

# Guernsey

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RISK & COMPLIANCE REPORT

DATE: January 2017

**Executive Summary - Guernsey**

<b>Sanctions:</b>	None
<b>FAFT list of AML Deficient Countries</b>	No
<b>Higher Risk Areas:</b>	Compliance with FATF 40 + 9 Recommendations Offshore Finance Centre
<b>Medium Risk Areas:</b>	Weakness in Government Legislation to combat Money Laundering
<b>Major Investment Areas:</b>  <b>Agriculture - products:</b> tomatoes, greenhouse flowers, sweet peppers, eggplant, fruit; Guernsey cattle  <b>Industries:</b> tourism, banking  <b>Exports - commodities:</b> tomatoes, flowers and ferns, sweet peppers, eggplant, other vegetables  <b>Imports - commodities:</b> coal, gasoline, oil, machinery and equipment	
<b>Investment Restrictions:</b> Information unavailable	

**Contents**

**Section 1 - Background ..... 3**

**Section 2 - Anti – Money Laundering / Terrorist Financing ..... 4**

FATF status..... 4

Compliance with FATF Recommendations..... 4

Key Findings from latest Mutual Evaluation Report (2010): ..... 4

US Department of State Money Laundering assessment (INCSR) ..... 5

International Sanctions..... 9

Bribery & Corruption..... 10

**Section 3 - Economy ..... 11**

Banking..... 11

Stock Exchange..... 12

**Section 4 - Government..... 13**

**Section 5 - Tax..... 14**

**Methodology and Sources ..... 16**

## Section 1 - Background

Guernsey and the other Channel Islands represent the last remnants of the medieval Dukedom of Normandy, which held sway in both France and England. The islands were the only British soil occupied by German troops in World War II. Guernsey is a British crown dependency but is not part of the UK or of the European Union. However, the UK Government is constitutionally responsible for its defense and international representation.



## Section 2 - Anti – Money Laundering / Terrorist Financing

### FATF status

Guernsey is not on the FATF List of Countries that have been identified as having strategic AML deficiencies

### Compliance with FATF Recommendations

The last follow up Mutual Evaluation Report relating to the implementation of anti-money laundering and counter-terrorist financing standards in Guernsey was undertaken by the Financial Action Task Force (FATF) in 2016. According to that Evaluation, Guernsey was deemed Compliant for 28 and Largely Compliant for 20 of the FATF 40 + 9 Recommendations. It was Partially Compliant or Non-Compliant for 0 of the 6 of the Core Recommendations.

### Key Findings from latest follow up Mutual Evaluation Report (2016):

The Bailiwick is an international finance centre with no significant acquisitive domestic criminality other than drug trafficking, as demonstrated by the crime statistics under Table 1. As indicated by the authorities, the principal money laundering risks to the jurisdiction concern the proceeds of foreign predicate offences and of domestic drug-related offences.

According to Guernsey authorities the provision of trust and company services and the private banking sector are considered to be the sectors with the greatest vulnerability to the laundering of foreign predicate offences because of the combination of: the cross border nature of the business; the geographical diversity of the customers; the perceived attractiveness of company and trust structures for money laundering purposes; the fact that wealth management structures with the use of trusts and companies in several jurisdictions can be more complex than business relationships in other sectors; the number and content of STRs; and the sectors covered by mutual legal assistance requests. Money laundering is most likely to occur in the form of layering or integration to maximise investment performance and to spread risk in the same way as legitimate investors. An analysis of STRs and mutual legal assistance requests conducted by the authorities indicates that the most likely predicate offences to be involved in this type of laundering are fraud, including tax evasion, and corruption.

Domestic drug traffickers typically do not use sophisticated financial arrangements or structures. The community banking sector is considered to have the greatest vulnerability to the laundering of the proceeds of domestic drug trafficking, which commonly involves the placement of cash into current accounts by a series of small payments in an attempt to avoid arousing suspicion.

As reported by the authorities during the last few years there has been an increase in the number of STRs and mutual legal requests made in relation to online gambling. The risks associated with the regulated online gambling sector have been reviewed by the Alderney Gambling Control Commission (AGCC), and are considered to be low to medium.

A review of the grounds of suspicion for STRs for a period of 4 years indicated that the highest current trends for reporting were in relation to tax fraud, which constitutes 40% of the STRs filed.

Although the number of ML investigations, prosecutions and convictions increased during the period mentioned above, the overall level remains low and there is a discrepancy between the numbers of investigated ML cases and final convictions.

To date, there have been 4 convictions involving autonomous laundering, 2 related to proceeds of frauds committed abroad and 2 related to drug trafficking. This does not seem to be proportionate to the Guernsey's exposure to ML threats. Financing of Terrorism

As at the last evaluation, there have been no identified cases of terrorist activity or terrorist financing within the Bailiwick.

Since 2010 14 STRs related to TF were reported to the Guernsey FIU. However the submitted STRs have not resulted in a case being opened or a notification being sent to law enforcement agencies. No international requests for assistance relating to terrorist financing have been recorded during the last four years. There have been no prosecutions or convictions in the period 2010-2014 related to TF.

The authorities consider the risk of TF to be low for the following reasons: -.

The Bailiwick comprises a number of politically stable small island communities with very low domestic crime rates and ethnically homogenous populations. It has no historical, geographical or business links to parts of the world that are considered to present a high risk of terrorist activity. Neither does it operate an independent foreign policy. There are no military or other installations such as major power stations that could be attractive for terrorist attacks. For these reasons the risk of the Bailiwick being a target for terrorist activity is extremely low.

However the size and structure of the financial sector in the Bailiwick might unavoidably attract funds of various sources including those that belong to designated persons or entities and thus there is a potential vulnerability to the terrorist financing threat despite the lack of concrete cases. The lack of intelligence received and freezing orders, however, appears to be consistent with the opinion of the local authorities that the risk of TF has always been and remained remarkably low in the Bailiwick which can also be demonstrated by the absence of any MLA requests and the low numbers of STRs in relation to terrorist financing in the last four years.

Guernsey was deemed a Jurisdiction of Concern by the US Department of State 2016 International Narcotics Control Strategy Report (INCSR).

Key Findings from the report are as follows: -

**Perceived Risks:**

The Bailiwick of Guernsey (the Bailiwick) encompasses a number of the Channel Islands (Guernsey, Alderney, Sark, and Herm). As a Crown Dependency of the UK, it relies on the UK for its defense and international relations. While Alderney and Sark have their own separate parliaments and civil law systems, Guernsey's parliament legislates in matters of criminal justice for all of the islands in the Bailiwick. Guernsey is a financial center, and as such, there is a risk that proceeds of crime will be invested in or pass through the Bailiwick. In terms of volume, most criminal proceeds arise from foreign predicate offenses; domestic criminal activity, such as drug trafficking, yields the highest overall number of money laundering cases. The principal area of concern or vulnerability remains the risk of abuse of the financial sector to launder the proceeds of overseas criminal activity, primarily financial crimes.

***Do financial institutions engage in currency transactions related to international narcotics trafficking that include significant amounts of US currency; currency derived from illegal sales in the U.S.; or illegal drug sales that otherwise significantly affect the U.S.:*** NO

***Criminalization of money laundering:***

***"All serious crimes" approach or "list" approach to predicate crimes:*** All serious crimes

***Are legal persons covered: criminally:*** YES ***civilly:*** YES

***Know-your-customer (KYC) rules:***

***Enhanced due diligence procedures for PEPs: Foreign:*** YES ***Domestic:*** NO

***KYC covered entities:*** Banks, lending firms, financial instrument issuers and managers, and money service businesses; insurance companies and intermediaries; investment firms and funds; safekeeping and portfolio management services; trust and company service providers; lawyers, accountants, notaries, and estate agents; dealers of precious metals and stones; and e-gaming services

***REPORTING REQUIREMENTS:***

***Number of STRs received and time frame:*** 693 in 2014

***Number of CTRs received and time frame:*** Not applicable

***STR covered entities:*** All businesses

***money laundering criminal Prosecutions/convictions:***

***Prosecutions:*** 3 in 2015

**Convictions:** 3 in 2015

**Records exchange mechanism:**

**With U.S.: MLAT:** NO **Other mechanism:** YES

**With other governments/jurisdictions:** YES

Through a resolution of the Council of Europe, Guernsey formally participates in the mutual evaluation procedures of the Council of Europe Select Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL), a FATF- style regional body.

**Enforcement and implementation issues and comments:**

Guernsey's comprehensive AML/CFT legal framework provides a basis for an effective AML/CFT regime, and remaining shortcomings are technical in nature. While no weaknesses have been identified in the legal framework, concerns remain with respect to the implementation of the money laundering provisions. Given the size of the Bailiwick's financial sector and its status as an international financial center, the modest number of cases involving money laundering and the small number of money laundering convictions raise questions concerning the effective application of money laundering provisions.

The Bailiwick has been actively involved in the provision of formal mutual legal assistance for many years. The legal framework provides an ability to freeze and confiscate assets in appropriate circumstances. A formal asset sharing agreement between Guernsey and the U.S. Department of Justice was signed in February 2015.

Guernsey is a Crown Dependency and cannot sign or ratify international conventions in its own right unless entrusted to do so. Rather, the UK is responsible for the Bailiwick's international affairs and, at Guernsey's request, may arrange for the ratification of any convention to be extended to the Bailiwick. The UK's ratification of the 1988 UN Drug Convention was extended to include the Bailiwick in 2002; its ratification of the UN Convention against Corruption was extended to include Guernsey in 2009; its ratification of the International Convention for the Suppression of the Financing of Terrorism was extended to Guernsey in 2008; and its ratification of the UN Convention against Transnational Organized Crime was extended to include Guernsey in 2014.

**Current Weaknesses in Government Legislation (2013 INCRS Comparative Tables):**

According to the US State Department, Guernsey does not conform with regard to the following government legislation: -

**Record Large Transactions** - By law or regulation, banks are required to maintain records of large transactions in currency or other monetary instruments.

**States Party to United Nations Transnational Organised Crime Convention** - States party to the United Nations Convention against Transnational Organized Crime (UNTOC), or a territorial entity to which the application of the Convention has been extended by a party to the Convention.

### **EU White list of Equivalent Jurisdictions**

Guernsey is currently on the EU White list of Equivalent Jurisdictions (Qualified)

### **Local Anti-Money Laundering Equivalence Expectations**

Guernsey considers the following countries to meet local anti-money laundering equivalence expectations: -

Australia Austria Belgium Bulgaria Canada Cayman Islands Cyprus Denmark Estonia Finland France Germany Gibraltar Greece Hong Kong Iceland Ireland Isle of Man Italy Japan Jersey Latvia Liechtenstein Lithuania Luxembourg Malta Netherlands New Zealand Norway Portugal Singapore South Africa Spain Sweden Switzerland United Kingdom United States of America

### **World Governance indicators**

[To view historic Governance Indicators Ctrl + Click here and then select country](#)

### **Failed States Index**

[To view Failed States Index Ctrl + Click here](#)

### **Offshore Financial Centre**

Guernsey is considered to be an Offshore Financial Centre

## International Sanctions

None Applicable

## Bribery & Corruption

Index	Rating (100-Good / 0-Bad)
Transparency International Corruption Index	N/A
World Governance Indicator – Control of Corruption	N/A

## Section 3 - Economy

Financial services - banking, fund management, insurance - account for about 23% of employment and about 55% of total income in this tiny, prosperous Channel Island economy. Tourism, manufacturing, and horticulture, mainly tomatoes and cut flowers, have been declining. Financial services, construction, retail, and the public sector have been growing. Light tax and death duties make Guernsey a popular tax haven. In January 2013, Guernsey signed a tax agreement with Jersey and the Isle of Man, in order to enable the islands' authorities to end tax avoidance and evasion. The evolving economic integration of the EU nations is changing the environment under which Guernsey operates.

### **Agriculture - products:**

tomatoes, greenhouse flowers, sweet peppers, eggplant, fruit; Guernsey cattle

### **Industries:**

tourism, banking

### **Exports - commodities:**

tomatoes, flowers and ferns, sweet peppers, eggplant, other vegetables

### **Imports - commodities:**

coal, gasoline, oil, machinery and equipment

## Banking

The recent Basel Core Principles (BCP) assessment confirms the high standard of prudential regulation and supervision described in the 2003 assessment, and found that the issues identified at that time have largely been addressed. The GFSC now conducts a program of on-site supervision, supported by off-site analysis.

Banking is one of two major sectors by asset size but U.K. banks are less dominant than in Jersey. The major British banks and building societies have operations on the island, but tend to focus their offshore businesses in Jersey—so most banks represented in Guernsey are from outside the UK and EU. Banks' principal business is the collection of retail deposits from overseas, which are placed with parent banks (69 percent of banks' total assets are exposures to parents). There is limited commercial lending, mainly to domestic borrowers.

The global crisis has, however, had a major impact on certain banks in Guernsey. In 2007, the intervention in Northern Rock, a UK-based bank with a Guernsey subsidiary, created uncertainty over the position of Guernsey depositors until a U.K. blanket guarantee for Northern Rock was extended to Guernsey liabilities. The U.K. government subsequently

took the bank into public ownership. In late 2008, the Guernsey subsidiary of the Icelandic group, Landsbanki was placed in administration when the bank was unable to draw down funds placed elsewhere in the group to meet escalating deposit withdrawals. An official enquiry has reported to the Guernsey government on the supervision of Landsbanki. Some 1,600 depositors had £120m on deposit and there was at the time no compensation scheme. To date, recoveries have amounted to around 70 percent. There have been other impacts from the problems of U.K. building societies with operations on the island.

## Stock Exchange

The Channel Islands Stock Exchange ("CISX"/"Exchange") was formed as a company limited both by guarantee and by shares. Management and control are vested in the Board of Directors. Based in St Peter Port, Guernsey, the CISX provides a listing facility and a bespoke trading platform. The CISX's mission is to be the leading international stock exchange in the European time zone serving the interests of Channel Islands' businesses.

The CISX has concentrated on the following core products:

- Specialist Securities, including, Eurobonds, Structured Debt, Warrants, Structured Funds and SPVs;
- Investment funds;
- Primary and secondary listings of securities and shares issued by Channel Island companies;
- Primary and secondary listings of securities and shares issued by overseas companies;
- Channel Islands Depository Receipts (CIDRS).

In the fullness of time, the CISX plans to expand its products and services to include, for example, the listing and trading of products such as insurance related instruments. The CISX commenced operations in October 1998 and has grown rapidly with over 3,500 securities having been approved by the Market Authority since inception, for a total market capitalisation of US\$ 50billion. The CISX offers a personalised approach and fast track processing of listing applications within a highly regulated and innovative marketplace.

## Section 4 - Government

### Executive Branch

elections: the monarchy is hereditary; lieutenant governor and bailiff appointed by the monarch; chief minister elected by States of Deliberation

### Legal system:

customary legal system based on Norman customary law, and includes elements of the French Civil Code and English common law

### International organization participation:

UPU

## Section 5 - Tax

### Exchange control

Exchange control requirements were abolished in 1987.

### Treaty and non-treaty withholding tax rates

Guernsey has signed **59 agreements (9 DTC and 50 TIEA agreements)** providing for the exchange of information.

Jurisdiction	Type of EOI Arrangement	Date Signed	Date entered into Force	Meets standard	Contains paras 4 and 5	
Argentina	TIEA	28 Jul 2011	4 Jan 2012	Yes	Yes	
Australia	TIEA	7 Oct 2009	27 Jul 2010	Yes	Yes	
Bahamas, The	TIEA	8 Aug 2011	28 Mar 2012	Yes	Yes	
Bermuda	TIEA	23 Oct 2013	not yet in force	Unreviewed	Yes	
Botswana	TIEA	10 May 2013	not yet in force	Unreviewed	Yes	
Brazil	TIEA	6 Feb 2013	not yet in force	Yes	Yes	
Canada	TIEA	19 Jan 2011	18 Jan 2012	Yes	Yes	
Cayman Islands	TIEA	29 Jul 2011	5 Apr 2012	Yes	Yes	
Chile	TIEA	24 Sep 2012	not yet in force	Yes	Yes	
China	TIEA	27 Oct 2010	17 Aug 2011	Yes	Yes	
Czech Republic	TIEA	15 Sep 2011	9 Jul 2012	Yes	Yes	
Denmark	TIEA	28 Oct 2008	6 Jun 2009	Yes	Yes	
Faroe Islands	TIEA	28 Oct 2008	21 Aug 2009	Unreviewed	Yes	
Finland	TIEA	28 Oct 2008	5 Apr 2009	Yes	Yes	
France	TIEA	24 Mar 2009	4 Oct 2010	Yes	Yes	
Germany	TIEA	26 Mar 2009	22 Dec 2010	Yes	Yes	
Gibraltar	TIEA	22 Oct 2013	not yet in force	Unreviewed	Yes	
Greece	TIEA	8 Oct 2010	not yet in force	Yes	Yes	
Greenland	TIEA	28 Oct 2008	25 Apr 2009	Unreviewed	Yes	
Hong Kong, China	DTC	28 Mar 2013	not yet in force	Yes	Yes	
Hungary	TIEA	11 Sep 2013	not yet in force	Unreviewed	Yes	
Iceland	TIEA	28 Oct 2008	26 Nov 2009	Yes	Yes	
India	TIEA	20 Dec 2011	11 Jun 2012	Yes	Yes	
Indonesia	TIEA	27 Apr 2011	not yet in force	Yes	Yes	

Jurisdiction	Type of EOI Arrangement	Date Signed	Date entered into Force	Meets standard	Contains paras 4 and 5	
Ireland	TIEA	26 Mar 2009	10 Jun 2010	Yes	Yes	
Isle of Man	DTC	24 Jan 2013	5 Jul 2013	Yes	Yes	
Italy	TIEA	5 Sep 2012	not yet in force	Yes	Yes	
Japan	TIEA	6 Dec 2011	23 Aug 2013	Yes	Yes	
Jersey	DTC	2 Jun 1955	1 Jan 1956	Yes	No	
Jersey	DTC	24 Jan 2013	9 Jul 2013	Yes	Yes	
Latvia	TIEA	5 Sep 2012	4 Oct 2013	Unreviewed	Yes	
Lesotho	TIEA	3 Jul 2013	not yet in force	Unreviewed	Yes	
Lithuania	TIEA	20 Jun 2013	not yet in force	Unreviewed	Yes	
Luxembourg	DTC	10 May 2013	not yet in force	Yes	Yes	
Malta	DTC	12 Mar 2012	10 Mar 2013	Yes	Yes	
Mauritius	TIEA	6 Feb 2013	5 Jul 2013	Yes	Yes	
Mexico	TIEA	27 Jun 2011	24 Mar 2012	Yes	Yes	
Netherlands	TIEA	25 Apr 2008	11 Apr 2009	Yes	Yes	
New Zealand	TIEA	21 Jul 2009	8 Nov 2010	Yes	Yes	
Norway	TIEA	28 Oct 2008	8 Oct 2009	Yes	Yes	
Poland	TIEA	6 Dec 2011	1 Nov 2012	Yes	Yes	
Portugal	TIEA	9 Jul 2010	not yet in force	Yes	Yes	
Qatar	DTC	22 Feb 2013	11 Jul 2013	Yes	Yes	
Romania	TIEA	12 Jan 2011	22 Jan 2012	Unreviewed	Yes	
Saint Kitts and Nevis	TIEA	7 Feb 2012	14 Apr 2013	Yes	Yes	
San Marino	TIEA	29 Sep 2010	16 Mar 2011	Yes	Yes	
Seychelles	TIEA	20 Dec 2011	22 Jul 2012	Yes	Yes	
Singapore	DTC	6 Feb 2013	not yet in force	Yes	Yes	
Slovakia	TIEA	22 Oct 2013	not yet in force	Unreviewed	Yes	
Slovenia	TIEA	26 Sep 2011	9 Aug 2012	Yes	Yes	
South Africa	TIEA	21 Feb 2011	26 Feb 2012	Yes	Yes	
Swaziland	TIEA	30 Aug 2013	not yet in force	Unreviewed	Yes	
Sweden	TIEA	28 Oct 2008	23 Dec 2009	Yes	Yes	
Switzerland	TIEA	17 Sep 2013	not yet in force	Unreviewed	Yes	
Turkey	TIEA	13 Mar 2012	not yet in force	Yes	Yes	
United Kingdom	DTC	24 Jun 1952	24 Jun 1952	No	Yes	
United Kingdom	TIEA	20 Jan 2009	27 Nov 2009	Yes	Yes	
United States	TIEA	19 Sep 2002	30 Mar 2006	Yes	Yes	
Virgin Islands, British	TIEA	17 Apr 2013	not yet in force	Yes	Yes	

## Methodology and Sources

### Section 1 - General Background Report and Map

(Source: [CIA World Factbook](#))

### Section 2 - Anti – Money Laundering / Terrorist Financing

	Lower Risk	Medium Risk	Higher Risk
<a href="#">FATF List of Countries identified with strategic AML deficiencies</a>	Not Listed	AML Deficient but Committed	High Risk
<a href="#">Compliance with FATF 40 + 9 recommendations</a>	>69% Compliant or Fully Compliant	35 – 69% Compliant or Fully Compliant	<35% Compliant or Fully Compliant
<a href="#">US Dept of State Money Laundering assessment (INCSR)</a>	Monitored	Concern	Primary Concern
<a href="#">INCSR - Weakness in Government Legislation</a>	<2	2-4	5-20
<a href="#">US Sec of State supporter of / Safe Haven for International Terrorism</a>	No	Safe Haven for Terrorism	State Supporter of Terrorism
<a href="#">EU White list equivalent jurisdictions</a>	Yes		No
<a href="#">International Sanctions UN Sanctions / US Sanctions / EU Sanctions</a>	None	Arab League / Other	UN , EU or US
<a href="#">Corruption Index (Transparency International) Control of corruption (WGI) Global Advice Network</a>	>69%	35 – 69%	<35%
<a href="#">World government Indicators (Average)</a>	>69%	35 – 69%	<35%
<a href="#">Failed States Index (Average)</a>	>69%	35 – 69%	<35%
<a href="#">Offshore Finance Centre</a>	No		Yes

### **Section 3 - Economy**

General Information on the current economic climate in the country and information on imports, exports, main industries and trading partners.

(Source: [CIA World Factbook](#))

### **Section 4 - Foreign Investment**

Information on the openness of foreign investment into the country and the foreign investment markets.

(Source: [US State Department](#))

### **Section 5 - Government**

Names of Government Ministers and general information on political matters.

(Source: [CIA World Factbook](#) / <https://www.cia.gov/library/publications/world-leaders-1/index.html>)

### **Section 6 - Tax**

Information on Tax Information Exchange Agreements entered into, Double Tax Agreements and Exchange Controls.

(Sources: [OECD Global Forum on Transparency and Exchange of Information for Tax Purposes](#) [PKF International](#))

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