



Substance checklist

What directors of Jersey companies need to consider

Substance legislation across the offshore world took effect from 1 January 2019 - the legislation requires companies claiming tax residency in zero or low-tax jurisdictions to prove that they have real substance there.

According to detailed guidance notes in respect of the Jersey legislation, but directors should consider these essential questions.

Questions to assess whether the company is within the scope of the Jersey substance rules

1

Is the company tax resident in Jersey?

2

Does the company carry out relevant economic activity in Jersey?

3

Is the company generating gross income from that activity?

If the company of which you are a director answers yes to all of those questions, then...



Direction and management

Meetings of the Board of Directors must:

- ✓ Take place in Jersey, and at adequate frequency
- ✓ Be attended in person by a quorum of appropriately qualified directors physically present in Jersey
- ✓ Be the forum for strategic decision-making, reflected by minutes



Core income generating activities

The core income generating activities vary by sector but will include:

- ✓ **Banks:** raising funds, managing risk, agreeing funding terms and acquiring assets
- ✓ **Funds:** decisions on investments, preparing regulatory reports, calculating risks, and decisions on currency or interest fluctuations and hedging positions
- ✓ **Holding Company:** all activities related to that business.



Appropriate resources

A company that falls within scope will have to demonstrate that:

- ✓ It has an adequate number of properly qualified employees in Jersey
- ✓ It has adequate expenditure in Jersey – including outsourcing activities to Jersey service providers
- ✓ It has adequate physical assets – including premises – in Jersey



Niamh Lalor
Partner
+44 1534 514210

niamh.lalor@ogier.com



Bruce MacNeil
Partner
+44 1534 514394

bruce.macneil@ogier.com



Matthew Shaxson
Group Partner, Ogier Legal L.P.
+44 1534 514064

matthew.shaxson@ogier.com