States of Jersey
States Assembly

États de Jersey
Assemblée des États

Economic Affairs Scrutiny Panel

The Role and Funding of Jersey Finance Limited

Presented to the States on 5th June 2008

S.R.6/2008

Contents

Introduction

(i) Panel membership

The Economic Affairs Scrutiny Panel is constituted as follows-

Deputy Geoff Southern (Chairman)

Deputy Alan Breckon (Vice-Chairman)

Connétable Mike Jackson

Deputy Judy Martin

Deputy Kevin Lewis

(ii) Terms of reference

- To review the original terms of reference of JFL, and to assess development and functions of JFL against these.
- To evaluate the rôle, effectiveness and balance of public and private funding.
- To review JFL's Business Planning and Reporting.
- To consider comparable experiences from other jurisdictions.
- Any other pertinent matters that may arise during the course of the review.

(iii) Submissions

Following calls for evidence published in the JEP and the Business Brief, six written submissions were received. In general the submissions were supportive of the work undertaken by JFL and the need for continued funding by the States.

All submissions and public hearing transcripts can be viewed in full on the Scrutiny website: www.scrutiny.gov.je

(iv) Glossary

General terms

EDC	Economic Development Committee
EDD	Economic Development Department
FEC	Finance and Economics Committee
FIAC	Finance Industry Advisory Committee
IC	Industries Committee
JATCo	Jersey Association of Trust Companies
JBA	Jersey Bankers Association
JFIA	Jersey Finance Industry Association
JFL	Jersey Finance Limited
JFSC	Jersey Financial Services Commission
Labco	An informal group of lawyers, accountants and bankers
PPP	Public-Private Partnership
OECD	Organisation for Economic Co-operation and Development
EU	European Union
FSR	Fundamental Spending Review

Technical terms for this review

Gatekeepers: Influential people or firms associated with the industry

1. Chairman's Statement

The Economic Affairs Scrutiny Panel has been in existence for over two years, but has yet to issue a report on any aspect of our major industry, financial services. The choice of this investigation into the rôle and funding of Jersey Finance Limited (JFL) is designed to go some way to rectifying this situation.

JFL has been operating for seven years, during which it has grown in size and seen its remit change in response to external economic factors and political pressures from the European Union (EU) and Organisation for Economic Co-operation and Development (OECD). The rôle of JFL in promoting the Island's financial services is beyond question. Equally, there is no doubt that there has been substantial growth in our financial services sector during the lifetime of JFL. However, in the area of promotion and marketing it is it is notoriously difficult to assess whether any initiative represents value for money. This report sets out to examine whether the link between JFL's activities and growth in our financial services sector can be described as causative.

Initially formed following the separation of the rôles of the Jersey Financial Services Commission, JFL took on additional and different responsibilities when it effectively took over the Jersey Finance Industry Association (JFIA). This report asks whether, after seven years of growth, the time has come for a further separation of the promotional and technical divisions of JFL. It further examines the principles and benefits of matched funding in this public-private partnership (PPP), and suggests that the current imbalance in funding has created some accountability problems. Whilst there can be no doubt that JFL provides clear two-way communication between the industry and Government, the report points out that questions around lobbying activity remain to be resolved.

Throughout the five months of its review the Panel has found all those involved in its investigation to have been co-operative and helpful. It would like to thank in particular the Chief Executive of JFL, Mr Geoff Cook, for his patience and forbearance on his first encounter with Scrutiny.

Deputy G. P. Southern
Chairman, Economic Affairs Scrutiny Panel

2. Key Findings and Recommendations

Key Finding

The Panel has not been able to find evidence of a clear decision as to how Promoco (JFL) was to be funded.

Key Finding

Despite the presence of a Partnership Agreement there remains a lack of clarity in respect of the level of resources which JFL is committing to delivering its core promotional objective.

Key finding

The Panel notes that issues of lobbying and influence over what is considered to be in the public interest on the part of JFL have not been resolved.

Key Finding

The Panel is very supportive of the concept of 'pound-for-pound' matched funding. The Panel notes that this has been identified as the only achievable saving to be made by the Economic Development Department at this point.

Recommendation 1

The Panel finds that the absence of the appropriate Committee Minutes makes it impossible to establish a clear audit trail for the formation of JFL. The Panel calls on the Council of Ministers to:

(a) investigate and report on how such errors could have occurred, and

(b) take steps to ensure that such unaudited expenditure of public money could not happen under new Ministerial protocols.

Recommendation 2

The Economic Development Minister should work with JFL to examine ways to increase the accountability of expended public funds.

Recommendation 3

The Economic Development Minister should review the Partnership Agreement to ensure that tax payers are getting value for money in delivering its core activity of promoting Jersey's image and the benefits of Jersey as an International Finance Centre.

Recommendation 4

The Economic Development Minister should update the Partnership Agreement in the light of Financial Code of Direction 5.4.

Recommendation 5

The Minister for Economic Development should investigate the formation of an overall promotional body for Jersey, to include all aspects of our economy.

Recommendation 6

The Economic Development Minister should explore the separation of the technical division of JFL into a new entity.

Recommendation 7

The Economic Development Minister should take steps to restore the principle of pound-for-pound matched funding for JFL.

Recommendation 8

The development of a permanent presence in China or India should be subject to careful consideration by the Economic Development Minister and supported by a detailed Business Plan.

3. Jersey Finance Limited: Chronology

12 December 1996	Senator Walker appointed president of F&E
1998	Edwards Review recommends removal of promotional activity from JFSC
29 October 1999	Working group report recommends establishment of “Promoco”
9 December 1999	Industries Committee created; Deputy Dubras appointed president
	Senator Walker reappointed as President of F&E
26 July 2000	Industries Committee expressed general support for “Promoco”
29 August 2000	JFL incorporated; Geoffrey Grime is JFL Chairman
13 November 2000	F&E agrees to fund JFL
2000	Preliminary grant from F&E of £150,000
2001	Grant from F&E of £500,000 (as no membership income yet)
8 January 2001	Deputy Voisin joined JFL board as States representative
1 May 2001	JFL’s activity commenced; Phil Austin Chief Executive
2002	States grant of £250,000; subscriptions £344,000
31 March 2002	JFL has 137 members
12 December 2002	Senator Terry le Sueur becomes President of F&E
	Industries committee becomes EDC; Deputy Voisin becomes EDC president
29 January 2003	Pierre Horsfall becomes JFL chairman; Deputy Grime becomes States (F&E) representative, Deputy Voisin resigned from Board
18 July 2003	F&E agrees extra £150,000 grant in addition to existing £250,000 (to meet “ambitious plans”)
2003	Total grant of £400,000 from F&E; subscriptions £345,750
26 November 2003	Responsibility for JFL moves from F&E to EDC
	Deputy Grime remains on Board as EDC representative
2004	Grant of £600,000 from EDC; subscriptions £379,133
	JFL merges with Jersey Finance Industry Association

19 April 2004	B Le Cuirot appointed to Board as Marketing Director
June 2004	Audit Report on JFL
16 December 2004	Deputy Ryan replaces Deputy Grime as States representative
	Deputy Grime remains on board in personal capacity
2005	Grant of £586,000 from EDC; subscriptions £376,913
1 Jan 2005	DB Wild appointed to Board as Technical Director and company secretary
22 September 2005	EDC resolves to enter Partnership Agreement
8 December 2005	Change to ministerial government; Senator Ozouf is ED minister
2006	Grant of £750,000 from EDD; subscriptions £409,140
30 March 2006	Constable Fisher replaces Deputy Ryan as States representative
7 May 2006	Phil Austin resigns from Board
29 June 2006	John Harris, Director of International Finance, joins JFL board; now two States representatives on JFL board
30 November 2006	Mike King replaces John Harris on JFL board
2007	Grant of £1,000,000 from EDD; estimated subscriptions £430,000
2 January 2007	Geoff Cook becomes Chief Executive of JFL
22 February 2007	Martin De Forest-Brown replaces Mike King on JFL board
	Robert Kirkby appointed to Board as Finance and Technical Director and Company Secretary

As submitted to the Panel by Mr. M. Dubras

4. Funding

4.1 Formation of JFL and initial funding agreements

Jersey's finance sector returns (by JFL's estimation) roughly £300m in tax receipts from companies and employees to the States every year, and employs over 12,500 people in Jersey, including over 10,000 locals. This industry is mainly responsible for the high standard of living enjoyed in the Island, and despite concerns over price inflation due to the prevalence of well-paid finance jobs, it is generally understood that a sustainable finance industry is a resource that should be promoted effectively in order to allow the Island to continue to enjoy its benefits.

Prior to the formation of Jersey Finance (JFL), the promotion of the Island's financial services sector was performed by the Jersey Financial Services Commission (JFSC) alongside its regulatory functions.

On 19th November 1998 the Report on the Review of Financial Regulation in the Crown Dependencies (the "Edwards report") was published. Mr. Edwards had been asked by the Home Secretary to review with the Insular Authorities their laws, systems and practices regulating their financial centres including collaborating with overseas regulators, dealing with financial crime and registering companies.[1]

The Edwards report identified that the dual rôles of the JFSC presented an area of potential conflict. It therefore recommended that the promotion of the Island's financial services should be removed from the JFSC to ensure its independence as a regulatory body. In response to this recommendation, an industry working group, chaired by Senator F. Walker, was formed to investigate the future promotion of Jersey as a finance centre. (A list of the working group members can be found in appendix A). The working group submitted its report, dated 29th October 1999, to the Industries Committee meeting of 5th April 2000.[2]

This report set out the Working Group's recommendations for a new body, called 'Promoco', to be established to promote Jersey as a finance centre. The report

[1] From the 'Report of the Task Force set up to consider the Review of Financial Regulation in the Crown Dependencies', (R.C.43/1999) presented to the States on 7th December 1999 by the Policy and Resources Committee

[2] Act A4 Industries Committee, 9th Meeting, 5th April 2000

emphasised that 'Promoco' should be *"**a wholly independent[3] body working to promote Jersey's image and the benefits of Jersey as an international finance centre**."[4]* This statement identified three objectives:

1. To be an independent body,
2. To promote Jersey's image, and
3. To promote the benefits of Jersey as a Finance Centre

The report also described a mandate for the organisation:

> ***" To develop a shared vision of the characteristics of Jersey as a finance centre in order to promote it both internally and externally, in consultation with the Financial Services Commission and the relevant States' Committees.***
>
> ***To coordinate the delivery of that vision and specific messages that flowed from it.***
>
> ***To encourage new business to the Island and to act as a general information service.***
>
> ***To promote the strength of the finance sector to the international Financial Community.***
>
> ***To provide information on the effect of the finance industry on the Island's community and economy.***
>
> ***To counter criticism of the Island's finance sector."[5]***

In its report, the Working Group also considered the rôle of Promoco in relation to the functions of other bodies linked with the finance sector such as:

- The **JFSC**: the Working Group envisaged that the JFSC would continue its main regulatory and developmental rôles and continue the promotion of the Island's regulatory stance.

[3] This refers to independence from the JFSC, not the government or industry.
[4] Promoting Jersey as a Finance Centre: Report of the Working Group. 29th October 1999
[5] Promoting Jersey as a Finance centre: Report of the Working Group. 29th October 1999

- The **Jersey Finance Industry Association** (JFIA) (previously Labco): the Working Group envisaged that the JFIA would continue to collectively represent the finance industry's interests regarding regulation, legislation and other matters.
- The **Caesarean Group** (previously J8): would continue on an ad hoc basis to discuss issues relevant to the finance industry.
- The **Finance Board** of the Industries Committee would continue to be responsible for the development of strategy for the finance industry.

With regards to the funding of this promotional body the Working Group agreed that it should be jointly funded by the industry and the States. The group was of the opinion that it:

> ***"would only work effectively if the industry considered it to be its own creation and essentially accountable to it … if it were wholly funded by the States it would become yet another government body to be criticised from a safe distance."***[6]

The group also considered the pros and cons of a variety of funding structures:

- Compulsory versus voluntary contributions
- Funding through voluntary levies collected through professional associations or from individual businesses directly.

It concluded that voluntary funding based on individual business would be optimal, with contribution levels set according to the number of employees of each business. It also stated that:

> ***"The States would be invited to make a commitment to match the industry funding pound for pound."***[7]

The Panel is supportive of the principle of matched funding.

In its report, the group proposed that the initial industry funding should, in part, be by way of transfer of a substantial part of the JFSC promotional budget for the first three years on a declining basis. This initial transfer of the JFSC promotional budget in this

[6] Promoting Jersey as a finance centre: Report of the Working Group. 29th October 1999
[7] Promoting Jersey as a finance centre: Report of the Working Group. 29th October 1999

way led to the perception of some in the industry that the funding was not a part of Government spending but merely a refund of regulatory fees.

At its meeting of the 5th April 2000, following consideration of the Working Group report and a note from the Acting Chief Executive, the Industries Committee noted that:

> ***"The Jersey Finance Industry Association had now put forward certain proposals for the promotion of Jersey as a finance centre under the banner of 'Promoco', but it was not clear that these proposals commanded the full support from all parts of the finance industry. In addition, further thought needed to be given to funding arrangements.***
>
> ***The committee noted that if the promotion of Jersey was undertaken by another body, but included the promotion of the finance industry, the Financial Services Commission might be prepared to contribute towards the costs."***[8]

There appears to have been confusion not only about funding but also about the rôle of the new body. The Industries Committee tended to view it as a promotional body for Jersey, a wider remit than the promotion of Jersey as a finance centre. The working party concentrated solely on the latter. This is further explored in Chapter 5.

The funding arrangements were addressed at a further meeting on 12th July 2000, when further presentations were made by Senator F.H. Walker, the then President of the Finance and Economics Committee (also Chairman of the Working Group) and Mr G. Grime. Following these presentations and discussions, the Committee:

> ***"noted proposals for the membership of Promoco and noted that the Finance and Economics Committee had advised that the States would fund the initiative during the first year, then to be funded by subscription in subsequent years."***[9]

This minute supported the view previously held by the Panel that the initial intention for the funding of JFL was that the organisation would eventually become fully funded by

[8] Industries Committee, (9th Meeting) 5th April 2000. Part A. Item 4
[9] Industries Committee, (16th Meeting) 12th July 2000. Part B. Item 1

the industry. However, information received at the public hearings questions if this was ever the intention of those involved with the set up and funding structure for the promotional body.

When questioned by the Panel Chairman at a public hearing, Mr M. Dubras, the former Industries Committee President, had the following to say about the accuracy of the official minute:

> ***"I do not think I can say that is necessarily an accurate statement, insofar as it is a minute of the Committee. The most important thing is to note that those options were being looked at. It was not a definite decision at that stage. It was too early."***[10]

At its next meeting, 26th July 2000, the Industries Committee further considered the Promoco proposal, of which it was generally supportive. However, the Committee expressed reservations about the funding:

> ***"Its funding arrangements (longer term) required clarification, given the diversity of interests that body would be representing"***[11]

At this stage it was noted that the Financial Services Commission would provide the initial funding.

This lack of clarity over the funding of JFL resulted in a lack of accountability in its structure which, in the opinion of the Panel, persists to some extent to this day (see Section 4).

The Panel has observed that there appear to be several gaps in the Committee minutes relating to the decision making process surrounding the formation of JFL, in particular between July and November 2000. There appears to be no record of the change in direction from the Promoco proposal to the actual formation of JFL. The Panel also notes from the chronology supplied by Mr. Dubras that JFL was incorporated on 29th August 2000. No minute of the decision to incorporate can currently be found. The Panel is deeply concerned that such a major decision could

[10] Scrutiny Public Hearing 17-12-07: Mr M Dubras (page 8)
[11] Minutes of Industries Committee (Part B) 26th July 2000

have been made requiring substantial Government expenditure without the evidence of a clear audit trail.

At its meeting of 13th November 2000, the Finance and Economics Committee agreed that it would support the establishment of JFL and that once a member of the States had been appointed to the non-executive board of directors, it would fund JFL's activities for 2000 and 2001. The level of funding agreed was £150,000 for 2000 and £500,000 for 2001. It further agreed that it would provide funding from 1st January 2002 on the basis of a 50:50 arrangement up to a limit of £250,000 a year.

At the same meeting, Deputy F.G. Voisin (a member of both the Industries and Finance and Economics Committees) was nominated by the Finance and Economics Committee as a Non-Executive Director and Trustee of Jersey Finance Limited.

Jersey Finance Limited (JFL) was launched in May 2001.

Key Finding

The Panel has not been able to find evidence of a clear decision as to how Promoco (JFL) was to be funded.

Recommendation 1

The Panel finds that the absence of the appropriate Committee Minutes makes it impossible to establish a clear audit trail for the formation of JFL. The Panel calls on the Council of Ministers to:

(a) investigate and report on how such errors could have occurred, and

(b) take steps to ensure that such unaudited expenditure of public money could not happen under new Ministerial protocols.

4.2 Development in the Funding of JFL

The funding of JFL from 2000-2007 is summarised below:

Year	2000-2001	2002	2003	2004	2005	2006	2007
States grant £	650,000	250,000	400,000	600,000	586,000	750,000	1,000,000
Subscriptions £	0	344,000	345,750	379,133	376,913	409,140	430,000*(est)*

The States of Jersey, through the Finance and Economics Committee provided JFL with its set-up funding of £150,000 in 2000 and £500,000 in 2001.

2002 was the first full operating year for JFL and the States provided a further £250,000 as previously agreed. In 2002, JFL had secured a membership of 145 firms, which generated a subscription income of £344,000. Having raised over £300,000 in subscriptions by March 2002, JFL approached the Finance and Economics Committee to request that the level of States funding be increased to match the subscriptions pound for pound. Due to the economic pressures faced by the Island at that time the request was rejected by the Committee.

The initial States funding in 2003 was the previously agreed sum of £250,000. However, following further requests from JFL for additional funds and consideration of JFL's business plans, an additional £150,000 was provided by the Finance and Economics Committee in July 2003, giving a total of £400,000 for the year.

In November 2003 responsibility for the funding of JFL was passed to the Economic Development Committee (EDC). At this time the Finance and Economic Committee (FEC) indicated that it would give favourable consideration to EDC for further funding of £350,000 for JFL in 2004, but funding for 2005 onwards would have to be provided from within EDC cash limits or through the Fundamental Spending Review. EDC agreed to submit a Fundamental Spending Review growth bid of £350,000 per year for 2005 onwards. A merger of JFL with JFIA was also under consideration at this point. A paper by Mr. J. Harris, the International Finance Director, was presented to FEC at its meeting of 10th December 2003, detailing the 2004 Funding Request For Jersey Finance Limited. In this paper he stated that:

> ***"It is also clear whereas it has not been in the past, that none of the additional money now being sought from the States would be***

> ***deployed in support of the JFIA merger process. … It is now apparent that the £350,000 in additional funds for 2004 will be spent in its entirety on promotional spend in support of the Island's Finance Industry."*** [12]

In the same paper, he questioned the need for changes in the JFL relationship on the grounds of increased accountability due to the significantly increased level of funding but added:

> ***"However, as the amount sought is now clearly ring-fenced to increased promotional activity and not to any other activity, including lobbying activity in respect of Government, this process should be more straightforward than had been envisaged in the past."***[13]

It would appear that the Fundamental Spending Review growth bid of £350,000 for 2005 onwards was successful. However, due to cuts in service area funding of approximately 4%, the grant was reduced to £336,000 in 2005. This sum was in addition to the £250,000 matched funding previously agreed.[14]

At the meeting of the EDC on 1st December 2004, the Committee noted:

> ***"Jersey Finance was looking for increased funding of £600,000 in 2006 (in addition to the index-linking of the £250,000 grant it received from the JFSC), … It had also indicated that its funding requirement for 2007 was likely to be in the region of £750,000 a year, solely for marketing, rising to £900,000 a year in 2008."***[15]

4.3 JFL Merger with the Jersey Finance Industry Association (JFIA).

In January 2004, JFL merged with the JFIA. At a public hearing Mr G. Grime described the JFIA's rôle and the reasons for the merger:

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[12] States Treasury Paper for Finance and Economics Committee, Agenda Item A13 10th December 2003; 2004 Funding Request for Jersey Finance Limited. 1st December 2003. Director – International Finance
[13] States Treasury Paper for Finance and Economics Committee, Agenda Item A13 10th December 2003; 2004 Funding Request for Jersey Finance Limited. 1st December 2003. Director – International Finance
[14] EDC meeting 1st December 2004. Item B10
[15] EDC meeting 1st December 2004. Item B10

"…the J.F.I.A. was basically a grouping of the professional bodies, again lawyers, accountants, bankers, fund managers, et cetera. Its only function, really, was to look at some proposed laws and that sort of thing and give an industry view to government on those laws. The problem with Labco and J.F.I.A. was that they had no permanent staff. No secretariat. It was down to the professional practitioners to deal with these consultation papers in their own time, if you like. Once Jersey Finance was up and running it seemed logical to merge J.F.I.A. with Jersey Finance because, of course, Jersey Finance did have a physical presence in staff. So, it could act as secretary for the industry, if you like, in dealing with these consultation papers." [16]

In a Treasury Paper dated 7th July 2003, titled 'Interim Funding Request for JFL', the Director of International Finance detailed the two funding needs that were to be considered by the Finance and Economics Committee:

1. The financing of increased marketing activity in 2003
2. Funding to support the merger with the JFIA

As the JFIA was an industry association, composed entirely of private sector representatives, a function of which was to lobby government, he also questioned the extent to which States money could be used to finance JFIA:

"The question of the JFL / JFIA merger raises questions over the extent to which Government money could potentially be used to finance the JFIA – an industry association group, composed entirely of private sector participants, one function of which is to act as a lobbying group aimed in part at Government." [17]

"The suggestion in this paper is that immediate interim funding to facilitate at least a part of the planned balance of activities for 2003 be considered as a one off item now. …. the sum of £150,000 is mostly allocated to marketing events overseas …. The logic of interim funding is that JFL continue its external promotional

[16] Scrutiny Public Hearing Transcript 17-12-07: Mr G Grime (page 6)
[17] States Treasury Paper by Director, International Finance, dated 7th July 2003 for FEC meeting 18th July 2003 Item B10.

activity… whilst the fundamental debate for its long term financing is debated and resolved"[18]

The Panel noted from this paper that:

1. Questions were being asked about the legitimacy of the States funding a lobbying group (see Section 5.2),
2. Additional Funding would be supplied to the tune of £150,000 in 2003 for additional marketing activities, whilst the funding for this expanded rôle was resolved, and
3. A degree of uncertainty remained regarding the future structure of funding for JFL.

From the extensive evidence that we have seen, the Panel concludes that these questions have never been properly addressed.

As noted in the previous section on funding, the International Finance Director informed the FEC in December 2003 that it was now clear that the additional funds would ***'be spent in its entirety on promotional spend'*** and would not be used to facilitate the merger[19].

The merger of JFL and JFIA took place in 2004. The rôles and objectives of JFL were expanded to represent the Finance Industry across all areas, as well as acting as the gateway for discussions between the Finance Industry, the States and the Jersey Financial Services Commission (JFSC)[20]. Consequently, JFL formed a Technical Division and recruited a Technical Director and an assistant to facilitate this new function.

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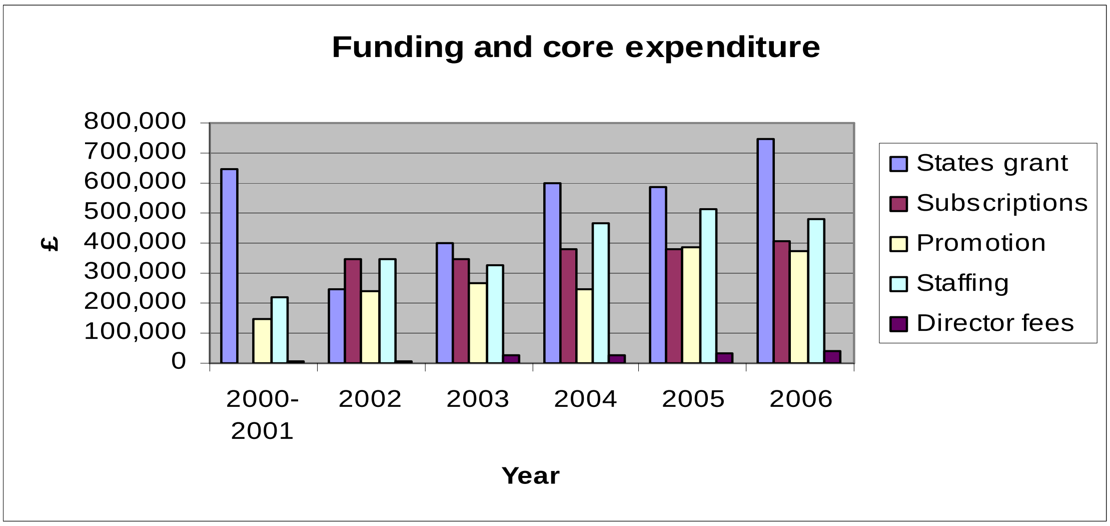
[18] States Treasury Paper by Director, International Finance, dated 7th July 2003 for FEC meeting 18th July 2003 Item B10.

[19] 2004 Funding Request for Jersey Finance Limited. Agenda Item A13 10th December 2003; States Treasury Paper by Director, International Finance for FEC, dated 1st December 2003.

[20] Partnership Agreement between the Economic Development Committee and Jersey Finance Limited.



The evidence considered by the Panel indicates that from 2004 the additional funding granted annually by EDC was solely for promotional activity. The Panel is also aware that from January 2004 the rôle of JFL expanded following the merger with the JFIA resulting in the formation of a Technical Division. As the additional States funding was ring-fenced solely for promotional activity, the Panel is disappointed to see a decrease in promotional spend in 2004 alongside an increase in staffing spend.

Despite the clear intention to ring-fence any additional funding to promotional spend, that appears not to have happened. Promotional spend actually went down that year from £263,337 to £243,400, whilst the spend on staffing, mainly on the formation of a new technical division linked to JFIA activity, rose by around £140,000.

JFL's position on marketing spend is that the product development work of the technical division, the general day-to-day operation of its staff, and its research activities all constitute 'marketing' in the broader sense. This position is asserted strongly in a response to the draft report dated 7th May 2008.

However, as there is no available assessment of actual expenditure on promotional activities, the Panel has relied on figures presented as promotional expenditure by JFL in its income statements and accounts. If further funds were in fact spent on marketing and promotion the Panel considers that JFL needs to increase the accountability of its expended public funds, as this fact is in no way apparent from the financial information provided.

Recommendation 2

The Economic Development Minister should work with JFL to examine ways to increase the accountability of expended public funds.

5. Audit Report and Partnership Agreement

From the evidence reviewed by the Panel, it would appear that concerns regarding accountability were first raised in a paper by the International Finance Director on 1st December 2003:

> ***"The original funding mechanism for JFL was agreed as a contribution by the States (£250,000) in the form of a grant to match contributions received from JFL members…. This appears to be the only condition attached to the States grant. Moreover, there do not appear to have been any performance or accountability conditions attached to the grant agreed by the States as might be expected from perusal of Code of Direction No. 26."***[21]

Following this observation, EDC commissioned an audit of financial controls operated by JFL, which took place in April 2004.

The audit report made one 'High risk' recommendation and two 'Low risk' ones. The key conclusion was as follows:

> ***"there are no formal controls operated by EDC to ensure the grant is appropriately spent***"[22]

The adequacy of controls exercised by the States scored only 2 on a 5 point scale from 1 = poor to 5= excellent. It was deemed ***high risk*** that funding could be used for purposes not agreed by EDC.

The Panel has already identified at the end of the previous chapter that such a risk was indeed high. In fact by the end of 2004 funding supposedly ring-fenced for promotional activities had apparently been spent outside the JFL's 'promotion' total.

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[21] 2004 Funding Request for Jersey Finance Limited , Agenda Item A13 10th December 2003; States Treasury Paper for FEC, Director, International Finance.1st December 2003.

[22] EDC Internal Audit of the Financial Controls at JFL and the controls operated by the Economic Development Committee in relation to the Payment of a grant to JFL. April 2004

The audit report also highlighted the absence of a formal Service Level Agreement (SLA) to ensure:

- Accountability or performance by JFL
- Regularity of funding by EDC.

The audit report also noted that there was no formal Business Plan for JFL at that time and set a target date of September 2004 for all recommendations to be implemented; in fact the Partnership Agreement was not signed until September 2005.

Although formal business plans were not produced by JFL prior to the Partnership Agreement, the business case for JFL was set out in their marketing plans. Since the Partnership Agreement JFL have produced business plans for 2006-2008 and 2007-2009. In addition to these documented business plans, JFL invite all States Members to an annual presentation.

As a consequence of the audit, a Partnership Agreement was entered into at the end of 2005. The agreement is subject to an annual review and covers the following areas:

- Rôle and objectives of JFL,
- Funding,
- Form, timing and use of annual grant,
- Terms and conditions relating to the annual grant,
- Corporate governance,
- Conditions for recovery of the annual grant,
- Meetings with EDC.

5.1 Accountability

The Partnership Agreement arrived at in 2005 does indeed address several of the accountability problems. At a Public Hearing in March 2008 Mr. R. Kirkby, Technical Director of JFL, detailed the current accountability processes:

> ***"In terms of the grant in 2008, we are going to receive the grant in 2 tranches, 1st January, 1st July. We do quarterly management accounts, which not only go to the board members, of which there***

> ***are 2 States members, but they are also sent to James Dixon, who is the Economic Development accountant and Finance Director … We also have pretty stringent internal procedures in terms of what happens with the money, not just the States money, but obviously our members' money."*** [23]

Mr. C. Clarke in his evidence also praised JFL for the level of detail provided in the accounts-

> ***"It would be very easy to just have a marketing heading and you could put all sorts of expenditure into that. But they segment it into different types of activity, country visits, publications, website things, specific initiatives, dealing with the press. Even under those broad headings they segment it even further so they can identify costs of particular activities within one of those broad headings."*** [24]

The Panel accepts that the accountability of JFL has improved significantly in recent years.

5.2 Performance Indicators

When the original Partnership Agreement was entered into the financial code of direction relating to grants stipulated that there should be:

- Clear measurable aims and objectives
- Relevant and meaningful performance indicators.

However, the measurement of marketing effectiveness is not a simple process. Mr. P. Horsfall, Chairman of JFL, commented on the difficulties faced by JFL in assessing marketing events:

> ***"The actual measurement of the success of what we do is not that easy because we facilitate and our members then write the business."*** [25]

[23] Scrutiny Public Hearing Transcript: 05.03.08 – JFL (page 32)
[24] Scrutiny Public Hearing Transcript: 05.03.08 – Mr. C. Clarke (page 11)
[25] Scrutiny Public Hearing: 17.12.07 – Mr P Horsfall (page 8)

The Panel later enquired into the methods used by JFL and the accounting officers to assess performance at its public hearings. Mr. G. Cook, the Chief Executive of the JFL, gave the Panel a general overview at a public hearing in March 2008, which is summarised as follows:

- Events and activities – the initial indicator of events is the attendance levels. As delegates are usually those whose time is expensive, JFL believe that '***the attendance levels are quite a strong indicator as to whether your marketing is effective or not'***[26]**.** Events are also subject to exit surveys and reviews. The exit surveys are scored and an internal benchmark target score of 7/10 has been set.
- Advertising in publications – the success of these is assessed by member feedback and external third party feedback. Recently JFL have also commissioned independent research to test the effectiveness of advertising activity.
- Commercial value of public relations (PR) – as editorial and journalistic coverage are believed to be of greater value than advertising, JFL has started to measure the economic value of its PR activities. By way of example, Mr. Cook told the Panel that in one month last year, JFL generated around £140,000 of value in positive PR.
- Assessment of the commercial value that members gain from JFL activities – this is a difficult area to assess as this information may be commercially sensitive.

The Panel notes that the performance indicators referred to are essentially focussed on the reactions of individual members of the finance sector and ultimately on the business generated. While assessing the value of promotional spend is not an exact science, the Panel acknowledges that substantial measures have been put in place using accepted PR valuation formulae to measure the additional value obtained from PR expenditure.

5.3 Promotional Spend

The Panel is concerned that the Partnership Agreement does not refer to the previously mentioned ring-fencing of funding for promotional activities, on the basis of

[26] Scrutiny Public Hearing: 05.03.08 – JFL (page 26)

which additional funding appears to have been given. This Partnership Agreement was supposed to deal with the issues raised from the requests for additional funding in 2003 and 2004, hence as the Director of International Finance notes in the Treasury paper of 1st December 2003:

> ***"As the amount sought is now clearly ring fenced to increased promotional activity and not to any other activity including lobbying activity in respect of Government, this process should be more straight forward than had been envisaged in the past."***

He further pointed to a long-term funding structure which was expected to arise from further debate in the 2005 Fundamental Spending Review (FSR) process.

Examination of the relative changes in the size of the States grant and the JFL spend on promotion show that the process of monitoring how increased funding is directed is still far from straightforward as revealed by the figures below:

Year	**2002**	**2003**	**2004**	**2005**	**2006**	**2007**
Grant	250,000	400,000	600,000	586,000	750,000	1,000,000
Promotion spend	241,870	263,337	243,400	384,199	375,234	(est) 450,000
Percentage spent	96	66	40	65	50	45

While the Panel recognises that the JFL would contend that all of its activities are to an extent promotional, it would appear from these figures that JFL has been carrying out other work other than its core aim. This aim was described in 1999 as:

> ***"A body working to promote Jersey's image and the benefits of Jersey as an international finance centre"***[27]

The presence now of business planning processes and a Partnership Agreement appears to have done little to enhance clarity for the delivery of its primary function of promoting Jersey's financial services sector.

[27] Promoting Jersey as A Finance Centre: Report of the Working Group. 19th October 1999

Key Finding

Despite the presence of a Partnership Agreement there remains a lack of clarity in respect of the level of resources which JFL is committing to delivering its core promotional objective.

Recommendation 3

The Economic Development Minister should review the Partnership Agreement to ensure that tax payers are getting value for money in delivering its core activity of promoting Jersey's image and the benefits of Jersey as an International Finance Centre.

The Panel also notes that the Partnership Agreement has not been updated by reference to Financial Code of Direction 5.4 'Obtaining Value for Money from Grants' (which replaced Direction 26 within a month of the agreement being signed in 2005), or to reflect the move to Ministerial Government despite the agreement being subject to an annual review.

Recommendation 4

The Economic Development Minister should update the Partnership Agreement in the light of Financial Code of Direction 5.4.

6. Rôle of JFL

Although JFL has now established its role in finance promotion, prior to its inception there were differing concepts as to its rôle and scope.

As far back as April 2000 the then Acting Chief Executive informed the Industries Committee of his concerns regarding the Working Group proposal, saying that ***"it mixes up 'Jersey' with 'Jersey Financial Services"*** and also highlighted:

> ***"the need for a holistic approach to the Jersey brand…it makes obvious sense for the sake of the single brand for a single effort in promoting Jersey as both tourism and business location"[28].***

The Panel understands from this that there was an intention at the time to develop a body to promote Jersey as a whole, and not only the financial sector. However, the Working Group's remit appeared to be focussed solely on the finance industry.

The Panel notes that renewed attention has been given to work on the holistic promotion of Jersey with the launching of the Jersey 'brand' and 'life enriching' logos in 2007. The proposals to form another public-private partnership (PPP) to promote Jersey as a tourist destination along with joint marketing initiatives to advertise Jersey products reflect the wishes expressed in April 2000 for a holistic approach.

The Panel is impressed by the Economic Development's joint marketing initiative in 2007, and suggests that the idea of a single overarching promotional body for Jersey may be worth reconsideration at this stage.

The responsibilities of JFL were extended by its merger with the JFIA in 2004 which resulted in the following statement from the Partnership Agreement on the rôle and objectives of JFL:

> ***"Following the merger with the Jersey Finance Industry Association (JFIA) at the beginning of 2004, JFL now represents the Finance Industry across all areas, as well as acting as the gateway for***

[28] Industries Committee 5th April 2000 - note from Acting Chief Executive (Agenda item A4)

discussions between the Finance Industry, the States and the Jersey Financial Services Commission (the Commission).
Within its rôle, one of JFL's key priorities is to facilitate an environment, both at home and abroad, in which its member firms can prosper."[29]

The Panel understands that the merger with the JFIA produced a rebalancing of priorities in favour of the interests of its member firms.

6.1 Objectives

Delivery of this rôle is done through a set of objectives, under the guidance of three committees as follows:

Education and Training – to develop a coherent Industry view of education and training on the Island and to engender a regular dialogue between the Industry and representatives of the States, at a strategic level.

Fiscal Strategy – to consider and report upon the technical and commercial implications for Jersey's Finance Industry arising out of the States' fiscal policies.

Market Access – to formulate a coherent strategy for the Finance Industry in respect of access to international markets, taking into account the varying interests of different sectors within the Industry.

Mr. R. Kirkby, Technical Director of JFL, described some of the work that has been undertaken by the Fiscal Strategy Committee:

> ***"…over the course of the last 4 years has worked in partnership with government to help evolve good tax law, so the Zero-Ten law and the G.S.T. law. That body is made up of the top tax professionals in the Island. They give their time free of charge and meet very regularly to develop various laws."***[30]

The guiding principle of the JFL marketing strategy is:

[29] Partnership Agreement Between the Economic Development Committee and Jersey Finance Limited.
[30] Scrutiny Public Hearing Transcript: 05.03.08 – JFL. (Page15)

> "***Everything we do must add value, directly or indirectly, to our Member Firms, and ultimately to the Finance Industry, and the Jersey Economy."*[31]

And the aim of this strategy is:

> ***"to differentiate Jersey from its competitive jurisdictions by positioning it as a high quality, sophisticated, innovative and influential International Finance Centre, which has a clear strategy for growth."***[32]

6.2 Lobbying of Government

Concerns regarding the extent to which States money could be used to finance JFIA activities were first raised by the Director of International Finance in July 2003:

> ***"The question of the JFL / JFIA merger raises questions over the extent to which Government money could potentially be used to finance the JFIA – an industry association group, composed entirely of private sector participants, one function of which is to act as a lobbying group aimed in part at Government."***[33]

These concerns do not appear to have been dealt with and remain a concern to the Panel.

Since the merger with the JFIA, JFL has inherited a rôle that may include lobbying of the States. If this is so, the Panel believes that this aspect of their work should not be funded by the States. The issue of whether some of the work performed by JFL is lobbying (attempt to influence (legislators, etc) in the formation of policy[34]) was discussed at the public hearings in December 2007 and March 2008.

Deputy G.P. Southern:

[31] Jersey Finance, Marketing Activity Report 2007, as at 28th January 2008. (page 5)
[32] Jersey Finance, Marketing Activity Report 2007, as at 28th January 2008. (page 4)
[33] States Treasury Paper by Director, International Finance, dated 7th July 2003 for FEC meeting 18th July 2003 Item B10.
[34] Collins Concise Dictionary

"You mentioned now that they have subsumed the rôle of J.F.I.A. which was a body set up to represent the interests of its members, per se, to what extent do you see that that does present a potential conflict of interest between States funded and what effectively, as part of their rôle, is a lobbying group?"[35]

Mr. P. Horsfall responded:

I do not think it is a conflict of interest. Because again when I go back to when I was still in office. I know that consultations and the like were done through J.F.I.A. They were being driven by the States. Whether it was a regulatory law or whether it was a new product law. All sorts of things were being driven by the States because they were viewed as being in the public interest.[36]

The Panel agrees with Mr. Horsfall that it is entirely appropriate that the judge of which issues were in the public interest of the Island must be its elected representatives, however, there is a danger that decisions of what is in the public interest may be driven by representatives of the finance sector.

At the public hearing held on 17th December 2007, Mr. M. De Forest-Brown, Director International Finance suggested that a degree of lobbying does go on:

"I think as long as the amount of money that members provide is more than the amount that is spent on lobbying. Let us be clear, technical is split into legal development which is in the benefits of the industry and in the benefits of the Island, and some of it will go into lobbying. … Actually I think that the amount of time and effort that has gone into that sort of activity is relatively limited because there is a joint understanding. We are actually blessed at this point with a good joint understanding of the needs of the Island in the competitive marketplace. So there will undoubtedly be cases where undoubtedly will be lobbying. But I think you will find that is pretty much a minority element."[37]

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[35] Scrutiny Public Hearing Transcript: 17.12.07 – Mr. P. Horsfall & Mr. M. de Forest-Brown (page 4)
[36] Scrutiny Public Hearing Transcript: 17.12.07 – Mr. P. Horsfall & Mr. M. de Forest-Brown (page 4)
[37] Scrutiny Public Hearing Transcript: 17.12.07 – Mr. G. Grime & Mr. M. de Forest-Brown (page 10)

Mr. M. De Forest-Brown suggested that the continued existence of separate bodies that represent the interests of the different sectors of the financial services industry legitimised the process.

> ***"Just one thing to add because it has not come up today and it might be useful for the committee [Panel] to understand, is that after J.F.I.A. was subsumed within J.F.L. - your words - there is a separate body called F.I.A.C. that was established and continues, … To an extent the independence of the trade bodies is still preserved with the existence of F.I.A.C. and they meet monthly with the Chief Executive to make any particular points to J.F.L. that they feel may not be being considered at the current time.*** [38]

Despite the continued existence of industry representative bodies, it appears to the Panel that JFL through its technical division continues to be the major actor in promoting new legal innovations for the benefit of its members. This for example is witnessed by the list of written submissions and public hearings in the Corporate Services Scrutiny Panel Report, SR 4/2006: Review of the Zero/Ten Design Proposal. This shows that industry contributions were funnelled through the JFL Fiscal strategy group.

When the Panel examined the issue of the balance of funding between the industry subscriptions and the States grant, it was asked to consider the contributions of expertise given by industry members. In terms of technical developments, the value of this contribution is estimated by Mr. R Kirkby, JFL Technical Director to be in the region of £2 million.

> ***"... in terms of technical developments, probably in excess of £2 million of free time.""***[39]

The Panel appreciates the high level of commitment shown by industry members to the development of the finance sector and Jersey's fiscal legislation reforms, evidenced by the volume of donated time and expertise. However, the Panel still questions what proportion of this contribution is in the public interest, compared with

[38] Scrutiny Public Hearing Transcript: 17.12.07 – EDM and Mr. De Forest-Brown (page 12)
[39] Scrutiny Public Hearing Transcript: 05.03.08 – JFL (page 38)

that which is primarily in the interests of the industry. The Panel draws a clear distinction between the creation of new laws to enhance finance company profits and time spent ensuring that legislation is fit for purpose. It is concerned that the technical division work may in part be seen as lobbying and therefore question to what extent the financial value of these contributions can be considered in the context of matched funding.

This issue was further discussed in March 2008 at a public hearing attended by the JFL, Chief Executive. Mr G. Cook, who had the following to say on the subject,

> ***"We are not involved in lobbying States Members, we are not involved in lobbying politicians. We are not a political organisation. We simply communicate, I believe, good quality information to the interface point in government that we have been asked to work with as to what we believe needs to happen next, and the end objective of that always will be having the wider interests of the Island and the economy in mind."***[40]

The comments above indicate a difference of opinion as to whether the JFL engages in lobbying. The Panel is of the opinion that it does, and that it does so on behalf of its stakeholders, the finance industry companies.

The JFL Business Plan 2007-2009 specifically refers to JFL's involvement in this regard:

> ***"4.4.2 Technical Activities***
>
> ***The primary measure of our technical performance lies in the quality and timeliness of our key deliverables, which include…***
>
> ***…lobbying / position papers developed in support of specific Industry initiatives (e.g. Industry priorities for the Law Drafting Programme, proposals for regulatory or legislative reform etc.)"***[41]

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[40] Scrutiny Public Hearing Transcript: 05.03.08. JFL (page 14)
[41] JFL Business Plan 2007-2009

Lobbying is also referred to by Mr. G. Cook in an open letter to the Treasury and Resources Minister dated 28th November 2007 in respect of a proposed amendment to impose stamp duty on probate. It reads:

> ***"It is with some concern that Jersey Finance Limited noted the above amendment had been lodged 'au Greffe' earlier this month. Jersey Finance Limited has always on behalf of the Jersey Financial Services Industry lobbied to ensure full consultation on both the principles and the actual draft law on any changes to fiscal policy…"***

The letter goes on say:

> ***"I would be happy to discuss this with you and share this letter with your colleagues but would urge you to oppose the proposed amendments until full and proper consultation with the Financial Services Industry has taken place.***[42]

From these sources the Panel can only conclude that the JFL does in fact lobby politicians to benefit the finance industry.

Having listened to the evidence presented at the public hearings the Panel remains concerned that the boundaries between the work done by JFL to improve the financial legislation of the Island and the work done to develop products for members' benefit are not defined. The Panel remains of the opinion that a potential conflict of interest may exist with the development of financial product legislation. Although these products may result in increased tax revenues, the Panel is not convinced that the States should be seen to be funding the lobbying for development of finance industry products.

Key finding
The Panel notes that issues of lobbying and influence over what is considered to be in the public interest on the part of JFL have not been resolved.

[42] Letter, Mr. G. Cook to the Treasury and Resources Minister 28th November 2007

Recommendation 5

The Minister for Economic Development should investigate the formation of an overall promotional body for Jersey, to include all aspects of our economy.

Acceptance of this recommendation would allow further consideration to be given to the problems arising from the dual rôle of the JFL in both lobbying for and developing new legislation. If, for example, the technical division of JFL were to be subsumed into the Economic Development Department, then the principle of joint pound-for-pound funding could more easily be met, effective and efficient channels of communication could be maintained, and a clearer balance of responsibilities and accountability could be achieved.

Recommendation 6

The Economic Development Minister should explore the separation of the technical division of JFL into a new entity.

7. Public-Private Partnership

The joint public-private partnership aspect of JFL was seen by many as crucial to its success. The main reason given was that JFL was accountable to both the States and to the industry members. Mr. F.G. Voisin, who was a member of the Industries Committee and Finance and Economics Committee at the time JFL was set up, commented on the merits of the shared funding arrangements:

> ***"I think that it is good that the industry contributes. I think it is very important that the States contribute. I think that the States are fortunate that the industry does contribute to the extent that it does. If you ended up with a body that was all States' funded then I think that we might lose some of the entrepreneurial aspects of Jersey Finance Limited, in other words looking for new markets, seeking them out and trying to promote Jersey in those new markets. Indeed that was part of the discussions and negotiations around the service level agreement because Jersey Finance Limited did not want their entrepreneurial spirit extinguished. They did not want to become another branch of the States' structure."*** [43]

This reflects the initial concept for the States to match the voluntary industry contributions 'pound for pound' to a maximum of £250,000 a year. As we have seen this balance has changed with the significant increases in States funding.

The Comptroller and Auditor General (CAG), in a recent report, recommends a long term reduction of £250,000 in States funding for JFL, noting that:

> ***"At present, Jersey Finance is financed partly by the States and partly by the financial services industry. This option for reducing spending would lead to a balancing of the direct and 'in kind' contributions made by these two parties so that the States and the industry make equivalent contributions."*** [44]

[43] Scrutiny Public Hearing: 17.12.07 - Mr. F.G. Voisin (page 14)
[44] States Spending Review – Emerging Issues 2008,. CAG, May 2008, Appendix 3 page 37

Key Finding

The Panel is very supportive of the concept of ‘pound-for-pound’ matched funding. The Panel notes that this has been identified as the only achievable saving to be made by the Economic Development Department at this point.

JFL does appear to be supported by a large proportion of industry sector businesses, as Mr. R. Kirkby explained:

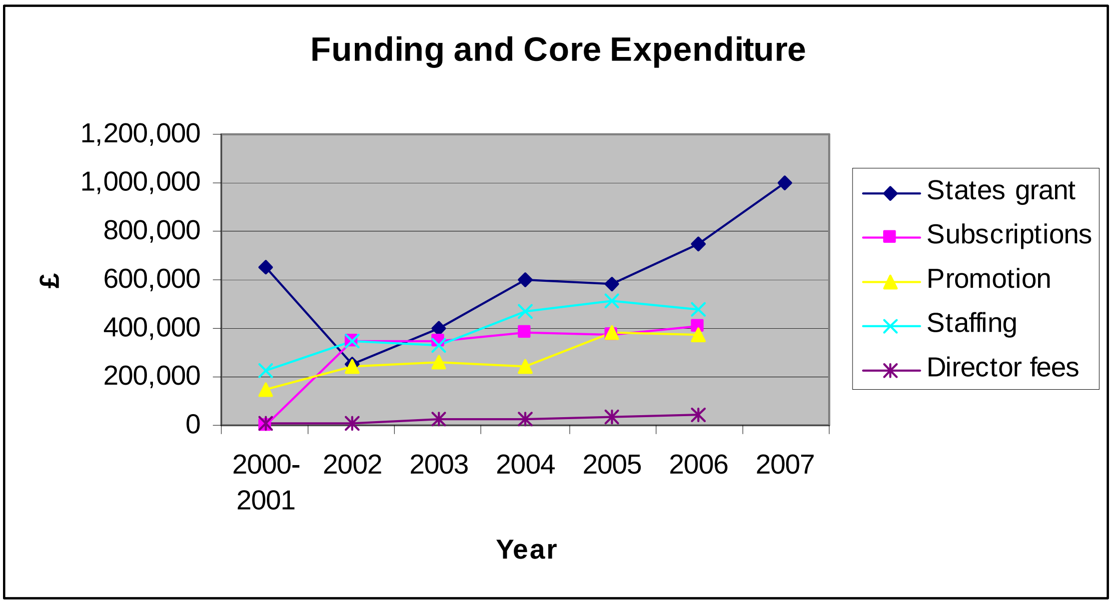
> ***“We have 170 members, which as you rightly say is not the full finance industry, but we do believe we have of that 170 members, that is more than 11,000 employees of the finance industry, given we have about 12,500, it is very significant.”[45]***

The subscriptions paid by the industry are voluntary and are based on the number of employees within each company. This is deemed by JFL to be a fair system, based on affordability and the level of benefits received by a company, as explained by Mr. M. de Forest-Brown:

> ***“So there is a degree to which the larger firms pay more anyway and the larger firms are the ones who are more likely to be interested in international expansion, as opposed to a purely local firm, so there is a sort of cost correlation or membership fee correlation in that respect already.”[46]***

Despite the high level of membership, the balance of funding has changed from the initial 50:50 and the States now contribute over £1 million annually, while subscriptions are believed to be in the region of £400,000. (Scrutiny has not received any data on 2007 accounts at the point of writing).

[45] Scrutiny Public Hearing: 05.03.08 – JFL (page 30)
[46] Scrutiny Public Hearing: 05.03.08 – JFL (page 34)



There is no doubt that since the formation of JFL we have seen significant growth in the Finance Industry Sector. The Panel has reviewed the statistical data available relating to the finance industry and summarised some of the indicators of growth in the diagrams below.

Figure 1: Number of banks and funds in Jersey, 2000-2006[47]

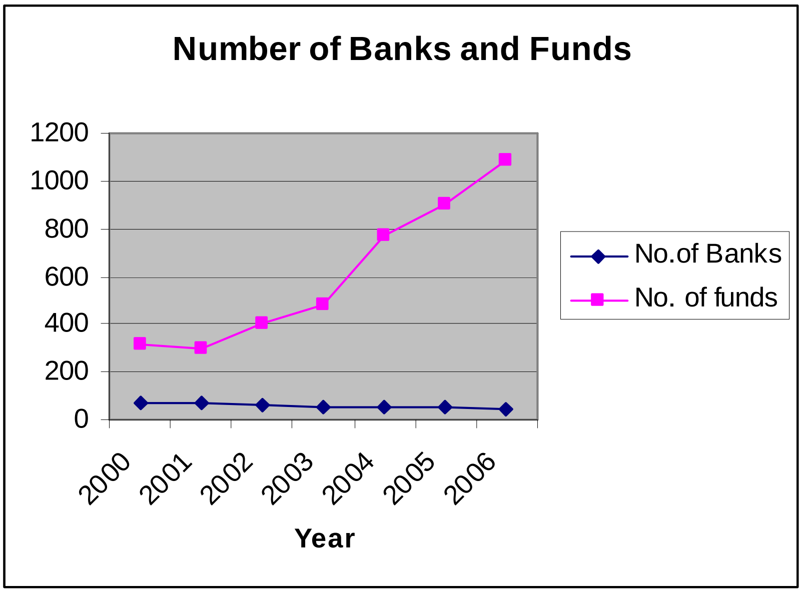
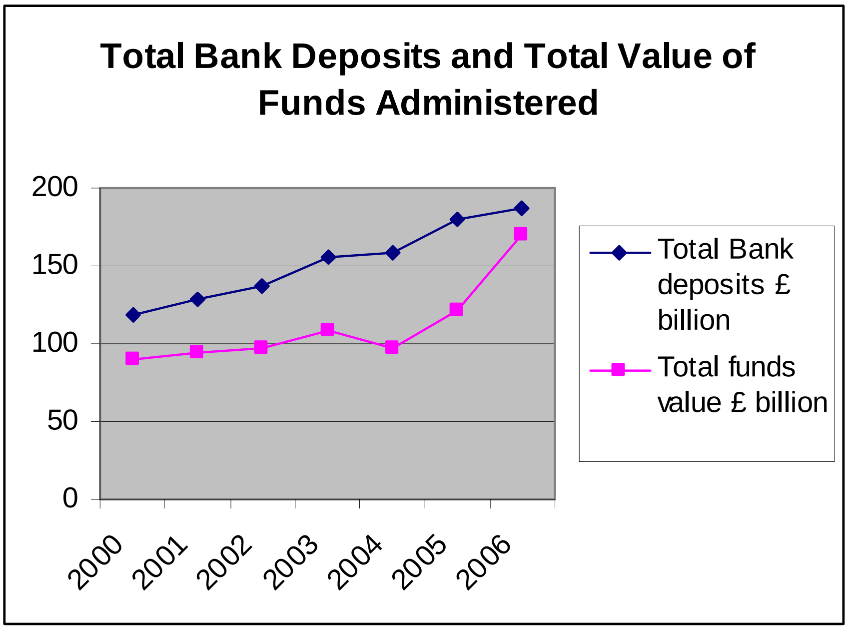


Figure 2: The totals of bank deposits and funds administered from Jersey, 2000-2006[48]

[47] Figures taken from Jersey Economic Digest 2007
[48] Figures taken from Jersey Economic Digest 2007



It is difficult to assess how much of this growth has been due to the work of JFL and how much is due to other factors. Mr. Cook commented on some benchmarking methods for this kind of investment:

> ***"We compare very favourably in terms of rates of growth. I think things like productivity per head of your finance and industry population and ranking that against other financial jurisdictions, that is going to be a driver of tax take, so from your point of view, determine are you getting a decent payback on the investment? That is probably quite an important figure."[49]***

The question arises when considering the funding of JFL, as to who is in the best position to measure what return one gets on the investment. The Treasury and Resources Minister is not certain that he is in the best position, as he states-

> ***"I cannot quantify any correlation between if we spent £2 million would I have got double the tax revenue; if we had spent £500,000 and only half the tax revenue? I cannot honestly make a correlation with that ."[50]***

[49] Scrutiny Public Hearing Transcript: 05.03.08 – JFL (page 36)
[50] Scrutiny Public Hearing Transcript: 17.12.07 – Senator T. Le Sueur (page 4)

The Panel understands from this that politicians are not in the best position to assess the benefit of marketing spending.

Mr G. Cook, the Chief Executive of JFL, has drawn the Panel's attention to the fact that since the formation of JFL the industry has benefited from a significant period of growth and profitability, and suggests that comparisons to other jurisdictions indicate that we are getting good value for money spent:

> ***"So I think the rate of growth of our deposit book and our funds book compared to other jurisdictions is a good proxy as to whether you are achieving value in terms of your spend and your activity; are you getting a payback?"***[51]

The Panel agrees that industry performance is a good indicator of the benefit of promotional spend. The Panel considers this to be a clear indication that those best able to judge the performance of JFL and to hold it to account in terms of the value for money it delivers are the individual member companies which can most clearly see improvements in their deposits and funds. This is especially important in considering any further increase in funding for JFL, in particular in funding for new initiatives.

The current balance of funding was discussed by JFL members at a Members Focus Group meeting in September 2007. In general the user-pays idea was supported and it was thought that the private/public balance of funding was about right at two thirds government one third members. Some members indicated that they would be happy to pay more only if it was manifestly obvious that they were receiving added value.[52]

The Panel has heard from JFL that there is a need for development of new market areas. This development requires frequent communication and visits. In some instances it may be beneficial to aim for permanent representation in a locality. If Jersey is to protect and grow its financial industries sector, it needs to invest in promotion and product development. This investment may indicate a need for increased funding for JFL. On the possibilities of additional funding Mr. R. Kirkby had the following to say:

[51] Scrutiny Public Hearing Transcript: 05.03.08 – JFL (page 36)
[52] Jersey Finance, Marketing Activity Report 2007, as at 28th January 2008. (page 92)

"… I think we believe that having representative offices elsewhere would be very useful and is almost becoming a crucial thing with Guernsey, with China and London and Dubai, and to have a representative office would cost a considerable amount of money per each office. That would require additional funding and probably would derive a significant benefit to the Island."[53]

In discussing future funding developments Mr. C. Clarke stated:

"I would not presume any automatic level of funding or change in the funding. To me the key thing is that Jersey Finance makes its business case for the activities it feels are appropriate for promoting the finance sector, and then gets the agreement of its stakeholders that those are the activities that are relevant and then, you know, funding is sought for those particular activities."[54]

The Panel welcomes Mr. Clarke's suggestion, which is shared by Mr. Cook, that future bids for increased funding would be presented to both the States and industry in the form of a business case, as this will enable both industry and the States to assess the value and possible benefits of the additional activities before considering the allocation of any additional funds.

The principle of 'user-pays' seems already to have been accepted by JFL, in the form of the adoption of a user-pays system on conference and 'key market' visits. When a company or business accompanies JFL to a conference or key market event as part of the Jersey delegation, they are expected to pay an additional fee. Last year this scheme raised an additional £100,000 of member contributions and the benefits of this initiative were described by Mr. G. Cook:

"For those very large areas or activities, we would invite member interest in supporting and they pay an additional payment over and above their membership subscription fee to attend, to help us defray the costs. So if they get a very particular benefit, a very particular exposure brand, they do pay more. "[55]

[53] Scrutiny Public Hearing Transcript: 05.03.08 – JFL (page 37)
[54] Scrutiny Public Hearing Transcript: 05.03.08 – Mr. C. Clarke (page 10)
[55] Scrutiny Public Hearing Transcript: 05.03.08 – JFL (page 33)

The Panel agrees that users should pay for services. However, the steady relative increase in States funding for JFL has significantly skewed the balance of private/public funding and hence accountability. The Panel is therefore surprised to see that the 2009 Business Plan from the Economic Development Department contains an additional £199,000 to 'directly market the Island's finance industry'. The Panel understands that this sum has been allocated for the provision of a permanent presence promoting Jersey Finance in either China or India, the two most significant developing markets.

The Panel is currently awaiting detailed Business Plans associated with this additional spend, but it remains sceptical that further States funding is the appropriate source for this initiative. In terms of directly assessing value for money from such an initiative, there can be no doubt that individual member firms are better placed than Government to measure most efficiently and rapidly what returns are being generated. It seems logical therefore that these firms should be asked to fund the project. This solves any problems of accountability and goes some way to restoring the principle of pound-for-pound matched funding for this public-private partnership.

Recommendation 7

The Economic Development Minister should take steps to restore the principle of pound-for-pound matched funding for JFL.

Recommendation 8

The development of a permanent presence in China or India should be subject to careful consideration by the Economic Development Minister and supported by a detailed Business Plan.

8. Comparable Jurisdictions

The Panel has found it extremely difficult to gain access to verifiable information regarding the funding and activities of comparable jurisdictions.

However, we have been able to establish that there is a variety of approaches to the promotion of jurisdictions and their financial services industries. In some cases, such as the Cayman Islands Financial Services Association, the promotion of financial services is undertaken and funded entirely by the industry. At the other end of the scale, some governments (such as Guernsey and the Isle of Man) manage and fund promotional activities themselves. Additionally, there is a huge variation in the wealth of jurisdictions and their ability to fund promotional work.

Many of those interviewed by the Panel indicated that the JFL model is the envy of other jurisdictions and that other finance centres spend significantly more on promotion. For example the Treasury and Resources Minister commented that:

> ***"… I do think that at a time when our competitor jurisdictions are spending millions on promotions what we have achieved with the relatively small amount that Jersey Finance spends has been a significant improvement in our tax revenue from the financial services sector. From that point of view, yes, I think it is money well spent."[56]***

Mr. M. De Forest-Brown also presented some examples:

> ***"What we do also know is that in Guernsey there are £600,000 provided for promotion. In the Isle of Man, we do not know the full figures, but we know that they have recently allocated the best part of £600,000 specifically for funds promotion because they have seen how successful we have been in that space. Isle of Man are making a particular drive in that area. In both of those jurisdictions there***

[56] Scrutiny Public Hearing Transcript: 17.12.07 – Senator T. Le Sueur (page 4)

> ***are no member contributions, so it is fully funded by government in both of those jurisdictions."[57]***

The Panel notes, however, that the direct promotional spend of the JFL was only £400,000 in 2006, out of a total of over £1.1m in funding.

Mr. C. Clarke commented on the reasons why the Jersey public/private partnership arrangement is seen to be the envy of other jurisdictions:

> ***"He (Director, Guernsey Finance), … laments the fact that he does not have industry funding because it means that he, perhaps, does not have the same level of interaction from the industry that we enjoy here in Jersey. The Isle of Man Finance, the lady who ran that, came down to Jersey to meet me and I set up some meetings for her, specifically to understand better what Jersey Finance did because they regarded it as the model of financial sector promotion for off shore centres. I see they are still government funded, they are still a subsidiary of the Treasury division and the fact that our competitor jurisdictions are quite open in acknowledging that Jersey Finance is something of a model, I think, is encouraging really."[58]***

When asked by the Connétable of St. Brelade to what degree one can hope to compete with very wealthy jurisdictions such as Dubai, Mr. Cook replied:

> ***"… (Middle Eastern jurisdictions such as Dubai) clearly have deep pockets, but Jersey has some attributes that they do not have, but it is very, very important we get out there and do not allow them to, if you like, occupy our space … we have seen recently in other areas, a very strong legal and judicial system that is respected around the world. Those are things that you cannot create. You cannot spend your way to those."[59]***

[57] Scrutiny Public Hearing Transcript: 17.12.07 – Mr. P. Horsfall (page 10)
[58] Scrutiny Public Hearing Transcript: 05.03.08 – Mr. C. Clarke (page 12)
[59] Scrutiny Public Hearing Transcript - Mr G Cook 05.03.08 (page 23)

The Panel understands that the integrated approach of the JFL public/private partnership provides an excellent basis for the promotion of Jersey and its financial services industry. Clearly Jersey cannot compete with the level of spending that may be available to larger or wealthier jurisdictions, but it does have a number of intrinsic advantages which enable it to compete successfully.

In the light of the reservations expressed in the previous chapter over the continued growth of States funding and accountability issues, the Panel is strongly of the opinion that the time has come to take some steps to redressing the ‘pound-for-pound’ matched funding principle. Nothing in the Panel’s review of comparable jurisdictions contradicts the principles which underlie Recommendation 6.

9. Appendices

9.1 Appendix A: Members of the Working Group

Senator F Walker, Chairman

Richard Pratt,

Moya Fenoughty,

Phil Austin,

Anthony Dessain,

Clive Jones,

Micheal Kenny-Herbert,

Ian Strang,

Rosemary Marr,

Charles Clarke,

Paul Matthams,

Nick Orchard,

Charlotte Head,

Gary Killmister,

Steve Gidley,

John Shenton,

Peter Yates,

Clive Spears,

Geoffrey Grime,

Duncan Baxter,

Clive Barton,

Robert Christensen,

Martyn Scriven