

Dear Darren

With apologies for the slight lateness in our response, please find below the feedback of Standard Chartered in connection with the above referenced consultation document.

Standard Chartered (Jersey) Limited (“**SCJL**” or the “**Bank**”) is a Jersey incorporated bank which has had a presence in Jersey for over 30 years and employs over 120 people in the island. SCJL provides private banking services to wealthy international customers (with a minimum balance threshold of \$100,000) who are predominantly connected to the Bank’s footprint markets of Asia, Africa and the Middle East. We do not operate a retail banking business for the Jersey domestic market.

Over the years we have followed the debate surrounding the establishment of a Financial Services Ombudsman service with some interest. We understand the arguments for the creation of an ombudsman scheme and indeed the need to establish an out-of-court complaint and redress procedure for payment services in order that the island can be considered for membership of the Single Euro Payments Area (SEPA). The Bank is therefore supportive of the creation of an ombudsman scheme that meets the entry criteria established by the European Payments Council for entry into SEPA. The Bank is also in favour of the creation of scheme that is proportionate to the benefits it seeks to provide to users of the island’s financial services and to the standing of the island as a premier international financial centre. We are concerned that the scheme outlined in the consultation document runs the risks of creating a disproportionate scheme which creates significant set-up and operational costs which, as proposed, would be borne by the finance industry. Costs such as these, if considered disproportionate, are likely to act as disincentives to financial services businesses considering setting up or expanding in Jersey or may influence head office decisions on where to consolidate business activities.

In the creation of a scheme in Jersey, it would be our strong preference that such a scheme started life not necessarily as the ‘best of breed’ all encompassing ombudsman scheme but rather as a limited and restricted scheme.

Once an ombudsman scheme has been created it will be almost impossible to shrink the areas of activity it oversees and once created it will be difficult to contain costs if referrals to the ombudsman were to soar. We therefore favour an approach that creates an ombudsman scheme that meets the SEPA entry requirements but with reasonably predictable and acceptable costs. In light of experience if it transpires that the scope and range of the ombudsman required expansion this can be considered and consulted upon and would ensure the manageable and controlled expansion of the scheme. In this connection, we would suggest that the initial monetary limit does not exceed the limit currently applying in the Isle of Man as we feel this will somewhat force the Isle of Man to follow Jersey’s lead and could lead to unnecessary competition on limit caps amongst jurisdictions offering ombudsman schemes. We do not believe the UK FOS is the best comparative scheme and should not necessarily drive the rationale for the limit caps in Jersey.

In addition to the above remarks we would respond to the specific consultation questions as follows:

#### **Complainants**

**Comments are invited on whether there should be a limit on the size of trust/foundation whose trustees or council members can bring a complaint to the ombudsman scheme, and if so, what the limit should be. (section 7.2)**

It was unclear from the consultation as to why the £1million limit applied in the UK was thought too low to be applicable in Jersey.

#### **Comments are invited on the proposed categories of complainants able to use the scheme (section 7.4)**

The Bank would favour that the scheme was launched with a restricted scope at the outset (e.g. private individuals) and only after gauging the demand for the scheme (and the associated costs) should other categories of complainant be added (if there was a deemed demand from such category).

**Respondents are invited to comment on whether all the proposed relationships between complainants and financial services providers are applicable to Jersey or if there are any others that should be included (section 7.5)**

The reference to dormant account fund operators would not appear applicable to Jersey.

#### **Time periods**

**A decision will need to be made about whether to use 6 or 10 years as the general time limit within which to bring a complaint. Comments would be welcomed on the most suitable time limit to be used (section 9.3)**

The Bank would be in favour of a 6 year time limit.

**A 3-month time limit on financial services providers is proposed (to issue a final response to a complaint), do respondents agree? (section 9.4)**

Three months is generally a reasonable period. It can sometimes be the case that additional information is required by a financial services provider from a customer to investigate a complaint. For international customers (who are often more difficult to contact) this can sometimes delay the financial services providers final response and therefore there should be some system to forestall a referral to the ombudsman where the customer has not been able to assist in the investigation of the complaint.

**A starting date of 1st January 2010 is suggested. Comments would be welcomed on the suitability of this date (section 10.1).**

The Bank would suggest that the starting date is the date that the ombudsman scheme is legally established and not earlier.

#### **Funding**

**What would be your favoured percentage split between income from annual levies and case fees? (section 15.2.2)**

The Bank would favour the establishment costs being initially borne by government and repaid from levies over a prolonged period (say 15-20 years) to spread the cost over the financial services firms that 'benefit' from the ombudsman scheme over time rather than just the firms that are in existence at the outset.

The Bank is supportive of the firms generating the most complaints making the most significant contribution to the funding of the scheme i.e. a much as possible a 'user pays' approach. This philosophy should also apply within sectors where high street retail banks, for example, generate a significantly higher proportion of client complaints than international private banking institutions.

**Do you agree with the approach of not charging fees on the first few complaints per year? (section 15.2.3)**

The Bank do not see a good reason for not charging fees on the first few complaints. However in order to avoid spurious claims to the ombudsman, the Bank would favour a nominal service fee payable by the complainant such as to give any complainant a stake in the complaint. Any upheld complaint could include the refund of the fee.

**Do you agree there should be flat fees for financial services providers that deal with consumers, except in certain areas where it should be graded? (section 15.2.8)**

**Should these graded areas include banking, life insurance, insurance mediation and financial advice? (section 15.2.8)**

Please see comments above about differences with sectors.

**Do you agree the data to inform these graded areas should be measures of the size of consumer business or could more basic data such as number of employees be used? (section 15.2.9)**

Other measures could also be considered. For example, all JFSC regulated institutions must report the number of client complaints unresolved after 90 days. The volumes of unresolved client complaints

reported to the JFSC could help determine which institutions should make a greater contribution to the funding. of the scheme.

I hope you find the above feedback use.

Yours sincerely

Richard

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