



## Jersey Financial Services Commission

For the attention of the Chief Executive,  
or equivalent, of registered persons

Our Ref.: ALeB/CD/Bribery

30 December 2011

Dear Chief Executive

### **Bribery Act 2010**

Throughout this year the Commission has received enquiries as to whether it intends to issue guidance in respect of the Bribery Act 2010 (the "Act"). The Commission wishes to advise registered persons that it does not intend to issue formal guidance on the Act. This is because the task of issuing guidance on the Act is considered to properly fall to the agencies in the United Kingdom who have responsibility for enforcing the Act. The Commission recognises, however, that some members of industry are looking for further assistance in this area. The purpose of this letter, therefore, is to provide:

- a basic outline of some of the provisions of the Act;
- highlight the Act's application locally by virtue of its extra-territorial effect; and
- provide reference points for further guidance.

I would be grateful if this letter could be disseminated for information purposes across your organisation to all employees.

Bribery can be defined as giving someone a financial or other advantage to encourage that person to perform their functions or activities improperly or to reward that person for having already done so.

Registered persons in Jersey are already:

- subject to the provisions in the Corruption (Jersey) Law 2006; and
- under a regulatory obligation set out in the relevant Codes of Practice to conduct their business with integrity.

In addition, the United Kingdom recently modernised its law on bribery through the introduction of the Act on 1 July 2011, with further implications for those who do business in Jersey.



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The Act contains four main offences:

- bribing another person (section 1);
- being bribed (section 2);
- bribing a foreign official (section 6); and
- for commercial organisations: failing to prevent bribery (section 7).

The Act is applicable to individuals ordinarily resident in the United Kingdom, as well as all British citizens/nationals (wherever resident). British citizens/nationals in Jersey therefore fall within the jurisdiction of the Act and can be individually liable for the offences in sections 1, 2 and 6. This would include anyone with a Jersey passport.

The Act also applies to entities that:

- carry on business, or part of a business, in any part of the United Kingdom; and
- are incorporated under the law of any part of the United Kingdom.

If any part of the bribery offence takes place in the United Kingdom, then the Act is also engaged.

The Ministry of Justice has produced two sets of guidance that registered persons may find of assistance:

The Bribery Act 2010 - Quick Start Guide  
The Bribery Act 2010 - Guidance

Both sets of guidance are available at:

[www.justice.gov.uk/guidance/making-and-reviewing-the-law/bribery.htm](http://www.justice.gov.uk/guidance/making-and-reviewing-the-law/bribery.htm)

The guidance deals with matters such as business entertainment, hospitality and facilitation payments.

In addition the Serious Fraud Office, in conjunction with the Director of Public Prosecutions, has produced Joint Prosecution Guidance on the Act, which is available at:

[www.sfo.gov.uk/media/167348/bribery%20act%20joint%20prosecution%20guidance.pdf](http://www.sfo.gov.uk/media/167348/bribery%20act%20joint%20prosecution%20guidance.pdf)



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This letter should not be taken as offering legal advice. If a registered person has a specific concern regarding the application of the Act to any aspect of its business, independent legal advice should be sought.

The Commission will keep under review the need for further explanatory information to be provided in this area.

Yours sincerely

A handwritten signature in blue ink that reads "Andrew Le Brun".

**Andrew Le Brun**  
**Director, International & Policy**

Tel: +44 (0) 1534 822065  
Email: [a.lebrun@jerseyfsc.org](mailto:a.lebrun@jerseyfsc.org)