Key Financial Secrecy Indicators

12: Automatic Information Exchange

What is being measured?

This indicator registers whether the jurisdiction participates in multilateral automatic information exchange on tax matters. Since there is currently no global mechanism implementing automatic tax information exchange, we have taken participation in the European Savings Tax Directive (EUSTD) as a proxy for this indicator. If a jurisdiction exchanges information automatically within the confines of the EUSTD, we credit it with contributing to financial transparency.

The main sources for this indicator are the official EU website on the savings tax directive[1] and the relevant website of the Council of the European Union[2].

The current version of the EUSTD was agreed in 2003 and became operational in mid-2005. It relates solely 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 (EU member states) and from Switzerland, an opt-out from information exchange was included in the EUSTD from its inception. Belgium subsequently withdrew from the opt-out and has switched to automatic information exchange.

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. 75 percent of the withheld tax is then distributed to the tax collector of the individual account holder's country of residence. No information about the bank account or the account holder is shared in this process, which means that the underreporting of income and arising tax evasion is likely to continue.

We do not give credit here to any country that has opted out of automatic information exchange under the EUSTD.

The EUSTD is currently the only international standard for automatic information exchange, which limits the application of this indicator. Once other regions adopt a similar exchange process, or a global standard for automatic information exchange is adopted, we will broaden the scope of this indicator to incorporate other regional standards or the global regime.

Why is this important?

Tax authorities around the world face immense difficulties with obtaining foreign-country based evidence when investigating suspected domestic tax evasion and/or aggressive tax avoidance schemes. The international standard for information exchange promoted by the OECD and the Global Forum 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 and in the Financial Times here[3]).

The consequences of this weakness reach far beyond mere tax enforcement, but have huge implications for the global economy. Ultimately, it incentivizes a distorted pattern of global financial flows and investment that is known best in terms of capital flight. As we have argued in our policy paper[4], this distortion creates huge imbalances in the world economy and impacts both southern and northern countries with devastating effects on all citizens and on the environment. Moreover, as Nicholas Shaxson has argued in the book Treasure Islands (2011: 74-79)[5], the root of this scandal dates back at least to the mid-1940s when the USA blocked the newly created IMF from requiring international cooperation to stem capital flight, and instead used European flight capital to institute the Marshall Plan.

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. While economic activity has globalised, the tax collector's efforts remain nationally focussed and are deliberately obstructed by secrecy jurisdictions.

The OECD-standard for information exchange consists of bilateral treaties that rely on information exchange 'upon request' only. However, the power to judge what constitutes an appropriate request 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). They go to great lengths to reassure their criminal clients that they will block 'fishing trips' by foreign tax authorities.

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 ties between the UK and the three territories and considering that the Crown Dependencies are ultimately constitutionally dependent upon the UK and therefore hardly free to deny information exchange to the UK.

Very few bilateral Tax Information Exchange Agreements have been concluded between secrecy jurisdictions and the world's poorer countries. We are concerned that even when such agreements are negotiated, they will prove ineffective in practice due to the practical barriers imposed by the cost and effort involved in make 'on request' application. Automatic information exchange would help overcome this problem.

There is a further issue: in addition to their being ineffective and expensive to operate, bilateral information exchange arrangements are inefficient because thousands of treaties are required to achieve global coverage. A treaty may take years to conclude and due to variances from one treaty to the next may allow further hurdles for information exchange to be included by powerful negotiating players in talks with developing countries.

Instead, what is required is a truly multilateral automatic tax information exchange agreement on all types of capital income irrespective of whether paid to individuals, trusts, foundations, companies or partnerships. Participation in such a scheme would need to be open to any requesting country (with appropriate confidentiality and human rights safeguards) and, where needed, technical assistance should be provided to build capacity to make use of this scheme.

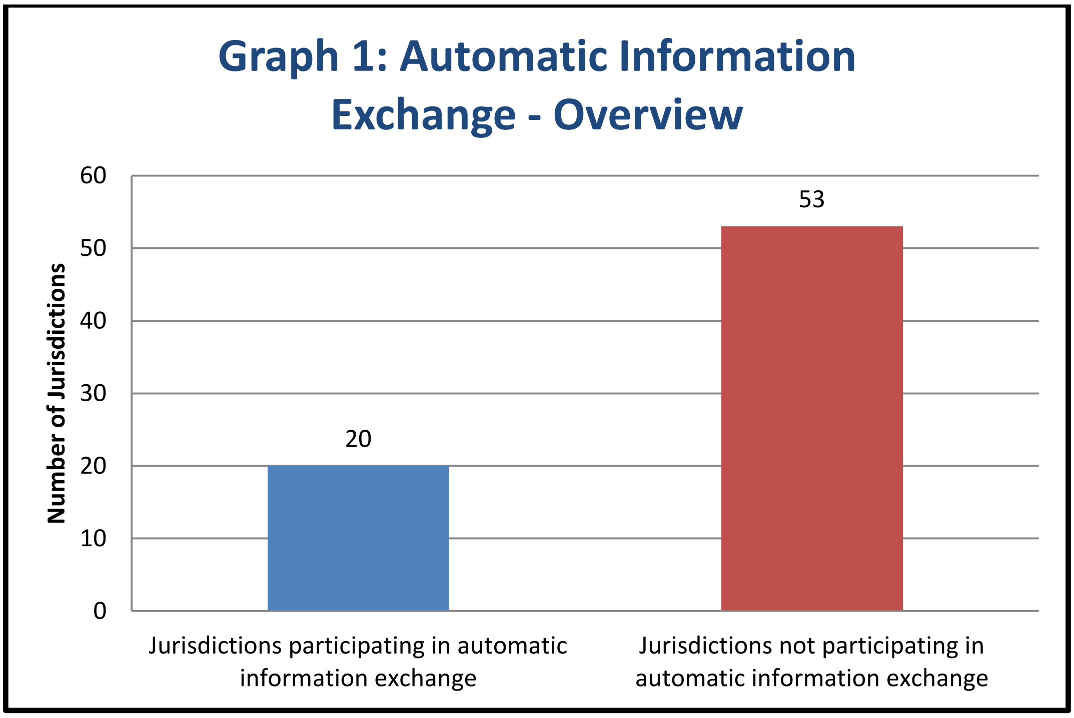
There would not be any need of establishing a central database. It suffices if each jurisdiction's paying agents (banks, etc.) remit identity information on the recipients of capital income to the domestic tax authority, and this domestic tax authority forwards the information to the tax authority of the respective citizen's state of residence (for more details read our briefing paper here[6]). An alternative, reduced system would be the automatic information exchange only on the beneficial owners of bank accounts, companies, trusts, foundations, etc. (details here)[7].

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

Tax evasion and aggressive tax avoidance, in particular. In addition, automatic tax information exchange make it easier to detect and identify the proceeds of corruption and crimes such as drug trafficking, human trafficking, insider trading, bankruptcy fraud, and many more besides.

Results Overview

Table 1: Participation in Automatic Information Exchange - Overview	
Number of jurisdictions participating in automatic information exchange	20
Number of jurisdictions not participating in automatic information exchange	53



Results Detail

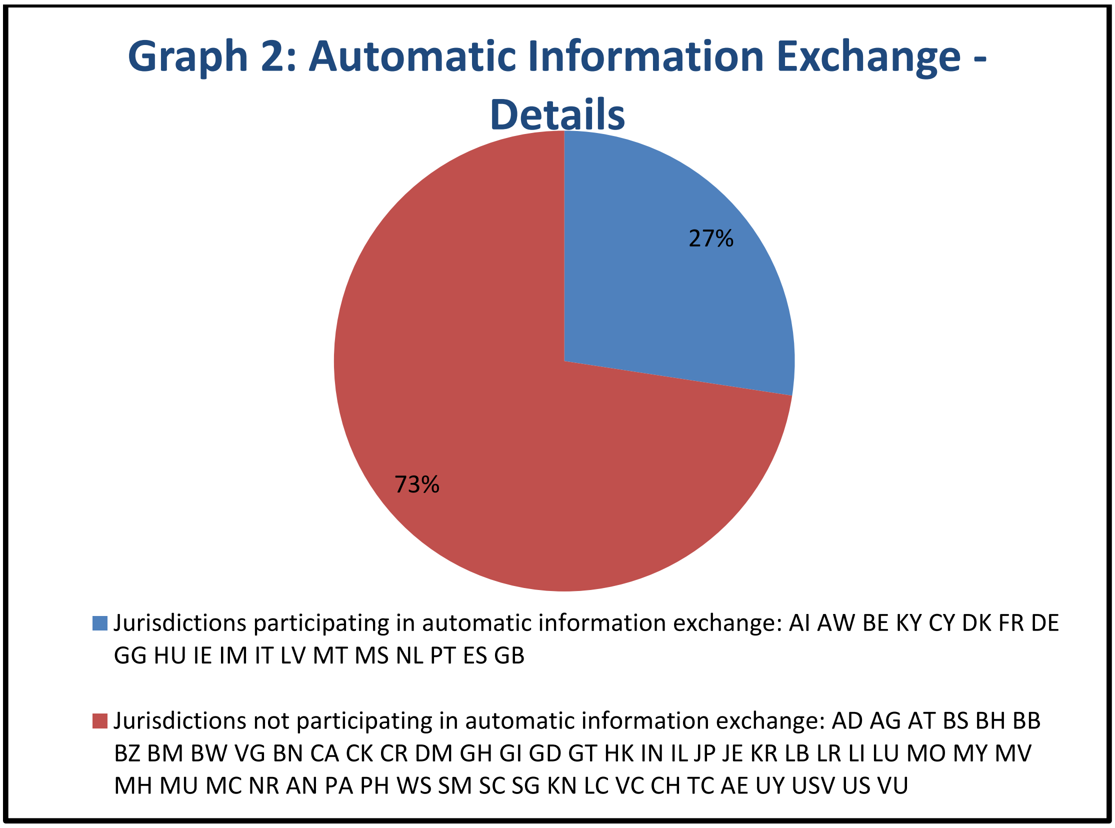


Table 2: Automatic Information Exchange - Details

ID	Jurisdiction	ISO		ID	Jurisdiction	ISO	
1	Andorra	AD	No	38	Korea	KR	No
2	Anguilla	AI	Yes	39	Latvia	LV	Yes
3	Antigua & Barbuda	AG	No	40	Lebanon	LB	No
4	Aruba	AW	Yes	41	Liberia	LR	No
5	Austria	AT	No	42	Liechtenstein	LI	No
6	Bahamas	BS	No	43	Luxembourg	LU	No
7	Bahrain	BH	No	44	Macau	MO	No
8	Barbados	BB	No	45	Malaysia (Labuan)	MY	No
9	Belgium	BE	Yes	46	Maldives	MV	No
10	Belize	BZ	No	47	Malta	MT	Yes
11	Bermuda	BM	No	48	Marshall Islands	MH	No
12	Botswana	BW	No	49	Mauritius	MU	No
13	British Virgin Islands	VG	No	50	Monaco	MC	No
14	Brunei	BN	No	51	Montserrat	MS	Yes
15	Canada	CA	No	52	Nauru	NR	No
16	Cayman Islands	KY	Yes	53	Netherlands	NL	Yes
17	Cook Islands	CK	No	54	Netherlands Antilles	AN	No
18	Costa Rica	CR	No	55	Panama	PA	No
19	Cyprus	CY	Yes	56	Philippines	PH	No
20	Denmark	DK	Yes	57	Portugal (Madeira)	PT	Yes
21	Dominica	DM	No	58	Samoa	WS	No
22	France	FR	Yes	59	San Marino	SM	No
23	Germany	DE	Yes	60	Seychelles	SC	No
24	Ghana	GH	No	61	Singapore	SG	No
25	Gibraltar	GI	No	62	Spain	ES	Yes
26	Grenada	GD	No	63	St Kitts and Nevis	KN	No
27	Guatemala	GT	No	64	St Lucia	LC	No
28	Guernsey	GG	Yes	65	St Vincent & Grenadines	VC	No
29	Hong Kong	HK	No	66	Switzerland	CH	No
30	Hungary	HU	Yes	67	Turks & Caicos Islands	TC	No
31	India	IN	No	68	United Arab Emirates (Dubai)	AE	No
32	Ireland	IE	Yes	69	United Kingdom	GB	Yes
33	Isle of Man	IM	Yes	70	Uruguay	UY	No
34	Israel	IL	No	71	US Virgin Islands	USV	No
35	Italy	IT	Yes	72	USA	US	No
36	Japan	JP	No	73	Vanuatu	VU	No
37	Jersey	JE	No				

[1] http://ec.europa.eu/taxation_customs/taxation/personal_tax/savings_tax/rules_applicable/index_en.htm; 21.6.2011.
[2] http://www.consilium.europa.eu/showPage.aspx?id=916&lang=en; 21.6.2011.
[3] http://www.ft.com/intl/cms/s/0/0f687dee-5eea-11e0-a2d7-00144feab49a.html#axzz1PtjiCeHN; 21.6.2011.
[4] http://www.taxjustice.net/cms/upload/pdf/AIE_100926_TJN-Briefing-2.pdf; 21.6.2011.
[5] http://treasureislands.org/; 21.6.2011.
[6] http://www.taxjustice.net/cms/upload/pdf/AIE_100926_TJN-Briefing-2.pdf; 21.6.2011.
[7] http://www.taxresearch.org.uk/Documents/InfoEx0609.pdf; 21.6.2011.