



# Economic and International Affairs Scrutiny Panel

## Quarterly Review Hearing

### Witness: The Minister for External Relations

Tuesday, 3rd December 2024

**Panel:**

Deputy M. Tadier of St. Brelade (Chair)

Deputy K.M. Wilson of St. Clement (Vice Chair)

Deputy M.B. Andrews of St. Helier North

**Witnesses:**

Deputy I.J. Gorst of St. Mary, St. Ouen and St. Peter - The Minister for External Relations

Mr. T. Le Feuvre - Director of Global Markets and International Agreements

Ms. H. De La Cour - Director of Financial Services, Department for the Economy

Ms. J. Keir - Associate Director of Financial Services, Department for the Economy

[15:04]

**Deputy M. Tadier of St. Brelade (Chair):**

Okay. Minister, thank you for attending upon us today. I am going to just introduce our panel for the record. It is a public hearing, of course, so we are joined by, hopefully, possibly, some people online. It is also available to watch again. So good afternoon to anyone listening or watching. I am Deputy Montfort Tadier. I am the Chair of this panel, which is the Economic and International Affairs Scrutiny Panel.

**Deputy K.M. Wilson of St. Clement:**

Deputy Karen Wilson, Vice Chair.

**Deputy M.B. Andrews of St. Helier North:**

I am Deputy Max Andrews, a panel member.

**The Minister for External Relations:**

I am Ian Gorst, the Minister. I am joined today by ...

**Director of Financial Services, Department for the Economy:**

Helen De La Cour, Director of Financial and Professional Services.

**Director of Global Markets and International Agreements:**

Tom Le Feuvre, Director of External Relations.

**Associate Director of Financial Services, Department for the Economy:**

Julie Keir, Associate Director of Financial Services.

**Deputy M. Tadier:**

Thank you. Welcome again and thank you for coming in. I am going to start off the proceedings, if that is okay. So the first question is really relating ... our first questions relate to the legislative programme, so in other words what is coming down the pipeline from your department and workstreams, Minister. So have there been any changes to your legislative programme for 2025 and can you tell us about them if so?

**The Minister for External Relations:**

So, as you know, in the run-up to the Budget, one of the pieces of work that was done was to look at all of the legislative projects in the pipeline. I understand there was initially a total of 129 projects and we know from experience that there is roughly about 50 that get through in any ... or manage to make it in any calendar year. So the revised list includes about 59. We, of course, needed to just think about, okay, what do we want to get over the line between now and, in effect, really the election; what are the critical ones? So we did that. I am not aware of any bits of legislation that we had to say we were not going to do. They were always going to take longer than we might have thought. So on the prioritised list for F.S. (Financial Services) we have consumer lending. We might want to talk about that later. We have the legislation which will create the independent F.I.U. (Financial Intelligence Unit). We have some changes to Companies Law - that is at consultation now on the principle of those changes - and we have limited partnership changes. When it comes to E.R. (External Relations), generally speaking, of course, our E.R. legislation is much narrower in scope. It is more around sanction changes and those sorts of things. There is a couple of civil aviation issues which are almost complete, so they will continue on. When it comes to sanctions, there will be, mirroring what is in the U.K. (United Kingdom), directors' disqualification sanctions, and we would expect other minor things to carry on during the course of the year. Of course, quite a number of sanctions things are undertaken by order and special licence, so Law Drafting have to do all of

those as well. Areas which are connected with External Relations but not directly within its purview as well will be ensuring international compliance. So we know that Tom is just fresh from South America signing us up to the C.A.R.F., which is the Crypto Asset Reporting Framework, which comes out of O.E.C.D. (Organisation for Economic Co-operation and Development), so that will need to be legislated for, and there are changes to the Common Reporting Standard as well coming from the O.E.C.D. and they will need to be legislated for.

**Deputy M. Tadier:**

Thank you. When you talk about sanctions, is that just lists given to Jersey? How does it work for ... what kind of sanctions generally apply?

**The Minister for External Relations:**

If there is people added to the U.K. sanctions list or U.N. (United Nations) sanctions are introduced or we need to mirror changes around sanctions elsewhere.

**Deputy M. Tadier:**

Okay. Thank you. So in terms of the reprioritisations, could you tell us ... I think you have touched on it already, but how are the reprioritisations assessed and also what consideration is given to the impact about how the reprioritisation is made?

**The Minister for External Relations:**

Well, really from my perspective there were 2 elements. One is looking at what is critical for Jersey from an international compliance perspective and what really remains competitive from a competitive perspective, and then I suppose over all of that you lay the political priorities as well. What I should say is there is also the E.C.C.U. (Economic Crime and Confiscation Unit) changes legislation, which we have continued to work with the Law Officers' Department on. They will themselves ... I think we have agreed that they will provide some extra resource to make sure that that gets over the line as well in that prioritisation process.

**Deputy M. Tadier:**

Can you just say for the record, sorry, what is E.C.C.U.?

**The Minister for External Relations:**

The Economic Crime and Confiscation Unit that currently sits within the Law Officers' Department.

**Deputy M. Tadier:**

Yes. Thank you. Okay. Out of those 59 areas that you have identified, what is the realistic likelihood that you will get through all of those?

**The Minister for External Relations:**

So 59 are across government. The ones that we have in our department are just the ones that I outlined to you there.

**Deputy M. Tadier:**

Do you have a number for those?

**The Minister for External Relations:**

That would be about roughly 5 big pieces of ...

**Deputy M. Tadier:**

I was going to say, yes.

**Director of Financial Services, Department for the Economy:**

There is a number of other items that were not included in that prioritisation list because they were so far advanced anyway that they were going to be over the line either towards the end of this year or early next year. So we knew that those would be finalised in the current Government.

**The Minister for External Relations:**

Remind us of what they are.

**Director of Financial Services, Department for the Economy:**

Yes, sure. So the Trust Law, we have had a consultation on amendments to the Trust Law earlier this year, so that one is almost done. Also there is some work ongoing that you would have seen I think in the media around credit reference agencies, access to data. Again, that is just a minor order that we need to make once we have the operationalised piece in place.

**Deputy M. Tadier:**

Thank you. The last question from me on this section, and obviously if my colleagues have any follow-ups: can you confirm when you expect the consultation on the Crypto Asset Reporting Framework to be held? Is that something that is on the ...?

**The Minister for External Relations:**

It is out for consultation now, as you know. Can you just check, Julie, when it is ...?

**Director of Global Markets and International Agreements:**

I think it is comments invited by February.

**Associate Director of Financial Services, Department for the Economy:**

13th February.

**Director of Global Markets and International Agreements:**

Yes, 13th February. There is a note on it, Minister, in your pack. But comments by 13th February. Then there will be a further consultation on the draft legislation that will be in the first half of the year, and the intention will be then for the law to be presented to the Assembly in the autumn. Just by way of background on it, this is an O.E.C.D. initiative and it is an international standard. So it is one of those things that jurisdictions are expected to implement. The new rules will come into force from 1st January 2026.

**Deputy M. Tadier:**

Can you tell us what is meant by the reporting framework?

**Director of Global Markets and International Agreements:**

Yes. So basically what this is about is saying that, well ... Minister, if you are happy for me to do that. Crypto and digital currencies, they represent potentially some new and unusual threats in the sense that they are obviously decentralised. They have the possibility for there to be a disconnect between the owner of the asset and the asset itself and, therefore, the O.E.C.D. - I think rightly - takes the view that they have some of the characteristics that could be problematic. So the intention behind this new standard is to provide a framework so that jurisdictions can exchange information about the ownership of crypto asset funds and that then will help ensure that there is greater transparency around them. So the way to think about it, I suppose, is an additional form of exchange of information and transparency in what is a new and valuable area of activity.

**Deputy M. Tadier:**

Is it to do with beneficial ownership as well? Does it have any of those considerations?

**Director of Global Markets and International Agreements:**

It will be in terms of who are the owners of those assets. So it is trying to ensure that jurisdictions can exchange information so that they have a greater level of transparency around the ownership of those. It is worth saying, based on the discussions we have had, this is not a major area for Jersey in terms of that Jersey is not a large centre for this. But we take the view that we are committed to O.E.C.D. standards; that is a hallmark of the jurisdiction. Just like Guernsey and the Isle of Man, for example, we were in the forefront of those jurisdictions that said that we would sign up.

**Deputy M. Tadier:**

Yes.

**Deputy M.B. Andrews:**

Minister, can I ask do you think there will be a need for external consultants for this particular workstream?

**The Minister for External Relations:**

I would not envisage it, no. It is an O.E.C.D.-led proposal. It is a framework. As Tom just said, at this moment in time it is not an area that we have very many structures or service providers that would come within this framework. But we have always taken quite a robust approach to dealing with crypto assets and how we try to regulate them.

[15:15]

So we thought it was quite important that we were signed up to the framework, that we put the framework into domestic legislation so that that message, even though it is becoming more and more of an issue and more fashionable in terms of what we see happening across the water, it is important for us that we continue on that. There are risks that we need to mitigate and we need to be clear on that from the start.

**Deputy K.M. Wilson:**

Minister, just given the interest in cryptocurrency generally worldwide, if we are not prepared for the interest how are you going to manage the risk around that?

**The Minister for External Relations:**

No, I think we are prepared for the interest.

**Deputy K.M. Wilson:**

But in terms of scale.

**The Minister for External Relations:**

The question is what do we do with the interest and how do we clearly say that we will be robust when it comes to regulation. One of the ways that we do that is through this new C.A.R.F. framework. So it is not that we are not open for business; we are. Like all things, we are setting out our stall very clearly that if you come to Jersey in this sphere we will only accept your business if you can meet these fairly robust regulatory requirements.

**Deputy K.M. Wilson:**

So just to be clear, so we are ready to apply those standards now?

**The Minister for External Relations:**

Well, we will be. We have signed up so ...

**Deputy K.M. Wilson:**

So the timescale for compliance around those?

**The Minister for External Relations:**

Well, as we say, it is going to be in place by ... let me just get that date there, 1st January 2026. But by signing up, as Tom did last week, it sends that message that, okay, you are not going to come to Jersey for the sake of it not being in place for a year because we are quite clear on where we are going to and where we will be and we are out for consultation on that now.

**Deputy K.M. Wilson:**

So the intention, yes.

**Deputy M. Tadier:**

Have you got anything to add, Helen?

**Director of Financial Services, Department for the Economy:**

Do I look like I do? [Laughter]

**Deputy M. Tadier:**

Maybe. I am trying to read ...

**Director of Financial Services, Department for the Economy:**

Yes, I was just thinking. So at the moment we have always worked within our well-respected regulatory environment anyway, so there is a framework in place. Any type of assets can be dealt with within that framework. This is just moving towards the international standard as it emerges.

**Deputy M. Tadier:**

I mean, to follow on from Deputy Wilson's question, is Jersey doing enough to embrace the new potentials for cryptocurrencies, digital finance, do you think? The message sounds very much like robust frameworks to protect, but are we genuinely open? Are we trying to recruit new business?

**The Minister for External Relations:**

We are. I am not sure, Helen, whether that ... or maybe you, Julie, are a little bit nearer to it from the other work that you have been doing. We do have structures. We do have service providers here already and they still come even though we have been clear about being robust. So we absolutely believe that Jersey is a place that is being used and can be used much more but we know that there are risks. So we have had to take a cautious approach in the way that we have done it. People have still come, still using Jersey.

**Deputy M. Tadier:**

But is that in spite of the regime, if you like, or ...?

**The Minister for External Relations:**

Well, it is a good question because do people come to a robust regulatory regime in spite of it or do people want to have it as a kite mark that they are registered in a regime in a country island with a robust regime? It is probably a little bit of both but, Julie, do you want to say a bit more about what is already here then?

**Associate Director of Financial Services, Department for the Economy:**

Yes. We have some very well regulated businesses on the Island that reputationally carry weight. We have a robust A.M.L./C.F.T. (anti-money laundering/countering financing of terrorism) framework for those virtual asset service providers that they must comply with, and then any fund that has any tokenised asset within it or digital asset within it has to apply for C.O.B.O. (Control of Borrowing Order) consent from the J.F.S.C. (Jersey Financial Services Commission). They cannot get a consent to operate the fund unless they have that. So we do have systems and controls in place. Like the Minister said, how far you go in regulating the rest of the conduct and prudential side, at the moment there are so many different jurisdictions across the world that are going in different directions that you almost need to wait for it to settle before you commit one way or another because we are at risk of stifling potentially quite a lot of business and innovation in this sphere unless we do. Particularly with the changing political climates both in the U.K. and the U.S. (United States) in recent months, it is having an impact and effect on how business flows in this particular sector. So I think everyone has just been waiting, pausing, seeing what happens, where the direction of travel goes politically before they are making further commitments in terms of the regulation around the sector.

**Director of Global Markets and International Agreements:**

Maybe if I can just say one additional thing on it ...

**The Minister for External Relations:**

They might have a lot of other questions and areas that they want to cover, Tom. **[Laughter]**



**Director of Global Markets and International Agreements:**

I know, but it is interesting and I know that we came to talk to you about these agreements and entering into them. Just picking up on Julie's point, one of the advantages of working with the O.E.C.D. is that, exactly as Julie has said, it provides then a global common approach. So the way to think about the C.A.R.F. is that this is almost an addition to a form of tax exchange of information. Clearly, digital assets, as I said, they do pose certain risks. We have talked about the regulatory ones, but another one is that you can have transfer of those assets without necessarily interacting with traditional financial intermediaries, and that presents potential tax risks. So what we are saying as Jersey is that right as this new standard has emerged we are at the forefront. We are part of it. We have signed up to say that we will collect and then exchange information with other jurisdictions so that that tax risk is dealt with through this single approach. I think in a complicated and fast-moving sector, if we can find global standards that allow for a common framework, so a set of rules, then I think that is a good thing for Jersey to get behind.

**Deputy K.M. Wilson:**

The Minister mentioned that there was likely to be legislative change around that.

**Director of Global Markets and International Agreements:**

Yes.

**Deputy K.M. Wilson:**

Will that happen before 1st January 2026?

**Director of Global Markets and International Agreements:**

Yes. So it is already out for consultation and we have spoken to industry in advance of that. We will then act on the feedback from that consultation. It is a consultation based on the agreed O.E.C.D. rules. Then we will introduce legislation in the autumn to allow us to collect and exchange that information. So it will be added to our existing exchange of information framework.

**Deputy M.B. Andrews:**

Minister, can I ask do you believe you have a sufficient amount of time to get all of this work done and dusted and complete before January 2026? Because it seems relatively tight.

**The Minister for External Relations:**

This work, the C.A.R.F. work? Yes, absolutely, we have. The other prioritisation work, as is ever the case, things slip. So we were targeting not just January 2026 but we will be targeting that before we get to purdah in 2026 to get all of that work done.

**Deputy M. Tadier:**

Thank you. It is not specifically included in here, but the pillar 2 that went through, to what extent is that going to be a big workstream for you in 2025?

**The Minister for External Relations:**

So most of the legwork around the implementation of pillar 2 obviously will be done by Revenue Jersey. Where we will pick up and support them is in any promotional work that we might do together, particularly state-side promotional work that we will be doing with J.F.L. (Jersey Finance Limited), Revenue Jersey and then from the F.S. and E.R. side as well. But the actual legwork of making sure it is implemented and that we have the customer service right will be Revenue Jersey.

**Deputy M. Tadier:**

Thank you. I am going to hand over to Deputy Andrews now for the next section on consumer lending.

**Deputy M.B. Andrews:**

Thank you very much, Chair. The panel notes in response to written question 308/2024 that you in your capacity as External Relations will be lodging the Consumer Lending Law. We just want to know whether this is still going to happen on time.

**The Minister for External Relations:**

Can you remind me when I ... the date I gave?

**Deputy M.B. Andrews:**

The fourth quarter.

**The Minister for External Relations:**

The fourth quarter of this year?

**Deputy K.M. Wilson:**

Yes.

**Deputy M.B. Andrews:**

So time is running out.

**The Minister for External Relations:**

Well, probably ... the consultation, the final bit of consultation, is due to end on Friday, the 13th, an auspicious date. Dependent on what that consultation says, if there are no googlies or anything that we had not expected, then we perhaps will still be able to lodge by the end of the year. But if I am being totally candid, I suspect it will drop until the beginning of next year.

**Deputy M.B. Andrews:**

Next year, okay. Because there were obviously a few concerns about some parties potentially not partaking in the consultation and I just want to know, Minister, whether there are any concerns about you going out for consultation and potentially not receiving all of the information that you would like if you are then putting forward legislation.

**The Minister for External Relations:**

Yes. This is Julie's field and I think she has made a really good effort to try and engage with those that did not engage previously. We will only know ultimately when we have that consultation result back and that ... you have really hit on one of the reasons that we might say to ourselves we are still not satisfied that enough people have grappled with what is being proposed here to give us the benefit of their view.

**Deputy M.B. Andrews:**

Why do you think Jersey as an Island jurisdiction requires a consumer lending regime in our legislation?

**The Minister for External Relations:**

Because it is an area that virtually everywhere else in the world regulates and it is about basic consumer protection for Islanders who are borrowing.

**Deputy M.B. Andrews:**

Do you think there are already any protections within Jersey's domestic legislation already if anything were to happen?

**The Minister for External Relations:**

Well, there is a mismatch of quite ancient legislation. When was the pawn-broking legislation? It dates back to 1884, so there are bits but good luck to anybody who wants to use those ancient bits of legislation to think about their own protection in this field.

**Deputy M.B. Andrews:**

Can you think of any incidents in particular that raise concerns about breaches in terms of consumer lending practices and why you really think then that there is a need for consumer legislation to be proposed before the States Assembly?

**The Minister for External Relations:**

So it is something that anecdotally I think Ministers and politicians have been spoken to about practice which is below the standard that we would expect. If my colleague the Assistant Minister were here, the Minister for Treasury and Resources, she would say her experience while she was Viscount and dealing with all of those petty debts issues and those sorts of things, she would say it very much is needed and she would be able to point us to evidence in her experience about why this legislation was needed as a basic protection for consumers. As I say, from my perspective it has always been more of an anecdotal need to provide some protection.

**Deputy M.B. Andrews:**

So how much input has the Assistant Minister had in this particular workstream?

**The Minister for External Relations:**

Well, of course, under the last Government she was leading on it.

**Deputy M.B. Andrews:**

Yes. Okay. So when we are looking at the consumer lending regime and if we are looking at, say, other jurisdictions as well, do you think the legislation potentially could be overbearing for businesses when we are looking at some Ministers proclaiming that there is a need to reduce red tape?

**The Minister for External Relations:**

You are asking me the million dollar question about regulation. How do you regulate to give good outcomes for consumers and users of services and at the same time make sure it is not burdensome and overly bureaucratic? We have worked, I think, really quite diligently to try and make sure it is not overly bureaucratic. We have done that by using existing legislation so we are not going back and bringing in new ones. We have listened carefully to consultation from those parties who would be involved. We have carve-outs in there so that we are not capturing things unintentionally. Our aim is to give a basic protection to Islanders who need credit. It is not to capture trust companies and financial services companies. It is not to capture things which are already regulated elsewhere. It is trying to provide that basic ... because at heart we have had that question in our minds.

**Deputy M. Tadier:**

Can I just interject? Could I ask what are some of the behavioural changes that you would like to see? What are the examples of bad practice that have been happening that this regime would seek to change?

**The Minister for External Relations:**

Do you want to ...?

**Associate Director of Financial Services, Department for the Economy:**

Yes. I think quite high interest rates, bad practices of lenders in recovering debts. We are probably not talking about your main high street lenders in that regard.

**Deputy M. Tadier:**

Like payday loans kind of stuff?

**Associate Director of Financial Services, Department for the Economy:**

That kind of thing, yes. The difficulty we also have in terms of collecting ... I think there are a few tools in Trading Standards' toolbox that they can really take many steps in this area at the moment and without support of a legislative framework it is very difficult for them to demonstrate some of the behaviours.

**Deputy M. Tadier:**

In terms of very high interest rates, what can Government reasonably do? Would it intervene to ...?

**Associate Director of Financial Services, Department for the Economy:**

We can cap interest rates at a certain level, similar to how they have done in Guernsey. In the U.K. and Guernsey, they are capped at 100 per cent of the loan value. So the intention is to align ourselves as closely to Guernsey's model as we can do because most of the lenders that operate in Jersey also operate in Guernsey. So to make it as ...

[15:30]

**Deputy M. Tadier:**

Is that 100 per cent of the loan value over the period of the loan?

**Associate Director of Financial Services, Department for the Economy:**

Yes.

**Deputy M. Tadier:**

So it would not matter how long you took to pay it back?

**Associate Director of Financial Services, Department for the Economy:**

No.

**Deputy M. Tadier:**

Are you comfortable with that, Minister, as a principle, that intervention?

**The Minister for External Relations:**

You see in there, do you not, the challenge that we have because as soon as Julie said 100 per cent of the loan value, you were thinking: "Well, that seems excessive." But it is not excessive compared to what people could currently do, which could be double or triple that. So we are trying to bring it down. If we were totally ... if it was us doing the lending, we would think that even 100 per cent of loan value over a very short period of time was excessive and was exploitative, but we have to try and find the balance and that is what we are trying to do.

**Deputy M. Tadier:**

Yes.

**Deputy M.B. Andrews:**

I also just wanted to ask, Minister, as well when the legislation is to be brought forward, and of course there potentially could be more work to be done depending on the outcome of the consultation. But what considerations will be given for borrowers who, for instance, are defaulting potentially on their loans? Of course, that could have implications for the lenders. I just want to know whether there would be coverage for this within the legislation.

**The Minister for External Relations:**

In respect of, sorry?

**Deputy M.B. Andrews:**

So, Minister, I will try and simplify it as much as I can.

**The Minister for External Relations:**

You are talking about somebody that is making the loan and it is being defaulted upon?

**Deputy M.B. Andrews:**

Yes.

**The Minister for External Relations:**

Well, they already have processes, do they not, within ... currently, they can go to petty debts. They can go to court.

**Deputy M.B. Andrews:**

But I just wanted to know whether this would potentially be incorporated within the law or do you believe there is already sufficient ...

**Associate Director of Financial Services, Department for the Economy:**

Not in the primary legislative vehicle, no. Conduct and how they operate will be set out in the J.F.S.C.'s codes of conduct and supported by secondary legislation. There will be unfair terms regulations, which lenders will be required to comply with. Some of that will potentially relate to ... and pre-contractual terms. Some of that will relate to how they may, for example, have to go into a payment plan with a borrower that defaults rather than going straight for court action. But that is very much aligned with how other jurisdictions operate their own lending and credit regime, so it is nothing unusual to lenders that are operating in a regulated environment already.

**Deputy M.B. Andrews:**

No. So far, have you received any feedback regarding the Jersey Financial Services Commission's codes of practice in the consultation so far?

**Associate Director of Financial Services, Department for the Economy:**

Yes, we have had some closed sessions with the banks. They have concluded today. They have gone very well and, yes, we have had a very collaborative process with the banks, who have been very forthcoming in their input and have worked well with the J.F.S.C. and ourselves to further those. The intention is to then go through various different stakeholder groups. So we have dealt with the banks. There will be non-bank lenders next and then other groups we will target as we go through to make sure we get the right feedback from parties.

**Deputy M.B. Andrews:**

So this potentially could be going into 2025 as well?

**Associate Director of Financial Services, Department for the Economy:**

It is planned to, yes.

**Deputy M.B. Andrews:**

Okay, yes.

**Deputy K.M. Wilson:**

So in terms of the ...

**The Minister for External Relations:**

I was going to ask a question, which I know I am not supposed to. Were the panel thinking that they might scrutinise that?

**Deputy M. Tadier:**

At the moment we have not come to that conclusion but we will ...

**The Minister for External Relations:**

Okay, fine.

**Deputy M. Tadier:**

There is always the potential.

**The Minister for External Relations:**

Anyway, well, just let ...

**Deputy M.B. Andrews:**

We trust you.

**The Minister for External Relations:**

If you let us know ... no, it is not about trust. It is about public interest.

**Deputy M.B. Andrews:**

Yes, absolutely.

**Deputy M. Tadier:**

We would obviously scrutinise on it if there is anything that ... we would go through the normal process of having briefings and then if there is something that we need to scrutinise, yes. Before Deputy Wilson takes over, there are a few more questions. Can I just ask about whether the debt collectors' code of conduct, which was brought in a few years ago, is that something that you have built on? Is that something that will be superseded or become obsolete?

**Associate Director of Financial Services, Department for the Economy:**

It will become obsolete because it will be incorporated into a set of regulations that will then be supervised by Trading Standards and the Channel Islands Financial Services Ombudsman.



**Deputy M. Tadier:**

Okay. That is good. Thank you.

**The Minister for External Relations:**

So it should be strengthened.

**Associate Director of Financial Services, Department for the Economy:**

Yes.

**Deputy K.M. Wilson:**

Just to follow up on that one, this is an area that does not have any sort of international standard applicable to it. Is it all locally driven standard setting?

**Associate Director of Financial Services, Department for the Economy:**

So the World Bank has issued what it thinks are good guidelines. Each jurisdiction interprets as they choose to but there are general standards and principles that most jurisdictions tend to comply with. It is not an official framework, though.

**Deputy K.M. Wilson:**

Thank you for that. In terms of the Jersey Financial Services Commission's codes of practice do you believe that they are robust and transparent enough to provide effective consumer protection?

**Associate Director of Financial Services, Department for the Economy:**

They are not yet complete. They are in the drafting process. It is hard to answer that question until they are in a complete state.

**Director of Financial Services, Department for the Economy:**

What we have learned from this process, though, is that the more engagement we can do the better. So having that programme of work to ensure that we are reaching out to the stakeholders, making sure they understand their obligations and the impact of any regulation on them, is really key. That has helped shape not just the primary legislation but we are taking that forward into the next stage to make sure that we continue to engage and everyone understands. We have had really positive feedback from not just the industry but Jersey Finance as well in what we have done and asked whether we can roll out that same process across other pieces of work.

**Deputy K.M. Wilson:**

Do you think there will be a mechanism for some sort of regular review or public consultation around the codes when you implement them?

**Associate Director of Financial Services, Department for the Economy:**

The Consumer Credit Codes?

**Deputy K.M. Wilson:**

Yes.

**Associate Director of Financial Services, Department for the Economy:**

There will be public consultation, yes. The J.F.S.C. do consult on their codes. This is just a preliminary getting it into shape, are we all comfortable this is achieving what we want, before we go to consultation. It is very much that collaborative piece.

**Deputy K.M. Wilson:**

How soon do you think you are going to be able to conduct a review like that?

**Associate Director of Financial Services, Department for the Economy:**

Of the codes? It depends how quickly the J.F.S.C. move in preparing them. They hold the pen on them. They have conduct of them. We are moving quite quickly. We have just had 4 intense sessions to get through the first initial draft. We need to move on to further stakeholder groups. Obviously Christmas is in between so maybe the springtime they may be in a position where they can start to consult, but I would not like to answer for them. It is their code.

**Deputy K.M. Wilson:**

I suppose what we are trying to drive at is what sort of milestones can we expect to see so that people can be confident that progress is continuing and it is not just being kicked into the long grass?

**The Minister for External Relations:**

That will be driven by the legislation, so if we get the legislation lodged in December or January, let us say, providing consultation is all fine and does not raise any issues, it will have its parliamentary process here. The commission will continue to work with officials and stakeholders, so it needs to be aligned, basically. We cannot have the codes of practice for the commission holding up the implementation of the legislation. We need to make sure it is aligned.

**Associate Director of Financial Services, Department for the Economy:**

We will have the consultation or secondary legislation consultation that we have to go through as well, so when we come to do the regulations on unfair terms the debt collection and any orders or

other amendments that we needed to make then we will have a consultation process as part of that, which will probably be more able at that stage to give more indicative timelines because we will be further down the legislative process.

**Deputy K.M. Wilson:**

Can you provide any clarity on which further exemptions to the pre-contractual regulations are required to bring the proposed regime in line with Guernsey?

**Associate Director of Financial Services, Department for the Economy:**

We have not yet consulted on any further exemptions. We have given an indication of what we think they might be, but we need to share the draft order with industry to see if there are any other exemptions that may or may not be required. We have asked people as part of this consultation that is live now to reach out to us if those that we have indicated are not sufficient so that we can start that process of collaborating with industry to find out whether there are any other potential exemptions we may need to build in.

**Deputy K.M. Wilson:**

Can you confirm what the Government's rationale was for discontinuing the inclusion of commercial lending regulations?

**Associate Director of Financial Services, Department for the Economy:**

There was very clear feedback during the consultation that we initially did that it would cause a lot of problems for small and medium enterprises. It would also capture a lot of international finance business that was not intended to be in scope. Feedback from the small businesses that responded to the consultation was that they would not want that. They felt it would hinder their ability to get credit so those that responded to us said they did not want to be caught within scope so we listened to that feedback and tried to ensure ...

**Deputy K.M. Wilson:**

There is still a gap there, though, is there not?

**The Minister for External Relations:**

No. There is not a gap for individuals getting credit. There are small and medium sized companies saying they do not want legislation to hinder their ability to get credit, because they get credit in a different way from how an individual would get credit and on different terms as well. That sector in our community have said they do not want to be caught in here for all the reasons that we know, that you will have a contraction of the market, the debt will become more expensive, for those reasons. It is not a gap for individuals.

**Deputy M. Tadier:**

Is the commercial lending sector going to be completely unregulated then?

**The Minister for External Relations:**

It is going to remain as it is.

**Deputy M. Tadier:**

Which is? What protections or safeguards are there?

**The Minister for External Relations:**

Well, you would expect that they would have recourse to law as they currently do.

**Deputy M. Tadier:**

So does that mean that you do not think there is bad practice currently taking place in consumer lending?

**The Minister for External Relations:**

Commercial lending.

**Deputy M. Tadier:**

Sorry, commercial lending. That is what I meant.

**The Minister for External Relations:**

The indication in the consultation is that they were very clear, for the reasons that Julie has just articulated, that they would not want to be covered and that they are satisfied with how they are accessing credit now and how that market is functioning.

**Deputy K.M. Wilson:**

I might come back to that at some point later on.

**Associate Director of Financial Services, Department for the Economy:**

Can I add a little bit more as well? We generally found that the business sector was getting legal advice behind a lot of their lending transactions anyway, so they are probably a bit more of a sophisticated borrower in that sense compared to an individual who may not have the benefit of legal or tax advice even around their lending. There was a distinction definitely between individuals as consumers versus medium-sized businesses who are perhaps a different borrower and type who had the benefit of that advice.

**Deputy K.M. Wilson:**

Could you tell us what measures are being taken to ensure that the Jersey Financial Services Commission is sufficiently resourced and prepared to regulate consumer credit businesses once the legislation is enacted?

**The Minister for External Relations:**

They have given me an assurance that they will be resourced and will be able to do it once it is enacted. Whether they will as we currently sit here, I think it is within their plan. They know that it is coming on stream and that they will be resourced accordingly to deal with it.

**Deputy K.M. Wilson:**

In terms of that assurance what does that look like? Is that in the form of plans to reorganise their processes, their workforce? What kind of assurance are they giving you?

**The Minister for External Relations:**

That they will be able to regulate it so ...

**Deputy K.M. Wilson:**

What does that mean?

**The Minister for External Relations:**

Well, I cannot get involved in their operational decisions but the thing that we do with an independent body such as that is that they have to give us assurance that they will be in a position to regulate. I think from conversations with them that will mean individuals and the financial cost that they will put in place to make sure that they can regulate it, so it will be people and money.

**Deputy M. Tadier:**

Will there be any way to recoup money, so is there a penalty regime that is envisaged and is that ... it is presumably not designed to create revenue but it may indirectly?

**The Minister for External Relations:**

It is not designed to create revenue, is it?

**Associate Director of Financial Services, Department for the Economy:**

No. It sits within the Financial Services (Jersey) Law, to the amendment, so any civil penalties that kick in for a breach of the Financial Services (Jersey) Law will apply to this as well. There are penalties that may apply from the ombudsman's perspective, but they are a separate stream to this.

**Deputy M. Tadier:**

Where would those financial penalties go to? Do they get paid into which pot?

**The Minister for External Relations:**

Well, that is a good question because it is quite a live issue. There is a provision within that law that those penalties are divided, in effect, between the regulator and used to offset the costs of that particular section of industry and shared with government and we are just in the process of properly formalising how that split will take place. That will of course have a knock-on effect on this as well. Helen, I am not sure what the update is of where we are with that. I know it is an ongoing piece of work.

**Director of Financial Services, Department for the Economy:**

Yes, it is ongoing. Any money from civil penalties can be used towards the J.F.S.C. reserves but at first they should go towards offsetting the costs for that particular sector from which the fines come. There is a mechanism for a Ministerial order to enable monies to be paid over to government but also voluntarily there is a provision in the legislation that if the J.F.S.C. thinks it should pay money over to government because it might be such a substantial civil penalty it may do so as well. We are just working through that at the moment, working out how we apportion those appropriately.

**Deputy K.M. Wilson:**

Finally from me, could you just explain, Minister, what initiatives will be introduced to ensure consumers are aware of their rights and protections under the new regime?

[15:45]

**The Minister for External Relations:**

That will be an important piece of the implementation work once the legislation has been approved and that secondary legislation is approved as well. There will be a publicity campaign obviously. The consumer body will probably lead on that.

**Deputy K.M. Wilson:**

Any particular initiatives that you are thinking of?

**The Minister for External Relations:**

I would expect the normal sorts of campaigns from social media, to radio, to published material.

**Director of Financial Services, Department for the Economy:**

Julie did some work in the early stages with consultation as well to make sure we were reaching the minority groups in Jersey to understand the impact on them as well so we would imagine we would engage in a similar way as it comes into force.

**Associate Director of Financial Services, Department for the Economy:**

Yes, and the hope is as well that from a regulatory perspective that the J.F.S.C. will also do some publicity work around it and whether or not there is even guidance notes produced for consumers to be able to access the legislation and the code from that side, so it is not just guidance notes for businesses but also for consumers as well so they know how these codes are being operated and how they can access them if they need to for their purposes.

**Deputy K.M. Wilson:**

Will you be doing anything with providers?

**Associate Director of Financial Services, Department for the Economy:**

We have been doing a lot of work with providers already as part of the whole collaboration piece and we will continue to do that.

**Deputy K.M. Wilson:**

What kind of initiatives will you be doing with them to help them communicate that consumer protection rights will be enshrined in law?

**Associate Director of Financial Services, Department for the Economy:**

It will have to go to any advertisements that they place in any event. A lot of the regulations that we will be bringing in certainly come to things such as A.P.R. (annual percentage rate) and terms and conditions may apply so they will start to see things that will come through, so they are going to have to change all of their advertisements in any event, assuming that they are regulated here and they are not regulated in Guernsey or the U.K., in which case they can stay as they are.

**Deputy M. Tadier:**

I was going to ask about disclaimers on advertising. We are used to hearing that about whether your investment could go up or down. Is that likely? Is that going to feature in the new regulations?

**Associate Director of Financial Services, Department for the Economy:**

To the extent that it is industry standard and it is not over-burdensome and we are not by adding some in excluding others. We just need to be careful that we do not, almost, go too far and then look like we are excluding certain things from people's notice. It is drawing it to people's attention in the right way that then enables them to access the information that they need to access and it

does not just become a list of caveats in an advertisement so that you can see the products that you are accessing at the same time. We are literally working through that at the moment. The discussions that I had this morning were entirely on that topic with the banks and we are just trying to work on how it is going to come out.

**Deputy K.M. Wilson:**

The reason for the question is given all of the work that is going on we do not want it to just be there. It needs to become real for people and I suppose this is why we are asking the questions as to what the public can expect to see, feel, and think about it. I think what I am taking away from that is that there is still some work to be done around how you target the communications and the engagement with people once the legislation is done.

**Director of Financial Services, Department for the Economy:**

Is it worth mentioning the transition period that we are expecting to demonstrate we have got some time before this comes into force?

**Associate Director of Financial Services, Department for the Economy:**

Yes. The intention is that the law will become enacted or go live on 1st January 2026 but businesses will have until the end of 2027 to become fully operationally compliant with the legislation because it is new to everybody on Island so we do need to make sure that that transition works and that we have got room to manoeuvre things if we need to. We have also built into the legislation provision so that if we need to in the consultative version turn on and off certain bits. If we are not quite ready to bring that bit in yet we can still bring in the rest of it to provide consumer protections there. If, for example, one area was not quite right for whatever reason then we can hold that bit back and the rest can still go. As we get further down this coming year, 2025, then we will be able to start looking at that engagement plan for consumers and businesses alike to make sure that they are fully up to speed but we just need to get that little bit further down the development of the legislation before we can start communicating that message because we do not want to go too soon so that we have not got anything to engage with people on.

**Deputy M. Tadier:**

I was going to ask, I understand that the Financial Conduct Authority in the U.K. has got quite wide-ranging powers in terms of intervening, so for example if there were adverts that they thought were misleading they could ban them or force other compliance. Is such a thing envisaged in Jersey and who would do that, if so?

**Associate Director of Financial Services, Department for the Economy:**



Similarly to how it exists already in terms of investment business. We are not too far from the model of how we operate already here in what we are proposing for consumer credit, so they will have the ability to make people withdraw a product from the market or the advertisement from the market if they find it is misleading and they will have the powers that they have in relation to investment business similarly laid over to consumer credit.

**Deputy M. Tadier:**

Okay. That is fine. I think that is everything on this section. Thank you for that. Have you got anything to add?

**The Minister for External Relations:**

No, thank you.

**Deputy M. Tadier:**

So we look forward to that coming through and I think there is going to be maybe some public interest as well. I am going to ask some questions about the consideration of bilateral treaties with U.A.E. (United Arab Emirates) but also the process for treaty approval following on from P.6/2023. We have had a short briefing on it but I think we have other questions. Minister, can you provide an update on the Government's position regarding that proposition and how the Assembly will consider treaties and the bilateral treaty with the U.A.E.?

**The Minister for External Relations:**

So of course we dealt with the bilateral treaty with the U.A.E. separately and that has gone through our processes. The request from the secondary part of that proposition as we said at the time in our comments to it was challenging and was potentially problematic but that we were prepared to work with L.A.P. (Legislation Advisory Panel) and P.P.C. (Privileges and Procedures Committee), and I will come back to P.P.C. in a minute, of what might be possible and of course problematic is an understatement for what our difficulties have been. What we have done is categorised treaties to, in effect, 3 types of treaties. We have got the treaties where we are entrusted as the Government of Jersey by the U.K. Government, right of the Crown, to enter into international treaties. So you can see the entrustment there is an entrustment to the Government of Jersey, not to the States of Jersey, so we already have an issue there that the legitimate body is the Government and not the States and yet that is what P.6 wanted, for them all to come to the States for approval. As you know historically we have brought those to the States, so in doing this work it has maybe not quite led in the way that we were expecting, so that is entrustments. We continue to speak to the U.K. about what is possible there but the U.K. are clear that the entrusted document or letter is entrusted to the Government of Jersey and not to the States Assembly. Then we have got what we call applied treaties, so that is the free trade agreement element. They obviously are negotiated by the sovereign

state, in this case the U.K., with other sovereign parties and they of course engage with Jersey. They include Jersey to the extent that they are able to negotiate. We know that historically that has been really for goods because that is replicated in our relationship with the E.U. (European Union). We would like to see that extended to services. Our inclusion is included in the extent clause to the extent, the geographical extent clause in effect, so you can see there that the treaties negotiated by the sovereign state is not negotiated by us; they do it on our behalf. So we have to make decisions in that process during the process about whether we wish to be included in the territorial extent or we do not, so in the point of making that decision and asking us to be negotiated in it is then very difficult technically for that then to come back to the States and for the States to say something different, having been negotiated in on our behalf by the U.K. Government. With those treaties of course what we have negotiated is end clauses, so clauses whereby we could trigger our exit so we would be in a situation whereby Government would say to the U.K. Government: "Yes, we would like to be in that treaty. Go away and negotiate this, this and this if you can" and they will come back and say: "Well, we could do this and this but we have not been able to do this. Are you still in?" We still want to be in and we know that these treaties are affected very much by being in customs union with the U.K. but that is another issue altogether. The only ability then for the States would be to make a decision to trigger the exit clause rather than to be included or not, so that is another difficult area that we continue to work on. I really should be letting Tom do all this because it is his bread and butter. So that is the F.T.A.s (free trade agreements). So you have entrustment, you have F.T.A.s, and then you have extended treaties, so things such as World Trade Organization, U.K.'s membership extended where we are asked if it wants to be extended. You could potentially make a case for saying that the States would be in a position to be able to say yes or no to that extension, although I think that would create a lot of work across departments in a way that they have not really properly considered. So we are asking them to consider that, and also sometimes there are changes to these extended treaties which we are asked our view on without very much time to do it. Largely, those problems that we saw are problems that we have not yet been able to resolve. We have spoken to the Legislation Advisory Panel on a number of occasions and we are due to speak to them again I think next week. We have not yet spoken to P.P.C. but I have asked for a date to be put in the diary for us to go to attend upon the P.P.C. in that regard as well. Of course, the slight uncomfortableness is that we still had treaties that we have needed to get over the line from a process perspective, not least of which is C.P.T.P.P. (Comprehensive and Progressive Agreement for Trans-Pacific Partnership) which comes into effect on 15th December. That really is where we are.

**Deputy M. Tadier:**

In terms of the bilateral treaties are they different? Would they automatically come to the States Assembly anyway?

**The Minister for External Relations:**

Well, that is what I was trying to say, that historically we have brought them to the States Assembly. As we have gone and started to look at them in the round of all of the treaties we have now got some advice which clearly says that because the entrustment is an entrustment to the Government of Jersey, it is not an entrustment to the States of Jersey, it is constitutionally improper to ask the States for a view on them, so rather than moving forward you could argue we have gone backwards a bit.

**Deputy M. Tadier:**

This came up in the briefing and it is something I was thinking about. Does the fact that somewhere like the U.K. Parliament, that the Government can always rely on a majority anyway so if push came to shove and even when they have not got a majority they have got a coalition? In Jersey we have minority Governments.

**The Minister for External Relations:**

Apart from we have got a coalition.

**Deputy M. Tadier:**

But even then it is still a minority in terms of the numbers in the Assembly, so does that have an impact in terms of the confidence that any Government can have in ensuring that they have got the support of their Assembly, which is the legislature?

**The Minister for External Relations:**

I do not think that is the issue. Of course, that is an issue with all that the Government in Jersey does that they cannot be sure of the view of the legislature on any given issue for the reasons that you have said. I think it would be more sure, generally speaking, around an international treaty because I do not think the States would largely want to overturn an international treaty that had been quite hard fought, although it might. If we take the Trade and Co-operation Agreement, I think we can see that, generally speaking, the States Assembly might not have liked everything that was in there but recognised that it was in a really take it or leave it attitude and the leave it was a lot worse scenario than the take it view. You could argue that with some of the F.T.A.s, that might be the view that the Assembly takes, but when it comes to entrustment that is not the issue. The issue is that the U.K. Government is entrusting a prerogative issue to the Government of Jersey and not the States of Jersey, so not the legislature, so it is the U.K. Government.

**Deputy M. Tadier:**

Has that become a problem since Ministerial Governments?

[16:00]

**The Minister for External Relations:**

We did not do entrusted treaties prior to Ministerial Government, did we?

**Director of Global Markets and International Agreements:**

No. I do not think it is a machinery of government issue. As the Minister has said, we were posed what sounded like quite a simple question in P.6, relatively simple, and in fact looking at it diligently as we have done and then getting the legal advice on it, it turns out that it is quite complicated to try to satisfy the different requirements, practical ones as the Minister has said, but also legal ones around how we take the remits forward. Let us step back a minute. Jersey does not have in itself treaty-making powers as a sub-sovereign but there are absolutely reasons why we want to engage with sovereign jurisdictions at the international level through binding treaties. Of course we do and we have done for a long time. The process for that is that the U.K. entrusts to Jersey that treaty-making power but when it is making that entrustment it is to the executive, because it is executives that make treaties.

**Deputy M. Tadier:**

What does Guernsey do in this regard?

**Director of Global Markets and International Agreements:**

I think what they do is they do a policy letter. I am not an expert on the Guernsey system but in some ways what we are thinking about doing and what we have discussed with you as a panel is the idea of moving to a model that would be similar to that and in some ways similar to what we have done with free trade agreements where we would be presenting a report. I think what I hope we could all agree on is that we think we need more regular briefings to States Members in advance of plans to negotiate. Of course, negotiations go in different directions and we are not always negotiating; sometimes it is the U.K. but we could certainly do something about the treaty pipeline and I think we are doing that. I hope that you feel we are providing you with more information. Then I think there is this idea of a set period when the Assembly could scrutinise the different types of treaties and one method there could be around the lodging of a formal report that would contain information on what the plan was or what we intended to do. It will not always be the case in every case that the full text of the treaty may be available. It may be at an earlier stage in the process as the Minister has outlined where we are giving an in principle position. Then I think the key point is that there is this mechanism to suspend the treaty, participation in the treaty, separate to the U.K. if it is a U.K. free trade agreement or, of course, bilaterally if it is our own, if that is the will of the Assembly. I think those are to my mind the components that are in there, but the one thing I would say, and maybe this is just a personal point, is that we do need a process that is going to be reasonably quick for us to be able to complete. We need a workable process because it is a good

thing for Jersey to be able to enter into agreements of all different types and sizes with a range of partners, whether those are under entrustment or extended. We need something workable because every time we do that I think we advance the Island's reputation internationally. That is the thing we need to sort.

**Deputy M. Tadier:**

Ultimately, is there a way to satisfy the spirit of what the Assembly asks for and in particular the movers of those propositions in terms of what you are offering and have you gone back to those and are they satisfied with what has been proposed?

**The Minister for External Relations:**

It is a good question. The reality is of course one may be and one may not be, so it does not really move us forward very much because there might be disagreement at that level as well. I just want to go back to your Guernsey question. I think that is something we will definitely take away but I would just say we were doing something that Guernsey might currently be doing so P. and R. (Policy and Resources) could be entrusted in Guernsey to do it and then they are taking it to their Assembly for ratification. That is what we were doing but what the advice has now shown, when you have drilled down into it and looked at it, and the U.K. Government have looked at the advice and has come back that no, the entrustment is the entrustment with, in our case the Government, the relevant Minister, so we do need to talk to Guernsey because there might be onward implications for them that we have not thought about in that regard as well.

**Deputy K.M. Wilson:**

Just so that I have got this straight, really the entrustment is the issue, is it not, because it is government?

**The Minister for External Relations:**

Sorry, there are issues with all 3 types of treaties, but yes.

**Deputy K.M. Wilson:**

Okay, so with the in principle, I think what I have heard Tom say is that the business of Governments is about developing treaties around the things that they mutually agree need to be in place and that the role of Parliaments or Assemblies or whatever is almost to hold the executive to account about the way in which they deliver on those treaties. Is that right?

**The Minister for External Relations:**

Well, in our case it is slightly more nuanced than that. So if you were a sovereign state, yes, it is because in a sovereign state you go back, the Government signs the treaty and the ruling party of

government then gets their Assembly or their Parliament to ratify it. That is the general process. Not all; some have different processes but everybody in general has a parliamentary process. That I suppose is the question we were being asked, what is the parliamentary process in Jersey for international treaties. You first come back to that first question. We cannot in our own right as a sub-sovereign sign or enter into international treaties but what you can do then is divide it up into these 3 different buckets and one is that entrustment process where we are entrusted to sign into international treaties as the Government of Jersey.

**Deputy M. Tadier:**

So double taxation agreements, are they part of an entrustment?

**The Minister for External Relations:**

They are, yes.

**Deputy M. Tadier:**

In terms of maybe the spirit of what the Assembly was maybe asking for, I think the Assembly understandably wants to have some kind of potential input into the thought processes before a treaty is signed, any kind of treaty. Is there a way to try to front load some of those discussions especially where it is considered to be more relevant? So, for example, if Jersey were entering into a double taxation agreement with Portugal you would have thought that there may well be something that more Members and even civic members outside the Assembly might wish to have some input on. Are there ways to build that kind of consultation in before you get to the point of having signed a treaty?

**The Minister for External Relations:**

That is interesting because you do do some consultation in the process of before you sign up or even during your negotiation, do you not?

**Director of Global Markets and International Agreements:**

We do.

**The Minister for External Relations:**

You will come back and then ...

**Deputy M. Tadier:**

Is there any possibility for formal legislative scrutiny maybe to happen before? Could whichever body it might be look at treaties confidentially to have input?

**Director of Global Markets and International Agreements:**

I think the confidentiality part of that would be important because if it was a treaty that was under live negotiation your negotiating team from either Government, certainly from the other Government, would not expect that their treaty drafts were out and about being discussed in real time. I think certainly what we have thought about is we obviously ... I should say just for the record because you are all familiar with it as a panel but maybe other people are not, you of course as a Scrutiny Panel are briefed on any international instrument before it is signed by a Minister. We do that as a courtesy and because it is the right thing to do and of course we also provide ongoing confidential updates to your panel on our progress that we are making on an ongoing basis in respect of agreements. I think over and above that what we could consider doing if there is interest would be to do all States Members briefings on a regular basis, and that is something that we have discussed as an idea and would be up for doing if we think that would be helpful.

**Deputy M. Tadier:**

Is that before they are signed or after?

**Director of Global Markets and International Agreements:**

Yes. I think we would use that to talk about the treaty pipeline so: "These are what our treaty aspirations are. These are the sort of partners we are considering." It would seem to me that that approach could then allow for Members to express a particular interest in a work stream. I think we need to then think about how we satisfy that interest in a way that also fits with our ability to get on with the negotiation and make a success of it but I think there is scope there. Just to the point on consultation, we do talk to industry of course. So, for example, double taxation agreements, we make sure that we engage through J.F.L. with their tax community so that we talk through the implications and make sure those are understood and that is ahead of concluding drafts. It is important that we do that. I think what you are talking about is a more general public engagement and I think certainly starting with briefings with States Members if they have interest in it would be a good way that we could do that. I also think that the reporting function should help with that, if that is where we land with this, and in some ways it would be mirroring what is done in the U.K. where there is a laying before Parliament of a treaty.

**Deputy M. Tadier:**

Could you sign a treaty but forward date it so that it does not come into effect until, say, 2 weeks or 3 weeks in the future? Even if you did not necessarily bring it for debate there is still that 15-day period where a Member can call in ... I do not know if it is anything but certainly can challenge a Ministerial Decision. That is a risk, is it not, because any Member could say: "We do not like you entering into a treaty with that country because we think it has got a terrible human rights record" or whatever, and then there would be a debate but you would not be in control of that process.

**The Minister for External Relations:**

It is a good question, Chair, and it is a question that we thought long and hard about at one point as we were going through this. That was a proposal that we produced but subsequent to that proposal we then got back to this advice, which was very clear, about entrustment, which basically drove a coach and horses through it and said: "You could not even use that methodology." We were thinking of you would lay it before the States for 15 days or 20 days, however long, much like you do with property transactions, and any Member could call it in. If it was not called in it would in fact be a negative approval process, that it was not called in and then comes into force. But that advice was very clear to us, it was clear, unhelpful of course in trying to find a compromise, but very clear that that did not work and we could not use that methodology.

**Director of Global Markets and International Agreements:**

That is a specific legal problem with entrusted agreements, so just to reiterate that there are practical problems with the other types of treaty that are to do with the fact that they are not fundamentally in our control.

**Deputy M. Tadier:**

Can I just go back? How do we scrutinise that advice?

**The Minister for External Relations:**

That is a good question because that advice is always confidential but you could ...

**Deputy M. Tadier:**

But it is an opinion, right? It is a legal opinion.

**The Minister for External Relations:**

I am just telling you the advice. You know the rules around how we reference advice. I am trying to stick to those rules. You could of course ask advice on behalf of the panel on those questions.

**Deputy M. Tadier:**

Yes. Thank you. Sorry to cut in.

**The Minister for External Relations:**

It is a good question.

**Director of Global Markets and International Agreements:**



Yes, absolutely. I think the practical point runs a bit like this. Under an entrustment, because the prerogative power, the treaty-making power, has been given to the executive, if you introduce any kind of conditionality to it that essentially means that you are saying the executive's power is curtailed subject to an outcome in Parliament. You are therefore implying that that power is not held wholly by the executive but is in some way partial or shared and that is the advice that we have had, that the entrustment is wholly giving that prerogative power to the executive and to the executive solely. So you are asking, in effect, the Assembly a question that it does not have the *vires* to answer in that circumstance and that is why it has proved problematic for us to find a way to address, if you like, some of the ideas that were in P.6.

**Deputy K.M. Wilson:**

Sorry, Tom. Just on that, could the executive choose to ignore the view that comes back from the Assembly?

**Director of Global Markets and International Agreements:**

I think the problem with P.6 was that it was looking for a legislative provision to allocate that power of ratification to the Assembly and that is the thing that legally speaking we were asked under P.6 to do. I think as I have said before the current situation is that any Member as you know can request to have a debate on an existing treaty and could request for Jersey to withdraw from that treaty. That exists currently but I cannot speak for the Minister on this but I think clearly if that was a decision of the will of the Assembly that would be extremely difficult for that to be disregarded. There is no change to that current position. The difficulty is can we introduce legislation that formalises a ratification procedure and for the reasons that we have given, both practical and legal, it is very complicated to try to achieve that.

**Deputy M. Tadier:**

I get that. So can you tell us are you going to pursue a way to try to square the circle or will you likely come back and say: "This is not possible"?

[16:15]

**The Minister for External Relations:**

Well, we have our proposal about laying them before the Assembly as reports, trying to do more briefings, speaking to you guys, doing a policy pipeline, picking up some of the points you have just made about asking for individual Member interest, thinking about how we can consult perhaps with you or with interested Members during that negotiation period. We cannot see another easy way through this as we sit here but we are still circling back around to L.A.P. I think L.A.P. are going to want us to pick it up with the U.K. Government again. We will do that and back to P.P.C. so I think

you have questioned us, I think we have briefed you previously as well, and we are still in a difficult position that we have currently got some proposal, but back to your other question, that will only satisfy probably one of the movers of P.6 and not the other.

**Deputy M. Tadier:**

I will wrap this section up but does it ultimately come down to the fact that there is perhaps a misunderstanding generally in some quarters that Jersey is sub-sovereign so we have got certain things we can do? Is that part of the issue or is it more to do with ...

**The Minister for External Relations:**

I do not think it is a misunderstanding that we are sub-sovereign. We are sub-sovereign and yet at the same time we are always seeking where possible, when possible, when appropriate, to enhance our autonomy.

**Deputy M. Tadier:**

Thank you. That is useful. I am going to move on, if that is all right, to the next section. I am only going to ask a very brief question about the Financial Intelligence Unit, not because it is not important but I think we are going to follow up with some written correspondence. If I can just ask for the record, is it still your intention for the Financial Intelligence Unit to be a standalone piece of legislation rather than included with the Proceeds of Crime (Jersey) legislation?

**The Minister for External Relations:**

It is, yes.

**Deputy M. Tadier:**

When can we expect that workstream to begin and possibly end?

**The Minister for External Relations:**

That is a good question. They are moving into new offices. I think we are hoping that the entire process will be completed by the end of next year.

**Director of Financial Services, Department for the Economy:**

That is one of the prioritised pieces of legislation, so there are 3 parts. The physical removal from the States of Jersey Police Station into their own property, the separation of the I.T. (information technology) systems and then the piece of legislation that creates this statutory body as the F.I.U. (Financial Intelligence Unit).

**Deputy M. Tadier:**

Thank you. As I said, we will follow up with some written questions on that. Thanks for that. I am going to hand over to Deputy Wilson now.

**Deputy K.M. Wilson:**

We are just going to pick up on the Strategic Review of Jersey's Regulatory Environment and the data breach findings. On 24th July, Minister, you confirmed that a Strategic Review of Jersey's Regulatory Environment would take place during 2024 and 2025 as part of its Post MONEYVAL Ministerial Priorities and High-Level Action Plan. On 3rd October the *J.E.P. (Jersey Evening Post)* published findings into an investigation into the J.F.C. and in your article on 13th October you said that Government would be exploring a third party appeals process. That followed a further article in the *J.E.P.* on 23rd October where you were suggesting a special committee be set up to oversee the independent regulators. An F.O.I. (Freedom of Information) request was made but denied under Article 36 on 24th October, which was requesting the strategic review's terms of reference within which the publication was confirmed to be within the next 12 weeks.

**Director of Financial Services, Department for the Economy:**

Do you want me to take the F.O.I. part?

**The Minister for External Relations:**

You can take the F.O.I. because, of course, Ministers do not involve themselves with F.O.I.s. They are just answered independently of political input.

**Deputy K.M. Wilson:**

Yes. That is okay. I will just finish, if I could. Then going back to the beginning of the year there was the J.F.S.C. data breach and the investigation into the breach was conducted by the J.O.I.C. (Jersey Office of the Information Commissioner) and a further breach occurred in June 2024. So the question in all of that, sorry to get around to it but to set some context again for members of the public, is are you able now to update the panel on the status of the strategic review and can you confirm when the terms of reference will be published and outline what these will include?

**The Minister for External Relations:**

Do you want me to do the data breach first?

**Deputy K.M. Wilson:**

Please, yes.

**The Minister for External Relations:**

It is quite important. I met with the J.F.S.C. yesterday. They confirmed to me that they now have the root cause analysis of the data breach from the independent party that has done that review and they as a board of commissioners have also produced a management response to that review. I expect that review and the management response to be on my desk today. I have not yet seen it in my inbox but that is what they said yesterday so it will be happening during the course of today. I was very clear with them that of course I will want to look at it, but you as a Scrutiny Panel will also want to understand what happened and not just take my word for it, which is of course why we have asked the J.F.S.C. to initially do a private briefing on that report, so after that report you will know more than I will. By the end of the day you will know more than I do because I have not had time yet to read the report. We will clearly read through that report and consider if there are any other actions that we think Government needs to take. It might be that we initially need a technical expert because it is quite technical, all of the technology stuff, and we might even need a technical expert to give us a once over on the management report in response to the independent review. That is where we are with that, so we are nearing the next stage of completion but that may lead to other pieces of work. We had a finalised draft of the terms of reference for the regulatory review work. We have been considering who might be appropriate to do that review work and that has led us in that consideration to in a way divvy up some of the work. So we will be using - and Helen, maybe you can talk a bit more about that - some of the more mundane review work looking at the laws and policies and all of that we think can be done by a working party domestically because they are best placed to look at it. Some of the more strategic and jurisdictional comparison work we have 2 current ... which I cannot name now but we will name in due course, if they say yes. We have 2 individuals that we think can work together with great experience in this area. It will not be a vast expense and then they will help us deliver that other bit of the review. That is why it has not quite been published in the way that we initially envisaged when it was announced, but I would say before Christmas we will be in a position to be able to publish the terms of reference, unless Helen is going to tell me different.

**Director of Financial Services, Department for the Economy:**

So the reason they were not published at the time when the F.O.I. request came in is because they were going to be published in the ordinary course anyway, and the Minister had said that in the States Assembly so they will become public. The strategic review we split into 2 parts, as the Minister said. The first part I have tasked Jersey Finance with pulling together a working group across industry so we get a balanced view of the regulation. We know sometimes different sectors, different lawyers, do not even agree on the same question, so to really make sure that we have a fair and reasonable assessment of that legislation. So that is ongoing and Jersey Finance are pulling that together, and the second part is the strategic piece. I think I sent to you just earlier today some tracked changes so I hope we will be able to share those very soon.

**Deputy K.M. Wilson:**

Can you confirm whether it is your intention to still include the J.F.S.C. in the list of organisations that are subject to F.O.I. legislation?

**The Minister for External Relations:**

There are 2 things in your framing of the question which might have been reported in the paper were not quite what I said. What I said was that I have no objection to us considering the extension of F.O.I. to the J.F.S.C. What I am absolutely clear on is that quite a lot of data that the J.F.S.C. has got cannot be individual data but anonymised data, can be published and put into the public domain to help with transparency, whether that is number of applications that they have got, turnaround for applications, lots of basic data that would go a long way to helping deal with transparency. I also think that if, as I said, we can deal with the exemption that is currently a qualified or partial exemption for commercial information, if we can deal with that in the overarching law, then any residual objection would fall away to F.O.I. that I might have. We would have to think about the cost but I think if you are already putting anonymised data around performance into the public domain there is not that much else that F.O.I. would require because you would not have F.O.I. talking about individual enforcement cases because that would be in breach of data protection and you could not do that on an ongoing case. There are ways of dealing with it, which would mean that the burden for F.O.I. I think probably when it comes will be much less than might be initially envisaged at this point in time. You then asked about the committee. I think I answered a question to you, Chair, in the States where I said we are trying to look at different ways of dealing with the accountability issue, which all regulators have, not just the commission, so let us not just point the finger at them, all independent regulators have. I was open and I simply said that if you go to the U.S. they have committees that oversee these things. I think that you as a Scrutiny function, and this is not me passing the buck, but I think let us see how this briefing goes this afternoon, which I know is in private, but it does not seem unreasonable to me, and we discussed this yesterday with the commission, that the commissioner, D.G. (director general) and the chair does not appear before Scrutiny on either an annual or a 6-monthly basis. There are things like this that will enhance accountability and transparency, which could be quite easy to deliver.

**Deputy K.M. Wilson:**

Okay, so that fed into my next question around how you would manage some of the regulatory environment and I note what you have just said there. One of the things I wanted to do is ask you a question about the data breaches in particular which occurred earlier in the year. Are you able to provide us with an update of investigations into how the January breach now occurred?

**The Minister for External Relations:**

No, because that is the report that I have just referred to with the root cause analysis report which I am expecting, as I said, in my inbox. It might be physical, of course, being delivered to the office, during the course of this working day.

**Deputy K.M. Wilson:**

The other questions that I have about other breaches I expect will be incorporated into that report as well?

**The Minister for External Relations:**

They are all encompassed in that one piece of work as I understand it, yes.

**Deputy K.M. Wilson:**

Okay. Just very finally from me, can you explain your approach to managing a competitive financial services environment with the need for regulatory change? What improvements are you committed to making there? You have 2 minutes.

**The Minister for External Relations:**

I was just going to say that is a question, which is a very good question, which I cannot answer in 2 minutes. It is important that we have the base of a strong regulatory environment, that we have met the standards of MONEYVAL. That is the basis that we can operate from but it is equally just as important that we are thinking about how competitive we are in every area of financial services, so that is how quickly does the regulator say yes or no in its authorisation division, how quickly does an enforcement action take, how responsive is Revenue Jersey to questions from businesses about tax questions that it might have, and that is at the heart of what we are doing with the customer service element of the pillar 2 implementation. How dynamic are we in regard to tax matters, thinking about the global changes that are taking place? How quickly are we in government able to deliver on new products and changes to legislation and how can we consult in a more effective and timely way? Helen is already doing a lot of work in that arena.

[16:30]

Then, importantly, how do we co-ordinate across government from either a promotional aspect, so business to business, government to government in the same jurisdiction, or what we are finding on the government side more and more, industry can do lots of its work but lots of businesses, not to the same extent that industry does it, want to see government, want to see regulator and want to see industry all at the same time. So what people have when they come to Jersey, i.e. they can go up and down the Esplanade and across to Union Street, and see all of the decision-makers, they want that but almost in an export package so that we can go out and do what we have here but

present it to them in their home jurisdiction and in their home office. So it is a good question that we need to never stop answering.

**Deputy K.M. Wilson:**

Okay. We will come back to it again. Thank you.

**Deputy M. Tadier:**

Thank you, Minister. We have come to the end of the hearing. If it is okay, there are a couple of areas that we will follow up on in writing, so to do with MONEYVAL and intellectual property as well as the Financial Intelligence Unit.

**The Minister for External Relations:**

So my Assistant Minister responsible for intellectual property, I know that she will be quite happy to appear before you with a separate hearing if that is what you wish.

**Deputy M. Tadier:**

Yes. No, indeed. We have not missed that much considering, but we thank you for attending upon us today and wish you all the best for the work programme for the rest of the year and into next year.

**The Minister for External Relations:**

Thank you very much.

[16:31]