

REVIEW OF TRANSPARENCY OF BENEFICIAL OWNERSHIP OF COMPANIES

CONSULTATION PAPER

Background

1. In June 2013, in concert with the G8, Jersey published an Action Plan to prevent the misuse of legal persons and legal arrangements. That Action Plan, which is attached as Annex 1 to this paper, included a commitment to "Undertake a general review of corporate transparency, having regard for the development of international standards and their global application, starting with the publication of a pre-consultation paper before the end of 2013".
2. The UK Government made the improvement in the transparency of the ownership and control of legal persons and legal arrangements a cornerstone of its G8 Presidency. All G8 countries agreed to publish Action Plans and the UK sought and obtained the agreement of the Crown dependencies and Overseas Territories to do likewise.
3. To sustain their leadership position the UK Government Department for Business Innovation & Skills (BIS) issued a Discussion Paper in July 2013 entitled "Transparency & Trust: Enhancing the Transparency of UK Company Ownership and Increasing Trust in UK Business".
4. In September 2013 the G20 issued a Leaders' Declaration following their St Petersburg Summit in which they stated: "We encourage all countries to tackle the risks raised by opacity of legal persons and legal arrangements, and we commit to take measures to ensure that we meet the FATF standards regarding the identification of the beneficial owners of companies and other legal arrangements such as trusts that are also relevant for tax purposes. We will ensure that this information is available in a timely fashion to law enforcement, tax collection agencies and other relevant authorities in accordance with the confidentiality legal requirements, for example through central registries or other appropriate mechanisms. We ask our Finance Ministers to update us by our next meeting on the steps taken to meet FATF standards regarding the beneficial ownership of companies and other legal arrangements such as trusts by G20 countries leading by example."
5. In October 2013 the UK Government Cabinet Office published a report entitled "Open Government Partnership UK National Action Plan 2013 to 2015". In this document the UK states that it "is committed to lead by example to implement international standards on transparency of ownership and control to tackle the misuse of companies and legal arrangements. In particular, the UK has committed to place a requirement on companies to obtain and hold adequate, accurate and

current information on their beneficial ownership – defined as “the natural person(s) who ultimately owns or controls a legal person or arrangement.”

6. On the 15th November 2013 the UK Prime Minister wrote to the President of the European Council. That letter is attached as Annex 2. In it he states that “Europe must now, through the 4th Money Laundering Directive (MLD), visibly lead global efforts to strengthen transparency of company beneficial ownership. As you know, I put this issue at the heart of the UK’s G8 Presidency this year because of the overwhelming evidence behind the need to act. Put simply, a lack of knowledge about who ultimately owns and controls companies facilitates illicit domestic and cross-border money laundering, corruption, tax evasion and other crimes”.
7. The UK Government has encouraged the Crown Dependencies and Overseas Territories to join the UK at the vanguard of company transparency. Jersey’s commitment to consult on corporate transparency has been welcomed and the UK Government has said that it looks forward to discussing the outcomes of this consultation.
8. The UK Prime Minister in his letter to the President of the European Council stressed the need to recognise the important differences between companies and trusts and that the solution for addressing the potential misuse of companies may well not be appropriate generally. To tackle tax evasion and prevent the misuse of trusts, he states that the EU must continue supporting efforts by OECD and G20 countries to agree a new single global standard on automatic tax information exchange, with which efforts Jersey is actively engaged. This paper focusses only on the international action to improve the transparency of the beneficial ownership of companies.

Jersey’s current position

9. In its Action Plan Jersey stated that it is fully committed to implementing the revised Financial Action Task Force (FATF) standards in order to improve the transparency of the ownership and control of legal persons and legal arrangements. FATF Recommendation 24 is concerned with legal persons (i.e companies, foundations, limited liability partnerships and other types of legal persons). FATF Recommendation 25 is concerned with legal arrangements (i.e express trusts and other types of legal arrangements with a similar structure or function).
10. For companies the FATF in its Methodology for assessing technical compliance with the FATF recommendations and the effectiveness of AML/CFT systems states:
“Countries should require that all companies created in a country are registered in a company registry, which should record the company name, proof of incorporation, legal form and status, the address of the registered office, basic regulating powers,

and a list of directors. This information should be publicly available.” For beneficial ownership information the recommendation calls for one or more mechanisms to ensure that it is available at a specified location in the country concerned; or can be otherwise determined in a timely manner by a competent authority. The FATF do not specifically mandate a central register for beneficial ownership information and there is no requirement for the information to be publicly available.

11. The Action Plan sets out Jersey’s existing strong record as follows –

- It requires beneficial ownership to be disclosed to the Jersey Financial Services Commission (the “Commission”) at the time of incorporation of a company, and the Commission holds this information in a central register;
- The Commission has a long-standing statutory duty to have regard to the need to protect the integrity of Jersey in commercial and financial matters before agreeing to a request to incorporate a company;
- Trustees are bound to hold information on the settlors and beneficiaries of trusts under the provisions of Common Law (supported by Case Law), Trusts Law and anti-money laundering requirements;
- The Commission actively supervises compliance by trust and company service providers with a requirement that they must collect and hold information on beneficial ownership for all legal persons and arrangements;

12. It was also pointed out that this strong record is recognised by –

- The IMF in its assessment of Jersey’s compliance with the then FATF recommendations, published in 2009, which found that Jersey was fully compliant with recommendation 33 (legal persons) and largely compliant with recommendation 34 (legal arrangements);
- The World Bank in the StAR project report “The Puppet Masters” which uses the Jersey “model” to describe conditions under which the company registry can be considered a viable option for providing beneficial ownership information (the Jersey Model is attached as Annex 3).

Since the Action Plan the Global Forum on Transparency and Exchange of Information for Tax Purposes has rated Jersey as largely compliant overall, and Jersey was found to be fully compliant in meeting the standard for the availability of ownership information.

13. Jersey’s Action Plan is but one part of a comprehensive programme of support for a number of international initiatives of relevance for the enhancement of

transparency and information exchange. A list of the steps taken over the past year is included as Annex 4 to this paper.

General review of transparency of beneficial ownership of companies

14. From Jersey's experience it is considered that to ensure that the international requirement of adequate, accurate and current information on beneficial ownership is met most effectively the process should include the following –

- An active company registry staffed by experts that not only calls for information on beneficial ownership on incorporation but also runs that information through independent checks and also has the power to refuse incorporation when the activities/beneficial owners are considered 'sensitive'.
- A tight definition of beneficial ownership;
- The licensing and active supervision of trust and company service providers (TCSPs) with requirements to ensure that information on the beneficial ownership of the companies they administer is adequate, accurate and current;
- Strict limitations placed on who may apply to incorporate a company;
- Legislation to ensure that, in accordance with the international obligations entered into, the information that is available can be readily provided to tax authorities and law enforcement authorities when sought;
- A power to strike off a company where it is no longer provided with any company administrative, trustee or fiduciary service by a TCSP.

Jersey meets all of these requirements presently, with the exception of the last bullet point which will be indirectly addressed by Companies Law Amendment No.

11. It is also worthy of mention that whereas the G8 are focussing on the requirements only in respect of companies incorporated in member jurisdictions, the requirements placed by Jersey on the TCSPs apply equally to companies they administer that have been incorporated elsewhere.

[Question:

Are there any steps that the Jersey Financial Services Commission could take to further ensure that adequate, accurate and current information on beneficial ownership is available in Jersey?]

15. The view is advanced by the international standard setters that, with the adoption of automatic exchange of information (AEOI), the tax authorities and law

enforcement authorities should be able to have access to information on beneficial ownership other than on specific request. This could be achieved through providing those authorities with the opportunity to access a central secure site on a country approved basis, with that access being limited to those jurisdictions that meet certain conditions. For example, countries that can show that they are compliant with international standards on mutual administrative assistance on AML and tax matters, and in particular that the standards on confidentiality are in place and are effectively applied.

16. To assist in achieving this a requirement would need to be placed on the TCSPs to inform the Company Registry of any change in the beneficial ownership from that identified at the time of incorporation. This would also call for a clear definition of what is meant by 'beneficial ownership'. The UK Government's Discussion Paper states: "FATF defines a 'beneficial owner' as the natural person who ultimately owns or controls a legal person or arrangement. The proposed EU Money Laundering Directive interprets this as the individual who owns or controls 25% plus one share of the entity through direct or indirect shareholding; or who exercises control over the management of the entity through other means. This corresponds to the current definition in the UK anti-money laundering framework, [.....] We think this definition should apply in respect of the information to be held in the registry."
17. A further issue is one of timescale. The Jersey Action Plan refers to 'having regard for the development of international standards and their global application'. This poses two questions – who is the standard setter and what constitutes global application. If the G8 and G20 are accepted as the standard setters to be followed by the OECD and the EU should this be seen as a sufficient statement of principle? What then should be seen as a required indicator of global application? Should it be the adoption of the standard by all the G8, G20, OECD, EU and other major financial centres such as Singapore and Hong Kong China?

[Questions

- **Should enabling legislation be drafted to provide for Regulations to be made in due course requiring TCSPs from an agreed future date to notify the Company Registry both of beneficial owners pre-incorporation and of any change in beneficial owners from that identified at the time of incorporation;**
- **What would be a reasonable period within which notification of any change in beneficial owners would be required;**
- **Should provision be made for information on beneficial ownership to be held on a secure site to be accessed by tax authorities and law enforcement authorities**

when certain conditions are met, particularly in relation to the international standards on confidentiality;

- How should 'beneficial ownership' be defined;
- Should there be any exemptions from a central register of beneficial ownership for certain types of companies; if so, what types of companies should be exempt;
- What level of global application of an accepted international standard should be required, to ensure that Jersey's competitive position is not seriously adversely affected.]

Action being taken by other jurisdictions

18. The progress to-date by the G8 members is set out in "The 2013 UK G8 Presidency Report" published by the UK Government. The relevant extract from this Report is included as Annex 5 to this paper. This shows that only the UK and France have so far expressed support for a publicly accessible central registry of company beneficial ownership. As far as the Island's main competitors are concerned the position is understood to be as follows –

- Guernsey and the Isle of Man have also given to the UK a commitment to engage in a consultative process;
- BVI and Cayman have issued consultation papers;
- No specific proposals for change appear to have been made to-date by Ireland, Luxembourg or the Netherlands but all will be subject to the requirements included in the 4th AML Directive when it is adopted;
- Hong Kong China, Singapore and Switzerland do not appear to have announced any proposals.

19. The UK Government has referred to the following benefits that it believes would come from having a central register open to the public, a policy proposal that is supported by NGOs such as Christian Aid –

- **the public will be able to help ensure the accuracy of the information on beneficial ownership held by the Company Registry.** The UK Company Registry does not engage in the vetting of company incorporations as is the case with the Jersey Registry. Also those engaged in the incorporation and administration of companies in the UK are not subject to the same requirements or supervision, nor threat of penalties, in carrying on business as is the case with the licensing and regulation of TCSPs in Jersey. It is as yet unclear whether the UK will require the information on changes in beneficial

ownership (however this term is eventually defined) to be provided on the annual company returns or as and when the change takes place. It is open to question whether expecting the public to play a key part in seeking to ensure the accuracy of information held by the central registry is the most effective way of proceeding. As noted earlier in this paper the Jersey 'Model' approach is much more likely to ensure that information held on a central register, of interest to tax authorities and law enforcement authorities, is adequate, accurate and current.

- **It will help banks and other regulated businesses conduct their customer due diligence (CDD) requirements.** It is not unusual for financial institutions to ask the authorities to provide lists to help them with CDD. An example of this is a call for the authorities to provide a list of politically exposed persons. The counter view of many regulatory authorities, including the Jersey Financial Services Commission, is that there is a real danger that if the authorities produce lists the financial institutions will use those lists for protection and will not engage in the degree of independent CDD that they should be undertaking.
- **It will help individuals and companies identify who really owns the companies they are doing business with.** The UK Government appears to be focussing on trading companies and there is little if any consideration given in the published documents to how this argument applies where a private investment holding company is incorporated to hold investments on a personal basis with no business engagement. The UK decision has sought to balance the interests of promoting positive corporate behaviour and transparency against concerns expressed around competitiveness impacts and transparency. Clearly the balance between transparency and privacy could be significantly different depending on whether a trading company or a private investment holding company is being considered.
- **It will help promote sound business behaviour and help authorities, including those in developing countries, to prevent the misuse of companies for illicit activities and tax evasion.** The question this poses is whether those in the developing countries should be expected to rely on interrogating voluminous public company registers or whether there is not a more effective way of meeting their requirements through AEOI.

[Question:

Do the reasons advanced by the UK for a central register open to the public apply to Jersey or is it considered that the objectives of tackling illicit activities can be better

met by an alternative approach and one that is better suited to the circumstances of Jersey]

20. The UK has recognised that there may be legitimate instances where exemptions to public exposure may be necessary to protect individuals at risk. Further information on the UK thinking on this and other detailed aspects of the proposal to have a public register, and the nature of the primary legislation to be introduced, is awaited.

21. The Law Society of England and Wales in its response to the BIS discussion paper (www.lawsociety.org.uk/representation/policy-discussion) identified the following examples of where beneficial owners of companies may legitimately wish to keep their identities private –

- By investors in companies that carry out activities which are legitimate but may be controversial. Beneficial owners could be open to harassment and/or physical harm if their identities were revealed;
- By wealthy individuals who may be targeted for possible kidnapping or extortion;
- By companies that are seeking to invest in competitors or potential acquisition targets;
- By investors who may be concerned that their interest in a particular company may trigger market speculation;
- To avoid assisting identity theft and other criminal activities.

22. The International Finance Centre Forum in its response to the BIS discussion Paper also highlights the drawbacks of a public register (www.ifcforum.org/knowledge-centre.php).

23. A point made in the letter from the UK Prime Minister to the President of the European Council is “as we clamp down on the misuse of companies, we must take care not to displace illicit activity elsewhere”. Jersey is very aware of this danger. It is why Jersey with its strict controls has a total of only some 30,000 companies incorporated, a number that pales into insignificance when compared with the number of companies formed by non-residents of the USA through the use of LLCs in Delaware and other states.

[Question:

Are the concerns regarding a central register open to the public, identified through the UK consultation exercise, shared and are there any other concerns which should be highlighted.]

Overview of Questions:

- Are there any steps that the Jersey Financial Services Commission could take to further ensure that adequate, accurate and current information on beneficial ownership is available in Jersey.
- Should enabling legislation be drafted to provide for Regulations to be made in due course requiring TCSPs at an agreed future date to notify the Company Registry both of beneficial owners pre-incorporation and of any change in beneficial owners from that identified at the time of incorporation;
- What would be a reasonable period within which notification of any changes in beneficial owners would be required;
- Should provision be made for information on beneficial ownership to be held on a secure site to be accessed by tax authorities and law enforcement authorities when certain conditions are met, particularly in relation to the international standards on confidentiality;
- How should 'beneficial ownership' be defined;
- Should there be any exemptions from a central register of beneficial ownership for certain types of companies; if so, what types of company should be exempt;
- What level of global application of an accepted international standard should be required, to ensure that Jersey's competitive position is not seriously adversely affected.
- Do the reasons advanced by the UK for a central register open to the public apply to Jersey or is it considered that the objectives of tackling illicit activities can be better met by an alternative approach and one that is better suited to the circumstances of Jersey
- Are the concerns regarding a central register open to the public, identified through the UK consultation exercise, shared and are there any other concerns which should be highlighted.

[Note: The consultation period will end on Wednesday 30th April 2014. Those who wish to do so may submit their responses through Jersey Finance Limited (william.byrne@jerseyfinance.je) who have agreed to distribute the paper to their members. Alternatively, responses may be submitted to the Chief Minister's Dept (c.powell@gov.je). The paper is available on the government web-site (www.gov.je/consult)]

Chief Minister's Dept
3th February 2014/CP

ANNEX 1

JERSEY ACTION PLAN TO PREVENT THE MISUSE OF LEGAL PERSONS AND LEGAL ARRANGEMENTS

Jersey is fully committed to implementing the revised Financial Action Task Force (FATF) standards in order to improve the transparency of the ownership and control of legal persons and legal arrangements. This is a matter of good corporate governance as a means to tackle a wide range of illicit activity.

Jersey's record in this respect is already very strong. In particular:

- It requires beneficial ownership to be disclosed to the Jersey Financial Services Commission (the "Commission") at the time of incorporation of a company, and the Commission holds this information in a central register;
- The Commission has a long-standing statutory duty to have regard to the need to protect the integrity of Jersey in commercial and financial matters before agreeing to a request to incorporate a company;
- Trustees are bound to hold information on the settlors and beneficiaries of trusts under the provisions of Common Law (supported by Case Law), Trusts Law and anti-money laundering requirements;
- The Commission actively supervises compliance by trust and company service providers with a requirement that they must collect and hold information on beneficial ownership for all legal persons and arrangements;
- 39 TIEAs or DTAs to the current international standard have been signed and in the past three years over 140 requests for information have been received, of which a significant number have sought information on the beneficial ownership of companies and the beneficiaries of trusts, which have been able to be responded to fully and to the satisfaction of the requesting jurisdiction;
- In February 2010 the Jersey authorities hosted a conference, attended by representatives from 26 developing countries, the theme of which was how Jersey could assist such jurisdictions in the pursuit of those engaged in financial crime, including fiscal crime. One of the outcomes of the conference was a need to provide developing countries with assistance in improving the capacity of their tax administrations in combating tax evasion/avoidance. The Jersey authorities have approached the African Tax Administration Forum (ATAF), the OECD, the EU and individual jurisdictions (Norway and the UK) with offers of assistance either independently or jointly.

Inter alia, this very strong record is recognised by:

- The IMF in its assessment of compliance with the then FATF Recommendations, published in 2009, which found that Jersey was fully compliant with recommendation 33 (legal persons) and largely compliant with recommendation 34 (legal arrangements); and
- The World Bank in the StAR project report “the Puppet Masters” which uses the Jersey “model” to describe conditions under which the company registry can be considered a viable option for providing beneficial ownership information (see attached).

Jersey has access to all the information on beneficial ownership that is required to meet the present international standards and to respond effectively to requests for information from tax authorities or law enforcement agencies as required by statute.

Jersey’s current requirements for company incorporation and the on-going administration of companies by regulated trust and company service providers could not be met if companies did not know their ownership. Therefore any international obligation placed on companies to know their ownership can be expected to be readily met.

Should international agreement be reached that steps should be taken to allow tax authorities and law enforcement agencies to have access to beneficial ownership information held on a central registry, Jersey will comply with any new international standard in this respect that has global application covering G8, G20, OECD, and EU member jurisdictions plus other major financial centres. Because of the quality of the beneficial ownership information already held in the Island such compliance will present far less of a challenge for Jersey than for most if not all other jurisdictions.

Reflecting its commitment to all the relevant international standards, and to reinforce further the existing strong record, Jersey is committed to taking the following further actions:

1. **Conduct, and share the findings of, a national assessment of money laundering and terrorist financing risks by 2015**, co-ordinating action by the public and private sector to assess risks, apply resources and mitigate those risks;
2. **Take steps to fill any gaps in satisfying the requirements of the revised FATF recommendations 24 (legal persons) and 25 (legal arrangements) ahead of a compliance assessment by MONEYVAL in 2015;**
3. **Undertake a general review of corporate transparency, having regard for the development of international standards and their global application, starting with the publication of a pre-consultation paper before the end of 2013;**
4. **Support the international organisations (G8, G20, OECD, EU) and individual jurisdictions in their reviews of corporate transparency, by sharing**

expertise/practices and offering technical assistance on how to implement the Jersey "model" on company incorporation and the supervision of trust and company service providers;

5. **Support the promotion internationally of the Statement of Best Practice for Trust and Company Service Providers** issued by the Offshore Group of Banking Supervisors (now the Group of International Finance Centre Supervisors);
6. **Support improvements in international cooperation, including the timely and effective exchange of basic and beneficial ownership information, in compliance with international standards;**
7. **Continue to play an active role in the work of the European Business Registry.**

17 June 2013

ANNEX 2

PM letter on beneficial ownership

15 November 2013

David Cameron has written to the President of the European Council about action needed to tackle tax evasion and corporate secrecy.

Contents

I wrote to you just over six months ago, ahead of the May European Council, emphasising the need to inject the political will necessary to tackle the serious global challenges of tax evasion and corporate secrecy. Since then, good progress has been made across this agenda through the G8, the G20 and the continued efforts by the European Union under the Irish and Lithuanian Presidencies.

However, our work is far from finished. Europe must now, through the 4th Money Laundering Directive (MLD), visibly lead global efforts to strengthen transparency of company beneficial ownership. As you know, I put this issue at the heart of the UK's G8 Presidency this year because of the overwhelming evidence behind the need to act. Put simply, a lack of knowledge about who ultimately owns and controls companies facilitates illicit domestic and cross-border money laundering, corruption, tax evasion and other crimes.

There is growing momentum building behind action on the issue. G8 Leaders agreed in June that companies should be required to obtain and hold adequate, accurate and current information on their beneficial ownership. The UK strongly supports this very same commitment in the European Commission's MLD proposal. And I was pleased that G20 Leaders vowed to lead by example in ensuring that the relevant Financial Action Task Force standards in this area are met.

Specifically, the UK committed in June to hold company beneficial ownership information in a central registry, and to consult on whether this information should be publicly accessible. After listening carefully to businesses, NGOs, technical experts and other groups, I announced two weeks ago that the UK's central register of beneficial ownership will be open to the public. I concluded that a publicly accessible registry provides the best outcome for sound corporate behaviour; more effective law and tax enforcement; and for helping authorities, including those in developing countries, prevent misuse of companies for illicit purposes.

I believe this will prove a significant step towards breaking through the walls of corporate secrecy. But as I warned earlier this year, illicit finance is a global problem that can only be

addressed effectively through collective action. I hope other Governments will join the UK in making an even bigger difference by taking swift action on company beneficial ownership. In Europe, our first collective step should be to mandate, through the MLD, the establishment of public central registries of company beneficial ownership as the cutting-edge benchmark for countries and major financial centres to emulate across the world. Central registries will not only enable law enforcement and tax authorities to access, discreetly and at short notice, critical information for cross-border investigations; public scrutiny of this information through public registries will also increase the likelihood of inaccuracies and omissions being identified and rectified.

But as we clamp down on the misuse of companies, we must take care not to displace illicit activity elsewhere. Currently, authorities are gaining access to more information than ever before on trusts, especially off-shore trusts, through the automatic tax information agreements being concluded by UK and other EU countries. To tackle tax evasion and prevent the misuse of trusts, the EU must continue supporting efforts by OECD and G20 countries to agree a new single global standard on automatic tax information exchange by next February.

I know some want Europe to go even further to prevent the abuse of trusts and related private legal arrangements. It is clearly important we recognise the important differences between companies and trusts. This means that the solution for addressing the potential misuse of companies – such as central public registries – may well not be appropriate generally. Nonetheless, as Europe leads from the front on company beneficial ownership, I look forward to looking properly at the arguments around trusts and other legal arrangements in order to determine what further action we might take.

I am copying this letter to the President of the European Commission, the President of the European Parliament and other members of the European Council.

BOX 4.1 The Jersey Model

Conditions under which the company registry can be considered a viable option for providing beneficial ownership information

Condition 1. The registry is active and alert, that is, it verifies the information supplied to it, or checks it for accuracy (can be based on risk).

- *Beneficial ownership information provided at the time of application is checked against an external database (see World-Check, <http://www.world-check.com/>) and an internal regulatory database. Applicants often need to be (and in practice frequently are) asked to provide additional information.*
- *Jersey publishes a list of activities that they consider to be "sensitive." They make it clear that, in cases in which a company intends to be conducting any of these activities, more information must be provided at the time of application for incorporation. This policy is currently being reviewed, and its scope is likely to be extended to take account of the countries in which the company will conduct its activities and the parties with whom the company will be engaging in those activities.*

Condition 2. The registry enforces compliance with legal registration requirements and with updating requirements when information changes.

Trust companies that fail to provide adequate information and that otherwise fail to comply with obligations set forth in the Companies Law are brought to light in the extensive dialogue that takes place between the Registry and the Trust Company Business division. Only trust companies regulated by the Jersey Financial Services Commission and Jersey-resident individuals are able to file applications to incorporate a Jersey company.

Condition 3. The registry (particularly the staff responsible for reviewing and approving information for acceptance into the registry) is sufficiently expert and knowledgeable on the concept of beneficial ownership and knows how to identify, in a complex corporate structure, the natural person who is the beneficial owner. If the registry is unable to internalize such specialized experience, a simplified definition of beneficial owner (focusing on percentage shareholding or possibly the natural person with the largest share or controlling stake) might be preferable.

- *Applications for registration can be approved only at the director level, where there is sufficient experience to understand beneficial ownership. Jersey recently created a new deputy director post in the Registry to strengthen experience within the division.*

Sources: Authors' interview with Jersey Financial Services Commission. See also Companies (Jersey) Law 1991, available at <http://www.jerseyfsc.org/registry/legislation/index.asp>.

ACTION TAKEN IN SUPPORT OF CURRENT INTERNATIONAL INITIATIVES.

- Jersey in May 2013 committed to join the initiative of the G5 countries on automatic exchange of information (AEOI). The timetable for establishing the international standard for automatic exchange is September 2015. We would expect to agree automatic exchange information in accordance with this timetable.
- Jersey is closely involved with the G5 countries, and now a total of 36 countries, in progressing the G20/OECD work on the global standard on tax information exchange. Jersey joined in the joint statement issued on the 28 November 2013 committing to the early adoption of the Common Reporting Standard
- We support the St Petersburg G20 Summit Leaders Declaration in September 2013 which covered tax avoidance by multinational companies, tax information exchange and the need to work with developing countries.
- We have joined with the G8 in the publication of an Action Plan in July 2013 for further enhancing the transparency of the ownership and control of legal persons and legal arrangements.
- Jersey has agreed to join the Multi-lateral Convention on Mutual Assistance in Tax Matters, which will be effective from 1 May 2014.
- Jersey has also agreed to automatic exchange of information under the EU Savings Directive.
- Jersey has been invited to become a vice-chair of the AEOI working group of the Global Forum on Tax Transparency, which will monitor the implementation of the new international standard, as requested by the G20.
- Jersey has signed intergovernmental agreements for improving international tax compliance with the USA for FATCA and with the UK for FATCA like.
- Jersey has signed 33 Tax Information Exchange Agreements and 8 Double Taxation Agreements to the international standard. The policy being pursued is to complete negotiations and sign agreements with all G20, OECD and EU Member States.
- Jersey has been rated by the Global Forum as largely compliant a rating that matches that of Germany, the UK and the USA.

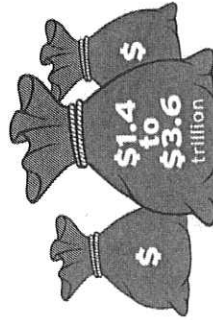
TRANSPARENCY OF COMPANIES and LEGAL ARRANGEMENTS and ANTI MONEY LAUNDERING

Commitments made

We will:

- lead by example in our implementation of the Financial Action Task Force (FATF)¹ standards;
- publish national Action Plans setting out concrete steps to ensure companies know who really owns and controls them (beneficial ownership), including ensuring that this information is available in a timely fashion to relevant authorities, for example through central registries;
- launch an inaugural G8 Public-Private Sector Dialogue² on anti-money laundering and combating terrorist finance (AML/CTF) in Eastern and Southern Africa; and
- work with our FATF partners to ensure ambitious progress at a global level.

Money laundering constitutes 2-5% of global GDP, according to the World Bank. That's between \$14 and \$3.6 trillion.



Progress since June

- G8 members have all published national Action Plans to tackle the misuse of companies and legal arrangements based upon common principles agreed at the Lough Erne Summit.
- The **United States** has committed to support central registries at state level.
- On December 11, 2013, **Canada** launched a broad consultation on the Canada Business Corporations Act (CBCA), which includes the issue of corporate transparency and improved access to accurate and timely beneficial ownership information by competent authorities, possibly through the establishment of a central repository of corporations incorporated under the CBCA.
- **Germany** is preparing detailed measures to further enhance transparency of ultimate beneficiaries of companies and legal arrangements, enabling these entities to hold adequate, accurate and current information on their beneficial ownership.
- **Italy** will assess whether beneficial ownership information could be made available through the central registry of companies.
- The **UK** will establish a publicly accessible central registry of company beneficial ownership and is undertaking a wider review of corporate transparency. All the UK's Overseas Territories and Crown Dependencies have published Action Plans and have committed to consult on establishing central registries of company beneficial ownership, or where these exist, assessing their effectiveness.
- **France** supports the creation of a centralised public registry to identify the beneficial owners of legal persons, so that it provides adequate, accurate and current information on their beneficial ownership. France implements legislation and regulation of trusts and other legal arrangements, including foreign trusts, in order to be able to identify tax beneficial owners of trusts of all kind. Trustees are liable to sanctions if they do not comply with these obligations.

¹ The FATF recommendations and a track and progress of implementation on legal, regulatory and political standards to combat money laundering is provided from the FATF website, www.fatf-gafi.org.
² The dialogue aims to bring together the public and private sectors to discuss, develop and promote solutions to combat money laundering and terrorist financing (ML/TF), including the role of finance, in the region. www.g8.gov.uk/news/2013/12/11/g8-public-private-sector-dialogue-aml-ctf

What next?

- **Russia** has introduced additional supervisory measures and has passed legislation to establish an obligation on companies to identify their beneficial owners.
- **Japan** has established a national panel on AML which is due to report by the end of 2013 on a framework for dealing with beneficial ownership.
- **G20** leaders have committed to increase transparency of company ownership and control. Finance Ministers will report back on progress at the next G20 leaders' Summit in 2014.
- The **G8** launched the inaugural Public-Private Sector Dialogue on AML/CTF in Namibia in September 2013. This event raised awareness of the importance of robust regimes to tackle illicit finance, establishing new relationships between experts from across the G8 and Eastern and Southern Africa.
- Building on the G8 initiative, the FATF will lead a project on effective supervision and enforcement, drawing on lessons learnt and sharing best practice amongst all members.

Collective global action is essential to tackling international illicit finance. G8 members will continue to implement commitments made in their beneficial ownership Action Plans, ensuring that they meet the G8 common principles on tackling misuse of companies and legal arrangements. We will also work closely with other countries to ensure wide and ambitious implementation of the agreed international standards. A Financial Action Task Force follow-up of the implementation of G8 Action Plans should be presented in 2014. G20 Finance Ministers will report on the steps taken to meet Financial Action Task Force standards on beneficial ownership by the next G20 Summit in November 2014.



Angola
Botswana
Canada
Comoros
Equatorial Guinea
Ethiopia
Kenya
Lesotho
Malawi
Mauritius
Mozambique
Namibia
Nigeria
Russia
(attended as the FATF President)
Rwanda
Seychelles
South Africa
Swaziland
Tanzania
Uganda
Zambia
Zimbabwe
UK
United Arab Emirates
US

The G8 will support continued public and private sector engagement to raise awareness and share expertise on these issues in Eastern and Southern Africa as well as other regions, potentially including through further Dialogues. The G8 will also share lessons learned and best practice with the Financial Action Task Force to drive forward work on enforcement and supervision to ensure that country regimes are not just technically compliant with international standards, but are also effective.