

Jersey's in denial: it's future as a tax haven is in do...

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The Jersey Evening Post, the ever reliable supporter of the Jersey government, [reported yesterday that](#):

After months of discussion, EU finance ministers agreed this week on a blacklist of 'non-cooperative' jurisdictions which comprises 17 territories around the world, including Bahrain, Barbados, South Korea, Macau, Panama and the United Arab Emirates.

More than 40 other jurisdictions were asked to reform their tax structures by next year, including Jersey and Guernsey, which has led to speculation that they have been placed on a 'grey-list'.

A spokesman for Jersey's External Relations Department said, however, that such a list did not exist.

It is Jersey's claim that the only list that exists is of 17 jurisdictions, [as noted here on Tuesday](#).

There is just one problem. As the Jersey government acknowledges, the EU listing:

provides an update on the 40-plus jurisdictions who have made commitments to meet certain concerns raised by the Code Group by the end of 2018. It is this annex which has erroneously been called a "grey-list".

And as they also note, Jersey is on that list. As they report:

Chief Minister Ian Gorst has said that new legislation would be introduced in Jersey to meet the one area of concern raised by ECOFIN, which was whether companies registered here for tax purposes were carrying out 'real economic activity' in the Island — known as an 'economic substance' test.

Senator Gorst is, however, disingenuous, because the whole core of the Jersey tax haven model is to attract profits that have no economic relationship with the island. This is what tax havens do, and Jersey remains one to its very core. So as the Jersey Evening Post then notes:

In response Richard Murphy of Tax Research UK, a long -term critic of the Island's finance industry, wrote: 'Come on Senator @lan_Gorst: that fools no one. Jersey is on an EU grey list and you're going to have to make the most almighty tax reforms to get off it, including introducing a corporation tax at a sensible level.'

And they added that:

Writing in his blog, Mr Murphy said that the Crown Dependencies — Jersey, Guernsey and the Isle of Man — would fail the economic substance test at present because corporate profits make up a much higher percentage of their GDP than places like the UK.

'The EU Code of Conduct Group test is failed by each of them: they do provide facilities that do encourage the artificial relocation of profits without the economic substance of the related transactions that give rise to that profit being located in the islands,' he wrote.

He added that he expected that the Crown Dependencies would need a 'total reform' of their corporation tax systems to meet the EU's standards and could face 'draconian' sanctions if they do not.

Jersey has always pretended that there are no issues to answer when it comes to the EU Code of Conduct on Business Taxation, but from 2005 to 2010 I relentlessly, and pretty much single-handedly, pursued them as they wriggled this way and that in attempt to avoid complying with its demands, and every time I was right in predicting that they would fail, which they did. I have some form in assessing this issue in that case. And I suggest that Senator Gorst's glib remarks do little to disguise the fact that Jersey's listing this time is the EU's retribution for it trying to get round the Code of Conduct Group last time by effectively abolishing almost all tax on company profits.

This time I cannot see the EU accepting that outcome. Jersey, and the other Crown Dependencies, are facing the most almighty tax shakeup, with the requirement that they comply before the UK leaves the EU (which cannot be a coincidence). And this time only a tax charge will keep Brussels happy.

I am amused. Senator Gorst has very little to smile about this festive season. Jersey is facing the most almighty upheaval, as are Guernsey, the Isle of Man, Cayman and Bermuda, with the BVI to be added to that list in due course, I suspect.