Key Financial Secrecy Indicators

8: Automatic Information Exchange

What is measured?

This indicator shows if the jurisdiction participates in automatic information exchange on tax matters. As there is currently no global mechanism to exchange information except for the European Savings Directive (EUSD), we have taken participation in the EUSD-information exchange mechanism as a proxy for this indicator. If a jurisdiction exchanges information automatically within the confines of the EUSD, we credit it with contributing to financial transparency.

The main source for this indicator is a document dated 2008 and published on the official website of the EUSD and its review process (page five of this document).

The current version of the EUSD was agreed in 2003 and has been in force since mid-2005. It relates only to information about interest payments made to individuals (as opposed to legal entities). It covers more countries than are EU-member states. However, not all countries participating in the scheme do actually automatically exchange information. After fierce opposition by Luxembourg, Austria and Belgium from within the European Union (EU) and from Switzerland from without, an opt-out from information exchange has been included in the EUSD from the outset.

The alternative arrangement for those states not participating in automatic information exchange requires those jurisdictions to withhold an agreed percentage in tax on the interest income paid. Such payments are mainly made in respect of interest-bearing bank accounts. The withheld funds are accumulated according to the individual account holder's country of residence and the accumulated funds are then distributed to the appropriate country's tax collector. During this process, information about the source bank accounts giving rise to these aggregated payments is not transferred to the tax authorities of the states in which the owners of those accounts reside. This means that the underreporting of income and resulting tax evasion may well continue in that home jurisdiction.

We do not give credit here to any country that has opted for the withholding tax option instead of automatic information exchange under the EUSD.

At the same time, we are aware of the potential of Eurocentrism resulting from basing our indicator on the European Savings Directive. However, there is no other automatic information exchange on tax matters currently available to which adherence could be checked. As soon as there is a truly international and effective automatic information exchange regime we will switch from using the EUSD to the global regime. Similarly, if there should be another regional initiative creating automatic information exchange in tax matters, we will happily use it as the basis for our indicator with regard to any jurisdictions to which it might apply.

Why is it important?

Currently, tax authorities around the world face immense difficulties when trying to get foreign-country based evidence when investigating suspected domestic tax evasion and/or aggressive tax avoidance schemes. The current international "standard" for information exchange promoted by the OECD is weak and largely ineffective (as we have pointed out in great detail in our briefing paper here and time and time again in our blog here).

While tax authorities domestically often have the powers to cross-check data obtained through tax returns, for instance by access to bank account information, this does not hold true internationally. Whereas economic activity has become increasingly global, the tax collector's efforts remain nationally focussed and are deliberately obstructed by secrecy jurisdictions. Therefore, the rule of law is severely constrained by the inability of tax authorities to easily collect information about the international economic activity of its citizens and companies because if large corporation and high net worth individuals are able to exploit offshore secrecy structures not available to small companies and less wealthy individuals not all parties stand equally before the law to be treated equally by it. Increased transparency leading to increased information availability will help to rectify this disparity.

The OECD-"standard" for information exchange consists of bilateral treaties that rely on information exchange "upon request" only. However, the power to judge what an appropriate request is rests with the secrecy jurisdictions' tax authorities, financial ministries and/or courts. Secrecy jurisdictions pride themselves on maintaining "financial privacy" in spite of tax information exchange treaties and of exchanging information very reluctantly under these agreements (click here for the example of Jersey).

An example of the ineffectiveness of the OECD-"standard" is provided by recent data about the use of UK's bilateral treaties with its tax haven Crown Dependencies: Guernsey, the Isle of Man and Jersey. It suggests that in tax year 2008/2009 the UK received information on only 25 occasions from the three secrecy jurisdictions combined (click here for details). This number appears very low considering the close economic ties between the UK and the three territories and considering that the Crown Dependencies are ultimately constitutionally dependent upon the UK and are therefore hardly free to deny information exchange to the UK.

To date the OECD standard has not resulted in any Tax Information Exchange Agreement between secrecy jurisdictions and one of the world's poorer countries, the latter having been sidelined it seems in this process. We are concerned that when and if they are included within it they may not be able to make application for data on an 'on request' basis due to the considerable effort required to establish any such request. Tax administration sin such locations suffer from very limited resources that are likely to make such request prohibitively expensive. Automatic information exchange would overcome this problem.

There is a further issue: apart from being ineffective in the first place, and exclusionary of developing nations due to prohibitive costs in the second place, bilateral information exchange arrangements are generally very inefficient because to be effective they will require the negotiation of thousands of treaties to achieve global coverage. Each treaty may take years to conclude and due to a couple of variations being introduced in each may not have uniform effect.

As a consequence what is required are truly multilateral automatic tax information exchange agreements on all types of capital income irrespective of whether paid to individuals, trusts, foundations, companies or partnerships. Participation in such a system would need to be open to any requesting country (with appropriate confidentiality and human rights safeguards) and, where needed, technical assistance should be given for installing such a system.

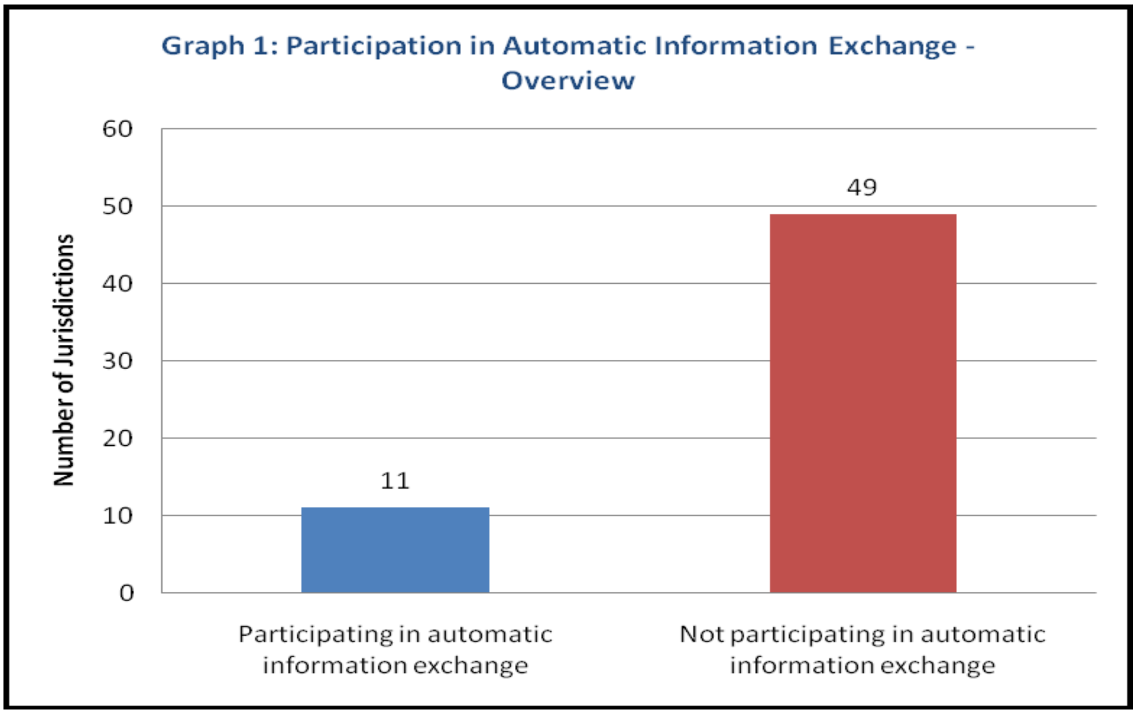
There would not be any need of establishing a central database. It suffices if each jurisdiction's paying agents (banks, etc.) remit identity information on the recipients of capital income to the domestic tax authority, and this domestic tax authority forwards the information to the tax authority of the respective citizen's state of residence (for more details read our briefing paper here).

What are the crimes that might hide behind non-participation in automatic information exchange?

Tax evasion and aggressive tax avoidance, in particular.

Results Overview

Table 1: Participation in Automatic Information Exchange - Overview	
Number of jurisdictions participating in automatic information exchange	11
Number of jurisdictions not participating in automatic information exchange	49



Results Detail

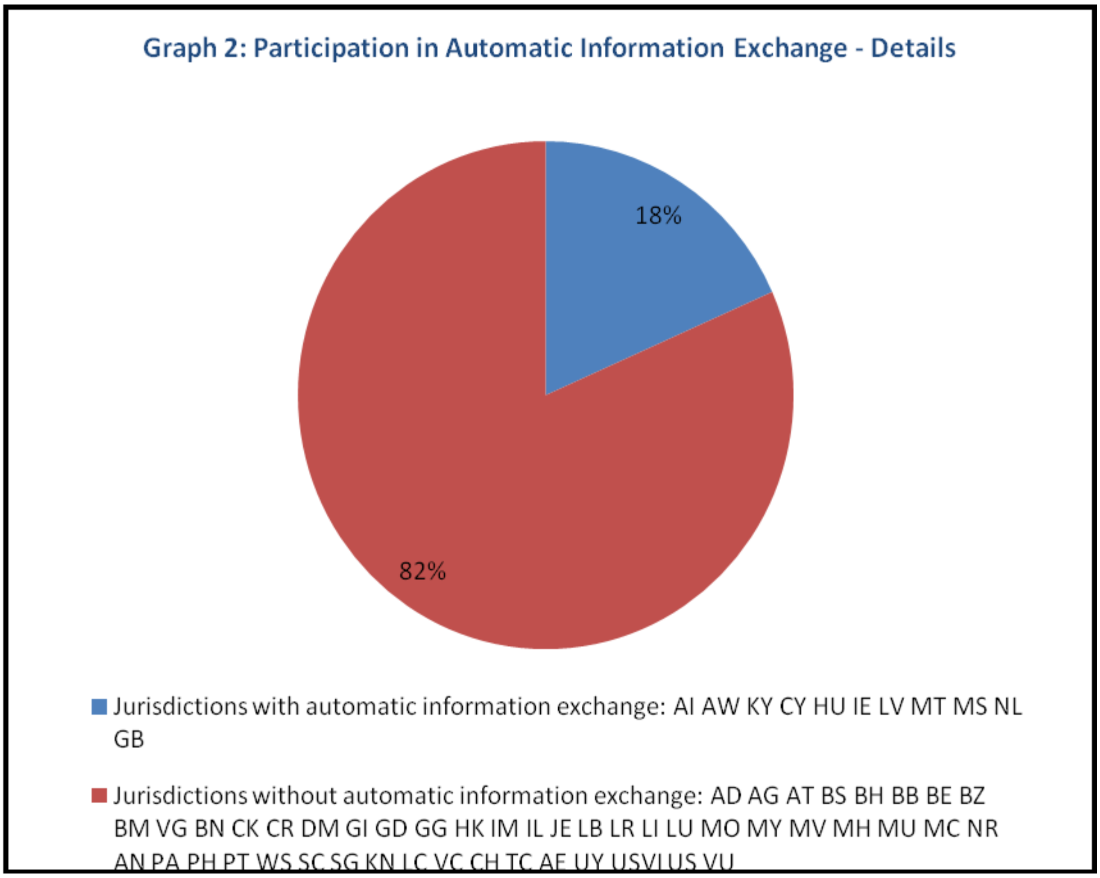


Table 2: Participation in Automatic Information Exchange – Details

ID	ISO	Jurisdiction		ID	ISO	Jurisdiction	
1	AD	Andorra	No	31	LI	Liechtenstein	No
2	AI	Anguilla	Yes	32	LU	Luxembourg	No
3	AG	Antigua & Barbuda	No	33	MO	Macao	No
4	AW	Aruba	Yes	34	MY	Malaysia (Labuan)	No
5	AT	Austria	No	35	MV	Maldives	No
6	BS	Bahamas	No	36	MT	Malta	Yes
7	BH	Bahrain	No	37	MH	Marshall Islands	No
8	BB	Barbados	No	38	MU	Mauritius	No
9	BE	Belgium	No	39	MC	Monaco	No
10	BZ	Belize	No	40	MS	Montserrat	Yes
11	BM	Bermuda	No	41	NR	Nauru	No
12	VG	British Virgin Islands	No	42	NL	Netherlands	Yes
13	BN	Brunei	No	43	AN	Netherlands Antilles	No
14	KY	Cayman Islands	Yes	44	PA	Panama	No
15	CK	Cook Islands	No	45	PH	Philipines	No
16	CR	Costa Rica	No	46	PT	Portugal (Madeira)	No
17	CY	Cyprus	Yes	47	WS	Samoa	No
18	DM	Dominica	No	48	SC	Seychelles	No
19	GI	Gibraltar	No	49	SG	Singapore	No
20	GD	Grenada	No	50	KN	St Kitts & Nevis	No
21	GG	Guernsey	No	51	LC	St Lucia	No
22	HK	Hong Kong	No	52	VC	St Vincent & Grenadines	No
23	HU	Hungary	Yes	53	CH	Switzerland	No
24	IE	Ireland	Yes	54	TC	Turks & Caicos Islands	No
25	IM	Isle of Man	No	55	AE	United Arab Emirates (Dubai)	No
26	IL	Israel	No	56	GB	United Kingdom (City of London)	Yes
27	JE	Jersey	No	57	UY	Uruguay	No
28	LV	Latvia	Yes	58	USVI	US Virgin Islands	No
29	LB	Lebanon	No	59	US	USA (Delaware)	No
30	LR	Liberia	No	60	VU	Vanuatu	No