

## EU Fourth Anti-Money Laundering Directive

The following statement, provided by the Chief Minister's Department in response to a request by Jersey Finance, summarises the Jersey Government's current understanding of the position reached in negotiations on the EU Fourth Money Laundering Directive.

*Political agreement was reached on the 4<sup>th</sup> EU Anti-Money Laundering (AML) Directive between the European Parliament, Presidency and Commission negotiators (the "Trilogue") on 16 December 2014. The compromise agreed at the Trilogue now has to be formally approved by the Council (Member States) and by the European Parliament. These formal procedures are expected to take a few weeks, so formal adoption of the Directive is expected in February. The final text will not be published in the Official Journal until it has been formally adopted by the Council though it has been [published on the Council web-site](#).*

### **Beneficial Ownership Information for Companies**

*Under the relationship the Island has with the EU there is no obligation on the Island to adopt the 4<sup>th</sup> AML Directive. However, should Jersey wish to follow the EU approach to safeguard market access what has been agreed does not include an obligation to have a public register of beneficial ownership of companies. There is a central register requirement which Jersey already meets. The Jersey central register includes information on the beneficial ownership at the time the company is incorporated and, for the majority of companies on the register, there will have been no change in ownership since incorporation. However, some changes in beneficial ownership will have occurred and to ensure the register is kept up-to-date it would be necessary to require TCSPs who administer companies to inform the Company Registry of any change in beneficial ownership.*

*Information on the central register currently can be accessed by law enforcement and tax authorities on request if that request is made in accordance with the provisions of the relevant statutes. There is nothing to suggest that the present arrangements for information to be obtained on request will be other than sufficient. Reference has been made to access by those who have a 'legitimate interest' in the information but it is understood that the decision on who is considered to have such an interest will be left to individual jurisdictions to decide. Access to information can be restricted to those who satisfy data protection rules which is likely to limit the number of jurisdictions from whom valid information requests can be received. Access can also be denied if it is thought that the beneficial owners will thereby be exposed to personal risk.*

*The EU proposals as agreed relate only to companies incorporated in a Member jurisdiction. If companies administered in a jurisdiction are incorporated in another jurisdiction that is not meeting the requirements of the Directive and is not obliged to do so (e.g. Delaware), the requirements of the Directive would not apply to those companies.*

### **Beneficial Ownership Information for Trusts**

*What has been agreed in respect of trusts is that Member States shall require that trustees of any express trust governed under their law obtain and hold adequate, accurate information on beneficial ownership regarding the trust. This information shall include the identity of the settlor, the trustee(s), the protector (if any), the beneficiaries or class of beneficiaries and any other natural person exercising effective control over the trust, such information to be accessed in a timely manner by competent authorities and FIUs alone. That is currently the Jersey position in that law enforcement and tax authorities can obtain from Jersey-based trustees information on the beneficial ownership of trusts if a request is made in accordance with the provisions of the relevant statutes.*

*There is no requirement for a central register except in respect of trusts governed by a jurisdiction's law that generate tax consequences and it is reasonable to assume that the latter is limited to tax consequences domestic to the jurisdiction.*