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## Jersey's agreement with the OECD in relation to its harmful tax practices initiative

On 27 February 2002 the States of Jersey announced that it had reached an agreement with the OECD with regard to the OECD's initiative on harmful tax practices.

# Briefing

Jersey has agreed to the principles of exchange of information and transparency both in a general political commitment and in tax information exchange agreements to be negotiated with individual jurisdictions.

The purpose of this briefing is to clarify the implications of this agreement in relation to Jersey's status as an international finance centre.

As a consequence of the agreement Jersey will not be included on any OECD list of "unco-operative tax havens" and will not be subject to any common framework of defensive measures by the OECD.

The agreement does not require Jersey to alter its tax status in any way, and the Island will remain free to provide financial services in a tax neutral environment for offshore business exactly as before.

The States of Jersey has adopted a positive approach by engaging in a constructive dialogue with the OECD from the earliest stage. This approach has been vindicated by the agreement, and also by the OECD's acceptance that Jersey will be required to implement the principles only if and when the same measures are agreed to be applied by all OECD members themselves, and also by those non member jurisdictions with which Jersey competes in the provision of cross border financial services.

Jersey has an established track record of compliance with international standards for financial regulation and in the fight against all crimes money laundering. Its agreement with the OECD ensures that Jersey will be invited to participate fully on an equal basis in any discussions in the Global Forum of OECD member countries and representative non-member jurisdictions on the design of internationally accepted standards for the implementation of the agreed principles for the exchange of information and transparency.

These principles will require all jurisdictions, including Jersey, to maintain legal mechanisms to allow information to be provided to tax authorities upon specific request on a reciprocal basis and in accordance with the legal procedures for handling such requests. This will apply to requests related to the investigation and prosecution of criminal tax matters or as may be relevant to civil tax matters. The procedures for handling such requests will be referred to in any tax information exchange, or mutual legal assistance, agreements to be negotiated between jurisdictions.

It is important to recognize that there is no requirement for the provision of information to be spontaneous or automatic and that there will be measures in Jersey to safeguard against so-called "fishing expeditions" by tax authorities in other jurisdictions. The agreement with the OECD also expressly recognizes the need for adequate protection against unauthorised disclosure and the need to take account of privacy obligations.

Information on beneficial ownership of companies, partnerships and other legal entities established or having a place of business in Jersey, including managers of collective investment funds, and trustees and beneficiaries of trusts, will be made available to tax and regulatory authorities in Jersey. This information and accounting information would be subject to exchange in accordance with negotiated tax information exchange agreements and the safeguards and limits described above. The requirement is to ensure that the information is held within the Island and that it is available to be provided on request when specifically required. Such information is not required to be produced on a routine basis.

Existing legislation in Jersey is in line with the OECD's proposals for exchange of information on criminal tax matters, and

Jersey already has in place a regime of transparency exceeding that of many onshore jurisdictions. Jersey will only be obliged to extend these under the agreement with the OECD once a level playing field with all of its competitors, and with all OECD member states, has been fully established.

### Key points to note

- Jersey will not be on the OECD's "blacklist" of non-co-operative jurisdictions.
- No changes are required to Jersey's fiscal regime as a result of its agreement with the OECD.
- No changes are required to be made to Jersey's procedures on information exchange or transparency until a level playing field has been established between all OECD member states and other jurisdictions with which Jersey competes in the provision of cross border financial services.

Your normal contact at Mourant will be able to assist with any further queries you might have on this subject.

The text of the States of Jersey's letter of agreement with the OECD is available at the [www.oecd.org](http://www.oecd.org) or on request from Mourant.

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