

## Guernsey and international tax and regulatory standards

Service area / [Investment Funds](#)

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Guernsey's tax policy is underpinned by strong general anti-avoidance rules and the adoption of a number of international tax standards.

There are no allowances or exemptions of the sort found in many other countries which have the effect of producing effective rates of corporate tax much lower than the headline rate. With its relatively simple tax structure Guernsey has no call for tax rulings of the kind found in many other jurisdictions.

### Economic substance

In December 2017, the EU Code of Conduct Group on Business Taxation for the EU Economic and Financial Affairs Council (COCG) confirmed Guernsey to be a co-operative jurisdiction which complied with the general principles of "fair taxation" and has raised no concerns regarding Guernsey's standards of transparency or implementation of measures to counter base erosion and profit shifting ("BEPS").

The COCG did request that, given Guernsey's approach of applying a 0% tax rate as standard to corporate entities (with some limited exceptions), Guernsey take further steps to ensure that its tax system does not facilitate offshore structures aimed at attracting profits which do not reflect real economic substance. This was the final and only outstanding issue raised by the COCG in relation to Guernsey. In response, Guernsey committed to adopt economic substance legislation by the end of 2018. Guernsey was therefore excluded from the EU's list of non-cooperative tax jurisdictions that was published in December 2017 and further updated during 2018.

During 2018, Guernsey worked closely with the COCG, EU Member States and the other Crown Dependencies to develop economic substance legislation, which was adopted in

December 2018 and which came into force on 1 January 2019. On 12 March 2019, the EU Council confirmed that Guernsey had met its commitment to introduce economic substance requirements and therefore removed Guernsey from the list of jurisdictions who had committed to make certain changes, and did not place Guernsey on the "blacklist" of non-cooperative jurisdictions.

### Tax information transparency and exchange of information

Guernsey has given its full support for the transparency principles central to the current G20, OECD and EU tax initiatives and is working as part of the wider international community in the development and effective implementation of internationally agreed standards, including those set by the Financial Action Task Force ("FATF") and the OECD. The cooperation with the EU goes back to 2003 when Guernsey voluntarily committed to the EU's Code of Conduct on Business Taxation.

In 2004 Guernsey voluntarily entered into automatic information exchange and bilateral withholding arrangements respectively with all EU Member States under the European Union Savings Directive (2003/48/EC) ("EUSD") and has signed many Tax Information Exchange Agreements and Double Taxation Agreements. Guernsey intends to complete negotiations and sign agreements with all G20, OECD and EU Member States.

Guernsey committed in May 2013 to join the initiative of the G5 countries on establishing and piloting an international standard for automatic exchange of information between tax authorities.

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In December 2013 Guernsey entered into an intergovernmental agreement with the United States of America in relation to the implementation of FATCA, which it implemented in June 2014.

In October 2013 Guernsey also entered into an intergovernmental agreement with the United Kingdom in relation to the United Kingdom's own version of FATCA, which it also implemented in June 2014. However, the United Kingdom's version of FATCA has now been superseded by the adoption by Guernsey (alongside numerous jurisdictions) of the much broader global common reporting standard ("CRS").

Guernsey joined in the joint statement on 19 March 2014 committing to the early adoption of the global CRS. On 29 October 2014 Guernsey was among over 50 jurisdictions to sign the OECD's Multilateral Competent Authority Agreement in Berlin as a further step towards implementation of the CRS.

Guernsey, along with over 50 jurisdictions, implemented the CRS into its domestic legislation with effect from 1 January 2016.

Following the repeal of the EUSD by the EU Council on 10 November 2015, in order to make way for the CRS, the existing arrangements between Guernsey and EU Member States under the EUSD are being suspended.

As a key member of the global community committed to transparency, Guernsey continues to implement developments in transparency and best practice, building upon its early adoption of FATCA and the CRS and also being compliant with the BEPS minimum standards.

A number of enhancements to Guernsey's transparency measures are therefore expected in the near future. These include the introduction of legislation for mandatory disclosure rules for CRS Avoidance Arrangement and Opaque Offshore Structures. The goal of Guernsey and EU Member States is to implement these rules by 31 December 2019. These rules will require promoters of avoidance arrangements and service providers to disclose information on the arrangement or structure to the Revenue Service, including the identity of any user or beneficial owner, which will then be exchanged with the tax authorities of the jurisdiction in which the users and/or beneficial owners are resident where there is a relevant information exchange agreement. Whilst not currently one of the BEPS minimum standards, the rules effectively set out "best practice" on countering CRS avoidance and is therefore part of the compliance strategy of the Revenue Service.

Proposals are also being developed for the introduction of legislation to enable real-time or close to real-time reciprocal access to beneficial ownership information by EU tax and law enforcement authorities, subject to ensuring appropriate data and safeguarding measures are in place. As with Guernsey's current beneficial ownership rules, this would not be a public register. It is understood that EU Member States are currently working towards the establishment of interconnected central registries by 2021.

## BEPS

In 2016 Guernsey accepted the OECD's invitation to become a BEPS Associate and Member of the OECD BEPS Inclusive Framework. As a BEPS Associate, Guernsey is able to contribute to the overall development of the BEPS programme through policy dialogue and exchange of information – participating on an equal footing with OECD, G20 and many other countries and jurisdictions, including a significant number of developing countries.

Guernsey is committed to adopting the BEPS minimum standards. Guernsey has implemented country-by-country reporting in respect of accounting periods commencing on or after 1 January 2016 and has also adopted the spontaneous exchange of tax rulings with other jurisdictions. On 7 June 2017, Guernsey along with over 60 other jurisdictions, signed the OECD's Multilateral Instrument to implement tax treaty-related measures to combat BEPS and treaty abuse.

## Other international tax standards

In addition to the various tax information transparency measures referred to above, Guernsey has also adopted or committed to a number of other international tax standards.

Guernsey has signed 13 full double taxation agreements and over 60 tax information exchange agreements. Guernsey is also a party to the OECD's Multilateral Convention on Mutual Administrative Assistance in Tax Matters.

Guernsey has developed an active dialogue with the European Parliament on tax issues. The Chief Minister of Guernsey met with the Chair of the European Parliament's special Committee on tax rulings (TAXE 1) in May 2015 and provided written submissions to the Committee. In March 2016 officials from Guernsey gave evidence at a hearing of the second special Committee (TAXE 2).

## International regulatory standards

Guernsey has been assessed as being amongst the best quality financial centers in the world when measured against the rigorous international standards for tackling money laundering and terrorist financing set by the FATF. Guernsey was assessed by MONEYVAL in 2016 who found that it had the highest standard of any jurisdiction so far assessed: compliant or largely compliant with 48 out of 49 of the FATF recommendations on AML and countering the financing of terrorism (CFT). MONEYVAL found that Guernsey has in place a range of measures to facilitate various forms of international cooperation and plays host to competent authorities and financial institutions that are highly efficient, knowledgeable and aware of their obligations.

Guernsey is committed to compliance with FATF Recommendations 24 and 25 on transparency and beneficial ownership of legal persons and legal arrangements, reflected also in the EU 4th AML Directive. Guernsey has committed to the initiative to develop and implement a new global standard for the automatic exchange of beneficial ownership information. This initiative was launched by the G5 countries in

April 2016 following the Panama Papers scandal. It is being taken forward by the OECD and FATF at the request of the G20.

Guernsey has a robust and internationally respected system of financial regulation. Banking secrecy does not exist in Guernsey and Guernsey is a world leader in the regulation of trust providers.

The Guernsey Financial Services Commission has developed excellent regulatory cooperation with its EU counterparts, including with the new European Supervisory Authorities. Guernsey was among the first jurisdictions whose regulators concluded Memoranda of Understanding with most EU/EEA states with respect to market access for national private placement regimes under the Alternative Investment Fund Managers Directive. These memoranda were negotiated by the European Securities and Markets Authority.

### Data protection

Guernsey is among a small group of third country jurisdictions that have been officially assessed as meeting current EU data protection standards and granted equivalence (“adequacy”) through individual Commission Decisions. Following the adoption of the new EU General Data Protection Regulation (GDPR) in May 2016, Guernsey implemented the new GDPR standards on the same timetable as EU Member States (by May 2018). Further details on Guernsey’s implementation of GDPR can be found [here](#).



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