Narrative Report on Jersey

PART 1: NARRATIVE REPORT

Jersey is ranked at sixteenth position on the 2015 Financial Secrecy Index. This ranking is based on a combination of its secrecy score and a scale weighting based on its share of the global market for offshore financial services.
Jersey has been assessed with 65 secrecy points out of a potential 100, which places it at the lower end of what might be regarded as the 'danger zone' for offshore secrecy (see *chart 1*).
Jersey accounts for slightly over 0.2 per cent of the global market for offshore financial services, making it a small player compared with other secrecy jurisdictions (see *chart 2*).

The Jersey financial centre: history and overview[1]

Jersey, the largest of the Channel Islands, lies 135 kilometres south of the UK and just 45 minutes by jet from London. Proximity to the UK means that the island's financial centre is intimately linked to London and the majority of inflows to Jersey are destined to the City.

Despite its tiny size, with a population of around 100,000, the island hosts a relatively large offshore financial centre in its capital, Saint Helier, with a sophisticated cluster of international banks, trust companies and law firms – including many top players in the self-styled 'Offshore Magic Circle'. For decades offshore trusts have been a mainstay of the island's wealth management sector, which attracts capital inflows from around the world. Jersey also hosts hedge funds, shadow banks and has specialised in offshore securitisation of loans.

With its tiny population and over-sized financial services sector, Jersey is economically dependent on, and politically captured by, offshore finance, serving as a microcosmic illustration of the concept of the Finance Curse.

Since we last published the FSI in 2013, Jersey has bowed to international pressure to participate in multilateral automatic information exchange through the new Common Reporting Standard (see explanatory report on KFSI 12). This is an important initiative, though not without limitations, such as the option available to participating countries to choose which partners they are willing to exchange information with.

In the past decade the island's authorities have also negotiated and signed 36 bilateral tax information exchange agreements which comply with basic OECD requirements (see explanatory report on KFSI-13) and since June 2014 has been party to the OECD / Council of Europe tax convention. These two changes largely explain why Jersey has dropped from ninth position on the FSI ranking in 2013 to sixteenth on the latest ranking.

Rank: 16

Chart 1 - How Secretive? 65 Secrecy Score

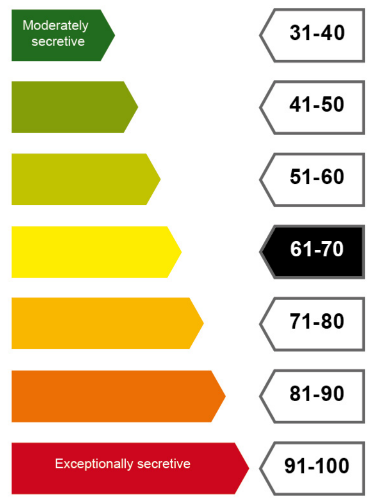
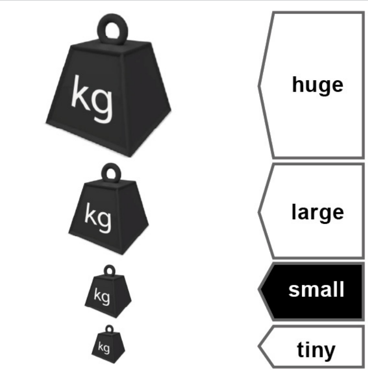


Chart 2 - How Big?



Jersey accounts for slightly over 0.2 per cent of the global market for offshore financial services, making it a small player compared with other secrecy juridictions.

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

Read more
→ **Full data**
→ **Jersey on TJN Blog**
→ **Full Methodology**

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Disappointingly, however, the Jersey authorities have made little progress in other areas where it scores weakly, and at time of writing this report, the Jersey government's failure to create a public registry of beneficial ownership of companies indicates a continued commitment to blocking international attempts to remove the anonymity provided by offshore companies. The same applies to trusts.

Britain's benign neglect of Jersey's offshore banking

For centuries, Jersey has taken advantage of its peculiar constitutional relationship with Britain to maintain its fiscal autonomy. It was a relatively early entrant to the offshore financial services market. In the 1920s UK high net worth individuals either emigrated to the island or shifted their wealth to Jersey and registered offshore trusts and companies for estate planning purposes. Income tax was originally introduced in 1928 at a rate of 2.5 percent, but subsequently raised to 20 percent in 1940 by the German military government. The personal income tax rate remains 20 percent, but corporate profits and capital gains are not taxed, and there is neither a wealth nor inheritance tax. As academic researchers have noted (*Offshore Finance Centres and Tax Havens*, **p181**): "a large proportion of the transactions conducted in Jersey are tax driven (that is, transactions that are booked there without the requirement of adding value so that there is little real activity) which is a key identifier of a tax haven."

Before the abolition of British exchange controls in 1979 under Prime Minister Margaret Thatcher, all banks in Jersey came under the Bank of England exchange control regulations, but the Bank of England has historically been relatively content to operate a regime of benign negligence with respect to Jersey. Offshore banking expanded rapidly from the 1960s as London-based secondary banks expanded their offshore Euromarket activities: Hill Samuel from 1961, then Kleinwort Benson and Royal Trust of Canada in 1962, Hambros Bank in 1967 and then the first U.S. bank, First National City, the following year. Within a decade, 30 international banks were operating from Saint Helier, including Citibank, Bank of America, Deutsche Bank, Banque Nationale de Paris, Barclays Wealth, HSBC and Bank of India.

Saint Helier: an extension of the City of London

A British **Crown Dependency** since the 13th Century, Jersey's key officials, including senior law officers, the president of the States of Jersey (the legislature), and the island's Lieutenant Governor are all appointed by the British monarch.

One commentator describes (*The offshore Interface*, **p154**) Jersey's relationship with Britain as "within and yet without, of being under the UK umbrella and yet with the space to have a surprising amount of freedom". Jersey Finance, the self-styled voice of the International Financial Centre, **admits**:

> "For many corporate treasurers, institutional bankers and treasury specialists, fund promoters, brokers and other corporate financiers, Jersey represents an extension of the City of London."

All legislation agreed by the island's legislature must be ratified by the UK monarch's Privy Council before being enacted. And yet politically Jersey is not part of the UK and, through smoke and mirrors, regularly projects itself as being free from UK interference. This provides comfort to British elites using Jersey for tax cheating, while at the same time reassuring them that if the worst arises they can protect their interests through appeal to the UK Supreme Court. This odd relationship with the UK is echoed in the peculiar relationship between Jersey (and its fellow Bailiwick of Guernsey) and the European Union. Strictly speaking, Jersey is inside the Customs Union for the purposes of trade in tangible goods, but is not party to EU Directives or treaties such as the Single Market Act or the Maastricht Treaty.

This inside-outside relationship with Britain is also reflected in the island's culture and social relations. Superficially the island feels British, but with Norman-French street names. And, as author Nick Shaxson notes in his book *Treasure Islands*, the tiny scale amplifies many of the problems of contemporary Britain: conflicts of interest and corruption are rife and the elite have made their own interests synonymous with the interests of the entire population. In the near-absence of opposition politics and independent media this is a recipe for stifling dissent – especially when it challenges the dominant offshore financial sector.

Sun, sea and secrecy

Although Jersey does not have formal banking secrecy backed by criminal law (as is the case in Switzerland or the Bahamas, for example) secrecy is provided in various other ways, including via Jersey trusts, offshore companies and, since 2009, foundations. These legal arrangements, combined with judicial separation from the UK, provide an effective secrecy space that attracts illicit financial flows from across the world. While the funds were flooding in during the 1980s and 1990s, the island's regulatory authorities did little to intervene to prevent dirty money from rushing through Saint Helier en route to London. On September 17, 1996, in a searing article about an accumulation of scandals in Jersey, the *Wall Street Journal* described this secrecy jurisdiction as "an offshore hazard . . . living of lax regulation." Two years later, in response to a major regulatory failure involving the Jersey subsidiary of Swiss banking giant UBS and a convicted foreign exchange dealer operating from offices in the island, New York assistant district attorney John Moscow was quoted in the *Financial Times*:

> "The Isle of Man authorities see their job as keeping the bad guys out. Jersey sees its job as co-operating with criminal authorities when the law requires it, without necessarily keeping the bad guys out."

Such articles are usually met by a frenzy of public relations activity, along the line: 'we are clean, well regulated and cooperative; and our critics are motivated by foul purposes.' In addition, when major wrongdoing has been uncovered and publicised, Jersey authorities argue that this kind of activity all happened a long time ago, and point to their position (alongside nearly every other secrecy jurisdiction) on the OECD's failed 2009 white list.

Matters were particularly bad in the 1990s and 2000s amid a phase of management buyouts, whose financial arrangements meant that the directors of trust companies were under tremendous and unprecedented pressure to maximise short-term financial performance. This led to a wave of particularly unscrupulous practices and tolerance of financial criminality. The permissive attitude of Jersey's authorities was captured in the following comment, published in Nicholas Shaxson's *Treasure Islands*, from Robert Kirby, technical director of Jersey Finance.

> "Someone comes up with a new idea, but onshore regulation blocks it. You can lobby onshore, but there are lots of stakeholders, you have to get past them all, and it takes a long time. In Jersey you can bash this thing through fast. We got the leading edge years ago. We can change our company laws and our regulations so much faster that you can in say the U.K., France or Germany."

This all sounds dashing and creative until you recognize that virtually none of the checks and balances that constrain financial lobbyists in mainstream democracies exist on Jersey. The Island's only newspaper has been almost entirely uncritical of offshore finance for decades, there are no think tanks or universities which can independently scrutinise proposed laws and inform politicians and the public of their shortcomings, and few politicians have independent researchers to support their scrutiny activities. In short, Jersey has largely been a happy hunting ground for lobbyists for many decades.

In more recent years, however, Jersey has had to respond to external pressure for change, which in some cases have led to reforms of its offshore sector, for example adoption of automatic information exchange in response to pressure from the international community.

Pressure for change has come from several directions.

First, external pressure from the G20 member states and OECD has forced Jersey and other tax havens to sign up to the Common Reporting Standard on multilateral and automatic tax information exchange.

Second, the global financial and economic crisis has impacted Jersey's financial sector, although the response has typically been to respond to falling revenues by cutting welfare programmes for poor and vulnerable people while also increasing regressive sales-based taxes on local people.

Third, increased civil society scrutiny of tax havens has to some extent weakened the *omertà* of the offshore finance sector, forcing tax havens to justify their policies and/or take action to tidy up their acts. Ironically, Jersey's proximity to London, which has been among its key attractions for the City of London, has also made it easily accessible to investigative journalists, documentary makers, and civil society activists from across Europe.

Insiders also tell us that cultural changes now underway in Jersey have made some practitioners, particularly younger ones, less tolerant of some of the more egregious and illegal acts.

One other change of the past few years is that the Jersey Financial Services Commission, previously an unresponsive rubber-stamp, has started to become more aggressive (and hence more unpopular) in trying to stamp out some of the more outrageous practices.

In July / August 2015 TJN interviewed some insiders and local critics of Jersey's offshore finance sector. Interestingly, there seemed to be a consensus that Jersey remains overly dependent on offshore financial services – an indication of the extent to which other industries have been crowded-out by Dutch Disease effects – with no sign of a sustained turnaround in the economic downturn of the past decade.

There also seemed to be agreement among our interviewees that the Jersey government's consultation within the finance sector on whether to create a public registry of beneficial ownership of companies will yield a negative response. All interviewees concurred that this likely negative response (which has not been confirmed at the time of writing this report) indicates that the culture of offshore secrecy remains largely intact, despite the Island authorities submitting to external pressure to cooperate with information exchange agreements. TJN's own query about whether the Jersey authorities will create a public registry of beneficial ownership of companies led to a reply that can best be described as a masterclass in obfuscation, which we duly append to this report without comment.

Jersey's lack of an alternative development strategy remains a cause of concern, not least for the islanders themselves. Jersey is overly dependent on its role as a secrecy jurisdiction and has all the hallmarks of a captive state. The offshore financial centre in Saint Helier accounts for over 50 per cent of gross value added in the local economy, and virtually every other sector operates downstream of its activities. In such a monoculture economy, and without any serious prospects of breaking free from this extreme economic dependence, Jersey's authorities are loath to curtail the secrecy arrangements (e.g. offshore trusts, companies and foundations) that attract such a large proportion of its financial business. As researchers have recently argued, they are locked into a political economy over which they have little control:

> "They have limited scope for reducing their dependence on offshore financial services. With approximately one quarter of its economically active population directly employed in the OFC, and the majority of the remaining workforce employed in secondary sectors like construction, distributive trades and catering, there is virtually no alternative skills base on which new industries can draw. This path dependence has been reinforced by the extraordinary high costs of land and

labour, which have crowded-out pre-existing industries. Taking measures to diversify the local economy will therefore require politically unpalatable steps to significantly reduce the domestic cost base."

For all of the above reasons, plus the continued lack of transparency of Jersey trusts and offshore companies, and despite the recent commitment to the new global Common Reporting Standard, we consider that the 2015 secrecy score of 65 demonstrates through legal fact and assessments by international institutions that Jersey remains an important secrecy jurisdiction – still ranked in the global top twenty – and continues to represent a threat to global good financial governance.

Read more

- [Full data for Jersey]
- [Jersey on TJN Blog]
- [Full Methodology]

- Hampton, M (1996), *The Offshore Interface: tax Havens in the Global Economy*, Palgrave Macmillan: Basingstoke.
- Hampton, M and Abbott, J (eds.) (1999), *Offshore Finance Centres and Tax Havens: The Rise of Global Capitalism*, Palgrave Macmillan: Basingstoke.
- Shaxson, N (2012), *Treasure Islands: Tax Havens and the Men who Stole the World*, Vintage Books: London.
- Shaxson, N. and Christensen, J. (2013), *The Finance Curse: How oversized financial centres attack democracy and corrupt economies,* Commonwealth Publishing, London

Appendix: Reply from Jersey government to TJN's query about whether the Island will create a public registry of beneficial ownership

From: Colin Powell <C.Powell@gov.je>
Sent: 14 August 2015 15:51
To: John Christensen
Cc: Joe Moynihan; 'E.Martin@jerseyfsc.org'
Subject: Consultation on creating a public registry of beneficial ownership of companies

Dear John

I hope you are well. Your query concerning the consultation on creating a public register of beneficial ownership of companies has been passed to me.

The consultation has been completed but it is considered that in analysing the results, drawing conclusions and producing a report the following matters need to be fully addressed several of which remain outstanding –

· *further clarification is required of the UK Government's proposal that in the UK there should be established a publicly accessible central register of the individuals who ultimately own and control UK companies – the company's beneficial owners or 'people with significant control'. Following the Royal Assent of the primary legislation (the Small Business, Enterprise and Employment Act) on 26 March 2015 there is still secondary legislation awaited which will deal with such matters as the exemptions from full disclosure for those considered to be at risk of personal attack. It is understood that the secondary legislation will be put out for consultation before the Regulations are presented to Parliament and made;*

· *as further information is forthcoming comparisons will be better able to be drawn between the UK proposals and the approach adopted by Jersey. For example, the UK proposal only encompasses companies incorporated in the UK. As a result unless there is a global approach with all countries implementing a public register it would be easy for criminals to form companies in another jurisdiction (eg a Delaware LLC) and administer them in the UK without any registration required. The Jersey Central Register of beneficial ownership also only includes companies incorporated in Jersey but companies formed elsewhere that are administered in the Island are covered through the licensing and regulation of the Trust and Company Service Providers (TCSPs)* *from whom beneficial ownership information is obtainable. As you will be aware the World Bank in its report "The Puppet Masters" refers to the Jersey Model. ;*

· *consideration of the UK proposals has also awaited information on whether and to what extent the UK Government intended to follow Jersey in exercising effective regulatory oversight of TCSPs who incorporate and/or administer UK companies and administer foreign companies;*

· *there has been a need to assess the relative value of the UK proposals where there is no statutory obligation placed on the Company to validate/verify the information provided to it by the ultimate beneficial owners or controllers concerned. The Company Registry is also not expected to validate/verify the information received from the company, unlike the role performed by the Jersey Registry. The UK Government is to rely on the public to provide the validation. There are real doubts that this will be seen as meeting the FATF Recommendation requirement of adequate, accurate and timely information for law enforcement authorities;*

· *the impact of the global adoption of the new common reporting standard for AEOI which will provide for quality information on beneficial ownership to be made available automatically between jurisdictions that sign up to the Multilateral Convention on Mutual Administrative Assistance in Tax Matters and the Multilateral Competent Authority Agreement, which information would then give those jurisdictions a basis for asking for further information on request;*

· *further consideration of the ongoing work of the OECD on what will best suit the information needs of developing countries;*

· *the need to have regard for how the relevant articles on beneficial ownership in the EU 4th AML Directive, endorsed by the European Council on 31 March 2015, are to be interpreted by the Member States, and what would be required for equivalence to be satisfied. Under the Directive it is understood that tax authorities would not have access to the proposed central registers;*

the need to have regard for the steps to be taken by the G20 reflected in the High Level Principles on Beneficial Ownership Transparency adopted in November 2014 on which the G20 countries have stated they will lead by example;

In addressing these matters comfort has been taken from the fact that, as matters currently stand, Jersey's current central register of beneficial ownership information (collected at the time of company incorporation and subject to independent validation by the Registry), supported by the regulation and supervision of TCSPs, puts Jersey ahead of most if not all other jurisdictions (and independently recognised as such) in meeting what is seen by the international standard setters as the prime objective. That is, being in a position to provide law enforcement and tax authorities, when requested to do so, with the accurate, adequate and up-to-date information required for the successful fight against tax evasion, money laundering and corruption..

Kind regards

Colin

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[1] This narrative report is based on information up to date at 21st October 2013, however all references to FSI scores or ratings reflect the 2013 results.

PART 2: JERSEY'S SECRECY SCORE

TRANSPARENCY OF BENEFICIAL OWNERSHIP – Jersey

1 *Banking Secrecy: Does the jurisdiction have banking secrecy?*
Jersey partly curtails banking secrecy

2 *Trust and Foundations Register: Is there a public register of trusts/foundations, or are trusts/ foundations prevented?*
Jersey partly discloses or prevents trusts and private foundations

3 *Recorded Company Ownership: Does the relevant authority obtain and keep updated details of the beneficial ownership of companies?*
Jersey does not maintain company ownership details in official records

KEY ASPECTS OF CORPORATE TRANSPARENCY REGULATION – Jersey

4 *Public Company Ownership: Does the relevant authority make details of ownership of companies available on public record online for free, or for less than US$10/€10?*
Jersey partly requires company ownership details to be publicly available online

5 *Public Company Accounts: Does the relevant authority require that company accounts are made available for inspection by anyone for free, or for less than US$10/€10?*
Jersey does not require that company accounts be available on public record

6 *Country-by-Country Reporting: Are all companies required to publish country-by-country financial reports?*
Jersey does not require public country-by-country financial reporting by companies

EFFICIENCY OF TAX AND FINANCIAL REGULATION – Jersey

7 *Fit for Information Exchange: Are resident paying agents required to report to the domestic tax administration information on payments to non-residents?*
Jersey does not require resident paying agents to tell the domestic tax authorities about payments to non-residents

8 *Efficiency of Tax Administration: Does the tax administration use taxpayer identifiers for analysing information efficiently, and is there a large taxpayer unit?*
Jersey does not use appropriate tools for efficiently analysing tax related information

9 *Avoids Promoting Tax Evasion: Does the jurisdiction grant unilateral tax credits for foreign tax payments?*
Jersey does not avoid promoting tax evasion via a tax credit system

10 *Harmful Legal Vehicles: Does the jurisdiction allow cell companies and trusts with flee clauses?*
Jersey does allow harmful legal vehicles

INTERNATIONAL STANDARDS AND COOPERATION – Jersey

11 *Anti-Money Laundering: Does the jurisdiction comply with the FATF recommendations?*
Jersey partly complies with international anti-money laundering standards

12 *Automatic Information Exchange: Does the jurisdiction participate fully in multilateral Automatic Information Exchange via the Common Reporting Standard?*
Jersey participates fully in Automatic Information Exchange

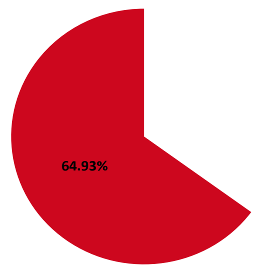
13 *Bilateral Treaties: Does the jurisdiction have at least 53 bilateral treaties providing for information exchange upon request, or is it part of the European Council/OECD convention?*
As of 31 May, 2015, Jersey had at least 53 bilateral tax information sharing agreements complying with basic OECD requirements

14 *International Transparency Commitments: Has the jurisdiction ratified the five most relevant international treaties relating to financial transparency?*
Jersey has ratified less than five of the most relevant international treaties relating to financial transparency

15 *International Judicial Cooperation: Does the jurisdiction cooperate with other states on money laundering and other criminal issues?*
Jersey partly cooperates with other states on money laundering and other criminal issues

Secrecy Score

Jersey - Secrecy Score



Jersey KFSI-Assessment

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 65 per cent for Jersey has been computed by assessing its performance on 15 Key Financial Secrecy Indicators (KFSI), listed on the left. Each KFSI is explained in more detail, here.

Green indicates full compliance on the relevant indicator, meaning least secrecy; red indicates non-compliance (most secrecy); and yellow indicates partial compliance.

This paper draws on data sources including regulatory reports, legislation, regulation and news available as of 31.12.2014 (with the exception of KFSI 13 for which the cut-off date is 31.05.2015).

Full data on Jersey is available here: http://www.financialsecrecyindex.com/database/menu.xml

All background data for all countries can be found on the Financial Secrecy Index website: http://www.financialsecrecyindex.com