

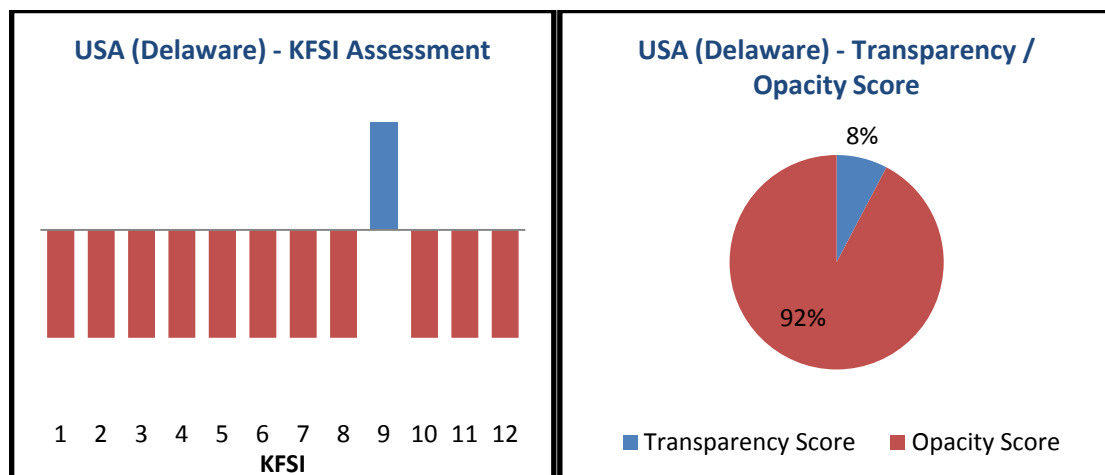
Jurisdiction Report - USA (Delaware)

Purpose of this paper

This paper draws on key data collected on the secrecy jurisdiction of the USA (Delaware)¹. The full data set is available [here](#)². Background information about the USA (Delaware) is available from a number of sources³. 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 site⁴. This survey was based on regulatory reports, legislation and regulation in force at 31.12.2008⁵.

Key findings

The USA (Delaware) 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 9. 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 the USA (Delaware):

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 many tax information agreements**;
10. Does not have **adequate access to banking information**;
11. Allows **company redomiciliation**;
12. Allows **protected cell companies**.

Other data⁶

	Number	Ranking ⁷
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	1104766	5
Number of accountants in the jurisdiction	Not Available	Not Available

This data shows

1. That the USA (Delaware) may have a significant dependence⁸ upon financial services;
2. That the Big Four accounting firms do have a significant presence⁹ in the USA (Delaware), suggesting that it does host significant international activity;
3. That the USA (Delaware) does exhibit a significant number¹⁰ of lawyers accountants when compared to other secrecy jurisdictions, suggesting the relative significance of its activities.

Particular points to note

The Financial Action Task Force (FATF) and the International Monetary Fund (IMF) describe a weakness in the US anti-money laundering regime that relates to beneficial ownership information of companies: "For those companies whose shares are not quoted on the exchanges (i.e. the vast majority of the 13 million active legal entities in the U.S.), the information available within the jurisdiction is often minimal with respect to beneficial ownership. In the case of the states whose procedures were reviewed in the course of this evaluation (Delaware and Nevada), the company formation procedures and reporting requirements are such that the information on beneficial ownership may not, in most instances, be adequate, accurate or available on a timely basis. This is a vulnerability for the U.S. AML/CFT system." (IMF 2006¹¹: 9).

Next steps for the USA (Delaware)

The USA (Delaware) 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 (KFSI)

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 Most of the information underlying this scoring relates to the federal state of the USA. However, the political power over the areas underlying some of the KFSIs is not held on a federal, but on state level. In this case the KFSIs focus on the legal provisions of Delaware. This is mainly because Delaware is famous for the ease of incorporation and because Delaware is reported to be vulnerable to money-laundering. However, broadly similar provisions are available in many other US-states.

² That data is available here: http://www.secrecyjurisdictions.com/sj_database/menu.xml.

³ CIA World Factbook: <https://www.cia.gov/library/publications/the-world-factbook/index.html>; 28-8-09; Wikipedia: http://en.wikipedia.org/wiki/United_States; 21-9-09.

⁴ <http://www.secrecyjurisdictions.com>.

⁵ With the exception of KFSI 9 for which the cut-off date is 30-6-2009.

⁶ Based on the jurisdiction database on this site or TJN research.

⁷ 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.

⁸ We defined significant dependence as a ratio of more than 5% of financial services in GDP.

⁹ We defined that the presence of the Big Four Accounting Firm is significant if there is more than one firm present.

¹⁰ 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.

¹¹ <http://www.imf.org/external/pubs/ft/scr/2006/cr06432.pdf>; 21-9-09.

¹² Our definition of financial transparency can be found here:

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