

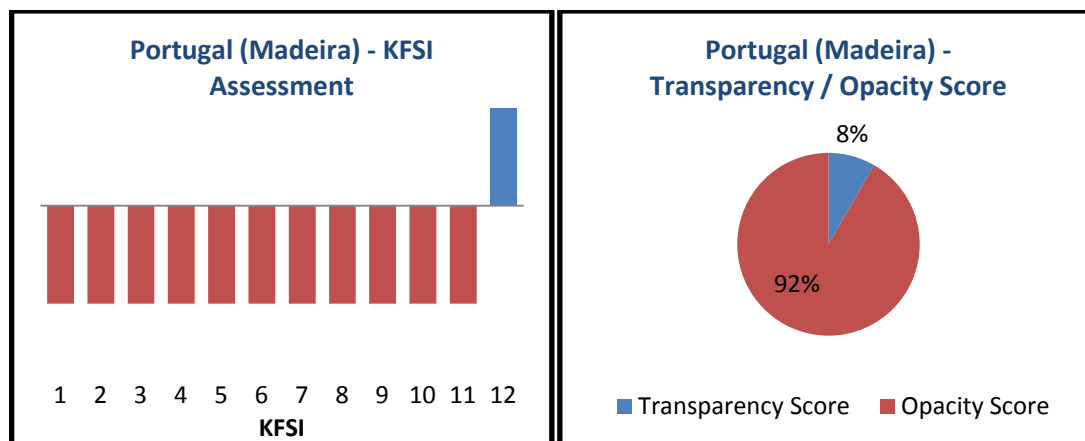
Jurisdiction Report - Portugal (Madeira)

Purpose of this paper

This paper draws on key data collected on the secrecy jurisdiction of Portugal (Madeira). The full data set is available [here](#)¹. Background information about Portugal (Madeira) is available from a number of sources². The assessment provided in this paper relates to 12 indicators reflecting the legal and financial arrangements of this jurisdiction (Key Financial Secrecy Indicators, KFSI). Details of these indicators are noted at the end of this report. The detailed data that supports this analysis is available on the Mapping the Faultlines web site³. This survey was based on regulatory reports, legislation and regulation in force at 31.12.2008⁴.

Key findings

Portugal (Madeira) achieved a positive result for just one of the questions we asked. A transparency score of 8 per cent has been awarded for the positive assessment of indicator number 12. The negative assessment of all other indicators yields an opacity score of 92 per cent overall.



The numbers on the bottom axis of the left graph refer to the Key Financial Secrecy Indicators (KFSI) listed at the end of this report. The presence of a blue bar indicates a positive answer as does blue highlighted text in the analysis, below. The presence of a red bar indicates a negative answer as does red highlighted text below.

This weak opacity score arises because Portugal (Madeira):

1. Provides **banking secrecy**;
2. Does not put **details of trusts on public record**;
3. Does not comply sufficiently with **international regulatory requirements**
4. Does not require that **company accounts be available on public record**;
5. Does not require that **beneficial ownership of companies is recorded on public record**;
6. Does not maintain **company ownership details in official records**;

7. Did not respond to **Tax Justice Network requests for information**;
8. Does not participate in the **European Union Savings Tax Directive**;
9. Has **few tax information agreements**;
10. Does not have **adequate access to banking information**;
11. Allows **company redomiciliation**;
12. **Does not allow protected cell companies.**

Other data⁵

	Number	Ranking ⁶
Financial services as a percentage of GDP	Not Available	Not Available
Number of multinational company subsidiaries in the jurisdiction	Not Applicable	Not Applicable
Number of Big 4 firms in the jurisdiction	4	-
Number of lawyers in the jurisdiction	Not Available	Not Available
Number of accountants in the jurisdiction	Not Available	Not Available

This data shows

1. That Portugal (Madeira) may have a significant dependence⁷ upon financial services;
2. That the Big Four accounting firms do have a significant presence⁸ in Portugal (Madeira), suggesting that it does host significant international activity;
3. That Portugal (Madeira) may exhibit a significant number⁹ of lawyers and accountants when compared to other secrecy jurisdictions, suggesting the relative significance of its activities.

Particular points to note

"Residents can administer foreign law trust" (OECD 2008¹⁰: 131). According to the FATF, this appears to hold true only for the free zone in Madeira: "The law in Portugal does not recognise the legal concept of a trust; however, foreign trusts can be established in the Madeira Free Trade Zone. Trusts that have been legally constituted under foreign legal regimes, and whose settlor and beneficiaries are non residents in Portugal, can be recognised and authorised to perform business activities exclusively in that zone, under the provisions of Decree-Law 352-A/88." (FATF 2006, V1¹¹: 9).

Next steps for Portugal (Madeira)

Portugal (Madeira) is a long way from offering financial transparency¹². If it is to play a full part in the modern financial community and wishes to impede and deter illicit financial flows, including flows originating from tax evasion, aggressive tax avoidance practices, corrupt practices and criminal activities it should take action on the points noted where it falls short of acceptable international standards.

The indicators we used

1	Is legal banking secrecy banned (i.e. is there no legal right to banking secrecy)?
2	Is there a Public Trust and Foundations Registry?
3	Does the FATF rate 90% largely compliant and with no non-compliant ratings?
4	Are company accounts available for inspection by anyone for a fee of less than US\$10?
5	Are details of the beneficial ownership of companies available on public record online for less than US\$10?
6	Are details of the beneficial ownership of companies submitted to and kept updated by a competent authority?
7	Did the jurisdiction participate in the TJN Survey in 2009 (1=both questionnaires; 0.5 one questionnaire)?
8	Does the jurisdiction fully participate in Automatic Information Exchange (the European Savings Tax Directive)?
9	Has the jurisdiction at least 60 bilateral treaties providing for broad information exchange clauses covering all tax matters (either DTA or TIEA)?
10	Has the jurisdiction's authority effective access to bank information for information exchange purposes?
11	Does the jurisdiction prevent company redomiciliation?
12	Does the jurisdiction prevent protected cell companies from being created in its territory?

¹ That data is available here: http://www.secrecyjurisdictions.com/sj_database/menu.xml.

² CIA World Factbook: <https://www.cia.gov/library/publications/the-world-factbook/index.html>; 28-8-09; Wikipedia: <http://en.wikipedia.org/wiki/Portugal>; 17-9-09.

³ <http://www.secrecyjurisdictions.com>.

⁴ With the exception of KFSI 9 for which the cut-off date is 30-6-2009.

⁵ Based on the jurisdiction database on this site or TJN research.

⁶ The number of ranked jurisdictions varies for each indicator mainly because of differing data availability. For the ranking of the ratio of Financial Services in GDP this number is 29; for the number of multinational companies' subsidiaries this number is 54; for lawyers the number is 25 and for accountants 26.

⁷ We defined significant dependence as a ratio of more than 5% of financial services in GDP.

⁸ We defined that the presence of the Big Four Accounting Firm is significant if there is more than one firm present.

⁹ For defining a "significant" number of lawyers and accountants we used the ratio of lawyers and accountants per head of population, computed the average and defined the numbers above average to indicate relative significance in the secrecy jurisdictions' activity.

¹⁰ The full title of this annual publication is "Tax Co-operation. Towards a Level Playing Field". Because the OECD published its 2008 report during the research process, both the 2007 and 2008 report have been used.

¹¹ <http://www.fatf-gafi.org/dataoecd/5/48/37566969.pdf>; 17-9-09.

¹² Our definition of financial transparency can be found here:

www.secrecyjurisdictions.com/PDF/Glossary.pdf.