



## Jersey Financial Services Commission

For the attention of the Chief Executive,  
Or equivalent, of trust company businesses

From the office of the Director General

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Your Ref.:

Our Ref.: JH/DAO/TCB

13 March 2013

Dear Chief Executive

### Aggressive Tax schemes

Following recent press reports on HMRC's activity in pursuing tax avoidance schemes, including some managed by trust company businesses on the Island, the Commission is writing to all trust company businesses to reiterate the regulatory expectations in this area. This is with the aim of seeking to fulfil one of our guiding principles, namely the protection of the reputation and integrity of Jersey in financial and commercial matters.

The Commission does not consider it appropriate to comment on the validity or effectiveness of any scheme that has been established for tax mitigation purposes. However, in order to comply with the regulatory regime, we would expect trust company businesses to consider the following as a minimum:-

1. any scheme established to mitigate tax or for any other fiscal reasons should be supported by a formal documented opinion or advice obtained from a credible, expert source;
2. the trust company business undertaking the administration should obtain a copy of the opinion in order to ensure it has a complete conceptual and operational understanding of the scheme;
3. the scheme must be administered in accordance with the supporting opinion and should be reviewed regularly to ensure it remains viable and legitimate;
4. where relevant the scheme should be declared to the appropriate tax authorities;

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5. the risk assessments of customer structures should take into account the risk of associated schemes;
6. the trust company business should identify, document and manage any conflicts of interest or other management issues arising from any schemes. For example, the authors and promoters of some schemes are incentivised by way of sales commissions and so there may be an increased risk of misselling; and
7. where a significant element of a trust company's business derives from these schemes, it should consider any resulting dependency and assess the potential impact on the business in the event of changes to the relevant tax legislation.

The Commission would urge service providers to continue to monitor market developments and remain vigilant of the potential risks, including reputational risks, associated with administration of tax schemes that may be described as aggressive.

Finally, we would ask trust company businesses to ensure that the Commission is notified promptly if any scheme under administration is subject to challenge by a tax authority or to press or other public coverage.

If you have any questions in relation to this letter, please contact your relationship manager at the Commission.

Yours sincerely

**John Harris**  
**Director General**