

NARRATIVE REPORT ON GUERNSEY



PART 1: NARRATIVE REPORT

Overview

Guernsey, a UK Crown Dependency, is in 10th place in the 2018 Financial Secrecy Index, up 7 places from 2015. The small tax haven jurisdiction in the English Channel gained a secrecy score of 72/100, a significant increase from 2015 when it scored 64. It accounts for 0.5% of the global trade in offshore financial services according to the FSI global scale weight methodology.

Government and politics in Guernsey

The Bailiwick of Guernsey is a group of islands in the English Channel off the coast of France. Together with Jersey it forms the other half of the British Channel Islands.

The Bailiwick has been self-governed since 1204, when King Henry III declared that the islands were not part of England.

The government of Guernsey is spread across three separate jurisdictions, Guernsey, Alderney, and Sark. Each has its own legislature.

The States of Guernsey is the parliament of Guernsey and has 38 deputies, including two representatives from Alderney. The States legislates on a Bailiwick wide basis for criminal law, but in civil matters Alderney and Sark can differ. The OECD Global Forum considers Guernsey and Alderney a common jurisdiction for tax purposes.

The States of Alderney has ten elected members. Sark, with a population of around 600 has a parliament, called the Chief Pleas, of 28 members.

Sark only recently transitioned to a democratic system from an ancient feudal system. Before 2008 members of Sark’s parliament were selected on the basis of landholdings. However, although technically Sark’s representatives are now democratically elected, the change can hardly be described as a democratic revolution. In 2014 and 2016 there were no more candidates for election than there were posts available, and no vote was required. The head of Sark, the Seigneur, is a hereditary position.

There are no political parties in Guernsey and this so-called ‘political stability’ is seen as a benefit for the offshore industry. One of the revelations of the Paradise Papers was that companies (in this case Apple) sent [questionnaires](#)¹ to potential offshore locations asking if the jurisdiction had a political opposition which might mean a change of policy in the future.

With such a dominance of the financial industry in Guernsey, there is little chance that politics in the Bailiwick will do anything other than work in the interests of the financial industry, and to that extent it should be considered a captured state.

Rank: 10

Chart 1 - How Secretive?

72
Secrecy Score

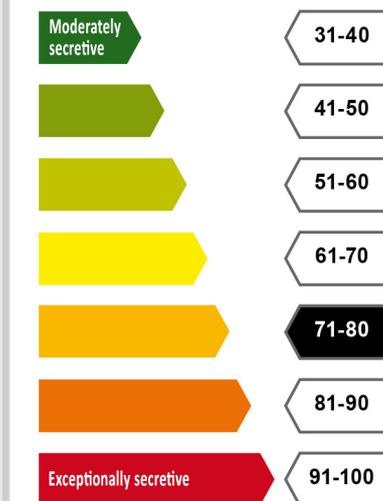
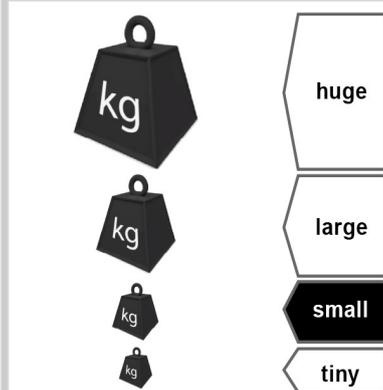


Chart 2 - How Big?



Guernsey accounts for less than 1 per cent of the global market for offshore financial services, making it a small player compared with other secrecy jurisdictions.

The ranking is based on a combination of its secrecy score and scale weighting.

Full data on Guernsey is available here: <http://www.financialsecrecyindex.com/database>.

To find out more about the Financial Secrecy Index, please visit <http://www.financial-secrecyindex.com>.

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Relationship with the UK

Guernsey is a British Crown Dependency. Although the UK government has no direct control over the domestic affairs of the islands, legislation passed by the States must be approved by the UK Privy Council. UK law can be extended to the States, though this has historically been handled on the basis of consent.

The UK maintains responsibility for defence and the foreign relations of the islands. At the time of joining the European Economic Community in 1973, Britain negotiated a special provision of its accession treaty which kept Guernsey outside the EEC, and subsequently the European Community, while at the same time allowing for free movement of goods within the Customs Union but outside the regulatory framework of the Single Market.

The offshore industry in Guernsey

Guernsey is a major offshore financial centre. As of 2016 the Bailiwick had £255bn of assets under management.² To put this into context, the GDP of Guernsey was £2.9bn in 2016. A large amount of these assets, around £100bn, are [held](#)³ in private equity vehicles, where Guernsey has developed a particular specialism.

In the FSI, Guernsey has a global scale weight of 0.5%, meaning that its market share in the global trade in offshore financial services is half of one percent. However, this is an island with a population of just 60,000. Germany on the other hand, has a market share of 5% of global offshore services, ten times that of Guernsey, but a population around 80 million, and a GDP of \$3.467Trillion, an economy almost 850 times larger than Guernsey.

As a result of the huge relative size of the offshore industry, the finance sector dominates the local economy. According to the States of Guernsey statistical office, 21% of the labour force was employed in the finance sector,⁴ and the sector accounted for around 40% of Gross Value Added.⁵ However, this figure could be significantly higher when you take into account jobs in downstream sectors of the economy, including retail, hospitality, construction, and many others, that depend on the finance sector.

The growth of Guernsey's offshore industry comes from its closeness to the UK, a captured political system happy to facilitate the legislative desires of the finance industry and low taxes.

Guernsey charges zero capital gains tax, zero taxes on inheritance and other wealth. Income tax is a flat 20% but comes with generous rules, including the possibility of [capping](#)⁶ your worldwide income tax liability to £220,000. Guernsey eliminated corporation taxes in 2008 except for banks which pay a 10% rate.

Guernsey and international standards on tax and transparency

Guernsey is related to the UK but not part of the UK, it is inside the EU Customs Union but not a member of the EU. This allows Guernsey to pick and chose regulations which suit it, whilst maintaining access to these markets. Guernsey financial services have passporting rights in the EU, meaning they can sell directly to EU citizens, but are not subject to all EU regulations.

A report for the UK Government published in 1998 put it like this:

“Compared with other offshore centres, they have developed reputations for stability, integrity, professionalism, competence and good regulation. Their links with the UK and Europe have encouraged others to see them as “Offshore UK” or “Offshore Europe”.”

The UK, in its role managing the foreign relations of the Islands' has continued to protect the status of Guernsey and the other Channel Islands. It has been [alleged](#)⁸ that the financial services industry in the Crown Dependencies lobbied the UK Government to water down G8 anti-tax haven proposals in 2013.

However with the impending exit of the UK from the European Union, and the hardening of the European position on tax avoidance and tax evasion, there is a prospect that Guernsey's access to the European Union markets will be difficult to maintain.

In 2017 the EU placed Guernsey and Jersey on the grey-list of jurisdictions not compliant with EU standards on taxation, due to their policies on low taxation for companies. The grey-list has no real effect, but the EU has left open the possibility of imposing sanctions on countries on the list in the future.

Guernsey continually defends itself against claims that it is a tax haven or a secrecy jurisdiction by reference to its adherence to international norms and rules regarding tax transparency. After the OECD threatened the jurisdiction with blacklisting in 2009, the country has worked to meet international standards in tax and transparency.⁹

This is reflected in the 2018 Financial Secrecy Index, where Guernsey scores highly on our *International Standards on Co-Operation* Financial Secrecy Indicators. Guernsey was an early adopter of Automatic Exchange of Information, and has signed up to international standards on anti-money laundering controls.

However, when it comes to public access to important corporate data, Guernsey is much less forthcoming. Although Guernsey and Alderney have implemented registers of beneficial ownership, these are closed registers not available to the public, and company accounts are not available to the public. These factors score as negatives in the FSI 2018 analysis.

It is also the case, as the Tax Justice Network has argued for a long time, that the international standard for co-operation in financial crime, tax evasion and money laundering is simply inadequate. This is amply demonstrated by statistics detailing the number of cases dealt with by the Guernsey authorities.

The last evaluation by the OECD's Global Forum on Tax and Transparency, which was concluded in 2013, sets out how many requests for financial information were received by the Guernsey authorities from foreign jurisdictions. In 2009 there was one request, in 2010 there were 9, 22 in 2011 and 25 in 2012.¹⁰ Given the size of the Guernsey Financial Industry this demonstrates the ineffectiveness of the OECD's previous on-request information exchange system, where jurisdictions could only request data on offshore companies if they had evidence of wrongdoing. Often this evidence was difficult to find without the information in the first place.

Enforcement

Where there has been a serious concern in Guernsey is with regards to the issue of enforcement. In the 2018 FSI the Bailiwick scores poorly on *Tax Administration Capacity*, which is an indicator of whether tax administrations have the resources in place to investigate complex tax offences.

Enforcement has been a long term problem for Guernsey. In 2011 the IMF published a report on Anti-Money Laundering in Guernsey. It found that whilst the anti-money laundering framework in the jurisdiction met international standards, there were concerns about the lack of prosecutions, despite cases being opened by law enforcement agencies.

The report noted that between 2006 and 2010 there were 31 investigations opened, but just five prosecutions and 2 convictions for money laundering offences. It should be noted that most of these investigations involved drug trafficking and only one of the 26 cases opened until 2009 involved the financial sector, which the IMF felt was disproportionate given the size of the sector.¹¹

When MONEVAL re-evaluated the jurisdiction in 2015, they noted that there had been some effort to improve enforcement in money laundering in the financial sector, but that there were still relatively few cases and the jurisdiction had room for improvement. According to the report there were just 8 convictions for money laundering between 2011 and 2013.¹²

In 2012, Cees Schrauwers became Chairman of the Guernsey Financial Services Commission. In the 2016 Annual Report the Chairman notes that he had inherited a number of significant enforcement cases which had been making slow progress. The last two cases, which both involved the collapse of the Arch Cru fund, were finally resolved in 2016.¹³ Arch Cru was a Guernsey listed fund which [collapsed in 2009](#)¹⁴, impacting 20,000 investors. Most of the investors were savers who had been recommend to invest in the fund by their financial advisers, having been given the impression that it was a low risk fund.

Despite the resolution of these cases there are still clearly concerns circulating in the financial community. In his statement attached to the 2016 report, Schrauwers writes that there were 'mischievous rumours circulating in 2016 relating to the scale of the commission's enforcement activity.' The Chairman is open about the fact that the Commission only pursues the most serious cases of where companies or individuals have breached regulations, saying "We have been very selective about the firms and individuals referred to enforcement. The Commission has no desire to take forward petty cases, life is too short; we have no desire to spend our finite time on them and our resources are far too modest for that to be an appropriate response given the serious malfeasance with which we are dealing... staff are almost fully consumed with a small number of complex investigations which we have prioritised because of their seriousness."¹⁵

Trusts

Trusts are an important part of the Guernsey offshore offer. Guernsey was one of the first jurisdictions in

the world to regulate fiduciary services – the people who manage and administer trusts. This, together with the adoption of the Hague Convention in 1993, allowed the industry to flourish. A UK Government report stated that by 1998 there were 25,819 trusts in Guernsey.¹⁶ The Hague Convention extended the legal recognition of Guernsey trusts to a number of important jurisdictions around the world, including the UK, USA, Canada, France, Luxembourg and Hong Kong.

The number of trusts in Guernsey has remained relatively stable since then. In 2012, it was reported that there were 23,698 trusts in Guernsey.¹⁷

As noted in the 2018 FSI, there is no register of trusts in Guernsey. Companies in Guernsey [openly advertise](#)¹⁸ the Guernsey trust as a mechanism to avoid taxation and keep the ownership of assets confidential.

Companies in Guernsey

Guernsey and Alderney have separate companies law and maintain separate companies registers. Sark has no companies law, but as is dealt with below, that has not blocked people from trying to set up Sark companies.

Guernsey is by far the bigger of the two corporate registries. In 2013, the OECD Global Forum peer review reported that there were a little over 17,500 companies registered in Guernsey, whereas there were just 462 companies registered in Alderney. Of the Alderney companies 200 held a license to perform some sort of regulated activity. Of these 51 were involved in e-gaming (online gambling), and the majority of the rest were local businesses.¹⁹

The vast majority of companies established in Guernsey are shell companies. As highlighted in a publication of the Guernsey Statistical Office for 2016:

“Of the 1,823 companies that were incorporated by the Guernsey Registry during the year ending March 2016, 1,491 were Finance sector companies. Of these, 90% were asset holding companies or trusts and companies or other structures administered by fiduciaries, which do not employ staff.”²⁰

Guernsey companies also are important stepping stones for international companies looking to list on the London Stock Exchange. With 124 companies, Guernsey has [more companies listed](#)²¹ on the LSE than any other (non-UK) jurisdiction in the world according to Guernsey Finance – the industry

association for the Guernsey finance industry.

A significant number of companies, 2,200, provide financial services according to the Guernsey Financial Services Commission. This presents an obvious difficulty for the corporate governance of these companies since they require 7,200 directors, of which about 4,500 are non-executive directors.²²

Finding suitably qualified non-executive directors who can provide genuine accountability to these companies has been highlighted by the Guernsey Financial Services Commission as a challenge. In total 6,825 people worked in the financial services industry in 2016, fewer than the total number of directorships in companies regulated by the Guernsey Financial Services Commission.

The Sark lark

Sark, a tiny island, just three miles long and one and a half miles wide, and with a population of just 600, has an interesting history in the Guernsey tax haven. It has no public administration, and a government budget of just £1.35mn, which comes from a variety of sources, including a property tax, a dog tax, a bicycle tax and customs duties. A single tax assessor collects property and income taxes, and is employed for the first 40 days a year, receiving a small honorarium for his role. According to the Chief Pleas of Sark, the jurisdiction has never received a request to enter into a tax information exchange agreement, and has no infrastructure to do so.²³

In the 1980s the island became known for the Sark Lark. In order to avoid Guernsey’s income tax on domestic revenue, board meetings for Guernsey offshore companies had to be held outside the Island of Guernsey. As a result residents of Sark engaged in a profitable practice of selling addresses on Sark that did not exist, and offering themselves up as directors of companies. By the 1990s it was thought that the [majority of the island’s adult population](#)²⁴ was involved in the practice.

In one particularly outrageous case, a man called Phil Crowshaw was banned from being a director by the Guernsey Financial Services Commission in 1999, after he was found to have been a director of between 3 and 4 thousand companies. This action came after court action was started in the UK against a number of UK based Crowshaw companies for various criminal offences. It is thought that Mr Crowshaw had no knowledge of what these companies did.

Despite this action, Mr Crowshaw appears to have continued his trade since, in 2012, [an investigation by the ICJ and the Guardian](#)²⁵ found him to be a director of 4,000 companies, the vast majority of which were domiciled in Ireland.

Despite the Island of Sark having no company law, that has not stopped people trying to set up a corporate register on Sark. In 2017 the Guernsey Financial Services Commission issued a [press release](#)²⁶ stating that it had become aware of a not for profit organisation, registered in Sark, calling itself the Sark Company Registry. The press release encouraged anyone who had contacted the organisation to seek legal advice as to the standing of ‘anything that is “registered” with it’. The Chief Pleas issued a statement reiterating that no companies can be registered in Sark, as Sark has no corporate law.

The Sark Company Registry is a creation of Stanislovas Thomas, a Lithuanian lawyer. He has [stated](#)²⁷ that he wants the registry to include a register of the beneficial ownership of companies registered with it, and to take advantage of Sark’s lack of any corporation tax.

As of January 2018, the website of the [Sark Company Registry](#)²⁸ was still active.

Endnotes

- 1 <http://www.globalresearch.ca/oligarchy-island-behind-the-hong-kong-protests/5317807>; 26.1.2018.
- 2 Guernsey Financial Services Commission, *Annual Report and Accounts 2016*, p52
- 3 <https://www.wereguernsey.com/news/2017/guernsey-funds-hit-100-billion-private-equity-milestone/>; 26.1.2018.
- 4 States of Guernsey, *Quarterly Population, Employment and Earnings Bulletin, October 2017*, available from: <https://www.gov.gg/CHttpHandler.ashx?id=110587&p=0>; 26.1.2018.
- 5 States of Guernsey, *Guernsey Annual GVA and GDP Bulletin 2017*, available from: <https://www.gov.gg/CHttpHandler.ashx?id=111088&p=0>; 26.1.2018.
- 6 <http://taxsummaries.pwc.com/ID/Guernsey-Individual-Taxes-on-personal-income>; 26.1.2018.
- 7 Andrew Edwards, *Review of the Financial Regulation in the Crown Dependencies*, Command Paper CM4109, S7, available from: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/265705/4109.pdf; 26.1.2018.
- 8 <https://www.theguardian.com/news/2017/nov/07/tax-haven-lobby-superb-penetration-uk-government-paradise-papers>; 26.1.2018.
- 9 In 2009 the OECD threatened countries with inclusion on a blacklist if they did not sign up to a minimum number of Tax Information Exchange Agreements. As [stated](#) at the time by the Chief Executive of Guernsey Finance, this provoked the islands into signing a flurry of these agreements.
- 10 OECD Global Forum, *Peer Review Report Phase 2, Guernsey 2013*, Para 32.
- 11 IMF, *Guernsey: Detailed Assessment Report on Anti-Money Laundering and Combating the Financing of Terrorism*, January 2011, pp. 63-65
- 12 Council of Europe, *Report on the 4th Assessment Visit, Anti-Money Laundering and Combating the Financing of Terrorism*, September 2015, see recommendation 32 and accompanying text
- 13 Guernsey Financial Services Commission, *Annual Report 2016*, p19
- 14 <https://www.ftadviser.com/2015/01/14/opinion/jeff-prestridge/the-arch-cru-scandal-still-festers-4m5i-ar3TjMwIMh8Y4KstIN/article.html?page=2>; 30.01.2018.
- 15 GFSC, *Annual Report 2016*, see Chairman’s Statement
- 16 Andrew Edwards, *Review of the Financial Regulation in the Crown Dependencies*, Command Paper CM4109, available from: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/265705/4109.pdf; 26.1.2018.
- 17 OECD Global Forum, *Peer Review Report Phase 2, Guernsey 2013*, Para 137.

- 18 <https://www.jtcgroup.com/publications/an-introduction-to-guernsey-trusts>; 26.1.2018.
- 19 OECD Global Forum, *Peer Review Report Phase 2*, Guernsey 2013, Para 55.
- 20 States of Guernsey, *Facts and Figures 2016*, available from: <https://www.gov.gg/CHttpHandler.aspx?id=104269&p=0>; 26.1.2018.
- 21 <https://www.weareguernsey.com/media/2474/lse-listings.pdf>; 26.1.2018.
- 22 GFSC, *Annual Report 2016*, see Chairman's Statement
- 23 The Government of Sark, *Finance and Resources Committee, Sark's International Tax Transparency*, available from http://www.gov.sark.gg/Downloads/Press_Releases/2016_press_releases/160408_sark_transparency_policy_statement.pdf; 26.1.2018.
- 24 <http://www.independent.co.uk/news/business/stamping-out-the-sark-lark-1102707.html>; 26.1.2018.
- 25 <https://www.theguardian.com/uk/datablog/2012/nov/26/offshore-secrets-companies-sham-directors>; 26.1.2018.
- 26 <https://www.gfsc.gg/news/article/sark-company-registry>; 26.1.2018.
- 27 <https://www.gfsc.gg/news/article/sark-company-registry>; 26.1.2018.
- 28 <http://sarkregistry.com/>; 26.1.2018.

PART 2: GUERNSEY'S SECRECY SCORE

OWNERSHIP REGISTRATION

- 57% 1. Banking Secrecy
- 100% 2. Trust and Foundations Register
- 75% 3. Recorded Company Ownership
- 100% 4. Other Wealth Ownership
- 100% 5. Limited Partnership Transparency

LEGAL ENTITY TRANSPARENCY

- 100% 6. Public Company Ownership
- 100% 7. Public Company Accounts
- 100% 8. Country-by-Country Reporting
- 100% 9. Corporate Tax Disclosure
- 100% 10. Legal Entity Identifier

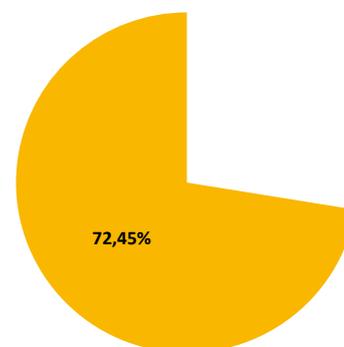
INTEGRITY OF TAX AND FINANCIAL REGULATION

- 100% 11. Tax Administration Capacity
- 75% 12. Consistent Personal Income Tax
- 80% 13. Avoids Promoting Tax Evasion
- 100% 14. Tax Court Secrecy
- 50% 15. Harmful Structures
- 80% 16. Public Statistics

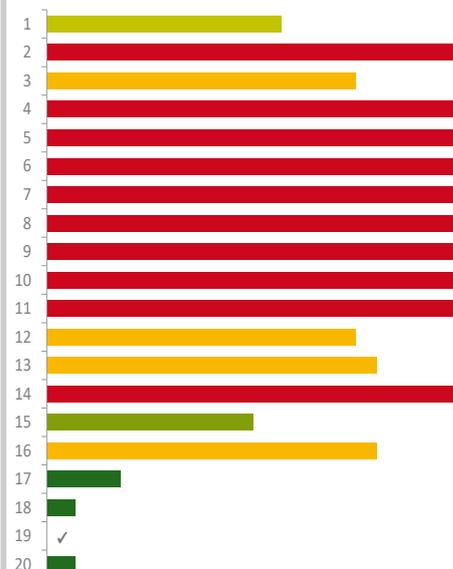
INTERNATIONAL STANDARDS AND COOPERATION

- 18% 17. Anti-Money Laundering
- 7% 18. Automatic Information Exchange
- 0% 19. Bilateral Treaties
- 7% 20. International Legal Cooperation

Guernsey - Secrecy Score



Guernsey KFSI-Assessment Secrecy Scores



Notes and Sources

The ranking is based on a combination of its secrecy score and scale weighting (click [here](#) to see our full methodology).

The secrecy score of 72 per cent has been computed as the average score of 20 Key Financial Secrecy Indicators (KFSI), listed on the left. Each KFSI is explained in more detail by clicking on the name of the indicator.

A grey tick indicates full compliance with the relevant indicator, meaning least secrecy; red indicates non-compliance (most secrecy); colours in between partial compliance.

This paper draws on data sources including regulatory reports, legislation, regulation and news available as of 30.09.2017.

Full data on Guernsey is available here: <http://www.financialsecrecyindex.com/database>.

To find out more about the Financial Secrecy Index, please visit <http://www.financialsecrecyindex.com>.