



Economic and International Affairs Scrutiny Panel

Quarterly Hearing

Witness: Assistant Chief Minister with responsibility for Financial Services

Thursday, 26th October 2023

Panel:

Deputy M.R. Scott of St. Brelade (Chair)

Connétable R. Honeycombe of St. Ouen

Witnesses:

Deputy E. Millar of St. John, St. Lawrence and Trinity, Assistant Chief Minister

Mr. R. Corrigan, Chief Officer, Department for the Economy

Ms. H. de la Cour, Director, Financial Services

Mr. R. Pedley, Associate Director, Financial Crimes Strategy

[11:30]

Deputy M.R. Scott of St. Brelade (Chair):

Welcome to this quarterly hearing of the Economic and International Affairs Scrutiny Panel. This hearing, the aims of it are to gather evidence specific to the legislative priorities and the ongoing work of the Assistant Chief Minister with responsibility for Financial Services. This hearing will be filmed and streamed live. The recordings and transcript will be published afterwards on the States Assembly website. All electronic devices please, including mobile phones, could you please switch them to silent. I do not think we have any members of the public today, so I will not ask them to leave quietly then. For the purpose of the recording and the transcript, I would be grateful if everyone who speaks could ensure that you state your name and roles. If we can begin with introductions and I suggest that panel members introduce themselves first, followed by the Ministerial team. I am

Deputy Moz Scott, chair of the Economic and International Affairs Panel. And on the screen we have?

Connétable R. Honeycombe of St. Ouen:

Richard Honeycombe from St. Ouen, a member of the panel

Assistant Chief Minister:

Elaine Millar, Assistant Chief Minister with responsibility for Financial Services.

Chief Officer, Department for the Economy:

Richard Corrigan, Chief Officer, Department for the Economy

Director, Financial Services:

Helen de la Cour, Director of Financial Services

Associate Director, Financial Crimes Strategy:

Richard Pedley, Associate Director of the Financial Crimes Strategy.

Deputy M.R. Scott:

Thank you very much for attending today. The first set of questions is about sustainable finance. How is the development of a road map for sustainable finance progressing please?

Assistant Chief Minister:

It is progressing. I think we are expecting to have a first draft this week. I think we would have hoped to have seen it a bit sooner but an early draft will be available certainly for officers to look at across all relevant agencies and then finalise and give to Ministers. So work has been underway and we are waiting to see it very soon. Once all relevant Ministers have agreed it, so that will cover all the 4 Ministers with financial services responsibility, there may be others have an interest, and we are still aiming to publish it before the end of the year.

Deputy M.R. Scott:

Okay, so you have a consultation period that has happened, is happening? How does it work?

Assistant Chief Minister:

The road map I think is being worked on separately but there is going to be consultation which is being worked on, and I think the consultation will be released ... is it going to be out quarter 4 as well or early next year?

Director, Financial Services:

I think the consultation responses as well will help on the thinking of the road map, what is right for Jersey in terms of the stats to deliver on sustainable finance.

Deputy M.R. Scott:

Just in terms of what we are expecting; a first draft of the road map and the consultation responses at the same time? Because you are saying one has informed the other.

Assistant Chief Minister:

No, the consultation has not yet taken place. I think we will have a draft road map.

Deputy M.R. Scott:

That gets published.

Assistant Chief Minister:

We will then also look at consultation, and that will help take it forward into a more final document.

Deputy M.R. Scott:

Consultation with who?

Assistant Chief Minister:

All interested stakeholders, I expect.

Deputy M.R. Scott:

Who would be?

Director, Financial Services:

It will be a public consultation published on the gov.je website like usual but we will be engaging with Jersey Finance, the J.F.S.C. (Jersey Financial Services Commission) is a key stakeholder, the financial services industry by reaching out to the trade associations. Jersey Finance will publish it and push it out for us in the normal way as well. I know that there are some individual firms in Jersey that are really keen on this and will help us promote it and make sure that we get the right feedback to ensure whatever we do in Jersey is right and proportionate, I think.

Deputy M.R. Scott:

How are you defining sustainable finance?

Director, Financial Services:

This particular element looks at the financial services industry specifically. I think there is probably separate work ongoing in other departments around the transition to green and what financial support might be needed for that. But this will look at our products, our legislation and where we sit in the international sphere.

Deputy M.R. Scott:

Is it the financing of what is green or is it ...?

Director, Financial Services:

That would be your carbon neutral.

Deputy M.R. Scott:

I was just asking for your working definition.

Chief Officer, Department for the Economy:

It is distinct from the Carbon Neutral Roadmap in terms of financing the Island's own journey towards carbon neutrality. That is being managed entirely separately within government. This is about Jersey's role as an I.F.C. (international finance centre) in terms of ensuring that the products, the capital that flows through the Island are appropriate. Not just for pure green financing but also for the brown to green journey that is going to be so important in making the progress both as an I.F.C. but also making that global progress towards carbon neutrality.

Deputy M.R. Scott:

Give me perhaps an example, one that would not be.

Chief Officer, Department for the Economy:

That would not be?

Deputy M.R. Scott:

Appropriate.

Chief Officer, Department for the Economy:

We have not decided that. That is going to go out to consultation. What we are saying is if you have oil company that is divesting itself progressively from, say, oil and gas resources and moving more towards renewables, one might argue that you are funding an old economy company in some context but what you are actually doing is helping that business transition from brown to green. That would be a viable investment. That is where the greatest single need is to fund the transition rather than purely green initiatives. What we want to understand is proportionately what is Jersey's role

as an I.F.C. in that, in terms of benchmarking against relevant standards in this space and also are there particular products that might have an appeal in this area, such as an impact fund. That is not as investing in a fund. That is a type of fund structure that perhaps puts E.S.G. (environmental, social and governance) credentials as their premium objective over perhaps profit, as might exist in other fund structures.

Deputy M.R. Scott:

What are the relevant standards?

Chief Officer, Department for the Economy:

We will be looking at the international taxonomy, so the J.F.S.C. ...

Assistant Chief Minister:

I think that is one of the outstanding questions. That is one of the things when I met the Swiss Finance Minister ... Secretary of State for Finance recently and he said part of the issue is taxonomy. Everybody is still trying to work out what we call it, what is it we are measuring, what is it we are trying to do because one jurisdiction may have one view of it that is completely different to what another jurisdiction says. So we are looking to international standards and looking at what other people are doing. That is some of the advantages of looking at how reporting standards are developing. I think there is a lot of work happening in the Island. I think the F.S.C. (Financial Services Commission) is part of the financial centre for sustainability network, which is catching other regulatory bodies. Jersey Finance is doing its own work. The Sustainable Finance Awards last week that I attended. There is a lot happening in the industry and we need to look at what we can do to facilitate that work happening.

Deputy M.R. Scott:

Because during our April hearing it was indicated there was nothing conclusive in consideration of potential elements of the legislative and/or regulatory framework for sustainable finance. Have there been any further decisions in this regard?

Assistant Chief Minister:

I think that is also part of the ongoing work. I think in fairness we are not as advanced on this as I would like to be. But we have had resourcing challenges, people have been diverted on to other work. The person who was working on it is no longer in the organisation but it will be ... it is really a priority now that we get the consultation out. That we start working ... that we get when we see the draft road map that we do drive this forward.

Deputy M.R. Scott:

What elements of private financing or green initiatives in Jersey would you envisage promoting as Assistant Chief Minister?

Assistant Chief Minister:

Sorry, which?

Deputy M.R. Scott:

What elements of private financing of green initiatives, unless you're going to tell me that is the Carbon Neutral Roadmap again, what elements of private financing of green initiatives in Jersey do you envisage promoting as Assistant Chief Minister?

Assistant Chief Minister:

I think how private money spends its wealth and how it invests, I do not think we can necessarily ... I am not sure. It will depend what the road map says. Does the road map say: "This is the way to go?" I mean there are all sorts of ways that sustainable finance ... it covers so many things. Is it infrastructure projects in countries that are about to be hit by adverse weather events? Is it supporting those kind of countries in their own economies? Is it the social impact funds? Everybody will have their own view of what a green initiative is and I think what we need to make sure is that we are supporting things that are truly green and sustainable and that we avoid greenwashing. I think the F.S.C. already have guidelines about anti-greenwashing. I think they have been very early with those. It is still a work in progress and it may be there will not be legislative changes. It may be that it is just guidelines in terms of how resisting products work or we may look at what are other jurisdictions doing and are those things that we think we should also be doing?

Deputy M.R. Scott:

How has Jersey Finance's 2030 vision and pathway to success for sustainable finance been incorporated into this work?

Assistant Chief Minister:

I think the Carbon Neutral Roadmap, that is a different funding stream. This is about the industry and the finance centre, and the road map and how we finance that sits somewhere else. I think that is principally with Treasury. How we fund what we need to do as a Government to get to carbon neutral.

Deputy M.R. Scott:

That does not guide it in any way? There is no overlap then?

Chief Officer, Department for the Economy:

We are looking at Jersey as an I.F.C., which is a multiple of government's domestic role in terms of carbon neutrality. We have a £5 billion or so economy locally, where government spends £1 billion or so each year. That is relatively modest compared to the £1.2 trillion of capital that is intermediated through Jersey and goes to a variety of global destinations, both in terms of asset classes and regions. This is about Jersey as an I.F.C. in terms of the work of the team here rather than Government's own work around electric vehicles, hydrogen propulsion, whatever it might be going forwards. We are working with the J.F.S.C. in this regard around what may be appropriate standards and appropriate regulatory role. Indeed, is the J.F.S.C. the appropriate regulator for it or, in the case of funds, should this be something that is picked up in the audit of those funds and is something that is then checked periodically to ensure that funds are staying consistent with their investment themes and objectives? We want to find the right role. We are not looking at creating an extra layer of regulation around this and being overly-bureaucratic in the approach.

Deputy M.R. Scott:

It is just that Jersey Finance did publish this document in 2021, *Sustainable Finance: Jersey's pathway to success*.

Chief Officer, Department for the Economy:

That is being considered. Jersey Finance has the Sustainable Finance Ambassadors Group that is a part of this. They will be one of the groups that is involved in the development of the road map but what we also have to bear in mind is Jersey Finance is a trade body; Government has to set public policy and policy as far as international standards and regulation are concerned. Sometimes in a way that is not entirely complimentary to the views of a trade body, even if it is one that is funded by Government largely.

Deputy M.R. Scott:

I see. So you have this benchmark against which you are looking at it?

Chief Officer, Department for the Economy:

We want to look at the best ideas globally. That is part of the work that has been commissioned so far and will be back with us this week. We can then evaluate that and commence consultation with some proposals around where we go. Jersey Finance, I am sure, will be an interested party in that as will their individual member firms. But public policy will be set by the Government rather than necessarily by a trade body, although one may inform the other, to an extent.

Deputy M.R. Scott:

Jersey Finance's *Jersey for Good - A Sustainable Future* identifies that for Jersey to become a globally-recognised sustainable finance centre the Island itself has to change. What actions are you undertaking to enable this or do you envisage undertaking?

Assistant Chief Minister:

I think it is probably still all wrapped up in the road map, which we are waiting to see the first draft of.

Deputy M.R. Scott:

But have you actually considered this document and do you not have views on this? It has been published by a body so ...

Assistant Chief Minister:

Yes, of course.

Deputy M.R. Scott:

I just wondered whether you have any kind of responses at this point.

Chief Officer, Department for the Economy:

We do, and what we have said I think very clearly is there is a delineation between the work domestically around carbon neutrality and practising what we preach there versus the work that need to do as an I.F.C. Where it talks about Jersey doing things domestically, that is around Jersey being in a position where it cannot be accused of being hypocritical. We are saying to international capital owners: "You must follow this taxonomy or you must meet these standards" while here we are not reforming our own domestic practices in terms of energy consultation, in terms of energy as propulsion for vehicles, in terms of waste strategies and so on.

[11:45]

If we are still living in an old mindset, domestically we will be accused of hypocrisy. It is important that the domestic agenda, driven by other Ministers and their portfolios is also consistent with what we are trying to do with Jersey as an I.F.C.

Deputy M.R. Scott:

Can we afford to do this, given their size?

Chief Officer, Department for the Economy:

To do what?

Deputy M.R. Scott:

To constrain ourselves in terms of coming forward, moving towards this like greener ways forward. To what extent are you assessing the impact that this could have on us financially?

Chief Officer, Department for the Economy:

You are talking domestically or internationally though?

Deputy M.R. Scott:

Domestically in terms of pursuing this road map.

Assistant Chief Minister:

That is a different thing.

Chief Officer, Department for the Economy:

The road map is not part of the domestic ... the domestic strategy is the Carbon Neutral Roadmap.

Deputy M.R. Scott:

Okay, I understand that.

Chief Officer, Department for the Economy:

That is sponsored elsewhere in Government by other Ministerial portfolios and departments. The role of the Financial Services team and Deputy Millar as Minister is to look at Jersey as an I.F.C. They are 2 entirely different strategies other than to ensure that we are not speaking with forked tongue in terms of doing one thing here and something entirely different over here.

Deputy M.R. Scott:

What I meant was in terms of you are envisaging a transition, no?

Chief Officer, Department for the Economy:

There has to be a domestic transition.

Assistant Chief Minister:

I do not think it is an immediate transition. What we are trying to do is ... the industry is already doing it. The industry is already ... I was at the Sustainable Finance Awards and there are lots of businesses really trying to make sure they are being green and that they are offering green products and that they are encouraging private wealth into sustainable green projects rather than into oil or fossil fuels, although those industries still need money to help them transition. I think it is about

everybody is working towards that goal as more and more people are putting their investment into green ... private wealth and corporate wealth will be moving much more into sustainable finance and what just matters is that Jersey can promote itself as a centre for sustainable finance and green finance. That is what we are trying to do. There may be limited cost to Government in supporting that work once we have our standards in place. Once we are able to measure what people are doing and set some rules around greenwashing, we do not want to create new regulation other than ... we do not want people telling untruths about how green they are. We have started that already with the greenwashing. I do not think there is necessarily a cost to the Island. There is a category of business out there that is focusing on sustainability and we want to make sure that that is sustainable finance and funds that are looking at impact and are looking at green investment. We want those coming to Jersey. We do not want them going elsewhere.

Deputy M.R. Scott:

I see that Helen is ...

Director, Financial Services:

We were looking at the enabling environment, I think, so making sure that the legislative framework, the regulatory framework, does not over burden people and, like you say, cost us. But we do have that enabling framework to allow this to happen and make sure that Jersey is known for it.

Deputy M.R. Scott:

So in terms of added value, what do you see in financial planning?

Chief Officer, Department for the Economy:

We cannot afford not to do it. This is a direction of travel. People can question the pace of travel in any one country, region or whatever and indeed question the pace of travel with greening Jersey's domestic environment. But we cannot afford not to do it in an international sense. This is a demand from investors. There is an increasing demand in terms of global standards, global expectations. For Jersey to ignore this in an I.F.C. context would be very shortsighted. What we have to do is to be able to move with the times and, as you say, we are already a platform for pure green investments. Many of our corporate structures and fund structures have the versatility to tailor those down to very, very specific objectives around E.S.G., however we think there might be something around developing a product specifically for that end. Also, just to say, here is something else that we do that is purely aligned to those standards.

Deputy M.R. Scott:

Okay. I am going to move on to a question about the Channel Islands ombudsman. In his 2022 annual report, the Channel Islands ombudsperson indicated that he had been unable to deal with

any bank account suspension cases owing to an apparent disconnect between banks, legislation and Government in provision of reasoning for blocking accounts, a situation which had not been rectified in 2022. What actions have taken place to ensure that banks provide necessary information to the ombudsperson when a complaint has been raised in both the case of account suspension and in other cases?

Chief Officer, Department for the Economy:

There will be reasons why banks are unable to disclose reasons for an account suspension. For example, if suspicious activity has been reported there is the risk of tipping off, so banks would be unable to say to the ombudsman the reason why that account has been suspended. Hopefully those are a marginal number of cases rather than anything more mainstream. But generally if banks have suspended or are otherwise exiting customer relationships, there is an expectation that there is a clear reason given to the customer and the customer can challenge that both with the bank and, if necessary, write to the ombudsman for his consideration. But there is no legal provision presently in Jersey that mandates that an individual is entitled to have a bank account. That is different to the U.K. (United Kingdom) and to E.U. (European Union) legislation.

Deputy M.R. Scott:

You do not envisage any change there?

Chief Officer, Department for the Economy:

In terms of its tipping-off aspect, no, there would not be any change there because of the significant risks involved in tipping off. In terms of rights to have a bank account, the policy that we have adopted over time has been to try and work with the banks to ensure that customer needs are properly met. Ministers are looking to bring all the clearing banks in for a further discussion, just around feedback that is coming from Islanders around their ability to access accounts to open for a small business, some of the problems that charities have had over time and also some of the de-banking that has occurred and continues to occur to ensure that banks really understand that Government, in wanting to be a well-established international finance centre, also wants to make sure that the needs of Islanders are properly taken account of.

Deputy M.R. Scott:

When do you envisage that particular meeting taking place?

Chief Officer, Department for the Economy:

Deputy Millar and I met for bank meetings; we met with group level executives of almost all of the major clearers. There is one that we did not meet. We are following through with the country heads between now and the end of the year and then looking for an action plan. The success of that, I

think has already been shown from earlier in the year when we met with them around credit card provision and we are already seeing progress from the clearing banks who are beginning to open that up and, of course, the legislation that came to the Assembly around the names and address register. That should start to solve that problem.

Deputy M.R. Scott:

Thank you. How is the inclusion of pension-related complaints in the ombudsperson's remit progressing?

Assistant Chief Minister:

There was a consultation on the legislation in January. A response paper has been published in August. That will lead to some legislative changes being needed and we are aiming to publish that by the end of this year. That is a little bit behind the original timescale. But quite a number of issues have arisen with that because one of the main pension schemes that will be affected by this are the public pension schemes; so the public employees' pension fund and the teachers' pension scheme. It will bring them into the remit of the ombudsman. What has become apparent, there have been quite a number of meetings with the board of management of those schemes. They have a number of concerns about their rules. Their rules are set out in statute. It gives them specific powers that they will really need ... they do not have the powers other pension trustees will already have to deal with things to deal with the ombudsman, so we will also need to bring forward, as I understand it, some statutory changes to those scheme rules to enable ... for example, often the ombudsman will discuss with a pension provider an issue and they will agree a settlement figure. So the board of management have no ability to settle, which means having to go to a further stage of the process, which will be unhelpful. There are amendments we need to do and those also have to be worked through as well. That work is continuing with the pension admin team and Treasury. But it is moving along.

Deputy M.R. Scott:

In terms of timeline, the relevant legislation will be ... it was originally anticipated it would be brought forward prior to the end of the year and that is still the case?

Assistant Chief Minister:

I think the laws to amend as it affects the ombudsman, those will be out by the end of the year, I am right in thinking. But the law changes regarding the pensions schemes, I am not sure what stage those are at, at the moment.

Deputy M.R. Scott:

This public pension stuff.

Assistant Chief Minister:

But there will need to be further ... and I would have thought those will have to come through simultaneously so that we do not create problems for the board of management of those public schemes.

Deputy M.R. Scott:

So you expect them to come together. Given this timeframe, will the final legislation be consulted upon?

Assistant Chief Minister:

Are we expecting further consultation? I would not have thought ...

Director, Financial Services:

I think we have consulted on the legislation on the ombudsman law already. I do not think there is any need. We are still engaging with a pensions working group, who are providing expert advice to be able to ensure that the final changes are accurate.

Deputy M.R. Scott:

These changes in respect of the public pensions, presumably you are consulting with?

Assistant Chief Minister:

Those will be consulted, yes, with whoever you have to consult with to change pension rules because we cannot not.

Deputy M.R. Scott:

I am going to turn this over to Constable Honeycombe to continue some more questioning about the Financial Services Ombudsman Law, among other things.

The Connétable of St. Ouen:

The Financial Services Ombudsman (Jersey) Law 2014 has assigned responsibility for the ombudsperson to the Minister for Economic Development, Tourism, Sport and Culture. Has there been any consideration of updating this to define the Minister and the legislation as the Chief Minister, with delegation to yourself, with political responsibility for financial services?

Assistant Chief Minister:

No. There have not been any discussions about that, that I have ben involved in. I imagine there was good reason for putting it with the Minister for Economic Development, Tourism, Sport and

Culture in the first instance. Possibly because of potential issues around conflict. I do not know. Richard, do you know anything about that?

Chief Officer, Department for the Economy:

It predates my time in Government but I believe the rationale at the time was that the ombudsman was seen to be a consumer-supporting body rather than industry-supporting body necessarily. So the work of the Minister with responsibility for financial services has been largely about the industry well-being and industry development. Consumer aspects have tended to sit with the Minister for Economic Development, Tourism, Sport and Culture historically and that goes with the responsibility for things like the Jersey Consumer Council, historically sitting with the Minister for Economic Development, Tourism, Sport and Culture as well. That said, what we have been able to do on ombudsman matters is the officer support. We have brought that into this scope of the Financial Services team, so there is a much closer alignment with financial services legislation and ensuring that that is actively considering the needs of consumers rather than just the needs of industry or international standard setters.

Assistant Chief Minister:

I have been involved. I think the ombudsman and some of his team came in - I lose track of time - but a few months ago I think before their annual report for this year, and we had a general discussion with them about some of their challenges and issues. So I have been involved in that; I am not excluded from the discussions.

The Connétable of St. Ouen:

I will go on to my next question which is the Minister for Economic Development, Tourism, Sport and Culture has power for specific direction or guidance for the ombudsman, what law do you have in issuing any such direction or guidance?

Assistant Chief Minister:

I do not think I have any role in that. I think that still sits with the Minister for Economic Development, Tourism, Sport and Culture.

Deputy M.R. Scott:

Is there no discussion with you?

Assistant Chief Minister:

I do not think guidance has been issued recently. If there is guidance from the Minister ... I do not think it has been changed. I imagine if it was being changed we would be consulted. We would know about it.

Deputy M.R. Scott:

Is there not a protocol or something?

Chief Officer, Department for the Economy:

No, Deputy Morel sits as part of the quartet of Ministers that oversee financial services matters. So there is discussion as that is required. I think the question was about Deputy Millar having powers in any way to direct. The powers legally sit with the Minister for Economic Development, Tourism, Sport and Culture. Other Ministers can of course try and persuade Deputy Morel if there is something that they feel needs to be addressed within the scope of his powers.

The Connétable of St. Ouen:

During our April meeting you discussed your work to establish legislation concerning consumer lending. The panel were forwarded consultation documents for the consumer credit regime in July. I understand this consultation has now closed. What has been the main theme of the feedback received?

Assistant Chief Minister:

The consultation closed in the middle of September. There have, as you might expect, been some issues that have been brought forward to us. The main issues are the inclusion of high-net-worth individuals as consumers. There is some concern as to the appropriateness of that and indeed whether the consumer credit rules might be contrary to legal advice they have had, when they are structuring significant loan arrangements.

[12:00]

I think we are going to carve high-net-worth borrowers out. So we are looking at how we do that and how we define high-net-worth borrowers. The other argument is if you are very high net worth you will have legal and accountancy and tax advice and you probably do not need further support through this regime. Other issues have related to the definition of a business because there is a concern that the definition in the consultation would catch a number of small trust companies and there were concerns about it catching lending by trustees to beneficiaries. Again, that is not necessarily the type of lending we are concerned about, so I think we probably will look to carve, possibly to remove business lending at the moment. That is one of the things we are looking at. There was another, which has just dropped out of my head. But we have had some issues. But generally we had about 33 formal responses received to the consultation. There were other people came to ... we had drop-in sessions at the library, the Town Hall, for lenders and borrowers and we

had a specific meeting with a broker. So we have carried out quite a few consultations. Most respondents were generally supportive. Was there something about private lending?

Director, Financial Services:

Private lending, we held a separate individual session for, yes.

Assistant Chief Minister:

Private lending was a separate meeting, yes. There have been some generally supportive but there have been some concerns, and we are working on amending the legislation because I think it included draft legislation. So we are looking at how we amend the legislation. We will be publishing a response paper in quarter 4 and I think her own ... the actual law I think will come forward, if not at the end the year then early next year, with a view to actual implementation starting from 1st January 2025 with a transitional period.

The Connétable of St. Ouen:

The panel understands that the Jersey Financial Services Commission needs guidance and codes of practice following the adoption of any legislation. Will you be undertaking further consultation while forming those regulatory frameworks?

Assistant Chief Minister:

Yes, I would fully expect that they will be working on secondary legislation and codes of practice. I believe they are doing work on that already and, yes, they will consult. They have a consultation mechanism. They will consult on that over next year so that they are ready to launch when the law comes into effect.

The Connétable of St. Ouen:

The proposed legislation will cover credit cards supplied directly from Jersey lenders but not from the U.K. credit card companies; why is this the case?

Assistant Chief Minister:

Our intention is to carve out credit cards that are issued by a regulator provider. Most of our regulator providers in Jersey at the moment are in the U.K. I do not believe there is a registered credit card provider in Jersey at the moment. My thinking is that given the difficulties we have had with credit cards, the last thing we want to do is create a new regulatory framework for them to have to register and become accustomed to and deal with. If they are regulated elsewhere we will rely on that for regulation because I think it could be the final nail in the coffin to credit card provision in Jersey if we were to try to regulate them here. I think if a local credit card provider were to come forward we would consider that. But if someone did start providing credit card here they would almost certainly

be a bank, and I think we would be able to discuss with them how the regulation would affect them. But I think independent credit card provision from Jersey would be very, very expensive for anybody to do in a way that would ... as an independent from Jersey would be a very big ask in terms of making money out of it.

The Connétable of St. Ouen:

There is potentially an anticipated light touch to overseas lenders not registered or operating through agents in Jersey. Can you please outline the reasoning behind this?

Deputy M.R. Scott:

To the extent you have not already done so.

Assistant Chief Minister:

I think that would principally be credit card providers. I do not remember the discussion about overseas lenders generally being a feature. I think we will particularly regulate people who are lending from within Jersey, which is our normal regulatory model. I think if people choose to borrow off-Island it is difficult for us to regulate that.

Chief Officer, Department for the Economy:

It is very much about choice. If people decide to hold an account with Revalut, for example, in the U.K., they are submitting themselves to that U.K. legal and regulatory environment as to whether Revalut is regulated. Likewise, if they take a consumer loan from a lender in the UK they are also submitting to the terms and conditions that apply in that U.K. context. It would be impossible to bring all of that activity into the scope of local regulation and, indeed, to try and force U.K. credit card issuers into Jersey legislation would be problematic because really you would be treating Jersey as another country, with a market size of 100,000 people or so, the cost benefit for those lenders just is not going to be in their favour.

The Connétable of St. Ouen:

Why will the buy-to-let launch mortgages be exempted and residential mortgages will be included?

Assistant Chief Minister:

I think the thinking there is simply that if you are buying your own home that is a very significant purchase and if the risk of that loan, if you cannot maintain the loan, is that you lose your home. It is very important that people understand exactly the nature of the mortgage and that they are dealt with fairly and appropriately by the lender. If you are buying to let, that indicates that you will not be losing your home and that you have a degree of sophistication and wealth that you know what you are getting into. The law is really aimed at protecting people who need protection when they are

lending rather than people who have wealth and who can be assumed to know what they are doing and will have legal advice about what they are doing.

The Connétable of St. Ouen:

Will secondary legislation be required for regulations concerning the consumer credit regime?

Assistant Chief Minister:

Yes, I think we are envisaging some further secondary legislation. We are still thinking that the main law, the overarching piece of legislation, if you like, will be slotted into the Financial Services Law. But there will be further underlying regulations just to fill in the gaps.

Director, Financial Services:

We do have a draft regulation at the moment that we are working on and I think with much of these things the devil is in the detail, so it is really important that we get the right level of engagement and consultation on those secondary pieces.

Deputy M.R. Scott:

Just a quick question here. When would you expect that to be coming in; at the same time?

Director, Financial Services:

It would have to come into force as a package, yes.

The Connétable of St. Ouen:

Considering a business which employs fewer than 10 persons, whose turnover does not exceed £2 million, why were these figures settled on?

Assistant Chief Minister:

I think those reflected similar limits elsewhere. But I think this is, as I mentioned earlier, one of the things that came out of consultation that that definition will catch small trust companies or small trusts which may lend to beneficiaries. We would be looking at high-net-worth lending, so I think we are going to probably take businesses out at this stage and leave it to individual consumers and ... we are not aware particularly that there are abuses with business lending. We will introduce it for individual consumers and then we will monitor the position with business lending, and if we feel there is a problem for local businesses, we will look to expand at a later date.

The Connétable of St. Ouen:

Will legislation capture loans and advice between family members or friends on an individual basis?

Assistant Chief Minister:

I am sorry, I did not quite catch the question, Constable.

The Connétable of St. Ouen:

Will the legislation capture loans and advice between family members or friends on an individual basis?

Assistant Chief Minister:

No, I do not believe it will.

Deputy M.R. Scott:

Can I just ask, because you said that high-net-worth individuals would be excluded, you are talking about as consumers rather than lenders? I am just thinking if you have a high-net-worth individual who is lending to a ...

Assistant Chief Minister:

As consumers they would be excluded, yes. The definition of consumer will be adjusted so that it does not include high-net-worth borrowers.

Deputy M.R. Scott:

Thank you.

Assistant Chief Minister:

High-net-worth lenders may still be caught as lenders.

Deputy M.R. Scott:

If you have a high net worth ... okay, within the family that is excluded now too. Okay, all right.

Assistant Chief Minister:

We do not want to catch ... if dad is lending money to his children that is not something we would anticipate being caught by this.

The Connétable of St. Ouen:

The panel understands that the potential amendments to the Companies (Transfers of Shares - Exemptions) (Jersey) Order 2014 are being considered. Can you highlight what changes are being considered?

Director, Financial Services:

This is a small part of the framework that looks at the Companies Law in Jersey. This will be considered as part of a wholesale review of the Jersey Companies Law and legislation that sits within it. At the moment, the transfer of share order lists individual jurisdictions whereby you do not need written share transfers to produce share certificates where they are listed on these particular stock exchanges. I think as part of the wider work we do on the companies legislation, we will look at whether that still remains the appropriate way to assess the risk that might be posed by some jurisdictions or whether we might take a different route going forwards.

Deputy M.R. Scott:

Back to me then. MONEYVAL; we understand the MONEYVAL assessment is ongoing so could you please give a brief outline of the progress and the potential timeline for production of their findings?

Assistant Chief Minister:

I will start and then Richard can jump in if I do not get it right. The actual onsite assessment, so we provided all the preliminary work that we were asked to do in an entirely timely fashion. We were complimented by the assessment team on the quality of the material we had given to them and the quality of our submission. The actual onsite assessment took place between 27th September and 10th October, so it finished very recently. We cannot really speak as to what the outcomes will be. Officers will see a draft of their report on 27th November. That will be highly confidential. We are not allowed to share it with anybody. There will be a degree of discussion then with the assessment team as to the content. It is like everything, we see a report and if we think there is something that is clearly not right we can challenge it. So there will be a number of drafts, which we will be able to comment on and have a degree of discussion on. The final report I think becomes apparent at ... the plenary session takes place in May of next year. It will be discussed in the wider financial global environment. That will then result in a final rating. But during the visit; the visit I think was very positive. They had about 70 meetings with the assessment team, including all the various agencies. So, the F.S.C. were involved, the Law Officers' Department, the A.G. (Attorney General), Financial Intelligence Unit, Revenue Jersey, States of Jersey Police, the registry. So there were a very extensive number of meetings. They also saw 28 different industry entities; so banks, trust companies, investment businesses. They asked for quite a lot of extra documents that we had not anticipated. But we managed to make those; the team really pulled it out. There was a huge number of extra documents that they asked for at the time. Again, they have commented on the efficiency and speed of our response. So I think we have done everything we possibly can to give them what they need and present Jersey in a very positive light. We now just wait for the report in November, so officials and all the agencies will get to comment on that but it will not be publicly available until May of next year.

Deputy M.R. Scott:

Well done to those who have been involved in producing the work so far, and we will no doubt be posted on progress.

Assistant Chief Minister:

Yes, as soon as we can tell you anything we will. But it is not going to be until May.

Deputy M.R. Scott:

We just expect people to be looking a bit tense around 27th November then.

[12:15]

Assistant Chief Minister:

Yes. The team, everybody, I think what it does show is the very, very strong working relationship among all the agencies. We have the Financial Crime Political Steering Group, which has been meeting very regularly. We have done a huge amount of work on national risk assessments over the last couple of years, financial crimes strategy. A lot of work has gone into this and we just ... hopefully the assessment team will ... I think they have certainly recognised that.

Deputy M.R. Scott:

In the meantime, we have a lot of work to do on the Government Plan, so I am going to ask you some ... we will be asking you some questions on the Government Plan 2024 - 2027 in the coming months, avoiding 27th November, I suppose. We do have some preliminary questions for you. The first relates to the Government Plan outlines a new 150 per cent RegTech super deduction, which does sound a bit like some special offer in a supermarket, but that is just me. It outlines: "New 150 per cent RegTech super deduction will be targeted at entities that invest in eligible technologies to comply for regulatory obligations overseen by the Jersey Financial Services Commission." How has the need for this been identified, please?

Assistant Chief Minister:

This is driven by Treasury but I think we have a clear demand. I think one of the things we are really trying to promote is greater use of FinTech and RegTech by all our regulated entities. The belief is that the more we can automate processes, that will take skilled people away from doing routine admin and on to doing more highly, more value-added work. It is really to help regulated entities to invest in more technology, more software, more systems that will help increase their own productivity and help their staff to do more useful work and also just help everything move more quickly. We know that is happening in other jurisdictions.

Deputy M.R. Scott:

You mentioned the demand, so when I ask how has the need for this been identified, you have talked about demand. Who has demanded it, as such? Have you had approaches from people within industry or how has this come about?

Chief Officer, Department for the Economy:

I think for RegTech itself, the demand is there in terms of a driver of productivity in businesses, while continuing to meet other higher regulatory standards. Those are the super deductions that is proposed by Treasury; that is tax policy and a matter for the Minister for Treasury and Resources. What the Minister for Treasury and Resources wishes to do, as I understand it - and it is certainly not for me to speak for him - is to try and remove any potential barriers to ensuring investment takes place in the quickest possible fashion to drive productivity in the financial services sector, which, while productive at a face level compared to many other sectors, still has room to improve its own productivity. That is the rationale for Treasury bringing forward a policy that helps to remove barriers and incentivise investment.

Deputy M.R. Scott:

Presumably the Minister for Treasury and Resources has not just done this, magic itself, has a representation been made by the department, your department? Where has this come from? How does this 150 per cent deduction work? You are saying, right, 100 per cent deduction for this and then another 50 per cent. I am not aware of the Minister for Treasury and Resources generally just saying: "Hey, have another 50 per cent free." This is really quite extraordinary. Where has this come from?

Chief Officer, Department for the Economy:

That is a question for the Minister for Treasury and Resources and for those involved actively in tax policy.

Deputy M.R. Scott:

You have not been in ...

Chief Officer, Department for the Economy:

The Minister for Treasury and Resources sits as part of the Financial Services quartet in terms of the Ministers understand development in the industry and wishes to ensure that barriers are removed to see investment going into this critical area, as a means of driving productivity in this sector. In terms of the ins and outs and why 150 per cent or 100 per cent or 200 per cent or whatever, I think those are questions directly for the Minister for Treasury and Resources.

Deputy M.R. Scott:

You have not been involved in making any kind of representations to him seeking this then?

Chief Officer, Department for the Economy:

Not directly, other than we are keen to see the adoption of this technology as a means of driving productivity within the sector, so we have not settled on a figure and recommended a figure.

Assistant Chief Minister:

Yes, as a principle we want to promote RegTech and FinTech and I think the Minister for Treasury and Resources may just be thinking: "I have not been involved in discussions about this" but, as Richard says, it is about what we can do to ensure it is supporting better investment to enhance productivity and ...

Deputy M.R. Scott:

Right. Can I just go back to the original question, just that we are kind of running out of time? You said not directly, so indirectly?

Chief Officer, Department for the Economy:

There is a pressure. We wish to see RegTech adopted more broadly across the sector. We have looked at any enabling steps we can take in a legislative sense around things like digital identity to make it as explicit as it needs to be, that that is an acceptable form of identifying and verifying clients in their ongoing relationships. But the capital cost of investing in the technology for this can be significant. What the Minister for Treasury and Resources is looking to do is to play his role in terms of tax policy to remove any possible financial hurdles that might exist, to ensure that investment happens at the earliest possible opportunity.

Deputy M.R. Scott:

Yes, I expect that many of the members of the finance industry are, as you know, subsidiaries or branches of major financial institutions who you might expect to be ...

Chief Officer, Department for the Economy:

Very few are, so in the banking sector, yes, that is true but we only have a relatively small number of banks. We have global headquarters of a number of international trust businesses. Those investment decisions are taking place here, rather than perhaps in the case of the banks where some of the strategic investment decisions are being taken in London or New York or elsewhere.

Deputy M.R. Scott:

Is any of this a form of compensation? Because we have been aware of and been involved in quite a lot of regulation having occurred in response to the MONEYVAL assessments. Is any of this kind of a form of compensation for the extra costs from ...

Assistant Chief Minister:

As Richard said, it recognises the highest level for this regulatory burden on all financial services businesses, which is recognising that there is a regulatory cost doing business. I do not think there is any suggestion that this is a ... it is not driven by any changes that were made because of MONEYVAL. It is simply, as Richard says, to incentivise investment and technology.

Chief Officer, Department for the Economy:

Change ways of working.

Deputy M.R. Scott:

I am going to have to ask for questions to be quite succinct just to get to the end of the question plan. The panel though might have to follow up in writing. The panel notes that an amendment has been lodged to remove this deduction from the Government Plan. What impact would its removal have upon the finance services industry, as far as you are aware?

Chief Officer, Department for the Economy:

I think that is probably a question, again, for the Minister for Treasury and Resources in terms of their analysis of bringing forward the proposal in the first place. Clearly, if that proposal is removed by virtue of the amendment, then all of that benefit that Treasury perceive from this initiative falls away.

Deputy M.R. Scott:

I think I can guess the answer to the next question but I am going to ask it anyway. It has been highlighted to the panel by a member of the public that States-owned entity Jersey Post operates a branch within the regulatory technology sector. Are you aware if Jersey Post or its subsidiaries provide use information of the RegTech super deduction proposals?

Chief Officer, Department for the Economy:

If they are in the regulatory space they would have accountability to the J.F.S.C. and then separately in terms of their own financial decision-making around major investments; that would be something they would go through the shareholder side of the Treasury function to secure support if it is needed for investment in that business.

Deputy M.R. Scott:

Back to the Treasury.

Chief Officer, Department for the Economy:

I am so sorry.

Deputy M.R. Scott:

Then we come to Jersey Finance, new revenue expenditure proposed in the Government Plan, includes additional funding for Jersey Finance. Can you briefly outline what will be achieved with the expenditure? It is a growth bid.

Assistant Chief Minister:

With the expenditure, it will go to fund Jersey Finance's ... I do not know how Jersey Finance will spend it, they clearly have their own business plan and they will be applying it as they think best to promote the industry.

Chief Officer, Department for the Economy:

What we have with Jersey Finance is that there is a core level of grant that Jersey Finance has and then over recent years through different pots of money where there is the economic and productivity growth allocation, whether it was post-COVID recovery money and so on. They have been able to invest in a New York office, additional presence in sub-Saharan Africa and so on and most recently the Singapore office. Those were temporary forms of funding and those forms of funding are rolling off at the end of 2023. The £750,000, as proposed for 2024 onwards, basically reinstates some of that money that would otherwise be lost. But in actual fact it will see Jersey Finance receive less money from Government in 2024 than it has received in 2023, which will mean that they will have to find some efficiencies and some additional forms of revenue from members or from some of their event activity. It is not new money in the truest sense. They will see a reduction in grant year on year. It is just that this will go into the baseline grant, rather than this top-up funding.

Deputy M.R. Scott:

Okay. I am going to ask some other questions, follow-up questions in writing. I am going to move to Constable Honeycombe. Would you mind picking up on the Financial Intelligence Unit, please?

The Connétable of St. Ouen:

A certain element of industry expenditure is funding of the Financial Intelligence Unit. Why is this being established under the remit of Financial Services, rather than just in Home Affairs, given that it is currently now within the States of Jersey Police?

Chief Officer, Department for the Economy:

Thank you, Constable. The rationale for that is just to ensure that we have got optimal co-ordination between the work of the Financial Crime Strategy team that sits, ultimately, under Deputy Millar in the Financial Services quartet and ensuring that we are taking best models, best practice from elsewhere and implementing that. The budget of course at the moment sits with Home Affairs. The F.I.U. (Financial Intelligence Unit) itself is in transition towards a statutory body with its own independent board to ensure that we properly enshrine the independence of the F.I.U. from other activities, and that is a contemporary model that you see in the most successful jurisdictions around the world. We are bidding for the money in terms of co-ordination but, ultimately, this is money that goes to the F.I.U. and will be a statutory body in due course.

The Connétable of St. Ouen:

Thank you. The panel notes that the funding made in the unit to be independent from the Government and States of Jersey Police, as the relevant legislation was agreed in the last Assembly, P.32/2022; please could you outline the requirement for independence from the States of Jersey Police?

Chief Officer, Department for the Economy:

This is the optimal model of F.I.U.s internationally. There are those that either remain or have in the past been housed in law enforcement or in prosecution authorities. A truly independent intelligence model allows them to have the right relationships with their international partners to properly collate intelligence and to form patterns and analysis of that intelligence and then to disseminate appropriately to investigating authorities and to prosecutors and to regulators. It puts them very much at the core of the work around identifying intelligence when it comes forward and then pushing it out to the appropriate bodies for further investigation.

Deputy M.R. Scott:

When you say your optimal model, does that apply to small jurisdictions too?

Chief Officer, Department for the Economy:

Yes, it does. I do not know, Richard, if you want to add anything around this.

Associate Director, Financial Crime Strategy:

Yes, I think that the importance of the F.I.U. cannot be understated and the independence of it is key because certainly during the assessment the F.I.U. was in pretty much every single meeting that was held. We were being assessed on our effectiveness and there are 11 standards that we have to go along with. Pretty much only one, which is the supervision, which was the J.F.S.C.'s role, the F.I.U. were involved in all of those because they are the conduit for not only receiving

intelligence but also pushing it out both domestically and internationally. The independent model is seen globally as being the direction of travel and the correct way to have it established.

Deputy M.R. Scott:

The MONEYVAL system influenced this to some degree?

Associate Director, Financial Crime Strategy:

No, I think that that is the move from a ... there is still going to be the Joint Financial Crime Unit within the police, so there is still that active part of the States of Jersey Police that is staffed by serving officers. But, globally speaking, the movement for small jurisdictions and medium-sized and large is to move towards an independent body which can then sit across all the other agencies which are involved.

Chief Officer, Department for the Economy:

Yes, so MONEYVAL does not dictate that we must have an independent F.I.U. outside of a law enforcement. F.I.U., however, best practice around the world and meeting their requisite F.A.T.F. (Financial Action Task Force) standards has increasingly seen independent F.I.U.s sitting away from law enforcement or any other particular agencies so that they can be truly independent in their work.

Deputy M.R. Scott:

Okay, so back to you, Constable Honeycombe. I think we are on C.

The Connétable of St. Ouen:

The interaction, will the unit continue to have with Jersey Police, Jersey Financial Services Commission and Ministers, including yourself.

Chief Officer, Department for the Economy:

The role of the F.I.U. will be, as Richard described, as absolutely integral to how the Island deals with its A.M.L./C.F.T. (Anti-Money Laundering/Countering Financing of Terrorism) efforts as a recipient of intelligence and being able to bring intelligence together from a variety of sources and perhaps identify issues that would not otherwise exist if that intelligence was disseminated or scattered across a number of other agencies.

[12:30]

The F.I.U. will have a statutory board and there will be accountability in law for that statutory board in driving the performance of the Financial Intelligence Unit and ensuring value for money. This investment that is going in is a mixture of people but, most importantly, technology, so that we are

embracing technology and the assessment of intelligence to best identify where patterns of intelligence might exist or pieces match up that are then actionable by one or more agencies.

The Connétable of St. Ouen:

Who will have oversight of its operations and its ethical framework?

Chief Officer, Department for the Economy:

The statutory board will have that ultimate oversight and that will have representation for the Minister.

The Connétable of St. Ouen:

How will you assess that the additional funding will meet the requirement for the unit to fulfil its function?

Chief Officer, Department for the Economy:

This is about adding extra resourcing in terms of headcount, which will help with a more rapid analysis of intelligence coming in. Also, in terms of some of the specialist skills that the F.I.U. requires to have to do its works in the most capable fashion, as well as some further investment in technology, which will drive productivity within the F.I.U. itself and remove the need for an excessive growth just in the headcount, given that these are quite specialist roles and, therefore, difficult to secure.

Deputy M.R. Scott:

I just think the question was: how have you assessed that? How did you come to the figure that you did?

Chief Officer, Department for the Economy:

We have assessed that through a request from the director of the F.I.U. as to what they believe is necessary to continue with the progress of building a strong, capable F.I.U. that can deliver in line with the threat that is posed to Jersey, as identified in our National Risk Assessment.

The Connétable of St. Ouen:

Do you think the establishment of the unit and the separate body led to the impact on the domestic operations of Jersey Police in respect of enforcement of laws and regulation relevant to finance?

Chief Officer, Department for the Economy:

We do not believe so. In fact everything here should improve the gathering, the understanding and the analysis of intelligence that can then be passed out to the appropriate body for further

investigation, either in a regulatory sense or in a law enforcement sense and then, ultimately, move towards prosecution if there is sufficient strength to those allegations of wrongdoing.

The Connétable of St. Ouen:

What percentage of overall grant funding do you expect to give rise towards additional payroll costs, premises lease costs, new technology costs, additional training costs and self-promotion costs?

Chief Officer, Department for the Economy:

That is something I do not have to hand but we would be happy to follow up in writing with you with some more detail in that regard, if that is acceptable.

Deputy M.R. Scott:

Thank you.

The Connétable of St. Ouen:

Thank you. Again, has any cost-benefit analysis, economic impact assessment to support approval of the business case been undertaken?

Chief Officer, Department for the Economy:

I think this is one where it is difficult to do an economic impact assessment because there is clearly a cost of not doing this, not having a capable F.I.U. What we have looked at here is we can see that the F.I. Unit's current form has a lower level of resourcing than will be needed in a jurisdiction of our size and scale. That is not linking us to a population of 100,000 people, it is linking us to bigger financial sense of over a trillion dollars of assets, our capital passing through the jurisdiction. We have to make sure we are the right size. We have undertaken comparisons with F.I.U.s elsewhere and the journeys that they have been on and looking to grow our F.I.U. to a size that is commensurate in terms of its capability and at all points is embracing technology to ensure we are minimising the actual headcount growth that is required.

Deputy M.R. Scott:

Where did this ...

The Connétable of St. Ouen:

But I think that at the start you have been thinking this is going to be internal.

Chief Officer, Department for the Economy:

That is something, if I can, I will come back and follow up in detail with you and current headcount and the proposed headcount that we are adding.

Deputy M.R. Scott:

Okay, because you said commensurate and yet you have also said that this was not influenced by MONEYVAL but is not enforcement quite key?

Chief Officer, Department for the Economy:

First of all, it is not influenced as such by MONEYVAL. It is influenced by what is the best model for tackling A.M.L./C.F.T. and ensuring we uphold our obligations? The independent model is seen as the best method of doing that, which is why we are on that journey towards an independent F.I.U. and then making sure that resourcing grows commensurate with the risks involved. The risks are identified in our National Risk Assessment, so that looks at the high-level risk, it looks at the levels of mitigation that we have in the jurisdiction. It looks at the complexity of Jersey as an I.F.C., so the volume of funds, the source of funds from around 200 countries, the complexity of using corporate and other fund structures to bring investors together and we need to have an F.I.U. that is appropriately skilled to deal with that level of volume of funds and complexity in terms of source and destination.

Deputy M.R. Scott:

Who or what initiated the risk assessment that ...

Chief Officer, Department for the Economy:

National Risk Assessments are a core expectation of the Financial Action Task Force in terms of immediate outcome 1. There is an expectation that you have a National Risk Assessment to understand the threat that you have and also the threats that you pose to others from your financial system. The N.R.A. (National Risk Assessment) is a public document that has been shared and we work from that to then look at how we mitigate and take action against those risks.

Deputy M.R. Scott:

Right, I thought there was something ... great, okay. Anyway, so we are at the end of our hearing, so I am sure you are sorry about that. But I really thank you so much, Assistant Minister and officers, for attending our hearing today and for answering the panel's questions. We have got just a few follow-up ones that we will submit to you, if that is okay. We will hear back from you on that particular question.

Chief Officer, Department for the Economy:

On the F.I.U.

Deputy M.R. Scott:

Thank you very much as well to the supporting officers, government officers who have contributed today and who are here today and to members of the public who have watched this hearing, which I now declare closed. Thank you.

[12:36]