

# NARRATIVE REPORT ON AUSTRALIA



## PART 1: TELLING THE STORY

Australia, not traditionally regarded as a secrecy jurisdiction, is ranked at 44th position in the 2015 Financial Secrecy Index. This ranking is based on a combination of its secrecy score and a scale weighting based on its share of the global market for offshore financial services.

Australia has been assessed with 43 secrecy points out of a potential 100, which places it in the lower mid-range of the secrecy scale (see chart 1).

Australia accounts for less than 1 per cent of the global market for offshore financial services, making it a tiny player compared with other secrecy jurisdictions (see chart 2).

Australia has taken significant steps to address tax evasion and tax avoidance, especially as it relates to revenue loss from Australia. However, its record of helping other countries combat tax evasion and money laundering is somewhat mixed.

### Telling the story: Australia as a secrecy jurisdiction

A number of recent cases demonstrate that Australia undoubtedly hosts significant quantities of illicit funds from outside the country. However, due to the nature of illicit financial flows, comprehensive data is not available.

In June 2015, Global Witness worked with a number of media outlets to expose evidence of how Australian lawyers have been allegedly involved in facilitating bribery and money laundering of funds out of Papua New Guinea (PNG).<sup>1</sup>

In response to the work of Global Witness Sam Koim, the head of PNG's anti-corruption body 'Task Force Sweep', called on the Australian federal government to launch a major investigation and said, "Australia is becoming the choice destination for dirty politicians in the region to park their funds."<sup>2</sup>

Also in June 2015, the media reported on allegations of senior Malaysian Government officials and businessmen involved in bribery laundering money through the purchase of Australian property.<sup>3</sup> The purchase of Australian properties was conducted via shell companies in the British Virgin Islands and Singapore.

One reason for the failure to stop illicit funds finding a safe haven in Australia appears to be weaknesses in Australia's anti-money laundering laws. In 2007 the Federal Government released draft legislation to extend anti-money laundering provisions to real estate agents in relation to the buying and selling of property, dealers in precious metals and stones, lawyers, accountants,

Rank: 44

Chart 1 - How Secretive?

43  
Secrecy Score

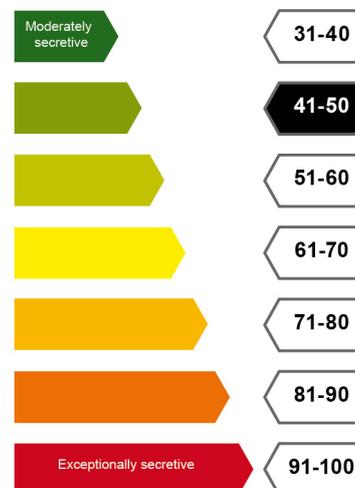
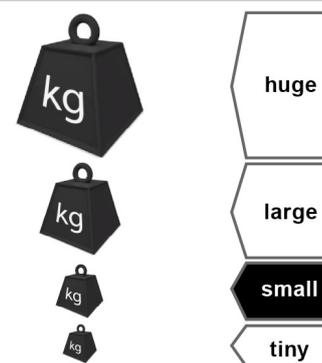


Chart 2 - How Big?



Australia accounts for slightly under 0.6 per cent of the global market for offshore financial services, making it a small player compared with other secrecy jurisdictions.

The ranking is based on a combination of its secrecy score and scale weighting.

Read more  
 → Full data  
 → Australia on TJN Blog  
 → Full Methodology

notaries and company service providers. Yet this legislation was never implemented.

In April 2015, FATF released its latest mutual evaluation report of Australia's anti-money laundering and counter-terrorist financing system. FATF found that Australia has strong legal, law enforcement and operational measures for combating money laundering and terrorism financing, but important improvements are needed in a number of key areas.<sup>4</sup>

The Mutual Evaluation Report of Australia, recognised that Australia has a good understanding of its money laundering risks, coordinates domestically to address these risks, and has effective mechanisms for international cooperation. However, the FATF review noted that the authorities focus more on the disruption of predicate crimes, rather than on the laundering of the proceeds of these crimes and their confiscation.

The review also concluded that while Australia regulates its major money laundering and terrorism financing channels, such as banking, remittance and gaming, most designated non-financial businesses and professions (DNFBPs) are still not subject to anti-money laundering / counter-terrorist financing (AML/CTF) requirements and have insufficient understanding of their risks.

DNFBPs include real estate agents and lawyers, which the authorities assessed as high risk for money laundering and terrorist financing. The report concludes that Australia should do more to demonstrate they are improving AML/CTF compliance by those entities already subject to AML/CTF requirements and that they are successfully discouraging criminal abuse of the financial and DNFBP sectors.

Money laundering legislation permits information about suspicious financial transactions collected by Australia's financial intelligence unit, AUSTRAC, to be passed to a foreign government, provided that the government receiving the information gives appropriate undertakings in relation to

confidentiality<sup>5</sup>.

A 2013 assessment of the Australian Transaction Reports and Analysis Centre (AUSTRAC) by the Australian Auditor General concluded that while its financial intelligence is "highly valued both domestically and internationally," its effectiveness in countering money laundering and serious and organised crime is "not readily quantifiable."<sup>6</sup> Furthermore, AUSTRAC will generally only share information with overseas Financial Intelligence Units (FIUs) where a formal exchange agreement exists. At the moment there are 76 such agreements in place, including with Argentina, Brazil, Chile, Colombia, Fiji, Guatemala, India, Indonesia, Malaysia, Mexico, the Philippines, South Africa, Sri Lanka, Thailand and Venezuela.<sup>7</sup>

A 2010 investigation into alternative remittance services by the Australian Institute of Criminology found that some of these services were willing to handle transactions suspected of being involved in tax and customs evasion and illicit drug trafficking, in exchange for a higher rate of commission.<sup>8</sup>

### **Australia's losses to secrecy jurisdictions**

When seeking to tackle illicit outflows from Australia, including the protection of tax revenue (and other) losses to secrecy jurisdictions, Australia has taken an innovative and highly proactive approach.

In February 2006 the Australian government established Project Wickenby, a multi-agency taskforce aimed at preventing people from promoting and using overseas secrecy jurisdictions for tax avoidance and tax evasion. As of 31 January 2015 Project Wickenby had raised \$2.16 billion in tax liabilities and its work had seen 76 people charged, 44 convicted and 69 prosecuted for summary offences. Cash collections by the end of 2014 from Project Wickenby totalled \$921million.<sup>9</sup> It is seen as a model for other countries to follow in curbing tax evasion and tax avoidance.

AUSTRAC has reported that Project Wickenby resulted in a decrease in the flow of money to the 13 secrecy jurisdictions of interest to the

task force. They reported a 13% decrease in the value of funds moving from Australia to secrecy jurisdictions in 2012-13 compared to 2007-08. The value of financial flows to six of the 13 tax secrecy jurisdictions decreased by more than 30%. This includes Liechtenstein (55% decrease); Vanuatu (51% decrease) and Jersey (30% decrease).<sup>10</sup>

Project Wickenby is being wound up, but it was announced on 5 May 2015 it would be replaced by new taskforce, the Serious Financial Crime Taskforce, to fight serious and organised financial crime.<sup>11</sup> The new taskforce will conduct investigations and prosecutions that will address superannuation and investment fraud, identity crime and tax evasion.

The Serious Financial Crime Taskforce includes the Australian Taxation Office, Australian Crime Commission, Australian Federal Police, Attorney-General's Department, Australian Transaction Reports and Analysis Centre, Australian Securities and Investments Commission, Commonwealth Director of Public Prosecutions and Australian Customs and Border Protection Services.

Australia has lost significant revenue to tax evasion and avoidance by transnational companies and other cross-border traders. Calculations commissioned by Christian Aid found that Australia lost €1.1 billion in tax revenue through profits shifting on trade to the EU in the period 2005 – 2007 and US\$1.5 billion in tax revenue through profits shifting on trade to the US in the same period.<sup>12</sup>

In December 2014, the then Treasurer, the Hon Joe Hockey, said that the Australian Government was being short-changed by the cross-border profit shifting activities of MNEs to the tune of \$1 billion to \$3 billion a year.<sup>13</sup> Previously, in September 2014, the Commissioner of Taxation, Chris Jordan, said the ATO had estimated the government was losing up to \$1 billion a year because of the tax minimising strategies of MNEs.<sup>14</sup>

To stem these losses, Australia has adopted a General Anti-Avoidance Rule, updated in June

2013 to ensure its effectiveness, and like most developed countries it has controlled foreign company (CFC) measures to curb tax dodging by transnational enterprises, though these rules are inevitably leaky.

In 2014 the safe-harbour debt-to-equity ratio for addressing thin capitalisation was reduced from 75% to 60%.

In the 2015-2016 Australian Government budget released on 12 May 2015, further amendments were announced to the General Anti-Avoidance Rule, which will seek to address some cases of when an MNE seeks to put in place arrangements to avoid having a permanent establishment in Australia. The modification will only apply to MNEs with a global annual revenue greater than AU\$1 billion.

The budget also included a proposal that MNEs with more than \$1 billion of revenue globally, but which operate in Australia will be required to provide their financial details on a country-by-country basis to the Australian Taxation Office (ATO) starting in 2016. None of the information will be made publicly available, which is a major shortcoming given that civil society plays an important part in scrutinising corporate tax behaviour.

In the Mid-year Economic and Fiscal Outlook 2014-15, the Government announced it will implement the OECD Common Reporting Standard for the automatic exchange of financial account information from 1 January 2017, with the first exchange of information in 2018.<sup>15</sup>

In June 2013 the Australian Parliament passed legislation to allow the tax payable by companies with revenue greater than \$100 million to be published by the Australian Taxation Office, a small step towards greater tax transparency. However, the current Government has been proceeding with plans to weaken this limited public disclosure measure, by exempting an estimated 700 Australian resident privately owned companies, where the company is at least 50% Australian owned.<sup>16</sup>

The Australian Government has been an active

participant in the OECD BEPS Action Plan working groups.

#### Read more:

- [Full data for Australia](#)
- [Australia on TJN Blog](#)
- [Full Methodology](#)

Source: Mark Zirnsak, *Tax Justice Network Australia*

<sup>1</sup> Nick McKenzie, Richard Baker and John Garnaut, 'Lawyers taped in money launder sting', *The Age*, 24 June 2015.

<sup>2</sup> Nick McKenzie, Richard Baker and John Garnaut, 'Lawyers taped in money launder sting', *The Age*, 24 June 2015.

<sup>3</sup> Nick McKenzie, Richard Baker and John Garnaut, 'Malaysians in property rort', *The Age*, 23 June 2015.

<sup>4</sup> FATF, 'Australia has a mature regime for combating money laundering and terrorist financing, but certain key areas remain unaddressed, says FATF', 21 April 2015, <http://www.fatf-gafi.org/countries/a-c/australia/documents/australia-mature-regime-to-combat-money-laundering-terrorist-financing-key-areas-remain-unaddressed.html>.

<sup>5</sup> Section 132 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*

<sup>6</sup> The audit also found that agreed processing times were not being met for suspicious matter reports and suspicious transaction reports. In the 2011-2012 financial year financial intelligence provided by AUSTRAC was used by the Australian Taxation Office (ATO) in 3,745 cases, resulting in an additional \$252 million in revenue from tax assessments. The Suspicious Report Analysis team is supposed to process 90% of reports within five days. From July 2011 to January 2013, the team was only able to process, on average, 57.7% of received reports within the agreed timeframes. The audit found that in the backlog of suspicious matter reports and suspect transaction reports from July 2011 to February 2013 there were 6,384 un-assessed records that had a significance rating of 'very high/high', suggesting that AUSTRAC needs greater resources to be able to properly carry out its functions. Since the audit,

the Australian Government provided an additional \$16.1 million spread over four years to AUSTRAC. AUSTRAC's overall expenses were \$65.88 million in the 2011-2012 financial year, of which 55% (\$36.33 million) were for its FIU functions. From The Auditor-General, "AUSTRAC's Administration of its Financial Intelligence Function", Australian National Audit Office, Audit Report No 47 2012-23, June 2013, pp. 15, 17, 20, 24, 67, 71.

<sup>7</sup> AUSTRAC website <http://www.austrac.gov.au/about-us/international-engagement/exchange-instruments-list>

<sup>8</sup> David Rees, 'Money laundering and terrorism financing risks posed by alternative remittance in Australia', AIC Research and Public Policy Series, Report 106, 2010, pp. xii – xiii.

<sup>9</sup> <https://www.ato.gov.au/General/The-fight-against-tax-crime/News-and-results/Project-Wickenby---getting-results/>

<sup>10</sup> <http://www.austrac.gov.au/project-wickenby>

<sup>11</sup> The Hon Joe Hockey, 'Serious Financial Crime Taskforce', Media Release, 5 May 2015, <http://jbh.ministers.treasury.gov.au/media-release/035-2015/>

<sup>12</sup> David McNair and Andrew Hogg, 'False profits: robbing the poor to keep the rich tax-free', Christian Aid, March 2009. pp.20, 27. Separately, a report by tax expert Bruce Quigley concluded that international dealings between different parts of the same multinational company, where one part is in Australia, amount to around \$270 billion annually. Trade within transnational companies now makes up around 45% of total Australian cross-border trade in goods and services. It grew 44% in the period 2004 to 2009. Bruce Quigley, 'Tax administration in a global environment', ICAA Conference, <http://www.ato.gov.au>, 22 November 2012.

<sup>13</sup> Heath Aston and Georgia Wilkins, 'Hockey stalls on promised Google tax', *The Age*, 10 December 2014.

<sup>14</sup> Georgia Wilkins, 'Tax take swims through tears in the corporate net', *The Age*, 6 September 2014.

<sup>15</sup> <https://www.ato.gov.au/General/New-legislation/In-detail/Other-topics/International/Common-Reporting-Standard/>

<sup>16</sup> <http://www.treasury.gov.au/ConsultationsandReviews/Consultations/2015/Better-targeting-the-income-tax-transparency-laws>

## PART 2: AUSTRALIA'S SECRECY SCORE

### TRANSPARENCY OF BENEFICIAL OWNERSHIP – Australia

- 1  **Banking Secrecy:** Does the jurisdiction have banking secrecy?  
Australia partly curtails banking secrecy
- 2  **Trust and Foundations Register:** Is there a public register of trusts/foundations, or are trusts/foundations prevented?  
Australia partly discloses or prevents trusts and private foundations
- 3  **Recorded Company Ownership:** Does the relevant authority obtain and keep updated details of the beneficial ownership of companies?  
Australia does not maintain company ownership details in official records

### KEY ASPECTS OF CORPORATE TRANSPARENCY REGULATION – Australia

- 4  **Public Company Ownership:** Does the relevant authority make details of ownership of companies available on public record online for free, or for less than US\$10/€10?  
Australia partly requires company ownership details to be publicly available online
- 5  **Public Company Accounts:** Does the relevant authority require that company accounts are made available for inspection by anyone for free, or for less than US\$10/€10?  
Australia does not require that company accounts be available on public record
- 6  **Country-by-Country Reporting:** Are all companies required to publish country-by-country financial reports?  
Australia does not require public country-by-country financial reporting by companies

### EFFICIENCY OF TAX AND FINANCIAL REGULATION – Australia

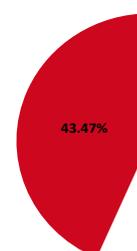
- 7  **Fit for Information Exchange:** Are resident paying agents required to report to the domestic tax administration information on payments to non-residents?  
Australia requires resident paying agents to tell the domestic tax authorities about payments to non-residents
- 8  **Efficiency of Tax Administration:** Does the tax administration use taxpayer identifiers for analysing information efficiently, and is there a large taxpayer unit?  
Australia uses appropriate tools for efficiently analysing tax related information
- 9  **Avoids Promoting Tax Evasion:** Does the jurisdiction grant unilateral tax credits for foreign tax payments?  
Australia partly avoids promoting tax evasion via a tax credit system
- 10  **Harmful Legal Vehicles:** Does the jurisdiction allow cell companies and trusts with flee clauses?  
Australia partly allows harmful legal vehicles

### INTERNATIONAL STANDARDS AND COOPERATION – Australia

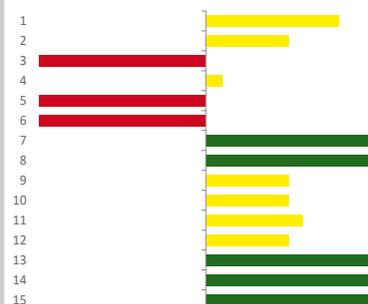
- 11  **Anti-Money Laundering:** Does the jurisdiction comply with the FATF recommendations?  
Australia partly complies with international anti-money laundering standards
- 12  **Automatic Information Exchange:** Does the jurisdiction participate fully in multilateral Automatic Information Exchange via the Common Reporting Standard?  
Australia partly participates in Automatic Information Exchange
- 13  **Bilateral Treaties:** Does the jurisdiction have at least 53 bilateral treaties providing for information exchange upon request, or is it part of the European Council/OECD convention?  
As of 31 May, 2015, Australia had at least 53 bilateral tax information sharing agreements complying with basic OECD requirements
- 14  **International Transparency Commitments:** Has the jurisdiction ratified the five most relevant international treaties relating to financial transparency?  
Australia has 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?  
Australia cooperates with other states on money laundering and other criminal issues

## Secrecy Score

Australia - Secrecy Score



Australia KFSI-Assessment



## Notes and Sources

The ranking is based on a combination of its secrecy score and scale weighting (click [here](#) to see our full methodology).

The secrecy score of 43 per cent for Australia has been computed by assessing its performance on 15 Key Financial Secrecy Indicators (KFSI), listed on the left. Each KFSI is explained in more detail, [here](#).

Green indicates full compliance on the relevant indicator, meaning least secrecy; red indicates non-compliance (most secrecy); and yellow indicates partial compliance.

This paper draws on data sources including regulatory reports, legislation, regulation and news available as of 31.12.2014 (with the exception of KFSI 13 for which the cut-off date is 31.05.2015).

Full data on Australia is available here: <http://www.financialsecrecyindex.com/database/menu.xml>

All background data for all countries can be found on the Financial Secrecy Index website: <http://www.financialsecrecyindex.com>