



Enhancing transparency of beneficial ownership information of foreign companies - response form

The discussion paper is available at: www.gov.uk/government/consultations/property-ownership-by-foreign-companies-improving-transparency

Submissions of evidence should be emailed to transparencyandtrust@bis.gsi.gov.uk clearly marked as a response to the 'Beneficial Ownership Transparency discussion paper'. Evidence will be reviewed thereafter. If further information or clarification is required, we will make contact as appropriate.

We are therefore inviting submissions and evidence by **Monday 4 April 2016** to inform our consideration of proposals to enhance.

When responding, please state whether you are responding as an individual or representing the views of an organisation. If you are responding on behalf of an organisation, where applicable, please make it clear who the organisation represents and how the views of members were assembled.

In exceptional circumstances we will accept submissions in hard copy. If you need to submit a hard copy, please provide two copies to the following address:

Transparency and Trust Team
Department for Business, Innovation and Skills
1 Victoria Street
London
SW1H 0ET

We regret that we are not able to receive faxed documents.

	Respondent type
<input checked="" type="checkbox"/>	Business representative organisation/trade body
<input type="checkbox"/>	Central government
<input type="checkbox"/>	Charity or social enterprise
<input type="checkbox"/>	Individual
<input type="checkbox"/>	Large business (over 250 staff)
<input type="checkbox"/>	Legal representative
<input type="checkbox"/>	Local government
<input type="checkbox"/>	Medium business (50 to 250 staff)
<input type="checkbox"/>	Micro business (up to 9 staff)
<input type="checkbox"/>	Small business (10 to 49 staff)
<input type="checkbox"/>	Trade union or staff association
<input type="checkbox"/>	Other (please describe)

Introduction and Summary

- 1 This response has been prepared by Jersey Finance Limited (JFL). JFL is a not-for-profit organisation, formed in 2001, to represent and promote Jersey as an international finance centre of excellence. We are funded by members of the local finance industry and through central funding by the States of Jersey Government. A full list of our members is available on our website¹. JFL maintains offices in Hong Kong, Dubai and representation in London, Shanghai, Mumbai and Delhi.
- 2 Through its various functions, JFL maintains a high-level of involvement and engagement with its members. This is achieved through regular meetings and events, attendance at trade association meetings and through its role as an intermediary for industry with both government and regulator e.g. on matters of policy, and the development of legislation and regulation.
- 3 This response has been prepared on the basis of discussions and views supplied by our membership. Prior to submission, we have made this response available to our membership for comment, amending as appropriate in line with the comments received. Whilst JFL does not represent Jersey's finance industry in its entirety, and whilst we cannot guarantee that the views of individual members are not at variance with the views expressed, we are as confident as we can be that this response is broadly representative of an industry view. Whilst JFL is part-funded by Jersey's Government, the Government has not contributed to this response.
- 4 In summary, JFL's views are as follows:
 - 4.1 Jersey is the foreign jurisdiction most likely to be impacted by the changes being proposed;
 - 4.2 The extent to which corrupt funds are actually being used to purchase UK property has yet to be properly ascertained and, as such, it is impossible to assess whether the proposed response is proportionate;
 - 4.3 The figures outlined in the Discussion Paper appear to be premised on conjecture, personal opinion and data which has yet to be released into the public domain or subjected to objective scrutiny;
 - 4.4 Invoking a major policy change on the basis of such evidence is questionable, particularly where the policy outcome could prompt a major re-assignment of capital investment away from the UK;
 - 4.5 If, upon further rigorous assessment of the evidence, it was demonstrated that UK property was being extensively used to facilitate corruption, and if registration of foreign corporate beneficial ownership was deemed to be the only feasible solution (rather than, for example, requiring any foreign purchaser to use a

¹ <https://www.jerseyfinance.je/member-directory/a-z>

licensed or regulated entity when purchasing UK property), then such information should not be made publicly available;

- 4.6 In any event, in order to maintain current levels of foreign capital investment, jurisdictions (such as Jersey) that operate systems which collect and collate adequate, accurate and timely corporate beneficial ownership data in accordance with international standards should be exempted from any additional UK requirement.

The rationale for responding

- 5 The Discussion Paper considers ways 'to improve transparency in ownership and control of foreign companies that are active in certain ways in the UK'. It 'outlines a range of proposals to enhance the transparency of beneficial ownership for foreign companies that purchase land or property in England and Wales or participate in public contracting in England'.
- 6 This response does not seek to address the issues surrounding public contract participation. However, a notable proportion of Jersey companies are active in the UK property market and it is in this arena that JFL is keen to participate in the discussion.
- 7 Interest in this issue is not just limited to the Jersey companies themselves but has far-reaching implications for a wide range of Jersey financial services businesses throughout the trust, fund and banking sectors, as well as for 'support functionaries' such as accountants, company administrators and those providing investment management services. Crucially, many of these Jersey financial services businesses work in close cooperation with UK counterparts. The impact in Jersey of any UK legislative or regulatory change in this area will likely be mirrored back into the UK.
- 8 As at December 2015, the Jersey Companies Register comprised just over 33,000 companies. Whilst there is a healthy 'turnover' every year – the incorporation and dissolution rate equivalent to around 10% of the total - the overall number of companies on the Register has changed very little in the past decade. Company Registry statistics are publicly available².
- 9 Jersey is a 'substance' jurisdiction. It is not possible for an individual to hold more than six directorships without submitting to registration under the Financial Services (Jersey) Law and concomitant scrutiny by the regulator, the Jersey Financial Services Commission (JFSC).
- 10 In Jersey, it is not possible to buy a 'shelf' company. Nor is it possible to incorporate a 'shell company'.

² <https://www.jerseyfinance.je/quarterly-reports--and-statistics>

- 11 All company incorporations (save for those formed by local residents) require the services of a professional, regulated 'trust and company service provider' (TCSP). A list of regulated TCSPs is available from the JFSC³.
- 12 The company incorporation form, known locally as a 'C2A' form⁴, requires the TCSP to provide very detailed information about the proposed company and its beneficial owners. The process further requires the TCSP to consider whether the proposed business of the company falls within the Registry's 'Sound Business Practice Policy' and mandates consideration of 'high risk' factors such as AML and sanctions. Every completed C2A form is examined and scrutinised by Registry officials before a new company is formed.
- 13 It is through this rigorous and restricted process that Jersey has attained its status as one of the very few jurisdictions in the world to collect and retain corporate beneficial ownership information.
- 14 Jersey does not monitor the precise number of Jersey companies that hold legal title to UK property. (JFL understands that the UK Land Registry has only collected details of the 'jurisdiction' of foreign corporate owners since 1999.) Additionally, depending upon *when* the UK property was purchased, it is possible that some Jersey companies own unregistered UK property, currently estimated at *circa* 20% (by area) of the UK.
- 15 JFL have located a dataset of foreign corporate-owned UK property, released through a Freedom of Information Act request and subsequently made available online⁵. This dataset, which contains details of around 100,000 property titles owned by 'foreign corporations', must necessarily be considered alongside all the accompanying caveats issued by the Land Registry at the time (and made available on the same website).
- 16 On the basis of preliminary analysis, JFL have concluded that the (approximately) 17,800 property titles, shown on this dataset as registered to Jersey companies, are held by approximately 5,300 companies. Around 400 of these 5,300 companies function merely as second or joint registered owners of the same property titles.
- 17 Moreover, a large proportion of these 5,300 Jersey companies are long-established, registered professional trustee companies. In addition to the requirements outlined above, such companies are all subject to additional regulation and supervision by the JFSC, pursuant to the Financial Services (Jersey) Law 1998.
- 18 Analysis carried out by others, evidently using different datasets, appears to have yielded slightly 'higher' results. By way of example, on or around 22 October 2015, *Property Week* published an article⁶ in which the writers and researchers reported on

³ http://www.jerseyfsc.org/trust_company_business/regulated_entities/regulated_entities.asp

⁴ <http://www.jerseyfsc.org/pdf/Form-C2A-24-July.pdf>

⁵ https://www.whatdotheyknow.com/request/overseas_company_properties_titl

⁶ <http://www.propertyweek.com/5077252.article>

their own Land Registry analysis using an expanded dataset covering the period 2000 – 2014.

- 19 As well as referencing the number of companies and Land Registry title numbers, the *Property Week* analysis also considered the aggregate purchase value of the UK property concerned, concluding that around a third of the total purchase value of all UK property held by foreign corporates was attributable to Jersey companies (£85 billion out of a total of £263 billion).
- 20 On the basis of both analyses, it would probably not be unreasonable to assume that the proposals in this Discussion Paper could impact between 5,000 – 6,000 Jersey companies as the legal owners of around 18,000 registered UK property titles (leasehold or freehold). Together with Jersey's standing as the predominant foreign jurisdiction in terms of aggregate purchase value, there is felt to be sufficient and justifiable rationale for jurisdictional comment regarding the proposals presented in the Discussion Paper.

The need for a responsible and proportionate response

- 21 Before responding on the specific questions outlined in the Discussion Paper, JFL would like to expand upon a couple of points raised in the body of the Discussion Paper.

As with UK companies, the overwhelming majority of foreign companies contribute productively to the UK economy, abide by the law and make a contribution to society. The popularity of the UK for overseas investment is a reflection of our economic security and stability. But there are a small number of exceptions and the Government wishes to address that. (para 10) ...

... Between 2004-2014, over £180m worth of property in the UK has been investigated by UK law enforcement as suspected proceeds of corruption. Moreover 75% of these properties use offshore corporate ownership. This is believed to be the tip of the iceberg in terms of the scale of the proceeds of corruption invested in UK property through offshore companies. (para 15)

- 22 JFL would agree that UK property does present an effective and popular investment proposal for foreign capital. However, JFL is equally keen to ensure that both the scale and risk of corruption associated with such investment is both properly established and, once established, viewed in proper proportion.
- 23 By way of setting general context, JFL note that there are over 24 million registered property titles in the UK covering 85% of the land area of the UK⁷. On this basis, the 100,000 or so UK titles held by foreign corporates represent around 0.4% of the total (by number). Taking London separately, that small percentage triples but still

⁷ <https://www.gov.uk/government/publications/land-registry-annual-report-and-accounts-2014-to-2015>
(at p.7 & 11)

represents only around 1.3% of titles (on the basis of ~4.5 million properties with ~41,000 behind held by foreign corporates).

- 24 At paragraph 15 of the Discussion Paper, BIS have chosen to quote data proposed in a Report by Transparency International entitled, [Corruption on your Doorstep: How corrupt capital is used to buy property in the UK](#)⁸ (the “TI Report”) published in February 2015.
- 25 JFL considered the TI Report when it was first published and, disappointed by the inaccuracies of the content, took the unusual step of writing to Transparency International outlining its concerns.
- 26 JFL’s letter, dated 16 March 2015, is appended in full at the end of these introductory comments. Given the apparent reliance placed upon the TI Report in the drafting of the Discussion Paper, JFL would respectfully request, by way of ensuring proper balance in the debate, that its letter to Transparency International be considered in full and treated as an integral part of this submission.
- 27 Although the ‘£180 million’ figure referenced in the Discussion Paper is attributed to the TI Report (by way of footnote), it is reproduced in such a way as might possibly imply its acceptance by BIS as a matter of fact and record.
- 28 In searching for the provenance of this figure, the TI Report itself merely cites, ‘data released by the Metropolitan Police’s Proceeds of Corruption Unit’.

‘For the first time, this research paper can put data to the scale of property that is, or has been, involved in suspected grand corruption investigations in the UK through access to the Metropolitan Police’s own records.’ (p.12)
- 29 Transparency International have not, as far as JFL is aware, released the data obtained from the Metropolitan Police nor made explicit the terms under which it was either requested or supplied; nor do they reference it as being available anywhere in the public domain.
- 30 This (presumably deliberate) decision not to open the dataset to public scrutiny should, in JFL’s view, promote cautious circumspection whenever the reported outcomes are repeated. It is of concern that such statistics appear to be gathering acceptance as unimpeachable fact.
- 31 A full consideration of the TI Report reveals that the ‘£180 million’ headline figure related to just 144 properties over the span of a decade that ‘were or had been under criminal investigation as the *suspected* proceeds of corruption’ [our emphasis].
- 32 The TI Report chooses not to disclose the number of properties for which evidence of corruption was finally obtained to the criminal standard of proof. Perhaps this

⁸ <http://www.transparency.org.uk/publications/corruption-on-your-doorstep/>

(arguably much more revealing) figure was present in the dataset but did not make its way into the TI Report. It is, of course, impossible to know one way or the other.

- 33 After quoting (and referencing) the figures taken from the TI Report, the BIS Discussion Paper goes on to say,

'This is believed to be the tip of the iceberg in terms of the scale of the proceeds of corruption invested in UK property through offshore companies.'

- 34 Again, it is unclear to JFL whether this is a belief held by BIS or whether BIS are merely referencing a belief held by Transparency International. The BIS wording certainly resembles that in a 'bullet point' on the Transparency International webpage for the TI Report

*'£180m+ worth of property in UK have been brought under criminal investigation as the suspected proceeds of corruption since 2004. This is believed to be only the tip of the iceberg of the scale of proceeds of corruption invested in UK property.'*⁹

- 35 Looking past the bullet points to the TI Report itself, it appears that this belief is not necessarily even held by Transparency International, but originates in a solitary and decontextualized quote from an interview with DCI Benton conducted on 6 January 2015. No further information is provided as to the circumstances surrounding that interview, nor have Transparency International made a transcript available. Without in any way seeking to impugn the views of DCI Benton (with whom Jersey's Financial Crime Unit maintains a very constructive relationship), it is concerning that (reported) conjecture on the part of a single police officer appears possibly to have morphed into a definitive belief on the part of the UK Government.
- 36 In making these observations, it is important to emphasise that JFL is not seeking to deny that UK property is sometimes used by those engaged in fraud and corruption. JFL are merely seeking to encourage full and objective scrutiny of the available evidence before a policy decision is taken which will likely result in a material and substantial reduction in foreign capital investment into the UK. It is incumbent upon BIS to proceed on a policy basis which is both grounded in established fact and dictated by the true realities of the risks involved.
- 37 As currently presented, JFL do not feel that the figures and suspicions set out in the TI Report are sufficiently evidenced to justify the weight apparently placed upon them. Put another way, 144 properties *may* be the tip of the iceberg as DCI Benton believes; equally they may represent the iceberg in its entirety; it is even possible that the actual iceberg is smaller still.
- 38 Such considerations feed directly into the question of proportionality. Until such time as the extent of the issue is properly circumscribed, the proportionality of the proposed response is difficult to gauge.

⁹ <http://www.transparency.org.uk/publications/corruption-on-your-doorstep/>

- 39 Even if the figures in the TI Report were confirmed or accepted, JFL would question whether a register of foreign corporate beneficial ownership does represent a proportionate response.
- 40 Only three quarters of the 144 properties ‘under investigation’ reportedly used ‘offshore corporate ownership’; approximately 100 properties over the span of a decade. Annually, this approximates to around 10 properties or around 0.00004% of the total 24 million registered UK titles; somewhere around 1 property in every 2.4 million.
- 41 On 9 March 2015, in the House of Lords (Third Reading), the TI Report was cited *verbatim* by the Labour Lord Mendelsohn in the context of a proposed amendment to the Small Business Bill which would have seen a parallel Persons of Significant Control (PSC) register implemented for UK property (see [Hansard](#) at columns 495 ff¹⁰).
- 42 JFL were encouraged to see Lord Mendelsohn’s proposed amendment rejected by the Government Minister, Baroness Neville-Rolfe, on the very same grounds of proportionality set out above, that is to say, by reference to the tiny percentages involved:
- “If we consider the problem of companies—particularly overseas companies—being used to obscure the identity of the true owners of high-value properties, the scale of the problem is comparatively small. Approximately 0.4% of all titles in England and Wales are registered to overseas companies.”*
- 43 The Minister could have gone on to say that, on average, only 1 property in 10,000 within that (already tiny) 0.4% band was implicated in grand corruption in any one year.
- 44 Unfortunately, since the TI Report was published, other NGOs and media titles have embraced the subject matter, producing (for example) online interactive maps of the UK showing ‘foreign ownership’. This, in turn, has prompted numerous articles in regional media and elsewhere, less able to resist a more emotive, inflammatory and, in some cases, xenophobic treatment of the subject matter. Unsurprisingly, perhaps, these articles rarely presented the benefits associated with foreign property ownership and the accompanying inflows of international capital and investment (to which see the JFL March 2015 letter).
- 45 Again, to be absolutely clear, JFL are not suggesting that ‘grand corruption’ is somehow acceptable – not even at the minute levels purportedly evidenced. Jersey is at the forefront of international efforts to eliminate corruption and money laundering.

¹⁰ <http://www.publications.parliament.uk/pa/ld201415/ldhansrd/lhan114.pdf>

- 46 JFL would, however, urge BIS to work towards an approach in which the actual risks are properly and independently identified and verified and a solution developed which is proportionate to those risks.
- 47 The obvious risk in providing a disproportionate response is that '*the overwhelming majority of foreign companies*' who '*contribute productively to the UK economy, abide by the law and make a contribution to society*', are motivated instead to withdraw their investment from the UK.
- 48 JFL are firmly of the view that there will be a potentially significant group of legitimate worldwide investors who, for reasons of culture, privacy and their own personal security, will wish to exit the UK property market if their beneficial interest in the corporate property owner was laid bare on a public register.
- 49 The £263 billion of foreign investment referenced above will diminish, along with all the services and jobs which it supports both in Jersey and in the UK.



JERSEY FINANCE

VOICE OF THE INTERNATIONAL FINANCE CENTRE

Nick Maxwell
Head of Research
Transparency International UK
32 - 36 Loman Street
London
SE1 0EH

16 March 2015

Dear Nick,

I am writing in response to the recently published report by Transparency International UK (TI-UK) 'Corruption on your doorstep - How corrupt capital is used to buy property in the UK' (referred to below as 'the Report').

About Jersey Finance

Jersey Finance, which is run as a not-for-profit making organisation, was formed in 2001 to represent and promote Jersey as an international financial centre of excellence. We are funded by members of the local finance industry and the States of Jersey government, and also have offices in Hong Kong and Dubai and representation in London, Shanghai, Mumbai and Delhi.

We are a central contact for journalists and anyone connected with the finance industry, both locally and internationally, as a source of comment, industry news and information. We provide tools and resources that create opportunities for our finance industry professionals successfully to promote their individual organisations, products and services and we actively represent the finance industry's needs and concerns with regards to legislation, regulation and other key areas of innovation that can enhance our jurisdictional product offering.

Introduction

The principle message of the Report appears to be the claim that 'there is growing evidence that [the UK] has become a safe haven for corrupt capital, stolen from around the world, facilitated by the law which allows UK property to be owned by secret offshore companies'¹.

Within your analysis, I was disappointed to see that the Report included Jersey within its definition of a 'secrecy jurisdiction'. This, together with a number of factual inaccuracies in relation to Jersey, worked (in my view) to undermine both the veracity and credibility of the Report.

As I will seek to set out below, Jersey is fully committed to compliance with international standards of financial regulation, anti-money laundering, transparency and information exchange. Whilst Jersey is largely autonomous from the United Kingdom, the Island has enjoyed a close and mutually beneficial relationship with successive UK Governments for many years, working collaboratively to fight financial crime and raise international standards.

¹ http://issuu.com/transparenciuk/docs/ti-uk_corruption_on_your_doorstep/1?e=10896477/11687028



I understand that you are planning to undertake further research in this area, as well as preparing a wider report on the Crown Dependencies and Overseas Territories. This letter therefore seeks to alert you to certain errors contained in the Report, and provide you with a more accurate, future point of reference with regard to Jersey's position, particularly on matters of beneficial ownership and anti-money laundering (AML).

I would also like to take this opportunity to extend an invitation to you to engage with us as you develop your future research pieces.

Jersey – a secrecy jurisdiction?

The Report describes Jersey as being a 'secrecy jurisdiction', defined within the Report as jurisdictions,

'where the legal system creates a deliberate veil of secrecy that obscure the identity of those arranging corporate structures and establishing companies ... The use of these secret and anonymous companies disguises the identity and source of funds of the owners of those companies, and constitutes a serious obstacle to investigating money laundering.' (p.5)

We do not consider that Jersey falls in any way within this definition.

As you acknowledge (at page 18 and elsewhere in your Report), Jersey is one of only a few jurisdictions with an effective, fit-for-purpose, central register of beneficial ownership already in place.

More to the point, the information contained within the register is (unlike the proposed UK UBO register) subject to strict and robust validation by regulated professionals. This enables Jersey to provide law enforcement and tax authorities with 'adequate, accurate and timely' data – the specific requirement of Recommendation 24 of the FATF Recommendations.

The register works to provide crucial information to authorities, ensuring they have all the material they need to fight tax evasion and other criminal activity, whilst also protecting the personal financial information of individuals and businesses. In a situation where the register provides insufficient information for the purpose of law enforcement, the necessary further information can, upon request, be obtained from the regulated professional involved.

Jersey's companies regime is, in comparison with many other jurisdictions (including the UK) fairly strict. It is not possible, for example, to issue bearer shares; nor is it possible to form 'shelf companies' i.e. companies which are ready-incorporated and available for purchase. Instead, each company is formed as and when required.

Jersey companies are only able to be incorporated either by Jersey resident individuals or by a licensed Trust and Company Service Provider (TCSP). In Jersey, unlike in the UK, all TCSPs are regulated, in our case by the Jersey Financial Services Commission (JFSC).

The 'C2A form' used to incorporate a Jersey company requires the TCSP not only to provide full details of all beneficial owners (including date of birth, principal residential address and occupation) but also to verify this information in line with the FATF requirements. It further requires confirmation and consideration of AML matters (such as PEP status), international sanctions compliance and of whether the activity of the company might be classed as 'sensitive' (pursuant to the Island's 'Sound Business Practice Policy').



The expert role of TCSPs in the company incorporation process enables any complex or problematic detail (including detail surrounding beneficial owners) to be resolved by regulated, experienced professionals. As well as being regulated, TCSPs are regularly supervised by the JFSC with errors or deliberate misstatements leading to a variety of sanctions, including fines and licence termination. A list of all the licensed TCSPs is freely available and open to public inspection on the JFSC website.

Jersey companies are neither secret nor anonymous. The creation of a company involves the collection of a large amount of verified information, all of which is retained in a central register. Nor do Jersey companies pose any obstacle in the investigation of money laundering; indeed, arguably, the central beneficial ownership register combined with the regulatory requirements provides, almost uniquely, one of the most complete resources for corporate information available anywhere.

For ease, I have summarised this material on Jersey company incorporations at Appendix One.

Global Shell Games

Your report makes several references to ‘anonymously-owned shell companies’ and the drive by the G20 to challenge their use in cross-border corruption.

You will no doubt be aware of a major academic study entitled ‘Global Shell Games’, published in October 2012 and authored by Michael Findley, Daniel Nelson and Jason Sharman under the auspices of the Centre for Governance and Public Policy at Griffith University Australia².

This study charts the results of the most comprehensive and rigorous testing of anti-money laundering and fighting financial crime defences ever attempted. It involved researchers posing as fictitious consultants representing various risk profiles who, via email, made over 7,400 solicitations to set up shell companies. These requests were sent to in excess of 3,700 corporate services providers across 182 countries.

The research was designed to test the effectiveness of Know-Your-Client (KYC) rules internationally by analysing both whether a shell company was offered and which identification documents, if any, were requested by respondents. The authors of the report concluded,

‘Against the conventional policy wisdom, those selling shell companies from tax havens were significantly more likely to comply with the rules than providers in OECD countries like the United States and Britain.’

Their research also demonstrated that, within the context of the study, Jersey’s application of AML laws and beneficial ownership requirements was 100% effective. Jersey was ranked 1st in compliance terms (with the UK ranked 43rd) out of 55 countries (noting that only those countries with a sufficient response rate were ranked).

The Global Shell Games report also touched on the authors’ view of the most appropriate way to establish the beneficial owner of shell companies. Ruling out using strict law enforcement powers and company registries, they conclude that requiring corporate service providers to collect and hold identity documentation on customers forming shell companies according to the ‘Know Your Customer’ principle is the only reliable way to establish the real owner of shell companies.

² <http://www.griffith.edu.au/business-government/centre-governance-public-policy/research-publications/?a=454625>



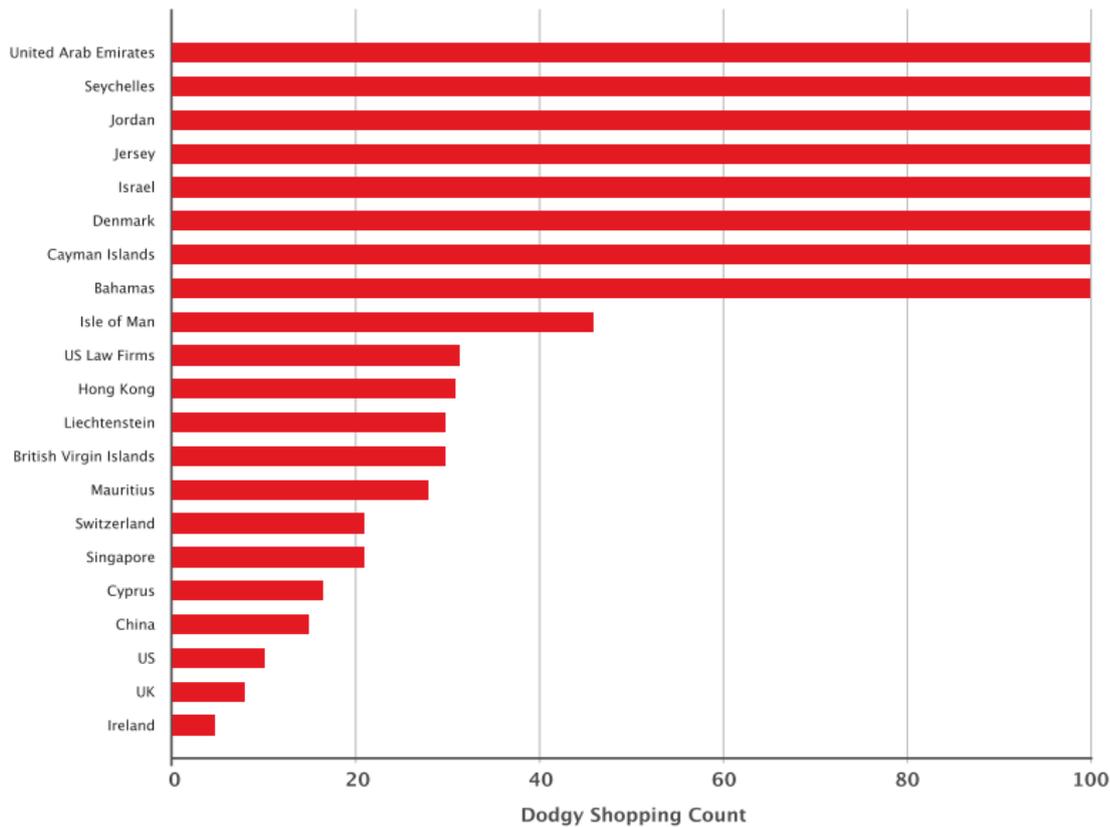
'This solution depends on licensing and regulating providers (something which many countries, including the US, do not do) imposing a legal duty on them to collect proof of identification from customers, and auditing providers to make sure they do in fact collect this information, with penalties for non-compliance'.

This major study is a clear endorsement of the effectiveness of the Jersey model.

The report also shows that Jersey has the only registry (within the parameters of the research carried out) that holds information on beneficial owners.

'Though some registries hold more information on companies than others, currently to our knowledge only one, that in Jersey, holds the information on the beneficial owner'.

Rate of compliance in refusing to incorporate shell companies and maintaining effective KYC procedures



The point in drawing attention to this Report is not ostensibly to criticise the UK who, as noted elsewhere, are at least seeking to address the issue of beneficial ownership. Instead, it is to highlight the fact that an individual with criminal intent, looking to hide his identity and launder criminal proceeds through a shell company, would stand a vastly increased prospect of succeeding by, for example, forming a UK company rather than through attempting to form a Jersey company.

Such evidence, it would seem, entirely rebuts the suggestion in your Report that criminals would reach first to use Jersey companies as corporate vehicle of choice through which to channel the proceeds of their crime and corruption.



The huge number of UK properties held by UK companies, combined with the results of this comprehensive and independent research, could, and perhaps should, have drawn the focus of your Report to be more weighted towards those jurisdictions (including the UK) which have been demonstrated to present real risks in this area.

Circumvention of anti-money laundering checks

The Report states that,

'property in the UK can be acquired anonymously through companies registered in secrecy jurisdictions and anti-money laundering checks can be by-passed with relative ease ... money laundering due diligence typically stops when it reaches an offshore corporate entity: a problem of 'can't look and don't find'.

As set out above Jersey companies have to be formed by TCSPs who are subject to the full rigour of AML legislation that meets international standards. It is simply not true to say that where a Jersey company is used to hold UK property AML checks can somehow be 'bypassed', let alone 'bypassed with relative ease'.

There are, as the Report briefly notes, many reasons why UK property might legitimately be owned through the mechanism of a foreign corporation. These reasons might include where a buyer does not wish to be identified to the seller or as the legal owner on the Land Registry title. However, because Jersey has a register of beneficial ownership information, full information on both the legal and the ultimate beneficial owner of the purchasing company can, if requested, be obtained and provided to law enforcement authorities.

Jersey has been cited by the World Bank in the StAR project report 'The Puppet Masters'³ as an exemplar of good practice in capturing, at company registry level, the details of beneficial ownership of companies with this information being available to be shared with law enforcement agencies.

The same StAR report noted that 12 Jersey incorporated vehicles had been involved in grand corruption cases, but this figure is small in comparison to the circa 32,000 companies that are on the Jersey company registry at any one time. It is further noted that the 'Grand Corruption Database Project' used a wide time horizon, going back 30 years to 1980, since which time Jersey's AML and regulatory laws (as with every other jurisdiction) have been extensively modernised.

Impediment to the investigation of grand corruption

The Report claims that,

'The prevalence of UK property holdings by companies incorporated in secrecy jurisdictions is a major barrier to law enforcement investigations of grand corruption and effectively prevents estate agents due diligence checks for money laundering and their compliance with international standards.'

I cannot comment on the diligence with which UK estate agents adhere to their AML responsibilities save, perhaps, to agree with that part of Peter Bolton King's quote in the Financial Times which you chose not to quote, in which he confirms that it ultimately comes down to a professional judgment by the estate agent as to whether they are satisfied with the information provided.

³ <http://star.worldbank.org/star/sites/star/files/puppetmastersv1.pdf>



What I can state with confidence, however, is that, over the years, the Jersey Government together with the JFSC has worked to implement and ensure compliance with all the international standards on AML.

Financial regulation has been at the forefront of efforts to improve tax transparency and information exchange, and Jersey has been recognised internationally for its achievements in this respect.

As set out above, money laundering due diligence requirements are in place for Jersey companies and, in the normal course of a transaction, I am not aware of any systemic issues surrounding the provision by Jersey of the necessary information to 'obliged entities' (e.g. estate agents in the context of property transactions).

Collaboration with law enforcement

One key aspect of the international initiatives in which Jersey is an active participant has been assisting law enforcement and tax authorities in the fight against tax evasion which, following the UK's lead, was criminalised in Jersey with the introduction of the Proceeds of Crime (Jersey) Law 1999.

Jersey's Joint Financial Crimes Unit (JFCU) participates internationally, principally as a member of the Egmont Group of Financial Intelligence Units (FIU) and the Camden Asset Recovery Inter-Agency Network. The Egmont Group is an international network of 139 FIUs, supported by international organisations such as FATF and the World Bank.

Where a Suspicious Activity Report (SAR) received by the JFCU identifies property as part of the structure of any asset portfolio, and that the property or other asset might represent the proceeds of crime, intelligence is spontaneously disseminated to the respective law enforcement agency in accordance with recognised international protocols.

All intelligence disseminated seeks to identify if the jurisdiction has a criminal interest in the person or company subject of the SAR. Where such a criminal interest exists, further liaison and cooperation takes place between the JFCU and foreign counterpart with a view that any subsequent Mutual Legal Assistance request to Jersey may be fully informed.

In addition to SARs, the JFCU receives Requests for Assistance. Requests received from overseas jurisdictions are recorded and actioned as a priority. Beneficial ownership details are provided upon request to jurisdictions scoping or conducting criminal investigations.

Over the past five years 394 intelligence reports have been shared with the Metropolitan Police by the JFCU and 53 requests for assistance from the Metropolitan Police have been received over the same period. Out of 14 requests received in 2014 and 2015 to-date, only 2 involved Jersey registered companies.

DCI Benton, Head of the International Proceeds of Corruption Unit (POCU) for the Metropolitan Police, has told the JFCU that the Metropolitan Police have no issues in their interactions with Jersey. The inclusion of Jersey in your definition of offshore secrecy jurisdictions puts such confirmation immediately at odds with your Report which quotes DCI Benton as saying that, 'The lack of access to beneficial ownership information about offshore companies that hold property in the UK is a major barrier to our investigations.'

Whilst I do not doubt that the lack of beneficial ownership information available to the POCU in respect of companies from certain overseas jurisdictions might prove to be a barrier, we are reassured by DCI Benton himself that this is not the case in respect of Jersey.



This example also highlights an example of, what I consider, unfair misleading emphasis at various points throughout the Report. Whilst acknowledging in the text of the Report (at p.18) that Jersey's prominence in the grand corruption cases 'may be attributable to closer cooperation between Jersey and the Metropolitan Police', the prominent 'pull quote' deliberately overrides any such nuance, broadly proclaiming that, 'The role of Jersey and the Isle of Man incorporated companies is disproportionately large in criminal cases of grand corruption'.

I believe that the Report missed an opportunity for a more contemporary and sophisticated analysis in which one element of success in identifying and resolving grand corruption cases, as evidenced in the Metropolitan police statistics, might be the robust nature of Jersey's corporate regime, its collection of beneficial ownership register and its commitment to international cooperation. In short, an example of the system working.

Global Standards

The G8 acknowledges that the existing FATF Recommendations are the appropriate global benchmark for the verification of client identity. Reference is frequently made to compliance with FATF Recommendations when evaluating the transparency of a jurisdiction and the FATF Recommendations have influenced EU Money Laundering Directives.

'The FATF Recommendations provide measures that address the transparency and beneficial ownership of legal persons (Recommendation 24) and legal arrangements (Recommendations 25). Countries should take measures to prevent the misuse of legal persons and arrangements from being misused for criminal purposes, including by:

- *Assessing the risks associated with legal persons and legal arrangements*
- *Making legal persons and legal arrangements sufficiently transparent, and*
- *Ensuring that accurate and up-to-date basic and beneficial ownership information is available to competent authorities in a timely fashion.*⁴

In respect of beneficial ownership the FATF calls for one or more mechanisms to ensure that it is available at a specified location in the country concerned, or can be otherwise determined in a timely manner by a competent authority. The FATF Recommendations are currently and (it is thought) will continue to be seen as the global standard. However, they do not go so far as to require public registers of beneficial ownership.

Jersey does not qualify for membership of FATF. However, Jersey is a member of MONEYVAL, a FATF-style regional body which has 33 member jurisdictions and which monitors and promotes the effective implementation of the FATF Recommendations.

The result of its recent MONEYVAL assessment is unlikely to be available until the end of the year, but the IMF in its previous 2009 assessment of Jersey's compliance with the (then) FATF Recommendations found that Jersey was fully compliant with Recommendation 33 (legal persons) and largely compliant with Recommendation 34 (legal arrangements).

The Global Forum on Transparency and Exchange of Information for Tax Purposes has recently rated Jersey as largely compliant overall, and Jersey was found to be fully compliant in meeting the standard for the availability of ownership information.

⁴ <http://www.fatf-gafi.org/topics/fatfrecommendations/documents/transparency-and-beneficial-ownership.html>



EU Fourth Money Laundering Directive

The Report states (at p. 18) that Jersey has agreed voluntarily to adopt the forthcoming Fourth EU Anti Money Laundering Directive. This is not correct, Jersey has made no such agreement.

The reference provided for this (erroneous) interpretation of Jersey's position is a webpage which was only made available by Jersey Finance through an email to its membership. I would be very grateful if you felt able to indicate how you came to be provided with this webpage reference, particularly given that the document to which it leads has been clearly misinterpreted.

As you will be aware, the Fourth EU Anti-Money Laundering Directive will be seeking to establish central (but not overtly public) registers of corporate beneficial ownership in EU Member States. As you will be equally aware, Jersey is not an EU Member State but, to the extent that we might in future seek equivalence or recognition, it is broadly considered that Jersey's regime is already compliant. Put another way, the EU has now resolved to emulate what is already in place in Jersey. This was, perhaps, that point which your Report was attempting to highlight.

Benefit of foreign investment

Your Report highlighted that Jersey is a provider of property structuring services into the UK for international investors. Other than a brief passing reference, however, it failed adequately to recognise and describe the many legitimate reasons for using a company through which to structure property investment. It was equally silent on the scale of the benefits to the UK of the foreign investment facilitated by such corporate structuring.

From Jersey's perspective, these benefits have been subjected to recent analysis in the independent Report 'Jersey's Value to Britain', authored by Capital Economics. This report concluded that that Jersey adds £9bn of value to the UK economy, supports 180,000 jobs and could generate as much as £2.3bn for the UK Exchequer⁵. The use of Jersey corporate vehicles to develop, redevelop, own and manage London real estate represents one of a number of positive mechanisms through which international capital is placed into the UK economy.

A report entitled 'The Prime Residential Market in Westminster'⁶, commissioned by Westminster council and published in February 2014, estimated that owners of 'trophy mansions' spend some £2.3 billion a year on improvements to their homes, in shops and restaurants and on employing staff. It further suggested that owners of homes worth more than £15 million spent an average of £4.5 million a year in London, while those in the £5 - £15 million bracket spent £2.75 million annually.

Between 2003 and 2012 there were 3,335 property sales valued at more than £2 million in Westminster - 8% of the total number of transactions, but accounting for more than 40% of the value. The evidence suggests that the great majority of this small proportion are either occupied by the owners or rented to London workers.

Responding to the report, Councillor Robert Davis, Deputy Leader of Westminster City Council and Cabinet Member for the Built Environment, said: "This independent report strongly counters the perception that overseas investors are buying high value properties in London as an investment and then leaving them empty".

⁵ <http://www.jerseyfinance.je/valuetobritain>

⁶ http://transact.westminster.gov.uk/docstores/publications_store/news/prime_residential_research_report_140722.pdf



Conclusion

Jersey is not a secrecy jurisdiction. The Report gives a cursory acknowledgement to Jersey's central register of beneficial ownership but then fails to discriminate between Jersey and other 'offshore centres'. There is an equal failure to highlight the standards demonstrated to be present in Jersey but absent elsewhere (including in the UK).

Jersey is currently ahead of other finance centres, ahead of the EU and ahead of the UK in the rigour of its KYC and on the availability and accessibility of accurate beneficial ownership data.

Jersey law enforcement authorities have an acknowledged co-operative and effective working relationship with their UK counterparts, and our present approach can and does provide law enforcement and tax authorities with adequate, accurate and current information on beneficial ownership.

Jersey complies with all relevant international standards on financial regulation, is fully aligned with the EU's 3rd Anti-Money Laundering Directive and, on beneficial ownership, already meets the standards proposed by the 4th Money Laundering Directive.

Jersey has led the way on tax transparency and information exchange, is committed as an 'early adopter' of the CRS and has publicly stated that it has no wish, or need, to engage with those who seek to involve the Island in aggressive tax planning schemes to avoid UK tax.

I hope that, in light of all the significant efforts that Jersey has gone to in achieving the above, you can appreciate both the frustration experienced when reading your Report and the desire to engage with you going forward, assisting where we can, to move the debate beyond what might be termed 'the hackneyed prejudices of the past'. Jersey's achievements and the solutions it has developed could, instead, be usefully highlighted by your organisation as best practice standards to achieve transparency and to drive down the opportunities for money laundering, tax evasion, corruption and financial crime.

I do wish to emphasise again our willingness to engage and share information with you going forward. I extend an invitation for you to visit Jersey, to enable you to experience first-hand the high standards to which Jersey as an international finance centre operates.

Kind regards,

A handwritten signature in blue ink, appearing to read 'Geoff Cook'.

Geoff Cook
Chief Executive

Cc TI Group Director, Advocacy and Research, Robin Hodess



Appendix 1 - Jersey company establishment

1. Jersey companies are only able to be incorporated either by Jersey resident individuals or a Trust and Company Service Provider (TCSP). All Jersey TCSPs are regulated by the JFSC.
2. On company incorporation Jersey's regulatory regime requires not only identification of beneficial owners but also verification of such identity in line with FATF requirements.
3. Experts (TCSPs) are required to be involved in the company incorporation process so that any difficult judgement calls (including on beneficial owners) are resolved by experienced professionals.
4. Errors or deliberate misstatements can lead to fines and termination of licences. Whilst data accuracy is not guaranteed, it is significantly enhanced and queries can be taken back to the TCSP involved who is subject to robust documentation retention policy requirements.
5. Costs of the verification process are also largely incurred by the private sector.
6. It is our view that, in order to ensure that the international requirement of adequate, accurate and timely information on beneficial ownership in accordance with FATF standards is met, the following framework is required;
 - An active company registry staffed by experts that not only calls for information on beneficial ownership on incorporation but also runs that information through independent checks and has the power to refuse incorporation when the activities/beneficial owners are considered particularly 'sensitive' (for example if they are deemed to pose a particular reputational risk to the Island).
 - The licensing and active supervision of TCSPs with requirements to ensure that information on the beneficial ownership of the companies they administer is adequate, accurate and current;
 - Strict limitations placed on who may apply to incorporate a company;
 - Legislation to ensure that, in accordance with the international obligations entered into, the information that is available can be readily provided to tax authorities and law enforcement authorities.
7. Jersey meets all of these requirements.
 - Jersey requires beneficial ownership to be disclosed to the JFSC at the time of incorporation of a company, with the JFSC holding this information in a central register.
 - The JFSC has a long-standing statutory duty to have regard to the need to protect the integrity of Jersey in commercial and financial matters before agreeing to a request to incorporate a company.
 - The JFSC actively supervises compliance by trust and company service providers with a requirement that they must collect and hold information on beneficial ownership for all legal persons and arrangements.
8. It is also worthy of mention that the requirements placed by Jersey on TCSPs apply equally to the companies they administer that have been incorporated elsewhere.



Principle

Question 1 (Page 10)

- 1. UK companies will have to provide beneficial ownership information under domestic legislation or declare that there are no people with significant control. Do you agree that foreign companies who want to buy land or property in England and Wales should be under a similar obligation?**

Yes No Not sure

Comments: [Click here to enter text.](#)

- 1.1 It is not clear from this question whether the 'similar obligation' involves the filing of beneficial information on a public register.
- 1.2 JFL's views on corporate beneficial ownership are aligned with those set out in Recommendation 24 of the Financial Action Task Force (FATF), the acknowledged international standard for tackling money-laundering and terrorist financing. That is to say, jurisdictions should have in place systems which allow competent authorities to be able to obtain, or have access in a timely fashion to, adequate, accurate and current information on the beneficial ownership and control of companies and other legal persons created in the country.
- 1.3 Recommendation 24 does not impose any particular mechanism of achieving this objective. The UK have chosen to institute a public register. As mentioned in JFL's introductory comments, Jersey has (for many years) operated an alternative approach where TCSPs are regulated and required to hold up-to-date beneficial ownership information and where, additionally, this information is collected and scrutinised as part of the incorporation process for every company.
- 1.4 To impose a requirement on foreign companies to provide beneficial ownership to a public UK register in order to purchase UK property goes far beyond the acknowledged international standard and imposes the UK's chosen standard on investors who are entirely free to place their investment elsewhere.
- 1.5 Unsurprisingly, investors remain increasingly sensitive to investment returns and, as a result, are increasingly discriminating of the jurisdictions - and the cities within those jurisdictions - in which they invest.
- 1.6 In a study recent commissioned by JFL from Capital Economics, and shortly to be released, London was found to rank in twentieth position for the period 2000-2014 when considered purely on the grounds of 'total return on property'. (The study goes on to demonstrate how London falls substantially further down the scale if the calculations of total return take Stamp Duty Land Tax into account.)
- 1.7 Given the evidence that other cities generate a greater return than London on property investment, there must be other factors which drive international appetite towards the London market and the UK property market more generally. Such factors will, of course, be nuanced and often unique to the investor. That said, JFL believe that a major factor in attracting international investment into UK property is the existence of established offshore routes to investment. The relatively small

number and high value of the UK properties held through foreign corporate ownership stands to evidence that belief.

- 1.8 The feedback from JFL's industry members is that the placing of beneficial ownership details on a public register will, without any shadow of a doubt, deter a great many non-institutional investors who will simply move away from the UK to other investment markets.
- 1.9 This is not, as certain NGOs might have us believe, because the investment funds are in some way tainted or constitute the proceeds of corruption. The mechanisms, procedures and publicly-stated policies that Jersey has in place seek to dissuade all those seeking to invest corrupt funds from using the Island. Instead, the disquiet of would-be investors is founded in legitimate concerns about loss of privacy and the impact this would have on the financial and personal security of the investors and their families.
- 1.10 JFL would not support a wholesale requirement for all foreign corporate investors to be placed under similar obligations as UK companies. Such obligations *may* be considered to be appropriate where the corporate's home jurisdiction does not collect, and supervise the maintenance of, beneficial ownership information and where the jurisdiction would not be willing or able to provide that information to the UK competent authorities in timely fashion. For jurisdictions like Jersey, who do collect the information and who are able and willing to provide it, there should be no further UK requirement.

Question 2 (Page 10)

2 Do you have any views on the options for holding information set out above? Comments: [Click here to enter text.](#)

- 2.1 JFL believes that thought could usefully be given (again) to the proportionality of the proposed solution. Given the intention to make the information-holding solution operate on a cost-recovery basis, it seems likely that establishing yet another separate register to hold the new beneficial ownership data for foreign companies could very well prove disproportionately costly (and, as a result, prove a further disincentive to foreign investment).
- 2.2 As set out in its introductory comments, JFL's analysis of an available dataset shows that the 20,000 or so UK property titles held through Jersey corporate structures are held by a mere 6,000 Jersey companies. Scaling this up, the UK could be looking at only 30,000 foreign companies.
- 2.3 Should the UK then choose to exempt companies from certain countries (such as Jersey, or EU Member States following implementation of the 4th Money Laundering Directive requirements) – as highlighted at paragraph 42 of the Discussion Paper - the number of companies required to be on the register is likely to be considerably smaller.
- 2.4 Finally, as a result of the registration requirement being introduced, JFL would anticipate a further, possibly dramatic, fall in foreign corporate investment; this would reduce the numbers still further.
- 2.5 In short, the planned register could well end up with just a few thousand entries.

- 2.6 One possible solution may be to utilise the existing Legal Entity Identifier (LEI) system which provides companies from any jurisdiction with the ability to obtain a unique and international 'legal entity identifier'. European agencies such as EIOPA and ESMA are increasingly seeking to utilise LEIs in matters of supervision.
- 2.7 A foreign corporate seeking to purchase UK property could be required to obtain an LEI which would be noted on the Land Registry Title. This would immediately enable any Land Registry enquirer to trace the company back to its home jurisdiction. Companies in jurisdictions which were not otherwise exempted (as above) might be able to use their LEI for listing on a segregated area of the planned PSC register for UK companies?
- 2.8 An approach along these lines would at least eliminate the costs of setting up a new register, provide some parity with UK corporate requirements and utilise (and support) an existing international initiative.

Question 3 (Page 10)

3 **Are there any additional considerations for where and how the information is stored that we should consider at this stage?**

Comments: [Click here to enter text.](#)

- 3.1 See comments above.

Question 4 (Page 10)

4 **What information about their beneficial ownership should foreign companies be asked to provide?**Comments: [Click here to enter text.](#)

- 4.1 Should the provision of beneficial ownership information be required (to which see above), it should be strictly in accordance with the FATF standards.
- 4.2 This will ensure the greatest degree of congruence between the information which a company may have to supply in its home jurisdiction and that which it may have to supply (subject to exemption) to the UK in order to purchase UK property.
- 4.3 To conceive a new or different standard will only further work to increase associated transaction costs and further reduce the attractiveness to foreign investment in the UK property market.
- 4.4 Over and above that, JFL are strongly in favour of the suggestion at paragraph 42 of the Discussion Paper; namely, to exempt 'foreign companies incorporated in jurisdictions which already have an accessible central register of beneficial ownership information (holding adequate, accurate and current information) from having to provide that information again to a UK register'. This is (naturally) on the basis that the standards currently operated in Jersey (as outlined above) would qualify the Island for exemption.
- 4.5 Through this exemption mechanism, the UK could ensure continued foreign investment into UK property by providing an option which does not mandate the public disclosure of beneficial ownership information. The UK could equally ensure that whenever the exemption option was utilised, the beneficial ownership

information will have been collected and be accessible to the UK competent authorities.

- 4.6 In essence, those investors who plan to use foreign corporate structures to invest in UK property, will be forced through the ‘filter’ of a compliant jurisdiction. Those who are currently using non-compliant jurisdictions will have a number of choices; migrate to a compliant jurisdiction, disclose their beneficial ownership on the public UK register or abandon their investment. This should work effectively to ‘flush out’ any parties using foreign corporate ownership to conceal fraud or utilise corrupt funds without driving away those engaged in legitimate foreign investment.
- 4.7 A possible side-effect of such an exemption policy may be to encourage the development of beneficial ownership infrastructure in those jurisdictions whose companies are currently utilised for UK property investment but which might presently be considered to fall below the international standard.
- 4.8 Even if exemption were introduced, the UK may still consider it useful or necessary to require a LEI from any foreign corporate investor, so as to enable its home jurisdiction to be easily established. By itself, JFL would not consider this minimal requirement to prove a bar to investment.

Extent

Question 5 (Page 10)

- 5 **Should the requirement to provide beneficial ownership information be applied to foreign companies that already own property or land in England and Wales?**
 Yes No Not sure

Comments: [Click here to enter text.](#)

- 5.1 As referenced above, privacy and confidentiality – and its impact on personal security – is a keystone for many private foreign investors into UK property.
- 5.2 To introduce a legal requirement which publicly discloses their involvement in an investment would likely constitute a breach of their legitimate expectation and carry important human rights considerations.
- 5.3 If the UK were to insist on going ahead, there should be a lengthy ‘grandfathering’ period allowing for those individuals and families so affected to divest themselves of their investments and to be free to do so at an appropriate stage of the market cycle rather than through a ‘fire sale’.

Question 6 (Page 10)

- 6 **Should the Government work with Devolved Administrations to ensure a single approach across the whole of the UK?** Yes No Not sure

Comments: [Click here to enter text.](#)

- 6.1 Should the UK choose to agree exempted jurisdictions (as suggested at paragraph 42 of the Discussion Paper), then it would seem to make sense for the sake of consistency to have such exemptions applied across the whole of the UK.

Costs and benefits

Question 7 (Page 10)

- 7 **What are the costs and benefits to business, the economy and society of transparency of the beneficial ownership of foreign companies that own land/property or wish to enter into the public contracts?**Comments: [Click here to enter text.](#)
- 7.1 This question is answered in JFL's introductory comments. However, to reprise and summarise (in respect of the property issue and not the public procurement issue):
- 7.2 **Business:** there would appear to be little benefit at all to business which is already facing what is commonly referred to as a tsunami of regulation and reporting in the wake of the global financial crisis and increased terrorist activity. For those businesses run by legitimate, wealthy foreign families or individuals, the prospect of a publicly available confirmation of their ownership and wealth will likely prove a major barrier to new or continuing investment in the UK.
- 7.3 **Economy:** As a result of the outcomes suggested above, if a public register is instituted, there is likely to be a negative effect on the UK economy, as foreign investment is withdrawn and new investment dissuaded.
- 7.4 **Society:** As per its opening comments, JFL would encourage the UK Government to consider carefully the proportionality of what is involved and whether even the suspected (though uncorroborated) levels of corrupt flows – let alone the empirical levels - justify the proposed solution and its likely impact on investment.

What enforcement mechanisms should be used? (Section 5)

Question 8 (Page 12)

- 8 **How should any new requirements to provide beneficial ownership information of foreign companies purchasing property in the UK be enforced?**Comments: [Click here to enter text.](#)
- 8.1 Given JFL's comments on the proposition generally under discussion, it is not felt appropriate to comment on the enforcement of criminal or civil charges. Such matters are strictly a matter for the UK authorities (save to say that ownership of a UK property would appear to present a number of existing methods to recover any penalties that may be imposed).

Question 9 (Page 12)

- 9 **What type of sanctions do you think would be proportionate, effective and dissuasive to ensure beneficial ownership information is obtained:in the case of new foreign companies acquiring land or property in England and Wales; and**
- b) in the case of existing foreign companies owning land or property in England and Wales (if the obligation to provide beneficial ownership information is extended to them)?**

Comments: [Click here to enter text.](#)

- 9.1 Given JFL's comments on the proposition generally under discussion, it is not felt appropriate to comment on the types and levels of sanction that might be imposed.

Public procurement (Section 7)

Questions 10 (Page 16)

10. Do you agree that knowing the beneficial ownership information of those companies participating in public contracting will help the contracting authorities operate a fair and straight forward approach towards the procurement?

Yes No Not sure

Comments: [Click here to enter text.](#)

Question 11 (Page 17)

11. Do you agree this £10million (procurement) threshold would be appropriate for the ideas set out below?

Yes No Not sure

Comments: [Click here to enter text.](#)

Question 12 (Page 19)

12. What are the potential benefits and burdens for contracting authorities and for bidders of this approach in option A (procurement)? Would it provide a proportionate way to deliver the proposal taking into account the 3-year exclusion that would apply for not providing a beneficial ownership unique identifier number?

Comments: [Click here to enter text.](#)

Question 13 (Page 19)

13. What are the potential benefits and burdens for contracting authorities and bidders of the approach in option B (procurement)? Would the 3 year exclusion period be proportionate?

Comments: [Click here to enter text.](#)

Questions 14 (Page 20)

14. What are the potential benefits and burdens for contracting authorities and bidders of the approach in option C (procurement)?

Comments: [Click here to enter text.](#)

Questions 15 (Page 20)

15. What are the potential benefits and burdens for contracting authorities and bidders of this variation of option C (procurement)?

Comments: [Click here to enter text.](#)

Questions 16 (Page 21)

16. How does the approach in option D compare with options A-C in practical terms? What are the potential benefits and burdens of option D for contracting authorities and bidders?

Comments: [Click here to enter text.](#)

Questions 17 (Page 21)

17. What other issues should be taken into account when considering the options outlined about procurement in the discussion paper?

Comments: [Click here to enter text.](#)

Questions 18 (Page 21)

18. Are there other options potentially available to Government regarding procurement, which would achieve the same aims overall, that have not been set out here? If so, what are the associated likely practical constraints and benefits?

Comments: [Click here to enter text.](#)

International benefits from the new approach (Section 8)

Questions 19 (Page 22)

19. Would the approach proposed in this paper help developing countries combat corruption in the manner described above?

Yes No Not sure

Comments: [Click here to enter text.](#)

Questions 20 (Page 22)

20. What would be required from foreign governments in terms of access to local company and personal records in order for the England and Wales register to operate in support of developing countries?

Comments: [Click here to enter text.](#)

Do you have any other comments that might aid the consultation process as a whole?

Please use this space for any general comments that you may have, comments on the layout of this consultation would also be welcomed.

[Click here to enter text.](#)

Thank you for your views on this discussion paper. Please be aware that we intend to publish the responses.

Information provided in response to this discussion paper, including personal information, may be subject to publication or release to other parties or to disclosure in accordance with the access to information regimes. Please see section 12 of the paper for further information.

If you want information, including personal data, that you provide to be treated in confidence, please explain to us what information you would like to be treated as confidential and why you regard the information as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the department.

I want my response to be treated as confidential

Comments: [Click here to enter text.](#)

Thank you for taking the time to let us have your views. We do not intend to acknowledge receipt of individual responses.

At BIS we carry out our research on many different topics and consultations. As your views are valuable to us, would it be okay if we were to contact you again from time to time either for research or to send through consultation documents?

Yes

No

BIS/16/161RF