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15 April 2011

Dear Sir

Consultation on Financial Services Ombudsman Scheme for Jersey and Guernsey

Fairbairn Private Bank Limited have reviewed the consultation document regarding the proposed structure for the financial services ombudsman scheme and following such, provide comments below;

Point 7 – Complainants

7.2 Our understanding is that such a scheme will exist for the benefit of those consumers, private individuals, small businesses etc that may not have sufficient ability or resource to seek redress through the courts against a financial service provider. When applying this view, we do not feel that a net asset value of £1 million for a trust is too low to be applicable in Jersey, and in fact, would suggest that it may be more appropriate to set a lower maximum figure.

7.4 From experience of a dispute referred to the Isle of Man ombudsman scheme, the inclusion of 'disputing parties to a joint account' may be helpful.

7.5 We have made the assumption that the first point will drive all others. Additionally, we would question the relevance of including the point regarding cheque guarantee cards given the near term removal of the service.

Point 8 – Ineligible Complaints

It seems surprising that the scheme may dismiss a complaint where it relates to investment performance. We believe this could be a key area where clients may have suffered a financial loss through the negligence or incompetence of a financial service provider and wish to seek assistance from an ombudsman scheme.

Point 9 – Time Limits

9.3 Given that we have offices in Jersey and the Isle of Man, we would prefer to see the time limits for the Jersey scheme set at 6 years and 2 years, purely from the point of view of consistency across the jurisdictions and ease of operation this brings.

9.4 For the same reason as in 9.3, we would prefer to see the time period for firms to issue a final response to a complaint to be set at 12 weeks.

Point 10 – Starting Date

On the assumption that this scheme will not be introduced for at least another 12 months, we believe that a start date of 1st January 2011 would be appropriate.

Point 11 – Awards

We are comfortable with the proposed maximum monetary awards.

Point 13 – Independence

13.2 We would question the level of independence the scheme will have from the Minister for Economic Development and the States of Jersey, given that it is stated that the Board of the scheme will have to report to the Minister on an annual basis, with accounts also going before the States.

Point 15 – Funding

15.2.2 Our preference would be to provide funding to the scheme via an annual levy up to a maximum fee of £1,000, provided that the levy was applied across 'related' entities, as opposed to a separate levy for every individual license held within a banking group. If the proposed annual levy was in excess of this figure, then we would argue that the funding should be derived from a lower annual fee and case charges, similar to those applied under the UK FSO.

15.2.3 In our opinion all cases that are referred to the scheme should result in a case fee being charged to the financial services provider, irrespective of the outcome.

15.2.9 In principle and if needed, we would not have any significant objections to the initial funding being generated from a graded-fee approach across different industry sectors. Our main concern would be the additional reporting demands placed upon our business to provide the necessary summaries of 'relevant business' and because of such would fully support an approach where more readily available information (such as number of employees) is utilised. Alternatively, the ability to make use of areas of information already provided within quarterly prudential business returns would be helpful.

In summary, Fairbairn Private Bank Limited is fully supportive of the need to introduce a Financial Services Ombudsman Scheme but would wish to see the initial scheme kept simple, cost effective and competitive when compared to other jurisdictions. In addition, we feel that the majority of funding for the scheme should be provided by those financial service providers who make use of it.

Receipt of additional information with regard to the preferred funding approach, potential levies and case charges (in due course) will certainly enable us to consider the implications for ourselves in more detail and thus update you appropriately with our developed views.

It should be noted that this response is purely a reflection of the views of Fairbairn Private Bank Limited and that a separate response will be provided by Fairbairn Trust Limited, via the Jersey Association of Trust Companies.

Yours Faithfully

A large, stylized handwritten signature in black ink, appearing to be 'S. Fox', is written over the typed name and title.

Steve Fox
Head of Jersey Office

cc Jersey Bankers Association