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Dear Lynn

### Consultation on 2020 Code of Audit Practice

Thank you for providing us with the opportunity to respond to your consultation on the Draft 2020 Code of Audit Practice (**Code**) and Possible Legislative Changes in respect of public audit in Jersey (**Legislative Proposals**).

As the regulator for financial services in Jersey and operator of the registry, the Jersey Financial Services Commission (**JFSC**) has a strong interest in maintaining high-quality audit in both the private and public spheres. As an *independently audited states body* we have a keen interest in the development of public audit in Jersey such that the high standards to which we adhere evolve proportionately and consistently for all entities within scope of the Comptroller and Auditor General's (**C&AG**) duties and powers.

### General comment

We consider that the Code and Legislative Proposals enhance and clarify the role of public audit in Jersey; provide practical support for both public bodies and their auditors; and are proportionate in that adherence to the Code is achievable while the Legislative Proposals seek to ensure consistency and high-quality audit outcomes.

We have included specific responses to each of the questions within the consultation as the Appendix to this letter and have briefly highlighted certain overarching themes under the headings of "Status of the Code in legislation" and "Guidance" below.

### Status of the Code in legislation

The Code is issued under Article 18 of the Comptroller and Auditor General (Jersey) Law 2014, as amended (**C&AG Law**). This prescribes that the C&AG "shall prepare and publish a statement of the manner in which he or she proposes to discharge his or her functions under this Law and any other enactment."

We note that the C&AG's duties and powers, as prescribed within the C&AG Law and attendant legislation relating to the audit of the States of Jersey and other bodies to which the C&AG appoints auditors, do not reconcile precisely with each of the powers that may be contemplated by the Code. For example, where the States of Jersey, other bodies to which the C&AG appoints auditors, or their auditors:

- › "are required to";
- › "shall"; or



› “have a duty to”

undertake a certain action, it is not immediately clear how adherence with the Code would be procured in all circumstances. The Code may benefit from clarification in this regard or it may be that the Legislative Proposals will ultimately address this matter.

The Audit Quality Framework (**AQF**), paragraph 8 states that the C&AG “reserves the right to terminate the appointment of an auditor at any time”. We consider that this is not a disproportionate right for the C&AG to reserve, however, note that the statutory provisions relating to the appointment of auditors by the C&AG do not explicitly contemplate the termination of an auditor’s appointment, rather appointment takes place “in each year”. It may be helpful to clarify the basis on which this right might be exercised within the AQF or this may feature within the Legislative Proposals when they are finalised.

### **Guidance**

The provision at Section 1, 5 of the Code states that “The C&AG may issue supplementary guidance [and auditors] shall have regard to such guidance.” The consultation states “This provides a mechanism for promoting consistency of approach, if necessary, without the need for the C&AG to revise the Code.”

We consider that clarifying the nature of guidance and the circumstances in which such guidance might be issued to auditors may enhance the Code. It would seem reasonable, at appropriate intervals, to include guidance that has been issued by the C&AG in future versions of the Code.

### **Next Steps**

We hope that our response is beneficial to your considerations and would be pleased to discuss or correspond with you further as you finalise this important work.

Yours sincerely

A handwritten signature in black ink, appearing to read 'M Moloney'.

Martin Moloney  
Director General



## Appendix – JFSC responses to specific questions

Question	JFSC comments
<b>Part A: Code of Audit Practice – General</b>	
Q1. Do you agree with the overall structure and style of the draft Code? If not, what changes would you propose?	The Code has been redrafted significantly, but remains clear, concise and we consider that adherence is achievable.
<b>Section 1: Introduction</b>	
Q2. Do you agree with the explanation of the wider context of arrangements for public audit in Jersey? If not, why not?	We agree with the explanation of the wider context of audit arrangements in Jersey.
Q3. Do you agree with the inclusion of a provision allowing the C&AG to issue guidance to the auditors whom they appoint and placing an obligation on the auditors to have regard to such guidance? If not, why not?	<p>The provision states that “The C&amp;AG may issue supplementary guidance [and auditors] shall have regard to such guidance.” The consultation states “This provides a mechanism for promoting consistency of approach, if necessary, without the need for the C&amp;AG to revise the Code.”</p> <p>We agree with the inclusion of this provision and would suggest that exemplifying the nature of such guidance, and the circumstances in which such guidance might be issued, may enhance the Code.</p> <p>It would seem reasonable, at appropriate intervals, to include guidance that has been issued by the C&amp;AG in future versions of the Code.</p>
Q4. Do you have any other observations on Section 1?	Please see our comments under the “Status of the Code in legislation” heading in the main body of our letter.
<b>Section 2: General principles</b>	
Q5. Do you agree with the explicit adoption of the principles of public audit developed by the Public Audit Forum? If not, why not?	This appears to be a proportionate addition to the Code and note that by utilising an existing framework that a body of best practice will be available to auditors and the bodies that they audit.
Q6. Do you agree with the inclusion of an Audit Quality Framework? If not, why not?	<p>This appears to be proportionate and we note that the Code leverages existing audit quality frameworks.</p> <p>We note that the framework includes various provisions that enable the C&amp;AG to exercise certain powers, inter</p>



	<p>alia, the C&amp;AG “reserves the right to terminate the appointment of an auditor at any time”. It is not clear how the C&amp;AG might exercise these powers and this is explored in the “Status of the Code in legislation” heading in the main body of our letter.</p>
<p>Q7. Do you have any other observations on Section 2?</p>	<p>We have no other observations on Section 2.</p>
<p><b>Section 3: Work on the financial statements</b></p>	
<p>Q8. Do you agree with the provisions relating to:</p> <ul style="list-style-type: none"> <li>› liaison between auditors appointed by the C&amp;AG and the C&amp;AG;</li> <li>› provision of information to the C&amp;AG; and</li> <li>› co-operation between auditors appointed by the C&amp;AG?</li> </ul> <p>If not, why not?</p>	<p>The C&amp;AG has a strong suite of powers to require information and these provisions within the Code outline principles and certain practicalities.</p> <p>We note that there may be practical challenges in respect of co-operation between auditors and the C&amp;AG as well as between different firms of auditors. Matters in respect of cooperation between auditors may be worth additional consideration particularly as regards reconciling obligations to adhere to the International Ethics Standards Board for Accountants Code of Ethics, as adopted by professional bodies such as the ICAEW.</p> <p>Where Article 23 of the C&amp;AG Law empowers the C&amp;AG to summons a person to produce a specified record, we note that in many circumstances it would likely be preferable to have an alternative mechanism to secure such a record. Nevertheless, between the ostensibly voluntary imperative for auditors to comply with the Code and the C&amp;AG’s statutory powers, it might be that auditors would find that they are only able to provide such records under summons.</p>
<p>Q9. Do you agree with the expanded explanation of opinion on regularity issued by the auditor of the financial statements of the States of Jersey? If not, why not?</p>	<p>We note that this affects the States of Jersey only.</p>
<p>Q10. Do you agree with the expanded provisions relating to reporting on weaknesses in internal control and compliance with International Financial Reporting Standards by the auditor appointed</p>	<p>We note that this affects the States of Jersey only.</p>



to audit the financial statements of the States of Jersey? If not, why not?	
Q11. Do you agree with the expanded provisions relating to the work the C&AG undertakes before issuing a certificate on the financial statements of the States of Jersey and in considering whether or not to exercise their statutory right to add a note to the financial statements? If not, why not?	We note that this affects the States of Jersey only.
Q12. Do you have any other observations on Section 3?	We have no other observations on Section 3.
<b>Section 4: Work on internal control, corporate governance and economy, efficiency and effectiveness</b>	
Q13. Do you have any observations on Section 4?	All matters within Section 4 appear to be proportionate and to represent best-practice.
<b>Section 5: Follow-up of previous audit recommendations</b>	
Q14. Do you agree with the retention of a separate section on the follow-up of previous audit recommendations? If not, why not?	This appears to be proportionate and to represent best-practice.
Q15. Do you have any other observations on Section 5?	We have no other observations on Section 5.
<b>Section 6: Reporting</b>	
Q16. Do you agree with the inclusion of provisions relating to reporting on audit quality and any instances of material non-compliance with the Code? If not, why not?	This appears to be proportionate, consistent with the C&AG's duty to report, and to represent best-practice.
Q17. Do you have any other observations on Section 6?	We have no other observations on Section 6.
<b>Section 7: Liaison</b>	



Q18. Do you agree with the inclusion of sub-sections dealing with liaison with the Chief Internal Auditor of the States of Jersey and the Attorney General? If not, why not?	These sub-sections appear to be proportionate and helpful in clarifying how such liaison would work in practice.
Q19. Do you have any other observations on Section 7?	We have no other observations on Section 7.
<b>Section 8: Other matters</b>	
Q20. Do you agree with the inclusion of a sub-section dealing with the exercise of the C&AG's wide-ranging statutory powers to obtain information from third parties? If not, why not?	This sub-section appears to be proportionate and helpful in explaining that the C&AG would be reasonable and proportionate in exercising their powers.
Q21. Do you agree with the inclusion of a sub-section on data and records, dealing with the C&AG's duties under the Data Protection (Jersey) Law 2018 and the Public Records (Jersey) Law 2002? If not, why not?	This sub-section appears to be proportionate and helpful in clarifying how such matters would be approached.
Q22. Do you agree with the expansion of the provisions relating to the appointment of auditors of financial statements and the application of ethical standards to those auditors? If not, why not?	<p>The expansion of these provisions appear to be proportionate.</p> <p>In respect of the application of the FRC's Ethical Standard, we note that certain provisions within the Ethical Standard rely on references to UK legislation, in particular, the Companies Act 2006. It may be helpful to clarify how provisions that are contingent on non-Jersey statutes are intended to apply in the context of Jersey audits.</p> <p>We would also highlight that a strict requirement for all auditors appointed by the C&amp;AG to seek pre-approval prior to the provision of non-audit services to the States of Jersey or any other body to which the C&amp;AG appoints auditors could capture a significant cross section of audit firms and could, in turn, present administrative difficulties.</p>
Q23. Do you agree with the inclusion of a sub-section dealing with the delegation of functions by the C&AG? If not, why not?	This sub-section appears to be proportionate and helpful in clarifying how such matters would be approached.



Q24. Do you have any other observations on Section 8?	We have no other observations on Section 8.
<b>Part B: Possible legislative changes – Entities to which the C&amp;AG appoints auditor</b>	
Q25. Do you agree that the C&AG be given the power to appoint auditors of financial statements of all bodies established or controlled by the States (other than companies)? If not, why not?	This appears to be a consistent development and seems reasonable.
Do you agree that the existing arrangements for the preparation of the financial statements of the Jersey Dental Scheme should be codified in legislation? If not, why not?	This appears to be a consistent development and seems reasonable.
Q27. Do you agree that there should be a consistent statutory framework relating to the responsibilities and powers of auditors appointed by the C&AG? If not, why not?	This appears to be a consistent development and seems reasonable.
<b>Reporting by entities to which the C&amp;AG appoints auditors</b>	
Q28. Do you agree that there should be a consistent framework for the production of Annual Reports and Accounts for public bodies? If not, why not?	This appears to be a consistent development and seems reasonable.
<b>Governance of the Office of the C&amp;AG</b>	
Q29. Do you agree that there should be a statutory role for the Board of Governance in any consideration of revocation of the appointment of the C&AG? If not, why not?	This appears to be a proportionate development that enhances the C&AG's ability to perform their duties without fear or favour.
Q30. Do you agree that there should be a statutory limitation on the liability of independent members of the Board of Governance or	This seems proportionate provided that there is consistency with statutory indemnities afforded to those charged with governance in respect of certain other statutory bodies.



equivalent indemnity? If not, why not?	
<p>Q31. Do you agree that there should be:</p> <ul style="list-style-type: none"><li>› an increase in the maximum number of independent members of the Board Governance to four; and/or</li><li>› provision for a reduction in the quorum of the Board of Governance in limited circumstances to secure its continued operation?</li></ul>	<p>These proposals seems proportionate in the context of ensuring strong governance and operational resilience.</p>
<b>Other matters</b>	
<p>Q32. Are there any other areas in which you believe that public audit legislation should be amended? If so, what areas and why?</p>	<p>Please see our comments in the main body of this letter.</p>