Financial Secrecy Index 2013

Methodology[1]

Tax Justice Network

This paper summarizes the main features of the qualitative and quantitative component of the Financial Secrecy Index 2013. As for the qualitative part, it describes and explains the methodological changes to the FSI 2011, what each of the Key Financial Secrecy Indicators is measuring, what the underlying data sources are, and how the secrecy scores are calculated. With respect to the quantitative component, the underlying data sources and methods for data extrapolation are explained. Furthermore, the combination of the two datasets is explained. Questions of research principles and process are addressed as well. In the Annex, all the underlying data used for the FSI 2013 is provided.

[1] This paper is based to some extent on materials published in 2009 and 2011 on the www.secrecyjurisdictions.com and www.financialsecrecyindex.com/ websites and on some occasions uses its text without explicitly highlighting this fact. It is deemed appropriate since the authorship is broadly the same. The creation of the FSI 2013 and its methodology was a team effort by far too many experts to thank individually, and we are grateful to all. Closely involved in drafting (parts) of this methodology were Alex Cobham and Petr Jansky, and in 2011 John Christensen and Steven Eichenberger (in 2011). All remaining errors are the responsibility of Markus Meinzer.

Contents

1. Summary

The Financial Secrecy Index (FSI) uses a combination of qualitative data and quantitative data to create a measure of each jurisdiction's contribution to the global problem of financial secrecy.

Qualitative data based on laws, regulations, cooperation with information exchange processes and other verifiable data sources, is used to prepare a **secrecy score** for each jurisdiction.

Secrecy jurisdictions with the highest secrecy scores are more opaque in the operations they host, less engaged in information sharing with other national authorities and less compliant with international norms relating to combating money-laundering. Lack of transparency and unwillingness to engage in effective information exchange makes a secrecy jurisdiction a more attractive location for routing illicit financial flows and for concealing criminal and corrupt activities.

Quantitative data is then used to create a **global scale weighting**, for each jurisdiction, according to its share of offshore financial services activity in the global total. To do this, we have used publicly available data about the trade in international financial services of each jurisdiction. Where necessary because of missing data, we follow International Monetary Fund methodology to extrapolate from stock measures to generate flow estimates. Jurisdictions with the largest weighting are those that play the biggest role in the market for financial services offered to non-residents.

The secrecy score is cubed and the weighting is cube-rooted before being multiplied to produce a **Financial Secrecy Index** which ranks secrecy jurisdictions according to their degree of secrecy and the scale of their trade in international financial services.

A jurisdiction with a larger share of the offshore finance market, and a high degree of opacity, may receive the same overall ranking as a smaller but more secretive jurisdiction. The reasons for this are clear – the ranking not only reflects information about which are the most secretive jurisdictions, but also the question of scale.

In this way, the Financial Secrecy Index provides an answer to the question: by providing offshore financial services in combination with a lack of transparency, how much damage is each secrecy jurisdiction actually responsible for?

Critics have argued that scale unfairly points to large financial centres. However, to dispense with scale risks ignoring the big elephants in the room. While large players may be slightly less secretive than other jurisdictions, their extraordinary financial sector size offers far more opportunities for illicit financial flows to hide. Therefore, the larger an international financial sector becomes, the better its regulations and transparency ought to be. This logic is reflected in the FSI and it therefore avoids the conceptual pitfalls of „usual suspects"-lists of of tax havens – often remote islands whose overall share in global financial markets is tiny.

Although it lacks a consistent and agreed definition, the term "tax haven" continues to dominate political and academic debates around issues of "offshore tax evasion" and "illicit financial flows". However, in a world where economies are deeply integrated across borders and where more than 200 tax jurisdictions exist, "virtually any country might be a `haven' in relation to another" (Picciotto 1992: 132). Arguably, the lack of clarity, consistency and objectivity in defining and identifying tax havens has contributed to a failure to counter the associated problems.

The FSI provides a (partial) remedy to this problem by replacing the term tax haven with the term secrecy jurisdiction. We define it as a jurisdiction which "provides facilities that enable people or entities escape or undermine the laws, rules and regulations of other jurisdictions elsewhere, using secrecy as a prime tool".

We emphasize that a secrecy jurisdiction is not a natural phenomenon that is, or is not, observable[2]. Rather, we assume that all countries may have some attributes of secrecy jurisdictions, ranging on an imagined continuum from highly secretive to perfectly transparent. Based on those premises, we develop a set of 15 verifiable indicators (Key Financial Secrecy Indicators, KFSI) which allow an assessment of the degree to which the legal and regulatory systems (or their absence) of a country contribute to the secrecy that enables illicit financial flows. Taken together, these indicators result in one compound secrecy score allocated to each jurisdiction. The scores are normalised to a range zero to 100 and in practice vary between 32.4 (Sweden) and 87.6 (Samoa).

The FSI has two broad objectives. First, it contributes to and encourages research by collecting data and providing an analytical framework to show

[2] TJN prefers the term secrecy jurisdiction over tax haven but uses both interchangeably. For more background on this please read www.financialsecrecyindex.com/PDF/SecrecyWorld.pdf.

how jurisdictions facilitate illicit financial flows. Second, it focuses policy debates by encouraging and monitoring policy change globally towards more financial transparency, by engaging the media and public interest groupings.

The FSI has been released for the third time in 2013 after releases in 2009 and 2011[3]. Since its first release, reception has been wide and it is increasingly being used for rating purposes[4]. Country coverage has increased to 82 jurisdictions in 2013.

In 2013, the methodology has remained largely the same as for the FSI 2011. Only KFSI 2 has been refined beyond the margins to now reveal separately if trusts and private foundations are properly disclosed. Previously, both private foundations and trusts have been combined for the assessment. KFSIs 1 and 6 have been refined to take into account new data sources and/or recent policy developments.

This project continues to break new ground. Changes to the content, structure and emphasis of the database and the indicators are a natural reflection of both a learning process by all involved and a fast changing international tax and financial environment. As we explore in more detail in chapter 5, we do not pretend that there is a single objective best measure for financial secrecy and we are in possession of it. It is rather the fruit of an ongoing debate that in the past has been and will in the future be driven to a large extent by the choice expertise available in and to the Tax Justice Network.

Chapter 2 will introduce the reader to all changes, underlying data sources, methodological principles and details concerning the secrecy scores. Chapter 3 will discuss one by one each of the 15 KFSIs. Chapter 4 will expand on the Global Scale Weights, underlying data sources and address some issues of data consistency. Chapter 5 will provide the formula for combining the secrecy scores and the Global Scale Weights to arrive at the final FSI-ranking, including some analysis of potential alternative formulas. The annexes contain overview tables and all the underlying data of the FSI except for full details on each country. The latter is included in country database reports, which can be accessed at www.financialsecrecyindex.com/database/menu.xml.

2. The Qualitative Part: Secrecy Scores

[3] www.financialsecrecyindex.com/archive

[4] In addition to those uses explained in this paper (http://www.taxjustice.net/cms/upload/pdf/FSI_2012_Cut-Off-Point.pdf), the EIRIS Country Sustainability Ratings 2014 (first published in June 2013) have incorporated FSI-findings (http://www.eiris.org/wp-content/uploads/2013/04/EIRIS-Country-Sustainability-Ratings.pdf).

2.1 Main Changes 2011-2013

2.1.1 Jurisdictions Covered

The number of jurisdictions covered by the FSI has increased from 60 in 2009 to over 73 in 2011, and to 82 in 2013. The selection criteria have changed slightly over time to reflect the commitment to eventually have global, or near-global coverage for the FSI, while taking into account resource and data constraints. In 2009, the 60 jurisdictions were selected on the basis of eleven listings issued by international bodies and academics (e.g. IMF, FATF, OECD, IBFD)[5]. Places named on at least two of those international listings were included. In the following years, we considered two distinct groups as potential additions to the FSI: first, jurisdictions that account for a large share of international financial services exports (weight); and second, jurisdictions which are indicated by various sources including public media to be playing or seeking a role in the provision of financial secrecy.

For the FSI 2011, the sample was extended to include all 20 jurisdictions which in 2009 had the highest global market share in financial services exports (based on 2007 data). Nine of the 13 newly added jurisdictions were included in 2011 based on this criterion[6], and four countries were added because of their known or suspected provision of financial secrecy.

For the FSI 2013, in regard to the first group, additional resources have allowed us to add all of the seven jurisdictions with a 2011 FSI global scale weighting (i.e. a share of international financial services exports) in the top 30. With respect to the second group, we have decided to include the Dominican Republic and New Zealand (ranked 82 and 60 out of 245 in global scale weight, respectively). Also considered were Anjouan (Comoros), Campione d'Italia, Djibouti, Niue, Qatar, Sint Maarten and the Vatican; of which the highest rank in terms of weight is 196 (out of 245 jurisdictions). Given the tiny volume of cross border financial activity witnessed by this low ranking, it was decided not to expend resources on their inclusion at this stage, but to place them together on a Watch List to be monitored in case of future expansion.

Finally, the former Netherlands Antilles was previously included but has been replaced by Curaçao. Other jurisdictions from the former Netherlands Antilles, the BES Islands[7] and Sint Maarten, have been added

[5] The selection process for the initial 60 jurisdictions is explained in detail here: www.financialsecrecyindex.com/Archive/Archive2009/Notes and Reports/SJ_Mapping.pdf.
[6] For all details, see page 3, here: www.financialsecrecyindex.com/Archive/Archive2011/Notes and Reports/SJ-Methodology.pdf.
[7] BES include Bonaire, Sint Eustatius and Saba.

to our watch list. Table 2.1 below gives an overview of the new jurisdictions covered in 2013.

Table 2.1: New jurisdictions covered in 2013

Total of 10 new jurisdictions included because of	
Secrecy or financial centre ambitions	**Top 30 GSW of FSI 2011**
Curacao (instead of Netherlands Antilles)	Australia
Dominican Republic	Norway
New Zealand	Brazil
	Sweden
	Russia
	Saudi Arabia
	South Africa

2.1.2 Key Financial Secrecy Indicators (KFSI)

The fifteen KFSIs used for the FSI 2013 remained broadly the same as for the FSI 2011. They can be grouped around four dimensions of secrecy: 1) knowledge of beneficial ownership (total of three KFSIs); 2) corporate transparency (total of three KFSIs); 3) efficiency of tax and financial regulation (total of four KFSIs); and 4) international standards and cooperation (total of five KFSIs).

Between the FSI 2011 and 2013, there were changes to the calculation of KFSI 1, 2, and 6. Indicator 1 has changed because new data sources have become available. Indicator 6 changed because of new political developments. Only indicator 2 changed more fundamentally to reveal in more nuance a jurisdiction's provision of secretive trusts and private foundations.

The old KFSI 1 on banking secrecy reviewed, among other things, whether a jurisdiction was able to access banking records for the provision of international assistance in tax matters. If, in principle, a jurisdiction could access banking data for this purpose, 0.1 credits were given. In addition, if a jurisdiction was able to access this data without further strings attached (i.e. no treaty required, and no court order required), another 0.1 credits were given. The underlying data source has been OECD's annual tax cooperation report[8], which was discontinued in 2010.

The new KFSI 1 takes into account the new peer reviews undertaken by OECD's Global Forum on Transparency and Exchange of Information for Tax Purposes (from now on: "Global Forum"). A total of 0.2 credits are given if a jurisdiction has effective access to banking data. We consider that effective access exists if the tax authorities can obtain account

[8] The full title of this annual publication is "Tax Co-operation. Towards a Level Playing Field" (OECD 2010).

information without the need for separate authorisation, for example, from a court, and if there are no undue notification requirements nor appeal rights against obtaining or sharing this information across borders.

The old KFSI 2 on trusts and foundations register took a strict binary rating approach: either a jurisdiction had fully implemented both trust and foundations registries (or effectively banned those legal structures from being created and managed on its territory), or no credit was given.

The new KFSI 2[9] on registers of trust and foundations brings more nuance to this issue by splitting it in half. To obtain a positive transparency assessment for this indicator, all trusts (half credit) and private foundations (half credit) formed and administered 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 if registration is voluntary. Unless all relevant structures are required to register, anybody intending to conceal their financial arrangements will simply not register the structure. We define relevant structures as all legal arrangements whose overall payments either exceed €15.000 per year or whose underlying asset value exceeded €100.000 at any moment in the year[10]. Disclosure should include the appropriate information for assessing its tax and ownership implications, at least comprising the full names and birthdates (or passport IDs) and country of residence for the settlor(s), the trustee(s) and identified beneficiaries of the arrangement. Partial credit is given if some aspects of these requirements are met.

Alternatively, a full transparency credit can be obtained as well if a jurisdiction does not provide legislation for the creation of private foundations (half credit), and does not provide legislation for the creation of trusts while at the same time ruling out or regulating effectively the administration by domestic trustees of foreign law trusts (half credit).

However, we also differentiate between situations in which countries merely by omission fail to regulate and register foreign law trusts administered by domestic lawyers, tax advisers and notaries, and other situations in which jurisdictions actively attract foreign law trusts either by adherence to the Hague Convention on the Law Applicable to Trusts and on their Recognition[11] or by legislating equivalent domestic rules which regulate aspects of foreign law trusts for use in a domestic economic and legal context.

[9] Read the full KFSI-paper with all details here: www.financialsecrecyindex.com/PDF/2-Trusts-Foundations-Register.pdf.
[10] See Meinzer (2012a: 46-49) for more background of these relevant structures and the suggested registries.
[11] http://www.hcch.net/index_en.php?act=conventions.text&cid=59; 14.1.2013.

The old KFSI 6 reviewed the extent to which jurisdictions oblige companies to provide country by country reporting[12] in their annual financial reporting. Partial credit (0.5) was given if at least companies in the extractives sector were required to disclose certain payments in certain countries on a country by country basis.

The new KFSI 6 has been tightened. Overall, the indicator still measures whether the companies listed on the stock exchanges or incorporated in a given jurisdiction are required to publish worldwide financial reporting data on a country-by-country reporting (CBCR) basis. A full credit is awarded if required by all companies (which is not yet the case). A 0.25 credit is given if a country requires limited, but periodic worldwide country-by-country reporting for specific economic sectors, namely banking (0.25) and/or extractive industries (0.25). A 0.1 credit is given if in any of the aforementioned sectors payments need to be disclosed at least once upon listing or upon issuing fresh shares.

2.2 Underlying Data and Procedural Issues

The dataset underlying the 15 KFSIs is publicly available for review through an online database (accessible here[13]). All data in the database is fully referenced and the underlying data sources can be identified. The main data sources were official and public reports by the OECD, the associated Global Forum, the FATF, IMF and the US State Department (INCSR[14]). In addition, specialist tax databases and websites such as by the IBFD[15], PwC[16], Lowtax.net and others have been consulted. Furthermore, surveys have been sent to the Ministries of Finance and the Financial Intelligence Units of all 82 reviewed jurisdictions which included targeted questions about the jurisdiction's tax and regulatory system (for more details see further below).

It is important to understand that not all the information contained in the database is used to compute secrecy indicators and the secrecy score. Out of 202 variables available in the database for each jurisdiction, up to 49 are used to compute the secrecy score (see Annex 3 for an overview table of the 49 variables). As regards the cut-off date of information in the database, we generally relied on reports, legislation, regulation and news available as of 31.12.2012. For some indicators, more recent data has been included. All jurisdictions had the opportunity to provide up-to-date information by answering the questionnaires.

[12] http://www.taxresearch.org.uk/Documents/CBC2012.pdf; 15.1.2013.
[13] http://www.financialsecrecyindex.com/database/menu.xml.
[14] The US State Departments annually publishes an International Narcotics Control Strategy Report (INCSR 2013) which in one volume contains country reviews, including specific and comparative anti-money laundering data.
[15] International Bureau of Fiscal Documentation, Amsterdam.
[16] PriceWaterhouseCoopers, Worldwide Tax Summaries.

For some indicators, data availability and comparability is a problem. For instance, a publication by the OECD (2013a) with specific comparative information on tax administrations used for two of the 15 indicators contains information for a total of 52 countries, out of which only 34 are included in the FSI 2013. For these two indicators, this leaves 48 countries of the FSI 2013 without a primary data source. If a jurisdiction did not respond to the questionnaires, and if (in some cases) follow-up enquiries with local researchers did not yield additional insights, this absence of data is reflected in the database by marking the relevant field as 'unknown'. However, when constructing the indicators, the jurisdictions without data have been assessed under these circumstances as if their policies with respect to the particular indicator under assessment provide secrecy. Absence of data was awarded a secrecy score.

It is also important to understand that the database has a built-in logic of display. When skimming through the database report, one may find that some questions are left out in some of the reports. This happens whenever the answer to a prior question has been negative so as to invalidate the relevance of the following, omitted questions. For instance, if a trust does not need to be registered in the first place, it is no use displaying the registered information section of trusts. Nor does it make sense to ask whether annual accounts must be submitted by companies, or if underlying accounting records have a minimum retention period, in the absence of an obligation to keep accounting records. This explains why in some jurisdiction reports, the numbers on the questions in the database are not always sequential.

After the launch of the FSI 2011, the research team launched an evaluation process through the internal discussion list of Tax Justice Network. A lot of valuable feedback has been received through February and March 2012, and a few decisions about process and concept for FSI 2013 directly flowed from this evaluation. First, emphasis was placed on inter-year comparability of indices, which required us to reduce the number of changes to a minimum, and to create and communicate estimates about the effects of changes. Most importantly, the formula for combining the secrecy scores with the Global Scale Weights remains unchanged between 2009 and 2011. Second, indicator number two has been refined (see section 2.1.2 above). Third, the twin websites www.secrecyjurisdictions.com and www.financialsecrecyindex.com have been merged and the structure of the website has been made more accessible. Fourth, an outreach process, including monthly phone calls and a training workshop, has been provided to anyone interested in using the FSI. The envisaged changes (new jurisdictions, methodological and process adjustments) were communicated over the TJN-email list in October 2012.

Two draft template questionnaires addressed to the Ministries of Finance and Financial Intelligence Units of each of the reviewed jurisdictions have been shared over this list. The purpose of these questionnaires is to collect data for the index and database, not least giving jurisdictions an opportunity to provide data and sources about controversial regulatory questions. Furthermore, TJN-members were asked to provide names and mail addresses of people within their ministries of finance to direct the questionnaires to.

The questionnaires[17] were distributed late October 2012 by hard copy mail. The deadline for answering was 15 January 2013 in order to allow respondents to take into account regulatory and legal changes up to 31.12.2012. The launch date for the FSI on 7 November 2013 was announced in May 2013.

2.3 Guiding Methodological Principles

The guiding principle for data collection was to always look for and assess the lowest standard (or denominator) of transparency available in each jurisdiction. For example, if a jurisdiction offered three different types of companies, two of which require financial statements to be published online, but the third is not required to disclose this information, then we have answered the particular question about the online availability of accounts with "no".

Despite our efforts to use the best data sources available and applying the principle of the lowest available denominator, it has to be acknowledged that an assessment procedure on the issue of financial secrecy and with the scale of the FSI cannot be rooted in evident facts alone. Necessarily, it will involve occasional use of reasoned judgment. Where this was the case, transparency about criteria and reasons was aimed for.

The lack of data integrity and conflicting information is a potential problem even when we rely on official and professional data sources such as the OECD, the Global Forum, the FATF, or the IBFD. This is partially explained by the different legal jargons being used for instance by the anti-money laundering and the international tax communities (Meinzer 2012b: 14-15). Political bias in the reports appears to be another important element for explaining conflicting information. For example, it is astonishing to see how the entire Qualified Intermediary Program run by the USA, which allows foreign investors to invest anonymously in the US financial system, has been completely omitted from the Global Forum's review of the USA[18].

[17] The questionnaire sent to the ministries of finance can be viewed here: www.financialsecrecyindex.com/PDF/FSI2013_JurisdictionQuestionnaire_MoF.pdf; the questionnaire to the FIUs can be viewed here: www.financialsecrecyindex.com/PDF/FSI2013_JurisdictionQuestionnaire_FIU.pdf.

[18] For more background see www.financialsecrecyindex.com/database/USA.xml#t31 and Meinzer (2012a: 42-

Especially when such conflicts were of relevance for the indicators, additional sources and country level expertise were sought. As a result, in addition to references to all underlying sources, the database reports also include a large amount of supporting information and notes relating to data analysis.

The problem of a lack of available relevant data has been addressed in the following way. If a jurisdiction did not respond to the questionnaires, and if follow-up enquiries with local researchers did not yield additional insights, this absence of data is reflected in the database by marking the relevant field as 'unknown'. However, when constructing the indicators, the jurisdictions without relevant data have been assessed under these circumstances as if their policies with respect to the particular indicator under assessment provide secrecy. Absence of data was awarded a secrecy score.

As regards the cut-off date for the key financial secrecy indicators, we usually used regulatory reports, legislation, regulation and news available as of 31.12.2012. On some occasions, more recent data has been used. A general exception to the cut-off-date concerns KFSI 13 on bilateral treaties where the cut-off date is 31 May 2013. All jurisdictions had the opportunity to provide us with up-to-date information by answering our questionnaire.

2.4 Secrecy Score

Once each KFSI has been assessed with a value between zero and one, it is straightforward to arrive at one compound secrecy score for each jurisdiction. We simply add the values of each of the assessed KFSIs and divide the sum by the number of assessed KFSIs, expressing the resulting value (between 0 and 1) as a percentage score (0% to 100%). As a consequence, a jurisdiction can always achieve a maximum value of 0% secrecy or 100% transparency.

For example, if a jurisdiction was given a transparency credit for all 15 indicators, the resulting secrecy score would be 0%. No indicator being rated as transparent, in contrast, would result in a 100% secrecy score.

A list of all 15 KFSI-values for each jurisdiction can be found in Annex D below. Each jurisdiction's secrecy score is displayed in alphabetical order in Annex G, and in descending order of secrecy scores in Annex H below.

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43). For further examples of political bias in the Global Forum, read for example Meinzer 2012b: 10.

3 The 15 KFSIs 2013

Table 3.1 below provides a summary overview of the 15 Key Financial Secrecy Indicators (KFSI), while Annex B provides a table with some more detail, and the remaining chapter 3 discusses each indicator in full detail.

Three principles guided the design of the KFSIs. First and foremost, the selected indicators should most accurately capture a jurisdiction's status as a secrecy jurisdiction ("provides facilities that enable people or entities escape or undermine the laws, rules and regulations of other jurisdictions elsewhere, using secrecy as a prime tool"). The choice of these indicators has necessarily been subjective, but it must be acknowledged that an objective choice of indicators does not exist, and never will: the issue boils down to whether or not our selected indicators are plausible.

To achieve plausibility, the research team relied on expert and practitioners' input and knowledge. The tremendous amount of expertise available in and to the Tax Justice Network has proven invaluable during the research process.

An aim was to be open and transparent about the choices we made and not to claim objectivity when all we can hope for is an understanding based on a wide range of different perspectives. If the reader feels uncomfortable with some of the choices made we would welcome suggestions for improving our methodology. In fact, with the database containing data on more than 200 variables, we have made publicly available the resources for testing alternative indicators at relatively low cost.

Second, we wanted to be as parsimonious as possible by selecting a relatively small number of indicators. We did this largely to avoid unnecessary complexity for the reader and also in order to ensure that this work can be carried forward without undue cost or delay caused by data gaps.

Third, we considered it important that the index should be sufficiently simple and transparent to provide clear indication of what steps a secrecy jurisdiction should take to enhance its secrecy ranking. Our approach is based on encouraging policy change in secrecy jurisdictions to improve performance.

The following chapters provide detailed explanations of what exactly is measured by each indicator, what sources we used for each of them, and why we think the underlying issue is relevant to financial secrecy.

Table 3.1: Overview of 15 Key Financial Secrecy Indicators

Knowledge of beneficial ownership		Key aspects of corporate transparency regulation		Efficiency of tax and financial regulation		International standards and cooperation	
1	Banking Secrecy	4	Public Company Ownership	7	Fit for Information Exchange	11	Anti-money Laundering
2	Trust and Foundations Register	5	Public Company Accounts	8	Efficiency of Tax Administration	12	Automatic Information Exchange
3	Recorded Company Ownership	6	Country-by-country reporting	9	Avoids Promoting Tax Evasion	13	Bilateral Treaties
				10	Harmful Legal Vehicles	14	International Transparency Commitments
						15	International Judicial Cooperation

3.1 KFSI 1 - Banking Secrecy

3.1.1 What is measured?

This indicator assesses whether a jurisdiction provides banking secrecy. We seek to go beyond the statutory dimension to assess the absence or inaccessibility of banking information as a form of banking secrecy. For a jurisdiction to obtain full credit on this indicator, the jurisdiction must ensure that banking data exists, and that it has effective access to this data. We consider that effective access exists if the tax authorities can obtain account information without the need for separate authorisation, for example, from a court, and if there are no undue notification requirements nor appeal rights against obtaining or sharing this information.

In order to measure whether banking secrecy enjoys legal status in a jurisdiction, we use data from table B1 of the OECD 2010 report[19] and from the Global Forum peer reviews[20]. If a jurisdiction does not legally endorse banking secrecy, we award 0.2 credit points.

The availability of relevant banking information is measured by a jurisdiction's compliance with FATF-recommendations 5 and 10[21].

Recommendation 5 states that "financial institutions should not keep anonymous accounts or accounts in obviously fictitious names". The recommendation specifies that the financial institution must be able to identify not just the legal owner but also the beneficial owner(s), both in

[19] The full title of this annual publication is "Tax Co-operation. Towards a Level Playing Field" (henceforth "OECD-report"). The OECD provides the following explanation: "Table B 1 shows for all of the countries reviewed whether the basis for bank secrecy arises purely out of the relationship between the bank and its customer (e.g. contract, privacy, common law) […or] whether it is reinforced by statute […]." (OECD 2010: 142; TJN-notes in [brackets]).

[20] The Global Forum peer reviews refer to the peer review reports and supplementary reports published by the Global Forum on Transparency and Exchange of Information for Tax Purposes. They can be viewed at: http://www.eoi-tax.org/; 11.1.2013.

[21] These recommendations refer to the 49 FATF recommendations of 2003. While the FATF has consolidated its recommendations to a total of 40 in 2012, the old recommendations are used here because the assessment of compliance with the new recommendations will only begin in 2013. The corresponding recommendations in the new 2012 set of recommendations are recommendations 10 (replacing old Rec. 5) and 11 (replacing old Rec. 10). In the next FSI, the results of the new assessments will be taken into account. The old recommendations can be viewed at: www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF%20Recommendations%202003.pdf; 11.1.2013.

the case of natural and legal persons[22]. If a jurisdiction fully complies with this recommendation, we award a further 0.2 credit points[23].

FATF-recommendation 10 requires financial institutions to "maintain, for at least five years, all necessary records on transactions, both domestic and international"[24]. A further 0.2 credits are awarded if a jurisdiction fully applies this recommendation. We have relied mainly on the mutual evaluation reports by the FATF, FATF-like regional bodies or the IMF for the assessment of these two criteria[25].

In addition, and in order to diversify our sources, we have also used data contained in the 2012 International Narcotics Control Strategy Report (INCSR, Volume 2 on Money Laundering and Financial Crimes)[26]. This report indicates for a large number of countries a) whether banks are required to maintain records over time, especially of large or unusual transactions, and b) whether banks are required to report large transactions. We award 0.1 credit points for a positive answer for each a) and b)[27].

However, since it is not sufficient for banking data to merely exist, we also measure whether this data can be obtained and used for information exchange purposes, and if no undue notification[28] requirements or appeal

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[22] www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF%20Recommendations%202003.pdf; 11.1.2013. See also footnote above.
[23] In order to measure compliance the FATF uses the following scale: 1 = non-compliant; 2 = partially compliant; 3 = largely-compliant; 4 = fully compliant. We give 0 credits for non-compliant, 0.7 for partially compliant, 0.13 for largely compliant and finally 0.2 credit points for fully compliant jurisdictions.
[24] www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF%20Recommendations%202003.pdf; 11.1.2013. See also footnote above.
[25] We ignored the results of update reports to mutual evaluations, and instead only included the results of full mutual evaluations. This is because only a comprehensive re-assessment of all recommendations gives a complete picture of the anti-money laundering system and offers a fair basis for comparison across jurisdictions.
[26] This report is available here: http://www.state.gov/documents/organization/185866.pdf; 31.10.2012.
[27] The information is nicely presented in this table: www.state.gov/documents/organization/191500.pdf (11.1.2013) under the columns "Report Large Transactions" and "Maintain records over time".
[28] While the GF peer reviews assess whether a notification (to the taxpayer) could delay or prevent the exchange of information, we also consider whether any notification to the taxpayer takes place at all, even if it is after the exchange of information, because the taxpayer could start taking actions (transfer assets, leave the country, etc.) to prevent the legal and economic consequences of the requesting jurisdiction's investigation or proceedings. By becoming aware, he/she could also take precautionary measures with respect to assets, bank accounts, etc. located in other jurisdictions.

rights[29] prevent effective sharing of banking data. We rely on Global Forum's element B.1[30] for addressing the first issue at hand (powers to obtain and provide data), and we use Global Forum's element B.2[31] for the second issue (notification requirements/appeal rights). Each will be attributed 0.1 credits if no qualifications apply to the elements and underlying factors[32]. An overview of the rating for B.1 and B.2 can be seen below:

KFSI 1 – Assessment of Global Forum data		
Assessment Credits	Results as in table of determinations of Global Forum B.1 / B.2, "**Determination**"[33]	Results as in table of determinations of Global Forum B.1 / B.2, "**Factors**"[34]
0.1	"The element is in place."	No factor mentioned.
0	"The element is in place."	Any factor mentioned.

[29] In those cases when the taxpayer is not notified (either because it is not a legal requirement or because there are exceptions to this notification), we still evaluate whether the information holder has any right to appeal or seek judicial review. In this case, we consider whether there are legally binding timeframes for the appeal procedures and appropriate confidentiality safeguards which would ensure that the exchange of information will not be delayed or prevented.

[30] The full element B.1 reads as follows: "Competent authorities should have the power to obtain and provide information that is the subject of a request under an exchange of information arrangement from any person within their territorial jurisdiction who is in possession or control of such information (irrespective of any legal obligation on such person to maintain the secrecy of the information)." (Global Forum 2010: 27).

[31] The full element B.2 reads as follows: "The rights and safeguards (e.g. notification, appeal rights) that apply to persons in the requested jurisdiction should be compatible with effective exchange of information." (see page 28, in Global Forum 2010, op. cit.).

[32] Because under Global Forum's methodology there are no clear criteria to determine when identified problems as described in "factors" are going to affect the assessment of an "element", we are only awarding a credit if no problems (factors) have been identified, irrespective of the element's assessment. However, we do consider both: (i) whether the factors mentioned are related to bank information; and (ii) whether information described in the report (even if not mentioned as a factor) is also relevant to assess a jurisdiction's power to obtain and exchange bank information. Also see footnotes below for more background.

[33] The Global Forum peer review process analyzes and determines if 10 elements considered by the OECD to be necessary for "upon request" information exchange are in place. A three-tier assessment is available (element "in place", "in place, but", "not in place"), and this assessment is called "determination". See footnote above and below for more details.

[34] Each of the "determinations" (as explained in footnotes above) of the 10 elements may have underlying factors which justify the element's determination and the recommendations given. They are shown in a column next to the determination in the so-called "table of determinations" in the corresponding peer review reports.

KFSI 1 – Assessment of Global Forum data		
Assessment Credits	Results as in table of determinations of Global Forum B.1 / B.2, "**Determination**"[33]	Results as in table of determinations of Global Forum B.1 / B.2, "**Factors**"[34]
0	"The element is in place, but certain aspects of the legal implementation of the element need improvement."	Irrelevant.
0	"The element is not in place."	Irrelevant.

All of KFSI 1 is summarized in the next table:

KFSI 1 – Banking Secrecy			
Dimensions	**Condition(s)**	**Assessment**	**Source(s)**
Statutory standing	Banking secrecy does not have legal standing	0.2 credit points	OECD Tax-Cooperation report 2010, table B.1; Global Forum peer reviews
Availability of relevant information	No anonymous accounts – FATF Rec. 5	0.2 credit points	FATF, FATF-like regional bodies, or IMF
	Keep banking records for at least five years– FATF Rec. 10	0.2 credit points	
	Maintain records over time, especially of large or unusual transactions	0.1 credit points	Bureau for International Narcotics and Law Enforcement Affairs (INCSR 2012)
	Report Large Transactions	0.1 credit points	
Effective access	Sufficient powers to obtain and provide banking information	0.1 credit points	Global Forum peer reviews elements B.1 and B.2 (incl. factors and text)
	No undue notification and appeal rights against information exchange	0.1 credit points	

3.1.2 Why is it important?

Factual and formal banking secrecy laws can help to obstruct information gathering requests from both national and international competent authorities such as tax administrations or financial regulators. Until 2005, most of the concluded double tax agreements did not specifically include provisions to override formal banking secrecy laws when responding to information requests by foreign treaty partners.

Some countries defend their banking secrecy by means of criminal prosecution which helps to silence, retaliate against, and prosecute critics as well as whistleblowers. Bank secrecy was, and remains in these cases, a massive obstacle to progress in obtaining information required to secure law and tax enforcement.

Another way of achieving factual banking secrecy which has become increasingly fashionable[35] since formal banking secrecy came under attack by the OECD in 2009 consists in not properly checking the identity of the account holders, or in allowing nominees such as custodians, trustees, or foundation council members to be acceptable as the only names on bank records. Furthermore, the absence of or neglect in enforcing record keeping obligations for large transactions, for instance through wire transfers, is another way in which banks are complicit in aiding their clients to evade investigation.

Since most trusts, shell companies, partnerships and foundations need to maintain a bank account, the beneficial ownership information banks are required to hold on the accounts they operate is often the most effective route for identifying the people behind these legal structures. Together with the recorded transfers, ownership records of bank accounts therefore are often the only available proof of criminal or illicit activity of individuals, such as the payment of bribes, illegal arms trade or tax evasion. Therefore, it is of utmost importance that authorities with appropriate confidentiality provisions in place can access banking data routinely without being constrained by additional legal barriers such as formal banking secrecy or factual barriers, such as missing or outdated records.

[35] www.taxjustice.net/cms/upload/pdf/TJN_1110_UK-Swiss_master.pdf; 14.1.2013.

3.2 KFSI 2 - Trust and Foundations Register

3.2.1 What is measured?

This indicator reveals whether a jurisdiction has a central register of trusts and foundations which is publicly accessible via the internet[36] (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, and if a country provides legislation for the creation of private purpose foundations.

To obtain a positive transparency assessment for this indicator, all trusts (half credit) and private foundations (half credit) formed and administered 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). We define relevant structures as all legal arrangements whose overall payments either exceed €15.000 per year or whose underlying asset value exceeded €100.000 at any moment in the year. Disclosure should include the appropriate information for assessing its tax and ownership implications, at least comprising the full names and birthdates (or passport IDs) and country of residence for the settlor(s), the trustee(s) and identified beneficiaries of the arrangement[37].

Alternatively, a full transparency credit can be obtained as well if a jurisdiction does not provide legislation for the creation of private foundations (half credit), and does not provide legislation for the creation of trusts as well as ruling out or regulating effectively the administration of foreign law trusts by domestic trustees (half credit).

However, we also differentiate between situations in which countries merely by omission fail to regulate and register foreign law trusts administered by domestic lawyers, tax advisers and notaries, and other situations in which jurisdictions actively attract foreign law trusts, either by adherence to the Hague Convention on the Law Applicable to Trusts and on their Recognition[38] or by legislating equivalent domestic rules

[36] We believe this is a reasonable criteria given a) the prevalence of the internet in 2013, 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.

[37] For comprehensive policy guidelines on what features an effective registry of trusts should possess, please read pages 46-49 here: www.taxjustice.net/cms/upload/pdf/BAR2012-TJN-Report.pdf; 15.1.2013.

[38] http://www.hcch.net/index_en.php?act=conventions.text&cid=59; 14.1.2013.

which regulate aspects of foreign law trusts for use in a domestic economic and legal context.

The indicator builds on a variety of sources, mainly drawing on information contained in the the Global Forum peer reviews[39], but also including tables D2 and D3 of the OECD 2010 report[40], private sector internet sources, FATF and IMF reports, and the TJN-Survey 2013. In cases where there is indication that online registries on trusts/foundation registries are available, related websites have also been consulted.

For all the details of the assessment, please consult Annex I with a mind map of KFSI 2.

3.2.2 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'[41]

[39] The Global Forum peer reviews refer to the peer review reports and supplementary reports published by the Global Forum on Transparency and Exchange of Information for Tax Purposes. They can be viewed at: http://www.eoi-tax.org/; 11.1.2013.

[40] The full title of this publication is "Tax Co-operation. Towards a Level Playing Field" (henceforth "OECD-report"). 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 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).

[41] 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

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.

Private foundations serve a similar purpose to trusts. By definition they do not have any owners, being designed to allow wealth owners to continue to control and use their wealth hidden behind the façade of the foundations. Discretionary foundations -equivalent to discretionary trusts - are a speciality of Liechtenstein, though they are also available in other secrecy jurisdictions. Private foundations have a founder, a foundation council and beneficiaries and depend upon a foundation statute, often complemented by secret by-laws. In all secrecy jurisdiction contexts, private foundations need to be registered, though only very limited information, for example about a registered office or some foundation council members, is required to be held in government registries. These registries are normally subject to strict secrecy rules.

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 details on trusts please read TJN's extensive blog here[42], and on the way discretionary trusts and foundations are used to hide offshore wealth, read this analysis[43].

3.3 KFSI 3 – Recorded Company Ownership

3.3.1 What is measured?

This indicator assesses whether a jurisdiction requires all available types of companies to submit beneficial ownership information upon incorporation to a governmental authority, and whether it requires this information to be updated, regardless of whether or not this information is made available on public record.

A precondition for awarding a positive result is that all available types of companies with limited liability must be required to submit beneficial ownership information except for publicly listed companies, whose owners of the listed shares are not required to be recorded.

jurisdiction is regulated'. See our glossary here: www.secrecyjurisdictions.com/PDF/Glossary.pdf; 15.1.2013.

[42] http://taxjustice.blogspot.de/2009/07/in-trusts-we-trust.html; 15.1.2013.

[43] www.taxjustice.net/cms/upload/pdf/TJN_1110_UK-Swiss_master.pdf; 15.1.2013.

To meet a reasonable standard, registered ownership information must comply with a minimum requirement: it should include

a) the full names of all beneficial owners, and for each

b) country of residence,

c) passport ID-number or birthdate and place or Taxpayer Identification Number.

The recorded beneficial owners must be the natural human beings who have the right to enjoy ownership of the rewards flowing from ownership of the entity, as prescribed by anti-money laundering standards[44]. For this purpose, unless it is a publicly quoted entity, trusts, foundations, partnerships, limited liability corporations and other legal persons do not count as beneficial owners.

This indicator is mainly informed by four different types of sources. First, the Global Forum peer reviews[45] have been analysed to find out what sort of ownership information companies must register with a government agency. An important distinction is made between beneficial ownership information which refers to the ultimate human beings owning the company on the one hand, and legal ownership that "refers to the registered owner of the share, which may be an individual, but also a nominee, a trust or a company, etc" (OECD 2010: 189). A governmental authority is defined so as to include "corporate registries, regulatory authorities, tax authorities and authorities to which publicly traded companies report" (ibid.) and is used interchangeably here with "government agency" or "public institution".

The second type of source were private sector websites (Lowtax.net, Ocra.com, Offshoresimple.com, etc.). Third, Financial Action Task Force (FATF) peer reviews have been analysed[46]. Finally, the results of the TJN-Survey 2013 have also been included.

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[44] FATF defines the beneficial owners as the "natural person(s) who ultimately owns or controls a customer and/or the natural person on whose behalf a transaction is being conducted. It also includes those persons who exercise ultimate effective control over a legal person or arrangement." See page 110 in Financial Action Task Force 2012: The FATF Recommendations. International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation (February 2012), Paris, in: http://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF_Recommendations.pdf; 6.6.2013.

[45] The Global Forum peer reviews refer to the peer review reports and supplementary reports published by the Global Forum on Transparency and Exchange of Information for Tax Purposes. They can be viewed at: http://www.eoi-tax.org/; 11.1.2013.

[46] While the FATF has consolidated its recommendations to a total of 40 in 2012, the old recommendations are used here because the assessment of compliance

The indicator resembles KFSI 4 relating to public company ownership information. However, this indicator assesses only whether the ownership information needs to be recorded at a government agency and updated, without the proviso that the information is available online. Therefore, if a jurisdiction is credited for KFSI 4, it was credited for this indicator, too. However, the opposite does not hold true: some jurisdictions may require beneficial ownership information to be submitted and updated, but do not require its publication online.

3.3.2 Why is it important?

Absence of beneficial ownership information obstructs law enforcement. When a jurisdiction, such as the US state of Wyoming (see FATF evaluation 2006 for details[47], pages 236, or here[48]), allows private companies to be formed without recording beneficial ownership information, the scope for domestic and foreign law enforcement agencies to look behind the corporate veil[49] is very restricted.

These so-called 'shell companies' are nothing more than letterboxes serving as conduits for financial flows in many different guises. Foreign individuals can use a front company to shift money illicitly while claiming to their domestic government authorities that they have no ownership interest in the company. For example, the proceeds of bribery and corruption can be hidden and transferred via anonymous shell companies. The World Bank reported in 2011:

> "Our analysis of 150 grand corruption cases shows that the main type of corporate vehicle used to conceal beneficial ownership is the company […] Companies were used to hide the proceeds of corruption in 128 of the 150 cases of grand corruption reviewed." (World Bank 2011: 20, 34)[50].

For illustrative purposes, two examples are provided below:

On March 1, 2010, BAE Systems plc (BAE) was ordered to pay a US$400 million criminal fine following its admission of guilt, among others, of conspiracy to defraud the United States and to making false statements about its Foreign Corrupt Practices Act (FCPA) compliance programme[51].

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with the new recommendations will only begin in 2013. The relevant new FATF recommendations from 2012 are recommendations 37, 38, 39 and 40. In the next FSI, the results of the new assessments will be taken into account.

[47] http://www.fatf-gafi.org/dataoecd/44/9/37101772.pdf; 20.6.2011.

[48] http://www.economist.com/node/21529021; 24.1.2013.

[49] http://www.oecdbookshop.org/oecd/display.asp?K=5LMQCR2KM20R&DS=Behind-the-Corporate-Veil; 20.6.2011.

[50] http://star.worldbank.org/star/sites/star/files/Puppet%20Masters.pdf; 24.1.2013

[51] See http://www.justice.gov/opa/pr/2010/March/10-crm-209.html; 23.9.12.

BAE's conspiracy involved the use of offshore shell companies - most of which were owned by BAE - to conceal the role of intermediaries it was hiring to assist in promoting the Saudi Arabian fighter deals. One of the shell companies used by BAE in the deals was incorporated in the British Virgin Islands (BVI), where incorporation of a legal entity does not require the disclosure of the physical location of the place of business nor the legal and beneficial ownership information[52]. In 2001, BAE used the BVI offshore company to make payments of over £135,000,000 and over $I4,000,000 to its marketing advisers and agents. The payments to these intermediaries were made by BAE despite the fact that they failed to perform the requisite due diligence under the FCPA and even when there was a high probability that the payments would be used to ensure that BAE was favoured by the foreign government.

According to the United States District Court, for reasons related to its business interests, BAE gave the US authorities inadequate information related to the identity and work of its advisers and at times avoided communicating with its advisers in writing. Furthermore, the contracts and other relevant materials related to the intermediaries were maintained by secretive legal trusts in offshore locations[53].

The use of shell entities not only allowed BAE to conceal the stream of payments to these agents and to circumvent laws in countries that did not allow agency relationships, but also hindered on the authorities' ability to detect the schemes and trace the money (World Bank 2011: 198-202).

Another example is the case of Haiti's state-owned national telecommunications company ('Haiti Teleco'), which used corporate vehicles to accept bribes and launder funds. Bribes were paid to Haiti Teleco's officials, including the director of Haiti Teleco, by representatives of three international telecommunications companies, based in the U.S., with which Haiti Teleco contracted. In exchange, Haiti Teleco's officials provided these companies commercial advantages (e.g. referential and reduced telecommunications rates), at the expense of Haiti Teleco's revenue. The representatives systematically used intermediary shell companies to funnel wire transfers and cheque payments for fake consulting services that were never rendered.

The funds were transferred from the intermediary accounts to Haiti Teleco's officials, among others, by false notations (e.g. fabricated invoice reference numbers in the memo section of the cheques), routinely made

[52] See British Virgin Islands Bus. Co's Act § (9)(1)(2004), British Virgin Islands Bus. Co's Act § (41)(1)(d) (2004).
[53] See http://www.justice.gov/criminal/fraud/fcpa/cases/bae-system/02-01-10baesystems-info.pdf; 27.9.12.

in order to conceal the true nature of the payments[54]. Once Haiti Teleco's director completed his tenure, he was employed by two of the three U.S. companies that had paid him bribes, and from that position he continued to facilitate the same corruption scheme, paying bribes to the person who had succeeded him as director in Haiti Teleco. The use of shell companies as intermediaries concealed the names of the individual bribe-givers and bribe-takers as direct counterparties in any transactions transferring bribe money[55].

With respect to tax evasion, consider this hypothetical example: suppose that a Kenyan national, normally resident in Nairobi, claims that a Wyoming registered company delivers consultancy services to his Kenyan business and the Wyoming company charges US$1,000 a month for these services. As a consequence the Kenyan national pays US$1,000 every month to the Wyoming company and claims that a) he is no longer in possession of these funds since he paid them to a foreign company for services supplied, and b) that the US$1,000 paid monthly is a business expenses that he may off-set against his income in his next tax return.

In reality, however, the Wyoming company is a shell owned and controlled by the Kenyan national. No one knows this fact. While the Kenyan tax authority might have a suspicion that these fund transfers are for illicit purposes e.g. tax evasion, in the absence of registered ownership information the only way for the Kenyan tax authority to confirm its suspicions may be - under certain conditions - to contact its US-counterpart.

However, the US-tax authority cannot readily access the required data on behalf of the Kenyan authorities if the ownership information is not registered. To find out it could undertake the lengthy exercise of going through the judicial system to summon the registered company agent in Wyoming. But the due process necessary may take months to initiate and even then, a possible result is that the required beneficial ownership information is unavailable in the USA and is held in a third country. That

[54] The Puppet Masters, p. 212.
[55] The Puppet Masters, pp. 212-217. According to the U.S. Department of Justice, in 2010, following the admission of guilt to money laundering conspiracy by Haiti Teleco's director, he was sentenced to four years in prison and was ordered to pay US$1,852,209 in restitution and to forfeit US$1,580,771. Additional individuals involved in the bribery scheme were also sentenced to prison terms and were ordered to pay high monetary fines as a result of their convictions. As of July 2012, additional indictments were made against new defendants involved in the scheme. See Press Release, U.S. Department of Justice, "Former Haitian Government Official Pleads Guilty to Conspiracy to Commit Money Laundering in Foreign Bribery Scheme" (March 12, 2010); 27.9.12; *See also* Plea Agreement pp. 8-9, United States v. Antoine, No. 09-cr-21010 (S.D. Fla. February 19, 2010); 27.9.12. *See also* The Puppet Masters, pp. 212-217.

third country may, of course, be a secrecy jurisdiction where a trust has been placed into the ownership structure for exactly this reason.

Faced with such time consuming and expensive obstacles to obtaining correct information on beneficial ownership of offshore companies, most national authorities seldom if ever pursue investigations.

3.4 KFSI 4 - Public Company Ownership

3.4.1 What is measured?

This indicator considers whether a jurisdiction requires all available types of company with limited liability to publish updated beneficial ownership or legal ownership information on public record accessible via the internet[56]. If beneficial ownership (BO) is published, a full transparency credit is awarded. If only legal ownership (LO) information is available for all types of company, a 0.2 transparency credit is awarded.

A precondition for awarding a positive result is that all available types of companies with limited liability must be required to publish ownership information except for publicly listed companies, whose owners of the listed shares are not required to be made public. For practical purposes we consider this information to be publicly available when it can be accessed at a fixed cost of maximum US$10 or €10 and access does not require the establishment of complex payment arrangements (e.g. registration of bank account)[57]. The information must be updated at least once a year.

To meet a reasonable standard, published ownership information must comply with a minimum requirement. In case of beneficial owners, the information must relate to the natural human beings who have the right to enjoy ownership of the rewards flowing from ownership of the entity, as

[56] We consider this a reasonable criteria given a) the prevalence of the internet in 2013, b) since international financial flows are now completely reliant on the use of modern technology, it would be ridiculous if that technology were not used to make information available worldwide especially since c) the people affected by these cross border financial flows are likely to be in many jurisdictions, and hence *need* information to be accessible on the internet.

[57] We consider that for something to be truly 'on public record' there must not exist prohibitive cost constraints, be they financial or in terms of time lost or unnecessary inconvenience caused. The open data movement goes even further by demanding that all available company registry information should be made available for free in open and real time data format so that network analyses, cross-references between companies and jurisdictions, and new creative data usages become possible. This would greatly increase the likelihood of identifying illicit activity hidden behind corporate vehicles. In the future, it is likely that the requirements of this KFSI may change to better reflect the requirements of open data, which, among others, is a zero cost requirement. For more information about this see http://opencorporates.com/ (15.4.2013).

prescribed by anti-money laundering standards[58]. For this purpose, trusts, foundations, partnerships, limited liability corporations and other legal persons or structures do not count as beneficial owners. The published details of beneficial owners must include:

d) the full names of all beneficial owners, and for each

e) country of residence,

f) passport ID-number or birthdate and place or Taxpayer Identification Number (TIN) or full address.

In case of only legal ownership (that is, the nominee and/or trustee and/or corporate shareholders of the company) being published, a partial transparency credit of 0.2 is awarded because such availability may, in some circumstances, reduce the time required to identify the beneficial owners of the company. The minimum details required to be published online about legal owners must include:

a) the full names of nominees and/or trustees and/or legal entities acting as legal owners or shareholders, and for each

b) country of residence or incorporation, plus

   a. in case of individuals, passport ID-number or birthdate and – place or Taxpayer Identification Number (TIN) or full address;

   b. in case of legal entities, company registration number and address of principle place of business or registered address.

The indicator draws information mainly from five sources: First, the Global Forum peer reviews[59] have been analysed to find out what sort of ownership information companies must register with a government agency. An important distinction is made between beneficial ownership information which refers to the ultimate human beings owning the company on the one hand, and legal ownership that "refers to the registered owner of the share, which may be an individual, but also a

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[58] FATF defines the beneficial owners as the "natural person(s) who ultimately owns or controls a customer and/or the natural person on whose behalf a transaction is being conducted. It also includes those persons who exercise ultimate effective control over a legal person or arrangement." See page 110 in Financial Action Task Force 2012: The FATF Recommendations. International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation (February 2012), Paris, in: http://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF_Recommendations.pdf; 6.6.2013.

[59] The Global Forum peer reviews refer to the peer review reports and supplementary reports published by the Global Forum on Transparency and Exchange of Information for Tax Purposes. They can be viewed at: http://www.eoi-tax.org/; 11.1.2013.

nominee, a trust or a company, etc" (OECD 2010: 189). A governmental authority is defined as to include "corporate registries, regulatory authorities, tax authorities and authorities to which publicly traded companies report" (ibid.) and is used interchangeably here with "government agency" or "public institution".

The second source was private sector websites (Lowtax.net, Ocra.com, Offshoresimple.com, etc.). Third, Financial Action Task Force (FATF) peer reviews have been analysed[60]. Fourth, the results of the TJN-Survey 2013 have also been included. Finally, where the above sources indicate that beneficial or legal ownership information is recorded by a government agency and may be made available online, we have searched for this information on the corresponding websites.

This indicator resembles KFSI 3 relating to registered company ownership information. However, KFSI 4 assesses whether the ownership information is available online, while KFSI 3 only checks if beneficial owner information must be recorded at a government agency and updated, without the proviso that the information is available online. However, KFSI 3 only gives credit if beneficial ownership is recorded without giving partial credit for recording legal ownership as is the case with KFSI 4.

3.4.2 Why is it important?

The absence of readily available beneficial ownership information obstructs law enforcement and distorts markets due to information asymmetries, for example in public procurement. Incentives to break laws are greatly increased when companies or individual traders can hide behind anonymity in combination with limited liability. Law enforcement is drastically impeded when there is little or no chance of revealing the true identity of the real human-beings hidden behind corporate structures.

There are plenty of cases where absence of beneficial ownership information has allowed the abuse of legal entities. For example, the proceeds of bribery and corruption can be hidden and transferred by anonymous shell companies. The World Bank reported in 2011:

> "Our analysis of 150 grand corruption cases shows that the main type of corporate vehicle used to conceal beneficial ownership is the company […] Companies were used to hide the proceeds of corruption in 128 of the 150 cases of grand corruption reviewed." (World Bank 2011: 20, 34).

[60] While the FATF has consolidated its recommendations to a total of 40 in 2012, the old recommendations are used here because the assessment of compliance with the new recommendations will only begin in 2013. The relevant new FATF recommendations from 2012 are recommendations 37, 38, 39 and 40. In the next FSI, the results of the new assessments will be taken into account.

For illustrative purposes, two examples are provided below:

On March 1, 2010, BAE Systems plc (BAE) was ordered to pay a US$400 million criminal fine following its admission of guilt, among others, of conspiracy to defraud the United States and to making false statements about its Foreign Corrupt Practices Act (FCPA) compliance programme[61]. BAE's conspiracy involved the use of offshore shell companies - most of which were owned by BAE - to conceal the role of intermediaries it was hiring to assist in promoting the Saudi Arabian fighter deals. One of the shell companies used by BAE in the deals was incorporated in the British Virgin Islands (BVI), where incorporation of a legal entity does not require the disclosure of the physical location of the place of business nor the legal and beneficial ownership information[62]. In 2001, BAE used the BVI offshore company to make payments of over £135,000,000 and over $I4,000,000 to its marketing advisers and agents. The payments to these intermediaries were made by BAE despite the fact that they failed to perform the requisite due diligence under the FCPA and even when there was a high probability that the payments would be used to ensure that BAE was favoured by the foreign government.

According to the United States District Court, for reasons related to its business interests, BAE gave the US authorities inadequate information related to the identity and work of its advisers and at times avoided communicating with its advisers in writing. Furthermore, the contracts and other relevant materials related to the intermediaries were maintained by secretive legal trusts in offshore locations[63].

The use of shell entities not only allowed BAE to conceal the stream of payments to these agents and to circumvent laws in countries that did not allow agency relationships, but also hindered on the authorities' ability to detect the schemes and trace the money (World Bank 2011: 198-202).

Another example is the case of Haiti's state-owned national telecommunications company ('Haiti Teleco'), which used corporate vehicles to accept bribes and launder funds. Bribes were paid to Haiti Teleco's officials, including the director of Haiti Teleco, by representatives of three international telecommunications companies, based in the U.S., with which Haiti Teleco contracted. In exchange, Haiti Teleco's officials provided these companies commercial advantages (e.g. referential and reduced telecommunications rates), at the expense of Haiti Teleco's

[61] See http://www.justice.gov/opa/pr/2010/March/10-crm-209.html; 23.9.12.
[62] See British Virgin Islands Bus. Co's Act § (9)(1)(2004), British Virgin Islands Bus. Co's Act § (41)(1)(d) (2004).
[63] See http://www.justice.gov/criminal/fraud/fcpa/cases/bae-system/02-01-10baesystems-info.pdf; 27.9.12.

revenue. The representatives systematically used intermediary shell companies to funnel wire transfers and cheque payments for fake consulting services that were never rendered.

The funds were transferred from the intermediary accounts to Haiti Teleco's officials, among others, by false notations (e.g. fabricated invoice reference numbers in the memo section of the cheques), routinely made in order to conceal the true nature of the payments[64]. Once Haiti Teleco's director completed his tenure, he was employed by two of the three U.S. companies that had paid him bribes, and from that position he continued to facilitate the same corruption scheme, paying bribes to the person who had succeeded him as director in Haiti Teleco. The use of shell companies as intermediaries concealed the names of the individual bribe-givers and bribe-takers as direct counterparties in any transactions transferring bribe money[65].

In a joint publication of 2011 by the United Nations and the World Bank relating to stolen assets (by embezzlement, bribery, etc), both argue that company registries should be searchable online:

> "Jurisdictions should develop and maintain publicly available registries, such as company registries, land registries, and registries of nonprofit organizations. If possible, such registries should be centralized and maintained in electronic and real-time format, so that they are searchable and updated at all times" (World Bank 2011: 93).

Furthermore, in case of abuse of corporate structures through individuals, if beneficial ownership is required to be recorded in an online directory but is not correctly disclosed, the perpetrator of impropriety is also open to being prosecuted for failure to disclose accurate information. On occasion such simple methods of prosecution are essential when all other ways of pursuing criminality are blocked.

However, in the absence of online disclosure of beneficial ownership information, the online availability of detailed legal ownership information may enable foreign authorities to follow up some initial suspicions on

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64 The Puppet Masters, p. 212.

65 The Puppet Masters, pp. 212-217. According to the U.S. Department of Justice, in 2010, following the admission of guilt to money laundering conspiracy by Haiti Teleco's director, he was sentenced to four years in prison and was ordered to pay US$1,852,209 in restitution and to forfeit US$1,580,771. Additional individuals involved in the bribery scheme were also sentenced to prison terms and were ordered to pay high monetary fines as a result of their convictions. As of July 2012, additional indictments were made against new defendants involved in the scheme. See Press Release, U.S. Department of Justice, "Former Haitian Government Official Pleads Guilty to Conspiracy to Commit Money Laundering in Foreign Bribery Scheme" (March 12, 2010); 27.9.12; *See also* Plea Agreement pp. 8-9, United States v. Antoine, No. 09-cr-21010 (S.D. Fla. February 19, 2010); 27.9.12. *See also* The Puppet Masters, pp. 212-217.

wrong-doing and may enable it to successfully file a request for information exchange with its foreign counterpart. The legal owner can be addressed by an information request and will sometimes be required to hold beneficial ownership information which it then must provide to an enquiring authority. At the same time, delays are created through an absence of beneficial ownership information, and the allowance of tipping off provisions may warn and ultimately frustrate any law enforcement effort. Therefore, we give only a 0.2 credit for legal ownership being publicly available.

If ownership information is only held secretly on a government database to which there is no public access, there is little likelihood of appropriate checks being undertaken to ensure that the registry actually complies with its obligation to collect and regularly update beneficial ownership information. It is third party use that is likely to create the pressure to ensure this is complied with. In a global setting of fierce regulatory and tax competition for capital, the likely outcome of this scenario would be registries that are not diligently maintained, and whose data is outdated or gets lost.

This does not mean that we argue that everybody has to put his or her identity online for everybody else to view. Far from it: if somebody prefers to keep her financial dealings and identity confidential, she can dispense with opting for limited liability status in the company type chosen and deal in her own name instead. In such a case, personal identity information would not be required to be revealed online and thus the link between an individual and a business ownership would remain confidential.

Limited liability is a privilege conferred by society at large. In exchange, the minimum safeguard it legitimately requires for the functioning of markets and the rule of law is that the identity of owners must be publicly available. This holds true especially for private companies that are not trading their shares on a stock exchange.

3.5 KFSI 5 - Public Company Accounts

3.5.1 What is measured?

This indicator shows whether a jurisdiction requires all types of companies with limited liability to file their annual accounts and makes them readily accessible online via the internet at a cost of maximum US$ 10 or € 10[66].

[66] We believe this is a reasonable criterion given a) the prevalence of the internet in 2013, b) international financial flows are transacted using modern technology, and c) the people affected by these cross border financial flows are likely to be in many jurisdictions, and hence *need* online access to public records in other jurisdictions. The open data movement goes even further by demanding that all available company registry information, including accounts, should be made

We have drawn this information from four principal sources:

First, the 2010 OECD-report (Tax Co-operation 2010) and the Global Forum peer reviews[67] have been used to find out whether a company's financial statements are required to be submitted to a government authority.

Second, private sector internet sources have been consulted (Lowtax.net, Ocra.com, Offshoresimple.com, etc.).

Third, results of the TJN-Survey 2013 have been included.

Fourth, in cases where the previous sources indicated that annual accounts are submitted and/or available online, the corresponding company registry websites have been consulted.

We assessed the information as being available on public record when download was possible at a fixed cost of maximum US$ 10 or €10 and did not impose complex payment arrangements (e.g. registration of bank account, sending of hard-copy mails)[68].

A precondition for a positive assessment is that all available types of limited liability companies must be required to publish their annual accounts online. If any exceptions are allowed for certain types of limited liability companies we assume that anyone intending to conceal information from public view will simply opt for company types where no accounts need to be prepared or published.

3.5.2 Why is it important?

Access to timely and accurate annual accounts is crucial for every company with limited liability in every country for a variety of reasons.

First, accounts allow society (the public) to assess any risk they face in trading with limited liability companies. This can only be done when accounts are available for public scrutiny.

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available for free in open and real time data format so that network analyses, cross-references between companies and jurisdictions, and new creative data usages become possible. This would greatly increase the likelihood of identifying illicit activity hidden behind corporate vehicles. In the future, it is likely that the requirements of this KFSI may change to better reflect the requirements of open data, which, among others, is a zero cost requirement. For more information about this see http://opencorporates.com/ (15.4.2013).

[67] The Global Forum peer reviews refer to the peer review reports and supplementary reports published by the Global Forum on Transparency and Exchange of Information for Tax Purposes. They can be viewed at: http://www.eoi-tax.org/; 11.1.2013.

[68] We consider that for something to be truly 'on public record' there should be an absence of prohibitive barriers to access, either in the form of high access fees or unnecessary bureaucracy.

Second, in times of financial globalisation, financial regulators and tax authorities need to be able to assess cross-border implications of the activities of companies. Unhindered access to foreign companies' and subsidiaries' accounts empowers regulators and authorities to double check the veracity and completeness of locally submitted information and to assess the macro-consequences of corporate undertakings without imposing excessive costs.

Third, no company can be considered accountable to the communities where it is licensed to operate (and where it enjoys the privilege of limited liability) unless it places its accounts on public record.

Many multinational corporations structure their global network of subsidiaries and operations in ways that take advantage of the absence of any requirement to publish accounts on public record. Secrecy jurisdictions enable and encourage corporate secrecy in this respect. If annual accounts were required to be placed online in every jurisdiction where a company operates, the resulting transparency would inhibit transfer pricing abuse and other tax avoidance techniques. We do not, however, regard this requirement as a substitute for a full country-by-country reporting standard (see indicator 6).

3.6 KFSI 6 – Country by Country Reporting

3.6.1 What is measured?

This indicator measures whether the companies listed on the stock exchanges or incorporated in a given jurisdiction are required to publish worldwide financial reporting data on a country-by-country reporting (CBCR) basis. A full credit is awarded if country by country reporting[69] (Murphy 2012) is required by all companies (which is not yet the case). A 25% credit is awarded if a country requires limited, but periodic worldwide country-by-country reporting for specific economic sectors, namely banking or extractive industries.

In principle, any jurisdiction could require all companies incorporated under its laws (including subsidiaries and holding companies) to publish in their accounts financial information on their global activity on a country-by-country basis. In practice, however, no jurisdiction does this today. Appropriate reporting requirements can be implemented either through regulations issued by the stock exchange or by a legal or regulatory provision enacted by the competent regulatory or legislative body.

Country-by-country reporting for financial institutions is being introduced in EU member states to start in 2015[70]. The EU-CBCR rules for banks

[69] http://www.taxresearch.org.uk/Documents/CBC2012.pdf; 15.1.2013.
[70] The only main item missing for full CBCR is capital assets. See Article 86a, here: http://register.consilium.europa.eu/pdf/en/13/st07/st07746.en13.pdf;

include annual disclosure of turnover, number of employees, profit or loss before tax, tax on profit or loss, and public subsidies received. A quarter of a transparency credit (0.25 credits) has been awarded to EU members.

Another set of (far narrower) CBCR rules applying to the extractives industries have become law in the USA[71] and similar rules are currently being passed for EU member states, too[72]. The annual financial information to be published in both cases is limited to data required under the principles elaborated by the [Extractive Industries Transparency Initiative (EITI)][73]. These principles prescribe that all "material payments" to governments made by companies active in the extractive sector must be published. A quarter of a transparency credit (0.25 credits) has been awarded for the USA and EU-members.

In our assessment it is not enough if a country obliges or allows extractive companies operating on their territory to publish payments to this country's government agencies. Instead, for a quarter transparency credit, a country must require either all companies incorporated on its territory or those listed on a stock exchange to disclose payments made worldwide in countries with extractive operations (including by its subsidiaries), and not merely in the same country.

Compared to full CBCR and compared to the European rules on CBCR in the banking sector, the EITI principles are also far narrower in geographical scope because they require disclosure of payments only with respect to countries where the corporation actually has extractive

14.5.2013. There is a political agreement on these rules in the EU at the time of writing (15.5.2013), which usually implies that the text of the directive will not face further alteration. According to this text, formally, the EU-commission will carry out an impact assessment of the envisaged disclosure rules in 2014 before they are required to be published in 2015 and the EU-commission is empowered to defer or modify the disclosure through a so-called "delegated act" (Art. 86a (3)). In practice, however, this delegated act can be rejected both by European Council and by European Parliament. Therefore, it is unlikely that these rules will be deferred or modified.

71 See Section 1504 in the "Dodd-Frank Wall Street Reform and Consumer Protection Act", in: https://www.sec.gov/about/laws/wallstreetreform-cpa.pdf; 14.5.2013.

72 The scope of the European rules is likely to be broader than the US rules, for example by extending the requirements to loggers of primary forests. There is a political agreement on these rules in the EU at the moment of writing (15.5.2013), which usually implies that the text of the directive will not change anymore. For a summary see http://register.consilium.europa.eu/pdf/en/13/st08/st08530.en13.pdf; 14.5.2013.

73 The EITI criteria require the "regular publication of all material oil, gas and mining payments by companies to governments ("payments") and all material revenues received by governments from oil, gas and mining companies ("revenues") to a wide audience in a publicly accessible, comprehensive and comprehensible manner", in: http://eiti.org/eiti/principles (20.05.2011).

operations. Payments to other country governments, for example where holding or financing or intellectual property management subsidiaries of the same multinational group are located, are not required to be reported. This limits the data's usefulness for tackling corporate profit shifting. The rules' value for resource rich (developing) countries however is substantial.

An even weaker requirement applies in Hong Kong. The requirement to disclose details about "payments made to host country governments in respect of tax, royalties and other significant payments on a country by country basis"[74] is only triggered either at the time of the extractive company's initial listing on the stock exchange or on the occasion of the company issuing fresh shares. It remains unclear how the provisions to disclose "significant payments" on a "country by country basis" will ultimately be interpreted and implemented. Because one-off disclosure is better than no disclosure, but nonetheless unlikely to deter bribery nor tax evasion, we only award 0.1 credits in this circumstance.

The main data source we used for this indicator was the TJN-Survey 2013, original sources from the EU, USA and Hong Kong and interviews and/or email-exchanges with various experts from, among others, www.revenuewatch.org, www.eiti.org, www.publishwhatyoupay.org and http://www.foei.org/en.

[74] See chapter 18.05(6)(c), in: http://www.hkex.com.hk/eng/rulesreg/listrules/mbrules/documents/chapter_18.pdf; 14.5.2013. Neither the "Continuing Obligations" section in the same chapter (applicable to extractive companies) nor other HKSE regulations require disclosure of such payments (e.g. general disclosure regulations of financial information for all listed companies: http://www.hkex.com.hk/eng/rulesreg/listrules/mbrules/documents/appendix_16.pdf; 14.5.2013).

KFSI 6 - Country-by-Country Reporting		
Conditions	**Assessment**	**Sources**
(1) Some one-off country-by-country reporting required for corporations active in the extractive industries (EITI equivalent, at least for those listed) (2) Some annual country-by-country reporting required for corporations active in the extractive industries (EITI equivalent, at least for those listed) or banking (3) Full annual country-by-country reporting required for corporations of all sectors (at least for those listed)	(1) = 0.1 credit points (2) = 0.25 credit points for each sector covered (3) = 1 credit point	• TJN Survey 2013 • www.eiti.org • www.revenuewatch.org • www.publishwhatyoupay.org • http://www.foei.org/en

3.6.2 Why is this important?

TJN's proposal for CBCR[75] requires multinational corporations of all sectors, listed and non-listed, to disclose vital information in their annual financial statements for each country in which they operate. This information would comprise its financial performance, including:

a) Sales, split by intra-group and third party

b) Purchases, split the same way

c) Financing costs, split the same way

d) Pre-tax profit

e) Labour costs and number of employees.

In addition, the cost and net book value of its physical fixed assets, the gross and net assets, the tax charge, actual tax payments, tax liabilities

[75] http://www.taxresearch.org.uk/Documents/CBC2012.pdf; 15.1.2013.

and deferred tax liabilities would be published on a country by country basis.

Current reporting requirements are so lacking in transparency that it is almost impossible to find even such basic information as which countries a corporation is operating in. It is even more difficult to discover *what* multinational companies are doing in particular countries, and how much they are effectively paying in tax in any given country. The consequence is that corporations can minimise their global tax rates without being successfully challenged anywhere[76]. Large scale shifting of profits to low tax jurisdictions and of costs to high tax countries ensues from this lack of transparency.

The means used for profit shifting are primarily based on transfer mispricing, internal financing or reinsurance operations, or artificial relocation and licensing of intellectual property rights. These activities are taking place within a multinational corporation, i.e. between different parts of a related group of companies. Today's financial reporting standards allow such intra-group transactions to be consolidated with the normal third-party trade in the annual financial statements. Therefore, a corporation's international tax and financing affairs are effectively hidden from view.

As a consequence, tax authorities do not know where to start looking for suspicious activity, and civil society does not have access to reliable information about a company's tax compliance record in a given country in order to question the company's policies on tax and corporate social responsibility and make enlightened consumer choices.

Making this information available on public record would significantly enhance the financial transparency of multinational corporations. Investors, trading partners, tax authorities, financial regulators, civil society organisations, and consumers would be able to make better informed decisions on the basis of this information. Investors, for instance, could evaluate if a given corporation piles up huge tax liabilities or is heavily engaged in conflict-ridden countries. Tax authorities could make a risk assessment of particular sectors or companies to guide their audit activity by comparing profit levels or tax payments to sales, assets and labour employed.

[76] For instance: http://www.reuters.com/article/2012/10/15/us-britain-starbucks-tax-idUSBRE89E0EX20121015 and http://www.reuters.com/article/2012/12/06/us-tax-amazon-idUSBRE8B50AR20121206; 15.1.2013; and http://www.bloomberg.com/news/2010-10-21/google-2-4-rate-shows-how-60-billion-u-s-revenue-lost-to-tax-loopholes.html; 16.6.2011.

While much narrower in scope, the Extractive Industries Transparency Initiative (EITI) has succeeded in raising awareness of the importance of transparency of payments made by companies to governments. If a country voluntarily commits to the EITI, it is required after a transitional period to publish annually details on the activities of extractive companies active in the country. These details include all the payments the government received by companies active in this sector. EITI also requires the companies to publish this information so that discrepancies from both reporting parties can be questioned by civil society. Mismatches can be indicative of illicit activity such as bribery or embezzlement.

Especially the latter, i.e. if companies are required to publish payments to governments worldwide wherever these companies engage in extractive projects, are of interest here for the determination of a jurisdiction's secrecy performance.

The information provided under the EITI requirements is of particular interest because it may reveal for the first time in a given country information on tax payments made by companies to governments. It may help trigger further questions which could result in greater transparency, such as full country by country reporting. Without such information, electorates, civil society and consumers cannot make informed choices and bribe paying is more easily hidden.

3.7 KFSI 7 - Fit for Information Exchange

3.7.1 What is measured?

This indicator asks whether resident paying agents (such as joint stock companies and financial institutions) are required to report to the domestic tax administration information on all payments (of dividends and interest) to all non-residents.

In order to assess this indicator we have mainly relied on our TJN-Survey 2013, on the OECD publication entitled "Tax Administration 2013. Comparative Information on OECD and Other Advanced and Emerging Economies" published in 2013[77], and on the IBFD database[78]. In addition, we have enquired with country experts in instances where the available information appeared contradictory.

3.7.2 Why is it important?

In many countries, dividend payments and interest payments are automatically reported to the tax administrations, not least to levy withholding taxes. Obviously, in the case of dividend payments, this

[77] http://www.keepeek.com/Digital-Asset-Management/oecd/taxation/tax-administration-2013_9789264200814-en; 22.05.2013.
[78] http://online.ibfd.org/kbase/; 20.6.2011.

information is reported by joint stock companies, and in case of interest payments, the reporting institutions are mainly banks.

However, this reporting requirement is frequently limited to payments to resident taxpayers. Payments to non-residents are often not (comprehensively) reported, especially if the specific underlying income payments are tax exempt, either for non-residents, or for everybody. Alternatively, only particular categories of non-residents (e.g. residents of the European Union) may be covered by reporting while others are not. Furthermore, some types of interest or dividend payments may be reportable, while others (such as interest on bank deposits or government bonds) are not.

The absence of current, regular and reliable information of all such income payments prevents the tax administration from answering information requests by relevant foreign counterparts in a timely and accurate manner. The information reported would inform the tax administration not only about the level of payments, but also the identity of the recipient.

Without regular information being provided by paying agents (banks and companies), the tax administration will often not even know about the existence of a certain financial account or company in the name of the non-resident person who receives the payment. Even if the tax administration wanted to cooperate with effective automatic or spontaneous information exchange to foreign counterparts, it could not do so since it has not obtained the necessary information.

The outcome of this absence of information reporting is that non-residents are encouraged to hold their bank deposits, financial accounts and company ownership records offshore in order to evade tax in their country of residence. Similarly, bribe payments, money laundering operations, and other illicit activity can more easily hide in a country where dividend and interest payments are not regularly reported to the tax administration.

This holds true for countries which apply anonymous withholding taxes for their residents or even non-residents, such as Germany. There is an incentive to invest fresh untaxed money into a bank account if the evader can be certain that there will be no report sent to the tax administration concerning the account balance and interest payments. While the withholding tax may be applied correctly, the underlying, and often much larger problem of evading income taxes on the principal (e.g. consultancy fees paid via an offshore entity), and not merely on the investment income, cannot be addressed by (domestic or international) anonymous withholding taxes.

Automatic tax information exchange[79] requires as a first step that (income) information is reported regularly by all paying agents to the tax administration, irrespective of who or where the recipients of the payments are. Without such a reporting requirement, a tax administration cannot be fit for information exchange.

3.8 KFSI 8 - Efficiency of Tax Administration

3.8.1 What is measured?

This indicator shows whether the tax administration of a given jurisdiction uses taxpayer identifiers for efficiently analysing information, and whether the tax administration has a dedicated unit for large taxpayers.

Concretely, we ask whether the tax authority makes use of taxpayer identifiers for matching of information reported by a) financial institutions on interest payments and b) by companies on dividend payments. For each of the two types of income payments a jurisdiction makes use of taxpayer identifiers for information matching, it receives 0.4 credit points. In addition, 0.2 credit points are awarded if the tax administration is equipped with a large taxpayer unit.

In order to measure this indicator we have relied on both our TJN-Survey 2013 and on the OECD publication entitled "Tax Administration 2013. Comparative Information on OECD and Other Advanced and Emerging Economies" published in May 2013[80]. Table 9.4 of this publication (OECD 2013: 288) provides information as to whether taxpayer identifiers are used for information reported by both financial institutions on interest payments and companies on dividend payments. Table 2.1 (ibid.: 61) in turn provides information as to whether a tax administration has a large taxpayer unit.

3.8.2 Why is it important?

National tax administrations face globalising domestic economy with increasing shares of value added and income received involving an international element. Scale effects realised through cross-border economic activity are among the most relevant factors for strategic business investment decisions and among the chief reasons for the existence of transnational corporations. A tax administration that does not adapt to this new environment of growing complexity through organizational and technical innovations will rapidly loose its capacity to effectively levy taxes.

[79] http://www.taxjustice.net/cms/upload/pdf/AIE2012-TJN-Briefing.pdf; 22.5.2013. See also http://www.taxjustice.net/cms/upload/pdf/AIE_100926_TJN-Briefing-2.pdf; 17.6.2011.

[80] http://www.keepeek.com/Digital-Asset-Management/oecd/taxation/tax-administration-2013_9789264200814-en; 21.05.2013.

The absence of adequate organizational and technical capacity of a tax administration, whether by accident or design, can attract personal wealth and corporations wanting to evade taxes.

With respect to the taxpayer identifiers, the OECD notes (2013a: 283):

> "Regardless of whether the identification and numbering of taxpayers is based on a citizen number or a unique TIN, many revenue bodies also use the number to match information reports received from third parties with tax records to detect instances of potential non-compliance, to exchange information between government agencies (where permitted under the law), and for numerous other applications."

Therefore, the use of taxpayer identifiers is a common sense means of detecting instances of non-compliance and improving information exchange between government agencies.

Large taxpayer units (LTU) make sense on the grounds of efficiency for a number of reasons. The taxpayers dealt with by these LTUs share common characteristics which require highly specialist and skilled expertise that can hardly be mobilised in a context of a decentralised tax administration. The arguments in favour of having an LTU include high concentration of revenue in the hands of a small number of taxpayers, the high degree of complexity of their business and tax affairs, major compliance risks from the viewpoint of the tax authority and the use of professional tax advice on behalf of the large taxpayers (ibid.: 84-85).

While certainly not in itself a measure to guarantee proper taxation of large taxpayers, the absence of an LTU might indicate a willingness on the part of a jurisdiction to allow large taxpayers to go untaxed. In this case, the tax and financial dealings of a multinational corporation can be expected to remain unchallenged, effectively contributing to financial opacity.

In addition, if a jurisdiction operates several regionalised LTUs without central management, incentives for tax competition and lax and uneven enforcement of tax laws are created among different LTUs in different subnational regions. Furthermore, multiple parallel institutions create secrecy through (unnecessary) complexity and restricted cooperation.

3.9 KFSI 9 - Avoids Promoting Tax Evasion

3.9.1 What is measured?

This indicator shows whether a jurisdiction grants unilateral tax credits for foreign tax paid on certain foreign capital income when remitted home. The types of capital income included are interest and dividend payments.

Three different payment scenarios are analysed. First, payments received by an independent legal person. Second, payments received by a related party legal person. Third, payments received by a natural person.

A 50% transparency score is awarded for jurisdictions which grant unilateral tax credits for all payment scenarios for one type of payment (dividend or interest). If unilateral tax credits are granted only in some payment scenarios, for each single payment scenario with a tax credit, a 10% transparency score is awarded.

No transparency score is given for situations in which a jurisdiction effectively exempts foreign income from domestic taxation, be it through a) a pure territorial tax system, or through exemptions for b) specific payments (such as dividends) or for c) specific legal entities (such as International Business Companies, IBCs), or through d) deferral rules which disable taxation unless income is remitted, or through e) zero or near zero tax rates (e.g. on corporate income)[81].

The data has been collected primarily through the IBFD-database[82]. A secondary source was our TJN-Survey 2013. In addition, the Worldwide Tax Summaries from PricewaterhouseCoopers[83] have been consulted as well as other websites.

3.9.2 Why is this important?

In a world of integrated international economic activity and cross-border financial flows, the question about who taxes what portion of income is increasingly complex. A basic conflict exists between the emphasis on taxing the income where it arises (i.e. at source), or taxing it where its recipient resides[84]. A mixture of both principles is implemented in practice.

However, this may lead to instances of so-called double taxation, when both countries claim the right to tax on the same income (tax base). While the concept of "double taxation" is theoretically plausible, the real life

[81] Examples for pure territorial tax systems (a) include Panama and Hong Kong; examples for selective payment exemptions (b) include Cyprus and the United Kingdom; examples for specific legal entity exemption (c) include Luxembourg and Saint Kitts and Nevis; examples for exemption of income except if remitted (d) include the USA and Liberia; examples for countries applying a zero or near zero tax rates resulting in exemption (e) include Jersey and Guernsey. In practice, some of the aforementioned mechanisms may be combined to achieve non-taxation of foreign income.
[82] http://www.ibfd.org/IBFD-Tax-Portal/About-Tax-Research-Platform; 1.7.2013.
[83] http://www.pwc.com/taxsummaries; 20.6.2011.
[84] TJN-Briefing on source and residence-based taxation: http://www.taxjustice.net/cms/upload/pdf/Source_and_residence_taxation_-_SEP-2005.pdf; 20.6.2011.

occurrence is very rare[85] , especially since countries have resorted to unilateral relief provisions to avoid double taxation. In addition, countries may also conclude bilateral treaties in order to avoid double taxation, so-called double taxation avoidance agreements (DTA). A potential third option, a multilateral legal platform for the taxation of multinational corporations' income is currently being explored by OECD's BEPS project, but is unlikely to come into effect in the foreseeable future.

Assuming that cross-border trade and exchange can be mutually beneficial, the problem of overlapping tax claims (double taxation) needs to be addressed in one of both ways because it hinders cross-border economic activity. Bilateral treaties are expensive to negotiate, and often impose a cost on the weaker negotiating partner which is frequently required to concede lower tax rates in return for the prospect of more investment[86].

Home countries of investors or multinational companies offer unilateral relief from double taxation because they want to support outward investment. They do this primarily through two different mechanisms[87]:

a) by exempting all foreign income from tax liability at home (exemption);

b) by offering a credit for the taxes paid abroad on the taxes due at home (credit).

As the tables included [in the database](http://www.financialsecrecyindex.com/database/menu.xml)[88] indicate, in most cases it is a myth that bilateral treaties are necessary to provide relief from double taxation. Countries that are home to investors and multinationals typically

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[85] See page 3 and 7 here: www.taxjustice.net/cms/upload/pdf/Unitary_Taxation_Responses-1.pdf; 13.2.2013.

[86] See, for instance, 1) the most recent example of Switzerland renegotiating its DTAs with developing countries, pages 23-24, here: www.taxjustice.net/cms/upload/GlobalForum2012-TJN-Briefing.pdf (13.2.2013); more details on this case (in German language): http://www.alliancesud.ch/de/publikationen/downloads/dokument-24-2013.pdf (8.5.2013); 2) Neumayer 2007; 3) Dagan 2000. A full literature review on the relationship between DTAs, development, growth and FSI can be found (in German language) here: www.suz.uzh.ch/herkenrath/publikationen/workingpapers/FDI_EL-Forschungsnotiz-01-10.pdf; 13.2.2013.

[87] There is a third mechanism called "deduction" which is sometimes used to offer relief from double taxation. However, the deduction method is not offering full relief from double taxation. It allows to deduct from foreign income (e.g. as a business expense) any taxes paid abroad before including this income in the domestic tax base. Therefore, we consider deduction to be similar to offering no mechanism for double taxation relief, since the incentives to conclude DTAs remain largely in place.

[88] http://www.financialsecrecyindex.com/database/menu.xml.

offer provisions in their own laws to prevent or reduce double taxation[89]. Where (especially capital exporting) countries refrain from providing unilateral relief, or only provide deduction of foreign taxes from the domestic tax base, they contribute to a problem of double taxation and thus exert indirectly pressure on capital importing countries to conclude bilateral treaties with the other country. These treaties in turn can expose capital importing countries to risks and disadvantages (see note above). In addition, with more than 3000 double tax treaties in place today, the system has become overly complex and permissive in offering corporations scope to engage in profit shifting, treaty shopping and other practices resting on abuse at the margin of tax evasion (see TJN's report on unitary taxation[90] to address these issues and OECD's BEPs report[91]). These are the reasons why we analysed unilateral mechanisms to avoid double taxation in the first place. However, not all such mechanisms are equally useful[92].

When using a **unilateral exemption mechanism** to exempt all foreign income from liability to tax at home, this residence country is forcing other jurisdictions to compete for inwards investment by lowering their tax rates. Because investors or corporations will not need to pay any tax back home on the profit they declare in the foreign jurisdiction (source),

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[89] It must be conceded, however, that unilateral provisions to avoid double taxation are not as effective at preventing double taxation as double tax treaties. For instance, there may be cases in which the rules determining the residency of taxpayers conflict between countries, leading to both claiming residence and full tax liability of one legal entity or taxpayer. However, for a number of reasons this argument is of limited relevance: a) these cases are the exception rather than the rule; b) pure economic "single taxation" is a theoretical concept derived from economic modelling that is only of limited value in real life. In many countries different types of taxes are levied on the same economic activity, for instance VAT is levied on the turnover of a company, then the profits stemming from the turnover are taxed through federal and state corporate income taxes, and in a third stage the investment income in form of dividends is again taxed in the hands of the shareholders. Nobody would reasonably speak about "triple taxation" in such a case. In a similar way, it is dubious to speak about double taxation in a cross-border context. To paraphrase Professor Sol Picciotto: "But double taxation is a dubious concept. First, it does not mean companies' tax bills doubling: it means that there may (rarely) be some overlap between states' taxing claims (think of this in terms of the overlap in a Venn diagram). Any overlap may result in a modestly higher overall effective tax rate, not a 'double' rate." (see page 3, here: www.taxjustice.net/cms/upload/pdf/Unitary_Taxation_Responses-1.pdf; 13.2.2013).

[90] www.taxjustice.net/cms/upload/pdf/Towards_Unitary_Taxation_1-1.pdf; 13.2.2013.

[91] www.oecd.org/ctp/BEPSENG.pdf; 13.2.2013.

[92] We are not looking at deduction in more detail because deduction of foreign taxes from domestic tax bases only provides partial relief from double taxation whereas the credit and exemption method both have in principle the capacity to completely avoid double taxation. For details about the exemption and credit method, see for instance pages 19-22 in UN 2003.

they will look more seriously at the tax rates offered. This encourages countries to reduce tax rates on capital income paid to non-residents, such as withholding taxes on payments of dividends and interest.

Many countries provide tax exemption on capital income payable to non-residents, especially on interest payments on bank deposits and government debt obligations, or dividends. This has an important collateral effect: countries not offering an exemption mechanism to their residents nonetheless see their resident taxpayers move their assets and legal structures (such as holding companies) into these countries where capital income is not taxed or taxed lowly. By doing so, and because information sharing between states is weak, taxpayers can easily evade the taxes due at home on their foreign income. As a consequence, a country offering low or no taxes to non-residents promotes tax evasion in the rest of the world.

To summarise the logic:

First, unilateral tax exemption on foreign income creates incentives for host countries to reduce tax rates on investments by non-residents in a process of tax competition. Second, other country's citizens and corporations make use of the low tax rates by shifting assets into these low-tax countries for the purpose of committing tax evasion. Third, in the medium term, the tax exemption of foreign income acts as an incentive for ruinous tax competition that will eventually lead to the non-taxation of capital income.

In contrast, a unilateral **tax credit system** does not promote tax evasion and does not incentivise the host countries of investments to lower their tax rates. A tax credit system requires that income earned abroad must be taxed at home as if it was earned at home, **unless** it has already been taxed abroad. In the latter case, the effective amount of tax paid abroad on the income will be subtracted from the corresponding amount of tax due at home.

Therefore, for an investor the tax rate in a receiving country is no longer relevant to her investment decisions. Countries wishing to attract foreign investment will not feel compelled to lower the tax rates in the hope of increasing their inward stock of foreign investment. As a consequence, the tax evading opportunities of investors are reduced because fewer countries offer zero or very low taxation on capital income.

3.10 KFSI 10 - Harmful Legal Vehicles

3.10.1 What is measured?

This indicator has two components. On the one hand, it shows whether the jurisdiction allows the creation of "protected cell companies" (PCC) in its territory. This type of company is also known as an "incorporated cell company" or "segregated account company". On the other, it measures whether the administration of trusts with flee clauses is prohibited.

The main sources for this information are the Global Forum peer reviews[93] and private internet websites such as Lowtax.net, Ocra.com and Offshoresimple.com. These sources display the availability of protected cell companies either in a tabular or textual format. They have also helped us determine whether trusts with flee clauses are prohibited. In some cases the TJN-Survey 2013 also provided useful information. We have also referred to local regulators' websites.

Protected Cell Companies are a rare type of corporate entity found almost exclusively in secrecy jurisdictions. Essentially a PCC is a corporate entity that contains within itself, but not legally distinct from it, a number of cells which behave as if they are companies in their own right, but are not. Every cell has its own share capital, assets and liabilities and the income and costs of each cell are kept separate. Moreover, each cell is assigned its own share of the overall company share capital so that each owner can be the single owner of one cell but owns only a percentage of the overall PCC.

As for the flee clause in trust agreements[94] (also termed flight clause), we have defined it in our glossary[95] as follows:

> "A flee clause is a provision included in a tax haven / secrecy jurisdiction trust deeds requiring that the management and administration of a trust be changed to a different jurisdiction if a disadvantageous event occurs such as the breakdown of law and order in the place in which the trust is administered or the imposition of taxation on the trust."

Importantly, the definition of a "disadvantageous event" in this context includes awareness on the part of a trustee of any investigation involving the trust. The flee clause may mandate a trustee to relocate the trust from one secrecy jurisdiction to another as soon as anyone attempts to find any information about it, for example who the real people behind the trust are (beneficiaries and settlors). This mechanism allows the settlor or beneficiary to remain one step ahead of law enforcement authorities or

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[93] The Global Forum peer reviews refer to the peer review reports and supplementary reports published by the Global Forum on Transparency and Exchange of Information for Tax Purposes. They can be viewed at: http://www.eoi-tax.org/; 11.1.2013.

[94] An excellent introduction to trusts can be found in this blog: http://taxjustice.blogspot.com/2009/07/in-trusts-we-trust.html; 20.6.2011.

[95] http://www.financialsecrecyindex.com/PDF/Glossary.pdf.

private investigators and therefore provides factual impunity to users of trusts.

We award half a credit each if a jurisdiction does not allow the creation of protected cell companies and prohibits the administration of trusts with flee clauses.

3.10.2 Why is this important?

We are aware that PCCs originated in Guernsey in 1997 with the intention of providing a cost-saving mechanism for the reinsurance sector where many deals look much like one another, and where assets and liabilities need to be ring fenced to prevent inappropriate exposure to claims. We are also aware that PCCs are now readily available in locations such as the Seychelles and that they may now be used for other, illicit, purposes rather than that for which they were originally created. We think it likely that the level of asset protection that a PCC provides might allow illicit financial flows to escape the attention of law enforcement authorities. We therefore question whether the potential benefits these structures might allow to the reinsurance sector justify the broader risks and costs they impose on society at large.

The structure of PCCs has been compared to a house with a lock at the entrance and many rooms inside, each room locked separately with its own door, but also with an escape tunnel only accessible from inside the room. If an investigator seeks to find out what is going on in one room inside the house, she first needs to unlock the main outer door. But imagine that by opening that first door everybody inside the building is alerted to the fact that someone has entered the house. Anybody seeking to flee the investigator will be given enough time to do so thanks to the second lock at the individual room door. While the investigator tries to unlock the second door (by filing a second costly information request), the perpetrator has plenty of time to erase evidence and escape through the secret tunnel. This colourful metaphor neatly illustrates how a PCC might work in practice.

We have been advised that procedures to make international enquiries about PCC structures have not yet been developed by law enforcement agencies and there remain serious doubts about the effectiveness of current mutual legal assistance agreements when applied to them, meaning there is significant restriction in scope for law enforcement in this area. This is, of course, in part a function of the considerable opacity they provide in hiding potentially illicit activity behind a single corporate front.

PCCs can be used to conceal identities and obscure ownership of assets because what appears to be a minority ownership from the outside may in fact be an artificial shell purposefully created to conceal fully-fledged ownership of a cell within the “wrapper”.

Trust flee clauses are particularly obstructive of effective law enforcement. There are very few situations we can think of in which flee clauses are not useful for some kind of evasion of the consequences of illegal actions. The marketing and use of trusts as "asset protection" facilities including flee clauses often advertise the advantages in terms of "shielding" corporate assets from creditors, fleeing bankruptcy orders, spouses or inheritance provisions of the resident state of the settlor and/or beneficiary.

3.11 KFSI 11 - Anti-Money Laundering

3.11.1 What is measured?

This indicator examines the extent to which the anti-money laundering regime of a jurisdiction is considered effective by the Financial Action Task Force (FATF), the international body dedicated to counter money laundering.

In 2003, the FATF established its 49 recommendations[96] concerning the laws, the institutional structures, and the policies deemed necessary to address money laundering and terrorist financing.

Since then, the FATF, regional analogous bodies or the IMF have assessed the implementation of these recommendations through peer-review studies carried out in five-year cycles. The comprehensive reports with results have generally been published online.

The assessment methodology rates compliance with every recommendation on a four-tiered scale, from "compliant" to "largely compliant" to "partially compliant" to "non-compliant".

For our indicator, we have calculated the overall compliance score using a linear scale giving each of the 49 recommendations equal weight. 100% indicate that all recommendations have been rated as "compliant", whereas 0% would mean that all indicators have been rated as non-compliant.

3.11.2 Why is this important?

Many of FATF's anti-money laundering (AML) recommendations touch upon minimal financial transparency safeguards within the legal and institutional fabric of a jurisdiction. Through low compliance ratios with AML recommendations, a jurisdiction knowingly invites domestic money

[96] The (old) 2003 recommendations can be viewed at: www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF%20Recommendations%202003.pdf; 11.1.2013. While the FATF has consolidated its recommendations to a total of 40 in 2012, the old recommendations are used here because the assessment of compliance with the new recommendations will only begin in 2013. The relevant new FATF recommendations from 2012 are recommendations 37, 38, 39 and 40. In the next FSI, the results of the new assessments will be taken into account.

launderers and criminals from around the world to deposit and launder the proceeds of crime (e.g. drug trafficking, tax evasion) in their own financial system.

For instance, recommendation five sets out minimal standards for the identification of customers of financial institutions (such as banks and foreign exchange dealers). If this recommendation is rated "partially compliant", as is the case with the Cayman Islands, this clearly signals that this jurisdiction is prone to money laundering.

The Cayman Islands assessment arises because there is "No legislative requirement to verify that persons purporting to act on the behalf of a customer is so authorised and identify and verify the identity of that person." (see Cayman Islands-assessment here[97]; page 146). In plain language this means that a bank employee does not need to ask questions of, or seek to prove the identity of, a person who routinely runs a bank account although the bank account is effectively in the name of somebody else. The person the bank routinely deals with is only a nominee. This means that financial service providers and their affiliates can act as nominee bank account holders so that the ultimate and effective bank account holder can conceal her/his identity.

Another issue assessed by the FATF relates to shell banks (recommendation 18). In the case of Ireland, a 'partially compliant' assessment reveals: "There is no prohibition on financial institutions from entering into, or continuing correspondent banking relationships with shell banks." (see Ireland's assessment here[98]; page 157).

The FATF defines a shell bank as "a bank that has no physical presence in the country in which it is incorporated and licensed, and which is unaffiliated with a regulated financial group that is subject to effective consolidated supervision." (see here[99]; page 120).

Some secrecy jurisdictions allow or condone shell banks to operate. Often these are little more than money laundering schemes. Therefore, the absence of targeted measures at shell banks allows banks in an apparently respectable jurisdiction (such as Ireland) to enter into business relationships with a shell bank and so to become the connecting interface between a highly dubious shell bank jurisdiction and the regulated

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[97] https://www.cfatf-gafic.org/index.php?option=com_docman&Itemid=414&task=doc_download&gid=149&lang=en; 16.1.2013.
[98] www.fatf-gafi.org/media/fatf/documents/reports/mer/MER%20Ireland%20full.pdf; 16.1.2013.
[99] www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF%20Recommendations%202003.pdf; 11.1.2013.

banking world. Individual tax evaders, other criminals and banks willing to help facilitate this process can take advantage of this absence of scrutiny.

We consider the swift and thorough implementation of all FATF recommendations by all jurisdictions to be of high importance to global financial transparency, to stop the undermining of democracies by organized and financial crime, and to curb tax evasion and capital flight from developing countries.

3.12 KFSI 12 - Automatic Information Exchange

3.12.1 What is 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. At beginning of June 2013, no other multilateral working system for automatic tax information exchange existed. If such an alternative (multilateral or regional) system existed, we would also credit participation in this system as a contribution to financial transparency.

The main sources for this indicator are the official EU website on the savings tax directive[100] and the relevant website of the Council of the European Union[101].

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[102]). 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

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100 http://ec.europa.eu/taxation_customs/taxation/personal_tax/savings_tax/rules_applicable/index_en.htm; 5.6.2013.

101 http://www.consilium.europa.eu/policies/council-configurations/economic-and-financial-affairs/tax-policy-%28taxation-of-savings-income%29.aspx?lang=en; 5.6.2013.

102 This is one of the key loopholes of the current EUSTD. They are sought to be closed by amendments currently under negotiations at the EU-Council level. For more background, please see: www.taxjustice.net/cms/upload/pdf/EUSTD-TJN-Briefing_-_JAN-2011.pdf and http://taxjustice.blogspot.de/2012/10/list-of-killer-loopholes-in-swiss-rubik.html (5.6.2013).

information exchange. At the beginning of June 2013, Austria and Luxembourg have not yet entered into any binding political or legal agreements to switch to automatic information exchange[103].

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.

While the EUSTD is currently the only international multilateral system for automatic information exchange, a potentially powerful and truly open multilateral system for automatic tax information exchange has been in the making as of June 2013[104]. Bolstered by the G20 announcement in April 2013 that automatic information exchange is "expected to be the standard"[105] and by the strong dynamism predominantly originating from

[103] Instead, there were conflicting messages, for example: http://www.tax-news.com/news/Juncker_Defends_Automatic_Information_Exchange_Stance____60876.html and http://mobile.nytimes.com/2013/05/23/business/global/european-union-leaders-meet-on-tax-avoidance.html?from=global.home (5.6.2013).

[104] Of course there many instances in the past decades that prepared the ground this to happen. For instance, in June 2012, the OECD published a report that ended a 12 year period of silence of the organisation on the actual experiences with automatic tax information exchange (see report here: http://www.s4tp.org/wp-content/uploads/2012/07/Tackling-Offshore-Tax-Evasion-OECD-publication-Jun-2012.pdf; 6.6.2013). Shortly before the G20 summit in November 2011, India's Prime Minister Singh publicly called (see here: http://taxjustice.blogspot.de/2011/11/india-demands-automatic-information.html; 6.6.2013) for automatic information exchange on bank account related information to be implemented among G20 nations. In the June 2012 Los Cabos G20 summit communiqué (see here: http://www.g20mexico.org/images/stories/docs/g20/conclu/G20_Leaders_Declaration_2012.pdf; 6.6.2013) explicit language calls for G20 countries to lead by example in implementing automatic information exchange. A report published by TJN in August 2012 (Meinzer 2012c) shows how widespread and effective automatic tax information exchange is already implemented today. The US FATCA law (see here: http://taxjustice.blogspot.de/2012/03/fatca-progress-towards-automatic.html; 6.6.2013) implements automatic information exchange about US accounts held by banks worldwide and provides the basis for an emerging multilateral system (see here: http://taxjustice.blogspot.de/2013/05/new-paper-emerging-countries-and.html; 6.6.2013).

[105] See page 4, here: www.en.g20russia.ru/load/781302507; 6.6.2013.

the US FATCA law[106], 17 European countries and the OECD were working towards creating a multilateral platform for automatic tax information exchange based on the due diligence rules and protocols included in FATCA's model 1 agreements[107].

At the G8 summit on 17-18 June 2013, more details of this thrust towards a "single global standard for automatic exchange of information covering a wide scope of income and entities"[108] were expected, but not any binding decisions. Therefore, we have refrained from crediting these (most welcome) steps to build a multilateral platform based on FATCA at the moment of writing. While there is still a risk that the USA and others will not support an emerging new platform[109], and therefore crediting the USA for the FSI 2013 appears premature, the USA clearly supports this process through a commitment it has included in various bilateral treaties[110] for the implementation of FATCA Model 1 agreement to

> "working with other partners and the Organisation for Economic Co-operation and Development, [and the European Union,] on adapting the terms of this Agreement to a common model for automatic exchange of information, including the development of reporting and due diligence standards for financial institutions." (Article 6, para. 3, FATCA Reciprocal Model 1A[111]).

Once a global standard for automatic information exchange is adopted and openness for all countries is warranted, we will change the scope of this indicator to reflect the global regime.

3.12.2 Why is this important?

Tax authorities around the world face immense difficulties with identifying cases of tax evasion committed through bank accounts held abroad. To a lesser extent, obtaining foreign-country based evidence when

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106 http://taxjustice.blogspot.de/2013/05/new-paper-emerging-countries-and.html; 6.6.2013.

107 http://taxjustice.blogspot.de/2013/06/is-new-multilateral-automatic.html; 6.6.2013. The model 1 Annex with the due diligence obligations is available here: http://www.treasury.gov/resource-center/tax-policy/treaties/Documents/FATCA-AnnexI-to-Model1-Agreement-5-9-13.pdf; 6.6.2013.

108 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/199016/Minute_statement_on_pilot_multilateral_exchange_facility.docx; 6.6.2013.

109 For more background on this, read: http://taxjustice.blogspot.de/2013/05/new-paper-emerging-countries-and.html (5.6.2013) and http://taxjustice.blogspot.de/2013/04/automatic-information-exchange-will.html (5.6.2013).

110 http://www.treasury.gov/resource-center/tax-policy/treaties/Pages/FATCA.aspx; 6.6.2013.

111 Article 6, para. 3, here: http://www.treasury.gov/resource-center/tax-policy/treaties/Documents/FATCA-Reciprocal-Model-1A-Agreement-Preexisting-TIEA-or-DTC-5-9-13.pdf; 6.6.2013.

investigating already known cases of suspected domestic tax evasion and/or aggressive tax avoidance is also a problem. The latter issue is partly addressed by the international standard for information exchange promoted by OECD's Global Forum. But even for this limited purpose, the Global Forum peer review process remains riddled with problems (as we have pointed out in great detail in "Creeping Futility"-report here[112], and in a shorter briefing paper here[113] and time and time again in our blog here and in the Financial Times here[114]). For identifying unknown cases of tax evasion, which are by far the majority of all cases (see page 12-13, here[115]), the upon-request Global Forum process is utterly useless.

The consequences of this difficulty in identifying offshore assets reach far beyond mere tax enforcement, but have huge implications for the global economy. For instance, the scale of privately held and undeclared offshore wealth was estimated in 2012 to stand at US$ 21-32tn (see our study here, Henry 2012). These distortions imply, for instance, that

> "…a large number of countries, which are traditionally regarded as debtors, are in fact creditors to the rest of the world. For our focus group of 139 mostly low-middle income countries, traditional data shows they had aggregate external debts of $4.1 trillion at the end of 2010. But once you take their foreign reserves and the offshore private holdings of their wealthiest citizens into account, the picture flips into reverse: these 139 countries have aggregate net debts of **minus US$10.1-13.1t tn**. […] The problem here is that their assets are held by a small number of wealthy individuals, while their debts are shouldered by their ordinary people through their governments." (The Price of Offshore Revisited: Key Issues[116] – 19th July 2012).

Ultimately, the failure to automatically exchange taxpayer data among responsible governments 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[117], this distortion creates huge imbalances

[112] www.taxjustice.net/cms/upload/GlobalForum2012-TJN-Briefing.pdf; 12.2.2013.
[113] www.taxjustice.net/cms/upload/pdf/Tax_Information_Exchange_Arrangements.pdf; 12.2.2013.
[114] http://www.ft.com/intl/cms/s/0/0f687dee-5eea-11e0-a2d7-00144feab49a.html#axzz1PtjiCeHN; 21.6.2011.
[115] www.taxjustice.net/cms/upload/GlobalForum2012-TJN-Briefing.pdf; 12.2.2013.
[116] www.taxjustice.net/cms/upload/pdf/The_Price_of_Offshore_Revisited_Key_Issues_120722.pdf; 12.2.2013.
[117] http://www.taxjustice.net/cms/upload/pdf/AIE_100926_TJN-Briefing-2.pdf; 21.6.2011.

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)[118], 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.

While the peer review process of the Global Forum does not require statistical disclosure of a country's performance in responding to requests for information and therefore does little to reveal the effectiveness of the "upon request" model, France nationally disclosed such data. The resulting picture broadly confirms[119] the analysis provided so far:

> "The report said, among other things, that in 2011 France made 1922 information requests of its partners, including 308 requests to jurisdictions with which France has some kind of information exchange agreement. Of these 308, only 195 responses had been received by the end of the year [2012], and 113 had not replied - 84 of which concerned Switzerland and Luxembourg. The less transparent countries include Belgium, and Antigua and Barbuda (0% responses); Luxembourg (45%); Cayman Islands and Switzerland (55% each) and BVI (75%)." (source here).

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

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118 http://treasureislands.org/; 21.6.2011.
119 http://taxjustice.blogspot.de/2013/02/french-updates-hollande-supports-full.html; 12.2.2013.

the cost and effort involved in make 'on request' application. In addition, there is evidence that developing countries may be forced to pay a high price in terms of lowered withholding tax rates in exchange for "exchange upon request"-clauses being introduced in Double Taxation Conventions (see pages 23-24 on Switzerland, here[120], and these recent reports in German language on Switzerland[121] and Germany[122]).

Multilateral automatic information exchange would help overcome both problems. Such a system should exchange data about the financial accounts of natural persons and disregard legal entities and arrangements such as shell companies and trusts and foundations, which today are often used to hide the real owners of financial accounts. This system should cover all types of capital income. Participation in such a scheme would need to be open to any responsible 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. While such a system does not yet exist, the initiative to create a multilateral platform for AIE based on FATCA-rules (as described above), possibly embedded in the Council of Europe/OECD Convention[123], provide a promising point of departure. The planned amendments to the EU-Savings Tax Directive[124] could also play a role, provided that participation in the system was opened up to third party, i.e. non-EU, countries , and that the EU overcomes the directives limited territorial scope and the concomitant political delaying tactics by EU members and crucial third countries[125].

There would not be any need of establishing a central database. It suffices if each jurisdiction's paying agents (banks, trustees, company directors, etc.) remit identity information on the real owners of accounts and legal entities and 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[126]). An alternative, reduced system would be the automatic information exchange only on the beneficial owners of bank

[120] www.taxjustice.net/cms/upload/GlobalForum2012-TJN-Briefing.pdf; 12.2.2013.
[121] http://www.alliancesud.ch/de/publikationen/downloads/dokument-24-2013.pdf; 6.6.2013.
[122] http://steuergerechtigkeit.blogspot.de/2013/04/neue-verhandlungsgrundlage-fur.html; 6.6.2013.
[123] www.taxjustice.net/cms/upload/CoE-OECD-Convention-TJN-Briefing.pdf; 13.2.2013.
[124] www.taxjustice.net/cms/upload/pdf/EUSTD-TJN-Briefing_-_JAN-2011.pdf; 13.2.2013.
[125] http://taxjustice.blogspot.de/2013/04/fekter-austrian-ostritch-must-be.html; 6.6.2013.
[126] http://www.taxjustice.net/cms/upload/pdf/AIE_100926_TJN-Briefing-2.pdf; 21.6.2011.

accounts, companies, trusts, foundations, etc. (details here, Murphy 2009).

3.13 KFSI 13 - Bilateral Treaties

3.13.1 What is measured?
This indicator examines the extent to which a jurisdiction has signed and ratified bilateral treaties conforming to the 'upon request' standard developed by the OECD and the Global Forum with 46 other countries, and/or whether the jurisdiction has signed and ratified the Amended Council of Europe / OECD Convention on Mutual Administrative Assistance in Tax Matters[127] ("Tax Convention"). The cut-off-date is 31 May 2013[128].

In respect of bilateral treaties, the 'upon request' provisions can either be tax information exchange agreements (TIEAs)[129] or full double taxation agreements (DTAs) whose scope extends far beyond information exchange.

The main source for this information is the table on agreements of the Exchange of Information online portal of OECD's Global Forum[130]. This table displays the bilateral agreements allowing for information exchange upon request, broken down in various categories. We only counted those treaties that a) were in force as of 31.05.2013 and which b) met the OECD "upon request" standard (column 5 of the table). Where the OECD did not cover the jurisdiction, we consulted other private sources or the jurisdiction's finance ministries.

A chart of the signatures and ratifications of the Tax Convention can be found on the OECD website[131]. A detailed analysis of the Convention can be found here (Meinzer 2012d).

We have awarded a full credit for this indicator either if a jurisdiction is party to the Tax Convention or if a jurisdiction has at least 46 qualifying

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127 www.oecd.org/ctp/exchangeofinformation/Amended_Convention_June2011_EN.pdf; 31.05.2013.
128 While the cut-off date is many months older than the publication of the Financial Secrecy Index, there is no reason to believe that the *relative* amount of treaties in November 2013 dramatically deviated from the situation on 31.05.2013.
129 http://www.taxjustice.net/cms/upload/pdf/Tax_Information_Exchange_Arrangements.pdf; 21.6.2011.
130 The Global Forum peer reviews refer to the peer review reports and supplementary reports published by the Global Forum on Transparency and Exchange of Information for Tax Purposes. They can be viewed at: http://www.eoi-tax.org/; 11.1.2013. For the purpose of our research, we relied on a dataset sent by the OECD secretariat on 30.05.2013.
131 www.oecd.org/ctp/exchangeofinformation/Status_of_convention.pdf; 31.05.2013.

treaties in place, with a proportionate credit awarded where fewer agreements are in place. This number of agreements was selected because it is the average number of information exchange provisions contained in bilateral treaties a G20-country had by 31.05.2013[132]. Since many secrecy jurisdictions claim to be major financial services centres we have taken them at their word and concluded that it is fair to compare their treaty network with that of the world's major trading nations, represented by the G20-nations.

It follows from this that the figure of 46 qualifying agreements is a moving target; when G20-nations increase or decrease their average number of treaties that are in force and meet the standard, the average we use will also change and therefore the minimum number of treaties for the purpose of this indicator will be different. Since 2011 the average number of qualifying agreements has decreased from 60 to 46, because – as confirmed by the OECD[133] -"the assessment has become different", reflecting "the results of the peer review process, which considers both an analysis of the international treaties and an analysis of the domestic legal framework". For this reason, a number of agreements which used to be considered as "meeting the standard" are now considered "unreviewed[134]" and others as not meeting the standard (because of domestic obstacles not reflected in the agreement itself), reducing the number of qualifying treaties.

3.13.2 Why is it important?

Tax authorities around the world face immense difficulties when trying to secure foreign-country based evidence relating to suspected domestic tax evasion and/or aggressive tax avoidance schemes. While tax authorities domestically often have powers to cross-check data obtained through tax

[132] The exact average per G20-nation is 46.52 as of 31 May 2013, according to the dataset provided by the OECD secretariat on 30 May 2013.
[133] Communication with OECD of 8 March, 2013.
[134] According to the Communication with OECD of March 8, 2013, "unreviewed" means that:

- "The text of the agreement is not reviewed as both parties have not been reviewed under the Peer Review process; or
- The text of the agreement is considered to be meeting the standard, the legal framework of the reviewed jurisdiction is sufficient, but we have no information on the treaty partner as the other partner is not a GF member (or it has recently joined the GF)".

On the contrary, "Not meeting the standard" means that:

- "The text of the agreement is not to the standard; or
- The text of the agreement is good, but one of the two treaty partners' domestic legal framework does not allow for effective EOI (e.g. TIEA between Australia and Vanuatu is not meeting the standard due to lack of access power in Vanuatu); or
- Both the text of the agreement and the domestic legal framework of the two jurisdictions (or just one of them) are not sufficient to meet the standard".

returns, for instance through access to bank account information, this does not hold true internationally. While economic activity has become increasingly global, the tax collectors' efforts remain locally based and are frequently deliberately obstructed by secrecy jurisdictions. This barrier to information exchange undermines the rule of law and imposes huge costs on revenue authorities wanting to tackle tax dodging and on society at large who is footing the bill for missing tax revenues from mobile and international activity.

The 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 "Creeping Futility"-Report from March 2012 here[135]). The consequences of this weakness reach far beyond mere tax enforcement, but have huge implications for the global economy. Ultimately, it incentivises 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 (esp. page 25)[136], this distortion creates huge imbalances in the world economy, with devastating effects on ordinary people and the environment. Moreover, as Nicholas Shaxson has argued in the book Treasure Islands (2011: 74-79)[137], the root of this scandal dates back at least to 1944 when lobbying by special interests in the USA blocked attempts to require the new IMF to enforce international cooperation to stem capital flight, and instead used European flight capital to institute the Marshall Plan.

While the standard for information exchange promoted by the OECD has severe shortcomings, such a system may be a step forwards if a sufficient number of countries, including poorer countries, are able to effectively use the 'upon request' system to collect evidence needed to prosecute offenders. In April 2009, the OECD announced that the conclusion of just twelve bilateral agreements for information exchange is sufficient to be taken off the OECD's grey list of tax havens. This number appears to have been picked at random and there is no reason to believe that the requirement to have twelve agreements in place changes in any material way the level of secrecy found in a jurisdiction. Unfortunately, by allowing many secrecy jurisdictions to conclude just 12 agreements, often negotiating agreements between themselves, the OECD has created a

[135] See the full report here: www.taxjustice.net/cms/upload/GlobalForum2012-TJN-Briefing.pdf; 16.1.2013. International Tax Review broadly reported about this study here: http://www.internationaltaxreview.com/Article/2994829/EXCLUSIVE-Why-tax-justice-campaigners-and-the-OECD-are-not-seeing-eye-to-eye.html; 16.1.2013.
[136] http://www.taxjustice.net/cms/upload/pdf/AIE_100926_TJN-Briefing-2.pdf; 21.6.2011.
[137] http://treasureislands.org/; 21.6.2011.

'white list' of secrecy jurisdictions[138] which appear to carry some form of official endorsement from the OECD itself.

Despite having strong reservations about the operational effectiveness of the 'upon request' model promoted by the OECD, we have opted to set the bar far higher than 12 agreements and employ the number of tax treaties a G20-country has on average as our yardstick.

We argue that bilateralism does not and cannot tackle the issue of information exchange in an effective and efficient manner. For this reason we award a credit to any jurisdiction that participates in the Tax Convention which is open to participation to all countries, not just OECD or European ones. The Amending Protocol entered into force on 1 June 2011, and in May 2013 had been ratified by 26 countries[139].

Our concerns about the effectiveness of the 'upon request' model of information exchange also relate to the need for a 'smoking gun' to alert tax authorities to possible cases of tax evasion (see KFSI number 12). This explains why we regard automatic information exchange as a more effective deterrent of tax evasion, and propose a simplified system of automatic information exchange of the type proposed by Richard Murphy (downloadable here) as a means of making sense of the existing OECD structure by providing the necessary 'smoking gun' information to make it work. Trust registries[140] would be one important pillar of such a system.

A system of full multilateral automatic tax information exchange[141] should be the goal of international efforts to cooperate on tackling tax evasion. Today's widespread use and sophistication of automatic information exchange by OECD and non-OECD member states has been analysed in a study published in August 2012[142]. However, many of these efforts currently are piecemeal and require multilateral integration and openness to developing countries in order to increase and share the benefits.

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138 www.oecd.org/tax/transparency/progress%20report%205%20december%202012.pdf; 16.1.2013.

139 www.oecd.org/ctp/exchangeofinformation/Status_of_convention.pdf; 31.5.2013.

140 www.taxjustice.net/cms/upload/pdf/BAR2012-TJN-Report.pdf; 16.1.2013.

141 http://www.taxjustice.net/cms/upload/pdf/AIE_100926_TJN-Briefing-2.pdf; 21.6.2011.

142 www.taxjustice.net/cms/upload/pdf/AIE2012-TJN-Briefing.pdf; 16.1.2013.

3.14 KFSI 14 - International Transparency Commitments

3.14.1 What is measured?

This indicator measures the extent to which a jurisdiction has entered into international transparency commitments. We have checked whether a jurisdiction is party to five different international conventions. A credit of 0.2 points is awarded for each of the specified conventions adhered to by a jurisdiction as at 31 December 2012[143]. Thus, if a jurisdiction has ratified all five conventions it is awarded one full credit.

The five conventions are:

1) Amended Council of Europe / OECD Convention on Mutual Administrative Assistance in Tax Matters[144] ("Tax Convention");

2) 2003 UN Convention against Corruption[145];

3) 1988 UN Drug Convention[146], full title: UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances;

4) 1999 UN International Convention for the Suppression of the Financing of Terrorism[147];

5) 2000 UN Convention against Transnational Organised Crime[148].

The Tax Convention aims to promote "administrative co-operation between states in the assessment and collection of taxes, in particular with a view to combating tax avoidance and evasion"[149]. Its amending protocol stipulates that bank secrecy cannot be deployed as grounds for denying the exchange of information upon request and opened the Convention up to countries which are not member of either the Council of Europe or the OECD. It allows for spontaneous and automatic information exchange, but requires the signatory parties only to implement upon request information

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143 Adherence means ratification. Signature alone is not enough.

144 www.oecd.org/ctp/exchangeofinformation/Amended_Convention_June2011_EN.pdf; 16.1.2013.

145 http://www.unodc.org/unodc/en/treaties/CAC/index.html; 16.1.2013.

146 http://www.unodc.org/unodc/en/treaties/illicit-trafficking.html; 16.1.2013.

147 http://www.un.org/terrorism/instruments.shtml; 16.1.2013.

148 http://polis.osce.org/portals/orgcrime/index/details?doc_id=3210&lang_tag=&qs; 16.1.2013.

149 http://www.oecd.org/document/14/0,3746,en_2649_33767_2489998_1_1_1_1,00.html; 23.05.2011.

exchange. A detailed analysis of this Tax Convention can be found here (Meinzer 2012d).

The 2003 UN Convention against Corruption (UNCAC) aims to promote the prevention, detection and sanctioning of corruption, as well as cooperation between State Parties on these matters[150]. Relevant provisions include the prohibition of tax deductibility of bribe payments (Art. 14, Para. 4), a requirement to include bribery within the context of an effective anti-money laundering framework (Art. 23 and 52), and to rule out bank secrecy as a reason to object against investigations in relation to bribery (Art. 40).

The 1988 UN Drug Convention "provides comprehensive measures against drug trafficking, including provisions against money-laundering and the diversion of precursor chemicals. It provides for international co-operation through, for example, extradition of drug traffickers, controlled deliveries and transfer of proceedings"[151].

The 1999 UN Terrorist Financing Convention requires its parties to prevent and counteract financing of terrorists. The parties must identify, freeze and seize funds allocated to terrorist activities[152].

Finally, the UN Convention against Transnational Organised Crime seeks to prevent and combat transnational organised crime, notably by obliging the State Parties to adopt new frameworks for extradition, through mutual legal assistance and law enforcement cooperation, the promotion of training and technical assistance for building or upgrading the capacity of national authorities[153].

The United Nations Treaty Collection served as a source for all four UN conventions[154]. A chart of the signatures and ratifications of the Tax Convention can be found on the OECD website[155].

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150 The official site of the convention is here: http://www.unodc.org/unodc/en/treaties/CAC/index.html; 21.6.2011. A succinct summary of the convention's measures can be found here: http://www.uncaccoalition.org/about-the-uncac; 16.01.2013.

151 http://www.unodc.org/unodc/en/treaties/illicit-trafficking.html; 23.05.2011.

152 http://www.un.org/terrorism/instruments.shtml; 23.05.2011.

153 http://polis.osce.org/portals/orgcrime/index/details?doc_id=3210&lang_tag=&qs; 23.05.2011.

154 http://treaties.un.org/home.aspx; 23.05.2011. The specific source for each jurisdiction and convention can be found in the corresponding database report of each country, here: http://www.financialsecrecyindex.com/sj_database/menu.xml; 16.1.2013.

155 www.oecd.org/ctp/exchangeofinformation/Status_of_convention.pdf; 16.1.2013.

3.14.2 Why is this important?
In today's globalised world, organised crime, bribery, terrorism and large-scale tax evasion are essentially international problems that easily cross national borders. At the same time, some jurisdictions aim to attract substantial amounts of that criminal money by offering a thin fabric of weak national rules and regulations or an absence of cross-border cooperation. Against this background, it is important to verify to what extent a jurisdiction is committed to certain principles.

While the ratification of international conventions does not necessarily translate into commitment to take positive actions, it is certainly a step in the right direction. It signals to treaty partners as well as to offenders a willingness to cooperate internationally and a proactive stance with respect to national legislation and policing.

The Conventions will to varying degrees contribute to solving the problems they are intended to address. They have already or are likely to become means through which civil society within the countries concerned can begin to hold governments and others to account. Similarly, they are likely to improve the chances of government authorities, such as tax administrations, public prosecuting offices, financial crime investigative police, and counter terror agencies, to successfully request cooperation from a foreign counterpart.

As with all commitments, however, implementation is what ultimately matters. Out of the five international Conventions, only one (UNCAC) has started implementing a systematic and partly transparent review process of adherence to commitments made under UNCAC[156].

3.15 KFSI 15 - International Judicial Cooperation

3.15.1 What is measured?
This indicator measures the degree to which a jurisdiction engages in international judicial cooperation on money laundering and other criminal issues. We use the degree of compliance with FATF recommendations[157] 36 through to 40 as the appropriate measure.

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[156] http://www.uncaccoalition.org/uncac-review/uncac-review-mechanism; 16.1.2013.
[157] These recommendations refer to the 49 FATF recommendations of 2003. While the FATF has consolidated its recommendations to a total of 40 in 2012, the old recommendations are used here because the assessment of compliance with the new recommendations will only begin in 2013. The relevant new FATF recommendations from 2012 are recommendations 37, 38, 39 and 40. In the

The Financial Action Task Force (FATF) is the international body dedicated to counter money laundering. In 2003, the FATF established its 49 recommendations concerning the laws, institutional structures, and policies considered necessary to address money laundering and terrorist financing.

Recommendation 36[158] exhorts countries to "provide the widest possible range of mutual legal assistance in relation to money laundering and terrorist financing investigations, prosecutions, and related proceedings".

Recommendation 37[159] requires that countries "to the greatest extent possible, render mutual legal assistance notwithstanding the absence of dual criminality". Extradition or mutual legal assistance is to take place irrespective of legal technicalities as long as the underlying conduct is treated as a criminal offence (is a predicate offence) in both countries.

Recommendation 38[160] requires a country to have "authority to take expeditious action in response to requests by foreign countries to identify, freeze, seize and confiscate property laundered, proceeds from money laundering or predicate offences, instrumentalities used in or intended for use in the commission of these offences, or property of corresponding value". In addition, there should also be arrangements in place for coordinated action and sharing of confiscated assets.

Recommendation 39[161] asks a country to "recognise money laundering as an extraditable offence". It further details the grounds on which extradition is to take place, and in what manner.

Recommendation 40[162] prompts countries to "ensure that their competent authorities provide the widest possible range of international co-operation to their foreign counterparts". The competent authority denotes "all

next FSI, the results of the new assessments will be taken into account. The old recommendations can be viewed at: www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF%20Recommendations%202003.pdf; 11.1.2013.

[158] See page 10 in: www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF%20Recommendations%202003.pdf; 16.1.2013.

[159] See page 10 in: www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF%20Recommendations%202003.pdf; 16.1.2013.

[160] See page 10 in: www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF%20Recommendations%202003.pdf; 16.1.2013.

[161] See page 10-11 in: www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF%20Recommendations%202003.pdf; 16.1.2013.

[162] See page 11 in: www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF%20Recommendations%202003.pdf; 16.1.2013.

administrative and law enforcement authorities concerned with combating money laundering and terrorist financing, including the FIU and supervisors".

Compliance with these recommendations means that a jurisdiction is not just willing to receive requests for cooperation by foreign authorities, but is able to take effective action to cooperate with such requests.

Since 2003 the FATF, regional analogous bodies or the IMF have assessed the implementation of the FATF recommendations in peer-review studies that are carried out in five-year cycles. The comprehensive reports usually contain a table showing the degree of compliance of a given jurisdiction to each recommendation. The reports have generally been published online and were the main source for this indicator.

FATF's assessment methodology rates compliance with every recommendation on a four-tiered scale, from "compliant" to "largely compliant" to "partially compliant" to "non-compliant". If a jurisdiction fully complies with a recommendation according to FATF, we award 0.2 credits. Where it is largely compliant, it receives 0.13 credits and 0.7 credits if it is only partially compliant. Thus, a jurisdiction receives full credit (1 point) if it fully complies with all five recommendations. See KFSI 11 for more details on these reports.

3.15.2 Why is this important?

In a world of unimpeded financial flows, money launderers find it easy to establish schemes for moving money across borders to cover their tracks. If judicial cooperation across borders is not as seamless as the criminal money flowing between two companies or bank accounts, law enforcement agencies such as public prosecutors or police will always remain one step behind the criminal.

From the stages of investigation and prosecution, to extradition of perpetrators and the confiscation and repatriation of criminal assets, at every step law enforcement processes are fragile and require cross-border cooperation. Without established means of cooperation, the only resort a judge may have consists of a letter rogatory, which is a time-consuming, costly and uncertain process

> "In terms of efficiency, exchange of information through letters of rogatory may take months or years since some requests may have to be processed through diplomatic channels." (OECD 2001: 66).

Compliance with the FATF-recommendations 36 through to 40 can be seen as the minimum threshold of judicial cooperation required to take part in the international financial system.

4. Quantitative part: global scale weights

The second component of the FSI is the global scale weight (GSW) attributed to each jurisdiction. It is based on an assessment of the size of each jurisdiction's share of the global market for financial services provided to non-resident clients. We explain how this assessment is made, before considering potential criticisms of the approach.

The global scale weights are based on publicly available data about the trade in international financial services of each jurisdiction. Where necessary because of missing data, we follow IMF methodology (Zoromé 2007) to extrapolate from stock measures to generate flow estimates. This allows us to create a ranking of jurisdictions' importance in the total global trade in financial services. When this is subsequently combined with the secrecy scores, it creates a ranking of each jurisdiction's contribution to the ultimate global problem of financial secrecy: this ranking is the Financial Secrecy Index.

We begin with the best data available on an internationally comparable basis. The preferred source is the IMF's Balance of Payments Statistics (BOPS), which provides data on international trade in financial services. For 2011, the relatively recent year with most available data, the BOPS cover 121 jurisdictions for exports. Next, following IMF research (ibid.), we fill in missing values for these flows of financial services for other jurisdictions, by extrapolating from data on stocks of internationally-held financial assets (see table 4.1 below).

Data on stocks of portfolio assets and liabilities are taken from two IMF sources: the Coordinated Portfolio Investment Survey (CPIS) and the International Investment Position (IIP) statistics, of which the latter is part of the BOPS. CPIS data for 2011 covers 76 jurisdictions for total portfolio assets, and 215 jurisdictions for total portfolio liabilities, which are derived from reported assets. IIP data for 2011 covers 113 jurisdictions, and is filtered (again following Zoromé 2007) to exclude foreign direct investment, reserve assets, and all assets belonging to general government and monetary authorities.

There is an argument for preferring liability data, since it ought to reflect – for example – that French clients holding assets in German banks create a German services export, and a German liability. However, there are two reasons to use assets. First, and prosaically, it is assets that are directly reported by jurisdictions; so these data are more likely to capture the full range of assets, than liability data which are made up by inverting the stated asset claims of other jurisdictions, and hence are likely to be incomplete. Second, a jurisdiction's overseas assets, beyond a certain point dictated by their own economic structure and scale (a different point for the US to that for the island of Jersey, for example), will be managed on behalf of non-residents and hence also reflect the export of financial services. As discussed below, there is, as would be expected given the nature of financial markets, a strong correlation between assets and liabilities where data for both are present.

We use the liabilities data to assess the reasonableness of reported assets, which leads us to identify a discrepancy specific to the Cayman Islands (see Annex J). In general, there is a strong correlation between assets and liabilities, but in a small number of cases the recorded value for liabilities – i.e. that based on the recording of other jurisdictions – far exceeds the declared value for assets. To consider how reasonable these differences are, we consider liabilities minus assets as a ratio to jurisdictions' GDP.[163]

The top eleven jurisdiction-year observations in our dataset all relate to the Cayman Islands.[164] On this basis we can conclude that the recorded Cayman asset and liability data exhibits some unique feature (see Annex J).

The corrected data on stocks of assets are then used to estimate current flows of financial services. We improve on the IMF extrapolation by using a panel of data (2001-2011) rather than a single year on which to base the extrapolation, which appears to allow marginally more accurate estimation of flows from stock data.

Table 4.1: Regression results for extrapolation - specification makes little difference

Model	**Coefficient on independent variable (asset stock)**	**R-squared**
Pooled OLS, no constant	0.0041531	0.8457
Pooled OLS	0.0041784	0.8361
Panel, fixed effects	0.0041486	0.8361
Panel, random effects	0.0041545	0.8361
N (number of observations)		1130

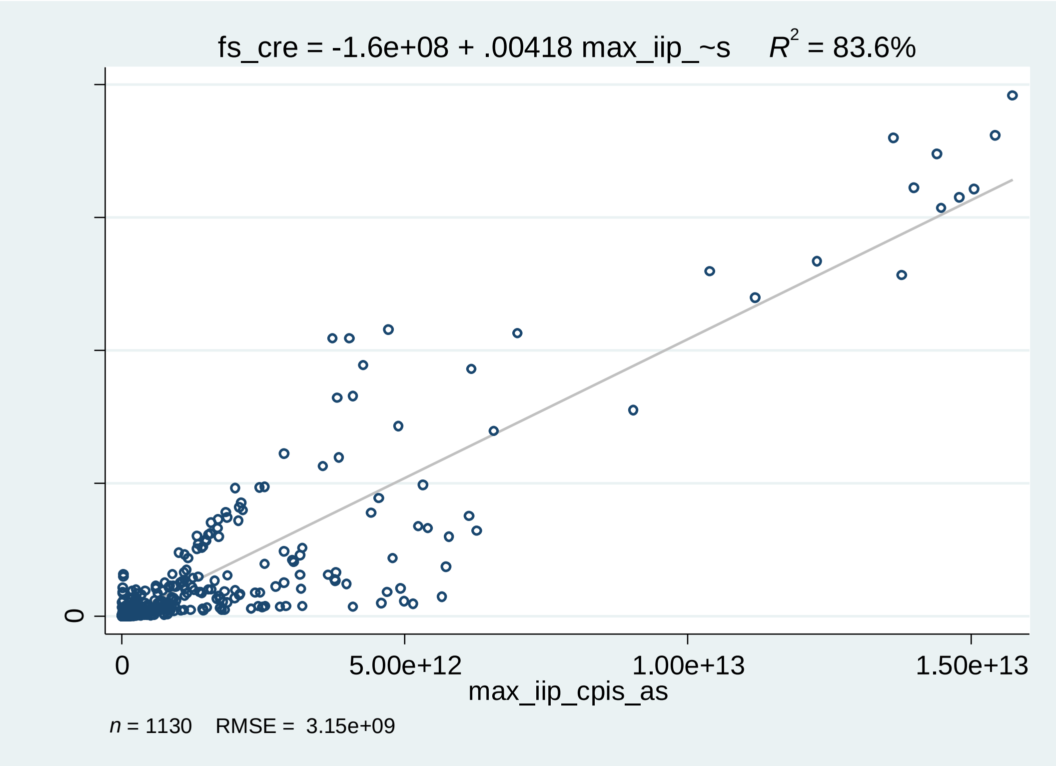
[163] This allows us to scale the size of the difference according to jurisdiction, so that for example Jersey is not necessarily more likely to stand out than the United States. We use GDP from the World Bank's World Development Indicators or when not available, from the CIA's World Factbook. Also, where necessary we use the values of GDP from the closest year available.

[164] For only one other jurisdiction is there a ratio greater than 10 (for Netherlands Antilles that no longer exist). For all eleven of the Cayman observations from 2001-2011, the ratio exceeds 250, with the highest values (in excess of 500 times GDP) all recorded in the most recent years.

Number of groups (in panel)	122
Average observations per country (out of 11, 2001-2011)	9.3

As Table 4.1 shows, the implied coefficients (all significant at the 1% level) are very similar regardless of the specification chosen, including fixed-effects panel regressions. We ultimately select a pooled OLS regression to allow the constant to be constrained to zero, as in Figure 4.1 (allowing a nonzero constant only trivially affects the goodness of fit).

Figure 4.1: Relationship between asset stocks and financial services exports of jurisdictions



In total, we are able to create flow data (true or extrapolated) for 217 jurisdictions (out of 246 jurisdictions theoretically considered), which we believe to cover the majority of the global provision of financial services to non-residents.

Table 4.2 (below) shows the breakdown of data availability. For those jurisdictions without direct data on financial services exports (case 1), extrapolations were used as follows. First, where possible, asset stock data allows extrapolation using the regression relationship detailed above (case 2 and case 3, distinguishing between asset data sources). Where asset data is simply not credible (the Cayman Islands: see Appendix J), we rely on liability data declared by other jurisdictions (case 4). Where asset data is not available (not declared by jurisdictions), we again rely on liability data declared by other jurisdictions (case 5).

For the 82 jurisdictions considered in the Financial Secrecy Index 2013, we have true data for just over half, and can extrapolate for all but two of the remainder. These are Montserrat and Nauru, which while highly opaque are not thought to play a major role in international financial flows of any type.

Table 4.2: Data availability for Global Scale Weights, by type of underlying data sources for Global Scale Weight, year of reference 2011

Data source	**Number of jurisdictions evaluated for FSI 2013**	**%**	All	%
1. 'True' financial services exports data (Balance of Payment Statistics, IMF)	48		121	
2. Extrapolated from asset data (filtered International Investment Position data, IMF)	3		14	
3. Extrapolated from asset data (Coordinated Portfolio Investment Survey, IMF)	6		6	
4. Extrapolated from liability data, based on non-credible declared asset data (Coordinated Portfolio Investment Survey, IMF)	1		1	
5. Extrapolated from liability data, based on non-declaration of asset data (Coordinated Portfolio Investment Survey, IMF)	22		77	
6. No data available	2		27	
TOTAL	82		246	

Finally, then, we can use the total level of financial service exports for the 217 jurisdictions where exports can be established, and take the exports of each of the 82 FSI-2013 jurisdictions with data as a share of this global total. This creates a global scale weight reflecting the relative importance of each jurisdiction.

The Global Scale Weight is defined as

$$Global\ Scale\ Weight_i = \frac{Exports\ of\ financial\ services\ (true\ or\ extrapolated)_i}{Sum\ of\ all\ world\ exports\ of\ financial\ services\ (true\ \&\ extrapolated)}.$$

The total global scale weight for the 80 FSI jurisdictions is 96.85.

It is important to note that this weighting alone does not imply harbouring or supporting inappropriate behaviour by the jurisdictions in question. Arguably, those near the top should be congratulated on their success in the field of international trade in financial services (although in light of recent examples such as Iceland, Ireland and Cyprus, they may of course also want to consider the extent of their reliance on this risky sector). Rather, the Global Scale Weight is an indicator of the potential for a jurisdiction to contribute to the global problem of financial secrecy, *if* secrecy is chosen in the range of policy areas discussed above.

It is then only in the subsequent step, where this ranking by scale of activity is combined with the secrecy scores, that we create a Financial Secrecy Index which reflects the potential global harm done by each jurisdiction.

We believe that this methodology represents the most robust possible use of the available data as a means to evaluate the relative contribution of different jurisdictions to the global total of financial services provided to non-residents. Nonetheless, the fact that researchers must follow such a convoluted path to reach this point is further evidence of the failure of policymakers to ensure that global financial institutions and national regulators have access to the necessary data to track and understand international finance.

One reasonable criticism of this approach to scale is that a large part, perhaps the majority, of illicit financial flows may occur through trade in goods rather than through financial flows[165]. Illicit flows including corporate tax evasion, laundering of criminal proceeds and cross-border flows related to bribery and the theft of public assets, represent a primary reason for concern about financial secrecy. A broad literature including

[165] For Sub-Sahara Africa, trade mispricing does not account for the majority of illicit financial outflows, and is more pronounced in countries with important natural resource extraction sectors, as documented on pages 50-51 of (Ndikumana/Boyce 2011).

e.g. De Boyrie et al. (2005a, 2005b), Baker (2005), Christian Aid (2009) and Ndikumana/Boyce (2011), and Kar & Freitas (2011) highlight the potential for illicit flows to occur through trade. However, trade mispricing is not thought to occur simply to shift profits or income to random jurisdictions: rather, as (Cobham et al. 2013) suggest in the case of Swiss commodity trade mispricing, it is likely to be specifically for the purpose of ensuring the resulting assets are held in secrecy jurisdictions (providing, of course, a resulting flow of financial services exports for the Swiss or other economies). As such, the approach taken here is likely to identify important jurisdictions also with respect to trade mispricing, at least as destination countries of illicit financial flows. Nonetheless, future work could consider a reweighting with trade flows.

Another relevant criticism of this approach relates to a lack of clarity around what kinds of services are included or left out in the computation of the financial services exports in the Balance of Payments. While fees and costs associated with holding assets and related custodian services ought to be captured, it is not clear for instance if fees for the provision of supporting legal services are included as well. More importantly, while costs directly associated with assets may be covered, the fees associated with hosting and managing the legal structures which in turn hold those assets, such as trusts, shell companies and foundations, are likely not to be captured by financial services. This may result in underestimating the scale of activity in some secrecy jurisdictions, such as British Virgin Islands or Liechtenstein, in which the management of shell companies and foundations is arguably the most important business segment. Until better data become available, however, it is not obvious how the current approach could be substantially strengthened.

A related question, given the extent of their activity in both the provision of services associated with financial secrecy and in lobbying jurisdictions to provide secrecy[166], is the role played by major professional firms in law, banking and accounting. This is a potentially fruitful research agenda, in which early work suggests there may be consistent patterns of activity (Harari et al. 2012).

5. The FSI – Combining Secrecy Scores and Global Scale Weights

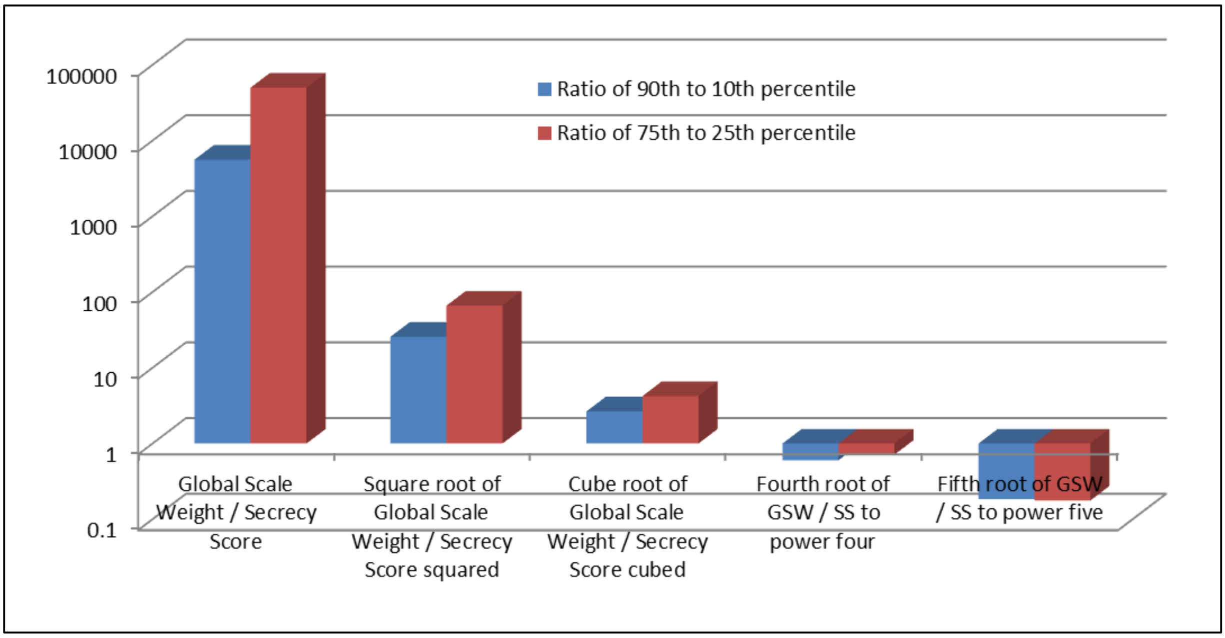
The final step in creation of the FSI is to combine the ranking by scale of activity with the secrecy scores, to generate a single number by which

[166] A striking example is Barclays Bank, which has been trying to set up new offshore financial services centres (e.g. see http://hir.harvard.edu/blog/khadija-sharife/the-hoover-effect; 18.2013).

jurisdictions can be ranked, reflecting the potential global harm done by each. As with the choice of secrecy indicators and their relative weighting in the Secrecy Score, and with the focus on financial services exports to determine relative scale, the method of combination cannot be objectively "right". Underlying the choice made is a desire for neither secrecy nor scale to dominate the final ranking.

Because in practice, there is significantly more variation in the scale weighting than the secrecy score, we transform the two to generate series with variation of a similar order. Consider the ratios in each original series between the 90th and 10th percentiles, and between the 75th and 25th percentiles. The higher the ratio, the wider the range in the series. Figure 5.1 shows the relative size of these ratios, by taking the further ratio between each for the Global Scale Weight, divided by the same for the Secrecy Score. In the original series, the 90/10 percentile ratio is more than five thousand times higher for GSW; the 75/25 ratio nearly a hundred times higher. If we square the Secrecy Score and take the square root of the GSW, these ratios fall to below 26 and 6 respectively; and if we cube the Secrecy Score and take the cube root of the GSW, they fall below 3 and 2 respectively. Finally, looking at fourth and fifth roots and powers, we see these result in the variation of the GSW series becoming disproportionately small – so the cube root/cube combination is preferred.

Figure 5.1: Relative size of ratios of Global Scale Weights / Secrecy Score



We consider these transformations sufficient to ensure neither secrecy nor scale alone determine the FSI. The mathematical notation for the construction of the index can be described in the following way for each country i:

$$Financial\ Secrecy\ Index\ 2013_i = Secrecy\ Score_i{}^3 * \sqrt[3]{Global\ Scale\ Weight_i}$$

To put it in plain language: Before multiplication, the cube of the secrecy score and the cube root of the global scale weight is taken. The full index for 2013 is shown in Annex A.

Literature

The full references for each jurisdiction are provided in the database report of each jurisdiction. Online news articles and website sources are referenced separately for each info-number in the database report, accessible by clicking on "notes" (on the right hand side of each database report). The full bibliography for each database report including academic articles, books, reports by international organisations, law firms or others, can be found in the section "References" of each database report (either by scrolling down or by clicking on link in top right corner of every database report). All database reports can be accessed under www.financialsecrecyindex.com/database/menu.xml.

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Annexes

Annex A: FSI 2013 - Ranking of 82 Jurisdictions

RANK	Jurisdiction	FSI-Value[4]	Secrecy Score	Global Scale Weight
1	Switzerland	1.765,3	78	4,916
2	Luxembourg	1.454,5	67	12,049
3	Hong Kong	1.283,4	72	4,206
4	Cayman Islands	1.233,6	70	4,694
5	Singapore	1.216,9	70	4,280
6	USA	1.213,0	58	22,586
7	Lebanon	747,9	79	0,354
8	Germany	738,3	59	4,326
9	Jersey	591,7	75	0,263
10	Japan	513,1	61	1,185
11	Panama	489,6	73	0,190
12	Malaysia (Labuan)[3]	471,7	80	0,082
13	Bahrain	461,2	72	0,182
14	Bermuda	432,4	80	0,061
15	Guernsey	419,4	67	0,257
16	United Arab Emirates (Dubai)[3]	419,0	79	0,061
17	Canada	418,5	54	2,008
18	Austria	400,8	64	0,371
19	Mauritius	397,9	80	0,047
20	British Virgin Islands	385,4	66	0,241
21	United Kingdom	361,3	40	18,530
22	Macao	360,5	71	0,108
23	Marshall Islands	329,6	82	0,022
24	Korea	328,8	54	0,978
25	Russia	325,3	60	0,318
26	Barbados	317,5	81	0,021
27	Liberia	300,9	83	0,014
28	Seychelles	293,5	85	0,011
29	Brazil	283,9	52	0,768
30	Uruguay	277,5	72	0,040
31	Saudi Arabia	274,2	75	0,028
32	India	254,6	46	1,800
33	Liechtenstein	241,0	79	0,011
34	Isle of Man	237,3	67	0,049
35	Bahamas	226,9	80	0,009
36	South Africa	209,8	53	0,260
37	Philippines	206,7	67	0,033

RANK	Jurisdiction	FSI-Value[4]	Secrecy Score	Global Scale Weight
38	Israel	205,9	57	0,132
39	Netherlands	204,9	50	0,430
40	Belgium	199,3	45	1,031
41	Cyprus	198,9	52	0,264
42	Dominican Republic	193,8	73	0,012
43	France	191,0	41	2,141
44	Australia	168,2	47	0,394
45	Vanuatu	165,0	87	0,002
46	Costa Rica	157,6	71	0,008
47	Ireland	155,5	37	2,646
48	New Zealand	151,4	52	0,126
49	Gibraltar	147,8	79	0,003
50	Norway	142,8	42	0,667
51	Guatemala	142,4	77	0,003
52	Belize	129,8	80	0,002
53	Latvia	128,1	51	0,090
54	Italy	119,0	39	0,748
55	Aruba	113,3	71	0,003
56	Spain	111,4	36	1,504
57	Ghana	109,9	66	0,005
58	Curacao	106,4	77	0,001
59	US Virgin Islands	102,9	69	0,003
60	Botswana	99,0	73	0,002
61	Anguilla	96,8	76	0,001
62	St Vincent & the Grenadines	85,1	78	0,001
63	Turks & Caicos Islands	81,8	78	0,000
64	Malta	78,1	44	0,079
65	St Lucia	66,9	84	0,000
66	Denmark[2]	63,1	33	0,605
67	Antigua & Barbuda	60,5	80	0,000
68	San Marino	59,5	80	0,000
69	Portugal (Madeira)[3]	57,9	39	0,092
70	Grenada	55,8	78	0,000
71	Sweden	55,7	32	0,440
72	Hungary	54,7	40	0,056
73	Brunei Darussalam	50,6	84	0,000
74	Andorra	43,4	76	0,000
75	Monaco	38,8	75	0,000
76	Samoa	31,0	88	0,000

RANK	Jurisdiction	FSI-Value[4]	Secrecy Score	Global Scale Weight
77	Dominica	26,9	79	0,000
78	Cook Islands	25,3	77	0,000
79	Maldives	21,1	79	0,000
80	St Kitts & Nevis	18,5	80	0,000
81	Nauru		79	
82	Montserrat		74	

Footnote 3: For these jurisdictions, we took the secrecy score for the sub-national jurisdiction alone, but the Global Scale Weight (GSW) for the entire country. This is not ideal: we would prefer to use GSW data for sub-national jurisdictions - but this data is simply not available. As a result, these jurisdictions might be ranked higher in the index than is warranted.

Footnote 4: The FSI is calculated by multiplying the cube of the Secrecy Score with the cube root of the Global Scale Weight. The final result is divided through by one hundred for presentational clarity.

Annex B: 15 Key Financial Secrecy Indicators 2013

KNOWLEDGE OF BENEFICAL OWNERSHIP	
1	Banking secrecy**: Does the jurisdiction have banking secrecy?**
2	Trust and Foundations Register**: Is there a public register of trusts/foundations, or are trusts/foundations prevented?**
3	Recorded Company Ownership**: Does the relevant authority obtain and keep updated details of the beneficial ownership of companies?**
KEY ASPECTS OF CORPORATE TRANSPARENCY REGULATION	
4	Public Company Ownership**: Does the relevant authority make details of ownership of companies available on public record online for less than US$10/€10?**
5	Public Company Accounts**: Does the relevant authority require that company accounts are made available for inspection by anyone for a fee of less than US$10/€10?**
6	Country-by-Country Reporting**: Are all companies required to comply with country by country financial reporting?**
EFFICIENCY OF TAX AND FINANCIAL REGULATION	
7	Fit for Information Exchange**: Are resident paying agents required to report to the domestic tax administration information on payments to non-residents?**
8	Efficiency of Tax Administration**: Does the tax administration use taxpayer identifiers for analysing information effectively, and is there a large taxpayer unit?**
9	Avoids Promoting Tax Evasion**: Does the jurisdiction grant unilateral tax credits for foreign tax payments?**
10	Harmful Legal Vehicles**: Does the jurisdiction allow cell companies and trusts with flee clauses?**
INTERNATIONAL STANDARDS AND COOPERATION	
11	Anti-Money Laundering**: Does the jurisdiction comply with the FATF recommendations?**
12	Automatic Information Exchange**: Does the jurisdiction participate fully in Automatic Information Exchange such as**

	the European Savings Tax Directive?
13	Bilateral Treaties**: Does the jurisdiction have at least 46 bilateral treaties providing for information exchange upon request, or is it part of the European Council/OECD tax convention?**
14	International Transparency Commitments**: Has the jurisdiction ratified the five most relevant international treaties relating to financial transparency?**
15	International Judicial Cooperation**: Does the jurisdiction cooperate with other states on money laundering and other criminal issues?**

Annex C: Assessment Logic of 15 KFSIs, all details

	KSFI	Description	Result	Component weighting
		KNOWLEDGE OF BENEFICIAL OWNERSHIP		
1	**Bank Secrecy**	Does it have a statutory basis?	YN	20%
		To what extent are banks subject to stringent customer due diligence regulations (FATF-recommendation 5)?	1: compliant; 2: largely compliant; 3: partially compliant; 4: non-compliant	20%
		To what extent are banks required to maintain data records of its customers and transactions sufficient for law enforcement (FATF-recommendation 10)?	1: compliant; 2: largely compliant; 3: partially compliant; 4: non-compliant	20%
		Are banks and/or other covered entities required to report large transactions in currency or other monetary instruments to designated authorities?	YN	10%
		Are banks required to keep records, especially of large or unusual transactions, for a specified period of time, e.g. five years?	YN	10%
		Sufficient powers to obtain and provide banking information on request?	1: Yes without qualifications; 2: Yes, but some problems; 3: Yes, but major problems; 4=No, access is not possible, or only exceptionally	10% (only if answer is 1)
		No undue notification and appeal rights against bank information exchange on request?	1: Yes without qualifications; 2: Yes, but some problems; 3: Yes, but major problems; 4=No, access and exchange hindered.	10% (only if answer is 1)
2	**Trust and Foundations Register**	Trusts Available?	0: Foreign law trusts cannot be administered and no domestic trust law; 1: Foreign law trusts can be administered, but no domestic trust law; 2: Domestic trust law and administration of foreign law trusts.	Complex Assessment - see KFSI 2 for details; trusts maximum of 50% in KFSI 2
		Convention of 1 July 1985 on the Law Applicable to Trusts and on their Recognition	YN	
		Trusts: Is any formal registration required at all?	0: Foreign law trusts (and domestic law trusts if applicable) must be registered; 1: No registration requirement of foreign law trusts, but registration of domestic law trusts mandatory; 2: No registration requirement of domestic law trusts, but of foreign law trusts; 3: Neither foreign law trusts nor domestic law trusts (if applicable) require registration.	
		Trusts: Is registration data publicly available ('on public record')?	0: No, neither for foreign law trusts nor domestic law trusts (if applicable); 1: Only for domestic law trusts, but not for foreign law trusts (if applicable); Yes, for both domestic and foreign law trusts (if applicable).	
		Foundations available (private)?	YN	Complex Assessment - see KFSI 2 for details; foundations maximum of 50% in KFSI 2
		Foundations: Is any formal registration required at all?	YN	
		Is the settlor named?	YN	
		Are the members of the foundation council named?	YN	
		Are the beneficiaries named?	YN	
		Must the constitution / foundation documents be submitted, including changes and all bylaws / letters of wishes?	YN	
		Foundations: Is registration data publicly available ('on public record')?	0: No online disclosure for all private foundations; 1: Partial online disclosure for all private foundations; 2: Yes, full online disclosure of all private foundations.	
3	**Recorded Company Ownership**	Companies: Registration comprises owner's identity information?	0: no; 1: only legal; 2: BO always recorded	BO=100%; condition that update is not "no"
		Is the update of information on the identity of owners mandatory?	YN	

Annex C (ctd.): Assessment Logic of 15 KFSIs, all details

	KSFI	Description	Result	Component weighting
		KEY ASPECTS OF CORPORATE TRANSPARENCY REGULATION		
4	**Public Company Ownership**	Companies: Registration comprises owner's identity information?	0: no; 1: only legal; 2: BO always recorded	LO=20%; BO=100%; condition that update is not "no"
		Is the update of information on the identity of owners mandatory?	YN	
		Companies - Online Availability of Information: On public record (up to 10 €/US$): Owners' identities?	0: no; 1: only legal; 2: BO always recorded	
5	**Public Company Accounts**	Accounting data required?	YN	Only if all answered "Yes" = 100%
		Accounts submitted to public authority?	YN	
		Online Availability of Information: On public record (up to 10 €/US$): Accounts?	YN	
6	**Country-by-Country Reporting**	Requirement to comply with country-by-country reporting standard for companies listed on the national stock exchange?	0:No; 1: No, except one-off EITI-style disclosure for new listed companies; 2: No, except for partial disclosure in either extractives or banking sector; 3: Yes, partial disclosure for both extractives and banking sector; 4: Yes, full country-by-country reporting for all sectors.	1: 10%; 2: 25%; 3: 50%; 4: 100%
		EFFICIENCY OF TAX AND FINANCIAL REGULATION		
7	**Fit for Information Exchange**	Are all payers required to automatically report to the tax administration information on payments to all non-residents?	0: no, none; 1: yes div, no int; 2: no div, yes int; 3: yes, both	100% (div and interest each 50%)
8	**Efficiency Tax Administration**	Does the tax authority make use of taxpayer identifiers for information reporting and matching for information reported by financial institutions on interest payments and by companies on dividend payments?	0: no, none; 1: yes int, no div; 2: no int, yes div; 3: yes, both	80% (div and int each 40%)
		Does the tax authority have a dedicated unit for large taxpayers?	YN	20%
9	**Avoids Promoting Tax Evasion**	Absent a bilateral treaty, does the jurisdiction apply a tax credit system for receiving interest income payments?	3: yes, all three types of resident recipients [i) legal person – independent party; ii) legal person – related party; iii) natural person]; 2: for 2; 1: for 1; 0 for none	0: 0%; 1: 10%; 2: 20%; 3: 50%
		Absent a bilateral treaty, does the jurisdiction apply a tax credit system for receiving dividend income payments?	3: yes, all three types of recipients; 2: for 2; 1: for 1; 0 for none	0: 0%; 1: 10%; 2: 20%; 3: 50%
10	**Harmful legal vehicles**	Companies - Available Types: Cell Companies?	YN	50%
		Trusts - Are trusts with flee clauses prohibited?	YN	50%

Annex C (ctd.): Assessment Logic of 15 KFSIs, all details

	KSFI	Description	Result	Component weighting
		INTERNATIONAL STANDARDS AND COOPERATION		
11	**Anti-Money Laundering**	Money Laundering: Overall Compliance Score of FATF-standards in Percentage (100% = all indicators rated compliant, 0%=all indicators rated non-compliant)	49 criteria (each given an equal weight); each criteria: 1: compliant; 2: largely compliant; 3: partially compliant; 4: non-compliant	scaled up to 100%
12	**Automatic Information Exchange**	EUSTD participant (or equivalent)?	YN	100%
13	**Bilateral Treaties**	Number of Double Tax Agreements (DTA)	Number	Sum % of 46; or
		Number of Tax Information Exchange Agreements (TIEA)	Number	
		1988 CoE/OECD Convention / Amending Protocol	YN	Yes, then 100%
14	**International Transparency Commitments**	1988 CoE/OECD Convention / Amending Protocol	YN	20%
		UN Convention Against Corruption	YN	20%
		UN Drug Convention 1988	YN	20%
		UN International Convention for the Suppression of the Financing of Terrorism	YN	20%
		UN Convention Against Transnational Organized Crime	YN	20%
15	**International Judicial Cooperation**	Will mutual legal assistance be given for investigations, prosecutions, and proceedings (FATF-recommendation 36)?	1: compliant; 2: largely compliant; 3: partially compliant; 4: non-compliant	20%
		Is mutual legal assistance given without the requirement of dual criminality (FATF recommendation 37)?	1: compliant; 2: largely compliant; 3: partially compliant; 4: non-compliant	20%
		Is mutual legal assistance given concerning identification, freezing, seizure and confiscation of property (FATF recommendation 38)?	1: compliant; 2: largely compliant; 3: partially compliant; 4: non-compliant	20%
		Is money laundering considered to be an extraditable offense (FATF recommendation 39)?	1: compliant; 2: largely compliant; 3: partially compliant; 4: non-compliant	20%
		Is the widest possible range of international co-operation granted to foreign counterparts beyond formal legal assistance on anti-money laundering and predicate crimes (FATF recommendation 40)?	1: compliant; 2: largely compliant; 3: partially compliant; 4: non-compliant	20%

Annex D: Detailed breakdown of results for 15 KFSI

Jurisdiction	KFSI-1	KFSI-2	KFSI-3	KFSI-4	KFSI-5	KFSI-6	KFSI-7	KFSI-8	KFSI-9	KFSI-10	KFSI-11	KFSI-12	KFSI-13	KFSI-14	KFSI-15
Andorra	0,43	0,75	0	0	0	0	0	0	0	0,5	0,39	0	0,3	0,6	0,59
Anguilla	0,6	0	0	0	0	0	0	0	0	0	0,58	1	0,22	0,2	0,93
Antigua & Barbuda	0,67	0	0	0	0	0	0	0	0	0	0,34	0	0,33	0,8	0,86
Aruba	0,33	0,75	0	0	0	0	0	0	0	0,5	0,23	1	0,46	0,6	0,54
Australia	0,67	0,5	0	0,2	0	0	1	1	0,5	0,5	0,52	0	1	1	1
Austria	0,37	0	0	0	1	0,5	0	0,2	0,7	0,5	0,54	0	0,3	0,8	0,53
Bahamas	0,34	0	0	0	0	0	0	0	0	0	0,55	0	0,46	0,8	0,86
Bahrain	0,4	0,625	0	0	0	0	0	0	0	0,5	0,52	0	0,52	0,8	0,79
Barbados	0,37	0,5	0	0	0	0	0	0	0	0	0,5	0	0,41	0,4	0,67
Belgium	0,93	0,25	0	0	1	0,5	0	0,6	0,2	0,5	0,76	1	0,98	0,8	0,72
Belize	0,37	0	0	0	0	0	0	0	0	0	0,31	0	1	0,8	0,46
Bermuda	0,53	0,5	0	0	0	0	0	0	0	0	0,43	0	0,57	0,2	0,79
Botswana	0,43	0,5	0	0	0	0	0	0	1	0,5	0,24	0	0	0,8	0,53
Brazil	0,5	0,75	0	0	0	0	1	1	1	0,5	0,48	0	0,39	0,8	0,72
British Virgin Islands	0,8	0,5	0	0	0	0	0	0	0	0	0,67	1	0,33	0,8	1
Brunei	0,27	0,5	0	0	0	0	0	0	0	0	0,28	0	0	0,8	0,53
Canada	0,73	0,5	0	0	0	0	1	0,8	0,4	0,5	0,51	0	1	0,8	0,72
Cayman Islands	0,5	0,5	0	0	0	0	0	0	0	0	0,68	1	0,5	0,4	0,93
Cook Islands	0,5	0	0	0	0	0	0	0	0,2	0,5	0,56	0	0,26	0,8	0,65
Costa Rica	0,5	0,5	0	0	0	0	0	0	0	0,5	0,28	0	1	1	0,53
Curacao	0,6	0,375	0	0	0	0	0	0	0	0,5	0,53	0	0,35	0,4	0,72
Cyprus	0,4	0,5	0	0	0	0,5	0	0,8	0,5	0,5	0,71	1	0,57	0,8	0,86
Denmark	0,57	0,25	0	0	1	0,5	1	1	1	0,5	0,5	1	1	1	0,79
Dominica	0,5	0,5	0	0	0	0	0	0	0,2	0,5	0,26	0	0	0,6	0,66
Dominican Republic	0,34	0,625	0	0	0	0	0	0	1	0,5	0,3	0	0	0,8	0,47
France	0,66	0,625	0	0	1	0,5	1	0,2	0	0,5	0,65	1	1	1	0,72

Jurisdiction	KFSI-1	KFSI-2	KFSI-3	KFSI-4	KFSI-5	KFSI-6	KFSI-7	KFSI-8	KFSI-9	KFSI-10	KFSI-11	KFSI-12	KFSI-13	KFSI-14	KFSI-15
Germany	0,6	0	0	0	0	0,5	0	0	0,7	0,5	0,53	1	1	0,6	0,65
Ghana	0,27	0,5	0	0	0	0	0	0,2	1	0,5	0,23	0	1	1	0,35
Gibraltar	0,64	0,5	0	0	0	0	0	0	0	0	0,63	0	0,37	0,4	0,67
Grenada	0,33	0,5	0	0	0	0	0	0	0	0,5	0,29	0	0,2	0,6	0,86
Guatemala	0,4	0,5	0	0	0	0	0	0	0	0,5	0,56	0	0	0,8	0,66
Guernsey	0,53	0,25	0	0	0	0	0	0	0,2	0	0,82	1	0,63	0,6	0,86
Hong Kong	0,44	0,5	0	0,2	0	0,1	0	0	0	0,5	0,58	0	0,33	0,8	0,79
Hungary	0,63	0,75	0	0	0	0,5	0,5	1	0,6	0,5	0,78	1	0,87	0,8	1
India	0,8	0,625	0	0	1	0	0	1	1	0,5	0,53	0	1	1	0,65
Ireland	0,77	0,625	0	0,2	1	0,5	0,5	0,6	0,1	0,5	0,6	1	1	1	1
Isle of Man	0,67	0	0	0,2	0	0	0	0	0,2	0	0,66	1	0,61	0,8	0,8
Israel	0,54	0,5	0	0	0	0	0	1	1	0,5	0,58	0	0,63	0,8	0,86
Italy	0,77	0	0	0,2	1	0,5	0	1	0,5	0,5	0,63	1	1	1	1
Japan	0,73	0,625	0	0	0	0	1	0,2	0,7	0,5	0,45	0	0,8	0,4	0,47
Jersey	0,77	0	0	0,2	0	0	0	0	0	0	0,74	0	0,59	0,6	0,79
Korea	0,5	0,625	0	0	0	0	1	0,4	1	0,5	0,42	0	1	0,8	0,72
Latvia	0,34	0,75	0	0	0	0,5	0,5	1	0,6	0,5	0,56	1	0	0,8	0,8
Lebanon	0,47	0,5	0	0	0	0	0	0	0	0,5	0,45	0	0	0,6	0,65
Liberia	0,47	0,125	0	0	0	0	0	0	0	0,5	0,14	0	0,2	0,8	0,28
Liechtenstein	0,37	0	0	0	0	0	0	0	0	0,5	0,51	0	0,39	0,8	0,54
Luxembourg	0,3	0,25	0	0	1	0,5	0	0,4	0,2	0	0,35	0	0,5	0,8	0,72
Macau	0,5	0,75	0	0	0	0	0	0,8	0	0,5	0,55	0	0,17	0,8	0,35
Malaysia (Labuan)	0,63	0	0	0	0	0	0	0,2	0	0	0,61	0	0,24	0,8	0,59
Maldives	0	0,75	0	0	0	0	0	0	1	0,5	0,09	0	0	0,6	0,14
Malta	0,63	0	0	0,2	1	0,5	0	0,8	0,6	0	0,69	1	1	1	1
Marshall Islands	0,2	0,625	0	0	0	0	0	0	0	0	0,45	0	0,15	0,8	0,53
Mauritius	0,5	0	0	0	0	0	0	0,2	0	0	0,48	0	0,37	0,8	0,65

Jurisdiction	KFSI-1	KFSI-2	KFSI-3	KFSI-4	KFSI-5	KFSI-6	KFSI-7	KFSI-8	KFSI-9	KFSI-10	KFSI-11	KFSI-12	KFSI-13	KFSI-14	KFSI-15
Monaco	0,5	0,5	0	0	0	0	0	0	0,3	0,5	0,48	0	0,41	0,6	0,47
Montserrat	0,3	0,5	0	0	0	0	0	0	0	0,5	0,53	1	0,15	0,2	0,65
Nauru	0,4	0,5	0	0	0	0	0	0	0	0,5	0,43	0	0	0,8	0,53
Netherlands	0,7	0,25	0	0	0	0,5	0,5	1	0	0,5	0,56	1	1	1	0,47
New Zealand	0,63	0,625	0	0,2	0	0	1	1	0,6	0,5	0,44	0	0,89	0,6	0,72
Norway	0,87	0,5	0	0	1	0	0,5	1	1	0,5	0,62	0	1	1	0,66
Panama	0,56	0,25	0	0	0	0	0	0,2	0	0,5	0,67	0	0,15	0,8	0,86
Philippines	0,4	0,625	0	0	0	0	0	0	1	0,5	0,42	0	0,57	0,8	0,66
Portugal (Madeira)	0,63	0,75	0	0	0	0,5	1	0,6	0,7	0,5	0,66	1	1	0,8	1
Russia	0,6	0,75	0	0	0	0	0	1	0,2	0,5	0,55	0	0,67	0,8	0,86
Samoa	0,44	0	0	0	0	0	0	0	0,2	0	0,28	0	0,26	0,4	0,28
San Marino	0,4	0	0	0	0	0	0	0	0,2	0,5	0,24	0	0,57	0,6	0,47
Saudi Arabia	0,47	0,625	0	0	0	0	0	0,2	0	0,5	0,54	0	0,3	0,6	0,53
Seychelles	0,37	0,125	0	0	0	0	0	0	0	0	0,23	0	0,28	0,8	0,41
Singapore	0,36	0,5	0	0	0	0	0	0,2	0	0,5	0,69	0	0,54	0,8	0,86
South Africa	0,74	0,625	0	0	0	0	0,5	1	0,6	0,5	0,5	0	0,93	0,8	0,79
Spain	0,67	0,75	0	0	0	0,5	1	1	0,7	0,5	0,61	1	1	1	0,93
St Kitts and Nevis	0,23	0,125	0	0	0	0	0	0	0	0,5	0,44	0	0,37	0,6	0,8
St Lucia	0,4	0,5	0	0	0	0	0	0	0,1	0	0,14	0	0,33	0,6	0,27
St Vincent & Grenadines	0,43	0,5	0	0	0	0	0	0	0	0	0,42	0	0,41	0,6	0,93
Sweden	0,5	0,25	0	0	1	0,5	1	1	1	0,5	0,53	1	1	1	0,86
Switzerland	0,37	0	0	0	0	0	0	0	0	0,5	0,61	0	0,17	0,8	0,79
Turks & Caicos Islands	0,37	0,5	0	0	0	0	0	0	0	0	0,34	1	0,24	0,2	0,61
United Arab Emirates (Dubai)	0,43	0,5	0	0	0	0	0	0	0	0	0,43	0	0,46	0,8	0,53
United Kingdom	0,67	0,5	0	0	1	0,5	0	0,6	0,6	0,5	0,72	1	1	1	0,93
Uruguay	0,47	0,625	0	0	0	0	0	0	0	0,5	0,65	0	0,26	0,8	0,86
US Virgin Islands	0,6	0,5	0	0	0	0	0	0	0,2	0	0,7	0	1	0,8	0,79

Jurisdiction	KFSI-1	KFSI-2	KFSI-3	KFSI-4	KFSI-5	KFSI-6	KFSI-7	KFSI-8	KFSI-9	KFSI-10	KFSI-11	KFSI-12	KFSI-13	KFSI-14	KFSI-15
USA	0,6	0,5	0	0	0	0,25	0	1	0,6	0	0,7	0	1	0,8	0,79
Vanuatu	0,34	0	0	0	0	0	0	0	0	0	0,33	0	0	0,8	0,53

Annex E: Secrecy Scores, alphabetical order

ID	Jurisdiction	ISO	S/Score	ID	Jurisdiction	ISO	S/Score
1	Andorra	AD	76,27	42	Korea	KR	53,57
2	Anguilla	AI	76,47	43	Latvia	LV	51
3	Antigua & Barbuda	AG	80	44	Lebanon	LB	78,87
4	Aruba	AW	70,6	45	Liberia	LR	83,23
5	Australia	AU	47,4	46	Liechtenstein	LI	79,27
6	Austria	AT	63,73	47	Luxembourg	LU	66,53
7	Bahamas	BS	79,93	48	Macau	MO	70,53
8	Bahrain	BH	72,3	49	Malaysia (Labuan)	MY	79,53
9	Barbados	BB	81	50	Maldives	MV	79,47
10	Belgium	BE	45,07	51	Malta	MT	43,87
11	Belize	BZ	80,4	52	Marshall Islands	MH	81,63
12	Bermuda	BM	79,87	53	Mauritius	MU	80
13	Botswana	BW	73,33	54	Monaco	MC	74,93
14	Brazil	BR	52,4	55	Montserrat	MS	74,47
15	British Virgin Islands	VG	66	56	Nauru	NR	78,93
16	Brunei	BN	84,13	57	Netherlands	NL	50,13
17	Canada	CA	53,6	58	New Zealand	NZ	51,97
18	Cayman Islands	KY	69,93	59	Norway	NO	42,33
19	Cook Islands	CK	76,87	60	Panama	PA	73,4
20	Costa Rica	CR	71,27	61	Philippines	PH	66,83
21	Curacao	CW	76,83	62	Portugal (Madeira)	PT	39,07
22	Cyprus	CY	52,4	63	Russia	RU	60,47
23	Denmark	DK	32,6	64	Samoa	WS	87,6
24	Dominica	DM	78,53	65	San Marino	SM	80,13
25	Dominican Republic	DO	73,1	66	Saudi Arabia	SA	74,9
26	France	FR	40,97	67	Seychelles	SC	85,23
27	Germany	DE	59,47	68	Singapore	SG	70,33
28	Ghana	GH	66,33	69	South Africa	ZA	53,43
29	Gibraltar	GI	78,6	70	Spain	ES	35,6
30	Grenada	GD	78,13	71	St Kitts and Nevis	KN	79,57
31	Guatemala	GT	77,2	72	St Lucia	LC	84,4
32	Guernsey	GG	67,4	73	St Vincent & Grenadines	VC	78,07
33	Hong Kong	HK	71,73	74	Sweden	SE	32,4
34	Hungary	HU	40,47	75	Switzerland	CH	78,4
35	India	IN	45,97	76	Turks & Caicos Islands	TC	78,27
36	Ireland	IE	37,37	77	United Arab Emirates (Dubai)	AE	79
37	Isle of Man	IM	67,07	78	United Kingdom	GB	39,87
38	Israel	IL	57,27	79	Uruguay	UY	72,23
39	Italy	IT	39,33	80	US Virgin Islands	VI	69,4
40	Japan	JP	60,83	81	USA	US	58,4
41	Jersey	JE	75,4	82	Vanuatu	VU	86,67

Annex F: Secrecy Scores, descending order

ID	Jurisdiction	ISO	S/Score	ID	Jurisdiction	ISO	S/Score
1	Samoa	WS	87,6	42	Hong Kong	HK	71,73
2	Vanuatu	VU	86,67	43	Costa Rica	CR	71,27
3	Seychelles	SC	85,23	44	Aruba	AW	70,6
4	St Lucia	LC	84,4	45	Macau	MO	70,53
5	Brunei	BN	84,13	46	Singapore	SG	70,33
6	Liberia	LR	83,23	47	Cayman Islands	KY	69,93
7	Marshall Islands	MH	81,63	48	US Virgin Islands	VI	69,4
8	Barbados	BB	81	49	Guernsey	GG	67,4
9	Belize	BZ	80,4	50	Isle of Man	IM	67,07
10	San Marino	SM	80,13	51	Philippines	PH	66,83
11	Antigua & Barbuda	AG	80	52	Luxembourg	LU	66,53
12	Mauritius	MU	80	53	Ghana	GH	66,33
13	Bahamas	BS	79,93	54	British Virgin Islands	VG	66
14	Bermuda	BM	79,87	55	Austria	AT	63,73
15	St Kitts and Nevis	KN	79,57	56	Japan	JP	60,83
16	Malaysia (Labuan)	MY	79,53	57	Russia	RU	60,47
17	Maldives	MV	79,47	58	Germany	DE	59,47
18	Liechtenstein	LI	79,27	59	USA	US	58,4
19	United Arab Emirates (Dubai)	AE	79	60	Israel	IL	57,27
20	Nauru	NR	78,93	61	Canada	CA	53,6
21	Lebanon	LB	78,87	62	Korea	KR	53,57
22	Gibraltar	GI	78,6	63	South Africa	ZA	53,43
23	Dominica	DM	78,53	64	Brazil	BR	52,4
24	Switzerland	CH	78,4	65	Cyprus	CY	52,4
25	Turks & Caicos Islands	TC	78,27	66	New Zealand	NZ	51,97
26	Grenada	GD	78,13	67	Latvia	LV	51
27	St Vincent & Grenadines	VC	78,07	68	Netherlands	NL	50,13
28	Guatemala	GT	77,2	69	Australia	AU	47,4
29	Cook Islands	CK	76,87	70	India	IN	45,97
30	Curacao	CW	76,83	71	Belgium	BE	45,07
31	Anguilla	AI	76,47	72	Malta	MT	43,87
32	Andorra	AD	76,27	73	Norway	NO	42,33
33	Jersey	JE	75,4	74	France	FR	40,97
34	Monaco	MC	74,93	75	Hungary	HU	40,47
35	Saudi Arabia	SA	74,9	76	United Kingdom	GB	39,87
36	Montserrat	MS	74,47	77	Italy	IT	39,33
37	Panama	PA	73,4	78	Portugal (Madeira)	PT	39,07
38	Botswana	BW	73,33	79	Ireland	IE	37,37
39	Dominican Republic	DO	73,1	80	Spain	ES	35,6
40	Bahrain	BH	72,3	81	Denmark	DK	32,6
41	Uruguay	UY	72,23	82	Sweden	SE	32,4

Annex G: Global Scale Weights, alphabetical order

Key for Data Source:
1. 'True' financial services exports data (Balance of Payment Statistics, IMF)
2. Extrapolated from asset data (filtered International Investment Position data, IMF)
3. Extrapolated from asset data (Coordinated Portfolio Investment Survey, IMF)
4. Extrapolated from liability data, based on non-credible declared asset data (Coordinated Portfolio Investment Survey, IMF)
5. Extrapolated from liability data, based on non-declaration of asset data (Coordinated Portfolio Investment Survey, IMF)
6. No data available

ID	Jurisdiction	GSW	Source	ID	Jurisdiction	GSW	Source
1	Andorra	0,00009	5	42	Korea	0,97831	1
2	Anguilla	0,00101	5	43	Latvia	0,09009	1
3	Antigua & Barbuda	0,00017	5	44	Lebanon	0,35420	1
4	Aruba	0,00334	1	45	Liberia	0,01421	5
5	Australia	0,39365	1	46	Liechtenstein	0,01132	5
6	Austria	0,37133	1	47	Luxembourg	12,04948	1
7	Bahamas	0,00877	3	48	Macao	0,10847	1
8	Bahrain	0,18169	2	49	Malaysia	0,08245	1
9	Barbados	0,02132	3	50	Maldives	0,00001	5
10	Belgium	1,03113	1	51	Malta	0,07900	1
11	Belize	0,00156	1	52	Marshall Islands	0,02225	5
12	Bermuda	0,06111	1	53	Mauritius	0,04692	1
13	Botswana	0,00158	1	54	Monaco	0,00008	5
14	Brazil	0,76839	1	55	Montserrat	-	6
15	British Virgin Islands	0,24099	5	56	Nauru	-	6
16	Brunei Darussalam	0,00006	5	57	Netherlands	0,43046	1
17	Canada	2,00760	1	58	New Zealand	0,12555	1
18	Cayman Islands	4,69371	4	59	Norway	0,66727	1
19	Cook Islands	0,00002	5	60	Panama	0,18980	1
20	Costa Rica	0,00825	1	61	Philippines	0,03320	1
21	Curacao	0,00129	1	62	Portugal	0,09157	1
22	Cyprus	0,26426	1	63	Russia	0,31828	1
23	Denmark	0,60464	2	64	Samoa	0,00001	5
24	Dominica	0,00002	5	65	San Marino	0,00016	5
25	Dominican Republic	0,01221	1	66	Saudi Arabia	0,02779	1
26	France	2,14108	1	67	Seychelles	0,01065	1
27	Germany	4,32597	1	68	Singapore	4,28012	1
28	Ghana	0,00534	5	69	South Africa	0,26019	1
29	Gibraltar	0,00282	3	70	Spain	1,50447	1
30	Grenada	0,00016	5	71	St Kitts & Nevis	0,00000	5
31	Guatemala	0,00297	1	72	St Lucia	0,00014	5

ID	Jurisdiction	GSW	Source	ID	Jurisdiction	GSW	Source
32	Guernsey	0,25693	3	73	St Vincent & the Grenadines	0,00057	5
33	Hong Kong	4,20557	1	74	Sweden	0,43952	1
34	Hungary	0,05605	1	75	Switzerland	4,91557	1
35	India	1,79952	1	76	Turks & Caicos Islands	0,00050	5
36	Ireland	2,64624	1	77	United Arab Emirates	0,06138	5
37	Isle of Man	0,04863	3	78	United Kingdom	18,53012	1
38	Israel	0,13175	2	79	Uruguay	0,03992	1
39	Italy	0,74772	1	80	US Virgin Islands	0,00291	5
40	Japan	1,18456	1	81	USA	22,58580	1
41	Jersey	0,26301	3	82	Vanuatu	0,00163	1

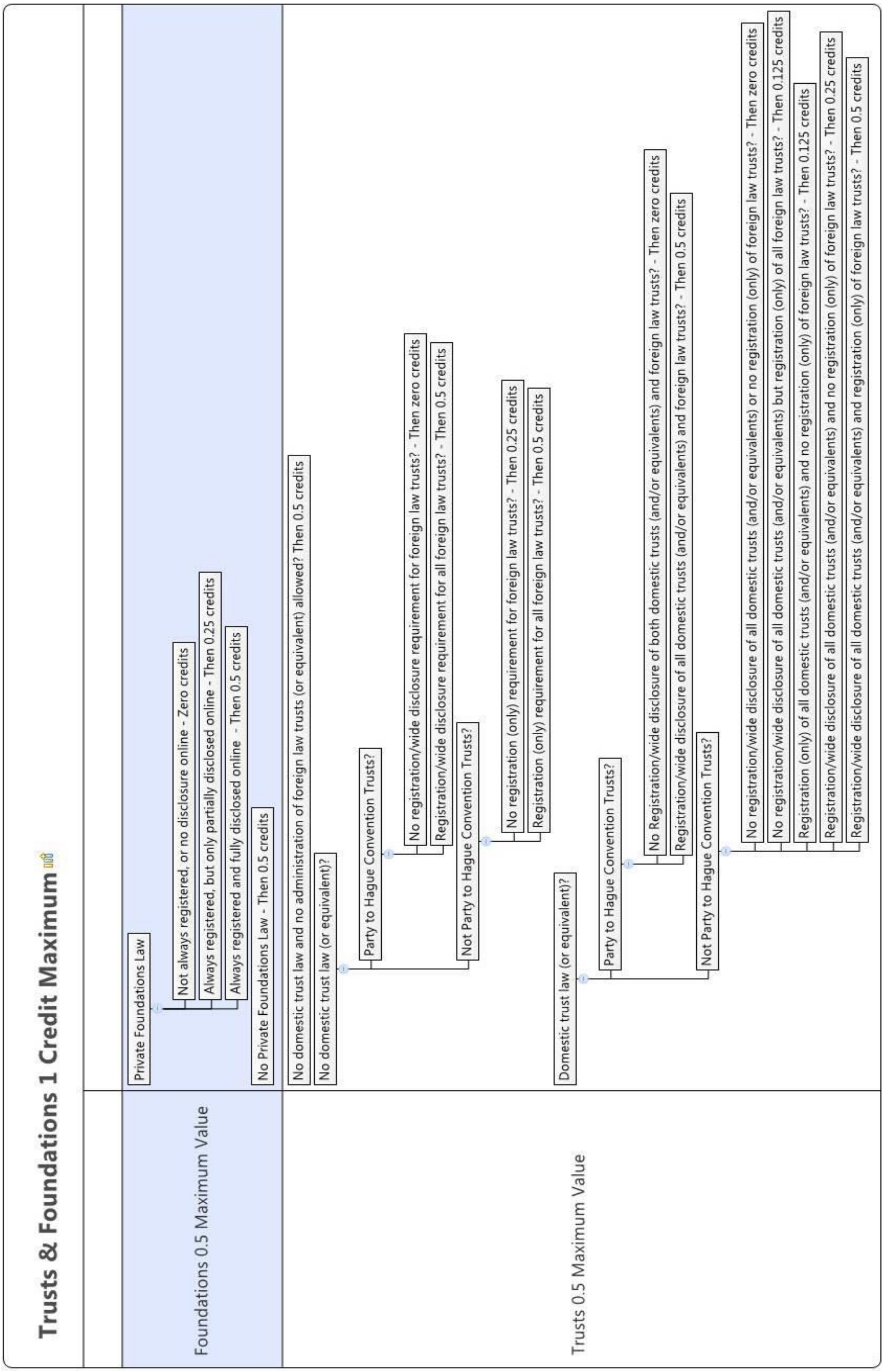
Annex H: Global Scale Weights, descending order

Key for Data Source:
1. 'True' financial services exports data (Balance of Payment Statistics, IMF)
2. Extrapolated from asset data (filtered International Investment Position data, IMF)
3. Extrapolated from asset data (Coordinated Portfolio Investment Survey, IMF)
4. Extrapolated from liability data, based on non-credible declared asset data (Coordinated Portfolio Investment Survey, IMF)
5. Extrapolated from liability data, based on non-declaration of asset data (Coordinated Portfolio Investment Survey, IMF)
6. No data available

ID	Jurisdiction	GSW	Source	ID	Jurisdiction	GSW	Source
1	USA	22,58580	1	42	Bermuda	0,06111	1
2	United Kingdom	18,53012	1	43	Hungary	0,05605	1
3	Luxembourg	12,04948	1	44	Isle of Man	0,04863	3
4	Switzerland	4,91557	1	45	Mauritius	0,04692	1
5	Cayman Islands	4,69371	4	46	Uruguay	0,03992	1
6	Germany	4,32597	1	47	Philippines	0,03320	1
7	Singapore	4,28012	1	48	Saudi Arabia	0,02779	1
8	Hong Kong	4,20557	1	49	Marshall Islands	0,02225	5
9	Ireland	2,64624	1	50	Barbados	0,02132	3
10	France	2,14108	1	51	Liberia	0,01421	5
11	Canada	2,00760	1	52	Dominican Republic	0,01221	1
12	India	1,79952	1	53	Liechtenstein	0,01132	5
13	Spain	1,50447	1	54	Seychelles	0,01065	1
14	Japan	1,18456	1	55	Bahamas	0,00877	3
15	Belgium	1,03113	1	56	Costa Rica	0,00825	1
16	Korea	0,97831	1	57	Ghana	0,00534	5
17	Brazil	0,76839	1	58	Aruba	0,00334	1
18	Italy	0,74772	1	59	Guatemala	0,00297	1
19	Norway	0,66727	1	60	US Virgin Islands	0,00291	5
20	Denmark	0,60464	2	61	Gibraltar	0,00282	3
21	Sweden	0,43952	1	62	Vanuatu	0,00163	1
22	Netherlands	0,43046	1	63	Botswana	0,00158	1
23	Australia	0,39365	1	64	Belize	0,00156	1
24	Austria	0,37133	1	65	Curacao	0,00129	1
25	Lebanon	0,35420	1	66	Anguilla	0,00101	5
26	Russia	0,31828	1	67	St Vincent & the Grenadines	0,00057	5
27	Cyprus	0,26426	1	68	Turks & Caicos Islands	0,00050	5
28	Jersey	0,26301	3	69	Antigua & Barbuda	0,00017	5
29	South Africa	0,26019	1	70	Grenada	0,00016	5
30	Guernsey	0,25693	3	71	San Marino	0,00016	5
31	British Virgin Islands	0,24099	5	72	St Lucia	0,00014	5

ID	Jurisdiction	GSW	Source	ID	Jurisdiction	GSW	Source
32	Panama	0,18980	1	73	Andorra	0,00009	5
33	Bahrain	0,18169	2	74	Monaco	0,00008	5
34	Israel	0,13175	2	75	Brunei Darussalam	0,00006	5
35	New Zealand	0,12555	1	76	Cook Islands	0,00002	5
36	Macao	0,10847	1	77	Dominica	0,00002	5
37	Portugal	0,09157	1	78	Samoa	0,00001	5
38	Latvia	0,09009	1	79	Maldives	0,00001	5
39	Malaysia	0,08245	1	80	St Kitts & Nevis	0,00000	5
40	Malta	0,07900	1	81	Montserrat	-	[illegible]
41	United Arab Emirates	0,06138	5	82	Nauru	-	[illegible]

Annex I: Mind Map of KFSI 2



Annex J: GSW, addressing the Cayman discrepancy

During preparation of data for the first Financial Secrecy Index, it was noted that the Cayman Islands was a distant outlier in terms of the relationship between recorded assets and liabilities. A normalising adjustment made at the time addressed this.

For the second as well as this third release of the Financial Secrecy Index, however, we have assembled a larger dataset covering now more jurisdictions in a 2001-2011 panel on international financial flows and stocks, and this confirms the existence of a systematic discrepancy in relation to the Cayman Islands.

Following the IMF working paper by Zoromé (2007), we take assets of each jurisdiction to be the maximum of the values given by the Coordinated Portfolio Investment Survey (CPIS) and the International Investment Position (IIP). For liabilities, only the CPIS provides a value. In general, there is a strong correlation between assets and liabilities.

In a small number of cases, however, the recorded value for liabilities – i.e. that based on the recording of *other* jurisdictions – far exceeds the declared value for assets. To consider how reasonable these differences are, we consider liabilities minus assets as a ratio to jurisdictions' GDP (we use GDP from the World Bank's World Development Indicators and when not available, we use information from the CIA's World Factbook and from forthcoming or previous years when data is available). This allows us to scale the size of the difference according to jurisdiction, so that for example Jersey is not necessarily more likely to stand out than the United States.

The top eleven all relate to the Cayman Islands. For only one other jurisdiction is there a ratio greater than 10 (for Netherlands Antilles that no longer exist). For all eleven of the Cayman observations from 2001-20011, the ratio exceeds 250, with the highest values (in excess of 500 times GDP) all recorded in the most recent years.

Jurisdiction	**Year**	**(Liabilities-Assets) / GDP**
Cayman Islands	2007	899.6725
Cayman Islands	2011	825.4934
Cayman Islands	2009	742.6523
Cayman Islands	2005	713.2825
Cayman Islands	2006	691.5632
Cayman Islands	2004	690.3969
Cayman Islands	2010	673.7507
Cayman Islands	2008	650.5049
Cayman Islands	2003	506.4803
Cayman	2002	378.0023

Islands		
Cayman Islands	2001	287.9693

On this basis we can conclude that the recorded Cayman asset and liability data exhibits some unique feature. In fact, IMF researchers have recently attributed this to a specific difference in Cayman reporting, namely that it excludes "the very large collective investment schemes industry". They go on to note that "data [on collective investment schemes] are sometimes hard to reconcile with data on bilateral holdings reported by partner countries", and that "the Net Asset Value reported by hedge funds registered in the Cayman Islands totalled over $2.2 trillion at end-2007. However, portfolio equity claims on the Cayman Islands reported by the main investor countries participating in the CPIS were only $768bn" (Lane/Milesi-Ferretti 2010: 6).

On this basis, an adjustment is necessary to ensure that the index more accurately reflects Cayman's role. We proceed as follows. We take the liabilities data – that recorded by all other reporting jurisdictions – to be the most accurate reflection of Cayman's activity (albeit far from perfect). We then perform a simple ordinary least squares regression of our asset value on CPIS reported liabilities, with no constant, using the pooled data for all jurisdictions except Cayman, from 2001-2011. The coefficient on CPIS reported liabilities is 2.051511.[167] Taking this as the average ratio of assets to liabilities in our dataset, we multiply the 2001-2011 values for Cayman liabilities by this to obtain a value for Cayman assets which we believe reflects more closely the actual scale of Cayman activity in this sphere. Given the IMF analysis, this is likely if anything to be an underestimate.

[167] This is significant at the 1% level; the R-squared for the regression is 0.8810.