

**International Finance Centres (IFCs) are at times the subject of unwanted publicity alleging lapse practises and a lack of regard for upholding international standards.**

**This is despite sterling efforts by the leading IFCs to full embrace international standards and uphold high levels of regulation.**

**Steve Gully and Hannah Roynon-Jones, directors at Alex Picot Trust, provide an overview of two key updates in this space.**



Steve Gully

Hannah Roynon-Jones

## *Transparency and Exchange of Tax Information*

**Hannah Roynon-Jones said:**

“ It was pleasing to note the recent findings of a report issued by the Organisation for Economic Cooperation and Development (OECD's) Global Forum on Transparency and Exchange of Tax Information.

In November 2022, Jersey's Government announced that Jersey had received the highest rating available in an assessment of its practical implementation of the Common Reporting Standard (CRS) by the OECD. The OECD's Global Forum report, reviewed how well 99 jurisdictions had implemented the CRS. Jersey was among the few to receive the highest rating possible of "on track" for every aspect reviewed and an overall rating of "on track".

The CRS requires jurisdictions to collect and exchange tax information on financial assets held in Jersey by non-residents. In 2022, Jersey exchanged this information with the tax authorities of 74 other jurisdictions. The review examined whether jurisdictions have the necessary law, processes and systems in place to ensure that their financial institutions are complying with the standard. It also looked at whether jurisdictions were properly collecting and exchanging the information collected.

Jersey committed to introduce the CRS in 2014 and was one of the early adopters of the standard. Financial institutions have been reporting information since 2017.

When Jersey, as a jurisdiction, receives support and endorsement for its tax cooperation, it is good news for the Island's finance sector in general and for long standing Jersey based trust companies like Alex Picot Trust.

Over our 90-years of providing trust services, it is essential that our firm and our jurisdiction ensures it continually evolves and moves with the times as we adapt our services to extend to a wider audience. The reputation of the Island from where we operate is an important consideration to private clients when electing which IFC would best serve their needs. ”

## *Beneficial owner registers*

**Steve Gully looks at a recent development relating to privacy rules, Beneficial Owner registers and the Luxembourg ruling. The Court of Justice of the European Union delivered a judgement on 22nd November. Steve said:**

“ The essence of the Judgement was to determine that providing access to the general public to information relating to the beneficial ownership information for EU registered companies is invalid. This is a landmark judgement in the conflicts between ultimate transparency of information and the rights individuals have to privacy.

So, what does this mean for EU member states? Time will tell, but it is noticeable that a number of countries have already taken their public access rights to their beneficial owner registers offline. There will be other considerations too for the UK and International Finance Centres. The UK is outside of the EU and is reforming its own human rights act with the Bill of Rights legislation as it seeks to further devolve its legislature from EU influence.

For the time being the Persons of Significant Control register remains a publicly accessible database, and further moves towards transparency continue with the register of overseas entities for non-UK ownership of UK land and property. Some commentators and those parties who brought the claim in the Luxembourg court have gone further and asserted that future challenges could be made against the legitimacy of global information exchange arrangements such as the Common Reporting Standard or the US FATCA requirements. Those soundings are a significant deviation from the current protocols that all well regarded jurisdictions consider part of their regular way of capturing and reporting financial information.

### **Jersey for its part has maintained a register of beneficial owners since 1989.**

Since that date in order for a new company to be formed the beneficial ownership details have to be disclosed in order for a new company to be formed. And any future changes to those details need to be updated within a 21-day timeline. The concept of shelf companies (that do exist in other jurisdictions) has never existed for me in my working career which dates back to 1995.

Furthermore, the parties submitting the beneficial owner information to the Jersey registry are themselves regulated entities. Thus, it is notable that Jersey's register which has been in existence for over 30 years is validated, whereas other countries simply allow non-regulated parties to populate their registers. Jersey also enables access to details held on its register to law enforcement agencies. This approach ensures information is available to those who have a legitimate need to access it, but also protects the rights of the individuals to privacy. A term known as compliant confidentiality.

### **As such the essence of the EU judgement is a welcome one.**

I am concerned though at the suggestion this could be a springboard towards a challenge to CRS and the annual information sharing between tax authorities. CRS and FATCA are both essential parts of ensuring transparency flows 'to those who need to know' and such models should be preserved. This will become an area of increasing commentary and focus so do watch this space. ”