

**WRITTEN QUESTION TO THE CHIEF MINISTER
BY DEPUTY M.R. HIGGINS OF ST. HELIER
ANSWER TO BE TABLED ON TUESDAY 13TH SEPTEMBER 2016**

Question

Will the Minister advise Members for each year between 2008 and 2015 of:

- (a) the number of Fund Management Companies established in the Island, breaking them down between those directly operating in the Island and those operating indirectly through Jersey-based sub-contractors;
- (b) the total amount of funds managed by those operating directly and those operating indirectly through sub-contractors; and
- (c) the amount of tax received from those operating directly and those operating through sub-contractors.

Answer

The Chief Minister's Department and the Jersey Financial Services Commission (**JFSC**) are working together in order to provide accurate information in relation to question (a) above. However, in the short time available and due to the complexity of the question (which you will note below), it has not been possible to extract the necessary data. As and when the information becomes available, and to the extent it is available, this will be provided to States Members.

It should also be noted that answers to questions (b) and (c) rely on question (a) being answered first. Again, as and when the information becomes available for these questions, and to the extent it is available, this will be provided to States Members.

The reason for the delay in responding to you is because the JFSC do not report on the data referred to in the question. The JFSC have the information in their systems, but need to extract it and manually write the reports which we can use to respond.

Technical background and assumptions to the response to the question

A person shall not carry on financial service business in or from within Jersey and, a person being a company incorporated in Jersey shall not carry on such business in any part of the world, unless the person is for the time being a registered person under Financial Services (Jersey) Law 1998 (**FS(J)L**), and acting in accordance with the terms of his or her registration. Accordingly, the test is not whether or not a person is "established" and "operating" in Jersey, but whether or not a person carries on one or more classes of financial service business in or from within Jersey or, in the case of a Jersey company, carrying on such a business in any part of the world (noting that a Jersey company is required to have a registered office in Jersey and would therefore be conducting such business in or from within Jersey).

A person carries on financial service business if by way of business the person carries on investment business, trust company business, general insurance mediation business, money service business, fund services business or AIF services business. These six main categories of financial services business are broken down into various activities, which if carried on by a person in or from within Jersey, would amount to that person undertaking one or more of the main categories of financial service business. For example, Article 2(10) of the FS(J)L provides that a person carries on fund services business if by way of business the person is:

- (a) a manager, manager of a managed entity, administrator, registrar, investment manager or investment adviser;
- (b) a distributor, subscription agent, redemption agent, premium receiving agent, policy proceeds paying agent, purchase agent or repurchase agent;
- (c) a trustee, custodian or depository; or
- (d) a member (except a limited partner) of a partnership, including a partnership constituted under the law of a country or territory outside Jersey,
- (e) in relation to an unclassified fund or an unregulated fund.

As can be noted from the above, there are many technical terms set out in the FS(J)L. However, “Fund Management Company” is not one of them. Jersey does recognise terms such as Manager, Investment Manager, Investment Adviser, AIFM and GP which we traditionally think of as acting in “a Manager like” capacity and they could be established in any form (for example, not only companies but also partnerships). Therefore, in preparing for a response to part (a) of this question, we are likely to assume that the reference to “Fund Management Company” means any person that is authorised to carry on fund services business as a “manager” as per Article 2(10)(a) of the FS(J)L (see above). In addition, we are likely to also assume that the reference to “operating indirectly through a sub-contractor” means a managed entity that relies on a person who is registered to carry on fund services business as a manager of a managed entity (see Article 2(10)(a) above).

Finally, the FS(J)L has a number of exemptions to the requirements of the Law. The Financial Services (Investment Business (Qualifying Segregated Managed Accounts – Exemption)) (Jersey) Order 2014 is one such exemption and enables Jersey-regulated fund managers to service qualifying segregated managed accounts (“QSMAs”) without the need for further regulation in Jersey. As QSMAs are not unclassified funds or unregulated funds (ie there is no collective investment of capital), these accounts will not be included in our response to question (b). In any case, data on the value of QSMAs can be found on the JFSC’s website:

http://www.jerseyfsc.org/investment_business/statistics/totalfundsunderinvestmentmanagement.asp