

**STATEMENT TO BE MADE BY THE MINISTER FOR ECONOMIC DEVELOPMENT
ON TUESDAY 2011**

JERSEY FINANCIAL SERVICES COMMISSION

Members will be aware of the Report and Proposition, P150 of 2010, lodged by Senator Breckon, which seeks to request the Minister for Economic Development to bring forward for approval by the States no later than 30th June 2011 proposals to allow the Jersey Financial Services Commission to impose fines for breaches of the Commission's regulations as recommended in the recent report of the International Monetary Fund following its assessments of Jersey's regulatory and anti-money laundering regimes as part of the Financial Sector Assessment Programme.

Over the last few years the Jersey Financial Services Commission (JFSC) have investigated and publicised a number of issues and cases regarding the conduct, capability, and performance of individuals and organisations that are licensed by them.

These investigations can take a long time to conclude and can be very costly and take a great deal of time and effort. As well as in-house officers, outside specialised assistance is used for legal advice and areas like forensic accounting or computer or other information technology searching.

Some of these costs could be recovered from those investigated. However, as the Law stands the JFSC have no powers to impose fines on those who transgress. In many other jurisdictions regulators have the powers to fine and this is now accepted as an option which the JFSC should have.

The Jersey Financial Services Commission is currently engaged in developing proposals for the introduction of civil penalties for breaches of the Regulatory Codes of Practice issued by the Commission to regulate financial services businesses. In considering the introduction of such civil penalties the Commission has researched civil penalties structures in operation in 12 jurisdictions and is currently considering the most appropriate model or combination of models. Proposals will be presented to the Board of Commissioners for consideration and I would anticipate that further advice will be needed to allow the preparation of a Report and Proposition to the States.

Senator Breckon has informed me that following discussions that he has had with the JFSC and the contents of this statement he now intends to withdraw P150 in the knowledge that his concerns are being addressed by the JFSC and are expected to be concluded during 2012.

7. The Minister for Economic Development - statement regarding the Jersey Financial Services Commission

7.1 Senator A.J.H. Maclean (The Minister for Economic Development):

Members will be aware of the report and proposition P.150/2010 lodged by Senator Breckon which seeks to request the Minister for Economic Development to bring forward for approval by the States no later than 30th June 2011 proposals to allow the Jersey Financial Services Commission to impose fines for breaches of the Commission's regulations as recommended in the recent report of the International Monetary Fund following its assessments of Jersey's regulatory and anti-money laundering regimes as part of the Financial Sector Assessment Programme. Over the last few years, the Jersey Financial Services Commission, the J.F.S.C., have investigated and published a number of issues and cases regarding the conduct, capability and performance of individuals and organisations that are licensed by them. These investigations can take a long time to conclude and can be very costly and take a great deal of time and effort. As well as in-house officers, outside specialist assistance is used for legal advice and areas like forensic accounting or computer or other information technology searching. Some of these costs could be recovered from those investigated. However, as the law stands the J.F.S.C. have no powers to impose fines on those who transgress. In many other jurisdictions, regulators have the powers to fine and this is now accepted as an option which the J.F.S.C. should have. The Jersey Financial Services Commission is currently engaged in developing proposals for the introduction of civil penalties for breaches of the regulatory codes of practice issued by the Commission to regulate financial services businesses. In considering the introduction of such civil penalties, the Commission has researched civil penalty structures in operation in 12 jurisdictions and is currently considering the most appropriate model or combination of models. Proposals will be presented to the Board of Commissioners for consideration and I would anticipate that further advice will be needed to allow the preparation of a report and proposition to be brought to the States. Senator Breckon has informed me that following discussions that he has had with the J.F.S.C. and the contents of his statement, he now intends to withdraw P.150 in the knowledge that his concerns are being addressed by the J.F.S.C. and are expected to be concluded during 2012.

7.1.1 Deputy M.R. Higgins:

I am wondering why it has taken so long because Members may be interested to be aware of the fact that I researched fining for the Commission in 2006. Papers were prepared then so I am surprised it has taken so long. Can the Minister tell us why it has taken so long to come forward?

Senator A.J.H. Maclean:

I would not necessarily disagree with the Deputy. It probably has taken too long. As I alluded to in my statement, a number of other jurisdictions have the powers to fine. The J.F.S.C. are progressing the matter and we will move forward with it.

7.1.2 The Deputy of St. Mary:

Does the Minister take this as an example of the power of Back-Bench propositions to make things happen?

Senator A.J.H. Maclean:

All I can say is that the J.F.S.C. were, in any event, progressing this matter before Senator Breckon raised the issue. Nevertheless, I do thank the Senator for bringing it forward. I have no further comment to make.

7.1.3 Senator A. Breckon:

I will withdraw it at the appropriate time. I would just like to ask the Minister if he is aware of investigations carried out in 2008, 2009, 2010 into asset management and fund administration, and the report listed many failings that the Commission were unable to find, and does he believe that cases like this demonstrate the need for a fine as a sanction rather than just a reprimand, which tends to die-down after a few days?

Senator A.J.H. Maclean:

In principle, yes, I do, and I think that is the very reason why the J.F.S.C. themselves are progressing this matter. I think that they recognise the need as well. I hope Members think it is a step in the right direction.

7.1.4 The Connétable of St. Mary:

Without the proposals in detail obviously it is hard to know how I will react to this, but is the Minister convinced that the current appeals processes and complaints processes in place with the J.F.S.C. will be adequate if this proposal comes to fruition?

Senator A.J.H. Maclean:

I would certainly hope so. I mean clearly this is very much the early stages. We are waiting for the J.F.S.C. to conclude their proposals, take it to the Board of Commissioners of the J.F.S.C. before it comes forward for legal advice through the Law Officers' Department. At that point, I would be in a better position to be able to answer the Constable's question but ...

Senator A. Breckon:

Would now be an appropriate time to withdraw P.150?

The Deputy Bailiff:

I was just going to come on to that but are there any other questions for the Minister? Then we go to Public Business.