



Substance rules laid out in the CDs

Guidance on the new EU required economic substance changes has just been published by the authorities in Guernsey, Jersey and the Isle of Man. The Guidance was released on April 26.

Legislation introducing economic substance requirements for companies in the Crown Dependencies was introduced last December and became effective from the beginning of January this year. It applies to all companies resident for tax purposes in these jurisdictions.

Deloitte state that the guidance that has just been published is to enable industry to engage and provide feedback. Deloitte say that it is to be treated as work in progress recognising that further technical aspects will develop through further discussions with the Organisation for Economic Co-operation and Development Forum on Harmful Tax Practices and the European Union Code of Conduct Group on Business Taxation.

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The law of unintended consequences

The economic substance obligations demanded by the EU's Code of Conduct Group could well have a real long-term impact on fund management activity in the offshore jurisdictions. But their effect is not likely to be what the EU intended.

The tax activist lobby, which now appears to have influence in Brussels, has long been driven to distraction by the offshore jurisdictions. The EU's Code of Conduct Group wants proof that jurisdictions that have such low tax rates can also have real economic substance that is not based on tax evasion or avoidance.

Anyone who visits Guernsey, Jersey or the Isle of Man can see that this is the case. In each of these jurisdictions – especially in the Channel Islands – there are locally based fund management organisations carrying on business just as they do anywhere else in the world. Some of these entities are part of larger organisations with offices in other locations and some are local, stand-alone outfits. Some fund managers are connected to wealth management organisations or other financial service sectors that operate in these jurisdictions, and some are not.

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