

Date: 10 MAY 2004

**MEMORANDUM
OF
UNDERSTANDING**

JERSEY

**Jersey Financial Services
Commission**

UNITED KINGDOM

**Financial Services
Authority**

Financial Services Authority
General Counsel's Division
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Memorandum of Understanding (“MoU”)

Between

**Jersey Financial Services Commission and Financial Services Authority (“FSA”)
 (“JFSC”)**

Recitals

- A. The JFSC is Jersey’s financial services regulator. It was established under the Financial Services Commission (Jersey) Law 1998. The main function of the JFSC is the supervision of financial services providers and financial products provided in or from within the Island. This includes the authorisation and supervision of collective investment schemes and fund functionaries under the Collective Investment Funds (Jersey) Law 1988, licensing and supervision of banks under the Banking Business (Jersey) Law 1991 and the licensing and supervision of investment business and trust company business under the Financial Services (Jersey) Law 1998.
- B. The FSA is the United Kingdom’s national financial services and markets regulator. As such it administers the Financial Services and Markets Act 2000 (“FSMA”) which provides among other things for the supervision of financial services, financial service providers, financial products and financial markets. Also, in its capacity as the competent authority (i.e. the UK Listing Authority) under Part VI of FSMA, the FSA is responsible for regulating listed issuers and their corporate advisers (known as “sponsors”).
- C. The JFSC and the FSA wish to enter into this MOU to provide a formal basis for co-operation, including for the exchange of information and investigative assistance. The JFSC and the FSA believe such co-operation will enable them to more effectively perform their functions.

Operative Part

Interpretation

1. In this MoU, unless the context requires otherwise:
 - “administering” an applicable law, regulation or requirement includes enforcing the same;
 - “applicable laws, regulations and requirements” means any law, regulation or requirement applicable in Jersey and/or in the United Kingdom, and where the context permits include:
 - relevant European legislation that has not yet been transposed into UK domestic law;
 - any law, regulation or requirement applicable in Jersey or the United Kingdom; and
 - any rule, direction, requirement, guidance or policy made or given by or to be taken into account by an Authority;
 - “Authority” means the JFSC or the FSA;
 - “FSA” means the Financial Services Authority of the UK;
 - “JFSC” means the Jersey Financial Services Commission;
 - “permitted onward recipient” means an agency or authority responsible for prosecuting, regulating or enforcing applicable laws, regulations and requirements falling within the areas of responsibility of the Authorities;
 - “person” means a natural person, legal entity, partnership or unincorporated association.

Purpose and Principles

2. The purpose of this MoU is to establish a formal basis for co-operation, including the exchange of information and investigative assistance.
3. This MoU does not modify or supersede any laws or regulatory requirements in force in, or applying to, Jersey or the United Kingdom. This MoU sets forth a statement of intent and accordingly does not create any enforceable rights. This MoU does not affect any arrangements under other MoUs.
4. The Authorities acknowledge that they may only provide information under this MoU if permitted or not prevented under applicable laws, regulations and requirements.

Provision of Unsolicited Information

5. The Authorities may provide information, or arrange for information to be provided, on a voluntary basis even though no request has been made.

Requests for Assistance

6. If a request for assistance is made, each Authority will use reasonable efforts to provide assistance to the other, subject to its laws and overall policy. Assistance may include for example:
 - (a) providing information in the possession of the requested Authority;

- (b) confirming or verifying information provided to it for that purpose by the requesting Authority;
- (c) exchanging information on or discussing issues of mutual interest;
- (d) obtaining specified information and documents from persons;
- (e) questioning or taking testimony of persons designated by the requesting Authority;
- (f) conducting inspections or examinations of financial services providers or arranging for the same; and
- (g) permitting the representatives of the requesting Authority to participate in the conduct of enquiries made by or on behalf of the requested Authority pursuant to paragraphs (e) and (f) above.

Procedure for requests

7. Requests for the provision of information or other assistance will be made in writing, or made orally and, unless otherwise agreed, confirmed in writing within ten business days. To facilitate assistance, the requesting Authority should specify in any written request:
 - (a) the information or other assistance requested (identity of persons, specific questions to be asked etc.);
 - (b) if information is provided by the requesting Authority for confirmation or verification, the information and the kind of confirmation or verification sought;
 - (c) the purpose for which the information or other assistance is sought;
 - (d) to whom, if anyone, onward disclosure of information provided to the requesting Authority is likely to be necessary and, in relation to onward disclosure to a person who is not a permitted onward recipient, the purpose such disclosure would serve;
 - (e) if the request for assistance is for the purpose of actual or possible enforcement action, the matters set out in clause 1 of Appendix 1; and
 - (f) any other matters specified by the requested Authority and by the applicable laws, regulations and requirements in relation to the requested Authority.

Assessing Requests

8. Each request for assistance will be assessed on a case-by-case basis by the requested Authority to determine whether assistance can be provided under the terms of this MoU. In any case where the request cannot be fulfilled in part or whole, the requested Authority will consider whether there may be other assistance which can be given by itself or by any other authority in its jurisdiction.

9. In deciding whether and to what extent to fulfil a request, the requested Authority may take into account:
- (a) whether the request conforms with this MoU;
 - (b) whether the request involves the administration of a law, regulation or requirement which has no close parallel in the jurisdiction of the requested Authority;
 - (c) whether the provision of assistance would be so burdensome as to disrupt the proper performance of the requested Authority's functions;
 - (d) whether it would be otherwise contrary to the public interest or the essential national interest of the requested Authority's jurisdiction to give the assistance sought;
 - (e) if the request for assistance is for the purpose of actual or possible enforcement action, the further matter set out in clause 2 of Appendix 1;
 - (f) any other matters specified by the laws, regulations and requirements of the requested Authority's jurisdiction (in particular those relating to confidentiality and professional secrecy, data protection and privacy, and procedural fairness); and
 - (g) whether complying with the request may otherwise be prejudicial to the performance by the requested Authority of its functions.
10. The authorities recognise that assistance may be denied in whole or in part for any of the reasons mentioned in paragraph 9 in the discretion of the requested Authority.

Contact Points

11. The Authorities will provide a list of contact points to which information or requests for information or assistance under this MOU should be directed.

Further Provisions

12. The further provisions set out in:
- (a) Appendix 1 will apply in relation to actual or possible enforcement matters;
 - (b) Appendix 2 will apply in relation to collective investment schemes recognised under section 270 of FSMA;
 - (c) any other Appendices covering specific areas (such as banking and insurance) or specific issues, as agreed in writing between the Authorities, will apply.

Costs

13. If the cost of fulfilling a request is likely to be substantial, the requested Authority may, as a condition of agreeing to give assistance under this MoU, require the requesting Authority to make a contribution to costs.

Confidentiality

- 14. An Authority that receives non-public information under this MoU will only disclose that information in accordance with disclosure permitted under its applicable laws, regulations and requirements. The recipient Authority will endeavour to consult with the other Authority where it proposes to pass on information to another person or body. The recipient Authority will endeavour to comply with any restrictions on the use of information that are agreed when the information is provided.
- 15. In the event of a legally enforceable demand for information supplied under this MoU, the Authority receiving the demand will notify the Authority that supplied the information of the demand and will assert such appropriate legal exemptions or privileges with respect to that information as may be available.

Consultation

- 16. The Authorities will keep the operation of this MoU under review and will consult when necessary with a view to improving its operation and resolving any matters.
- 17. Where the specific conduct set out in the request for assistance may constitute a breach of a law, regulation or requirement in both the territory of the requesting and the requested Authorities, the relevant Authorities will consult to determine the most appropriate means for each Authority to provide assistance.

Commencement

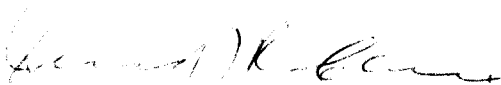
- 18. This MoU will take effect when both Authorities have signed it and will continue to have effect until terminated by either Authority giving 30 days advance written notice to the other Authority. It may be amended by agreement in writing.

Existing MoUs

- 19. This MoU does not affect the MoU between the FSA and JFSC concerning the operations of Crestco Limited, which shall continue to have effect. However, this MoU replaces any other MoUs previously entered into between the JFSC and the FSA or any of their predecessors.

Executed by the Parties:

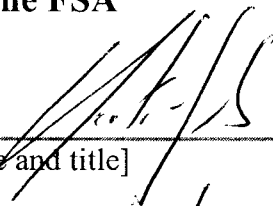
For the JFSC



[Name and title]

Date: 16/4/04

For the FSA



[Name and title]

Date: 16/5/04

Appendix 1: Further Procedures for Enforcement Matters

Further details to be contained in requests for assistance

1. If a request for assistance as described in this MoU relates to actual or possible enforcement action, the following further details will be contained in the request:
 - (a) a description of the conduct or suspected conduct which gives rise to the request;
 - (b) details of the applicable law, regulation or requirement to the administration of which the request is relevant;
 - (c) the link between the specified rule or law and the regulatory functions of the requesting Authority;
 - (d) the relevance of the requested assistance to the specified rule or law; and
 - (e) whether it is desired that, to the extent permitted by the laws applying to the requested Authority, any persons from the country of the requesting Authority should be present during interviews which form part of an investigation, and whether it is desired that such persons should be permitted to participate in the questioning (as to which see clause 3 below).

Further ground for denial of request

2. If a request for assistance as described in this MoU relates to actual or possible enforcement action, the following further matter may be taken into account by the requested Authority in determining whether to fulfil the request in whole or in part:
 - whether the request would lead to the prosecution of, or the taking of disciplinary or other enforcement action against, a person who in the opinion of the requested Authority has already been appropriately dealt with in relation to the alleged breach the subject-matter of the request.

Requests to Sit in

3. If, following a request from the requesting Authority, the requested Authority conducts an interview of any person, the requested Authority may permit a representative of the requesting Authority to attend such an interview and to ask questions. Such requests will be in accordance with the applicable laws, regulations and requirements of the requested Authority. Requests for such assistance should conform to any published guidance for the making of such requests issued by the requested Authority.

Joint Investigations

4. The Authorities acknowledge that, subject to secrecy and confidentiality issues, an investigation, where it concerns suspected breaches of the law of both jurisdictions,

may be conducted more effectively by the establishment of a joint investigation involving members of both Authorities.

5. The Authority suggesting the joint investigation will advise the other Authority of the background to the request for a joint investigation, and liaise with the other Authority to determine the likely objectives of the joint investigation, the expected resources required and the approximate duration of the proposed joint investigation. Each Authority will advise the other as soon as possible as to whether it will agreed to such an investigation.
6. If the Authorities agree to take part in a joint investigation, an agreed initial action plan will be prepared setting out, among other things, he objectives, expected duration, funding, publicity and accountability arrangements, management of the joint investigation, and allocation of responsibilities.
7. Suggestions to JFSC for a joint investigation should be made, through the Director, Enforcement. Suggestions to the FSA should be made to the Director, Enforcement.

Rights of persons preserved

8. Any person providing testimony, information or documents as a result of a request made under this MoU will be entitled to all the rights and protections of the laws of the jurisdiction of the requested Authority. Where ascertains are made regarding other rights and privileges arising exclusively pursuant to the laws of the jurisdiction of the requesting Authority, the Authorities will consult to determine the most appropriate way to proceed.

Appendix 2: Further Provisions for Collective Investment Scheme Matters

Preliminary

1. In this Appendix:
 - “collective investment scheme” has the same meaning as in section 235 of FSMA;
 - “HMT” means Her Majesty’s Treasury (UK);
 - “designated” means designated by HMT in an order made under section 270 of FSMA;
 - “recognised scheme” means a collective investment scheme that is recognised under section 270 of FSMA.

2. This Appendix applies to and in relation to recognised schemes managed in, and authorised under the law of, Jersey.

3. Collective investment schemes which are authorised in countries or territories designated by HMT may be recognised schemes for the purposes of FSMA. Under section 270 of FSMA, HMT may not make an order designating any country or territory for the purposes of Part XVII of FSMA unless satisfied that:
 - (a) the law and practice under which relevant collective investment schemes are authorised and supervised in that country or territory affords to investors in the United Kingdom protection at least equivalent to that provided for them by or under Part XVII of FSMA in the case of comparable authorised schemes; and
 - (b) adequate arrangements exist, or will exist, for co-operation between the authorities of the country or territory responsible for the authorisation and supervision of relevant collective investment schemes and the FSA.

4. HMT asked the FSA for a report of the kind specified by section 270(5)(a) of FSMA in relation to certain territories, including Jersey. The FSA has provided HMT with such report which HMT has had regard to in deciding whether to make an order under section 270.

5. By an Order, The Financial Services and Markets Act 2000 (Collective Investment Schemes) (Designated Countries and Territories) Order 2003 (SI 2003/1181), which came into effect on 21 May 2003, HMT designated certain territories, including Jersey, for the purposes of section 270.

6. The purpose of this Annex is to help ensure that the criteria referred to in paragraph 3 for designation of Jersey continue to be satisfied.

Re-designation

7. Revision of the relevant law or practice in Jersey may require formal re-designation by HMT. Revisions of a less significant nature and revisions that are designed to replicate

changes to the law, rules or practice in the UK may be agreed with the FSA without formal re-designation.

Consultation

8. To assist the FSA to fulfil its regulatory obligations under FSMA, in particular to secure the appropriate degree of protection for consumers, the JFSC must take reasonable care to ensure that it does not grant or allow any waivers or modifications from the relevant law or regulations including the giving of guidance to similar effect, in respect of a recognised scheme, unless it has first sought the views of the FSA.

Annual report

9. The JFSC shall submit to the FSA an annual self-assessment report covering authorisation and supervision of recognised schemes within its territory. Notwithstanding that the precise format and nature of the coverage of this report will be agreed between the FSA and JFSC from time to time, this report must include at least the following:
 - (a) an overview of the reporting period;
 - (b) details of recognised schemes in operation during the reporting period;
 - (c) new recognised scheme applications received during the reporting period;
 - (d) recognised scheme amalgamations, applications to terminate authorisation, terminations, amendments and transfers occurring during the reporting period;
 - (e) new managers and trustees of recognised schemes during the reporting period (including promoter);
 - (f) material guidance and waivers given to recognised schemes;
 - (g) supervision visits conducted during the reporting period;
 - (h) material administrative or financial sanctions or fines imposed against recognised schemes and any manager, authorised corporate director, trustee, depository, fund adviser or administrator of any such scheme; and
 - (i) future proposals to amend legislation which might impact upon the operation of recognised schemes.
10. The self-assessment report must be produced annually, covering a 12-month period, from 1st June to 31st May. The FSA would expect to receive the report no later than 12 weeks after the end of the reporting period. The FSA will send to the JFSC a response to the matters contained in the report.

Provision of information

11. To the extent permitted by applicable laws, regulations and requirements, each Authority shall take all reasonable steps on a timely basis to provide the other Authority with any information that is in its possession or is discovered which will be likely to assist in administering the laws, regulations or requirements of the other Authority, if provided to

the other Authority, which relate to or might impact on the recognition of the collective investment schemes under section 270 of FSMA.

Assessment Visits

12. The FSA will undertake assessment visits of Jersey on a 5 yearly basis, or more frequently if the FSA considers that this is appropriate. The FSA will send a visit report to the JFSC following every assessment visit. The JFSC will meet the FSA's reasonable costs (including travel and accommodation) for inspection visits.

FSA List of Contact Points

A list of FSA contact points is set out below and is divided between Enforcement and Supervision matters.

If it is not clear from the list who to contact about a specific matter or if it relates to a number of different areas, please direct your query to the General Contact Point at the end of the list.

1. Enforcement Matters

Enforcement Matters

Contact details

FSA: Director, Enforcement
Financial Services Authority
9th Floor
25 The North Colonnade
London E14 5HS
UNITED KINGDOM
Telephone: 44-20-7066 1396
Facsimile: 44-20-7066 9723

2. Supervision Matters

Markets and Listing matters

Contact details

FSA: Director, Markets and Exchanges
Financial Services Authority
6th Floor
25 The North Colonnade
London E14 5HS
UNITED KINGDOM
Telephone: 44-20-7066 5900
Facsimile: 44-20-7066 9729

Investment Firms matters (including pensions and superannuation providers)

Contact details

FSA: Director, Investment Firms Division
Financial Services Authority
11th Floor
25 The North Colonnade
London E14 5HS
UNITED KINGDOM
Telephone: 44-20-7066 4600
Facsimile: 44-20-7066 4601

Insurance matters (including friendly societies)

Contact details

FSA: Director, Insurance Firms Division
Financial Services Authority
15th Floor
25 The North Colonnade
London E14 5HS
UNITED KINGDOM
Telephone: 44-20-7066 0900
Facsimile: 44-20-7066 9769

Deposit-taking matters

Contact details

FSA: Director, Deposit Takers
Financial Services Authority
14th Floor
25 The North Colonnade
London E14 5HS
UNITED KINGDOM
Telephone: 44-20-7066 3220
Facsimile: 44-20-7066 3221

Major Financial Groups matters

FSA: Director, Major Financial Groups Division
Financial Services Authority
6th Floor
25 The North Colonnade
London E14 5HS

UNITED KINGDOM

Telephone: 44-20-7066 1500

Facsimile: 44-20-7066 9760

Collective Investment Scheme matters

Contact details

FSA: Head of Department, Collective Investment Schemes and Product Regulation

Department

Financial Services Authority

10th Floor

25 The North Colonnade

London E14 5HS

UNITED KINGDOM

Telephone: 44-20-7066 4530

Facsimile: 44-20-7066 9717

3. Fall-back Contact Point

All FSA MoUs have a lead responsibility centre appointed to ensure the smooth implementation of the MoU. If you are not sure who is the FSA to contact about a matter from the list above, or if the issue relates to a number of different areas, please contact:

mou.enquiries@fsa.gov.uk

Your request will be forwarded as quickly as possible to the appropriate lead contact within the FSA, although a direct communication with a responsible division will probably produce a more rapid response.

A list of JFSC contact points is set out below and is divided between Enforcement and Supervision.

If it is not clear from the list who to contact about a specific matter or if it relates to a number of different areas, please direct your query to Contact No. 2 of this list (i.e. John Pallot).

1. Enforcement Matters

Gary Godel
Director, Enforcement
Jersey Financial Services Commission
Nelson House
David Place
St Helier
JE4 8TP
Tel: 01534 822058
Fax: 01534 822002

2. Supervision (Excluding Insurance)

John Pallot
Director, Compliance
Jersey Financial Services Commission
Nelson House
David Place
St Helier
JE4 8TP
Tel: 01534 822050
Fax: 01534 822002

3. Supervision Insurance

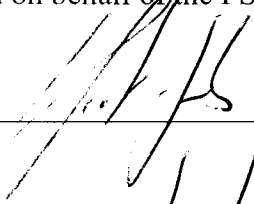
Nigel Woodroffe
Director, Insurance
Jersey Financial Services Commission
Nelson House
David Place
St Helier
JE4 8TP
Tel: 01534 822015
Fax: 01534 822001

Side Letter to the Memorandum of Understanding (MoU) between the Financial Services Authority ("FSA") and the Jersey Financial Services Commission ("JFSC")

1. The FSA and the JFSC have signed an MoU (dated _____) which contains an Appendix (Appendix 2: Further Provisions for Collective Investment Scheme Matters) and wish to add, by way of a side letter, further details as to the further provisions by way of schedules to this side letter, which the FSA and the JFSC agree shall be incorporated into and form part of the MoU dated (_____)

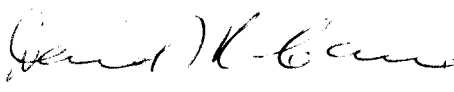
2. These schedules are:
 - Schedule 1 – General
 - Schedule 2 – Detailed CIS Annex references.

Signed on behalf of the FSA



Date: 10/5/04

Signed on behalf of the JFSC



Date: 16/4/04

JFSC / FSA MOU CIS Annex - Schedule to Side Letter

<i>Schedule 1 – General</i>	
MOU / CIS Annex reference	Comments
JFSC Annual self-assessment report	<p>The JFSC annual self-assessment report should be addressed to the contact point set out in the “FSA List of Contact Points” for MOU matters provided by the FSA.</p> <p>Currently, for CIS matters, this is:</p> <p>Head of Department Collective Investment Schemes and Product Regulation Financial Services Authority 25 The North Colonnade London E14 5HS Tel: 44-20-7066 4530 Fax: 44-20-7066 9717</p>
Reporting period	The reporting period for the annual self-assessment report is a 12-month period from 1 June to 31 May each year. The first report (as at 31 May 2004) should cover the period 21 May 2003 to 31 May 2004.
FSA costs for assessment visits	The JFSC will meet the FSA’s reasonable costs (including travel and accommodation) for assessment visits. This does not extend to FSA staff costs.
Confidentiality of annual self-assessment report	The annual self-assessment report from the JFSC will be available to HMT.

JFSC / FSA MOU CIS Annex - Schedule to Side Letter

<i>Schedule 2 - Detailed CIS Annex references</i>	
MOU / CIS Annex reference	Comments
7.	<ul style="list-style-type: none"> • Collect Investment Funds (Jersey) Law 1988 as amended; • Collect Investment Funds (Recognised Funds) (Rules) (Jersey) Order 2003; • Collect Investment Funds (Recognised Funds) (Compensation for Investors) (Jersey) Regulations 1988; • Collect Investment Funds (Recognised Funds) (Permits Conditions for Functionaries) (Jersey) Order 1988; and • Collect Investment Funds (Recognised Funds) (Action for Damages) (Jersey) Regulations 1988.
8.	<ul style="list-style-type: none"> • Collect Investment Funds (Jersey) Law 1988 as amended; • Collect Investment Funds (Recognised Funds) (Rules) (Jersey) Order 2003; • Collect Investment Funds (Recognised Funds) (Compensation for Investors) (Jersey) Regulations 1988; • Collect Investment Funds (Recognised Funds) (Permits Conditions for Functionaries) (Jersey) Order 1988; and <p>Collect Investment Funds (Recognised Funds) (Action for Damages) (Jersey) Regulations 1988</p>
9.(a)	The overview of the reporting period by the JFSC should include a high-level summary of any significant developments and trends within the financial services industry in Jersey, which may impact on recognised schemes for the period covered by the report.
9.(b)	<p>Details (as at 31 May) of:</p> <ul style="list-style-type: none"> • Name of scheme • Operator • Funds under management <p>The FSA will also provide to the JFSC a list of all schemes recognised under s.270 of FSMA operating in the UK as at 31 May during the reporting period. This list will be sent to the JFSC on or shortly after 31 May each year.</p>
9.(c)	<p>Details of:</p> <ul style="list-style-type: none"> • Name of operator • Name of scheme • Date of application <p>In respect of new recognised schemes that have applied for authorisation during the reporting period.</p>

	The FSA will advise the JFSC when a Jersey-authorized scheme is recognised under s.270 of FSMA by sending a copy of the recognition letter to the JFSC.
9.(d)	<p>Details of significant amendments to schemes during the reporting period. This would typically be material changes to functionaries, applications to terminate authorisation and terminations showing:</p> <ul style="list-style-type: none"> • Name of scheme • Name of operator • High-level details of amendment • Date amendment approved and (if different) effective date.
9.(e)	Name and date of authorisation of new managers(s) and trustee(s) and promoter(s) of recognised schemes in the reporting period.
9.(f)	Details of material guidance given or waivers issued during the reporting period. This would, typically, detail where the JFSC has provided guidance or issued a waiver on any aspect of the operation of a recognised scheme which could, potentially, affect the way the scheme is operated, such as investment and borrowing powers.
9.(g)	High-level summary of the supervision visits conducted on recognised schemes during the reporting period by number of visits undertaken and details of firms visited.
9.(h)	High-level summary of any material administrative or financial sanctions or fines imposed on recognised schemes, or their managers during the reporting period, listed by name of firm, scheme and a brief summary of the issue and the action taken.
9.(i)	Brief details of any proposals to amend Jersey legislation that might impact on the operation of Jersey-authorized schemes in the UK.

Side letter 2 to the MoU between the FSA and JFSC

From the office of the Director General

Telephone: + 44 (0) 1534 822011

E-mail: d.carse@jerseyfsc.org

W Lottering Esq
Manager, Product Assessment
The Financial Services Authority
25 The North Colonnade
Canary Wharf
London
E14 5HS

Our Ref.: DC/MT

20 February 2004

Dear Wayne

EXCHANGE OF INFORMATION UNDER THE TERMS OF THE MEMORANDUM OF UNDERSTANDING BETWEEN THE FINANCIAL SERVICES AUTHORITY ('FSA') AND THE JERSEY FINANCIAL SERVICES COMMISSION ('JFSC') SIGNED on (the 'MOU')

Regarding information exchanged under the terms of the above mentioned MOU, I am pleased to confirm that where the JFSC is considering onward disclosure of any information supplied by FSA, for example to the Viscount of Jersey, in all but exceptional cases, the JFSC will consult the FSA prior to disclosure.

Yours sincerely



David Carse
Director General