



# JERSEY FINANCE

VOICE OF THE INTERNATIONAL FINANCE CENTRE

## Guidance Notes – Abusive Tax Schemes

### 1. Foreword

- 1.1 Whilst Jersey Finance Limited ('JFL' or 'we') believe in tax competition, and view tax planning as an appropriate response to operating cross-border, we do not support the use of abusive tax schemes designed to frustrate the will of national parliaments.
- 1.2 On 31 July 2014, Jersey's Chief Minister, Senator Ian Gorst, issued a statement on abusive tax schemes reiterating that there is no wish or need to accommodate, or give encouragement, to those who seek to involve Jersey in such schemes.
- 1.3 We fully support the position advanced by the Government of Jersey and as the representative body for the finance industry on the Island encourage our membership to do the same. To assist our members in their ability to align with these principles, we have prepared supplementary guidance.
- 1.4 Whilst recognising that most members will already have internal policies on the topic JFL expects that, as part of the terms of each member's subscription to JFL, each member agrees to read and commit to comply with this guidance. These notes are effective immediately and are not retrospective.

### 2. Business relationships and practice

- 2.1 Members should act lawfully and with integrity, expecting the same from their own employees and clients, and other parties with whom they interact.



2.2 JFL expects that members should:

- Be fully compliant with legal and applicable regulatory requirements and, in their behaviour, comply with the professional and ethical standards set by their professional oversight / supervisory body if applicable.
- Not knowingly entertain arrangements that evade tax.
- Not knowingly engage in any business activity that reflects adversely on the good reputation of Jersey in the context of the Government of Jersey's statement.

### **3. Provision of tax advice**

3.1 Whilst recognising that there is limited tax advice given from this jurisdiction members that do provide tax advice should inform clients of the appropriate options available to them under the law. However there are certain types of abusive arrangements which are regarded as controversial and contrived. JFL consider members should not propose or advocate implementing such schemes nor recommend them to clients.

3.2 JFL expects that members providing tax advice should:

- Not advise clients to enter into transactions with the main purpose of securing a tax advantage clearly contrary to the intention of the respective jurisdiction's parliament in enacting the relevant legislation.
- Take into account prevailing public interest considerations and of any potential reputational risk to themselves, their clients and Jersey.
- Not exploit social policy legislation (for example, tax reliefs for charities).

### **4. Transparency and disclosure**

4.1 Members should support a relationship with tax authorities where all parties behave with mutual trust and respect, which will enable constructive dialogue and responsiveness by all parties.



4.2 As part of JFL’s international promotional activities, JFL seeks to demonstrate Jersey’s quality proposition as a jurisdiction of substance and transparency. Members acting on this guidance will underpin and support the Jersey quality message.

### **Supporting Notes**

#### 1. Definition of Abusive

Whilst we have not sought to define abusive within this guidance the UK definition is set out below and may serve as a useful point of reference.

Tax arrangements are “abusive” if they are arrangements the entering into or carrying out of which cannot reasonably be regarded as a reasonable course of action in relation to the relevant tax provisions, having regard to all the circumstances including—

- (a) whether the substantive results of the arrangements are consistent with any principles on which those provisions are based (whether express or implied) and the policy objectives of those provisions,
- (b) whether the means of achieving those results involves one or more contrived or abnormal steps, and
- (c) whether the arrangements are intended to exploit any shortcomings in those provisions.

#### 2. Scope

It is expected that members will apply these guidance notes to income tax, corporation tax, capital games tax and inheritance tax where applicable in the jurisdiction.