States of Guernsey

Media Release
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EU Reaffirms Guernsey as a Co-operative Jurisdiction as Guernsey commits to work with EU on sharing beneficial ownership information

The Economic and Financial Affairs Council of the European Union (ECOFIN) has today reaffirmed its previous decision that Guernsey is a cooperative jurisdiction with respect to tax good governance.

ECOFIN has published an updated EU list of non-cooperative jurisdictions and confirmed that Guernsey is not one of them. This is on the basis that Guernsey has met its commitment to address general concerns raised by the EU in 2017 in relation to legal economic substance requirements. This confirms that not only does Guernsey meet the international standards of tax transparency, the principles of fair taxation and is committed to fighting base erosion and profit shifting but now also addresses any concerns that profits were not commensurate with the actual economic substance in the island.

ECOFIN's decision also follows a further commitment made by Guernsey in December 2018 to work with the EU on sharing beneficial ownership information, such as through an integrated platform.

The legislation introduced in Guernsey to meet this commitment to further demonstrate economic substance by 31 December 2018 was assessed by the EU's Code of Conduct Group (Business Taxation) ('the Code Group') in January 2019. The Code Group recommended that it be recognised that Guernsey has met its commitments to implement tax good governance principles. This was agreed by ECOFIN at its meeting held on 12 March 2019.

Deputy Gavin St Pier said: "*I welcome this decision. I was confident that any objective process would produce this outcome. We have consistently maintained as a matter of fact, that we are a jurisdiction of substance. We have worked closely with the EU, Jersey and the Isle of Man to demonstrate the existence of robust legal substance.*

"I hope that it is now clear to EU Member States that they can have confidence in the work of the Code Group and consequently there is no further role for national blacklists, the basis of which are often arbitrary and prepared without any dialogue.

"As we have repeatedly said, including most recently to UK MPs in another context, Guernsey does not facilitate financial crime, including tax fraud. We adopt the highest standards and we are willing to cooperate with our neighbours to address reasonable concerns. We remain committed to ongoing co-operation and dialogue with the EU institutions. We stand ready help other jurisdictions, including any relevant EU Member States, develop and implement substance requirements."

As part of this work, the government of Guernsey has committed to implement Mandatory Disclosure Rules during 2019. It has also built on its commitment to develop a new international standard for the exchange of beneficial ownership information by committing to working with the EU so that corporate beneficial ownership information can be more readily shared on a reciprocal basis.

Deputy St Pier added: "*Our commitment to work with the EU on sharing beneficial ownership information, such as through an integrated platform, is evidence of our desire to be a true global leader in this area. We have demonstrated once again that Guernsey delivers on its commitments and can hold its head high as an exemplar of good practice.*

"Developing and implementing in short order the change to which we had committed, required close cooperation between government and industry. I would like to thank all those involved as well as the Code Group and the EU Commission for their engagement during this process.

"International taxation and cross-border cooperation has been and is likely to remain a rapidly evolving area, particularly if the EU moves to harmonise corporate taxation after the UK has left the EU. As we have for some time, we will continue to monitor and as necessary evolve our own domestic regime in response to international developments."

Notes to Editors

The work of the EU Council to coordinate the fight against tax fraud and tax evasion and avoidance, and Guernsey's commitment to address the EU's concern about legal substance requirements, is available here: https://www.gov.gg/economicsubstance (and includes links to the relevant legislation).

On 21st December 2018, the President of the Policy & Resources Committee wrote to the Code of Conduct Group on Business Taxation to confirm that Guernsey had implemented a new legal substance requirement and met the commitment made in November 2017.

What are the substance requirements?

The legal substance requirements are provisions in the Income Tax law, which came into effect on 1 January 2019, designed to address the concern that companies that are tax resident in Guernsey could be used to attract profits that are not commensurate with economic activities and substantial economic presence in the island. This requirement is applied to certain highly mobile business sectors. The penalties for non-compliance are the spontaneous exchange of pertinent information to the Tax Administration in the relevant EU Member State, financial penalties and ultimately company strike off. The new substance regime will be subject to an annual monitoring process by the EU.

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