 19 | 20.5 | 21.5 | 23.5 |
| **Suspicious transaction reports:** | | | | | | | |
| Received | 1,836 | 1,916 | 2,315 | 2,265 | 1,652 | 1,561 | 918 |
| Investigated[24] | 1,836 | 1,916 | 2,315 | 2,265 | 1,652 | 1,561 | 918 |
| Not pursued | - | - | - | - | - | - | - |
| Disseminated to local agencies | - | - | - | 376 | 333 | 262 | 150 |
| Disseminated to international agencies | - | - | - | 301 | 302 | 213 | 283 |
| Other types of disposal | - | - | - | - | 610 | 590 | 424 |
| **International co-operation and assistance[25]** | | | | | | | |
| Letters of request for assistance | - | - | 117 | 108 | 103 | 84 | 98 |
| Number of requests made to other jurisdictions | - | - | - | - | 85 | 109 | 153 |
| **Prosecutions[26]** | | | | | | | |
| Local prosecutions for financial crime | - | - | - | 3 | 7 | 7 | 2 |
| Prosecutions in other jurisdictions where evidence contributed | - | - | 7 | 3 | 3 | 4 | 1 |
| **Proceeds of crime asset recovery** | | | | | | | |
| Assets frozen (£000s) | - | 1,080 | 557 | 0 | 250 | 0 | 675 |
| Assets seized | - | - | - | - | - | - | - |
| Assets confiscated | - | - | - | - | - | - | - |

[24] Further enquiries are made with regard to all STRs/SARs; local, national and international criminal databases are checked as well as public source information. Where appropriate, they are disseminated to local/international agencies, where they may be used to supplement ongoing investigations, or may cause and investigation to be initiated.

[25] Includes: Financial Supervision Commission and Attorney General's Chambers.

[26] Includes: Financial Crime Unit and Customs & Excise Investigation Section

# Jersey

**Table D.O: Regulatory resources**

| | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 |
|---|---|---|---|---|---|---|---|
| **Resources** | | | | | | | |
| Total staff in post | 63 | 81 | 72 | 81 | 85 | 100 | 104 |
| Total annual revenue (£000) | 10,930 | 11,727 | 12,297 | 13,463 | 13,928 | 15,179 | 15,850 |
| **Licences** | | | | | | | |
| Licences in issue | 751 | 754 | 687 | 800 | 1,078 | 1,034 | 1,097 |
| Licences in each class: | | | | | | | |
| Banking | 57 | 55 | 51 | 47 | 46 | 48 | 47 |
| Investment | 148 | 145 | 124 | 120 | 119 | 113 | 113 |
| Trust and company service providers | 245 | 248 | 190 | 184 | 279 | 188 | 186 |
| Collective investment functionaries | 126 | 138 | 158 | 281 | 359 | 381 | 438 |
| Money service business[27] | - | - | - | - | - | 5 | 5 |
| Insurance[28] | 175 | 168 | 164 | 168 | 275 | 299 | 308 |
| **Inspections**[29] | | | | | | | |
| On site inspections completed | 130 | 59 | 55 | 126 | 113 | 155 | 197 |
| Inspections by licence class: | | | | | | | |
| Banking | - | - | - | 25 | 25 | 27 | 26 |
| Investment | - | - | - | 24 | 20 | 23 | 17 |
| Trust and company service providers | - | - | - | 54 | 32 | 72 | 53 |
| Collective investment schemes | - | - | - | 23 | 22 | 27 | 19 |
| Insurance[30] | - | - | - | - | 14 | 6 | 16 |
| Anti-money laundering unit[31] | - | - | - | - | - | - | 66 |

[27] Money service business was not a regulated activity until 2007.

[28] Includes insurance and general insurance mediation business

[29] The Commission restructured its compliance division in 2004. Up to this time, information was recorded on the total number of inspections conducted, rather than licence classes covered by an inspection. Consequently, information in respect of inspections by licence class is not available for the years 2002-2004.

[30] Includes insurance and general insurance mediation business

[31] The Anti-money laundering unit did not start supervising compliance with AML/CFT legislation until 2008.

**Table D.P: Financial crime**

| | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 |
|---|---|---|---|---|---|---|---|
| Total staff in post | 17.5 | 17.5 | 17.5 | 19 | 19 | 19 | 19 |
| **Suspicious transaction reports:** | | | | | | | |
| Received | 1,612 | 1,272 | 1,248 | 1,162 | 1,034 | 1,517 | 1,404 |
| Investigated | 1,612 | 1,272 | 1,248 | 1,162 | 1,034 | 1,517 | 1,404 |
| Not pursued[32] | - | - | - | - | - | - | - |
| Disseminated to local agencies | - | - | - | - | - | - | - |
| Disseminated to international agencies | - | - | - | - | - | - | - |
| Other types of disposal | - | - | - | - | - | - | - |
| **International co-operation and assistance** | | | | | | | |
| Letters of request for assistance | 94 | 114 | 127 | 107 | 77 | 77 | 91 |
| Number of requests made to other jurisdictions | 23 | 17 | 37 | 10 | 6 | 16 | 6 |
| **Prosecutions** | | | | | | | |
| Local prosecutions for financial crime | - | - | - | 7 | 10 | 7 | 8 |
| Prosecutions in other jurisdictions where evidence contributed | | | | | | | |
| **Proceeds of crime asset recovery** | | | | | | | |
| Assets frozen (£000) | 843 | 197,978 | 16,921 | 46 | 15,001 | 49,552 | 3,862 |
| Assets seized (£000) | 843 | 197,978 | 16,921 | 46 | 15,001 | 49,552 | 3,862 |
| Assets confiscated (£000) | - | - | - | - | 1,113 | 1,595 | 105 |

[32] Information collected from 1 January 2009.

# Turks and Caicos Islands

**Table D.Q: Regulatory resources**

| | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 |
|---|---|---|---|---|---|---|---|
| **Resources** | | | | | | | |
| Total staff in post | 21 | 22 | 22 | 21 | 23 | 18 | 20 |
| Total annual revenue (US$000)[33] | N/C | 4,510 | 4,909 | 6,480 | 6,952 | 7,715 | 7,725 |
| **Licences** | | | | | | | |
| Licences in issue | 67 | 69 | 71 | 83 | 89 | 95 | 98 |
| Licences in each class: | | | | | | | |
| Banking | 8 | 7 | 6 | 7 | 8 | 9 | 11 |
| Corporate service providers | 31 | 32 | 34 | 36 | 38 | 43 | 43 |
| Trust service providers | 27 | 28 | 28 | 29 | 30 | 30 | 30 |
| Investment business | - | - | 1 | 6 | 7 | 7 | 8 |
| Collective investment schemes | 1 | 2 | 2 | 5 | 6 | 6 | 6 |
| **Inspections** | | | | | | | |
| On site inspections completed | - | - | 1 | 11 | 20 | 41 | 8 |
| Inspections by licence class: | | | | | | | |
| Banking | - | - | 1 | 2 | 6 | - | 3 |
| Corporate service providers | - | - | - | 4 | 7 | 25 | 3 |
| Trust service providers | - | - | - | 4 | 4 | 11 | 1 |
| Investment business | - | - | - | 1 | 2 | 3 | - |
| Collective investment schemes | - | - | - | - | 1 | 2 | 1 |

[33] Annual revenue per year end: 31 March.

**Table D.R: Financial crime**

| | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 |
|---|---|---|---|---|---|---|---|
| Total staff in post | 4 | 4 | 3 | 4 | 5 | 4 | 4 |
| **Suspicious transaction reports:** | | | | | | | |
| Received | - | - | 5 | 5 | 21 | 36 | 50 |
| Investigated | - | - | 5 | 5 | 21 | 36 | 50 |
| Not pursued | - | - | 5 | - | - | - | - |
| Disseminated to local agencies | - | - | - | - | - | 5 | 26 |
| Disseminated to international agencies | - | - | - | 5 | 9 | - | 11 |
| Other types of disposal | - | - | - | - | - | - | - |
| **International co-operation and assistance** | | | | | | | |
| Letters of request for assistance | - | - | - | 1 | 3 | 1 | 3 |
| Number of requests made to other jurisdictions | - | - | - | - | - | - | - |
| **Prosecutions** | | | | | | | |
| Local prosecutions for financial crime | - | - | - | - | - | - | - |
| Prosecutions in other jurisdictions where evidence contributed | - | - | - | - | - | - | - |
| **Proceeds of crime asset recovery** | | | | | | | |
| Assets frozen (US$000) | - | - | - | 6,000 | 26 | 186 | 16,000 |
| Assets seized (US$000) | - | - | - | 6,000 | - | 186 | 16,000 |
| Assets confiscated (US$000) | - | - | - | - | - | - | - |

**HM Treasury contacts**

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XXIX
2009

# BILLET D'ÉTAT

## TUESDAY 27th OCTOBER 2009

POLICY COUNCIL – CORPORATE TAX RATES:
PROPOSED REVIEW



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# *BILLET D'ÉTAT*

## TO THE MEMBERS OF THE STATES OF

### THE ISLAND OF GUERNSEY

I have the honour to inform you that a Meeting of the States of Deliberation will be held at **THE ROYAL COURT HOUSE, on TUESDAY, the 27th OCTOBER, 2009,** immediately before the meetings already convened for that day, to consider the item contained in this Billet d'État which has been submitted for debate.

G. R. ROWLAND
Bailiff and Presiding Officer

The Royal Court House
Guernsey
23 October 2009

# POLICY COUNCIL

## CORPORATE TAX RATES: PROPOSED REVIEW

### 1 Executive Summary

1.1 The last 12 months have seen unprecedented global economic upheaval. There has been a massive shift in the political, regulatory and economic landscape. Tax issues have dominated policy debates throughout the year, particularly in light of the enormous current (and projected) fiscal deficits throughout the Western economies.

1.2 It is in that context that, during a recent series of meetings between representatives of the States of Guernsey and Her Majesty's Treasury ('HMT'), it was communicated to the Crown Dependencies ('CDs') that it was believed that the EU Code of Conduct Group ('CCG') now consider the Zero-10 corporate tax regimes of the CDs to be non compliant with the 'spirit' of the EU Code of Conduct for business taxation.

1.3 HMT also indicated that it therefore felt it would not achieve a successful outcome in supporting the CDs in respect of achieving a positive ruling from the CCG. To that event, HMT advised that its belief was that the CDs will need to review their general corporate tax rates with a view to not only technically comply with the EU Code of Conduct but also to achieve compliance with what certain Member States now consider to be the 'spirit' of the Code.

1.4 To achieve this objective a movement from a limited to a general corporate tax rate of 10% is likely to be required. It is therefore recommended to the States that the current planned review of taxation ('Fiscal and Economic Plan, Billet XVIII, July 2009) proceeds on the presumption of a 10% general rate of corporate tax. It is also intended that Guernsey work in full partnership with the other CDs in the development of this revised corporate tax regime.

### 2 History

2.1 Guernsey's Zero-10 corporate tax regime was introduced on 1 January 2008, with Jersey and the Isle of Man following a broadly similar approach (albeit with slight timing differences). Officials from the HMT had prior sight of the new regimes and confirmed to the CDs that in their view this approach was compliant with international standards and the EU Code of Conduct. Zero-10 has been discussed at the CCG on several occasions (as recently as Spring 2009) and previous indications from the CCG was that Zero-10 would be deemed compliant.

2.2 The Zero-10 corporate tax system was developed over many years with full and lengthy discussion with the public and all stakeholders. The original catalyst was a CCG review of tax regimes which identified five 'harmful tax regimes' in Guernsey.

This figure needs to be provided in the context that this review identified 66 harmful measures across the (then 15) EU member states and associated territories.

2.3 Given the unprecedented global economic turbulence over the last 12-18 months and the significant worsening of the fiscal position of many European countries, it is believed that it is now the situation that several EU Member States no longer consider a Zero-10 corporate tax regime to be compliant with the 'spirit' of the Code. This view of non-compliance with the spirit of the Code needs to be viewed in the wider context of the EU's political direction of travel. The EU has made clear its pejorative view of zero corporate rates systems which is evident in stage II of the European Union Savings Directive ('EUSD') which imposes a heavier burden of compliance for zero rate corporate tax systems.

2.4 The EU has also in recent years deliberately sought to extend its global sphere of influence through the imposition of regulatory, competition, safety and consumer standards. Over the most recent past the EU has become more confident and assertive in dealing with third party countries (ie non EU) states in a host of areas. There is an increasing tendency for the EU to require 'equivalence' for third party countries as a prerequisite for non-discriminatory access to the EU market.

## 3 Current situation

3.1 In order to maintain its position in the global economy, Guernsey must provide certainty for its investors and maintain the respect of the international community. It is also of fundamental importance that Guernsey ensures the outcome of the next stage of the corporate tax strategy be fully sustainable in the long term, and mitigate any negative economic effects on our economy.

3.2 With the current lack of support within the CCG it is clear that Zero-10 will not achieve Code compliance. It is clear that any alternative corporate tax arrangements will require UK support to achieve CCG compliance. It is therefore reasonable to conclude that these alternative arrangements ought to be developed and agreed as soon as is practicable and that as much certainty of support from the UK needs to be gained at as early a stage as possible. Whilst no clear direction at this stage has been provided by HMT, it is believed that a movement from a limited to general corporate tax rate of at least 10% is the likeliest route to achieve such support and success as 10% is the lowest general rate of corporate tax within the EU[1].

3.3 It would therefore be appropriate to consider, consult and discuss these options at the earliest possible event. The current planned review of taxation ('Fiscal and Economic Plan, Billet XVIII, July 2009) is presently in its pre-consultation phase with work commenced by the Fiscal and Economic Policy Group and the Treasury and Resources Department. It is therefore a logical step to extend this work to include a review of the general corporate tax.

[1] Portugal and Cyprus

## 4 Future compliance negotiations

4.1 Guernsey has engaged in dialogue with the other CDs, and there is acceptance across the board of the need for each jurisdiction to review how they conform to spirit of the Code. However, in addition to this acknowledgement, Guernsey, Jersey and the Isle of Man will use this opportunity to seek reasonable, practical and appropriate recognition of the steps they intend to take. These might include full double tax agreements with EU members, removal of discriminatory practices and easier access to EU markets.

## 5 Partnership working

5.1 It is intended to work in full consultation and partnership with other CDs by sharing technical expertise through a process of mutual assistance. The preferred outcome would be a common, harmonised approach to the maintenance of globally competitive tax systems, with the intention that there should be no significant differences between the corporate tax regimes of the islands.

## 6 Process

6.1 The pre-consultation preparatory work for the second phase of the Zero-10 review has already commenced. The review would be carried out, as initially planned, by the Fiscal and Economic Policy Group of the Policy Council, in conjunction with the Treasury and Resources Department. As is standard practice, there would be a full programme of consultation with all stakeholders and with the public.

## 7 Timetable

7.1 Given the issues outlined in section four above, it is important to bring forward proposals for a revision of the corporate tax system as soon as is practicable, certainly in providing a report to the States, after full consultation and discussion, as early as possible in 2010.

## 8 Recommendation

8.1 It is recommended that the current, planned review of taxation ('Fiscal and Economic Plan', Billet XVIII, July 2009) proceeds on the presumption of a 10% general rate of corporate tax.

L S Trott
Chief Minister

19th October 2009

**(NB The Treasury and Resources Department strongly supports the proposal.)**

The States are asked to decide:-

Whether, after consideration of the Report dated 19th October 2009, of the Policy Council, they are of the opinion:-

That the current, planned review of taxation ('Fiscal and Economic Plan', Billet XVIII, July 2009) shall proceed on the presumption of a 10% general rate of corporate tax.

POLICY COUNCIL

THE STATES OF GUERNSEY

## CHIEF MINISTER STATEMENT – STATES OF DELIBERATION APRIL MEETING

### RE: CORPORATE TAX REVIEW.

Sir

I am grateful for the opportunity to provide a further update on the progress of Guernsey's corporate tax review and specifically to inform this Chamber of the timing of the publication consultation process for the review.

As I made clear in my statement in February, we are in the early stages of the development of any changes to our corporate tax regime. Since that statement, I am pleased to report that we have remained in close contact with the other Crown Dependencies and we have continued to take informal soundings from industry representatives and professionals engaged in the tax arena.

I believe it is critically important also to repeat the five key principles that are underpinning our review process. They are, that any new corporate tax regime for Guernsey:

- must be "competitive";
- must be "internationally acceptable";
- must "promote a sustainable economy in Guernsey";
- must be based on a simple, solid rationale (and not be over-complicated);
- must give rise to other benefits such as double taxation agreements;

Clearly fundamental to the continued competitiveness of Guernsey's financial services industry is the safeguarding of the broadest range of tax neutrality of financial products.

The clear overall objective of our review is to maintain a vibrant economy whilst ensuring that our regime conforms to emerging international standards which includes compliance with the EU Code of Conduct on Business Taxation. Our recent experience of the global economic crisis has demonstrated that the resilience and strength of our economy and its financial sector is, in part at least, clearly attributable to its breadth and diversity. This will not be put at risk. We will therefore ensure that our regime is as competitive as, or is more competitive than, any key competitor jurisdiction. To that event we will ensure that we do not, through either the timing any implementation process or indeed the review process itself, undermine our economy by placing it at a competitive disadvantage to other jurisdictions.

I am therefore pleased to report that we are co-ordinating the publication of our consultation with that of the States of Jersey. This has been agreed in recent discussions with our counterparts in Jersey and we are working in close collaboration with them on our respective documents themselves. I am also pleased to report that it is the belief and desire at the highest political level of both Channel Islands that the ultimate outcomes of our corporate tax reviews will indeed be similar and comparable.

The public consultation process will therefore commence in late May and take place during the early summer months. We will publish the results of this exercise during the autumn. It is then our intent, again as it is the intent in Jersey, for the Treasury Minister to then be able to communicate our direction of travel, that is an outline of any likely proposals, to this Chamber in his December budget statement.

LS Trott
Chief Minister, States of Guernsey
28th, April, 2010

# POLICY COUNCIL
THE STATES OF GUERNSEY

**CHIEF MINISTER STATEMENT – STATES OF DELIBERATION FEBRUARY MEETING**

**RE: CORPORATE TAX REVIEW.**

Sir

I am grateful for the opportunity to provide an update on the progress of Guernsey's corporate tax review.

I would like to emphasise that we are still at a very early stage of development of changes to our corporate tax regime. We have begun to take informal soundings from industry representatives and professionals engaged in the tax arena. We have also, jointly with the other Crown Dependencies, commissioned a professional review of corporate tax regimes throughout Europe.

Our staff and advisors are presently working on the broad parameters of various potential options. We will shortly be seeking to outline a preliminary timetable of the review which will include several stages.

We have indicated that our thinking is likely to be guided by a presumption of a general rate of 10% as opposed to today's zero rate but that is our guide: nothing more, nothing less. Clearly, the concept of the term 'general rate' remains to be determined and that shall be done through discussion and consultation.

I therefore strongly believe it is important to stress at this juncture the five key principles that are underpinning our review process. They are, that any new corporate tax regime for Guernsey:

over/

1 must be “internationally acceptable”;

2 must be “competitive”;

3 must “promote a sustainable economy in Guernsey”;

4 must be based on a simple, solid rationale (and not over-complicated);

5 must give rise to other benefits such as double taxation agreements;

And clearly fundamental to the continued competitiveness of Guernsey’s financial services industry is the safeguarding of the broadest range of tax neutrality of financial products.

I would like to stress for the record that we will not undermine Guernsey’s economic position during this process. Indeed the very purpose of the review is to maintain a vibrant economy whilst ensuring that our regime conforms to emerging international standards which includes compliance with the EU Code of Conduct on Business Taxation.

We will therefore ensure that our regime is as competitive as, or is more competitive than, any key competitor jurisdiction. These words and this message are important for not just for audiences here today but also to those key industry influencers based in onshore financial centres.

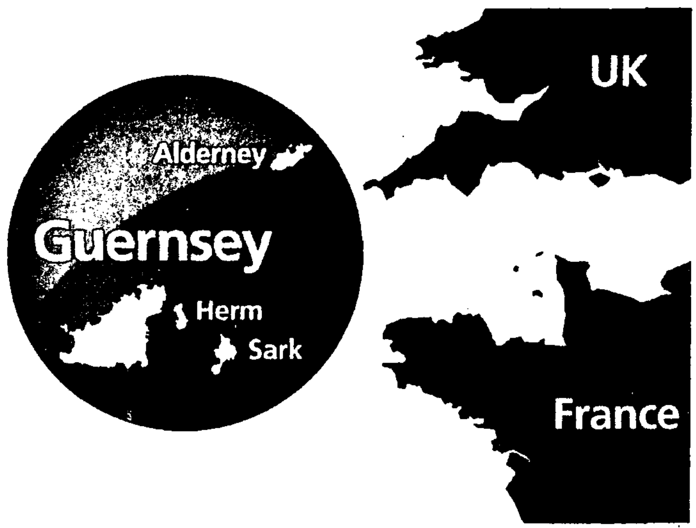
LS Trott
Chief Minister, States of Guernsey

24th, February, 2010

# BACKGROUND INFORMATION ON GUERNSEY

## a. GEOGRAPHY

Guernsey is situated in the English Channel about 30 miles from the French coast and 70 miles to the south of England. The Island covers an area of 24 square miles and has a population of about 62,000.






## b. HISTORY

The Island's links to the British Crown dates from a time when it formed part of the Duchy of Normandy. In 1066, William, Duke of Normandy (The Conqueror) also became King of England and although the Duchy lands were later lost by King John to become incorporated into the then Kingdom of France in 1204, Guernsey remained loyal to the British Crown. That loyalty has remained to the present day.

## c. CONSTITUTIONAL STATUS AND GOVERNMENT

Guernsey is a dependency of the British Crown (being neither part of the United Kingdom nor Great Britain) and enjoys full independence, except for international relations and defence, which are the responsibility of the Crown through the United Kingdom Government. It has its own parliament called the States of Deliberation.

The Crown retains ultimate responsibility for the good governance of the Bailiwick acting through the Privy Council. The United Kingdom's Secretary of State for Justice is the member of the

Privy Council primarily concerned with the affairs of the Island and is the channel of communication between the Bailiwick, the Crown and the United Kingdom Government.

The Island is not represented in the United Kingdom Parliament and Acts of Parliament do not apply automatically to it.

Guernsey's formal special relationship with the European Union (EU) is set out in Protocol 3 to the United Kingdom's Treaty of Accession. The effect of this Protocol is that the Island is within the Common Customs Area and the Common External Tariff of the European Community, and consequently enjoys access to Member States for physical exports of agricultural and industrial products without tariff barriers. However, the remaining provisions of the EU Treaties do not apply to Guernsey and therefore for all purposes other than customs it is effectively a "third country".

The States of Deliberation is Guernsey's legislative assembly. It is comprised of the Bailiff (Chief Judge) as ex-officio Presiding Officer, 45 People's Deputies, 2 Representatives of the States of Alderney, and the 2 Law Officers of the Crown.

The People's Deputies are elected by universal adult suffrage. The Island is divided into seven constituencies, each electing either six or seven members. The Alderney representatives are elected annually by the States of Alderney. The States of Deliberation sit for a term of four years after which there is a general election, the next of which is due in April 2012.

## d. ECONOMY

Guernsey has a robust economy which demonstrated remarkable resilience to the global financial crisis. The total value of the economy, as an estimate of GDP, was calculated to be £1.9 billion ($2.9bn) in 2008 (the latest official figures). Forecasts for GDP indicate a mild slowdown was experienced in 2010. Household income levels are, on average a third higher than the UK.

The finance industry is the largest sector of the economy accounting for around 40% of GDP and has been the driving force behind Guernsey's recent economic growth. Guernsey's finance sector is more broadly based and diversified that many offshore financial centres. Whilst banking accounts for the largest proportion of the sector, Guernsey also has strong funds, trusts and insurance sectors. Indeed, it is Europe's leading location for captive insurance and is also home to the Channel Islands Stock Exchange.

Guernsey's non-financial sector is also broader in scope than many similar jurisdictions. Business and information services are rapidly growing and provide a significant and growing economic contribution. The Bailiwick is a major e-commerce hub and is home to large international franchise operations such as Specsavers and other international retailers. Traditional economic activities such as farming and tourism have experienced a decline in recent decades, although the Bailiwick has established a niche in the high end, short break market and as such is home to numerous luxury hotels and restaurants.

Employment rates in Guernsey are high with 77.2% of the working age population being economically active in 2008 compared to 71.5% in the UK and an EU average of 65.9% (27 countries). Unemployment in Guernsey has historically been exceptionally low and, although the unemployment rate has recently increased, under the International Labour Office Definition of unemployment only 1.0% of the workforce was unemployed at the end of December 2009.

Further information about the Guernsey economy and its recent trends, including economic forecasts for 2009 and 2010, is provided in the Guernsey Annual Economic Overview 2009. (See Section F.)

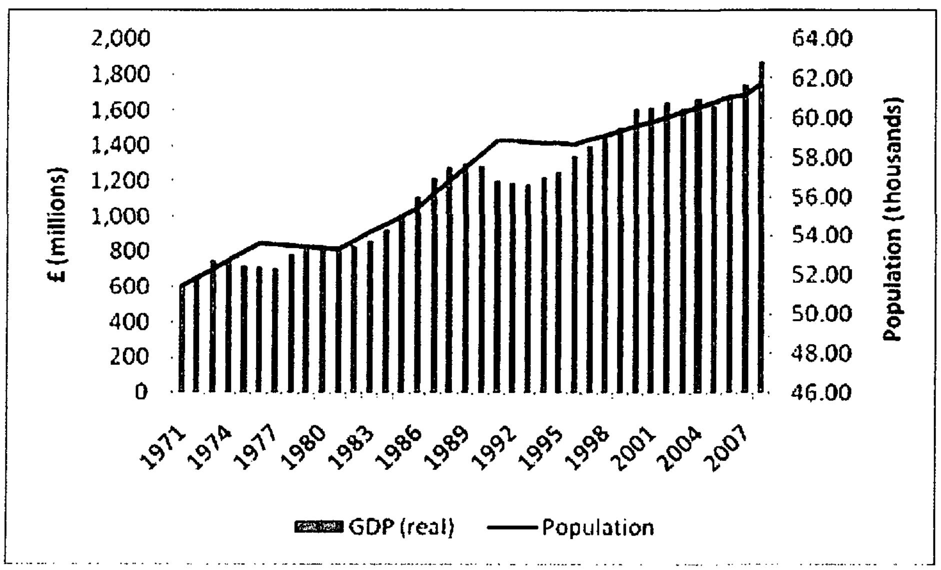
## e. FACTS AND FIGURES

<u>Snapshot of the Economy:</u>

- Total GDP 2008: £2bn *(approx $3bn)*
- Average annual GDP growth over 10 years: 2.7%
- Estimated average annual earnings 2008: £32,500 *(approx $48,800)*

<u>Historical Data:</u>

Chart 1: GDP and Population Growth




<u>Recent Economic Indicators:</u>

- Population March 2010: 62,274
- Inflation (retail) in March 2010 RPIX 3.1%
  RPI 3.4%
- Annual average workforce 2009: 32,223
- Unemployment (by International Labour Office definitions): 1.0%

Financial Services Sector

- Financial services employment accounted for 21.9% of Guernsey's total workforce in 2009.
- Financial Services accounted for 40% of Guernsey's GDP in 2008.
- In December 2009 there were:
    - 44 Licensed Banks with a total value of deposits of £117 billion (approx $176 billion);
    - 1208 funds with a total value of £184 billion (approx $276 billion);
    - 355 Licensed Insurers (International); and
    - 323 cells of Protected Cell Companies.

# TAXATION and TAX TRANSPARENCY

## a. Summary of the Current Tax Regime

Taxes in Guernsey are levied on the basis of adequately funding public services and ensuring that Guernsey's economy remains strong. In Guernsey, the Director of Income Tax is responsible for administering legislation on Income Tax, Dwellings Profits Tax[1] and the retention tax in respect of savings income. Guernsey does not apply Value Added Tax (or GST), but does have a range of different indirect taxes and duties.

The personal Income Tax rate is 20%. From 1 January 2008, the current standard rate of Income Tax for companies is 0%. For profits of licensed institutions derived from the carrying on of "banking business"[2] and any other company in the business of providing or making available credit facilities, there is an intermediate rate of 10%. For profits of regulated activities of Guernsey utilities and income from Guernsey land and buildings, there is a higher rate of 20%. Guernsey resident shareholders are taxable on the income of companies in which they have a beneficial interest, not only on actual distributions but also on specified deemed distributions. These measures were introduced[3] to fulfil Guernsey's commitment on rollback/standstill under the EU Code of Conduct on Business Taxation.

## b. Review of Corporate Taxation

During the course of 2009 it became apparent that due to a much changing global economic, regulatory and political environment, certain members of the EU Code of Conduct Group on Business taxation no longer considered that zero/10 tax regimes to be compliant with the "spirit" of the Code of Conduct. Guernsey is therefore presently undertaking a review of its corporate tax regime for which a full public consultation document will be published in late May. A copy of the Report agreed to by the States of Guernsey, along with two recent statements made by the Chief Minister to the Assembly, are included in Tab 5.

Guernsey is committed to meeting the emerging international consensus on corporate taxation. As such, a key objective of the review is to ensure that any revised regime meets the criteria of international acceptability. Just as important are the other four key criteria that the States has set for any alternative regime, namely that any new corporate tax regime for Guernsey must be competitive; promote a sustainable economy; be based on a simple, solid rationale; and must give rise to other benefits such as double taxation agreements. Fundamental to this is the preservation of tax neutrality of financial service products, albeit not providers.

During this process Guernsey has committed to working in close collaboration with the other Crown Dependencies, Jersey and the Isle of Man, which are similarly undertaking reviews of

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[1] Designed to prevent speculation on the property market. There is no capital gains tax in Guernsey, nor are there other taxes on capital.

[2] "Banking business" is defined in the Fourth Schedule to the Income Tax (Guernsey) Law, 1975, as amended as "*business carried on by a bank that is a licensed institution under the Banking Supervision (Bailiwick of Guernsey) Law, 1994 and any business that, in the usual course of its business provides or makes available credit facilities*".

[3] See policy explanation on identification of "harmful" tax measures and response set out in the Report in Billet d'État XI of 2006 (http://www.gov.gg/ccm/policy-and-hr/billets--resolutions/2006/blllet-detat-xi-2006.en). The Income Tax (Guernsey) Law, 1975, as amended, is available at http://www.gov.gg/ccm/navigation/income-tax/income-tax-legislation/income-tax--guernsey--law-1975/.

their corporate tax regimes as this time. It is Guernsey's belief that the ultimate outcome of the three separate reviews will be broadly similar and comparable.

c. **Information Gathering Powers.**

In 2005 the States of Guernsey approved legislation giving the Director of Income Tax additional powers to obtain information from taxpayers in respect of their own tax affairs, and from third persons. This information is obtainable not only for domestic tax administration but also to give effect to Guernsey's international obligations arising under tax information exchange agreements.

The full report and appendix is available at http://www.gov.gg/ccm/treasury-and-resources/income-tax/website/publications/states-reports/information-powers.en.

The subsequent legislation approved by the States of Guernsey, "The Income Tax (Guernsey) (Amendment) Law, 2005" is available at http://www.guernseylegalresources.gg/ccm/legal-resources/laws/taxation/income-tax-guernsey-amendment-law-2005.en.

d. **Tax Information Exchange Agreements**

i. TIEAs concluded or in negotiation

On 21 February 2002 Guernsey publicly committed to complying with the OECD's principles of effective exchange of tax information.[4] Guernsey signed its first TIEA, with the United States, on 19 September 2002. It has been fully operative since 2006. In total, Guernsey has concluded 13 TIEAs so far:

- The United States (19 September 2002)*
- The Netherlands (25 April 2008)*
- Denmark (28 October 2008)*
- The Faroe Islands(28 October 2008)*
- Finland (28 October 2008)*
- Greenland(28 October 2008)*
- Iceland (28 October 2008)*
- Norway (28 October 2008)*
- Sweden (28 October 2008)*
- The United Kingdom (20 January 2009)*
- France (24 March 2009)
- Germany (26 March 2009)
- Ireland (26 March 2009)

[4] See letter at www.oecd.org/dataoecd/61/13/2067884.pdf.

- New Zealand (21 July 2009)
- Australia (7 October 2009)

A TIEA only comes into force once both Guernsey and the other jurisdiction complete their necessary internal procedures for giving effect to the TIEA and notify each other that they have done so. Guernsey has completed this procedure in relation to all 15 of the TIEAs signed to date. The TIEAs which are in force are marked with an '*'.

At present, negotiations are advanced with a number of countries a view to finalising agreements as soon as practicable. A summary of the current status of Guernsey's TIEAs and TIEA negotiations is included in Tab 1.

A list of all the TIEAs signed to date is available at
http://www.oecd.org/document/7/0,3343,en_2649_33767_38312839_1_1_1_37427,00.html

ii. TIEA with the United States

A Tax Information Exchange Agreement was signed at a ceremony in Washington between Treasury Secretary O'Neill and Deputy Laurie Morgan, President of Guernsey's Advisory and Finance Committee in 2002. A copy of the TIEA text can be found in Section G.

iii. US Treasury Press Release

Following from the signing of the TIEA between Guernsey and the United States, the US Treasury Department issues the following statement:

FROM THE OFFICE OF PUBLIC AFFAIRS

September 19, 2002
PO-3441

## TREASURY SECRETARY O'NEILL'S SIGNING CEREMONY STATEMENT UNITED STATES AND GUERNSEY SIGN AGREEMENT TO EXCHANGE TAX INFORMATION

Today Treasury Secretary Paul O'Neill signed a new agreement with Guernsey that will allow for exchange of information on tax matters between the United States and Guernsey. The agreement was signed by Treasury Secretary Paul O'Neill and Deputy Laurie Morgan, President of Guernsey's Advisory and Finance Committee.

At the signing ceremony, Treasury Secretary Paul O'Neill delivered the following remarks:
I would like to thank you all for being here today and welcome our friends from Guernsey, especially the President of Guernsey's Advisory and Finance Committee, Mr. Laurie Morgan. I also want to extend a very warm welcome to Attorney General Geoffrey Rowland, who has been instrumental in facilitating cooperation with the United States on law enforcement matters, States Supervisor Michael Brown, and Mr. Robert Gray and Mr. Richard Green, two officials in Guernsey's tax administration.

Today cooperation between governments is more important than ever before as we work to ensure that no safe haven exists anywhere in the world for the funds associated with illicit activities, including terrorism, money laundering, and tax evasion. The United States and Guernsey already have a close and cooperative relationship on law enforcement matters, including criminal tax matters. We are well aware of Guernsey's commitment to cooperation in targeting criminal abuse of the world's financial systems.

This new agreement will formalize and streamline our current cooperation in criminal tax matters and will allow exchange of information on specific request in civil tax matters as well. This agreement is an important development, and further demonstrates Guernsey's long standing commitment to cooperating with the United States on law enforcement matters and to upholding international standards in this area.

I have spoken on numerous occasions about our obligation to enforce our tax laws, because failing to do so undermines the confidence of honest taxpayers in the fairness of our tax system. Access to needed information is vital to our efforts to ensure enforcement of our laws.
As many of you know, last summer I made a public commitment in Congressional testimony, to expand our network of tax information exchange relationships. The significant progress we have made toward that goal in the Caribbean, with recent agreements with the Cayman Islands, Antigua and Barbuda, The Bahamas, the British Virgin Islands, and the Netherlands Antilles, demonstrates the depth of our commitment.

Today's agreement with an important financial center of Europe demonstrates our commitment to securing the cooperation of all our neighbors, not just those near our shores but those more distant too. I hope that Guernsey's cooperation with the United States in negotiating this tax information exchange agreement will serve as an example to other financial centers in its region and around the world. We will continue to work vigorously to improve our tax information exchange relationships, and I look forward to gathering here again in the coming weeks to announce additional agreements with other countries.

### iv. Giving Effect to the US TIEA

The following Ordinance was made by the States of Guernsey on 25th January 2006. This Ordinance gives effect to the US TIEA and enacts the "information gathering legislation" referred to in Section 2b of the TIEA.

No. VI of 2006

**The Income Tax (Guernsey) (Amendment) Law, 2005 (Commencement of Law and Approval of Agreement) Ordinance, 2006**

**THE STATES**, in pursuance of their Resolutions of the 21st June, 2004[a] and the 29th June, 2005[b], and in exercise of the powers conferred on them by section 12 of the Income Tax (Guernsey) (Amendment) Law, 2005 and section 75C of the Income Tax (Guernsey) Law, 1975, as amended[c], and all other powers enabling them in that behalf, hereby order:-

**Commencement of Law of 2005.**

**1**. The Income Tax (Guernsey) (Amendment) Law, 2005 shall for all purposes come into force on the 25th January, 2006.

**Approval of Agreement with USA.**

**2**. The agreement between the States of Guernsey and the government of the United States of America for the exchange of information relating to tax, signed at Washington on the 19th September 2002 and registered by the Royal Court on the 6th June 2005, is, pursuant to section 75C of the Income Tax (Guernsey) Law, 1975, as amended, hereby specified for the purposes of that Law.

**Citation.**

**3**. This Ordinance may be cited as the Income Tax (Guernsey) (Amendment) Law, 2005 (Commencement of Law and Approval of Agreement)

[a] Billet d'État No. VIII of 2004.
[b] Article I of Billet d'État No. VII of 2005.
[c] Ordres en Conseil Vol. XXV, p. 124; section 75C was inserted by section 5 of the Income Tax (Guernsey) (Amendment) Law, 2005.

### v. Information Request Template

The following information request template was produced by the States of Guernsey in consultation with the US authorities. It has been agreed that this template is to be used for any information exchange requests under the TIEA.

**Request for information under the "Agreement between the Government of the United States of America and the Government of the States of Guernsey for the Exchange of Information relating to Taxes" 19th September 2002**

This request is made by and on behalf of The Secretary of the Treasury * acting by and through his delegate [NAME] [ADDRESS]

*[NB: There would also be a version for requests made by Guernsey, with appropriate adaptations.]

**Taxpayers**

The United States Secretary to the Treasury seeks information relating to the affairs of the following taxpayer(s) in respect of whom a request is made under the Agreement:

Where an individual for each:

A1 Name (and date of birth if known).

A2 Last known address.

A3 U.S. Resident/Guernsey Resident.

A4 Nationality (if known).

Where a company for each:

A1 Name (and date of registration/incorporation, if known).

A2 Last known registered address.

A3 Place of incorporation (if known).

(Continue for B1,B2 etc).

1. Type of Request [Art1 TIEA]

This request relates to the: (Please tick as appropriate)

- assessment of federal tax(es) in relation to person named in A1 ☐
- collection of federal tax(es) in relation to person named in A1 ☐
- enforcement of federal tax(es) in relation to person named in A1 ☐
- investigation or prosecution of criminal matters in relation to person named in A1 ☐
- other (please specify) in relation to person named in A1 ☐

The nature of the activity being investigated, the type of taxes, relevant legislation and relevant dates are as follows:

(Continue for B1, B2 etc).

2. <u>Identity and location of person in possession of information</u>

The United States Secretary of the Treasury seeks information believed to be in the possession, custody or control of the following persons in Guernsey:

A1 Name

A2 Last known address

A3 Capacity in which they hold the information (if known), e.g. if Trustee, provide details of the Trust; if Company Officer, provide details of Company.

(Continue for B1,B2 etc).

3. <u>Identity and residence of person(s) in respect of whom information is requested including (but not limited to) the taxpayer</u>

The United States Secretary of the Treasury seeks information concerning the following person(s):

A1 Name

A2 Last known address(es)

A3 Residence

(Continue for B, B2 etc).

3a The grounds for believing the information requested is present in Guernsey and is in the possession, custody or control of the person in Part 2.

4. <u>Tipping Off (if appropriate)</u>

The reasons, if any, why:

- Guernsey should take steps to prohibit such person(s) in Part 2 from informing/permitting to be informed the taxpayer that information is being sought;
- the disclosure of any information by the person(s) named in Part 2 to any other person might prejudice the investigation in Part 1; and
- it is feared such disclosure might take place [s75B(4) Income Tax (Guernsey) Law, 1975].

Please provide any information in support of any genuine claim that to give the taxpayer or other person named in Part 2 a reasonable opportunity to 'voluntarily' deliver the information/documents etc in question would prejudice the enquiry to which the documents/information relate [s75 A(2)/S75B(3) 1975 Law]:

Please confirm that you would be able to impose a similar prohibition in the event of a request being made by Guernsey in similar circumstances.

Please confirm that if the taxpayer was "tipped off" this would, in your view, <u>seriously</u> prejudice the assessment and/or collection of tax.

5. <u>Particulars and form of information sought</u>

The United States Secretary to the Treasury seeks the following information (please provide as much detail as possible describing:

- The individual in Part 2 from whom information is sought
- The information sought from that person
- The form requested (e.g. copies, inspection of originals, sworn depositions)).

6a <u>Tax Years Under Investigation</u>

The information requested in Part 5 relates to the following tax year(s) of the taxpayer(s) identified on Page 1.

As to the person identified at A1

____________________
[dd/mm/yyyy]
to ____________________
[dd/mm/yyyy]

6b <u>Relevance</u>

If information is sought under Part 5 as to any time period outside the tax years listed in 6a, please explain the connection between such information and the tax years listed.

Please describe and explain the reason(s) for believing that the information requested is "foreseeably relevant or material to the administration/enforcement of domestic laws or" federal taxes in respect of the named taxpayer(s) [Art 1 TIEA].

7. <u>Risk to documents and Urgency in the face of Due Process (if appropriate)</u>

Please provide any information in support of any genuine claim that the person(s) named in Part 2 would remove, tamper with, falsify or destroy the documents/information held.

7a If a Notice is served upon a person named in Part 2 requiring them to deliver or allow inspection of documents, that Notice has no effect pending the determination of any appeal against such Notice unless the Court directs otherwise [s75K(11) Income Tax (Guernsey) Law, 1975]

Please supply any evidence/genuine argument relied upon why the matter is so urgent that the Notice should still take effect pending Appeal or that the documents should be lodged with the Court or that specified undertakings should be sought from the person(s) named in Part 2 in the event that an Appeal is lodged. In any event, please specify any relevant timescales that are being worked to e.g. Court dates.

8. <u>Conformity with US Law</u>

Please confirm that this request conforms to the law and administrative practice of the United States of America and would be obtainable by the United States Competent Authority under its laws or in the normal course of administrative practice in similar circumstances both for its own tax purposes and in response to a valid request from the Guernsey Competent Authority under the Agreement

9. Please confirm that the tax, which is the subject of this request is not barred by the US Statute of Limitations. If any reliance is placed on "special circumstances" to extend the period of limitation, please describe and explain them.

10. <u>Steps taken by United States</u>

Please confirm what steps have been taken by the United States in its own territory to obtain the information being requested and explain why this constitutes all reasonable means available in the United States to obtain the information.

If local means have not been employed to obtain such information, please give any reasons why to do so would have given rise to disproportionate difficulty.

Signed ______________________________

______________________________
[Official Capacity]

Date ______________________________
[dd/mm/yyyy]

vi. Letter from the IRS

Please refer to Section H for a copy of a letter from the Deputy Commissioner (International), Internal Revenue Service, Department of the Treasury to the Administrator of Income Tax, States of Guernsey in relation to information exchanged as the result of a TIEA request by the United States.

vii. OECD Press Statements

On March 27 2009 the OECD released the following statement:

> New tax information exchange agreements (TIEAs) signed in recent days by the Isle of Man, Jersey and Guernsey mean that the three jurisdictions now have exchange of information agreements with many of their major economic partners.
>
> During the week the Isle of Man signed an agreement with France, bringing its TIEA tally to 14, of which 12 are with OECD countries; Jersey signed agreements with France and Ireland; and Guernsey signed agreements with France, Germany and Ireland, bringing their tallies to 13 each, including in both cases 11 with OECD countries.
>
> Commenting on the recent signings, Jeffrey Owens, Director of the OECD's Centre for Tax Policy and Administration, said: "At a time when many countries have been promising change, Guernsey, Jersey and the Isle of Man have been delivering. I am particularly pleased that the Isle of Man now has 12 agreements with OECD countries in accordance with the OECD standard. This is an important milestone in implementing its commitment to international co-operation."
>
> Guernsey, Jersey and the Isle of Man have consistently supported the work of the OECD and the Global Forum on Transparency and Exchange of Information, with Jersey and the Isle of Man taking an active and constructive role in the work of the Global Forum's Sub-Group on Level Playing Field Issues, Mr. Owens said.
>
> "The positive outcomes of the Sub-Group's work, as well as the lead that these jurisdictions have taken in signing tax information exchange agreements, have played a big part in the developments in favour of greater transparency that we are now seeing around the globe," he added.

Furthermore at a press conference held on 7 April 2009 the OECD recognised:

> "Guernsey...[has] made a real commitment, not just before the G20, but years ago and they have implemented those commitments."

viii. OECD Progress Report

Guernsey's commitment to transparency and international co-operation has been recognised by the OECD and the European Commission. Following from the G20 London Summit held on 2 April 2009, the OECD published a progress report listing co-operative jurisdictions which places Guernsey alongside jurisdictions such as the United States, France, Germany, and the United Kingdom in having effective tax information exchange.

Please refer to Tab 2 for a copy of the OECD report entitled "A Progress Report on Jurisdictions Surveyed by the OECD Global Forum in Implementing the Internationally Agreed Tax Standard."

In September 2009 the OECD established a Peer Review Group ("PRG") to assess the legal and regulatory framework that underlies the commitment of over 90 jurisdictions to the OECD standard on the exchange of tax information and to assess the efficacy of those commitments in practice. Guernsey's legal and regulatory framework underlying its tax information exchange agreements will be assessed this year by the PRG and the efficacy of its tax information exchange agreements in practice will be assessed in 2012.

## e. European Union Savings Directive (EUSD)

### i. Summary

Guernsey has bilateral agreements with all 27 EU Member States implementing measures equivalent to those binding the Member States between themselves. Guernsey chose to apply a retention tax unless the EU resident in question has instead opted for provision of information. In respect of 2007, £16 million (approx $23m) was retained by Guernsey paying agents (distributed 75% to Member States and 25% to Guernsey) and some 18,000 items of information were provided. In May 2010 the Guernsey Government will commence a consultation process on the movement to automatic exchange of information.

### ii. Background

The European Union, on 3rd June 2003, formally adopted Council Directive 2003/48/EC on the Taxation of Savings Income in the form of interest payments ("the EUSD"). The preamble to that Directive states that its ultimate aim is to enable savings income in the form of interest payments made in one EU Member State to beneficial owners who are individuals resident in another EU Member State to be made subject to effective taxation in accordance with the laws of the latter Member State.

The EU Member States were concerned that so long as the United States, Switzerland, Andorra, Liechtenstein, Monaco, San Marino and the relevant dependent or associated territories of the EU Member States did not all apply measures equal to, or the same as, those provided for by the Directive, capital flight towards these countries or territories could imperil the attainment of the Directive's objectives. For this reason the European Union sought to conclude agreements with the countries and territories concerned that provide for the objectives of the Directive to be met within those countries and territories from the same date as within the EU Member States.

The Directive allows three Member States to adopt a withholding tax for a transitional period whilst the other twenty two Member States adopted automatic exchange of information. The same option was extended to the non-EU jurisdictions, including the Crown Dependencies of Guernsey, the Isle of Man and Jersey.

The Crown Dependencies worked extremely closely together in reaching agreement with the EU Member States and this cooperation was reflected in the strength of their representations during the negotiations. The negotiations with the EU High Level Group on Taxation and the EU Presidency also enabled the Crown Dependencies to better establish their international personality in negotiating and concluding such agreements.

The outcome of the negotiations was two Model Agreements, one between each of the Crown Dependencies and those EU Member States that have opted for automatic exchange of information and one between each of the Crown Dependencies and the three EU Member States that have opted for a withholding tax (Austria, Belgium and Luxembourg). These two Model Agreements have been approved by each of the Crown Dependencies' legislatures and have been the basis for the individual Agreements ("the Agreements") signed between each of the Crown Dependencies and each of the EU Member States and the specific insular legislation required to bring the Agreements into effect, *i.e.*, being the Foreign Tax (Retention Arrangements) (Guernsey and Alderney) Law, 2005, under which the States by Ordinance, and in respect of technical matters the Department by Regulations, will erect and administer the Retention Tax regime. The Foreign Tax (Retention Arrangements) (Guernsey and Alderney) Ordinance, 2005 was enacted by the States of Guernsey on 29th June 2005.

The text of the Agreements follows that of the EU Directive in large part, but with appropriate adaptations and the inclusion of additional safeguards in the provisions in the Agreements for the suspension or termination of the Agreements if certain events come to pass. In addition, to distinguish the Island from the EU Member States, to reflect the fact that the Island is not a part of the European Union and is not subject to the EU Directive, the term "retention tax" is used rather than "withholding tax".

iii. Recent Developments

Guernsey is committed, as is explicit in the Island's "Fiscal and Economic Strategic Plan" approved unanimously by the Island Parliament in July 2009, to meeting, and being seen to meet, the highest international standards of tax transparency. Indeed it has set itself the overall objective to meeting 'OECD tier one' status, however that may be defined in future. To that extent on May 4th, it is commencing a formal public consultation process on the movement to automatic exchange of information under the agreements with the EU member states. An embargoed draft copy of the consultation document is included in Section I. This public consultation process has proceeded on the assumption that the movement in principle is accepted and the remaining issues are merely those of 'practice' i.e. timing of such movements.

iv. Further Information

The full text of the EUSD is available at:
http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:157:0038:0048:EN:PDF

The States of Guernsey Commerce and Employment guide to the EUSD can be found at:
http://www.gov.gg/ccm/navigation/commerce---employment/finance-sector-development/eu-savings-tax-directive/

# REGULATION

## a. Summary of Financial Regulation

Guernsey is committed to compliance with established international standards on regulation and in ensuring the highest standards of criminal justice. This commitment includes the standards established by the Financial Action Task Force on Money Laundering (FATF), the Basel Committee on Banking Supervision, the International Organization of Securities Commissions (IOSCO), the International Association of Insurance Supervisors (IAIS) and the Offshore Group of Banking Supervisors (OGBS).

The Guernsey Financial Services Commission (GFSC) is a unitary regulatory body, responsible for the regulation of banks, insurers and insurance intermediaries, collective investment funds, investment firms, trust companies, company administrators and professional company directors providing directorship services by way of business in Guernsey[1]. Each of the regulatory laws under which the GFSC acts[2] contains minimum criteria for obtaining and retaining a licence to conduct business[3] and powers to obtain information and documents, to conduct investigations and to take appropriate enforcement action. In 2001, Guernsey was also one of the first jurisdictions to introduce a full regulatory regime for trust and company service providers.

The GFSC is fully committed to effective cooperation and information exchange. Although the GFSC has 15 specific Memoranda of Understanding with international partners[4], the laws under which it operates provide it with wide powers to obtain supervisory information on behalf of foreign supervisory authorities and to disclose it to them. In addition, the GFSC has the ability to provide third parties with information for the purpose of preventing, detecting, investigating and prosecuting financial crime. The GFSC readily provides assistance to foreign authorities.

The functions of the GFSC include the function of countering money laundering, the financing of terrorism (AML/CFT) and the financing of other financial crimes. It administers anti-money laundering and combating of terrorist financing regulations and rules which apply to financial services businesses (which in Guernsey include trust and company service providers) and firms of lawyers, accountants and estate agents. All of these entities are subject to on-site inspections. Guernsey's AML/CFT framework meets the standards issued by the FATF and businesses covered by the framework are required to identify and verify beneficial owners and other underlying principals to business relationships and transactions. This means, for

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[1] See the Financial Services Commission (Bailiwick of Guernsey) Law, 1987, as amended (http://www.guernseylegalresources.gg/ccm/legal-resources/laws/financial-services/financial-services-commission-bailiwick-of-guernsey-law-1987-consolidated-text.en).

[2] Principally the Banking Supervision (Bailiwick of Guernsey) Law, 1994; the Insurance Business (Bailiwick of Guernsey) Law, 2002; the Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law, 2002; the Protection of Investors (Bailiwick of Guernsey) Law, 1987; and the Regulation of Fiduciaries, Administration Businesses, and Company Directors, etc (Bailiwick of Guernsey) Law, 2000 (all as amended and accessible from http://www.guernseylegalresources.gg/ccm/navigation/orders-in-council/guernsey---bailiwick/f/financial-services/).

[3] Covering, *e.g.*, integrity and skill; owners and directors must be fit and proper; the "four eyes" principle; an appropriate mix of executive and non-executive directors; and business to be conducted in prudent manner.

[4] Australia's Australian Securities and Investments Commission; Belgium's Commission Bancaire et Financière; Dubai Financial Services Authority; France's Autorité des Marchés Financiers; Hong Kong Securities and Futures Commission; Italy's Commissione Nazionale per le Societa' e la Borsa; Isle of Man Financial Supervision Commission; Jersey Financial Services Commission; Malta Financial Services Authority; the Netherlands' De Nederlandsche Bank NV; Financial Services Board of the Republic of South Africa; the UK Financial Services Authority; the UK International Stock Exchange; United States Commodity Futures Trading Commission; and the US Federal Deposit Insurance Corporation.

example, that information on the beneficiaries of trusts is held in Guernsey and can be obtained by the competent authorities. Guernsey was at the forefront of introducing an AML/CFT framework for trust and company service providers in 2000. Guernsey is regarded by HM Treasury in the United Kingdom as having AML/CFT measures comparable to those in the United Kingdom. HM Treasury also issued a statement in 2008 which advised that it considers Guernsey to have AML/CFT standards equivalent to the EU[5].

The GFSC is a member of IOSCO and is a signatory to the IOSCO Multilateral Memorandum of Understanding (MMoU). The GFSC is a founder member of the IAIS. The Director General of the GFSC sits on the executive committee of the IAIS and one of the GFSC's Directors is chairman of the IAIS working group responsible for the IAIS MMoU. The GFSC is also a member of the Enlarged Contact Group on the Supervision of Collective Investment Funds, the OGBS and the Offshore Group of Insurance Supervisors.

External Assessment

A review of financial regulation in the Crown Dependencies was commissioned by the Home Secretary resulting in a comprehensive Report to Parliament in November 1998[6]. Guernsey's regulatory AML/CFT framework was assessed by the IMF in its October 2003 Report to have a high level of compliance for each of the international standards against which the Bailiwick was judged: the Basel Core Principles for Effective Banking Supervision; the Insurance Core Principles of the IAIS; the Objectives and Principles of Securities Regulation of IOSCO; and the then FATF 40+8 Recommendations[7]. Guernsey's legal framework for company and trust service providers was also found by the IMF to be fully consistent with the OGBS Statement of Best Practice for Company and Trust Service Providers. A further assessment by the IMF is being undertaken during 2010.

In December 2008, HM Treasury announced a review of British offshore financial centres. The review was focused on the immediate and long-term challenges facing British offshore financial centres in the current economic climate, including:

- financial supervision and transparency;
- taxation, in relation to financial stability, sustainability and future competitiveness;
- financial crisis management and resolution arrangements; and
- international cooperation;

The report was published with the Pre-Budget Report of the UK Chancellor of the Exchequer in October 2009 (the "Foot Report")[8]. A copy of the Foot Report and associated press releases are included in Tab 4.

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[5] See http://www.hm-treasury.gov.uk/fin_crime_equivalence.htm.

[6] Cm 4109 (commonly referred to as "the Edwards Report") is available at http://www.archive.official-documents.co.uk/document/cm41/4109/4109.htm. The Guernsey Finance Centre is covered in detail in Part III.

[7] The full text of the IMF Report is available at http://www.imf.org/external/pubs/ft/scr/2003/cr03364.pdf. In 2000, there had also been the FATF review to identify non-cooperative countries and territories, the Financial Stability Forum (FSF) assessment of offshore finance centres and whether their regimes could adversely affect global financial stability (which assessed Guernsey as a cooperative jurisdiction with a high quality of supervision adhering to international standards: http://www.fsforum.org/publications/r_0004b.pdf?noframes=1) and the OGBS mutual evaluation of the anti-money laundering system in Guernsey.

[8] See http://www.hm-treasury.gov.uk/indreview_brit_offshore_fin_centres.htm

The Foot Report noted that Guernsey and the Crown Dependencies set an example for other offshore financial centres to follow. The report demonstrated that Guernsey provides significant economic benefit to the UK and the City of London, providing a gateway for funds to flow into the UK economy which would not otherwise route into the United Kingdom. UK banks had net financing from Guernsey of $74.1 billion at the end of June 2009.

The report also noted Guernsey and the Crown Dependencies' commitment to meeting international regulatory standards and co-operation, Guernsey's introduction of a depositor compensation scheme, and its commitment to fighting financial crime and to properly staff and fund its Financial Intelligence Units.

Guernsey financial institutions have "qualified intermediary" status following U.S. Internal Revenue Service approval of Guernsey's "know your customer" provisions for the purposes of U.S. rules on withholding tax[9].

## Further Information

Guernsey Financial Services Commission Website:
www.gfsc.gg

Regulations and Handbook for Financial Services Businesses on Countering Financial Crime and Terrorist Financing:
http://www.gfsc.gg/content.asp?pageID=50&menuOpen=9&submenuOpen=9.2

Anti – Money Laundering Handbook:
http://www.gfsc.gg/UserFiles/File/CFC/AML_Handbook_-_amends_November_08.pdf

[9] See http://www.irs.gov/businesses/international/article/0,,id=96618,00.html and http://www.irs.gov/pub/irs-trty/qiattachguernsey.pdf, as also confirmed in the preamble of the US-Guernsey TIEA (see section 2 for the text of the TIEA).

# COMPANIES LAW

## a. Summary of Companies Law

The Companies (Guernsey) Law, 2008 establishes a new electronic registry of company information which is available online at www.guernseyregistry.com.

Information available from the Guernsey Registry

- The memorandum and articles of all Guernsey companies.
- The identity of the directors of all Guernsey companies, which includes their residential address or a service address.
- Where a director uses a service address, the residential address must be provided to the Registrar – this is largely the same as the position in the UK under Part 10 of the UK *Companies Act 2006*.
- Information on location of the company's Registered Office, which must be situated in Guernsey.
- The identity of the resident agent (see below) of the company which must be either a regulated Corporate Services Provider or a locally resident individual director.
- A variety of other company information is also available at that website.

Information held at the Registered Office

All Guernsey companies must have a registered office in Guernsey. The company must keep a large amount of information at its registered office including the following information:

- Its accounting records and its annual accounts; and
- Its shareholder register which must be available for inspection by any person for a proper purpose.

(These provisions are largely the same as in Chapter 2 of Part 8 of the *Companies Act 2006*.)

Company formation

The only persons who are permitted to form Guernsey companies are corporate service providers who hold a full fiduciary licence under the *Regulation of Fiduciaries, Administration Businesses and Company Directors, etc. (Bailiwick of Guernsey) Law, 2000*, meaning corporate service providers must:

- Comply with all AML/CFT requirements; and
- Identify the beneficial owner of the company and comply with all other necessary Know Your Customer obligations.

Beneficial Ownership[1]

The Companies Law introduces what is believed to be a world first with respect to identifying the beneficial ownership of companies – all Guernsey companies (except for listed companies, collective investment funds and a small number of "publicly held" companies) must appoint a resident agent, who must be either a fiduciary licence holder regulated under the 2000 Fiduciaries Law or a locally resident individual director.

The resident agent is under a duty to identify the individual beneficial owner of that company. Once identified the resident agent must record the following information about the beneficial owner:

- Full name;
- Usual residential address;
- Nationality; and
- Date of birth.

The resident agent must provide this information on request to the following persons:

- HM Procureur (Attorney-General);
- The Guernsey Financial Services Commission;
- Guernsey police officers; and
- Guernsey customs officers.

The effect is that under the Company Law, law enforcement personnel and the financial services regulator have the power to identify the beneficial owners of companies incorporated in Guernsey. This information may also be exchanged with other jurisdictions in accordance with mutual legal assistance procedures.

Guernsey does not, and has never allowed, Guernsey companies to issue "bearer shares" (thereby complying with recommendation 33 of the FATF 40+9 Recommendations).

## b. Further Information

Guernsey Legal Resources Website www.guernseylegalresources.gg

The Companies (Guernsey) Law, 2008 (consolidated text)
http://www.guernseylegalresources.gg/ccm/legal-resources/laws/companies-and-commercial/the-companies-guernsey-law-2008.en

Guernsey Registry www.guernseyregistry.com

Guernsey Registry Online Services Portal www.greg.gg

[1] More information can be found within Part XXIX of the Law available at http://www.guernseylegalresources.gg/ccm/legal-resources/laws/companies-and-commercial/companies-guernsey-law-2008-consolidated-text.en

# IDENTITY FRAMEWORK DOCUMENT

## a. Background

The Chief Minister signed an International Identity Framework Document with the UK Ministry of Justice in December 2008 on behalf of the States of Guernsey.

The Framework Document represents progress in confirming practices that operate within the existing constitutional relationship between Guernsey and the UK, and it identifies how the two administrations will work in partnership to develop Guernsey's international identity.

The Framework Document also recognises that Guernsey is a responsible, stable and mature democracy, observing that it has its own broad policy interests and that it is willing to engage with the international community. This marked an important stage in the mutually-supportive relations between the two governments.

Further details can be in the report debated by the States of Guernsey in November 2008 (Billet D'État - XV 2008):
http://www.gov.gg/ccm/policy-and-hr/billets--resolutions/2008/-billet-dtat---xv-2008-november.en

## b. Framework Document

### Framework for developing the international identity of Guernsey

**Following the statement of intent agreed on 11 January 2006, the Chief Minister of Guernsey and the UK Secretary of State for [Constitutional Affairs] have agreed the following principles. They establish a framework for the development of the international identity of Guernsey. The framework is intended to clarify the constitutional relationship between the UK and Guernsey, which works well and within which methods are evolving to help achieve the mutual interests of both the UK and Guernsey.**

1. The UK has no democratic accountability in and for Guernsey which is governed by its own democratically elected assembly. In the context of the UK's responsibility for Guernsey's international relations it is understood that

   - The UK will not act internationally on behalf of Guernsey without prior consultation.

   - The UK recognises that the interests of Guernsey may differ from those of the UK, and the UK will seek to represent any differing interests when acting in an international capacity. This is particularly evident in respect of the relationship with the European Union where the UK interests can be expected to be those of an EU member state and the interests of Guernsey can be expected to reflect the fact that the UK's membership of the EU only extends to Guernsey in certain circumstances as set out in Protocol 3 of the UK's Treaty of Accession.

2. Guernsey has an international identity which is different from that of the UK.

3. The UK recognises that Guernsey is a long-standing, small democracy and supports the principle of Guernsey further developing its international identity.

4. The UK has a role to play in assisting the development of Guernsey's international identity. The role is one of support not interference.

5. Guernsey and the UK commit themselves to open, effective and meaningful dialogue with each other on any issue that may come to affect the constitutional relationship.

6. International identity is developed effectively through meeting international standards and obligations which are important components of Guernsey's international identity.

7. The UK will clearly identify its priorities for delivery of its international obligations and agreements so that these are understood, and can be taken into account by Guernsey developing its own position.

8. The activities of the UK in the international arena need to have regard to Guernsey's international relations, policies and responsibilities.

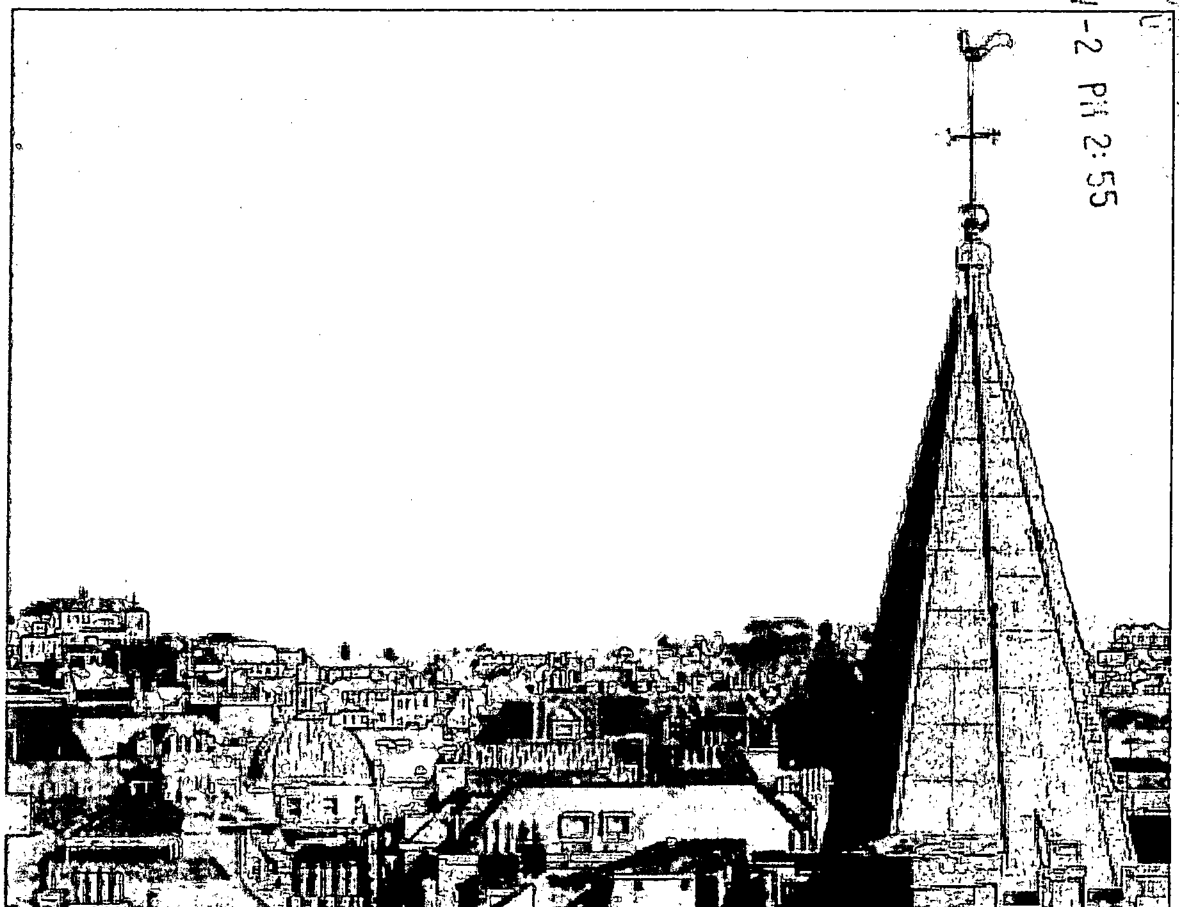
9. The UK and Guernsey will work together to resolve or clarify any differences which may arise between their respective interests.

10. Guernsey and the UK will work jointly to promote the legitimate status of Guernsey as a responsible, stable and mature democracy with its own broad policy interests and which is willing to engage positively with the international community across a wide range of issues.

# The Guernsey Annual Economic Overview 2009

## Including National Accounts 2008





POLICY COUNCIL
THE STATES OF GUERNSEY

# Foreword

This is the first publication of the Annual Guernsey Economic Overview. The Overview provides a summary of the national accounts together with certain disaggregated information published in this format for the first time. It also reports on recent economic trends and provides some analysis as to the factors behind those trends. Finally, it includes the most recent forecasts for inflation and economic output.

The Overview contains a number of key statistics which are compiled by the Policy and Research Unit. Further details can be found in the Unit's quarterly bulletins, the annual Facts and Figures Booklet and the Sustainable Guernsey Report. All Policy and Research Unit publications are available online at www.gov.gg/pru.

# Contents

# 1. Introduction

The provisional estimate of growth rate of Guernsey GDP for 2008 is 7.6%. This is higher than previously forecast. Previous provisional figures for 2006 and 2007 growth have also both been revised upwards by around one percentage point to 3.5% and 3.7% respectively and would have contributed to the underestimate of the 2008 GDP.

In light of these revisions, it is apparent that the Guernsey economy was experiencing rapid and increasing rates of growth up to the period of the global financial crisis. In short, it had developed significant 'momentum' going into the crisis which, together with other factors such as the diversity of the Guernsey economy relative to other offshore financial services centres and modifications to the tax regime, was a likely explanation of the relatively (in international terms) robust performance of the economy during the period of the financial crisis. In the three year period 2006 to 2008, output grew in both aggregate and per capita terms and was an increasing trend.

This rapid growth was fuelled by the financial services sector which experienced double digit growth through 2007 and 2008. Following a period of relative decline in the mid 2000's, the finance sector's share of output increased by just over five percentage points between 2005 to 2008 to stand at 39.9% of total Guernsey GDP in 2008. The business and information services sectors have also shown substantial growth over this period.

Estimates of 2009 growth will not be available until later in the year. However, it is fairly evident that the 2009 was a tougher year for the economy. Various indicators suggest that domestic demand was negatively affected by global conditions, particularly in the first quarter of the year, but the evidence suggests that confidence returned and conditions improved, over the course of the rest of the year. It is unlikely that profitability of the finance sector would have been at similar levels to 2008 and, given its contribution to aggregate output, the present forecast is for a mild contraction during the course of the year. However, the significant positive growth 'momentum' of the economy (and in particular the finance sector) going into 2009, together with other factors, were likely to have mitigated the effects of the global downturn. Guernsey's economy, overall, displayed impressive resilience to global conditions during the course of the year.

GDP is Guernsey's principal measure of economic growth, calculated via the 'income approach'. Revisions to previous estimates demonstrate a healthy rate of expansion through 2006 and 2007, followed by rapid growth in 2008.

Current provisional calculations suggest that the economy grew by 7.6% *(see figure 2.1.1)* to a total value of £1.9bn in 2008.

The principle contributions to the annual increase were a 6.2% increase in remuneration and an 11.3% increase in company profits, equivalent to increases of £63m and £53m respectively.

GDP per capita, based on annual population data estimated by the Social Security Department has been calculated since 2006 *(see figure 2.1.2).*

GDP per capita also increased over 2007 and 2008, although at a slightly slower rate than GDP since the population also increased in these years. In 2008, GDP per capita was £30,384, an annual increase of 6.6% and an increase of 10.3% over the two years since 2006 *(see figure 2.1.3).*

Figure 2.1.1: Annual percentage change in GDP

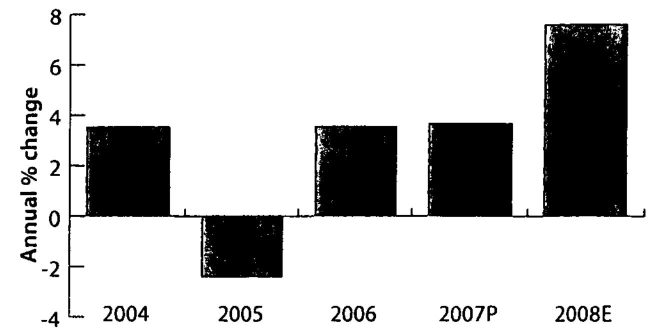



Figure 2.1.2: GDP per Capita

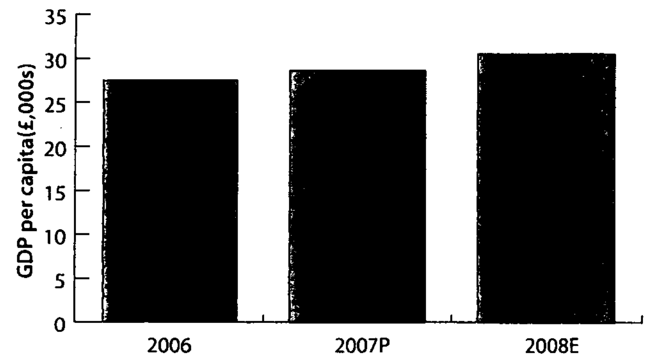



Figure 2.1.3: Annual percentage change in GDP per capita

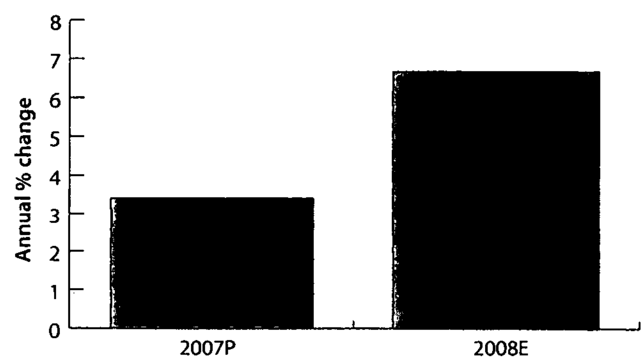


Figure 2.1.4: Output per worker

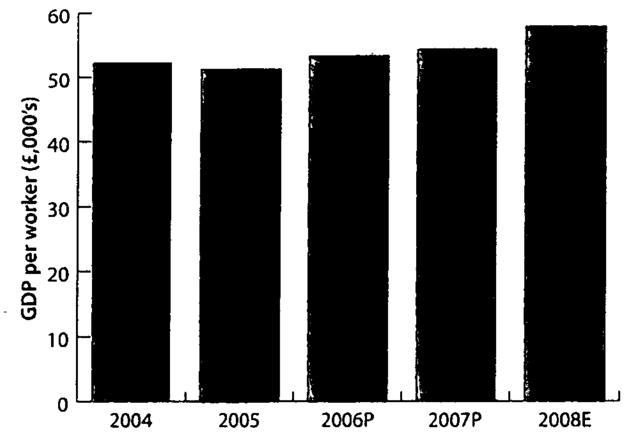
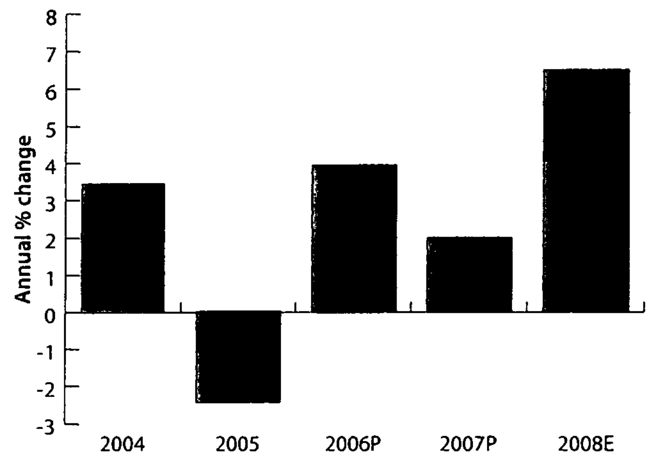



Figure 2.1.5: Annual percentage change in output per worker




Output per worker, which represents the average amount of GDP generated for each employed or self-employed individual, is used as a measure of productivity. In 2008 output per worker increased by 6.5% to £57,615 *(see figures 2.1.4 and 2.1.5).*

The level of output per worker has been increasing since 2006 and has shown a total real term increase of over £7,000 over the five years ending 2008, indicating that productivity growth was strong over this period.

Similar to GDP per capita, expansion of the workforce means that annual increase in output per worker is typically slightly lower than the increase in total GDP.

The finance sector made the biggest contribution to GDP representing 39.9% of the total value of sectoral factor income (remuneration plus company and self-employed profits) in 2008 *(see figure 2.2.1)*. The finance sector has been expanding at an increasing rate over the past three years resulting in a 39.1% increase in output over the period *(see figure 2.2.2)*.

The business and information services sectors have also undergone a significant expansion with respective increases in output of 49.5% and 33.3% over the three year period ending in 2008.

Public administration, health and education represented the second largest single sector component of GDP, representing 14.1% of GDP in 2008. As the second largest employment sector (see page 12), comprised principally of the States of Guernsey and its associated bodies, 89% of its output in 2008 was in the form of remuneration. Expansion of this sector over the three years ending 2008 has been modest with a total increase across the period of 5.7%.

The retail and construction sectors, which represent similar proportions of GDP (6.8% and 6.6% respectively) are both estimated to have contracted in 2008, a likely result of subdued domestic demand conditions in the latter half of the year.

Figure 2.2.1: Percentage contribution to GDP by sector in 2008

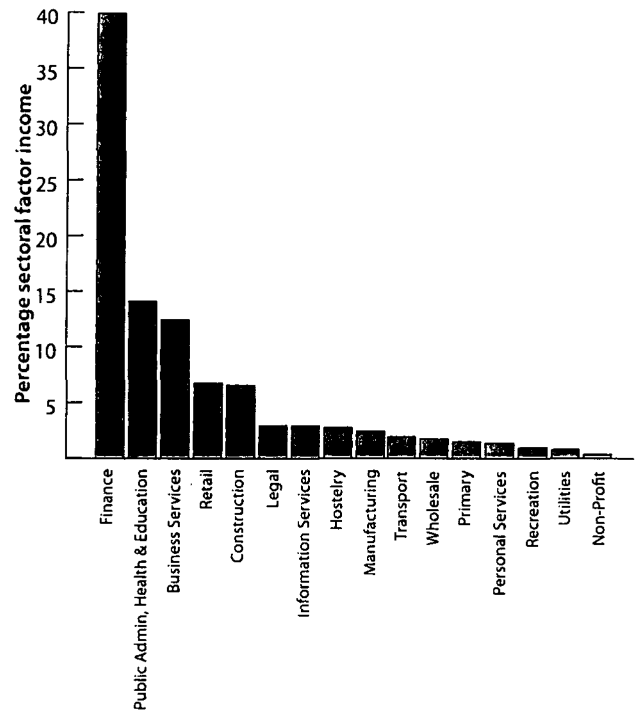
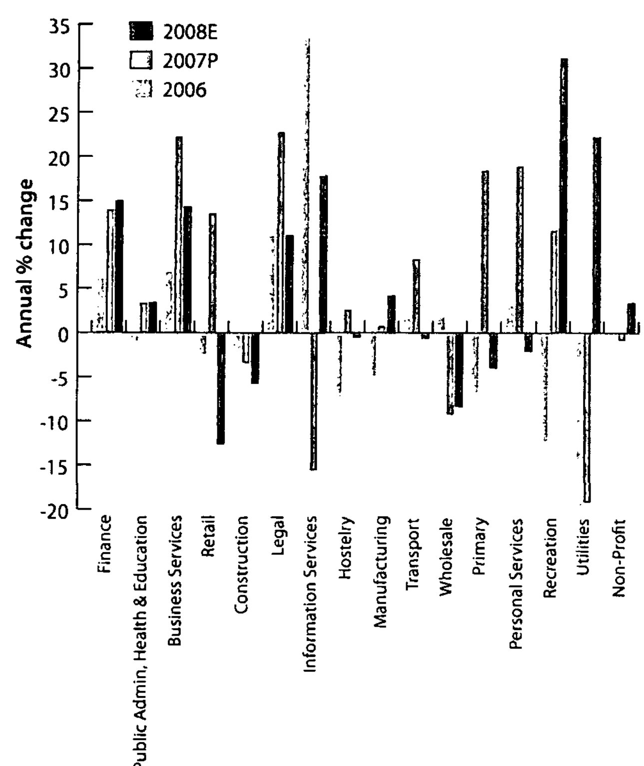
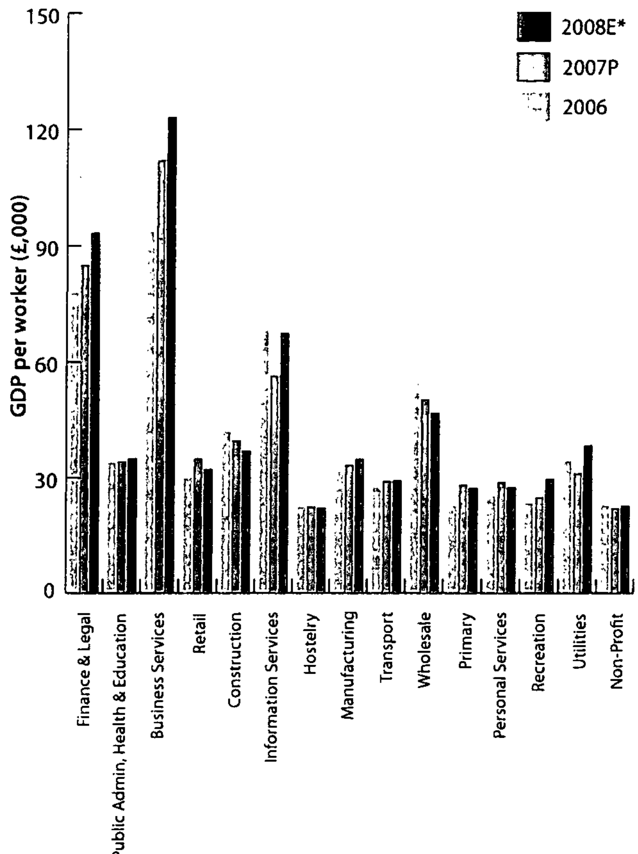



Figure 2.2.2: Annual percentage change in GDP by sector

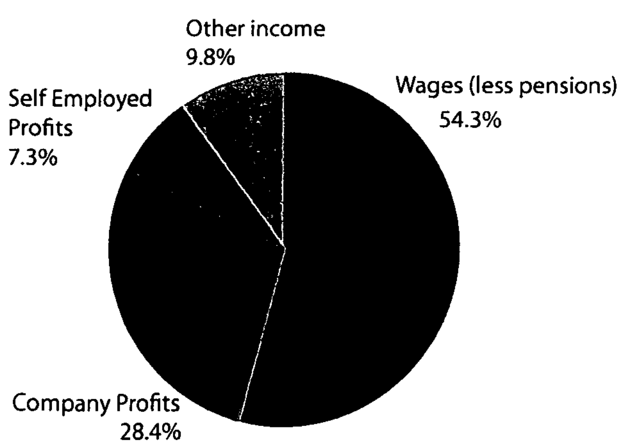


### Figure 2.2.3: Output per worker by sector




* Due to changes in businesses classification implemented in quarter 4 2008, figures are based on the average employment for the first three quarters of 2008 only

### Figure 2.2.4: Percentage contributions to GDP by income type (2008)




The business services sector exhibited the highest output per worker in 2008 at £123,130 per employed or self employed individual *(see figure 2.2.3)*. It also showed the second highest percentage increase (35.7%) over the three years ending 2008.

The largest percentage increase (38.6%) over the three year period was in the information services sector despite a contraction in 2007.

Output of the finance and legal sector, has increased steadily over the three year period to £93,354 per worker, placing it in second position in terms of ranking of sectoral per capita output.

These three sectors were the only sectors to exhibit higher output per worker than the economy wide average in 2008. The average stood at £57,615. Removing these three sectors would reduce average output per worker to £32,744, 43% lower than the overall average.

*Figure 2.2.4* shows the composition of GDP by source in 2008, the majority (54.3%) of which is comprised of wages. This combined with company and self-employed profits constitutes the proportion of GDP which can be considered the active contribution of economic activity.

Over the three years ending 2008 the contribution of the finance sector to GDP has increased from 34.5% to 39.9% *(see figure 2.3.1)*

*Figure 2.3.2* shows the distribution of output of the finance sector across the four key financial sub-sectors. Rapid growth in banking activity and profits have led to an increased share of finance sector output. In 2008, banking contributed 49.8% of the total finance sector output compared to 44.0% in 2005.

The growth rate of the banking sub-sector output increased over the three years ending 2008, culminating in an annual percentage increase of 28.3% in 2008 *(see figure 2.3.3)*.

Output of the funds sub-sector decreased in 2008, proceeded by a reduction in its positive growth rate in 2008. Provisional estimates suggest a contraction of around -4.3% occurred during 2008, a year of rapidly falling global stock market indices.

Revised economic sector coding across all Guernsey businesses was completed in 2009. The revisions are in line with international SIC standards and will enable the provision of more accurate and internationally more comparable disaggregation of data.

Figure 2.3.1: Contribution of major sectors to GDP in 2005 and 2008

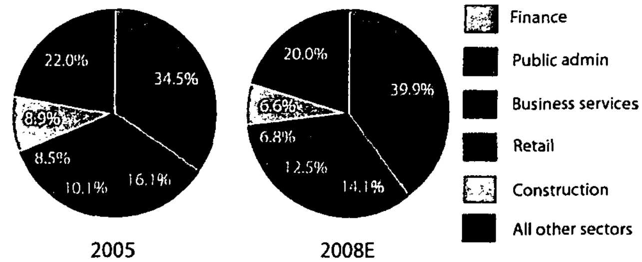



Figure 2.3.2: Distribution of Finance sector output in 2008

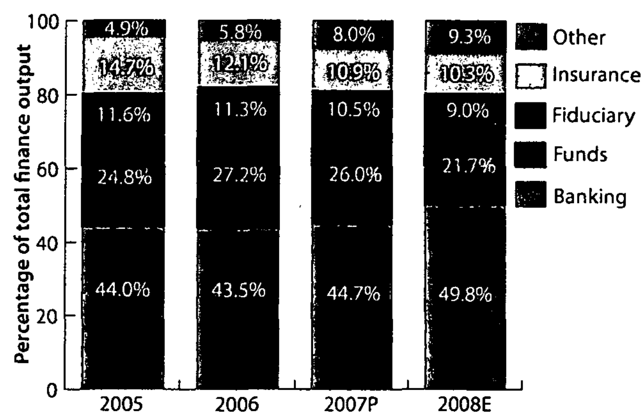
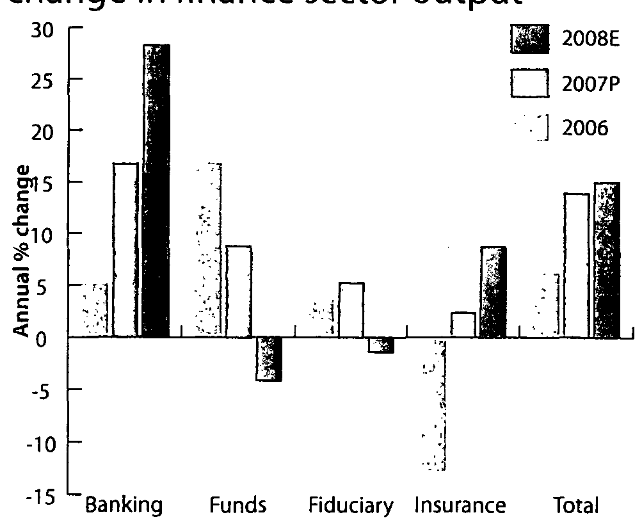



Figure 2.3.3: Annual percentage change in finance sector output



# 3. Inflation

## 3.1 RPIX

Figure 3.1.1: Annual percentage change in RPIX

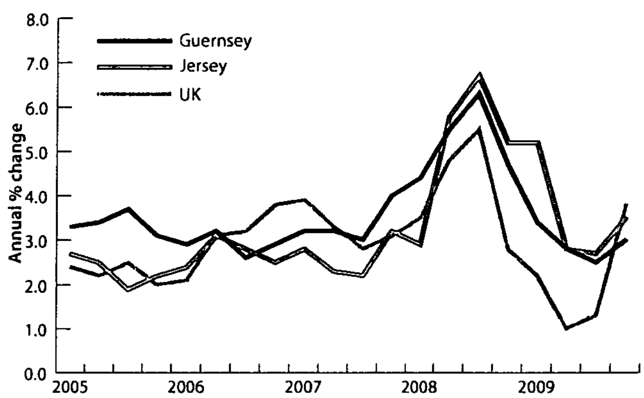
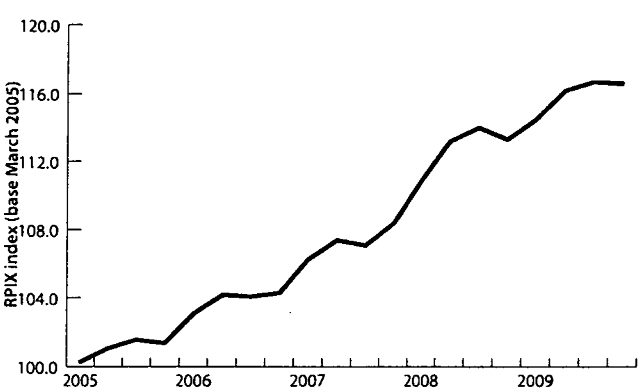



Figure 3.1.2: Price level increase in RPIX



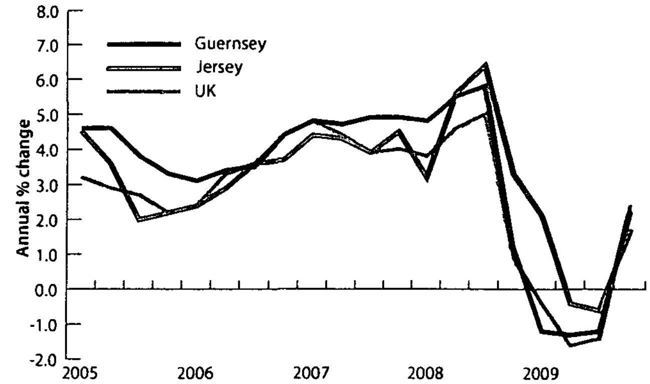

In 2009, RPIX (which excludes the mortgage interest component) was adopted by the States of Guernsey as the official 'headline' measure of inflation *(see figure 3.1.1).* Guernsey inflation rates broadly co-move with UK rates, although historically a slight 'wedge' has existed between the two, leading to the introduction of a target for RPIX to reduce this.

As can be seen from *figure 3.1.1* as recently as mid 2008 (just prior to the financial crisis), RPIX was rising rapidly. RPIX stood at 6.2% in September 2008, the highest rate recorded since calculation of the index began in 1998. It then fell to a low of 2.4% in the same quarter the following year. RPIX recovered over the last quarter of 2009 rising to 2.9% just below target.

The RPIX price level, shown in *figure 3.1.2*, exhibited an upward trend over the five years ending December 2009. Although the index level has shown a quarterly decrease on a number of occasions over this period, (the largest (-0.5%) occurring in December 2008), the annual change has remained positive, resulting in a total increase of 16.3% over the 5 year period.

RPI (the all-items RPI) has displayed significant volatility over the last 18 months *(see figure 3.2.1)*. These trends were exaggerated by the effect of the unprecedented reduction in the Bank of England base rates in the last quarter of 2008 and the first quarter of 2009. The decrease in the cost of mortgage interest payments resulted in negative annual changes in RPI. As in the UK, RPI returned to a positive rate (2.2%) in the fourth quarter of 2009.

Figure 3.2.1: RPI

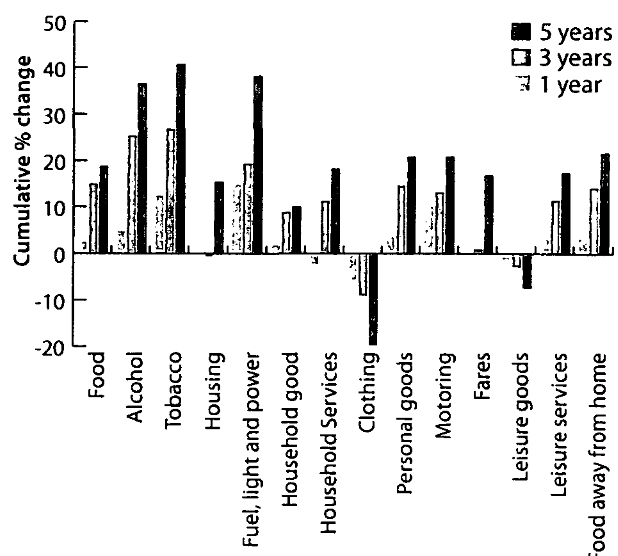



## 3.3. Group analysis

Over the twelve months ending December 2009 large increases were seen in the fuel, light and power and motoring groups *(see figure 3.3.1)* reflecting the global increase in oil prices. This trend is reflected over both the three and five period indicating that in the medium-term oil prices have exerted an upward pressure on inflation.

The alcohol and tobacco groups also showed a large increase over the five years ending December 2009, due in part to increases in duty. However, both these groups have a comparatively low weight in both the RPIX and RPI and therefore have had a lesser impact on inflation than groups with a higher weighting, such as housing, food and fuel, light and power.

Figure 3.3.1: Cumulative percentage change in RPI groups



# 4. Labour Market

## 4.1 Employment

Figure 4.1.1: Employment rate

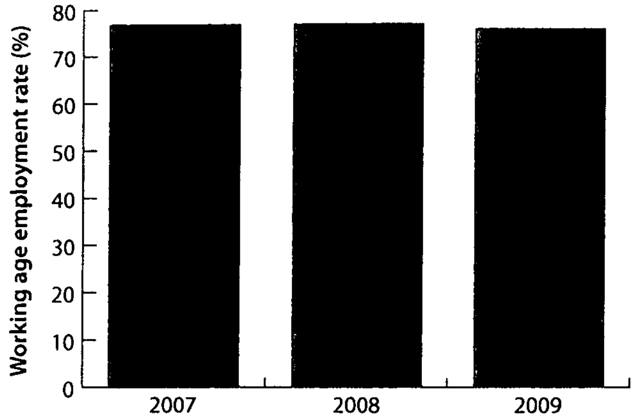
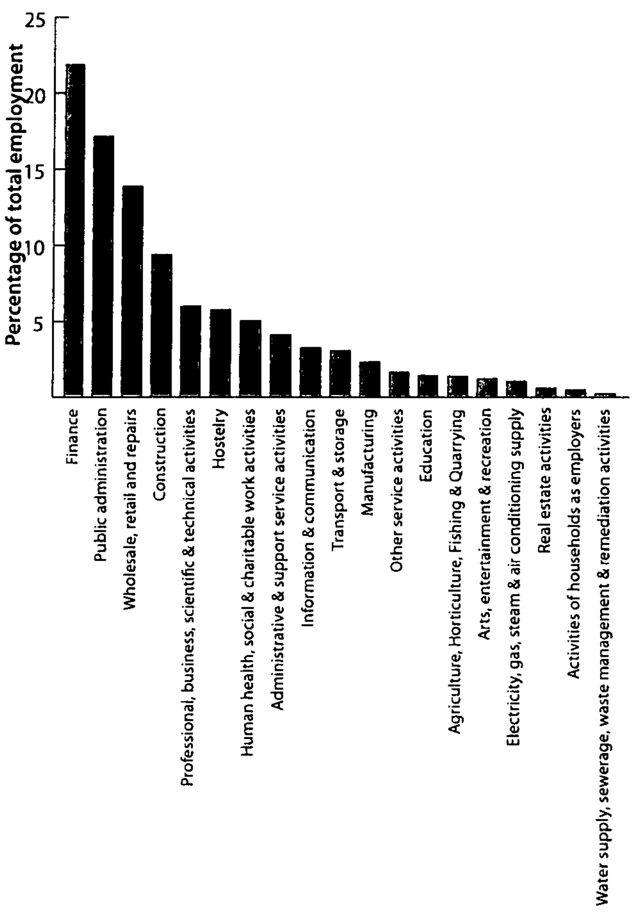



Figure 4.1.2: Percentage of total employment by sector (Dec 2009)




In December 2009 there were 32,171 economically active people in Guernsey, of which 9.5% were self employed.

The employment rate, which represents the percentage of the working age population who are economically active, fell slightly in 2009 from 77.2% in 2008 to 76.1% *(see figure 4.1.1)*.

The introduction of the revised SIC economic codes (implemented by the Social Security Department in the fourth quarter 2008)* means that this data series is no longer directly comparable with the disaggregated data produced using the previous code structure. As such, employment by sector is presently only available for comparison over a one year period.

Finance was the largest employing sector in December 2009, employing 7,048 people and comprising 21.9% of the employment market *(see figure 4.1.2)*.

Public administration, which includes all States of Guernsey employees, was the second largest employment sector, employing 5,527 people in December 2009 and representing 17.2% of all employed and self-employed people.

* The employment numbers by sector for calculation of output / worker on pages 5 and 7 have been calculated using the previous coding.

Of the nineteen sectors classified under the new economic sector codes, ten showed a decrease in the number of employees between December 2008 and December 2009. Of these, the largest percentage decrease was in the agriculture, horticulture fishing and quarrying sector which decreased by 17.2% from 534 to 442 employed and self employed workers *(see figure 4.1.3)*.

Decreases in employment were also experienced in the real estate activities and water supply, sewerage, waste management and remediation activities sectors which decreased by 10.6% and 10.7% respectively.

The finance sector showed a small year on year increase (0.8%) during the course of 2009, representing an additional 57 employees in this sector.

In December 2009 there were 2,261 employers in Guernsey *(see table 4.1.1)* of which 62% employed 5 people or less.

Only seven employers employed more than 250 people, two of these were in the finance sector and three in wholesale, retail and repairs.

Figure 4.1.3: Annual percentage change in employment by sector

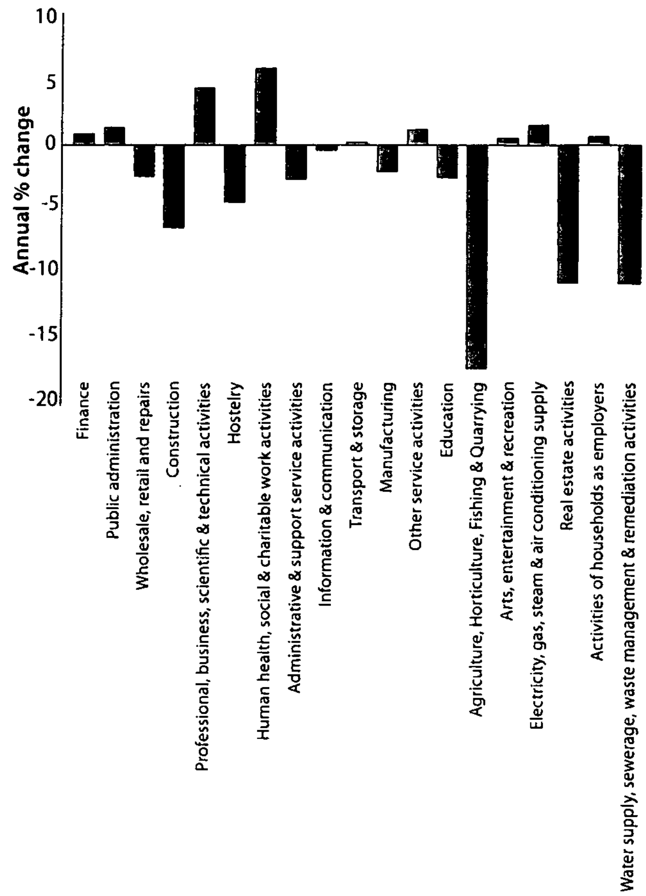



Table 4.1.1: Number of employing organisations by size

| Number of employees | Number of employers |
|---|---|
| 1 | 589 |
| 2-5 | 815 |
| 6-10 | 366 |
| 11-25 | 264 |
| 26-50 | 117 |
| 51-100 | 69 |
| 101-250 | 34 |
| 250+ | 7 |
| **Total** | **2,261** |

## 4.2 Unemployment

Figure 4.2.1: Unemployment rate (by ILO definitions)


Table 4.2.1: Unemployment rate

| | Total unemployment rate | ILO unemployment rate |
|---|---|---|
| **June-07** | 0.70 | 0.55 |
| **Sept-07** | 0.67 | 0.56 |
| **Dec-07** | 0.69 | 0.50 |
| **Mar-08** | 0.86 | 0.57 |
| **June-08** | 0.81 | 0.55 |
| **Sept-08** | 0.86 | 0.59 |
| **Dec-08** | 1.06 | 0.84 |
| **Mar-09** | 1.40 | 1.05 |
| **June-09** | 1.33 | 1.02 |
| **Sept-09** | 1.36 | 1.00 |
| **Dec-09** | 1.31 | 1.01 |

Historically, unemployment in Guernsey has been very low, particularly with reference to international norms. Although unemployment increased in 2008, the unemployment rate remained well below the 2% ceiling outlined in the Fiscal and Economic Policy Plan *(see figure 4.2.1)*.

Using the definitions outlined by the International Labour Office, unemployment in Guernsey in December 2009 was 1.0%, an increase of 0.2 percentage point from December 2008.

These definitions exclude individuals who are participating in a government training scheme (such as the Community and Environmental Projects Scheme) or anyone who carries out at least one hour's paid work a week (some of whom may still be eligible to claim supplementary jobseeker benefit), which have traditionally been included in the total registered unemployed in Guernsey.

A comparison of the unemployment rate using the two definitions is given in *table 4.2.1.*

Estimated annual average earnings have increased steadily over the five years ending 2008, with a nominal increase across this period of 34.9% *(see figure 4.3.1)* to approximately £32,500. This equates to a 9.7% increase in real terms.

Of the 14 reporting sectors, only four (business services, finance and legal, information services and utilities) have estimated annual average earnings above the 2008 mean, of which Business services is the highest.

Public administration, health and education, the second largest employment sector in 2008, exhibited slightly lower annual average earnings than the overall average.

Recreation showed the largest percentage increase over the three years ending 2008, increasing by 48% *(see figure 4.3.2)*. This does seem somewhat counter intuitive and as such is presently being investigated and may be subject to later revision.

Business services also showed a significant rise increasing by 23% since 2005.

Figure 4.3.1: Annual percentage change in estimated annual average earnings

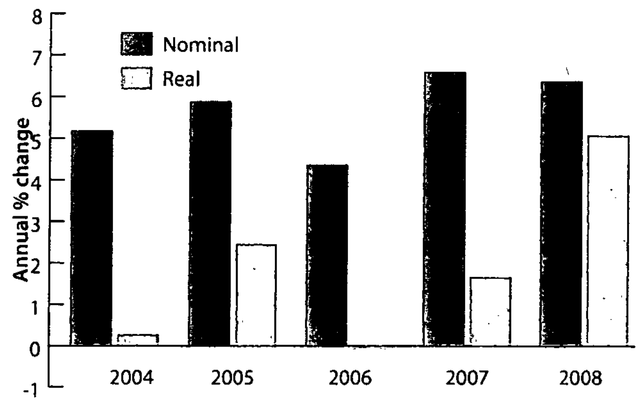
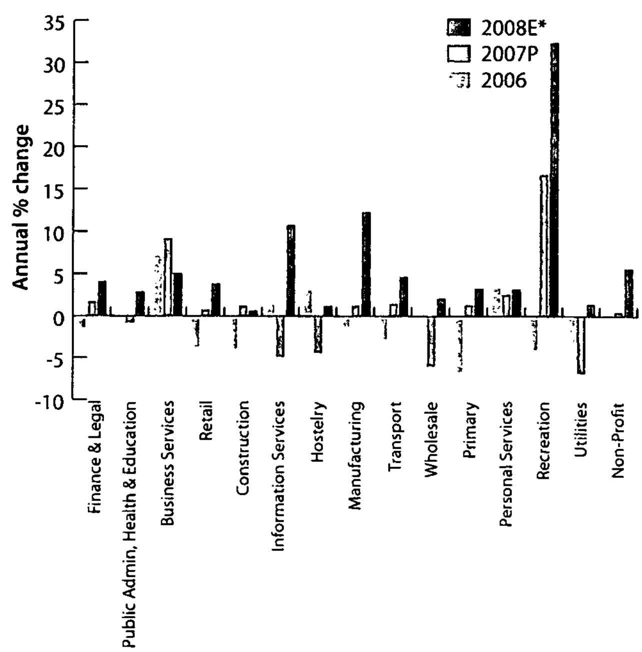



Figure 4.3.2: Annual percentage change in estimated annual average earnings by sector




* Due to changes in businesses classification implemented in quarter 4 2008, figures are based on the average employment for the first three quarters of 2008 only

# 5. Housing Market

## 5.1: Residential Property Prices

Figure 5.1.1: Median local market house price

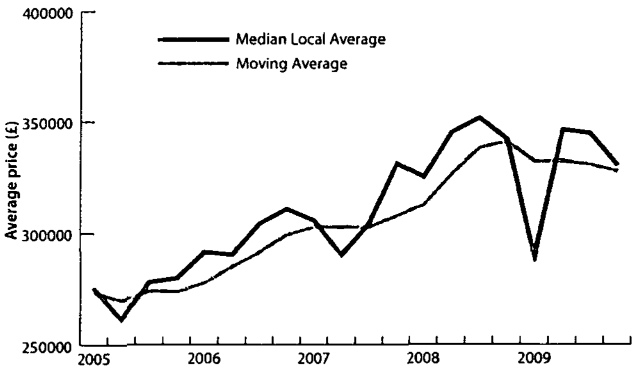



Figure 5.1.2: Annual percentage change in local market house prices

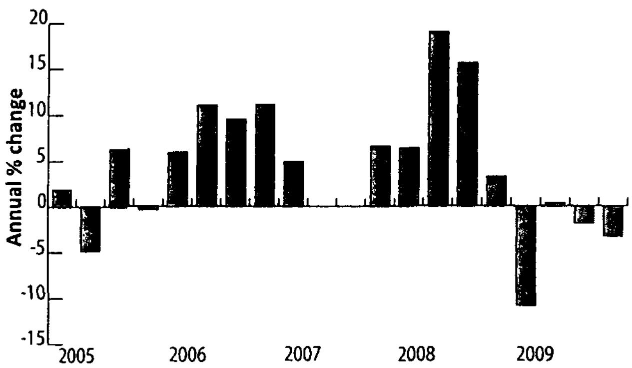
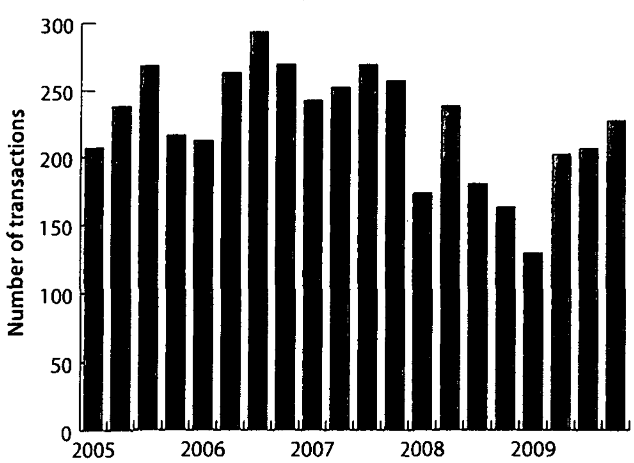



Figure 5.1.3: Number of local market residential property sales




The Guernsey property market has experienced a mild slowdown over the last 18 months *(see figures 5.1.1 and 5.1.2)*. The scale of this slowdown needs to be compared to that experienced in larger economies.

The volumes of transactions fell immediately following the withdrawal of the 100% mortgage product in late summer of 2008 *(see figure 5.1.3)* and experienced another pronounced decline in the first quarter of 2009. However, by the second quarter of 2009 volumes were at a similar level to those experienced in 2007. Prices declined over the course of 2009: suggesting a mild, and probably welcome, correction.

As a result of the small number of transactions which take place each quarter, property price statistics are subject to a certain level of volatility, particularly if the cross section of property types sold changes significantly in any given quarter. The data is also subject to seasonal variation and a four quarter moving average is also presented.

The house price to earnings ratio provides a simple measure of the affordability of housing. Over the past five years this measure has fluctuated with an overall increase of 1.4% across this period *(see figure 5.1.4)*.

This indicates that house prices have increased at a slightly higher rate than average earnings, implying that local market property has become less affordable over the five year period ending 2008. However, it should be noted that this measure does not incorporate the effect of interest rates.

Residential rental prices have been increasing steadily throughout the five year period ending December 2009 *(see figure 5.1.5)* and have shown a 16% increase over that period. In the year ending December 2009, rental prices increased by 2.7%.

Figure 5.1.4: Annual percentage change in house price to earnings ratio

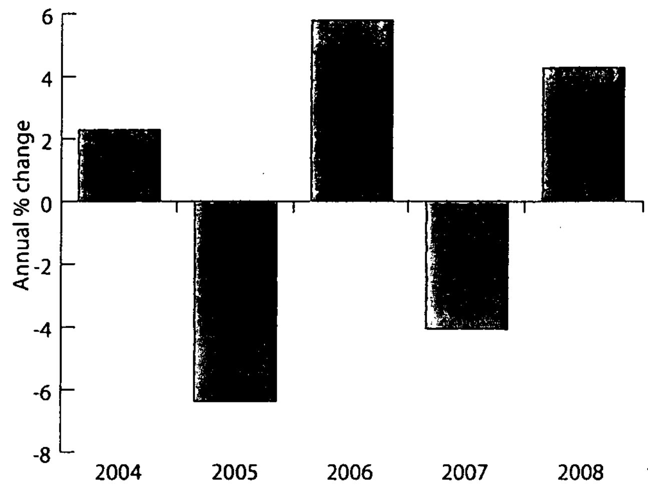
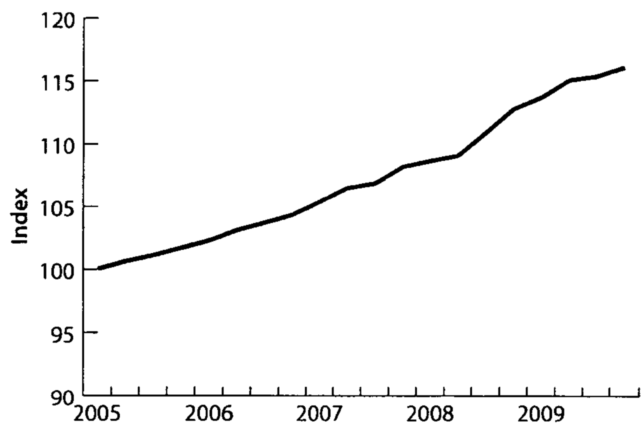



Figure 5.1.5: Residential rental price index



# 6. Other Indicators

## 6.1 Other indicators

Figure 6.1.1: Annual percentage change in vehicle registrations

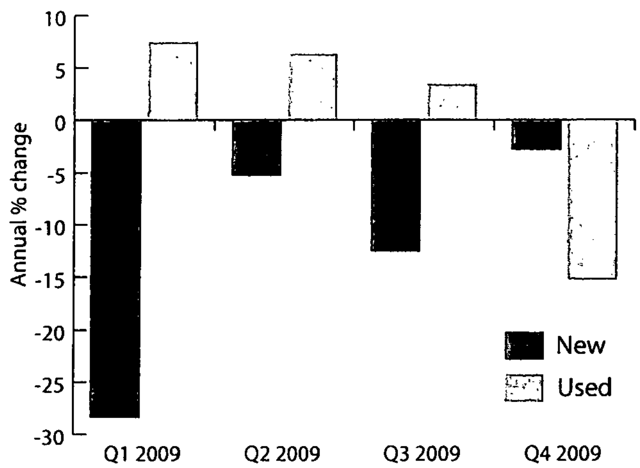
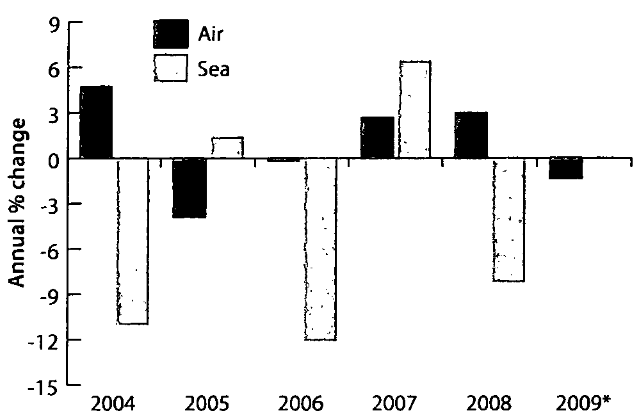



Figure 6.1.2: Annual percentage change in air and sea passenger movements




* Figures for sea passenger movements were not available at the time of publication

The number of new car registrations showed a year on year decrease in every quarter of 2009, with the largest decrease occurring in the first quarter *(see figure 6.1.1)*.

Although the number of used vehicle registrations increased in the first three quarters of 2009, the total number of registrations decreased, likely indicating subdued domestic demand.

The number of both and air and sea passengers has fluctuated over the five years ending 2008. There was an increase in air passengers of 6% and a decrease in sea passengers of 22.7% over this period *(see figure 6.1.3)*. This resulted in an overall decrease in total passenger movements of 3.5% over five years ending 2008.

Sea passenger figures for 2009 were not available at the time of this publication but the number of air passenger showed a 1.4% decrease on the previous year, although volumes during the summer months, an important period, were higher year on year.

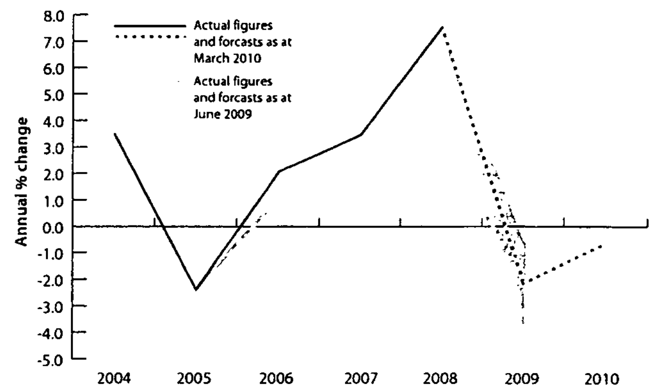
The current forecast for 2009 GDP is a mild contraction of around 2% *(see figure 7.1.1)*. Although the year has ended, the data required to produce estimates for 2009 is not yet available. However, the current negative growth assumption is supported by the overall mild decline in employment; the 'standstill' nature of employment related tax receipts in real terms; evidence of subdued domestic demand conditions from the volume house and car sales and with anecdotal and survey evidence of reduced profitability for many but not all firms.

Confidence in the domestic economy for 2010 has clearly rebounded according to the latest survey evidence. The medium term outlook for the finance sector remains subdued, reflecting continuing global economic and regulatory uncertainty and depressed western growth prospects brought about by the debt overhang. More uniquely to Guernsey, the uncertainty due to the corporate tax review will likely impinge negatively on short term growth forecasts, irrespective of any longer term benefits that may result from the review.

Previous forecasts of 2008 GDP suggested growth of between 2 to 2.5% for 2008 *(see figure 7.1.2)*. However, these were based on provisional data for growth in 2006 and 2007, which were revised upwards by over a percentage point each in 2009. This will have contributed significantly to the under

Figure 7.1.1: Forecast changes in GDP


Figure 7.1.2: Forecast comparison




estimates of the models used to calculate the forecast. These models have been subject to continuing development.

Whilst an official growth forecast (-1.1%) was included in last year's December Budget Report, growth forecasts have not previously been published.

Figure 7.1.3: Finance sector correlation with interest rates

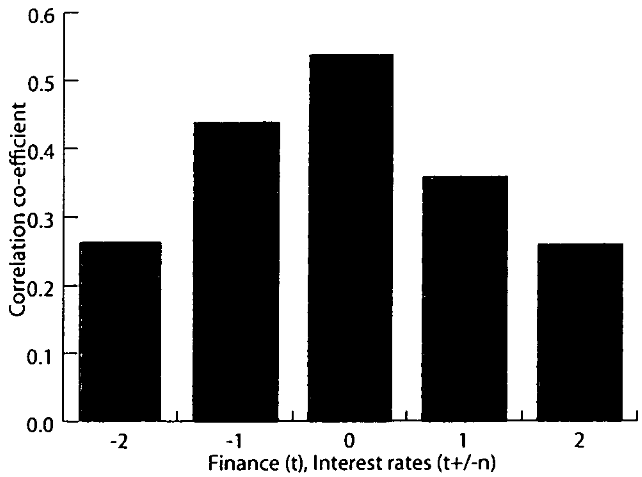
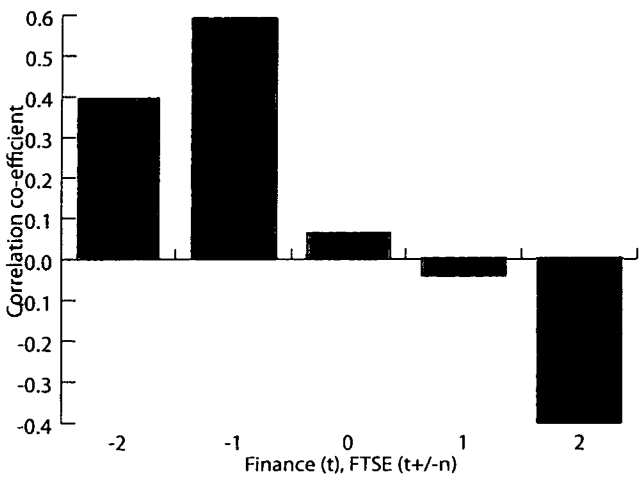



Figure 7.1.4: Finance sector correlation with stock market indices




The following figures are reports of calculated cross correlations of finance sector output and two key variables: interest rates and stock market indices at various 'leads' and 'lags'. The vertical axis is the size of the correlation, the horizontal axis reports the period.

As can be seen from *figure 7.1.3* historically finance sector output is most strongly correlated with the level of current period interest rates.

*Figure 7.1.4* demonstrates a positive correlation between output and global stock market indices, but this time most strongly with 'historic' indices (in fact growth is negatively correlated with future movements of indices).

These two relationships demonstrate the rationale behind the view that finance sector profits are likely to have been adversely affected in 2009, following decreases in both of these variables.

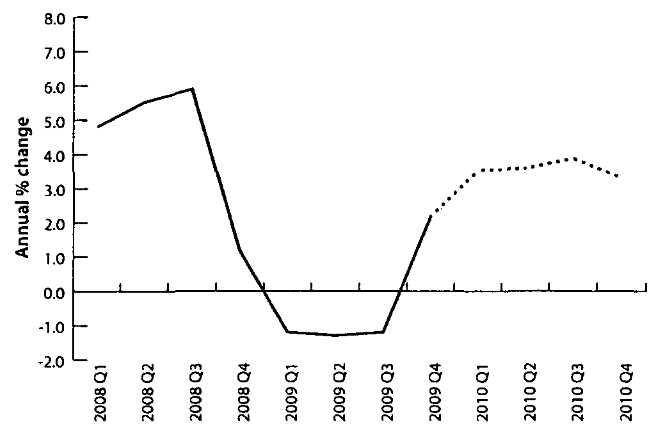
However, as was stated in the introduction, the technical changes to the corporate tax regime may well have an idiosyncratic positive impact and the degree of previous momentum of the finance sector may also have mitigated the impact of the global downturn on the sector.

Inflation forecasts have been published on a quarterly basis since Autumn 2009.

Forecasts for the official preferred measure, RPIX, suggest that, absent unforeseen unpleasantries, the outlook for inflation will remain relatively benign during the course of 2010, hovering around the target level of 3% after a mild spike in the first quarter of the year *(see figure 7.2.1)*.

Figure 7.2.1: RPIX forecasts


Figure 7.2.2: RPI forecasts



# 8. Contact Details

This report has been compiled by the States of Guernsey Policy and Research Unit. Additional information is available online or by contacting the Policy and Research Unit.


| | |
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**AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE STATES OF GUERNSEY FOR THE EXCHANGE OF INFORMATION RELATING TO TAXES**

Whereas Guernsey has long been active in international efforts in the fight against financial and other crimes, including recent efforts involving terrorist financing;

Whereas the Internal Revenue Service of the United States has determined Guernsey's "know your customer" rules to be acceptable for purposes of the Qualified Intermediary regime, which provides simplified withholding and reporting obligations for payments of income from the United States to an account holder through one or more foreign intermediaries;

Whereas the Government of the States of Guernsey and the Government of the United States ("the parties") recognise that present legislation already provides for the exchange of information in criminal tax matters, which under current practice is conducted by the United States through the Department of Justice and by Guernsey through its Attorney General;

Whereas the parties wish to establish the terms and conditions governing the exchange of information relating to taxes;

Now, therefore, the parties have agreed as follows:

**Article 1**
**Scope of the Agreement**

The parties shall provide assistance through exchange of information that is foreseeably relevant to the administration and enforcement of the domestic laws of the parties concerning the taxes covered by this Agreement, including information that is foreseeably relevant to the determination, assessment, enforcement or collection of tax with respect to persons subject to such taxes, or to the investigation or prosecution of criminal matters in relation to such persons.

**Article 2**
**Jurisdiction**

To enable the scope of this Agreement to be implemented, information shall be provided in accordance with this Agreement by the competent authority of the requested party without regard to whether the person to whom the information relates is, or whether the information is held by, a resident of a party. A requested party is not obliged to provide information which is neither held by its authorities nor in the possession of persons who are within its territorial jurisdiction.

**Article 3**
**Taxes Covered**

1. This Agreement shall apply to the following taxes imposed by the parties:

   (a) in the case of the United States, all federal taxes,

   (b) in the case of Guernsey, all insular taxes.

2. This Agreement shall apply also to any identical or substantially similar taxes imposed after the date of signature of the Agreement in addition to or in place of the existing taxes if the parties so agree. The competent authority of each party shall notify the other of changes in laws which may affect the obligations of that party pursuant to this Agreement.

3. This Agreement shall not apply to the extent that an action or proceeding concerning taxes covered by this Agreement is barred by the requesting party's statute of limitations.

4. This Agreement shall not apply to taxes imposed by states, municipalities or other political subdivisions, or possessions of a party.

**Article 4**
**Definitions**

1. In this Agreement:

   "competent authority" means, for the United States, the Secretary of the Treasury or his delegate,

   and for Guernsey, the Administrator of Income Tax or his delegate, except that until a date not later than January 1, 2006, Her Majesty's Attorney General for Guernsey may act as the competent authority in respect of criminal tax matters;

   "criminal laws" means all criminal laws designated as such under domestic law, irrespective of whether contained in the tax laws, the criminal code or other statutes;

   "criminal tax matters" means tax matters involving intentional conduct which is liable to prosecution under the criminal laws of the requesting party;

   "information gathering measures" means judicial, regulatory, criminal or administrative procedures enabling a requested party to obtain and provide the information requested;

   "information" means any fact, statement, document or record in whatever form;

   "person" means a natural person, a company or any other body or group of persons;

   "requested party" means the party to this Agreement which is requested to provide or has provided information in response to a request;

"requesting party" means the party to this Agreement submitting a request for or having received information from the requested party;

"resident" means:

(a) in the case of the United States, any United States citizen and any legal person, partnership, corporation, trust, estate, association, or other entity deriving its status as such from the laws in force in the United States; and

(b) in the case of Guernsey, any person resident in Guernsey, for the purposes of the Income Tax (Guernsey) Law 1975, as amended.

"tax" means any tax covered by this Agreement.

2. For purposes of determining the geographical area within which jurisdiction to compel production of information may be exercised, the term "United States" means the United States of America, including Puerto Rico, the Virgin Islands, Guam, and any other United States possession or territory.

   For purposes of determining the geographical area within which jurisdiction to compel production of information may be exercised, the term "Guernsey" means Guernsey, Alderney and Herm.

3. Any term not defined in this Agreement, unless the context otherwise requires or the competent authorities agree to a common meaning pursuant to the provisions of Article 10, shall have the meaning which it has under the laws of the parties relating to the taxes which are the subject of this Agreement.

**Article 5**
**Exchange of Information Upon Request**

1. The competent authority of the requested party shall provide upon request by the requesting party information for the purposes referred to in Article 1. Such information shall be exchanged without regard to whether the requested party needs such information for its own tax purposes or the conduct being investigated would constitute a crime under the laws of the requested party if it had occurred in the territory of the requested party. The competent authority of the requesting party shall only make a request for information pursuant to this Article when it is unable to obtain the requested information by other means, except where recourse to such means would give rise to disproportionate difficulty.

2. If the information in the possession of the competent authority of the requested party is not sufficient to enable it to comply with the request for information, the requested party shall take all relevant information gathering measures to provide the requesting party with the information requested, notwithstanding that the requested party may not, at that time, need such information for its own tax purposes.

3. If specifically requested by the competent authority of the requesting party, the competent authority of the requested party shall provide information under this Article, to the extent allowable under its domestic laws, in the form of depositions of witnesses and authenticated copies of original records.

4. Each party shall ensure that it has the authority, for the purposes referred to in Article 1 of this Agreement and subject to Article 2 of this Agreement, to obtain and provide, through its competent authority and upon request:

   (a) information held by banks, other financial institutions, and any person, including nominees and trustees, acting in an agency or fiduciary capacity;

   (b) information regarding the beneficial ownership of companies, partnerships and other persons, including in the case of collective investment funds, information on shares, units and other interests; and in the case of trusts, information on settlors, trustees and beneficiaries, provided that this Agreement does not create an obligation for a party to obtain or provide ownership information with respect to publicly traded companies or public collective investment funds, unless such information can be obtained without giving rise to disproportionate difficulties.

5. Any request for information made by a party shall be framed with the greatest degree of specificity possible. In all cases, such requests shall specify in writing the following:

   (a) the identity of the taxpayer under examination or investigation;

   (b) the period of time with respect to which the information is requested;

   (c) the nature of the information requested and the form in which the requesting party would prefer to receive it;

   (d) the matter under the requesting party's tax law with respect to which the information is sought;

   (e) the reasons for believing that the information requested is foreseeably relevant or material to tax administration and enforcement of the requesting party, with respect to the person identified in subparagraph (a) of this paragraph;

   (f) reasonable grounds for believing that the information requested is present in the requested party or is in the possession of a person within the jurisdiction of the requested party;

   (g) to the extent known, the name and address of any person believed to be in possession or control of the information requested;

   (h) a statement that the request conforms to the law and administrative practice of the requesting party and would be obtainable by the requesting party under its laws or in the normal course of administrative practice in similar circumstances, both for its own tax purposes and in response to a valid request from the requested party under this Agreement;

(i) a statement that the requesting party has pursued all reasonable means available in its own territory to obtain the information, except where that would give rise to disproportionate difficulty.

**Article 6**
**Tax Investigations Abroad**

1. By reasonable notice given in advance, a party may request that the other party allow officials of the requesting party to enter the territory of the requested party, to the extent permitted under its domestic laws, to interview individuals and examine records with the prior written consent of the individuals concerned. The competent authority of the requesting party shall notify the competent authority of the requested party of the time and place of the intended meeting with the individuals concerned.

2. At the request of the competent authority of the requesting party, the competent authority of the requested party may permit representatives of the competent authority of the requesting party to attend a tax examination in the territory of the requested party.

3. If the request referred to in paragraph 2 is granted, the competent authority of the requested party conducting the examination shall, as soon as possible, notify the competent authority of the requesting party of the time and place of the examination, the authority or person authorised to carry out the examination and the procedures and conditions required by the requested party for the conduct of the examination. All decisions regarding the conduct of the examination shall be made by the requested party conducting the examination.

**Article 7**
**Possibility of Declining a Request**

1. The competent authority of the requested party may decline to assist:

   (a) where the request is not made in conformity with this Agreement;

   (b) where the requesting party has not pursued all means available in its own territory to obtain the information, except where recourse to such means would give rise to disproportionate difficulty; or

   (c) where the disclosure of the information requested would be contrary to the public policy of the requested party.

2. This Agreement shall not impose upon a party any obligation:

   (a) to provide items subject to legal privilege, nor any trade, business, industrial, commercial or professional secret or trade process, provided that information described in Article 5(4) shall not by reason of that fact alone be treated as such a secret or trade process; or

(b) to carry out administrative measures at variance with its laws and administrative practices, provided that nothing in this subparagraph shall affect the obligations of a party under Article 5(4).

3. A request for information shall not be refused on the ground that the tax liability giving rise to the request is disputed by the taxpayer.

4. The requested party shall not be required to obtain and provide information which the requesting party would be unable to obtain in similar circumstances under its own laws for the purpose of the administration/enforcement of its own tax laws or in response to a valid request from the requested party under this Agreement.

**Article 8**
**Confidentiality**

1. All information provided and received by the competent authorities of the parties shall be kept confidential.

2. Information provided to the competent authority of a requesting party may not be used for any purpose other than for the purposes stated in Article 1, without the prior express written consent of the requested party.

3. Information provided shall be disclosed only to persons or authorities (including judicial, administrative and Congressional oversight authorities) officially concerned with the purposes specified in Article 1, and used by such persons or authorities only for such purposes or for oversight purposes, including the determination of any appeal. For these purposes, information may be disclosed in public court proceedings or in judicial proceedings.

4. Information provided to a requesting party under this Agreement may not be disclosed to any third party, including an agency or employee of any other government.

**Article 9**
**Costs**

The requesting party shall reimburse the requested party for all direct costs incurred in providing information pursuant to this Agreement. The respective competent authorities shall consult from time to time with regard to this Article, and in particular the competent authority of the requested party shall consult with the competent authority of the requesting party if the costs of providing information with respect to a specific request are expected to be significant.

**Article 10**
**Mutual Agreement Procedure**

Where difficulties or doubts arise between the parties regarding the implementation or interpretation of this Agreement, the respective competent authorities shall use their best efforts to resolve the matter by mutual agreement.

**Article 11**
**Mutual Assistance Procedure**

If both competent authorities of the parties consider it appropriate to do so they may agree to exchange technical know-how, develop new audit techniques, identify new areas of non-compliance, and jointly study non-compliance areas.

**Article 12**
**Entry into Force**

This Agreement shall enter into force when each party has notified the other of the completion of its necessary internal procedures for entry into force. Upon entry into force, it shall have effect for criminal tax matters forthwith and, in respect of other matters covered in Article 1, on January 1, 2006, or such earlier date as may be agreed in an exchange of letters by the competent authorities.

**Article 13**
**Termination**

1. This Agreement shall remain in force until terminated by either party.

2. Either party may terminate this Agreement by giving notice of termination in writing. Such termination shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of notice of termination by the other party.

3. A party which terminates this Agreement shall remain bound by the provisions of Article 8 with respect to any information obtained under this Agreement.

In witness whereof the undersigned being duly authorised in that behalf by the respective parties, have signed the Agreement.

Done at Washington in duplicate this nineteenth day of September, 2002.

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| FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA: | FOR THE GOVERNMENT OF THE STATES OF GUERNSEY: |

StC. 2(L)(

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

LARGE AND MID-SIZE BUSINESS DIVISION

DEC 19 2007

RECEIVED
17 JAN 2008

Mr. K.R.L. Forman
Administrator of Income Tax
States of Guernsey Income Tax Office
2 Cornet Street
St. Peter Port
Guernsey C.I. GY1 3AZ

Subject: TIEA Request Concerning

Dear Mr. Forman:

I would like to take this opportunity to express my gratitude to you and your staff for your efforts in obtaining the requested information under our Tax Information Exchange Agreement (TIEA). In particular, I would like to commend Messrs. Rob Gray and Richard Green for their tireless efforts in helping us obtain the required information on this first TIEA request.

Several highly productive discussions took place over the past few months. These discussions involved the administrative TIEA process, in general, and the specific request. We hope to continue this cooperative relationship in the future and look forward to continuing discussions once our new Tax Attaché, Ms. Kelli Winegardner, arrives in London in the earlier part of next year.

Thank you again for your assistance on this matter.

Sincerely,

Barry B. Shott

Barry B. Shott
Deputy Commissioner (International)
Large and Mid-Size Business

2010 NOV -2 PM 2:55

NSO/CES/REGISTRY UNIT

# EU SAVINGS TAX DIRECTIVE
## Consultation on move to automatic exchange of information



Fiscal and Economic Policy Group, 4th May, 2010

## 1 Introduction

1.1 The States is committed, as is explicit in the Fiscal and Economic Plan approved unanimously by the States last July, to meeting, and being seen to meet, the highest international standards of tax transparency.

1.2 The purpose of this document is to invite industry comments on a move to automatic exchange of information under the measures that Guernsey applies which are the same as the EU Savings Tax Directive (EUSD).

## 2 Background

2.1 Since 1 July 2005 banks, custodians and other economic operators (referred to collectively in the EUSD as 'paying agents') in Guernsey who make payments to individuals who are residents of one of the EU Member States of the types of income that fall within the scope of the EUSD (referred to in the EUSD as 'interest payments') have been required to apply measures that are the same as the EUSD when the payment is made.

2.2 The legislation in Guernsey under which the requirements arising from these measures were enacted are the Foreign Tax (Retention Arrangements) (Guernsey and Alderney) Law 2004, the Foreign Tax (Retention Arrangements) (Guernsey and Alderney) Ordinance, 2005, the Foreign Tax (Retention Arrangements) (Guernsey and Alderney) Ordinance, 2005 (Commencement) Regulations, 2005 and the Foreign Tax (Retention Arrangements) (Keeping of Records) Regulations, 2005.

2.3 Schedule 2 of the Foreign Tax (Retention Arrangements) (Guernsey and Alderney) Ordinance, 2005 specifies that, unless the recipient of the payment concerned requests the paying agent not to retain tax (in which case the recipient must either authorise disclosure of his identity and the payment concerned to the Income Tax office for onward transmission to the EU Member State where he is resident or alternatively provide a certificate from the authorities in the EU Member State where he is resident identifying the paying agent and the account/ investment concerned), during the 'transitional period' (see 2.6 and 2.7 below) the paying agent must retain/withhold tax from the interest paid and account for it to the Income Tax Office in Guernsey.

2.4 The Income Tax Office is then responsible for paying 75% of the tax retained/withheld to the EU Member States in which the various recipients of the aggregate amounts of the income are resident. The other 25% is retained by Guernsey as part of its public revenue.

2.5 The rate at which tax has to be withheld/retained is specified in paragraph 1 of Schedule 2 of the Foreign Tax (Retention Arrangements) (Guernsey and Alderney) Ordinance, 2005 as being 15% during the first three years of the 'transitional period', 20% for the subsequent three years and 35% thereafter (i.e. 15% for the period from 1 July 2005 to 30 June 2008, 20% for the period from 1 July 2008 to 30 June 2011 and 35% from 1 July 2011).

2.6 The 'transitional period' is defined in Section 21 of the Foreign Tax (Retention Arrangements) (Guernsey and Alderney) Ordinance, 2005 as being the same as that set out in Article 10 of the EUSD.

2.7 Article 10(2) of the EUSD specifies that 'the transitional period' shall end at the end of the first full fiscal year following the later of the following dates:

- *the date of entry into force of an agreement between the European Community, following a unanimous decision of the Council, and the last of the Swiss Confederation, the Principality of Liechtenstein, the Republic of San Marino, the Principality of Monaco and the Principality of Andorra, providing for the exchange of information upon request as defined in the OECD Model Agreement on Exchange of Information on Tax Matters released on 18 April 2002 (hereinafter the 'OECD Model Agreement') with respect to interest payments, as defined in this Directive, made by paying agents established within their respective territories to beneficial owners resident in the territory to which the Directive applies, in addition to the simultaneous application by those same countries of a withholding tax on such payments at the rate defined for the corresponding periods referred to in Article 11(1),*

- *the date on which the Council agrees by unanimity that the United States of America is committed to exchange of information upon request as defined in the OECD Model Agreement with respect to interest payments, as defined in this directive, made by paying agents established within its territory to beneficial owners resident in the territory to which the Directive applies.*

2.8 Article 14 of the agreements that the States of Guernsey entered into with each of the EU Member States under which the States of Guernsey committed to operating measures that are the same as the EUSD states that:

> *'At the end of the transitional period as defined in Article 10(2) of the Directive [the Island] shall cease to apply the withholding/retention tax and revenue sharing provided for in this Agreement and shall apply in respect of the other contracting party the automatic exchange of information provisions in the same manner as is provided for in Chapter II of the Directive. If during the transitional period [the Island] elects to apply the automatic exchange of information provisions in the same manner as is provided for in Chapter II of the Directive, it shall no longer apply the*

*withholding/retention tax and the revenue sharing provided for in Article 9 of this Agreement.'*

2.9 The public revenue generated for Guernsey as a result of the revenue sharing referred to in paragraph 1.4 above has in the past amounted to some £4 million per annum (in 2009 it was £3.715million). However, the lower level of interest rates prevailing during 2009 could well result in a smaller amount being collected during 2010 (the amount collected during 2010 will relate to interest payments made during the year ended 31 December 2009).

## 3. Current developments

3.1 There is some uncertainty as to the precise meaning of Article 10(2) of the EUSD and thus as to whether or when the transitional period will end. However, arguably the recent commitment made by Switzerland and the other jurisdictions referred to in the first paragraph of Article 10(2) to exchange information on request in accordance with the provisions of the OECD Model Tax Information Exchange Agreement or Article 26 of the OECD Model Tax Convention on Income and on Capital has meant that the conditions for the 'transitional period' to come to an end have already been met.

3.2 In June 2009 the Isle of Man announced its intention to move fully to automatic exchange of information with effect from 1 July 2011.

3.3 Belgium, which was one of the three EU Member States that applied the EUSD on a retention/withholding basis as opposed to an automatic exchange of information basis, moved to automatic exchange of information with effect from 1 January 2010.

3.4 The EU Council is currently considering a draft directive to amend the EUSD. If agreed, the amending directive will extend the scope of the EUSD and increase the complexity of its operation. The adoption by Guernsey of the same measures as the amended directive could make the application of a withholding/retention tax system increasingly complicated for paying agents based in Guernsey.

3.5 Guernsey, in common with the other Crown Dependencies and certain of the other third countries (notably Switzerland) does not require paying agents to apply the measures that are the same as the EUSD if the recipient is not subject to tax on the income in the EU Member State where he is resident because, for example, he is able to benefit from the remittance basis (i.e. the basis of taxation available to non domiciled individuals resident in the UK). Luxembourg previously also applied the same principle. However, following the commencement by the EU Commission of infringement proceedings against it, Luxembourg has withdrawn the availability of this exemption with effect from 1 January 2010.

3.6 On 2 December 2009 the UK Government began consulting on a measure that could require all UK residents to report the existence of 'offshore bank accounts'. The consultation document proposes that the nature of this requirement will depend on the extent to which the jurisdiction where the account is held exchanges information with the UK with an exemption for those jurisdictions which have agreed to automatic exchange of information with the UK.

3.7 On 24 March 2010 the UK Government announced revisions to the penalties that apply in the case of tax evasion. Higher penalties will apply where the evasion involves a jurisdiction that does not exchange information with the UK automatically.

## 4 Consultation

4.1 Paying agents in Guernsey and other interested parties are invited to give their views on the proposal that Guernsey should move to automatic exchange of information in advance of the end of the transitional period set out in Article 10(2) of the EUSD.

4.2 Paying agents in Guernsey and other interested parties are also invited to provide their view on the date from which this should have effect.

## 5 Conclusion

5.1 The Fiscal and Economic Policy Group invite comments on the above by the 11th June, 2010.

All consultation responses should be addressed to:

Dr Andy Sloan,
States Economist, Secretary to the Fiscal and Economic Policy Group.
Sir Charles Frossard House
PO Box 43, La Charroterie
St Peter Port
Guernsey
GY1 1FH

Or via email: andrew.sloan@gov.gg

# POLICY COUNCIL
THE STATES OF GUERNSEY

**MEDIA RELEASE – THURSDAY 29 OCTOBER 2009**

**FOR IMMEDIATE RELEASE**

## GUERNSEY WELCOMES CONCLUSIONS OF THE 'FOOT REVIEW'

AN INDEPENDENT review of British Offshore Financial Centres, published today, is a solid endorsement of Guernsey's economic contribution to the UK economy, the island's economic management, robust regulatory regime and adherence to international standards on tax information and transparency.

In particular the review noted that:

- Guernsey and the Crown Dependencies set an example for other offshore financial centres to follow
- Guernsey and the Crown Dependencies provide significant economic benefit to the UK and the City of London, providing a gateway for funds to flow into the UK economy which would not otherwise route into the United Kingdom. UK banks had net financing from Guernsey of $74.1 billion at the end of June 2009
- The finance industries in the Crown Dependencies generate significant professional fees for UK lawyers, accountants, fund managers, compliance and advisors, and that the Crown Dependencies are an important factor in London's pre-eminence as a global financial centre
- Guernsey and the Crown Dependencies have conducted prudent and successful economic policies in recent years through the building up of reserves
- Guernsey and the Crown Dependencies have developed, to a significant degree, robust medium-term fiscal and economic planning and strategies which have better placed the Crown Dependencies to withstand the rigours of recent global economic turmoil
- The decision of the Channel Islands to review their fiscal strategies, and the way that Crown Dependencies are taking action to combat the effect of reduced revenues due to the economic downturn, have been noted positively

- Guernsey and the Crown Dependencies commitment to meeting international regulatory standards and co-operation and Guernsey's introduction of a depositor compensation scheme

- Guernsey's commitment to fighting financial crime and its commitment to properly staffing and resourcing its Financial Intelligence Units.

Chief Minister Deputy Lyndon Trott welcomed the findings of the report today.

He said:

'In my view this report vindicates the position of Guernsey and the other Crown Dependencies. Mr Foot finally confirms the issue that the three Crown Dependencies do provide a positive economic benefit to the UK.

'There is also a positive endorsement of our decision to review our fiscal strategy.

'At the time of its announcement, we believed that the Foot Review would be an opportunity to dispel some myths about our financial services sector. I believe unequivocally now that we have been proved correct.'

The UK Government commissioned the review at the end of 2008. It was carried out by Michael Foot, a former managing director of the UK Financial Services Authority, an appointment which followed a long career at the Bank of England. He visited Guernsey earlier this year as part of his investigations.

The States of Guernsey positively welcomed the review and fully engaged and supported Mr Foot's team. The review also received submissions about the local finance industry from a number of bodies, including the States, GIBA and individual businesses.

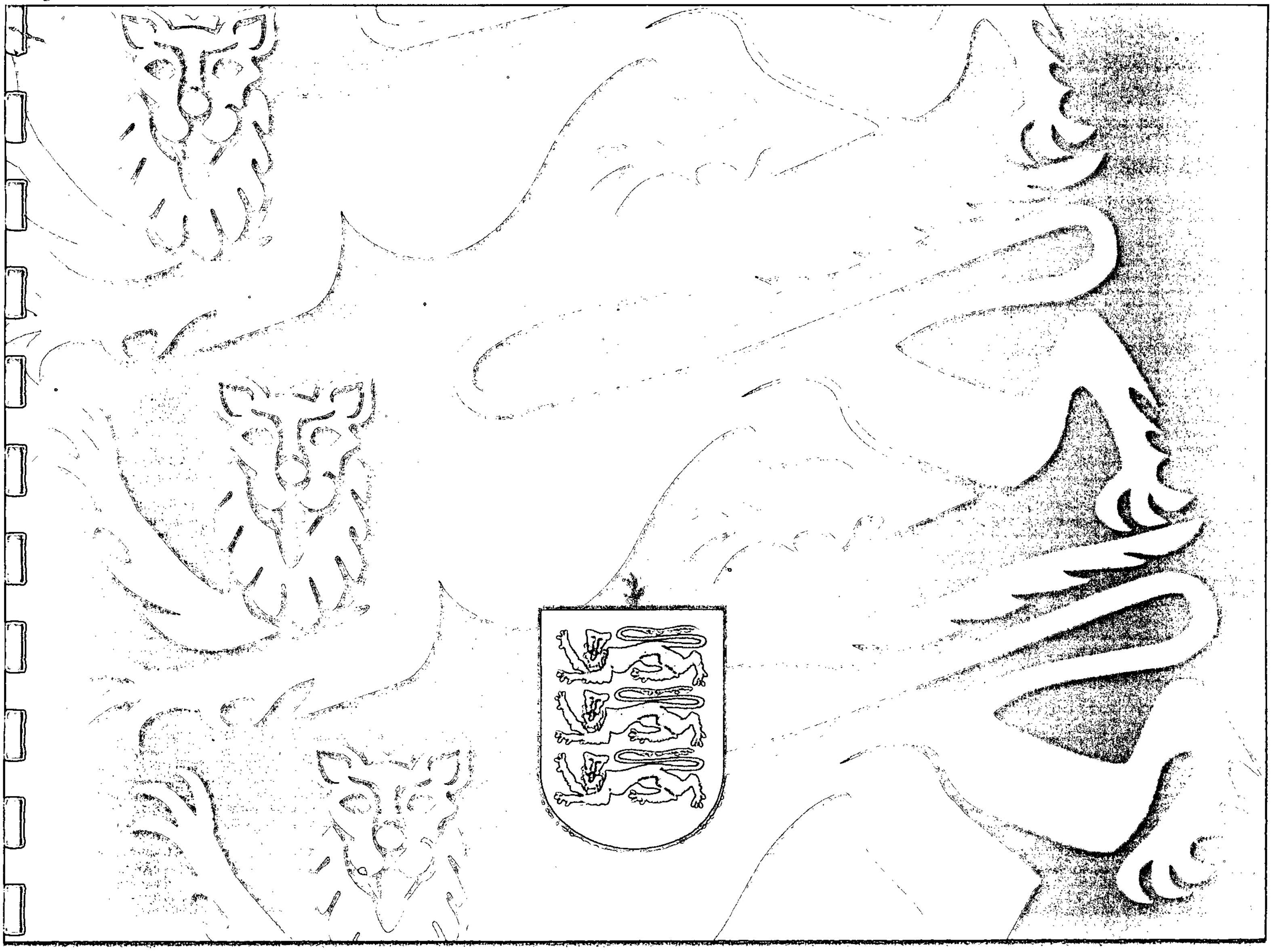
The wide ranging review covered the Crown Dependencies (Guernsey, Jersey and the Isle of Man) and British Overseas Territories which are involved in international finance.

The review was commissioned as a result of the global economic downturn and was designed to look at a host of areas including future financial supervision, transparency, taxation, management and international co-operation as well as the role of these jurisdictions in the global financial services industry.

**NOTES TO EDITORS:**

Further details on the Independent Review of British Offshore Financial Centres can be found on the HM Treasury web site: http://www.hm-treasury.gov.uk/indreview_brit_offshore_fin_centres.htm

**Issued by: James Falla, for Policy Council**



**States of Guernsey**
**Statement for the Hearing Record**
**House Ways and Means Subcommittee on Select Revenue Measures**
**"Banking Secrecy Practices and Wealthy American Taxpayers"**
**March 31, 2009**



STATES OF GUERNSEY

## Statement

1.1 Guernsey is a well-regulated financial centre committed to maintaining international financial stability and transparency. Guernsey has consistently demonstrated this commitment through international co-operation and information exchange.

1.2 As a general principle, Guernsey does not support the use of "blacklists" and endorses the views of the U.S. Department of the Treasury that the use of such lists "to simplify what is a complex area...can lead to misunderstanding and mistakes."[1] Guernsey has consistently argued that each jurisdiction should be considered on its own merits as assessed against internationally recognised standards. Guernsey is not a "tax haven" or an "offshore secrecy jurisdiction." In any event, there is no internationally agreed definition of either.

1.3 By any objective measure, Guernsey is not a "tax haven" or an "offshore secrecy jurisdiction" for the following reasons:

- Guernsey has never had any form of banking secrecy legislation;
- Guernsey has entered into 13 Tax Information Exchange Agreements ("TIEAs") so far, including one with the United States, and is committed to continuing to be a leader in this field;
- Guernsey has well-developed powers to investigate financial crime and tax evasion and regularly assists other jurisdictions in such investigations;
- Guernsey has had mutual legal assistance legislation in force since 1998 and regularly exchanges information under that legislation;
- Guernsey provides assistance to jurisdictions so that requests for information comply with Guernsey law and does not attempt to obstruct investigations; and
- Guernsey has a well-developed regulatory regime which complies with all recognised international standards.

1.4 Guernsey is a participant in the Global Tax Forum, an initiative of the Organisation for Economic Co-operation and Development (the "OECD"). The OECD recognises that Guernsey has substantially implemented the OECD standard on information exchange in tax matters by entering into 13 TIEAs. Further agreements are under negotiation and Guernsey intends to continue to conclude such agreements in the near future. The OECD published a list of co-operative jurisdictions on 2 April 2009, which places Guernsey alongside jurisdictions such as the United States, France, Germany, and the United Kingdom in having effective tax information exchange.[2] Guernsey is delivering on its international commitments to transparency and co-operation.

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[1] Letter from Deputy Assistant Treasury Secretary (International Tax Affairs) Michael Mundaca to General Accountability Office ("GAO") Director (Tax Issues) James R. White, commenting on GAO report: *Large U.S. Corporations and Federal Contractors with Subsidiaries in Jurisdictions Listed as Tax Havens or Financial Privacy Jurisdictions,* December 18, 2008.

[2] This list is posted at: www.oecd.org/document/57/0,3343,en_2649_34487_42496569_1_1_1_1,00.html.

1.5 In the event that the Subcommittee on Select Revenue Measures decides to develop anti-tax haven abuse legislation that uses a list of "tax havens" or "offshore secrecy jurisdictions," then Guernsey respectfully suggests that the only appropriate list to follow is the list most recently issued by the OECD, the leading global authority on international tax practices, of jurisdictions that have not substantially implemented the OECD standard for effective exchange of tax information.

1.6 Guernsey's reputation as a premier provider of international financial services has been built on a number of foundations, including:

- an effective regulatory regime that meets or exceeds all international standards on financial regulation, anti-money laundering and combating the financing of terrorism;
- international co-operation on regulation and the investigation of financial crime;
- regular, external, and independent reviews - in the majority of cases at Guernsey's express invitation and in all cases with Guernsey's full co-operation and assistance;
- a highly skilled and educated workforce; and
- proximity to the European mainland.

1.7 The authorities in Guernsey have substantial investigatory powers. They work closely with their counterparts in other jurisdictions in investigating regulatory, taxation, and criminal matters and assisting in freezing and recovering the proceeds of crime. Guernsey has consistently provided assistance to the United States in investigating crime, freezing assets, and recovering the proceeds of crime.

**Lyndon S. Trott**
**Chief Minister**
**States of Guernsey**

**14 April 2009**

# Background Information

## A. Guernsey's Status and International Relationships

### 1. The Government of Guernsey

1.1 Guernsey is the principal island of the Bailiwick of Guernsey, a British Crown Dependency.[3] It has never been a colony or a British dependent or overseas territory. Its status constitutionally is, and always has been, distinctly different from that of the British Overseas Territories. Guernsey has its own directly-elected legislative assembly, the States of Deliberation, comprising 47 independent members, and its own administrative, fiscal and legal systems. Its government, the States of Guernsey, is principally conducted through 10 Government Departments overseen by the Policy Council, constituted by the Chief Minister and the 10 Ministers. Guernsey's right to raise its own taxes is a long-established constitutional principle.

### 2. Guernsey's Relationship with the United Kingdom

2.1 Guernsey is not, and never has been, represented in the UK Parliament, which therefore does not legislate on behalf of Guernsey without first obtaining the consent of Guernsey's administration. The extension to Guernsey of an Act of Parliament by Order in Council is occasionally requested. However, the usual practice is for the States of Deliberation, which always has been legislatively independent from the United Kingdom regarding insular affairs, to enact its own legislation. Primary legislation ("Laws") requires Royal Sanction from Her Majesty in Council ("the Privy Council").

2.2 The British Crown acts on behalf of Guernsey through the Privy Council on the recommendations of Ministers of the UK Government in their capacity as Privy Counsellors. For example, the UK Ministry of Justice acts as the point of contact between Guernsey and the British Crown for the purpose of obtaining Royal Sanction for Laws, but is not otherwise involved in Guernsey's internal affairs. The Judicial Committee of the Privy Council is Guernsey's final appellate court.

### 3. Guernsey's International Affairs

3.1 The United Kingdom is responsible for Guernsey's external relations and defence. In recent years, Guernsey has increasingly acted internationally on its own behalf, particularly in relation to matters

[3] This section is drawn from Ogier, D, *The Government and the Law of Guernsey*, 2005. Further information on Guernsey is available at: www.gov.gg/aboutguernsey.

for which it has complete autonomy.[4] The UK Government has recognised the appropriateness of Guernsey further developing its international identity.

## B. Guernsey's Taxation System

1.1 Guernsey has a well-developed taxation system. Taxes in Guernsey are set on the basis of the need to fund public services and the need to ensure that Guernsey's economy remains strong. Taxation in Guernsey is managed by the Director of Income Tax who is responsible for administering legislation relating to Income Tax and Foreign Retention Tax in support of the European Union ("EU") Directive on the Taxation of Savings Income (2003/48/EC). There is no capital gains or any other taxes on capital in Guernsey. Guernsey's personal income tax is set at 20 percent, a rate which has remained unchanged for over 40 years. Guernsey does not have a Value Added Tax but does have a range of indirect taxes and duties. As part of its commitment to eliminating harmful tax competition, Guernsey has complied fully with the EU Code of Conduct on Business Taxation. Guernsey's tax system is relatively uncomplicated and effective, which minimises the compliance costs on business.

## C. Guernsey's Economy and the Financial Services Sector

### 1. Development of the Finance Sector

1.1 Guernsey's financial services sector began to grow in the 1960s with the establishment of operations in Guernsey by UK merchant banks and the establishment of investment funds which they sponsored. By 1987, the banking, insurance and collective investment fund sectors had developed to such an extent that the States of Guernsey acted to establish an independent regulatory body staffed by dedicated professionals. This was in accordance with internationally accepted best practices at the time. The Guernsey Financial Services Commission (the "Commission") was established in 1988. During the 1990s, Guernsey emerged as one of the world's largest captive insurance centres. Today, Guernsey is Europe's largest captive insurance centre, and the fifth largest in the world. The Channel Islands Stock Exchange ("CISX"), which is based in Guernsey and is the only stock exchange in the Channel Islands, commenced operations in 1998. The CISX has been recognised by the U.S. Securities and Exchange Commission, the Financial Services Authority ("FSA") and Her Majesty's Revenue and Customs ("HMRC"). As the sector continues to develop, an increasing number of professional firms exist to service the finance industry, particularly in the accounting, legal and actuarial professions. There are presently more than 8,000 people employed in financial services in Guernsey.

[4] For example, co-operation agreements with the 27 EU Member States (in relation to Directive 2003/48/EC on taxation of savings income) and agreements for the exchange of information relating to tax matters.

1.2 Financial services account for approximately 35 percent of Guernsey's Gross Domestic Product. Guernsey also has well-developed industries in business services, electronic commerce, information technology and light manufacturing.

1.3 Guernsey's financial services industry is diverse and includes banking, collective investment funds, insurance and fiduciary services. The workforce in Guernsey is highly skilled and provides a full range of services, including administration of funds, corporate administration, public listing of companies on European stock exchanges, investment advice, and insurance brokerage services. In many respects, Guernsey's success as a financial service centre exists because many of Guernsey's professionals are recognised as world leaders in their particular fields with a high level of skills and expertise.

1.4 Due to its long-established financial services industry, Guernsey has developed considerable expertise in administering collective investment funds, captive insurance, and trust and company structures. In addition, Guernsey operates a "full-service" finance centre. It does not merely provide a domicile for activities undertaken elsewhere.

1.5 Guernsey has been ranked 12th in the latest Global Financial Centres Index ("GFCI"), released in March 2009. Since the previous survey published in September 2008 the Island has moved up four places. The report is produced by the Z/Yen Group for the City of London and ranks financial centres based on external benchmarking data and current perceptions of competitiveness and resilience in the face of the global financial downturn.

## 2. Regulation of Financial Services in Guernsey

2.1 The Commission was one of the world's first unitary regulatory bodies, and is responsible for the regulation of banks, insurers and insurance intermediaries, investment firms, trust companies, company administrators and professional company directors providing directorship services by way of business in Guernsey. It has been given wide-ranging powers to supervise and investigate regulated entities under a variety of regulatory laws. It also takes appropriate enforcement action when necessary. The Commission considers that the prevention of financial instability is a key function of effective regulation.

2.2 Guernsey is one of the few jurisdictions in the world to regulate trust and company service providers in a manner consistent with the prudential regulation of banks, investment firms and insurance companies. It has regulated trust and company service providers in this way since 2001.

2.3 In performing its regulatory and supervisory work according to international standards, the Laws and Regulations administered by the Commission comply with those established by:

- The Basel Committee on Banking Supervision;
- The International Association of Insurance Supervisors ("IAIS");
- The International Organization of Securities Commissions ("IOSCO");
- The Offshore Group of Insurance Supervisors ("OGIS");

- The Offshore Group of Banking Supervisors ("OGBS"); and
- The Financial Action Task Force ("FATF").

2.4 The International Monetary Fund ("IMF") conducts a regular independent and external review of Guernsey's compliance with those international standards. The next IMF review is likely to occur later this year.

2.5 The Commission is actively involved with international regulatory and supervisory organisations. Guernsey was a founding member of IAIS, OGIS, and OGBS. The Commission is also a full member of IOSCO and a member of the enlarged contact group on the Supervision of Collective Investment Funds.

## D. Co-operation on Taxation, Regulation, Financial Intelligence and Anti-Money Laundering

### 1. Information Exchange

1.1 On 21 February 2002, Guernsey publicly committed to complying with the OECD's principles of effective exchange of tax information.[5] Guernsey signed its first TIEA, with the United States, on 19 September 2002. It has been fully operative since 2006. Guernsey has subsequently concluded TIEAs with the Netherlands (25 April 2008), the seven Nordic Council countries (Denmark, the Faroe Islands, Finland, Greenland, Iceland, Norway and Sweden ) (28 October 2008), the United Kingdom (20 January 2009), France (24 March 2009), Germany (26 March 2009) and Ireland (26 March 2009). Guernsey is actively pursuing TIEA negotiations with other countries with a view to finalising agreements as soon as practicable.

1.2 Guernsey's commitment to transparency and international co-operation has been recognised by the OECD and the European Commission. The OECD published a progress report listing co-operative jurisdictions on 2 April 2009, which places Guernsey alongside jurisdictions such as the United States, France, Germany, and the United Kingdom in having effective tax information exchange. At a press conference held on 7 April 2009 the OECD recognised:

> "Guernsey...[has] made a real commitment, not just before the G20, but years ago and they have implemented those commitments."

1.3 Guernsey currently has two double tax arrangements, one with the United Kingdom, signed in 1952, and the other with Jersey, signed in 1955. The agreements provide for the exchange of information in order to prevent fiscal evasion or avoidance. For many years, Guernsey has been able to provide information from its tax files to the UK tax authorities, and has done so on a regular basis, both spontaneously and as requested by the United Kingdom. Exchange of information under the double

[5] See letter at www.oecd.org/dataoecd/61/13/2067884.pdf.

tax arrangement with the United Kingdom has led to the opening of investigations or advancement of existing investigations by HMRC.

## 2. Mutual Legal Assistance

2.1 The European Convention on Mutual Legal Assistance (1959) and the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds of Crime (1990) have both been extended to Guernsey.

2.2 Mutual legal assistance is provided by the Law Officers of the British Crown under a range of Guernsey Laws. Between 1999 and 2007, over 90 requests for information specifically related to taxation matters were received, of which 46 were from the United Kingdom, 28 from other EU Member States, 7 from the United States and 9 from other foreign jurisdictions. In 2008, there were 34 requests of all types. Guernsey does not approach requests to see if they can be rejected but rather offers assistance to other jurisdictions to enable them to perfect their requests so they comply with the form required by the relevant Guernsey Laws.

## 3. Banking Secrecy and Transparency

3.1 Guernsey has never had banking secrecy laws and does not perpetuate a regime of banking secrecy. As in the United Kingdom, general principles of Guernsey law preserve the confidentiality of information properly regarded as private. Against such due respect for privacy, however, must be balanced compliance with domestic law provisions requiring persons to divulge information to relevant authorities (*e.g.*, the Director of Income Tax has extensive information-gathering powers and the Commission has wide-ranging powers of supervision and investigation).[6] Relevant authorities in Guernsey then share appropriate information with partners internationally.

3.2 Guernsey's company law has introduced a new requirement that all private companies in Guernsey appoint a local resident agent who is under an ongoing duty to identify the beneficial owner of that company. That information must be made available to law enforcement and regulatory bodies upon request. Guernsey believes that it is the first jurisdiction in the world to introduce such a regime. This further strengthens the pre-existing Anti-Money Laundering and Combating the Financing of Terrorism ("AML/CFT") regime which requires corporate service providers to identify the beneficial owner of the companies they administer as part of the anti-money laundering regime.

3.3 Guernsey has a long-standing commitment to transparency and international co-operation. This was recognised by U.S. Treasury Secretary Paul O'Neill at the signing of the TIEA between Guernsey and the United States in 2002. Treasury Secretary O'Neill said:

> The United States and Guernsey already have a close and cooperative relationship on law enforcement matters, including criminal tax matters. We

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[6] See Income Tax (Guernsey) Law, 1975, Part VIA (inserted by the Income Tax (Guernsey) (Amendment) Law, 2005).

are well aware of Guernsey's commitment to cooperation in targeting criminal abuse of the world's financial systems.

This new agreement will formalize and streamline our current cooperation in criminal tax matters and will allow exchange of information on specific request in civil tax matters as well. This agreement is an important development, and further demonstrates Guernsey's long standing commitment to cooperating with the United States on law enforcement matters and to upholding international standards in this area.

Today's agreement with an important financial centre of Europe demonstrates our commitment to securing the cooperation of all our neighbours, not just those near our shores but those more distant too. I hope that Guernsey's cooperation with the United States in negotiating this tax information exchange agreement will serve as an example to other financial centres in its region and around the world.

## 4. Regulatory Transparency and Information Exchange

4.1 The Commission has the legal authority to disclose information to other supervisory authorities. It can also disclose information to other authorities for the purposes of preventing, detecting, investigating and prosecuting financial crime. In addition, the Commission may obtain information from licensees on behalf of foreign supervisory bodies. The Commission shares information with supervisory authorities and other bodies spontaneously, as well as on request. Although it has 15 Memoranda of Understanding ("MoUs") with international partners (including the U.S. Commodity Futures Trading Commission, U.S. Federal Deposit Insurance Corporation and the FSA), an MoU is not required to allow information exchange. In light of the links between UK financial services businesses and Guernsey, it is common for the Commission to co-operate and exchange information with the FSA.

4.2 Regarding transparency of transactions, the AML/CFT legislation and rules made by the Commission require financial services businesses to undertake customer due diligence on their potential customers and to look through legal persons, such as companies, legal arrangements and trusts to undertake customer due diligence on beneficial owners, settlors, beneficiaries and other underlying principals, and to maintain both customer due diligence and transaction records. In addition, rules made under the Protection of Investors Law require investor transaction records to be maintained (for example, contract notes). The Attorney General (HM Procureur) and the Commission have powers under the legislation they administer to obtain that information on behalf of foreign authorities and to disclose it to those authorities.

## 5. Guernsey's Financial Intelligence Service

5.1 The Financial Intelligence Service ("FIS") is responsible for the collation and dissemination of intelligence relating to financial crime in Guernsey.[7] Formed in 2001, the FIS is operationally independent, although it is staffed and funded by the law enforcement agencies of the Guernsey Police and the Customs and Excise, Immigration and Nationality Service ("Customs"). The strategic aims of the FIS are:

- The provision of quality intelligence with regard to all financial crime, with a special emphasis on combating money laundering and countering the financing of terrorism;
- The provision of full international co-operation, within the law, to competent and relevant overseas authorities; and
- The provision of services to enhance the co-ordination and the development of criminal intelligence to combat financial crime.

5.2 The staff of law enforcement (the FIS, the Fraud and International Team, and the Commercial Fraud and International Affairs Team) are highly skilled specialists and experienced in the investigation of financial crime. The FIS also is the point of contact for those seeking assistance in relation to financial crime and receives requests for assistance from both local law enforcement and overseas agencies. Since 1997, Guernsey's law enforcement team has been a member of the Egmont Group of Financial Intelligence Units. Where the FIS receives intelligence enquiries of a criminal nature that are proportionate and justified, the FIS does not require an MoU in order to exchange information. However, where an authority in another jurisdiction does require an MoU to allow information exchange, the FIS will enter into such an agreement if there is an operational need. At present, the FIS is party to 13 MoUs with international partners, including the UK Serious Organised Crime Agency ("SOCA").

5.3 The FIS is the designated authority to receive suspicious transaction reports ("STRs") in Guernsey. The FIS investigates all STRs with most being disseminated to relevant local and overseas agencies. In 2008, there were 519 disclosures and 465 requests for assistance received, of which 63 percent came from outside Guernsey. STRs largely relate to suspicions of tax evasion, large cash transactions, and unexplained lifestyles. STRs relating to suspected terrorism are relatively rare and comprise only a small portion of reports received. The high number of reports demonstrates the high level of awareness of AML/CFT obligations in the finance industry in Guernsey. Over 75 percent of STRs do not relate to local Guernsey residents. Where there is evidence of tax evasion, it is Guernsey policy to disseminate all STRs to the appropriate jurisdiction as it would any other STR relating to any other criminal activity. Recent legislation allows intelligence to be disseminated to the SOCA to assist civil investigations in the United Kingdom (and elsewhere). The FIS also regularly provides STRs to EU Member States and OECD countries.

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[7] See the FIS website available at: www.guernseyfis.org. Also available at that website are the FIS annual reports which provide data on the FIS' activities in each year.

5.4 To counter the significant threat posed by sophisticated international money laundering, Guernsey has introduced new legislation to give law enforcement even greater powers to freeze and recover the proceeds of crime through both criminal and civil action. The laws also make it easier for law enforcement to prosecute money laundering offences. Guernsey regularly assists other jurisdictions that request assistance in obtaining evidence, tracing and freezing assets, and recovering assets related to criminal proceedings. Guernsey has had considerable success in freezing and recovering assets on behalf of many other jurisdictions, including the United Kingdom[8], other EU Member States[9] and the United States. In many cases, substantial sums were involved and repatriated to the requesting nation. A significant portion of matters in which Guernsey provides assistance relate to taxation.

**6. AML/CFT Framework**

6.1 Guernsey's AML/CFT regime complies with the FATF standards. The Guernsey authorities are committed to ensuring that money launderers, terrorists, those financing terrorism and other criminals, including those seeking to evade tax, cannot launder those criminal proceeds through Guernsey, or otherwise abuse Guernsey's finance sector. The AML/CFT authorities in Guernsey endorse the FATF's 40 Recommendations on Money Laundering and the FATF's Nine Special Recommendations on Terrorist Financing. Guernsey has introduced new legislation, amended existing legislation, and the Commission has introduced rules and guidance in order to continually keep compliant with the FATF's developing standards.

6.2 All businesses and individuals are required by the AML/CFT legislation to report possible money laundering when they suspect or have reasonable grounds to suspect that funds are the proceeds of criminal activity. This includes tax evasion. The same obligation to report suspicion applies to assets where there are reasonable grounds to suspect or they are suspected to be linked or related to, or to be used for terrorism, terrorist acts or by terrorist organisations or those who finance terrorism. Businesses and individuals reporting suspicion are protected by law from any breach of confidentiality.

6.3 Extensive AML/CFT countermeasures apply to all financial service businesses operating in Guernsey, plus trust and company service providers, all of which are subject to regular on-site inspections by the Commission. The international standards set by the FATF did not apply to trust and company service providers until June 2003. However, the revised AML/CFT framework that entered into force in Guernsey on 1 January 2000 subjected trust and company service providers to AML/CFT regulation well before the FATF requirements. As a result, since 2000 trust and company service providers have been required to identify the beneficial owners of companies, the identity of settlors and beneficiaries of trusts and the identity of any other underlying principals.

[8] The number of requests from the United Kingdom amount to 49% of the total number requests for assistance.
[9] The number of requests from other EU Member States amount to 30% of the total number of requests for assistance.

## 7. Stolen Asset Recovery Initiative

7.1 In March 2008, the World Bank and the United Nations Office on Drugs and Crime invited Guernsey to participate in the Stolen Asset Recovery Initiative ("StAR Initiative"), a project endorsed at the G20 meeting in Washington in November 2008. The StAR Initiative is an integral part of the World Bank's anti-corruption strategy and will enhance co-operation, build relationships and help developing counties recover stolen assets. Guernsey has a continuing involvement in the project and has been asked, and agreed, to participate in two further projects under this initiative.