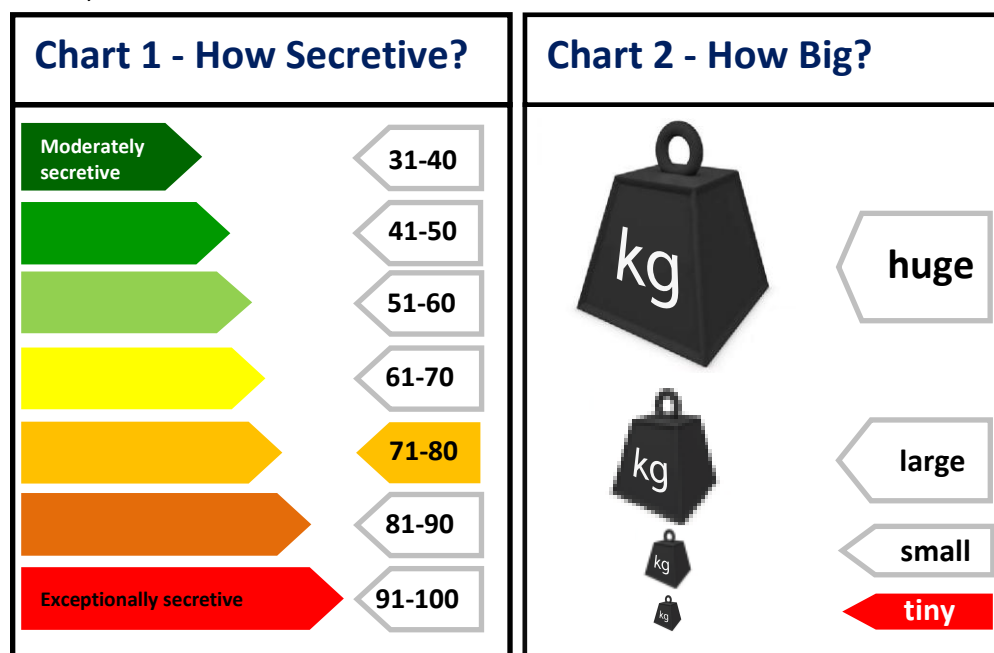


## Report on Jersey

Jersey is ranked at seventh position on the 2011 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 78 secrecy points out of a potential 100, which it towards the top end of the secrecy scale (see chart 1 below).

Jersey accounts for slightly under 1 per cent of the global market for offshore financial services, making it a tiny player compared with other secrecy jurisdictions (see chart 2 below).



### Part 1: Telling the story

#### The Jersey financial centre: history and overview

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 ultimately destined to the City.

Despite its tiny size, with a population of around 95,000, the island hosts a major 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 a long history of poor governance in the political structures, and its tiny population and economy, Jersey is very significantly 'captured' by the financial services sector. Despite regular protestations that it is clean and transparent, Jersey's very high secrecy score and large financial sector means it fully deserves its place in the top ten global secrecy jurisdictions.

## History

For centuries, part-British 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 registered offshore trusts and companies for estate planning purposes. Income tax was originally introduced in 1928 at a rate of 2.5 per cent, but subsequently raised to 20 per cent in 1940 by the German military government. The personal income tax rate remains 20 percent, but corporate profits and capital gains are not taxed. As academic researchers have noted ([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 UK exchange controls in 1979 under new British 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.

## The link with Britain and the City of London

A British [Crown Dependency](#) since the 13<sup>th</sup> 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 ([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, 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 very 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 attract 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, with the line ‘we are clean, well regulated and cooperative; and our critics are motivated by foul motives.’ 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 white list.

The 2011 Financial Secrecy Index demonstrates through undisputed legal facts and assessments by international financial institutions, that these claims of probity and transparency, which Jersey repeats year after year, don't hold water, but are based on sophistry and obfuscation. Its sophisticated wealth management structures, notably its trust industry, keeps Jersey largely open to tax-evading and other illicit financial flows from around the world. An authoritative report by U.S.-based TaxAnalysts concluded in 2007 that:

“At the end of 2006, there were \$491.6 billion of assets in the Jersey financial sector beneficially owned by non-Jersey individuals who were likely to be illegally avoiding tax on those assets in their home jurisdictions.”

In addition, the OECD-backed [Global Forum on Transparency and Exchange of Information for Tax Purposes](#) in a (leaked) Peer Review report on Exchange of Information (EOI) shared our view when it started to look at the detail of how Jersey actually implements tax information exchange:

“The highlighted provisions in some of Jersey’s EOI agreements may limit the effectiveness of information exchange. Further, in one case to date, the interpretation applied by Jersey appears to be inconsistent with the definition of ‘criminal tax matters’, and is preventing the exchange of information under that TIEA.

...

Jersey’s domestic legislation which provides access powers to obtain information for exchange contains impediments which may significantly affect access to relevant information although to date they have not restricted access.”

Even less reassuring is the fact that Jersey remains outside the EU’s automatic information exchange process, even though fellow Crown Dependencies Guernsey and Isle of Man signed up since 2009. Local officials justified this on the grounds that they felt the need to be “internationally competitive”, though this raises questions about what they are competing for. Legitimate activities have no need to hide behind ineffective tax information exchange agreements.

### **Foundations: a new step backwards**

Our concerns that Jersey remains largely an unreconstructed secrecy jurisdiction have been reinforced by the recent adoption of foundations into Jersey law. Private foundations do sometimes have legitimate purposes, but they can also provide a particularly malign form of secrecy. As an offshore law firm [puts it](#):

*“Foundations were designed not by the rich but by the super rich to protect their assets, insulating them from seizure and confiscation. These [asset protection tools](#) are so good they should be illegal but they are not illegal. The big difference between a trust and a foundation is the foundation is a separate judicial person. The term judicial person means an unnatural person.”*

The Jersey Foundations (2009) Law, which mimics similar laws in Liechtenstein and Panama, appears to be an attempt in part to move in on Asian wealth management markets, amid rising pressure from European countries seeking to tackle their own domestic tax evaders. Enactment of this new law has directly fed through into an increase in the island's secrecy score and is clear evidence of the authorities' commitment to maintaining a development strategy based largely on providing secrecy and lax regulation to non-residents.

The [lack of an alternative development strategy](#) should be a cause of great concern, not least for the islanders themselves. Jersey is already highly 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 to break free from such extreme economic dependence, Jersey's authorities are loath to introduce effective regulation to curtail illicit financial flows and tax evasion. 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.”

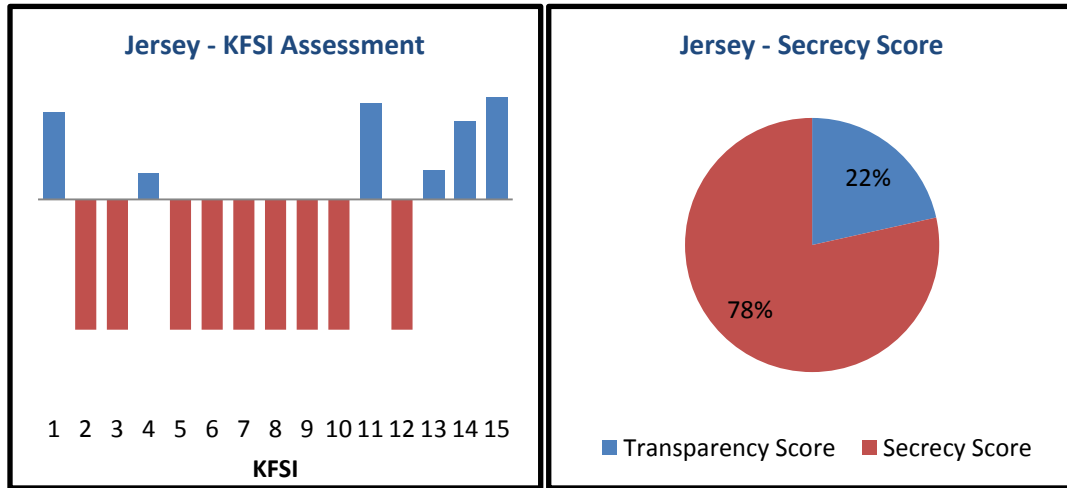
For all of the above reasons, plus the continued lack of transparency of Jersey trusts and offshore companies, and despite the flurry of tax information exchange agreements signed since 2009 (which are highly ineffective anyway), Jersey is assessed with a secrecy score of 78 and clearly well deserves its position at number seven in the overall ranking.

### Next steps for Jersey

Jersey's 78 per cent secrecy score shows that it must still make major progress in offering satisfactory financial transparency<sup>1</sup>. If it wishes to play a full part in the modern financial community and 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. See part 2 below for details of Jersey's shortcomings on transparency. See this link <http://www.secrecyjurisdictions.com/kfsi> for an overview of how each of these shortcomings can be fixed.

## Part 2: Secrecy Scores

The secrecy score of 78 per cent for Jersey has been computed by assessing the jurisdiction’s performance on the 15 Key Financial Secrecy Indicators, listed below.



The numbers on the horizontal axis of the bar chart on the left refer to the Key Financial Secrecy Indicators (KFSI). The presence of a blue bar indicates a positive answer, as does blue text in the KFSI list below. The presence of a red bar indicates a negative answer as does red text in the KFSI list. Where the jurisdiction’s performance partly, but not fully complies with a Key Financial Secrecy Indicator, the text is coloured violet in the list below (combination of red and blue).

This paper draws on key data collected on Jersey. Our data sources include regulatory reports, legislation, regulation and news available at 31.12.2010<sup>2</sup>. The full data set is available [here](#)<sup>3</sup>. Our assessment is based on the 15 Key Financial Secrecy Indicators (KFSIs, below), reflecting the legal and financial arrangements of Jersey. Details of these indicators are noted in the following table and all background data can be found on the [Mapping Financial Secrecy web site](#)<sup>4</sup>. This data is the basis on which the [Financial Secrecy Index](#)<sup>5</sup> is compiled.

### The Key Financial Secrecy Indicators and the performance of Jersey are:

TRANSPARENCY OF BENEFICIAL OWNERSHIP – Jersey	
1.	Banking secrecy: Does the jurisdiction have banking secrecy?  Jersey does not adequately curtail banking secrecy
2.	Trust and Foundations Register: Is there a public register of Trusts and Foundations?  Jersey does not put details of trusts on public record

3.	Recorded Company Ownership: Does the relevant authority obtain and keep updated details of the beneficial ownership of companies?  <b>Jersey does not maintain company ownership details in official records</b>
<b>KEY ASPECTS OF CORPORATE TRANSPARENCY REGULATION – Jersey</b>	
4.	Public Company Ownership: Does the relevant authority make details of ownership of companies available on public record online for less than US\$10?  <b>Jersey partly requires that ownership of companies is put on public record</b>
5.	Public Company Accounts: Does the relevant authority require that company accounts are made available for inspection by anyone for a fee of less than US\$10?  <b>Jersey does not require that company accounts be available on public record</b>
6.	Country-by-Country Reporting: Are companies listed on a national stock exchange required to comply with country-by-country financial reporting?  <b>Jersey does not require country-by-country financial reporting by companies</b>
<b>EFFICIENCY OF TAX AND FINANCIAL REGULATION – Jersey</b>	
7.	Fit for Information Exchange: Are resident paying agents required to report to the domestic tax administration information on payments to non-residents?  <b>Jersey does not require resident paying agents to tell the domestic tax authorities about payments to non-residents</b>
8.	Efficiency of Tax Administration: Does the tax administration use taxpayer identifiers for analysing information effectively, and is there a large taxpayer unit?  <b>Jersey does not use appropriate tools for effectively analysing tax related information</b>
9.	Avoids Promoting Tax Evasion: Does the jurisdiction grant unilateral tax credits for foreign tax payments?  <b>Jersey does not avoid promoting tax evasion via a tax credit system</b>
10.	Harmful Legal Vehicles: Does the jurisdiction allow cell companies and trusts with flee clauses?  <b>Jersey does allow harmful legal vehicles</b>
<b>INTERNATIONAL STANDARDS AND COOPERATION – Jersey</b>	
11.	Anti-Money Laundering: Does the jurisdiction comply with the FATF

	<p>recommendations?</p> <p><b>Jersey partly complies with international anti-money laundering standards</b></p>
12.	<p>Automatic Information Exchange: Does the jurisdiction participate fully in Automatic Information Exchange such as the European Savings Tax Directive?</p> <p><b>Jersey does not participate fully in Automatic Information Exchange</b></p>
13.	<p>Bilateral Treaties: Does the jurisdiction have at least 60 bilateral treaties providing for broad information exchange, covering all tax matters, or is it part of the European Council/OECD convention?</p> <p><b>As of June 30, 2010, Jersey had few tax information sharing agreements complying with basic OECD requirements</b></p>
14.	<p>International Transparency Commitments: Has the jurisdiction ratified the five most relevant international treaties relating to financial transparency?</p> <p><b>Jersey has partly ratified relevant international treaties relating to financial transparency</b></p>
15.	<p>International Judicial Cooperation: Does the jurisdiction cooperate with other states on money laundering and other criminal issues?</p> <p><b>Jersey partly cooperates with other states on money laundering and other criminal issues</b></p>

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<sup>1</sup> Our definition of financial transparency can be found here:

<http://www.secrecyjurisdictions.com/PDF/FinancialTransparency.pdf>.

<sup>2</sup> With the exception of KFSI 13 for which the cut-off date is 30.6.2010. For more details, look at the endnote number 2 in the corresponding KFSI-paper here:

<http://www.secrecyjurisdictions.com/PDF/13-Bilateral-Treaties.pdf>.

<sup>3</sup> That data is available here: [http://www.secrecyjurisdictions.com/sj\\_database/menu.xml](http://www.secrecyjurisdictions.com/sj_database/menu.xml).

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

<sup>5</sup> <http://www.financialsecrecyindex.com/>.