Key Financial Secrecy Indicators
2: Trust and Foundation Register

What is measured?

This indicator reveals whether a jurisdiction has a central register of trusts and foundations which is publicly accessible via the internet[1] (whether these are local structures, or foreign law structures administered by locals), and/or if a country prevents resident trustees from administering foreign law trusts.

To obtain a positive transparency assessment for this indicator, all trusts and foundations formed in a jurisdiction must be required to register with a central agency in order to become legally effective. Even if there is a registry, we do not consider it effective unless all relevant structures are required to register (since anybody intending to conceal their financial arrangements will simply not register the structure).

This applies to foreign law trusts administered by resident trustees. If a country either does not effectively prevent foreign law trusts from being administered in its territory, or does not require them to be registered, these resident trustees can engage in concealing the identity of non-resident settlors and beneficiaries. Following the same logic, we do not consider it sufficient if, for instance, a jurisdiction has a stringent registration requirement for foundations, but not for trusts. Both legal arrangements need to be covered (unless, of course, one is prohibited).

Credits can be awarded where there is a generalised registration requirement for trusts and foundations, covering disclosure of the appropriate information for assessing its tax and ownership implications. For example, the published information must at least comprise information on the identity of the settlor, the trust deed, and the names of the trustees, the annual accounts, and details of identified beneficiaries of the arrangement. This includes always the full names of the person concerned plus either the full address or the birthdate and –place or the passport ID-number.

The indicator builds on a variety of sources, including tables D2 and D3 of the OECD report (Tax Co-operation 2010[2]), private sector internet sources, FATF and IMF reports, and the

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[1] We believe this is a reasonable criteria given a) the prevalence of the internet in 2011, b) as international financial flows are now completely relying on the use of modern technology, it would be ridiculous if that technology were not used to make information available worldwide especially as c) the people affected by these cross border financial flows are likely to be in many jurisdictions, and hence *need* information to be on the internet to get hold of it.

[2] The full title of this annual publication is "Tax Co-operation. Towards a Level Playing Field". OECD-table D2 details which countries have domestic trust laws, which have specific trust laws applying to non-residents only and which countries do not have trust laws but allow their residents to act as

TJN-Survey 2011. In cases where there is indication that online information on trust registries is available, related websites have also been consulted.

Why is it important?

Trusts change property rights. That is their purpose. A trust is formed whenever a person (the settlor) gives legal ownership of an asset (the trust property) to another person (the trustee) on condition that they apply the income and gains arising from that asset for the benefit of another person or persons (the beneficiaries). It is immediately obvious that such an arrangement could easily be abused for concealing illicit activity should, for example, the identities of settlors and beneficiaries, or the relationship between settlor and trustee, be obscured. There is particular risk when the trust is in fact a sham i.e. the settlor is the beneficiary and controls the activities of the trustee. This is a commonplace mechanism for evading tax since their only effect is to conceal the actual controlling ownership of assets from everybody else's view.

The most basic secrecy jurisdiction 'product' comprises a secrecy jurisdiction company that operates a bank account. That company is run by nominee directors on behalf of nominee shareholders who act for an offshore trust that owns the company's shares. Structures like these are created primarily to avoid disclosing the real identity of the settlor and beneficiaries who hide behind the trust: these people will be 'elsewhere'[3] in another jurisdiction as far as the secrecy jurisdiction 'secrecy providers' (the lawyers, accountants and bankers actually running this structure) are concerned. If - as is often the case - these structures are split over several jurisdictions then any enquiries by law enforcement authorities and others about the structure can be endlessly delayed by the difficulties incurred when trying to identify who hides behind the trust.

The existence of a central register recording the true beneficial ownership of trusts and foundations would break down the deliberate opacity within this type of structure. The prospects of proper law enforcement would be greatly enhanced as a result.

For more detail on trusts please read TJN's extensive blog here.

What are the crimes that might hide behind trust secrecy?

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trustees of foreign trusts (OECD 2010: 210). Table D3 in turn details what kind of information needs to be submitted to a government authority, defined as including "trust registries, regulatory authorities and tax authorities." (OECD 2010: 241).

[3] By 'elsewhere' we mean 'An unknown place in which it is assumed, but not proven, that a transaction undertaken by an entity registered in a secrecy jurisdiction is regulated'. See our glossary here: http://www.secrecyjurisdictions.com/glossary.

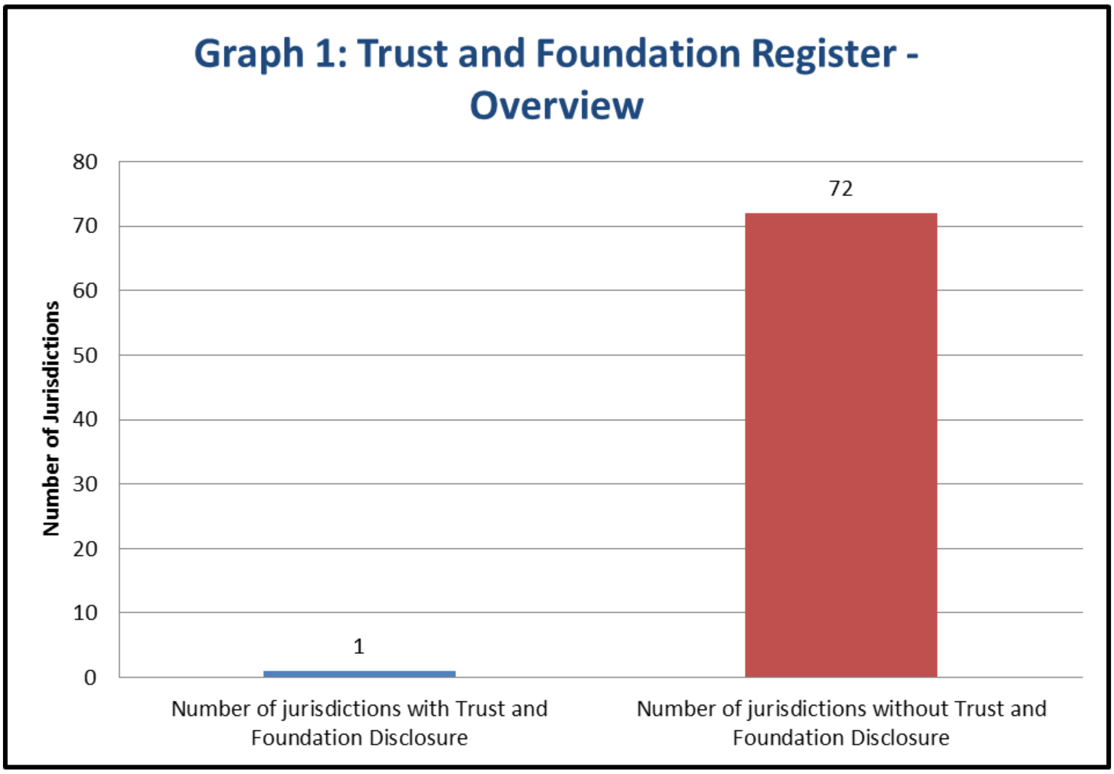
Tax evasion, concealment of the proceeds of corruption, organised crime (especially drug trafficking), illegal arms trading, trafficking in human beings, money laundering, the covering of illicit intelligence activity, non-payment of alimonies, infringement of competition rules, bankruptcy fraud, and more besides might hide behind the secrecy that trusts and foundations in secrecy jurisdictions can provide.

Results Overview

Only Spain is given a transparency credit here because it does not offer trusts or similar structures nor does it accept foreign law trusts. Similarly, private foundations are not permitted.

Table 1: Trust and Foundation Register - Overview

Number of jurisdictions with Trust and Foundation Disclosure:	1
Number of jurisdictions without Trust and Foundation Disclosure:	72



Results Details

Table 2: Trust and Foundation Disclosure - Details

ID	Jurisdiction	ISO		ID	Jurisdiction	ISO	
1	Andorra	AD	No	38	Korea	KR	No
2	Anguilla	AI	No	39	Latvia	LV	No
3	Antigua & Barbuda	AG	No	40	Lebanon	LB	No
4	Aruba	AW	No	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	No	46	Maldives	MV	No
10	Belize	BZ	No	47	Malta	MT	No
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	No
15	Canada	CA	No	52	Nauru	NR	No
16	Cayman Islands	KY	No	53	Netherlands	NL	No
17	Cook Islands	CK	No	54	Netherlands Antilles	AN	No
18	Costa Rica	CR	No	55	Panama	PA	No
19	Cyprus	CY	No	56	Philippines	PH	No
20	Denmark	DK	No	57	Portugal (Madeira)	PT	No
21	Dominica	DM	No	58	Samoa	WS	No
22	France	FR	No	59	San Marino	SM	No
23	Germany	DE	No	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	No	65	St Vincent & Grenadines	VC	No
29	Hong Kong	HK	No	66	Switzerland	CH	No
30	Hungary	HU	No	67	Turks & Caicos Islands	TC	No
31	India	IN	No	68	United Arab Emirates (Dubai)	AE	No
32	Ireland	IE	No	69	United Kingdom	GB	No
33	Isle of Man	IM	No	70	Uruguay	UY	No
34	Israel	IL	No	71	US Virgin Islands	USV	No
35	Italy	IT	No	72	USA	US	No
36	Japan	JP	No	73	Vanuatu	VU	No
37	Jersey	JE	No				