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Senator P.F. Horsfall O.B.E.  
President  
Policy and Resources Committee.

Our Ref: PFH/jmb

Donald Johnston Esq.,  
Secretary-General,  
Organisation for Economic Co-operation  
and Development,  
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75775 PARIS Cedex 16,  
France

22 February 2002

Dear Secretary-General,

**OECD INITIATIVE ON 'HARMFUL TAX COMPETITION'**

Over the last three years Jersey has sought to engage constructively with the OECD's initiative on "Harmful Tax Competition", as set out in the OECD's 1998 report "Harmful Tax Competition: An Emerging Global Issue" (the "1998 report"), as updated by later statements and reports. Jersey has also had regard for the contents of the 2001 Progress Report of the Committee on Fiscal Affairs approved by that Committee at its meeting in June 2001, noting that four member countries abstained from endorsing the report.

Jersey has an extremely good track record of compliance with international standards for, and of international co-operation in, financial regulation and in the fight against all crimes money laundering, and this has been recognised by the FATF, the FSF, and individual countries.

Consistent with this, Jersey is prepared to reflect the OECD's principles of effective exchange of information and transparency both in a general political commitment, and in tax information exchange agreements to be negotiated with individual jurisdictions. In respect of exchange of information, Jersey already exchanges information with respect to criminal tax matters and notes that this includes some matters that may be regarded as civil tax matters in some OECD Member countries and other jurisdictions.

Jersey considers the establishment of a level playing field among all OECD member countries and also those non-member jurisdictions with which it is materially in competition in the provision of cross-border financial services to be essential.

Having regard to the foregoing, the details of Jersey's general political commitment to the OECD, which will also serve as the basis for bilateral negotiations on tax

information exchange agreements and which Jersey will implement on a phased basis by 31 December 2005 in co-operation with the OECD, are as follows :

A Effective exchange of information

Jersey will:

1. Maintain in place legal mechanisms that allow information to be provided to tax authorities upon specific request for the investigation and prosecution of criminal tax matters, on a reciprocal basis and in accordance with the legal procedures for handling such requests. Such procedures will be referred to in any tax information exchange, or mutual legal assistance, agreements to be negotiated;
2. Maintain administrative arrangements and provide sufficient resources to ensure effective exchange of information;
3. Provide information requested without any bar because of the absence of Jersey tax interests in a case or in the information, or because the conduct being investigated would not constitute a crime under Jersey laws, if it occurred in Jersey;
4. Provide to tax authorities upon specific request, and in accordance with tax information exchange agreements to be negotiated with individual countries, information that may be relevant to civil tax matters;
5. Allow information to be exchanged through administrative means, in accordance with tax information exchange agreements to be negotiated, with persons or authorities concerned with the assessment or collection of tax, or enforcement or prosecution or the determination of appeals in relation to taxes (including courts and duly authorised administrative bodies);
6. Negotiate tax information exchange agreements in accordance with the foregoing, subject to there being full reciprocity (i.e. the other party has the same or equivalent provisions for the relevant exchange of information) including adequate protection against the unauthorised disclosure of information by the receiving jurisdiction and taking fully into account privacy obligations arising out of Article 17 of the International Covenant on Civil and Political Rights, Article 8 of the European Convention of Human Rights and similar obligations;
7. Make such changes to its laws, if any, as are necessary in order to enable information to be exchanged in an effective manner under the terms of agreements to be negotiated as indicated above;

B Transparency

Jersey will:

8. Ensure that information on beneficial ownership of companies, partnerships and other legal entities established in Jersey, including managers of collective investment funds, and trustees and beneficiaries of trusts, is available to its tax or regulatory authorities. This will include companies which, being incorporated elsewhere, have a place of business in the Island;
9. Ensure that the Jersey authorities have access to bank information relevant to tax matters of both resident and non-resident business enterprises, individuals and other entities, including trusts;
10. Require accounts to be kept by companies, partnerships, trusts and other legal entities established in Jersey or having a place of business in the Island. The requirement to audit accounts will follow accepted international standards and accounts will be required to be filed in support of tax returns; and
11. Agrees that information mentioned in paragraphs 8 to 10 above will be subject to exchange in accordance with negotiated tax information exchange agreements.

The general political commitment stated above should be read with reference to the following :

- i. Jersey considers that it already has existing legislation in line with the OECD's proposals for exchange of information on criminal tax matters to be implemented by 31 December 2003;
- ii. by reason of Jersey's legislation in respect of investigation of fraud, all crimes money laundering and international co-operation, it is already possible for information to be exchanged which in some other jurisdictions could be regarded as an exchange of information in respect of civil tax matters;
- iii. 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 countries and jurisdictions on the design of internationally accepted standards for the implementation of these and any similar commitments;
- iv. Jersey is of the view that jurisdictions generally must become increasingly integrated into the process of setting new international standards if those standards are to attract global support, and of implementing existing and new international standards, and that the Committee on Fiscal Affairs work on taxation in this regard will only be fully successful if it is carried out on a global basis and through a global partnership;
- v. Jersey regards the principle of a level playing field as essential to individual countries' economic interests and to continuing global economic growth and notes that the importance of this principle is very widely recognised;

- vi. Jersey is not included on any OECD list of "unco-operative tax havens" or subject to "a common framework of defensive measures" instituted by OECD member countries;
- vii. those jurisdictions, including OECD members, that fail to adopt equivalent commitments or to satisfy the standards of the 1998 report will be subject to "a common framework of defensive measures";
- viii. Jersey will protect its economic interests and fiscal autonomy as determinedly as it would expect OECD member and non-member jurisdictions to do;
- ix. while the general political commitment refers solely to the geographically mobile activities, including financial and other service activities, with which the 1998 report is concerned, Jersey's existing legislation, to which previous reference has been made, provides for information to be exchanged in respect of criminal tax matters, including some matters that may be regarded as civil tax matters by other jurisdictions;
- x. fair tax competition in all areas of business activities is of benefit to the world economy and is not to be discouraged;
- xi. Jersey's implementation of its general political commitment will be subject to the necessary legislative and policy decisions being approved in due course by its Legislature;
- xii. Jersey is prepared to engage in the same process of self-assessment as is being required of OECD member countries.

We intend here in Jersey to make this letter public and we anticipate that the OECD will wish to do the same.

Yours sincerely,



**SENATOR P F HORSFALL, OBE  
PRESIDENT, POLICY AND RESOURCES COMMITTEE**