Financial Secrecy Index 2018

Methodology

Including Statistical Audit by Joint Research Centre of the European Commission[1]

Tax Justice Network[2]

Abstract: *This paper explains the construction of the qualitative and quantitative components of the Financial Secrecy Index (FSI) 2018. The qualitative component is composed of 20 Key Financial Secrecy Indicators. The paper explains what each measures, including any methodological changes since FSI 2015, what the underlying data sources are, and how the overall secrecy scores are calculated. Questions of research principles and process are also addressed. With respect to the quantitative component, the underlying data sources and methods for data extrapolation are explained. The combination of the qualitative and quantitative components is then detailed. Furthermore, the results of the statistical audit by the Joint Research Centre of the European Commission are presented. Finally, the Annex provides the quantitative datasets used for the calculation of the FSI 2018.*

COFFERS
EU Horizon 2020 Project

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[1] The chapter on the results of the statistical audit of the FSI was written by William Becker and Michaela Saisana.

[2] This paper is based to some extent on materials published in 2009, 2011, 2013 and 2015 on www.financialsecrecyindex.com/ 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 2018 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, Andres Knobel, Burçak Bal Yalçın, Frederik Heitmüller, Leyla Ateş, Lucas Millan-Narotzky, Miroslav Palanský, Moran Harari and Petr Janský. All remaining errors are the responsibility of Markus Meinzer. Minor corrections were made to the document on 10 June 2018.

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 opaquer 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 reflects not only information about which are the most secretive jurisdictions, but also the question of scale (i.e. the extent to which a jurisdiction's secrecy is likely to have global impact).

In this way, the Financial Secrecy Index offers 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 emphasises 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 greater financial sector size offers far more opportunities for illicit financial flows to hide. Therefore, the larger a jurisdiction's international financial sector becomes, the greater its responsibility to ensure appropriate regulation and transparency. This logic is reflected in the FSI and it therefore avoids the conceptual pitfalls of 'tax haven' lists, which tend to focus on smaller players – 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 (see Cobham/Jansky/Meinzer 2015; Meinzer 2016).

The FSI provides a (partial) remedy to this problem by replacing the term 'tax haven' with the term 'secrecy jurisdiction'. We define the latter 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" [3].

We emphasize that a secrecy jurisdiction is not a natural phenomenon that is, or is not, observable. Rather, we find that all countries may have some attributes of secrecy jurisdictions, ranging from highly secretive to (in theory) perfectly transparent. Based on those premises, we develop a set of 20 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. Each indicator has a secrecy ranging from 0% (full transparency) to 100% (full secrecy). The average secrecy score of these 20 indicators is the compound secrecy score allocated to each jurisdiction. In FSI 2018, the compound secrecy scores vary between 42% on the low end (United Kingdom) and 89% (Vanuatu) on the high end of the spectrum.

The FSI has one core objective: it measures a jurisdiction's contribution to global financial secrecy in a way that highlights harmful secrecy regulations. By doing so, the FSI contributes to and encourages research by collecting data and providing an analytical framework to show how jurisdictions facilitate illicit financial flows. Second, it focuses policy debates among media and public interest groups by encouraging and monitoring policy change globally towards greater financial transparency.

The FSI 2018 is the fifth edition after biennial releases in 2009, 2011, 2013 and 2015.[4] Since its first release, the index enjoys a high international media profile and has been widely adopted for a broad range of practical purposes (from the Italian central bank and the Basle Anti-Money Laundering Index, to a number of private sector risk/rating agencies), and increasingly in academic research.[5]

In 2018, country coverage has increased to 112 jurisdictions. Following a broad review process throughout 2016,[6] the methodology has been fundamentally overhauled and new themes and indicators have been included for the first time, some of which rely on original, cutting-edge

[3] 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.
[4] www.financialsecrecyindex.com/archive.
[5] For an overview of the various uses of the FSI, see: http://www.financialsecrecyindex.com/researchanalysis.
[6] https://www.taxjustice.net/2016/07/26/financial-secrecy-index-methodological-review-results-stakeholder-survey/; 21.12.2017.

researc. While the number of KFSIs has increased from 15 (in 2015) to 20, the changes are more far reaching than this numerical increase suggests as we have changed many of the existing indicators. One of the changes affecting various KFSIs concerns the indicators on beneficial and legal ownership information of legal entities, legal structures as well as of real estate and freeports. Here, the ground-breaking nature of the project is most visible.

Overall, the 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, constant, fixed and objectively best measure for financial secrecy. It is rather the fruit of an ongoing debate that has been and will continue to be driven to a large extent by the input of the many experts associated with the Tax Justice Network.

Chapter 2 introduces the reader to all changes, underlying data sources, methodological principles and details concerning the secrecy scores. Chapter 3 discusses each of the 20 KFSIs. Chapter 4 explains the global scale weights, underlying data sources and address some issues of data consistency. Chapter 5 explains 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. In Chapter 6, the leading global experts in index evaluation from the European Commission's Joint Research Centre provide a detailed evaluation of the FSI's statistical properties.

The annexes contain overview tables and all the underlying data of the FSI, except a) for full country-level details which can instead be found in country database reports, accessible and downloadable in excel format via www.financialsecrecyindex.com/database; and except b) for alternative FSI rankings using other global scaleweight data and/or formulae, which can be found following this link.

2. The Qualitative Component: Secrecy Scores

2.1 Main Changes 2015-2018

2.1.1 Jurisdictions Covered

The number of jurisdictions covered by the FSI has increased gradually over time, from 60 in 2009 to 112 in 2018, reflecting the long-term ambition of 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).[7] 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,[8] 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, seven jurisdictions with a 2011 FSI global scale weighting (i.e. a share of international financial services exports) in the top 30 were added. With respect to the second group, two more countries were added.

For the FSI 2015, six countries were added because of their share in the global market of offshore financial services was in the Top 40 (in the data for the FSI 2013). Seven countries were added because of indications of secrecy or financial centre ambitions. In addition to this, for the FSI 2015, we also included all OECD members, following various publications about the role these countries play in absorbing and facilitating illicit financial flows.[9]

For the FSI 2018, nine new countries were added (see Table 2-A below). We have included all EU member states (adding four jurisdictions which were previously not covered) with the support of a large research project funded by the European Commission ("COFFERS"[10]). In future editions of the index we am similarly toextend coverage in lower-income regions – starting with Africa, which funding from Norad will support for the 2020 index.

[7] The selection process for the initial 60 jurisdictions is explained in detail here: www.financialsecrecyindex.com/Archive/Archive2009/Notes and Reports/SJ_Mapping.pdf.
[8] For all details, see page 3, here: www.financialsecrecyindex.com/Archive/Archive2011/Notes and Reports/SJ-Methodology.pdf.
[9] Organisation for Economic Co-Operation and Development 2013: Measuring OECD Responses to Illicit Financial Flows from Developing Countries, Paris, in: http://www.oecd.org/corruption/IFFweb.pdf; 31.1.2014.
[10] www.coffers.eu

Table 2-A: New jurisdictions covered in 2018

Total of 9 new jurisdictions included because of		
Secrecy or financial centre ambitions	**Top 50 GSW of FSI 2015**	**European Union membership**
Trinidad and Tobago Indonesia Puerto Rico	Thailand Ukraine	Bulgaria Croatia Lithuania Romania

2.1.2 Key Financial Secrecy Indicators (KFSI)

Out of the twenty KFSIs used for the FSI 2018, only four indicators remain broadly the same as in FSI 2015. Some small changes were made in three indicators, and more substantial changes in six indicators. Seven indicators are completely new. The full details of each indicator, including regarding changes (if applicable), are provided in Chapter 3. See table 2-B below for an overview of the changes.

Table 2-B: Changes in KFSIs

Change\Dimension KFSI Number	**Ownership registration**	**Legal Entity Transparency**	**Integrity of tax and financial regulation**	**International Standards and Cooperation**
No material change		8 (formerly 6)	13 (formerly 9)	17 (formerly 11) 19 (formerly 13)
Small Change	1 (formerly 1) 2 (formerly 2)			20 (combination of formerly 14 and 15)
Substantial Change	3 (formerly 3)	6 (formerly 4) 7 (formerly 5)	11 (some of old 8) 15 (some of old 10)	18 (some of old 12)
New Indicator	4 5	9 10	12 14 16	

The KFSIs can be grouped around four dimensions of secrecy: 1) ownership registration (total of five KFSIs); 2) legal entity transparency (five KFSIs); 3) integrity of tax and financial regulation (six KFSIs); and 4) international standards and cooperation (four KFSIs).

2.2 Underlying Data and Procedural Issues

The dataset underlying the 20 KFSIs is publicly available for review and exploration through an online database and is downloadable by jurisdiction in excel format (accessible here).[11] 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,[12] the FATF and IMF. In addition, specialist tax databases and websites such as by the IBFD,[13] PwC,[14] Lowtax.net and others have been consulted. Furthermore, surveys have been sent to the Ministries of Finance and the Financial Intelligence Units of all 112 reviewed jurisdictions which included targeted questions about the jurisdiction's tax and regulatory system (for more details see further below).

The database contains a wide range of data, well beyond that which is required to compile the secrecy indicators and the secrecy score. Out of up to 187 data points ("Info IDs") available in the database for each jurisdiction, up to 115 are used to compute the secrecy score (these are detailed in Annex B). In terms of the **cut-off date of information** in the database, we generally relied on reports, legislation, regulation and news available as of 30.09.2017. For some indicators, more recent data has been included. All jurisdictions had the opportunity to provide up-to-date information by answering the questionnaires sent out in February 2017.

Data availability and comparability are sometimes problematic. Some new indicators in particular, for example on freeport and real estate ownership (KFSI 4) or tax court transparency (KFSI 14), relate to secrecy components where there are no international comparative studies available. Hence, we needed to rely more heavily on survey responses in the questionnaires and/or primary research of legal sources. Two questionnaires[15] addressed to the Ministries of Finance and Financial Intelligence Units of each of the reviewed jurisdictions were sent via hard copy mail in February 2017. 26 Ministries of Finance answered to our survey (23%), and six Financial Intelligence Units (5%).

If a jurisdiction did not respond to our questionnaires and if (in some cases) follow-up enquiries with local researchers did not yield additional insights, we reflect this absence of data by marking the relevant data point (answer to this ID) as 'unknown'. For the purposes of the secrecy score, these unknowns were treated as "secrecy" (see section 2.3 for the "unknown is secrecy" principle of research).

For researchers using the database, note that in some jurisdiction reports, questions are not always numbered strictly sequentially. This reflects the database's built-in logic of display, and occurs when the answer to a prior question has been negative so as to invalidate the relevance of the following, omitted questions. For instance, if trusts do not need to be registered, the

[11] www.financialsecrecyindex.com/database

[12] 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/; 24.10.2017.

[13] International Bureau of Fiscal Documentation, Amsterdam.

[14] PricewaterhouseCoopers, Worldwide Tax Summaries.

[15] The questionnaire sent to the ministries of finance can be viewed here: www.financialsecrecyindex.com/PDF/FSI2018-Questionnaire-MoF.pdf; the questionnaire to the FIUs can be viewed here: www.financialsecrecyindex.com/PDF/FSI2018-Questionnaire-FIU.pdf.

database does not display answers to the subsequent questions on the registered information of trusts. Similarly, where there is no obligation to keep accounting records, answers are not displayed as to whether annual accounts must be submitted by companies, or if underlying accounting records have a minimum retention period.

Furthermore, for the first time in FSI 2018, we have collaborated with external researchers for several new and existing KFSIs. The inputs by those external researchers has proven invaluable for delivering the depth and breadth of data required for the new indicators. Ongoing checks and monitoring by core TJN staff ensured consistent data quality.

In terms of auditing the data quality at the end of the research cycle, a four-pronged approach was chosen. First, the KFSI data was checked by jurisdiction, and the sample was selected by a random start constant interval (of 12). This check focused mainly on the integrity of the logic and formula transforming the database answers into scores and was undertaken by an external researcher. Second, a comparison matrix has been created to double check on any data variations between FSI 2015 and FSI 2018 (where the IDs / KFSIs remained constant; undertaken inhouse). Third, especially for new indicators, outlier data has been identified and checked for integrity (inhouse). Fourth, the full finalised database reports were completed with missing data, and checked in their entirety on a jurisdiction by jurisdiction basis.

For the FSI 2018, the layout of the website and supporting documents has been updated to increase accessibility. Accessing the database does no longer require registration, and the database reports can be downloaded in excel format.

2.3 Guiding Methodological Principles

The guiding principle for data collection was to always look for and assess the weakest link or lowest standard (or denominator) of transparency available in each jurisdiction ("**weakest link principle**"). 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 commitment to use the best data sources available, we had to resort during the implementation of the weakest link principle to reasoned judgment because of a lack of quality data sources and/or conflicting information. If data was unavailable, we resorted to the **"unknown-is-secrecy principle"**: If a jurisdiction did not respond to the questionnaire for a specific relevant question, and if we were unable to locate publicly accessible information on this specific question, 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 after investigation is generally interpreted as evidence of opacity, and results in a higher secrecy score (for details and special cases see Chapter 3 for each KFSI below).

In cases of conflicting information, we resorted to reasoned judgement – while recognising the necessary subjectivity of the approach. Where this was the case, therefore, we aim to provide full transparency about criteria and interpretation was aimed for. 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.

Regarding the cut-off date for the key financial secrecy indicators, we generally relied on regulatory reports, legislation, regulation and news available as of 30.09.2017. On some occasions, more recent data has been used. 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 0% and 100% we simply take the arithmetic average to arrive at one compound secrecy score for each jurisdiction (adding the values of each of the assessed KFSIs and divide the sum by the number of assessed KFSIs). The resulting value is a percentage score between 0% to 100%. Consequently, a jurisdiction can always achieve a maximum value of 0% secrecy (equivalent to 100% transparency). In each indicator, by default, a jurisdiction has a 100% secrecy score unless we find evidence to the contrary.

For example, if a jurisdiction was given a 0% secrecy score for all 20 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 20 KFSI values for each jurisdiction can be found in Annex C below. Each jurisdiction's secrecy score is displayed in alphabetical order in Annex D. The following chapter details te logic behind each indicator, Chapter 4 presents the calculation of global sale weights, with full details in Annex G, and Chapter 5 explains the method of combination of secrecy and scale into the final index.

3. The 20 KFSIs 2018

Table 3 below provides a summary overview of the 20 Key Financial Secrecy Indicators (KFSI), 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 our selected indicators are plausible.

To achieve plausibility, the research team relied on expert and practitioners' input and knowledge. The stakeholder survey we carried out in 2016[16] further ensured input by more than 130 individuals. 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 187 variables, and by offering the disaggregated data of each KFSI through the database/in excel,[17] 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 improve 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.

[16] https://www.taxjustice.net/2016/07/26/financial-secrecy-index-methodological-review-results-stakeholder-survey/; 22.12.2017.
[17] http://www.financialsecrecyindex.com/database/

Table 3: Overview of 20 Key Financial Secrecy Indicators[18]

Ownership Registration		Legal Entity Transparency		Integrity of tax and financial regulation		International Standards and Cooperation	
1	**Banking secrecy**	6	**Public Company Ownership**	11	**Tax Administration Capacity**	17	**Anti-Money Laundering**
	IDs 89, 157, 158, 352, 353 and 360		IDs 470 – 475, 485 and 486		IDs 317 and 400 to 406		ID 335
2	**Trusts and Foundations Register**	7	**Public Company Accounts**	12	**Consistent Personal Income Tax**	18	**Automatic Information Exchange**
	IDs 204, 206, 214, 234, 236 - 240, 244, 355, 384, 393, 395 and 396		IDs 188, 189 and 201		IDs 374, 435 and 489		IDs 150, 371 - 374, 376 and 377
3	**Recorded Company Ownership**	8	**Country by Country Reporting**	13	**Avoids Promoting Tax Evasion**	19	**Bilateral Treaties**
	IDs 388, 470 - 473, 485 and 486		ID 318		Cf. Tax Details section of the country database reports		IDs 301 and 143
4	**Other Wealth ownership**	9	**Corporate Tax Disclosure**	14	**Tax Court Secrecy**	20	**International Legal Cooperation**
	IDs 416, 418, 437, 439 and 487		IDs 363, 419 and 421		IDs 407 to 410		IDs 33, 35, 36, 309 - 314 and 469
5	**Limited Partnership Transparency**	10	**Legal Entity Identifier**	15	**Harmful Structures**		
	IDs 269, 272, 273, 274, 476, 477 and 479 to 484		IDs 414, 415 and 420		IDs 172, 184, 224 and 488		
				16	**Public Statistics**		
					IDs 425 to 434		

[18] **All underlying data can be accessed freely in the FSI database.** Sources for specific indicators and jurisdictions are searchable with the corresponding **info IDs**, in the database report of the respective jurisdiction.

3.1 KFSI 1 – Banking Secrecy

3.1.1 What is measured?

This indicator assesses whether a jurisdiction provides banking secrecy. We go beyond the statutory dimension to assess the absence or inaccessibility of banking information and the criminalisation of breaches as elements of banking secrecy. For a jurisdiction to obtain a zero secrecy score on this indicator, it must ensure that banking data exists, that it has effective access to this data and that it does not sanction breaching of banking secrecy with prison term sentences. We consider that effective access exists if the authorities can obtain account information without the need for separate authorisation, for example, from a court, and if there are no undue notification requirements or appeal rights against obtaining or sharing this information.

Accordingly, we have split this indicator into six subcomponents; the overall secrecy score for this indicator is calculated by simple addition of these sub-components. The secrecy scoring matrix is shown in Table 1.1 below, with full details of the assessment logic given in Table I (Annex B).

In order to determine whether a jurisdiction's law includes the possibility of imprisonment or custodial sentencing for breaching banking secrecy, we rely on responses to the TJN-survey and analyse each country's relevant laws to the extent this is feasible. Unless we are certain that a jurisdiction may not punish breaches of banking secrecy (for example, by a potential whistle-blower) with prison terms, we add a 20% secrecy score.

The availability of relevant banking information is measured by a jurisdiction's compliance with FATF-recommendations 5 and 10.[19] 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 the case of natural and legal persons.[20] If a jurisdiction fails to comply with this recommendation, this adds a 20% secrecy score.[21]

[19] These recommendations refer to the 49 FATF recommendations of 2003. While the FATF 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 only began in 2013. The corresponding recommendations in the new 2012 set of recommendations are numbers 10 (replacing old Rec. 5) and 11 (replacing old Rec. 10). FSI 2017 takes into account the results of the new assessments. The old recommendations can be viewed at: www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF%20Recommendations%202003.pdf; 01.06.2015; the new recommendations are available at: www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF_Recommendations.pdf; 20.10.2016.

[20] www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF%20Recommendations%202003.pdf; 20.10.2016. Also see footnote above.

[21] In order to measure compliance, the FATF uses the following scale: 0 = non-compliant; 1 = partially compliant; 2 = largely-compliant; 3 = fully compliant. We attribute a 20% secrecy score for non-compliant, 13% for partially compliant, 7% for largely compliant and zero secrecy for fully compliant answers.

FATF-recommendation 10 requires financial institutions to "maintain, for at least five years, all necessary records on transactions, both domestic and international".[22] A further 20% secrecy score is added if a jurisdiction is non-compliant with this recommendation. We have relied on the mutual evaluation reports by the FATF, FATF-like regional bodies, or the IMF for the assessment of these two criteria.[23]

Table 1.1: Secrecy Scoring Matrix KFSI 1

Dimensions	Component	Secrecy Score Assessment (Sum = 100%, fully secretive)	Source(s)
Consequences of breaching banking secrecy	(1) Breaching banking secrecy may lead to imprisonment / custodial sentencing, or unknown	20%	Individual research for each country / TJN-Survey
Availability of relevant information	(2) Anonymous accounts – FATF Rec. 5, or unknown	20%	FATF, FATF-like regional bodies, or IMF
	(3) Keep banking records for less than five years – FATF Rec. 10, or unknown	20%	
	(4) No reporting of large transactions, or unknown	20%	Bureau for International Narcotics and Law Enforcement Affairs (INCSR)
Effective access	(5) Inadequate powers to obtain and provide banking information, or unknown	10%	Global Forum peer reviews elements B.1 and B.2 (incl. factors and text)
	(6) Undue notification and appeal rights against information exchange, or unknown	10%	

[22] www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF%20Recommendations%202003.pdf; 01.06.2015. Also see footnote above.

[23] For the purposes of this subcomponent of the KFSI, we ignored the follow-up reports to mutual evaluations, and instead only included the results of full mutual evaluation reports. 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. Otherwise, potential deteriorations in formerly compliant elements of recommendations might go unnoticed, while the improvements in formerly non-compliant criteria will be focused upon.

In addition, and in order to diversify our sources, we have also used data contained in the International Narcotics Control Strategy Report (INCSR, Volume 2 on Money Laundering and Financial Crimes).[24] This report indicates for a wide selection of countries whether banks are required to report large transactions. Failure to do so is assessed as an additional 20% secrecy score.[25]

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[26] requirements or appeal rights[27] prevent effective sharing of banking data. We rely on the Global Forum's element B.1[28] for addressing the first issue at hand (powers to obtain and provide data), and we use Global Forum's element B.2[29] for the second issue (notification requirements/appeal rights). Each will be attributed a 10% secrecy score if any qualifications apply to the elements and underlying factors.[30] An overview of the rating for B.1 and B.2 is given in Table 1.2 below:

[24] While we would have liked to include the data from the 2017 INCSR report, unfortunately this report discontinued that data field (together with many others) in its reporting. Therefore, we have used the 2016 edition of the INCSR, see note below.

[25] The information is presented in the table on pages 7-17 under the column "Report Large Transactions", in: https://www.state.gov/documents/organization/258726.pdf; 13.10.2017.

[26] While the Global Forum peer reviews assess whether a notification (to the beneficial owner) could delay or prevent the exchange of information, we also consider whether any notification to the owner takes place at all, even if it is after the exchange of information, because the owner could start taking actions (transfer assets, leave the country, etc.) to obstruct the legal and economic consequences of the requesting jurisdiction's investigation or proceedings. By being made aware, owners could also take precautionary measures with respect to assets, bank accounts, etc., located in other jurisdictions.

[27] In those cases when the owner 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 to 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 would not be delayed or prevented.

[28] 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)." (See page 27 in: Global Forum on Transparency and Exchange of Information for Tax Purposes 2010: Implementing the Tax Transparency Standards. A Handbook For Assessors and Jurisdictions, Paris).

[29] 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.).

[30] 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 refrain from assessing a secrecy score only 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.

Table 1.2: Assessment of Global Forum Data for KFSI 1

"Determination" [31] Results as in table of determinations of Global Forum B.1 / B.2	**"Factors"** [32] Results as in table of determinations of Global Forum B.1 / B.2	**Secrecy Score**
"The element is in place."	No factor mentioned.	0%
"The element is in place."	Any factor mentioned.	10%
"The element is in place, but certain aspects of the legal implementation of the element need improvement."	Irrelevant.	10%
"The element is not in place."	Irrelevant.	10%

All underlying data can be accessed freely in the FSI database. To see the sources we are using for particular jurisdictions please consult the assessment logic in **Table I (Annex B) and search for the corresponding info IDs **(IDs 89, 157, 158, 352, 353 and 360)** in the database report of the respective jurisdiction.

3.1.2 Why is it important?

For decades, factual and formal banking secrecy laws have obstructed 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[33] did not specifically include provisions to override formal banking secrecy laws when responding to information requests by foreign treaty partners.

This legal barrier to accessing banking data for information exchange purposes has been partially overcome with the advent of automatic information exchange.[34] Automatic exchange of information (AEOI) following the OECD's Common Reporting Standard (CRS) got underway in 2017 (see KFSI 18[35]). However, we consider access to information and undue notifications related to the "Upon Request" standard to be relevant still for the following reasons.

[31] The Global Forum peer review process analyses and determines whether the ten elements considered necessary by the OECD 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.

[32] Each of the "determinations" (as explained in footnotes above) of the ten 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 "table of determinations" in the corresponding peer review reports.

[33] https://www.taxjustice.net/cms/upload/pdf/Tax_Information_Exchange_Arrangements.pdf

[34] Meinzer, Markus 2017: Automatic Exchange of Information as the New Global Standard: The End of (Offshore Tax Evasion) History?, in: SSRN Electronic Journal, in: http://www.ssrn.com/abstract=2924650; 21.7.2017.

[35] http://www.financialsecrecyindex.com/PDF/18-Automatic-Info-Exchange.pdf; 8.8.2017.

First, AEOI will not take place among all countries. If AEOI takes place between countries A and B, country C (very likely a developing country) will still depend on specific information requests for accessing banking information from countries A or B. Second, AEOI will complement but not replace exchanges upon request. For example, after countries A and B exchange banking information automatically, country A may need to obtain more detailed information (e.g. when the account was opened, what was the highest balance account or a specific transaction). All these extra details will not be included in AEOI, but will have to be asked via specific requests. In other words, even when AEOI is fully implemented and involves all countries, exchanges upon request will remain necessary.

In addition, some jurisdictions have tightened their penalties for breaches of extant banking secrecy. For example, in September 2014, Switzerland passed a law that extended the prison sentence for whistle-blowers who disclose bank data from three years to a maximum of five years. The prison terms had previously been increased with effect from 1 January 2009. [36]

Some countries even defend their banking secrecy laws by means of criminal law and concomitant prosecution. Such laws intimidate and silence bank insiders who are ideally placed to identify dubious or clearly illegal activities by customers and/or collusion by bank staff and/or management. Effective protection for whistle-blowers, which allows them to report to domestic or foreign authorities, and/or to the media about a bank customer's illegal activities, is necessary to ensure that banking secrecy does not enable individuals, companies and banks to jointly and systematically break the law.

The extent to which banking secrecy has acted as a catalyst for crime became evident through recent leaks and large scale public prosecutions of banks that have engaged in and supported money laundering and tax evasion by clients. In this context, the threat of prison sentences for breaches of banking secrecy has served to effectively deter, silence, retaliate against, and prosecute whistle-blowers, up to the point of issuing arrest warrants against officials from tax administrations, and deploying spies.[37] The threat of criminal prosecution for breaches of banking secrecy was, and remains, a potent means of covering up illicit and / or illegal activity.

Another fashionable way[38] of achieving *de facto* banking secrecy consists of not properly verifying the identity of both account holders and beneficial owners, or allowing nominees such as custodians, trustees, or foundation council members to be acceptable as the only natural persons 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 escape investigation.

[36] See page 17, in: Meinzer, Markus 2015: Steueroase Deutschland. Warum bei uns viele Reiche keine Steuern zahlen, München.

[37] http://www.taxjustice.net/2017/06/02/whistleblower-ruedi-elmer-vs-swiss-justice-system/; http://www.spiegel.de/wirtschaft/soziales/schweizer-geheimdienst-sammelte-informationen-ueber-deutsche-steuerfahnder-a-1145703.html; 21.7.2017.

[38] http://www.sueddeutsche.de/politik/mittelamerika-leticia-und-diebriefkasten-oma-1.2954968; www.taxjustice.net/cms/upload/pdf/TJN_1110_UK-Swiss_master.pdf; https://www.ifc.org/wps/wcm/connect/62d48198-f722-48f0-80fc-172e68649bdd/Focus-14.pdf?MOD=AJPERES; 8.8.2017.

Since most trusts, shell companies, partnerships and foundations need to maintain a bank account for their activities, the beneficial ownership information banks are required to keep is often the most effective means of identifying the natural persons behind these legal structures. Together with the recorded transfers, ownership records of bank accounts can provide key evidence of criminal or illicit activity of individuals, such as embezzlement, illegal arms trading or tax fraud. Therefore, it is of utmost importance that authorities with appropriate confidentiality provisions in place can access relevant banking data routinely without being constrained by additional legal barriers, such as notification requirements, or factual barriers, such as missing or outdated records.

3.2 KFSI 2 – Trust and Foundations Register

3.2.1 What is measured?

This indicator analyses whether a jurisdiction has a central register which is publicly accessible via the internet at a cost not exceeding US$ 10, € 10 or £10[39] with information on:

> **(i)** all trusts (those created according to the local law and called 'domestic law trusts' as well as those created under a 'foreign law' but which have a connection to the jurisdiction because they are administered by a local trustee); and
>
> **(ii)** for all private foundations, the identities of all the parties to the foundation.

Alternatively, this indicator considers whether a jurisdiction prevents the creation of trusts or similar arrangements such as *Treuhandstiftung*, *fideicomisos* or *waqfs* under its domestic laws, and/or whether it blocks its residents from administering trusts created under a foreign law. Similarly, the indicator reviews if its legislation prohibits the creation of private purpose foundations (for example, if foundations are allowed, not for the benefit of a private person or family, but only for "public interests", such as foundations that focus on education, religion, sports, poverty, etc. in favour of the whole community).

The logic behind this indicator is that a jurisdiction may neutralise the risks embedded in the opacity of trusts and private foundations either (i) by requiring the registration and publication of relevant information relating to all the parties involved in both types of legal arrangements (trusts are not considered legal entities), or (ii) by prohibiting their creation or administration in their territories. The Secrecy Scoring Matrix is given in Table 2.1 - A and B below, and full details of the assessment logic can be found in Table II (Annex B).

There is one important distinction between the assessments of trusts and foundations. For trusts the secrecy score depends on whether all trusts are registered and/or disclosed online, but we ignore the type and amount of information about trusts that is registered and/or published (if any). For foundations, in contrast, we go beyond this analysis by checking if all the parties of a foundation need to be registered, updated and/or disclosed online.

This distinction is made because the registration of trusts is incomplete, if not absent, in most jurisdictions worldwide, whereas the registration of foundations is widely the norm. For foundations, it is therefore appropriate to transitionally require a higher standard than for trusts.

[39] We consider this a reasonable criterion given a) the prevalence of the internet in 2017, b) as international financial flows are now completely relying on the use of modern technology, it would be an omission not to use that technology 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.

Table 2.1 - A: Secrecy Scoring Matrix KFSI 2

COMPONENT 1: Trusts (50% of KFSI 2's Secrecy Score)				
Regulation [Secrecy Score: 100% = full secrecy; 0% = full transparency]			**Domestic Law Trusts**	
			Available (Trusts can be created according to local laws)	**Not Available** (Trusts **cannot** be created according to local laws)
Foreign Law Trusts	**Active Promotion** (Jurisdiction is a party to the Hague Convention on Trust recognition)	**No Disclosure** (in all circumstances, or unknown)	50%	50% (Lack of domestic law trusts is "neutralized" by Active Promotion)
	No Active Promotion (Jurisdiction is **not** a party to the Hague Convention on Trust recognition)	**No Registration** (in all circumstances, or unknown)	50%	25% (At least domestic law trusts do not create a secrecy problem)
		Registration either/or Registration (but no disclosure) of **either** foreign **or** domestic law trusts (in all circumstances)	37,5% (At least domestic or foreign law trusts are registered)	0% (No secrecy problem: no domestic law trusts and foreign law trusts are registered)
		Registration of both Registration (but no disclosure) of **both** foreign **and** domestic law trusts (in all circumstances)	25% (Although both are registered, no disclosure)	-
		Disclosure of domestic Registration plus disclosure of domestic law trusts, but no registration of foreign law trusts	25% (Although domestic are disclosed, no registration of foreign)	-
		Disclosure of domestic & registration of foreign Registration plus disclosure of domestic law trusts & registration (only) of foreign law trusts	0%	-
	Active Promotion is Irrelevant	**Disclosure of both, if applicable** Registration plus disclosure of both domestic and foreign law trusts (if applicable); or neither domestic nor foreign law trusts are allowed to be created and administered respectively.	0% (Even if active promotion exists, it is "neutralized" by full disclosure of both domestic and foreign law trusts, if applicable)	

Table 2.1 - B: Secrecy Scoring Matrix KFSI 2

COMPONENT 2: Private Purpose Foundations (50% of KFSI 2's Secrecy Score)	
No Online Disclosure No updated online disclosure of key parties of all private foundations, irrespective of registration, or unknown	50%
Partial Online Disclosure Updated registration of key parties of all private foundations plus partial online disclosure	25%
Complete Online Disclosure Updated registration of key parties of all private foundations plus complete online disclosure, or no private purpose foundations law	0%

Disclosure should comprise appropriate information for assessing its tax and ownership implications, including updated and complete information on the identities of all parties.

Parties to a foundation, for the purposes of the foundation section are all founder(s), foundation council member(s), beneficiaries and protectors. For information on all parties to be considered **updated**, the relevant data should be required to be updated at least annually. For information on all parties to be considered **complete**, it needs to comprise specific minimal elements. It should include at least:

a) the full names of all parties of the entity; and for each party:

b) country of residence or incorporation, plus

i. in case of individuals, full address, or passport ID-number, birthdate (for registration) or year and month of birth (for online disclosure), or a Taxpayer Identification Number (TIN); or

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

For founders, information must include beneficial ownership (e.g. if the founder is an entity or nominee, the natural person who is the beneficial owner of that entity or on whose behalf the nominee is acting[40]). However, if we were unable to determine whether a jurisdiction requires founder's information to include beneficial ownership, we exceptionally gave jurisdictions the benefit of the doubt, and the founder was assumed to be the beneficial owner, unless any evidence suggested that a legal entity may be registered as a founder. This

[40] The FATF defines 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 113 in Financial Action Task Force 2012: The FATF Recommendations. International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation (Updated in October 2016), Paris, in:http://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF_Recommendations.pdf; 31.8.2017.

exception to the "unknown is secrecy" principle is made for three reasons. The first and main reason is that we did not include this question in the questionnaire to our FSI survey 2017.[41] Second, this requirement has been embedded explicitly for the first time in the Common Reporting Standard (CRS) for automatic exchange of bank account information (see KFSI 18[42]), but is not explicitly stated in FATF standards. Third, this level of detail was not specified in most of the available current sources (e.g. Global Forum peer reviews).

For other parties to a foundation (e.g. protectors, foundation council and beneficiaries), registration of complete and updated legal ownership is sufficient to consider full registration, including the identification of a "class of beneficiaries" (instead of a pre-determined beneficiary). This provision is transitional and in future will be tightened to require complete and updated beneficial ownership of all parties to a foundation, and ruling out a "class of beneficiaries". The same will apply to trusts after a transitional period.

Alternatively, a zero secrecy score will be awarded in cases where a jurisdiction does not provide legislation for the creation of private foundations, and does not provide legislation for the creation of trusts while ruling out the administration of foreign law trusts by domestic trustees.

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[43] or by legislating equivalent domestic rules which regulate aspects of foreign law trusts for use in a domestic economic and legal context.

This indicator draws upon a variety of sources, mainly using information contained in the Global Forum peer reviews,[44] but also private sector internet sources, FATF and IMF reports, the TJN-Survey 2017 and original legal analysis. In cases where there is indication that online registries on trusts/foundation registries are available, related websites have also been consulted.

All underlying data can be accessed freely in the FSI database. To see the sources we are using for particular jurisdictions please consult the assessment logic in **Table II (Annex B) and

[41] http://www.financialsecrecyindex.com/PDF/FSI2017-Questionnaire-MoF.pdf

[42] http://www.financialsecrecyindex.com/PDF/18-Automatic-Info-Exchange.pdf. The corresponding passage in the Commentaries to the CRS is on page 199, in para 134: "With a view to establishing the source of funds in the account(s) held by the trust, where the settlor(s) of a trust is an Entity, Reporting Financial Institutions must also identify the Controlling Person(s) of the settlor(s) and report them as Controlling Person(s) of the trust." The subsequent paragraph 136 specifies that for foundations similar provisions apply (p. 199). See OECD 2014: Standard for Automatic Exchange of Financial Account Information in Tax Matters. Including Commentaries., in: http://www.keepeek.com/Digital-Asset-Management/oecd/taxation/standard-for-automatic-exchange-of-financial-account-information-for-tax-matters_9789264216525-en; 14.2.2017.

[43] http://www.hcch.net/index_en.php?act=conventions.text&cid=59; 22.7.2015.

[44] 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/; 24.10.2017.

search for the corresponding info IDs **(IDs 204, 206, 214, 234, 236 - 240, 244, 355, 384, 393, 395 and 396)** in the database report of the respective jurisdiction.

3.2.2 Why is it important?

Trusts alter property rights. That is their purpose. A trust is formed whenever a person (the settlor) gives legal ownership of an asset (the property) to another person (the trustee) on condition that they apply the income and gains arising from that property for the benefit of another person or persons (the beneficiaries).

Trusts have many legitimate purposes, but they can easily be abused for the purpose of concealing illicit activity, for example, by concealing the identity of a settlor or beneficiary. Particular risks arise when the trust is a 'sham', i.e. the settlor is also a beneficiary and controls the activities of the trustee. This is a commonplace mechanism for evading tax since trusts can be used to conceal the actual controlling ownership of assets.

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'[45] 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 involved in 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. Foundations are created around 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 surrounding this type of structure. The prospects of proper law enforcement would be greatly enhanced as a result.

[45] By 'elsewhere' we mean 'An unknown place in which it is assumed, but not proven, that a transaction undertaken by an entity registered in a secrecy jurisdiction is regulated'. See our glossary here: http://www.financialsecrecyindex.com/glossary/glossary.html; 22.7.2015.

For more information and analysis of the uses and abuses of trusts please read TJN's papers on Trusts here.[46] For more background on the way discretionary trusts and foundations can be used to hide offshore wealth, read this analysis.[47]

[46] Knobel, Andres 2017: Trusts: Weapons of Mass Injustice?, in: www.taxjustice.net/wp-content/uploads/2017/02/Trusts-Weapons-of-Mass-Injustice-Final-12-FEB-2017.pdf; 15.2.2017. See also Knobel, Andres/Meinzer, Markus 2016: Drilling down to the real owners – Part 2. Don't forget the Trust: Amendments Needed in FATF's Recommendations and in EU's AML Directive, London, in: www.taxjustice.net/wp-content/uploads/2016/06/TJN2016_BO-EUAMLD-FATF-Part2-Trusts.pdf; 28.11.2016. And see also https://www.taxjustice.net/wp-content/uploads/2016/06/TJN2016_BO-EUAMLD-FATF-Part2-Trusts.pdfhttp://taxjustice.blogspot.de/2009/07/in-trusts-we-trust.html; 22.7.2015.

[47] www.taxjustice.net/cms/upload/pdf/TJN_1110_UK-Swiss_master.pdf; 22.7.2015.

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 information on beneficial ownership and/or on legal ownership, upon incorporation to a governmental authority, and whether it requires this information to be updated upon subsequent transfers or issuance of shares (or upon any other event or action which changes beneficial/legal ownership information), regardless of whether or not this information is made available on public record. This indicator only assesses companies that are not listed on a public stock exchange.

The recorded beneficial owners must be the natural human beings who have the right to enjoy ownership or the rewards flowing from ownership of the entity, as prescribed by anti-money laundering standards.[48] For this purpose, trusts, foundations, partnerships, limited liability corporations and other variants of legal persons do not count as beneficial owners.

With the adoption of the 4th EU Directive on Anti-Money Laundering on May 20th, 2015 by the European Parliament,[49] all EU member states had to legislate for a central register of beneficial ownership by 26 June 2017 (Article 30, 67). Since then, progress towards central registries of beneficial ownership has accelerated not only in the European Union; yet analyses have also revealed weaknesses, loopholes and slippery language[50] as legislation is passed in more countries.[51]

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[48] FATF defines 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 113 in Financial Action Task Force 2012: The FATF Recommendations. International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation (Updated in October 2016), Paris, in: http://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF_Recommendations.pdf; 31.8.2017.

[49] European Parliament/Council of the European Union 2015: Directive 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, Brussels, in: http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32015L0849&rid=1; 4.6.2016.

[50] See page 21, (aa) und (ab), in: http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-%2f%2fEP%2f%2fNONSGML%2bREPORT%2bA8-2017-0056%2b0%2bDOC%2bPDF%2bV0%2f%2fEN; 13.4.2017; Knobel, Andres/Meinzer, Markus 2016: Drilling down to the real owners – Part 1. "More than 25% of ownership" & "unidentified" Beneficial Ownership: Amendments Needed in FATF's Recommendations and in EU's AML Directive, in: http://www.taxjustice.net/wp-content/uploads/2013/04/TJN2016_BO-EUAMLD-FATF-Part1.pdf; 6.9.2016; Knobel, Andres/Meinzer, Markus 2016: Drilling down to the real owners – Part 2. Don't forget the Trust: Amendments Needed in FATF's Recommendations and in EU's AML Directive, London, in: http://www.taxjustice.net/wp-content/uploads/2016/06/TJN2016_BO-EUAMLD-FATF-Part2-Trusts.pdf; 28.11.2016.

[51] www.taxjustice.net/2017/05/18/germany-rejects-beneficial-ownership-transparency/; 23.8.2017. Meinzer, Markus 2017: Stellungnahme von Netzwerk Steuergerechtigkeit Deutschland und Tax Justice Network zu dem „Entwurf eines Gesetzes zur Umsetzung der Vierten EU-Geldwäscherichtlinie, zur Ausführung der EU- Geldtransferverordnung und zur Neuorganisation der Zentralstelle für Finanztransaktionsuntersuchungen", BT-Drucksache 18/11555 (Öffentliche Anhörung des Finanzausschusses des Deutschen Bundestages am 24. April 2017), in: http://www.bundestag.de/blob/503626/549f0248366374270c293ac20cec95a7/12-data.pdf; 1.8.2017.

Because beneficial ownership regulation is not yet ideal (even under domestic laws fully compliant with the FATF and the EU Directive it is easy for a company not to have any beneficial owner at all and to identify the senior manager instead), it is important to know at least whether legal ownership is properly registered. Therefore, any meaningful company ownership assessment would need to take a holistic, comprehensive perspective. Instead of reviewing only beneficial ownership (BO) in isolation, we have created a combined indicator that takes into account nuances of beneficial ownership registration requirements and combines these with legal ownership (LO) registration requirements. The secrecy scoring matrix is shown in Table 3.1 below, with full details of the assessment logic given in Table III (Annex B).

Table 3.1: Secrecy Scoring Matrix KFSI 3

	Regulation [Secrecy Score: 100% = full secrecy; 0% = full transparency]	**Legal Ownership (LO)**	
		Incomplete LO Secrecy score if not for all companies not all legal owners are recorded / not all legal owners are updated:	**Complete LO** Secrecy score if for all companies all legal owners are recorded and updated (no bearer shares):
Beneficial Ownership (BO)	**Incomplete BO** Complete and updated beneficial ownership information is not always recorded, or unknown	100%	90%
	Complete BO @>25% Complete and updated beneficial ownership information is always recorded at a threshold of more than 25% (no bearer shares)	75%	65%
	Complete BO @>10-25% Complete and updated beneficial ownership information is always recorded at a threshold of more than 10% up to 25% (no bearer shares)	50%	40%
	Complete BO @>0-10% Complete and updated beneficial ownership information is always recorded at a threshold of more than 0% up to 10% (no bearer shares)	25%	15%
	Complete BO @1 share% Complete and updated beneficial ownership information is always recorded for any share/influence.	0%	
	Senior Manager not as BO The definition of beneficial owner does not have a "senior manager clause"	-25%	

For ownership information to be considered **updated**, the relevant data should be required to be updated at least annually. Furthermore, bearer shares[52] should not be available in the jurisdiction or, if available, there should be mechanisms to ensure that all existing bearer shares are[53] immobilised or registered (for instance, by a custodian) and that updated information on holders of bearer shares is also filed with a government authority.

For ownership information to be considered **complete**, it needs to comprise specific minimal elements. It should include in case of beneficial owners:

c) the full names of all beneficial owners holding the specified percentage thresholds of shares, interest or control in the legal entity; and for each beneficial owner

d) their country of residence, and

e) full address, or a passport ID-number, or birthdates, or a Taxpayer Identification Number.

In the case of legal owners, registered ownership information should include:

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

b) their country of residence or incorporation, plus

i. in case of individuals, full address, or a passport ID-number, or birthdates, or a Taxpayer Identification Number (TIN);

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

However, with respect to the completeness of the legal ownership details, we exceptionally gave jurisdictions the benefit of the doubt if we were unable to determine whether a jurisdiction requires the registration of complete ownership details. Thus, a lack of information on the completeness of legal ownership details was treated as if the details were complete for the purposes of the secrecy score. This exception to the "unknown is secrecy" principle is made for two reasons. The first and main reason is that we did not include this question in the questionnaire to our FSI survey 2017.[54] Second, this level of detail was not specified in most of the available current sources (e.g. Global Forum peer reviews).

[52] Bearer shares are shares which are not registered, where the owner can be any person physically holding the share certificate and the transferring of the ownership involves only delivering the physical certificate.

[53] We consider that the obligation to register bearer shares exists when legal provisions establish a timeframe for immobilization/registration of all existing bearer shares before 2020 and where the consequence for non-compliance is the loss of those shares. Provisions where the only consequence of non-compliance is the loss of voting rights or rights to dividends are not considered to be sufficient because this would involve the mere suspensions of rights. In such case, the holders of bearer shares may still transfer those shares or avoid identification until they are intending to regain their rights.

[54] http://www.financialsecrecyindex.com/PDF/FSI2017-Questionnaire-MoF.pdf

The null secrecy score (full transparency) applies only to the ideal transparency scenario where registration encompasses absolutely all natural persons who have at least one share in the company. However, secrecy scores can be reduced (instead of a 100% secrecy score) if jurisdictions have comprehensive beneficial ownership registration (e.g. covering all companies), but where the definition of beneficial ownership is triggered by thresholds of control/ownership higher than just one share (e.g. a 25% of ownership).

In a case where a European Union (EU) member state has not transposed by 31 August 2017 the EU's 4th Anti-Money Laundering Directive into domestic law, the relevant secrecy score for not having beneficial ownership registration will be applied. The deadline to transpose the Directive into national law was 26 June 2017,[55] so any delayed jurisdiction is or was in breach of the EU AMLD.

A clean transposition of the EU 4th Anti-Money Laundering Directive into domestic law by EU member states would still result in a secrecy score of 65-75% in this Key Financial Secrecy Indicator (KFSI), because the Directive applies a minimum floor of control or ownership of 'more than 25%' of the company. Under these rules, a natural person who directly or indirectly owns or controls 25% or less of a company's shares would not be identified as BO. Four members of one family suffice to frustrate this BO registration threshold if each held 25% of the shares.[56] The recommendations of the international anti-money laundering agency Financial Action Task Force (FATF) suffer from the same weakness.

Both the FATF's recommendations and the EU's 4th Anti-Money Laundering Directive provide for another problematic clause in the definition of the BO. Under certain conditions it allows the "relevant natural person who holds the position of senior managing official" to be registered as a BO of a company (FATF 2012: 60, 10.C.5.b.i.iii; see more details in section below).[57] If a jurisdiction dispenses with a senior manager opt out clause, the quality of the BO data increases, resulting in a 25% reduction of the secrecy score in this KFSI. In this better case, a company would at least disclose to have no BOs (which could raise alerts or red flags) instead of giving the appearance that the company has a regular BO, who is in reality the senior manager.

This indicator is mainly informed by five different types of sources. First, the Global Forum peer reviews[58] have been analysed to find out what sort of ownership information companies must

[55] See Article 67, page 111, in: European Parliament/Council of the European Union 2015: Directive 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, Brussels, in: http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32015L0849&rid=1; 4.6.2016.

[56] For full details, please read Knobel, Andres/Meinzer, Markus 2016: Drilling down to the real owners – Part 1. "More than 25% of ownership" & "unidentified" Beneficial Ownership: Amendments Needed in FATF's Recommendations and in EU's AML Directive, op. cit.

[57] Financial Action Task Force 2012: The FATF Recommendations. International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation, Paris, in: http://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF_Recommendations.pdf; 6.6.2013.

[58] 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/; 26.05.2015.

register with a government agency. An important distinction is made between beneficial ownership information which refers to the natural persons who ultimately own the company, on the one hand, and legal ownership which "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)[59] 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".

Second, where doubts or data gaps existed, and to the extent this was possible, we have directly analysed domestic legislation that implements beneficial ownership registration. Given that many countries in and outside the EU[60] have started to regulate beneficial ownership registration in 2017 and these new laws have not yet been assessed by either the Global Forum or the FATF, the FSI team has assessed the laws directly, to the extent capacity and language permitted, and has relied on comments by local experts. It is possible that these assessments may change after the Global Forum or FATF conduct an in-depth review of these new laws.

The third type of source used was private sector websites (Lowtax.net, Ocra.com, Offshoresimple.com, etc.), the fourth, Financial Action Task Force (FATF) peer reviews,[61] and the fifth, the results of the TJN-Survey 2017 (or earlier).

[59] Organisation for Economic Co-Operation and Development 2010: Tax Co-operation 2010. Towards a Level Playing Field - Assessment by the Global Forum on Transparency and Exchange of Information, Paris.

[60] As for the situation in the EU, we have reviewed the 4th EU Directive on Anti-Money Laundering and, to the extent possible, corresponding implementing legislation of EU member states. While in the Financial Secrecy Index 2013 no jurisdiction was considered to have any beneficial ownership registration, this has changed in 2015 and again in the FSI 2018. The said directive entails minimum standards for the registration of adequate, accurate and current information on the beneficial owners of corporates and other legal entities to be accessed by competent authorities, FIUs, entities obliged to conduct customer due diligence (such as banks) and persons and organizations with a legitimate interest. Member States may choose to go beyond this standard and publish the information on registries accessible by the public. The definition of 'beneficial owner' under the Directive, however, is subject to a threshold of more than 25% ownership rights. In line with various other international developments, we consider this threshold to be too high and therefore only provide a partial reduction of the secrecy score if this threshold is implemented.
For instance, see EU Commission proposal: http://europa.eu/rapid/press-release_IP-16-2380_en.htm; 23.8.2017. Compare also with FATCA, where 10% of shares/capital in an entity is threshold to define a US substantial ownership ("FATCA + AML = an equation with too many variables?, Weis, Thinnes, PWC Luxembourg, May 2012, at: http://www.pwc.lu/en/press-articles/2012/fatca-aml-an-equation-with-too-many-variables.jhtml; 20.7.2014). And consider Transparency International EU/Financial Transparency Coalition/Eurodad 2016:

European Commission Proposal on AMLD4. Questions and Answers, in:
http://www.pastoral.at/dl/KKmsJKJKKmnOMJqx4KJK/QA_final.pdf; 23.2.2017.

[61] The FATF consolidated its 49 (40 plus 9 special) recommendations to a total of 40 in 2012 (the "new recommendations"). We used the latest available report for our analysis.

KFSI 3 resembles KFSI 6 relating to public company ownership information. However, KFSI 3 assesses only whether complete and updated beneficial information needs to be recorded at a government agency.

All underlying data can be accessed freely in the FSI database. To see the sources we are using for particular jurisdictions please consult the assessment logic in **Table III (Annex B) and search for the corresponding info IDs **(IDs 388, 470, 471, 472, 473, 485 and 486)** in the database report of the respective jurisdiction.

3.3.2 Why is it important?

Absence of reliable and comprehensive ownership information obstructs law enforcement and creates a criminogenic environment, as illustrated powerfully by the Panama Papers. In essence, these revelations provided proof about the identities of beneficial owners of otherwise anonymous shell companies. The common thread in the Panama Papers was secrecy, enabling perpetrators to launder illicit proceeds of corruption, tax evasion, drugs money and much more. They depend on secrecy – very often through using shell companies, trusts and foundations available in most countries worldwide. Intermediaries such as lawyers, notaries, family offices and banks help create and handle those structures. But Panama or the British Virgin Islands are not the only problematic jurisdictions.

When a jurisdiction, such as the US state of Wyoming (see here[62], page 236, or here[63]), 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[64] is very restricted.

These so-called 'shell companies' are nothing more than letterboxes serving as conduits for financial flows in many different guises. Non-resident persons (both natural and legal) can use a shell 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 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)[65]

[62] http://www.fatf-gafi.org/media/fatf/documents/reports/mer/MER%20US%20full.pdf; 26.05.2015.

[63] http://www.economist.com/node/21529021; 26.05.2015.

[64] http://www.oecdbookshop.org/en/browse/title-detail/?ISB=212001131P1; 26.05.2015.

[65] http://star.worldbank.org/star/sites/star/files/puppetmastersv1.pdf; 26.05.2015.

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.[66] BAE's conspiracy involved the use of offshore shell companies - most of which were owned by BAE - to conceal the role of intermediaries it had hired to assist in promoting Saudi Arabian fighter deals. One of the shell companies used by BAE was incorporated in the British Virgin Islands (BVI), where incorporation of a legal entity does not require disclosure of the physical location of the place of business nor the legal and beneficial ownership information.[67]

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.[68] The use of shell entities allowed BAE to conceal the stream of payments to these agents and to circumvent laws in countries that did not allow agency relationships. It also hindered the ability of authorities to detect the schemes and trace the money.[69]

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. preferential 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 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[70].

[66] See http://www.justice.gov/opa/pr/2010/March/10-crm-209.html; 26.05.2015.

[67] See British Virgin Islands Bus. Co's Act § (9)(1)(2004), British Virgin Islands Bus. Co's Act § (41)(1)(d) (2004).

[68] See http://www.justice.gov/criminal/fraud/fcpa/cases/bae-system/02-01-10baesystems-info.pdf; 26.05.2015.

[69]The World Bank & UNDOC, "The Puppet Masters- How the Corrupt Use Legal Structures to Hide Stolen Assets and What to Do About it" (2011) (hereinafter: "The Puppet Masters"), pp.198-202.

[70] 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

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 expense 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. 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.

The US-tax authority in turn cannot readily access the required data on behalf of the Kenyan authorities if the ownership information is not registered. In order 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 outcome is that the required beneficial ownership information is unavailable in the USA and is held in a third country. That 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.

However, beneficial ownership registration alone is no guarantee for law enforcement to be able to find ownership data. Even if a jurisdiction's laws require the recording of beneficial owners controlling more than 25% of interest in a company, not a single beneficial owner might be recorded if four or more natural persons are jointly colluding to control the entity. If the same jurisdiction's laws fail to require registering the legal owners of that company, law enforcement might end up without any lead to follow for investigating that company. No ownership information whatsoever would be available in such a case. Therefore, a jurisdiction requiring all legal owners to register increases the chances of successfully investigating wrongdoers, and thus enhances accountability.

Money Laundering in Foreign Bribery Scheme" (March 12, 2010); 15.07.2013; *See also* Plea Agreement pp. 8-9, United States v. Antoine, No. 09-cr-21010 (S.D. Fla. February 19, 2010); 27.9.2012. *See also* The Puppet Masters, pp. 212-217.

3.4 KFSI 4 – Other Wealth

3.4.1 What is measured?

This indicator assesses the ownership transparency of real estate and of valuable assets stored in freeports.

1. Regarding **real estate**: it assesses whether a jurisdiction requires online publication of the beneficial and/or legal owners of real estate for free and in open data or at a maximum cost of US$ 10, € 10 or £ 10,[71] updated at least on an annual basis;

2. Regarding **freeports**: it assesses whether a jurisdiction offers and promotes its freeports (or similar venues such as bonded warehouses) for the storage of high-value assets, and whether it requires the registration and cross-border automatic exchange of the identities of legal and/or beneficial owners (BO) of the stored valuables.

Accordingly, we have split this indicator into two components. The overall secrecy score for this indicator is calculated by simple addition of the secrecy scores of each of these components. The secrecy scoring matrix is shown in Table 4.1 on the following page, with full details of the assessment logic given in Table IV (Annex B).

Real estate whose beneficial owners live in the actual building is exempt from the public disclosure requirement. If a beneficial owner of real estate property can provide proof that her/his tax residency is at the same address, the identities of the owners would not need to be disclosed. All other real estate ownership needs to be disclosed in a central registry run by a government agency which is publicly accessible via the internet.

[71] We believe this is a reasonable criterion given a) the prevalence of the internet in 2017, b) as international financial flows are now completely relying on the use of modern technology, it would be an omission not to use that technology 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. This criterion is informed by the open data movement according to which all available company registry information, including accounts, should be made available, for free, in open and machine-readable format. For more information about this see http://opencorporates.com/; 25.8.2017.

Table 4.1: Secrecy Scoring Matrix KFSI 4

Regulation [Secrecy Score: 100% = full secrecy; 0% = full transparency]	**Online for free & in open data** Secrecy score if for free and in open data format	**Online for free, no open data** Secrecy score if for free, but not in open data format	**Online at small cost** Secrecy score if against cost of up to 10€/US$/GBP
COMPONENT 1: REAL ESTATE OWNERSHIP (50%)			
Incomplete Ownership or high cost Updated and complete real estate ownership is not open to the general public or not consistently available online for a cost of up to 10€/US$/GBP.	50%		
Complete Legal Ownership Complete and updated details on legal owners of real estate are consistently available to the general public online (but no, incomplete or not updated beneficial ownership information).	35%	40%	45%
Complete Beneficial Ownership Complete and updated details on beneficial owners of real estate are published online (but no, incomplete or not updated legal ownership information).	20%	25%	30%
Complete Beneficial and Legal Ownership Complete and updated details on all beneficial owners and on all legal owners are published online.	0%	5%	10%

COMPONENT 2: FREEPORTS (50%)	
Incomplete or No Ownership Registration Freeports are available & promoted, but no information on legal or beneficial ownership of assets held in freeports is consistently registered by local public authorities.	50%
Legal but not Beneficial Ownership Registration – No automatic notice Freeports are available & promoted, and updated and complete legal ownership information of stored assets is always registered, but not always sent automatically to countries of residence of the beneficial owners.	37.5%
Legal and Beneficial Ownership Registration – No automatic notice Freeports are available & promoted, and updated and complete legal and beneficial ownership information of stored assets is always registered, but not always sent automatically to countries of residence of the beneficial owners.	25%
Complete registration and automatic notice to the owner's residence jurisdiction, **or** freeports are not promoted or do not exist Updated and complete legal and beneficial ownership information of stored assets is always registered and sent automatically to countries of residence of the beneficial owners. **OR** Freeports do not exist or are not promoted for high-value asset storage.	0%

To meet a reasonable standard, published ownership information must comply with minimum requirements. In the 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 prescribed by anti-money laundering standards.[72] For this purpose, trusts, foundations, partnerships, limited liability corporations and other legal persons or structures do not qualify as beneficial owners. Different percentage thresholds of control or ownership applied in the definition of the beneficial owner are disregarded in this indicator as long as the definition and threshold of a beneficial owner is the same or stronger than the requirements of the Financial Action Task Force (FATF) and the European Union (see KFSI 3).[73]

A prerequisite for ownership information to be considered **publicly available** is that the information must be kept by a public registry maintained by a governmental authority. A governmental authority is used interchangeably here with "government agency" or "public institution". In contrast, if the registry or access to registry data is managed by a private entity we consider that it is not publicly available.[74] Furthermore, a publicly available register should include a search function that allows searching by street address of the real estate.[75] While the registry should be centralised for a jurisdiction, it does not yet need to cover its entire territory. It is sufficient if the registry is set up so as to aim at including the whole jurisdiction and it is clearly explained which areas are covered, and if no administrative subdivision holds a separate register or authority to object to data collection and provision.

For published ownership information to be considered **updated**, the relevant data should be required to be updated at least annually or upon any change. For ownership information to

[72] FATF defines 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 113 in Financial Action Task Force 2012: The FATF Recommendations. International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation (Updated in October 2016), Paris, in: http://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF_Recommendations.pdf; 31.08.2017.

[73] Both the recommendations of the international anti-money laundering agency Financial Action Task Force (FATF) and the 4th Anti-Money Laundering Directive of the European Union apply a minimum floor of control or ownership of 'more than 25%' of the company in the definition of a beneficial owner (BO) of a company. Under these rules, a natural person who directly or indirectly owns or controls 25% or less of a company's shares would not be identified as BO. Four members of one family suffice to frustrate this BO registration threshold if each held 25% of the shares. See KFSI 3 or the note above for further details: http://www.financialsecrecyindex.com/PDF/3-Recorded-Company-Ownership.pdf; 12.9.2017.

[74] The reasons are that the costs for accessing as well as the risks and incentives for manipulation (such as omissions or backdating changes) of ownership information remain far higher than with publicly run registers. Furthermore, privately managed registers and firms usually are not covered by freedom of information legislation, exacerbating secrecy.

[75] If the online interface of the register only allows searches using some administrative identifiers of the property (but not with street addresses or map selection), we have considered that registry information to be available only if those administrative identifiers could otherwise be linked to street addresses through officially recognised and freely available websites.

be considered **complete**, it needs to comprise specific minimal elements. It should include in case of **beneficial owners**:

f) the full names of all beneficial owners of the real estate, where a beneficial owner is identified in line with or stricter than the requirements of the Financial Action Task Force (FATF) and the European Union;[76] and for each beneficial owner:

g) country of residence, and

h) full address, or passport ID-number, or year and month of birth, or a Taxpayer Identification Number (TIN).

In case of **legal owners**, the minimum details required to be published online include:

a) The full names of nominees and/or trustees and/or legal entities acting as legal owners of the real estate, and for each:

b) country of residence or incorporation, plus

iii. in case of individuals, full address, or passport ID-number, or year and month of birth, or a Taxpayer Identification Number (TIN); or

iv. in case of legal entities, company registration number or address of principal place of business or registered address.

The requirements for published ownership information to be considered complete are identical to the indicators on company and partnership transparency except for the legal owner requirements under b) ii), where it is sufficient in the real estate registry case to provide either a company registration number or an address (and not a combination of both).

If this data is **available online** but there is a cost to access it of up to 10EUR/GBP/USD, the secrecy score will be reduced but not to zero.

To obtain a zero secrecy score, this data needs to be accessible online for **free and in open data** format. Even if the cost per record is low, it can be prohibitively expensive to import this information into an open data environment which limits the uses of the data. For example, access costs create substantial hurdles for conducting real time network analyses, for constructing cross-references between companies and jurisdictions, and for new creative data usages.[77] Furthermore, complex payment or user-registration arrangements for accessing the data (e.g. registration of bank account, requirement of a local identification number or sending of hard-copy mails) should not be required.[78]

From an open data perspective, a zero secrecy score is subject to the type of license for the use of the data, and if the data is fully downloadable from the internet. In cases where data was found to be freely available, we have consulted the corresponding jurisdiction at the open

[76] See note above.

[77] These innovative ways to exploit the data are both widespread in the open data community and would greatly increase the likelihood of identifying illicit activity hidden behind corporate vehicles. For more information about this see http://opencorporates.com/; 26.05.2015.

[78] We consider that for something to be truly 'on public record', prohibitive cost constraints must not exist, be they financial or in terms of time lost or unnecessary inconvenience caused.

company data index published online by Open Corporates.[79] Only if there was an open license or no license for the reuse of the data, and if the data was freely available for download, we considered it as open data.[80]

We performed a random search on each of the relevant real estate registries to ensure that the information is effectively available and that technical problems do not persistently block access.

The first component (real estate) of KFSI 4 draws information mainly from four different types of sources. First, we incorporated the results of the TJN-Survey 2017. Second, we took into consideration existing studies and research for example by the World Bank (Land Governance Assessment Framework[81]) or by the European Union (European Land Information Service[82]). Third, we performed an internet search for the relevant real estate registries in each of the reviewed jurisdictions. If data on real estate owners was accessible, we then analysed a sample for the quality of data. If doubts existed about the quality or nature of the data, we then proceeded to analyse the local legislation, on a case by case basis.

For the second component (freeports), information has been collected through the following means: first, a literature and media article review was conducted to identify high profile freeports. Second, an internet search was carried out by combining a jurisdiction's name with the following words: "freeport", "bonded warehouse", "free trade zone", "foreign trade zone", "storage", "valuable storage", "art storage" and "gold storage". Third, the resulting information about the existence of specific storage facilities was checked for consistency with data collected through the TJN-Survey 2017. Fourth, for those jurisdictions with such facilities, we reviewed FATF reports. Finally, if any source indicated that within the freeport facilities, ownership information about those using the facilities and owning the stored assets needed to be registered, corresponding government websites, legislation and/or regulation were analysed to assess whether there are adequate mechanisms in place to enable the countries in which the free ports are located to automatically send the information to countries of residence of the owners. Where no evidence was found to confirm the existence or promotion of freeports, the jurisdiction received zero secrecy score.

All underlying data can be accessed freely in the FSI database. To see the sources we are using for particular jurisdictions please consult the assessment logic in **Table IV (Annex B) and search for the corresponding info IDs **(IDs 416, 418, 437, 439 and 487)** in the database report of the respective jurisdiction.

3.4.2 Why is this important?

Component 1: Real Estate Registries

[79] http://registries.opencorporates.com/; 30.8.2017.

[80] For six principles of open data, please consult https://opendatacharter.net/; 30.8.2017.

[81] http://www.worldbank.org/en/programs/land-governance-assessment-framework#2; 12.10.2017.

[82] https://e-justice.europa.eu/content_land_registers_at_european_level-108-en.do; 12.10.2017.

Secrecy around the ownership of real estate exacerbates the attractiveness of the real estate sector for money laundering, investing the proceeds of crime and the use of aggressive tax avoidance structures. There are a number of reasons why real estate transactions are particularly attractive for criminals seeking to conceal and/or launder their illicit wealth. First, money laundering through real estate does not require a lot of planning or expertise and therefore is relatively uncomplicated and risk-free compared to other methods of money laundering.[83] Second, cash is still used often in many countries and does not leave an electronic paper trail for investigators. Third, the high unit prices involved in real estate transactions implies that large sums of illicit funds can be laundered without creating suspicion, since these are more difficult to detect in a deep and large pool of regular high value real estate transactions.[84] In addition to these factors several recent case studies have shown that without public pressure the willingness and motivation of governments to control and limit the influx of dirty money from abroad is very low.

Public registers with complete legal ownership as well as ultimate beneficial owners would increase the pressure for proper oversight and mitigate the high risks of illicit activity. Yet to date there is no public register of those ultimately owning and controlling real estate anywhere in the world. The absence of easily accessible information even on legal owners of real estate cause investigations to slow down or even fail, if journalists, civil society, police or public prosecutors dispose of no, or only complex, uncertain, costly or time consuming, means to access real estate ownership information at home and across borders.

In March 2017, the European Parliament proposed to add centralised registries including the beneficial owners of real estate (Art. 32b) as a requirement of an updated Anti-Money Laundering directive.[85] However, that proposal does not contemplate public access to those registers, but restricts access to domestic competent authorities and financial intelligence units.

In countries with public beneficial ownership for domestic companies, a public register on beneficial owners of real estate would also eliminate undue advantages for foreign companies and help to avoid incentives for arbitrage. Without a public beneficial ownership registry for real estate, there is an incentive for companies investing in real estate to use shell companies incorporated in secrecy jurisdictions for buying real estate as a means for disguising ultimate ownership and investors.

The mechanisms used for money laundering in the real estate sector are well known and there are many examples of real estate being abused for money laundering. The FATF described in 2007 how one of the often-used structures to launder money consists in manipulating the

[83] For more information, see http://www.austrac.gov.au/sites/default/files/sa-brief-real-estate.pdf; 19.1.2017.

[84] See: http://www.fatf-gafi.org/media/fatf/documents/reports/ML%20and%20TF%20through%20the%20Real%20Estate%20Sector.pdf; 19.1.2017.

[85] See Article 32b, in: http://www.europarl.europa.eu/sides/getDoc.do?type=REPORT&mode=XML&reference=A8-2017-0056&language=EN; 18.10.2017.

valuation of real estate through a complex chain of transactions. First, the launderers set up shell companies to buy property. Soon after the purchase, these companies are voluntarily wound up and the criminals who set them up then repurchase the real estate at a higher price than it was originally bought. The (criminal) origin of the capital for this second purchase of the same real estate remains concealed and the money is laundered in the hand of the seller in the second real estate transaction.[86] In their 2017 report on money laundering risks in four major real estate markets, Transparency International shows that existing oversight and anti-money laundering rules don't work effectively. [87]

For example, in the corruption scandal around the Malaysian Sovereign Wealth Fund 1MDB, a US civil lawsuit alleges that over US$3.5 billion of taxpayer funds were diverted to buy, among others, luxury real estate in the US and the UK.[88] A complex and multi-layered web of accounts and companies helped disguising the source of funds and the real owners controlling the real estate. Pooled accounts by major US law firms were allegedly playing a central role to get the laundered money into the US. If a central and public register of ownership of real estate had existed in the US, the law firms involved in handling the dubious transactions and clients might have thought twice about the reputational risks of engaging with these actors. In order to address money laundering in the real estate sector, Transparency International recommended, among others:

> "Governments should require foreign companies that wish to purchase property to provide beneficial ownership information. Preferably, this information should be kept in a beneficial ownership registry and made available to competent authorities and the public in open data format". [89]

Stories about wealthy individuals from Russia, Kazakhstan and other former Soviet Union countries buying real estate in Switzerland at highly inflated prices have been viral at least since 2010. An official overseeing construction in a Swiss canton said that money did not matter for the buyers – even if a zero is added to the market price, they would still buy it.[90] Even organised crime groups, such as the Russian and Italian mafias, have been reported to

[86] See p. 11-17 in FATF, "Money Laundering & Terrorist Financing Through the Real Estate Sector" (June 2007) at: http://www.fatf-gafi.org/media/fatf/documents/reports/ML%20and%20TF%20through%20the%20Real%20Estate%20Sector.pdf; 19.1.2017.

[87] http://files.transparency.org/content/download/2121/13496/file/2017_DoorsWideOpen_EN.pdf; 18.10.2017.

[88] Attorneys for Plaintiff UNITED STATES OF AMERICA, UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA. CV 16-16-5362, 20 July 2016. www.justice.gov/archives/opa/page/file

[89] See page 10, in: http://files.transparency.org/content/download/2121/13496/file/2017_DoorsWideOpen_EN.pdf; 18.10.2017.

[90] https://www.swissinfo.ch/eng/concerns-over-geneva-s-new-luxury-villa-owners/28615652; 18.10.2017.

use real estate for money laundering especially around the Lake Zurich, Lake Geneva and Ticino regions.[91] Concerns about money laundering in Swiss real estate persisted in 2017.[92]

The UK property market is no less an investment destination of choice for dubious characters. Global Witness revealed in 2015 how a real estate empire worth £147 million in well-known London locations appeared to be "owned by someone with ties to Rakhat Aliyev, a notorious figure from Kazakhstan, accused in the EU of money laundering and murder" (page 1[93]). An investigative documentary entitled 'From Russia with Cash' illustrated how the London property market is awash with billions of pounds of corruptly gained money which has been laundered by criminals and foreign officials**.** The documentary emphasised the need for creating in the UK a central public land registry of foreign companies, setting out which land they own.[94]

Similarly, various case studies in Germany illustrate how the real estate sector of Baden-Baden, a health and casino resort town in the south of Germany, is owned by dubious Russian and former Soviet Union officials.[95] A study commissioned by the German federal crime fighting agency BKA (Bundeskriminalamt) of 2013 identified high risks of money laundering in the German real estate sector – a finding that was confirmed in 2015 in academic study.[96]

Real estate in New York has also been reported to be linked to wealth of dubious origin. For example, in 2014, it was discovered through a leak that properties held by offshore companies in New York Central Park West were owned by a Chinese couple (Sun Min and Peter Mok Fung). However, New York Magazine reported[97] that a "[…] Hong Kong tribunal recently convicted Sun Min of trading on inside information related to Coca-Cola's failed acquisition of a Chinese juice company in 2008, the same year she and her husband made their $15 million purchase".

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[91] https://www.swissinfo.ch/eng/business/real-estate-moves-to-lower-dirty-money-risks/31137176; 18.10.2017.

[92] https://www.swissinfo.ch/eng/business/bricks--mortar---dirty-cash_squeezing-laundered-money-out-of-swiss-property/43200192; 18.10.2017.

[93] https://www.globalwitness.org/documents/18036/Mystery_on_baker_street_for_digital_use_FINAL.pdf; 18.10.2017.

[94] See David Cameron speech, 3 weeks after the broadcasting of the documentary: https://www.theguardian.com/politics/2015/jul/28/david-cameron-fight-dirty-money-uk-property-market-corruption; 19.1.2017

[95] See chapter 3 in: Meinzer, Markus 2015: Steueroase Deutschland. Warum bei uns viele Reiche keine Steuern zahlen, München.

[96] Bundeskriminalamt 2013: Managementfassung zur Fachstudie „Geldwäsche im Immobiliensektor in Deutschland", Wiesbaden, in: https://www.bka.de/SharedDocs/Downloads/DE/UnsereAufgaben/Deliktsbereiche/GeldwaescheFIU/fiuFachstudieGeldwaescheImmobiliensektor.html; 12.01.2018; Bussmann, Kai 2015: Dunkelfeldstudie über den Umfang der Geldwäsche in Deutschland und über die Geldwäscherisiken in einzelnen Wirtschaftssektoren, Halle.

[97] http://nymag.com/news/features/foreigners-hiding-money-new-york-real-estate-2014-6/index1.html#print; 17.10.2017.

In countries such as Spain, where the real estate bubble drove economic growth in pre-crisis years, the opacity of real estate registries allowed illicit activities to thrive. In Spain, two examples illustrate the importance of public ownership registries for real estate.

Following a legislative change (Ley Hipotecaria de 1998) under the mandate of Jose María Aznar, the catholic church was awarded preferential treatment in registering real estates. Without proof other than a statement by the bishop of the corresponding diocese, and subject to no publicity requirements, the church was allowed to claim ownership over properties that where formerly considered property of municipalities. This ad hoc silent registration process allowed the catholic church to claim over 5000 real estates in the last two decades, setting up in several cases for profit yet tax free endeavours.[98] The investigative documentary by Jordi Evole, "Que Dios te lo Pague" (in english "may god pay you"), covers various cases of secretive real estate speculation carried out by the Archdiocese of Pamplona y Tudela (Navarra).[99]

In the coastal city of Marbella, a favoured destination for wealthy Russians,[100] the public witnessed an unprecedented money laundering scandal when in the years following the burst, police investigations uncovered a dense criminal network with tight control over local authorities. The municipality facilitated the construction of more than 16 000 illegal properties, laundering over 2400 million euros for construction companies and private individuals, while using complex legal structures to conceal effective ownership of the properties.[101]

Apart from aiding money-laundering and investment of laundered money, hidden and complex ownership structures also help facilitate aggressive tax avoidance and obstruct accountability. When professional real estate investors create complex company structures to reduce their taxes and real estate registers only contain the direct legal owner – often a local special purpose company – it becomes impossible to obtain reliable information on who owns local real estate both for the purpose of statistics to inform policy making as well as to enable tenants and local residents to hold their landlords accountable. Two examples of real estate investment funds from Jersey and Luxemburg and the consequences their investments have in Germany are documented here (in German).[102] As those investment funds are themselves owned by a multitude of different shareholders, often including trusts and other investment funds, beneficial ownership transparency will only be possible with the global application of strict requirements going far beyond the standard 25% threshold for company registers (as suggested in KFSI 3 company ownership).

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[98] https://www.elconfidencial.com/economia/2015-07-19/la-amnistia-inmobiliaria-de-la-iglesia-llega-a-bruselas-y-abre-el-debate-sobre-la-seguridad-juridica_928274/; 19.07.2015; https://politica.elpais.com/politica/2013/05/05/actualidad/1367768798_397124.html; 06.05.2013.

[99] http://www.publico.es/espana/salvados-destapa-negocios-inmobiliarios-iglesia.html; 23.04.2012.

[100] https://elpais.com/ccaa/2012/03/31/andalucia/1333216873_694353.html; 28.01.2018. https://www.efe.com/efe/espana/sociedad/detenidos-un-capo-de-la-mafia-rusa-y-el-presidente-del-marbella-por-blanqueo/10004-3390574; 28.01.2018.

[101] https://www.vanitatis.elconfidencial.com/noticias/2017-03-14/malaya-juan-antonio-roca-subasta_1347366/; 14.03.2017; https://politica.elpais.com/politica/2016/03/30/actualidad/1459325623_034369.html; 30.03.2016.

[102] Exhibit #1: GBW, in: http://www.br.de/nachrichten/inhalt/akte-gbw-konstrukt-100.html; Exhibit #2: Taliesin, in: https://blendle.com/i/der-tagesspiegel/dustere-deals/bnl-tagesspiegel-20161008-0011977481; 19.10.2017.

Component 2: Freeports

Freeports for storing valuable assets – especially art - are proliferating around the globe, with many new major facilities announced or completed in recent years. The latest additions are facilities in the USA (Delaware, 2015[103]; New York, 2017[104]) and China (Shanghai, 2017[105]), which were preceded by Luxembourg (2014), Beijing (2014)[106] and Monaco (2013)[107] and Singapore (2010)[108]. The oldest actor still operating is the Ports Francs et Entrepots de Genève, which runs a gigantic Geneva-based freeport,[109] which has been in operation since 1888 and which in 1988 opened a facility at Geneva Airport.[110]

This boom appears to be partially driven by strong growth at the top end (sales above USD 10 million) of the art market, itself reflective of an extreme concentration of wealth in the hands of billionaires (Deloitte 2014: 29[111]; Deloitte 2016: 104[112]). At the same time, another important reasons for the growth in demand for storage of gold bullion in such high security places was the financial crisis as well as the avoidance of new bank account reporting rules crafted from 2013 onwards.[113] Last but not least, billionaire drug lords have been known in the past to launder money through expensive art collections, including Joaquin Guzmán aka El Chapo (Mexico),[114] Héctor Beltrán Leyva (Mexico) and Pablo Escobar (Colombia).[115]

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[103] https://www.nytimes.com/2015/10/26/arts/design/art-collectors-find-safe-harbor-in-delawares-tax-laws.html; 17.10.2017.

[104] https://static1.squarespace.com/static/54aff3a8e4b0a3366e8981e3/t/59e50f54bce1762a6dd98339/1508183893069/USA+Today+Delaware+provides+tax+shelter+for+multimillion.pdf; https://news.artnet.com/art-world/will-new-york-get-its-own-freeport-for-art-arcis-plans-a-tax-haven-in-harlem-878165; 17.10.2017.

[105] https://news.artnet.com/art-world/le-freeport-west-bund-282939; 17.10.2017.

[106] http://shanghaiist.com/2013/03/26/tax-free_beijing_freeport_of_culture_to_open_in_2014.php; http://www.chinadaily.com.cn/beijing/2014-09/24/content_18651539.htm; 17.10.2017.

[107] http://www.monaco-freeport.mc/en/welcome.html; http://www.rosemont-int.com/en/news/28-11-2013-monaco-freeport/; 17.10.2017.

[108] http://www.customs.gov.sg/~/media/cus/files/insync/issue09/features/freeport.html; https://www.economist.com/news/briefing/21590353-ever-more-wealth-being-parked-fancy-storage-facilities-some-customers-they-are; 17.10.2017.

[109] http://www.nytimes.com/2012/07/22/business/swiss-freeports-are-home-for-a-growing-treasury-of-art.html; 17.10.2017.

[110] http://geneva-freeports.ch/fr/; 17.10.2017.

[111] https://www2.deloitte.com/content/dam/Deloitte/es/Documents/acerca-de-deloitte/Deloitte-ES-Opera_Europa_Deloitte_Art_Finance_Report2014.pdf; 19.1.2017.

[112] https://www2.deloitte.com/content/dam/Deloitte/lu/Documents/financial-services/artandfinance/lu-en-artandfinancereport-21042016.pdf; 19.10.2017.

[113] http://www.spiegel.de/international/business/art-as-alternative-investment-creates-storage-business-tax-haven-a-912798.html; https://www.welt.de/newsticker/bloomberg/article116978314/Deutsche-Bank-eroeffnet-Goldtresor-mit-Kapazitaet-von-200-Tonnen.html; 17.10.2017.

[114] https://news.artnet.com/market/inside-el-chapos-mansion-art-collector-316398; 17.10.2017.

[115] https://news.artnet.com/art-world/3-drug-kingpins-art-adored-316531; 17.10.2017.

The value of assets stored in Freeports around the world is rising,[116] albeit unknown, it is believed to be in the hundreds of billions of dollars.[117] But it is not only art that is stored in Freeports. Besides art, the range of high value assets include precious stones, antiquities, cash, gold bars, wines and even classic cars.[118]

Freeports are known as a 'fiscal no-man's-land'. They were originally created to boost trade by suspending customs duties, sales taxes and value-added tax until the final delivery of the goods outside the freeports. If no delivery is made, such taxes and customs duties will never be paid. Historically, this might not have been an issue, because goods such as grain or other commodities could not be stored indefinitely. However, artworks, gold, precious stones and other luxury goods may never leave the freeport, but can be traded within the freeport without ever leaving it. Freeports are often used to store valuable goods discreetly with a strong emphasis on high security.

This invites all sorts of shady traders and businesses who benefit from no or low tax, and the veil of secrecy resulting from an absence of, or weak, customs and tax checks. UNESCO summarised the regulatory vacuum as follows:

> "In some cases it is not clear whether the government or the Customs authorities have the jurisdiction to exercise controls. The lack of control by Customs raises problems in the fields of intellectual property, valuation fraud and other non-fiscal offences. Moreover, controls are often carried out by random selection methods rather than based on risk assessment or indicators and there are no clear procedures, authority, or documentation identified to organize and carry out the investigations." (page 3)[119]

Before the recent hype of freeports for the storage of high value goods, the anti-money laundering agency Financial Action Task Force published a report on "Money Laundering vulnerabilities of Free Trade Zones" in 2010.[120] A number of trade based money laundering cases with involvement of free trade zones were documented in that report. With respect to the checks applicable, the FATF noted:

> "The scope and degree of Customs control over the goods introduced, and the economic operations carried out in FTZs, vary from one jurisdiction to another.

[116] See: https://www2.deloitte.com/content/dam/Deloitte/es/Documents/acerca-de-deloitte/Deloitte-ES-Opera_Europa_Deloitte_Art_Finance_Report2014.pdf (p.29); 19.1.2017.

[117] See: http://www.economist.com/news/briefing/21590353-ever-more-wealth-being-parked-fancy-storage-facilities-some-customers-they-are; https://www.tagesanzeiger.ch/leben/gesellschaft/Schweizer-Supersafe-in-Singapur/story/17946480; 19.1.2017

[118] http://www.spiegel.de/international/business/art-as-alternative-investment-creates-storage-business-tax-haven-a-912798.html; 17.10.2017.

[119] http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CLT/pdf/2_FC_free_port_working_document_Final_EN_revclean.pdf; 17.10.2017.

[120] http://www.fatf-gafi.org/media/fatf/documents/reports/ML%20vulnerabilities%20of%20Free%20Trade%20Zones.pdf; 17.10.2017.

> Consistent with the purposes of establishing free trade zones, goods introduced in a FTZ are generally not subject to the usual Customs controls. There is therefore a risk of exploiting the FTZ system for commercial fraud" (page 16[121]).

According to their classification, freeports and bonded warehouses are specific categories of free trade zones. We are using the two latter terms interchangeably here for any such geographical area which has an emphasis on providing storage facilities for high value goods.

Besides customs and tax exemptions, the secrecy provided by Freeports is an important reason why they are attractive for kleptocrats and tax dodgers. The real ownership of valuable goods and assets can remain hidden and may not even need to rely on nominees – nobody in the Freeports may ask for their identities. The operators of Freeports are often not subject to anti-money laundering rules (they are not so-called obliged entities) and thus are under no obligation to identify customers, let alone beneficial owners of people renting the storage facilities.

As a result, Freeports are frequently used for tax evasion and money laundering. Due to the absence of registration and information exchange about those owning the assets stored in freeports, they provide secrecy to the users and often an effective shield against investigations unless prosecutors find out about dubious operations through other leads.

For example, an organised crime, tax evasion and money laundering operation revolving around diamond trading was uncovered in 2004. Diamonds entered the freeport of Geneva from Antwerp and were officially designated for transit export to third countries. However, the diamonds in fact returned to Antwerp and were sold there on the black market.[122]

A related problem concerns the trading in blood diamonds. Switzerland's Geneva freeport has become a turntable for the global diamond trade. While customs require a clean Kimberley certificate (proof that a diamond is not a blood diamond) for any diamond entering the Freeport, checks about the veracity of the certificate are seldom, if ever, carried out. The diamonds then travel on to further customers with a clean certificate stating Swiss origin, and erasing any other origin. In just one year, Switzerland has issued 674 diamond certificates, and exported diamonds valued at €2.3 billion.[123]

Another case of potential criminal activity revolves around the owner of the Geneva Freeport and a partner facility in Singapore, Yves Bouvier, dubbed the "Freeport King", who was accused by a Russian billionaire over fraudulent pricing. Courts in Hong Kong and Singapore ordered a freeze of Bouvier's assets in 2015. Bouvier has denied wrongdoing.[124]

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[121] http://www.fatf-gafi.org/media/fatf/documents/reports/ML%20vulnerabilities%20of%20Free%20Trade%20Zones.pdf; 17.10.2017.

[122] http://www.lalibre.be/actu/belgique/megafraude-diamantaire-51b8d007e4b0de6db9c081b0; 17.10.2017.

[123] https://www.mediapart.fr/journal/international/080614/ports-francs-les-derniers-paradis-fiscaux-suisses?page_article=1; 17.10.2017.

[124] https://news.artnet.com/art-world/remy-pagany-yves-bouvier-279767; https://news.artnet.com/art-world/le-freeport-west-bund-282939; 17.10.2017.

In 2016, UNESCO published a report that identified "a high risk that the freeports are used by art dealers to store works of art from thefts, lootings or illicit excavations for resale in the black market when things have cooled down, even many years later." (page 2)[125] A list of recent scandals in illegal trafficking of cultural heritage involving Freeports include stolen Roman and Etruscan antiquities and ancient Egypt treasures, including mummies, discovered in the Freeport of Geneva.

In December 2016,[126] links between Geneva Freeport and terrorist groups such as the Islamic State were disclosed as Swiss authorities confiscated stolen antiquities. These originated among others from Syria's Palmyra UNESCO world heritage site, which was devastated by the Islamic State in 2015. Further confiscated stolen antique objects came from war torn Libya and Yemen.[127]

Catering to the needs of the boom of the art and tangible asset market, in 2016 Luxembourg invented a new type of investment fund structure that is unregulated and enables investment into art and other tangible assets (Deloitte 2016: 104).

Ownership registration of freeport assets and real estate is therefore essential for lifting the deliberate veil of opacity covering these particular storage hubs and the real estate market. The costs and risks for money laundering, and the prospects of successful law enforcement are likely to be greatly enhanced as a result.

125 http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CLT/pdf/2_FC_free_port_working_document_Final_EN_revclean.pdf; 17.10.2017.

126 https://www.theguardian.com/world/2016/dec/03/looted-palmyra-relics-seized-by-swiss-authorities-at-geneva-ports; 17.10.2017.

127 https://www.theguardian.com/world/2016/dec/03/looted-palmyra-relics-seized-by-swiss-authorities-at-geneva-ports; https://www.borro.com/uk/borro-blog/usage-freeports-art-industry; 17.10.2017.

3.5 KFSI 5 – Limited Partnership Transparency

3.5.1 What is measured?

This indicator analyses two aspects of the transparency of limited partnerships:

1. Regarding **beneficial ownership** and/or **legal ownership**: it assesses whether a jurisdiction requires all types of limited partnerships to publish ownership online for free and in open data format or at a maximum cost of US$ 10, € 10 or £ 10;

2. Regarding **annual accounts**: it assesses whether all limited partnerships are required to file their annual accounts with a governmental authority/administration and to make them accessible online for free and in open data or at a maximum cost of US$ 10, € 10 or £ 10.[128]

Accordingly, we have split this indicator into two components. The overall secrecy score for this indicator is calculated by simple addition of the secrecy scores of each of these components. The secrecy scoring matrix is shown in Table 5.1 on the following page, with full details of the assessment logic given in Table V (Annex B).

We consider limited partnerships as any partnership where at least one partner enjoys limited liability, or where other legal entities are allowed as partners. Jurisdictions that do not offer this type of partnership obtain a zero secrecy score in this indicator.

[128] We consider this a reasonable criterion given a) the prevalence of the internet in 2017, b) as international financial flows are now completely relying on the use of modern technology, it would be an omission not to use that technology 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. This criterion is informed by the open data movement according to which all available company registry information, including accounts, should be made available, for free, in open and machine-readable format. For more information about this see http://opencorporates.com/; 25.8.2017.

Table 5.1: Secrecy Scoring Matrix KFSI 5

Regulation [Secrecy Score: 100% = full secrecy; 0% = full transparency]	Online for free & in open data	Online for free, no open data	Online at small cost [i.e. up to 10 €UR/U$D/GBP]
COMPONENT 1: OWNERSHIP / PARTNERS' IDENTITIES (50%)			
Incomplete Ownership or high cost Limited partnerships do not always publish online updated and complete ownership information about all partners (including legal entities which are partners) for a cost of up to 10€/US$/GBP, or unknown.	50%		
Complete Legal Ownership All types of limited partnerships are publishing online updated and complete legal ownership information about all partners (including legal entities which are partners), but no, incomplete or not updated beneficial ownership information).	35%	40%	45%
Complete Beneficial Ownership All types of limited partnerships are publishing online updated and complete beneficial ownership information about all partners (including legal entities which are partners), but no, incomplete or not updated legal ownership information.	20%	25%	30%
Complete Beneficial and Legal Ownership All types of limited partnerships are publishing online updated and complete legal and beneficial ownership information about all partners (and legal entities which are partners), or limited partnerships are not available in the jurisdiction.	0%	5%	10%
COMPONENT 2: ACCOUNTS (50%)			
Accounts not always available online at small cost Limited partnerships do not always publish their annual accounts online for a cost of up to 10€/US$/GBP, or unknown.	50%		
Accounts always available online All types of limited partnerships file their annual accounts and publish them online, or limited partnerships are not available.	0%	12.5%	25%

Component I: Ownership (50%)

To meet a reasonable standard, published ownership information must comply with minimum requirements. The recorded beneficial owners must be the natural human beings who have the right to enjoy ownership or the rewards flowing from ownership of the entity, as prescribed by anti-money laundering standards.[129]

For this purpose, trusts, foundations, partnerships, limited liability corporations and other legal persons do not count as beneficial owners. Different percentage thresholds of control or ownership applied in the definition of the beneficial owner are disregarded in this indicator as long as the definition and threshold of a beneficial owner is the same or stricter than the requirements of the Financial Action Task Force (FATF) and the European Union (see KFSI 3).[130]

For published ownership information to be considered **updated**, the relevant data should be required to be updated at least annually. For ownership information to be considered **complete**, it needs to comprise specific minimal elements. It should include in case of **beneficial owners**:

a) the full names of all beneficial owners of the partnership, where a beneficial owner is identified in line with or stronger than the requirements of the Financial Action Task Force and the European Union[131]; and for each beneficial owner:

b) country of residence, and

c) full address, or passport ID-number, or year and month of birth, or a Taxpayer Identification Number (TIN).

[129] FATF defines 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 113 in Financial Action Task Force 2012: The FATF Recommendations. International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation (Updated in October 2016), Paris, in: http://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF_Recommendations.pdf; 31.08.2017.

[130] Both the recommendations of the international anti-money laundering agency Financial Action Task Force (FATF) and the 4th Anti-Money Laundering Directive of the European Union apply a minimum floor of control or ownership of 'more than 25%' of the company in the definition of a beneficial owner (BO) of a company. Under these rules, a natural person who directly or indirectly owns or controls 25% or less of a company's shares would not be identified as BO. Four members of one family suffice to frustrate this BO registration threshold if each held 25% of the shares. See KFSI 3 or the note above for further details: http://www.financialsecrecyindex.com/PDF/3-Recorded-Company-Ownership.pdf; 12.9.2017.

[131] See note above.

In case of **legal owners**, the minimum details required to be published online include:

a) The full names of nominees and/or trustees and/or legal entities acting as legal owners or partners, and for each:

b) country of residence or incorporation, plus

i. in case of individuals, full address, or passport ID-number, or year and month of birth, or a Taxpayer Identification Number (TIN); or

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

If this data is **available online** but there is a cost to access it, the secrecy score will be reduced but not to zero. To obtain a zero secrecy score, this data needs to be accessible online for free and in open data format.

Even if the cost per record is low, it can be prohibitively expensive to import this information into an open data environment which limits the uses of the data. For example, access costs create substantial hurdles for conducting real time network analyses, for constructing cross-references between companies and jurisdictions, and for new creative data usages.[132] Furthermore, complex payment or user-registration arrangements for accessing the data (e.g. registration of bank account, requirement of a local identification number or sending of hard-copy mails) should not be required.[133]

From an open data perspective, a zero secrecy score is subject to the type of license for the use of the data, and if the data is fully downloadable from the internet. In cases where data was found to be freely available, we have consulted the corresponding jurisdiction at the open company data index published online by open corporates.[134] We have treated data as truly open only when there is an open license or no license is required for the reuse of the data, and where the data is freely available for download.[135]

We performed a random search on each of the relevant corporate registries to ensure that the information is effectively available and that technical problems do not persistently block access.

[132] These innovative ways to exploit the data are both widespread in the open data community and would greatly increase the likelihood of identifying illicit activity hidden behind corporate vehicles. For more information about this see http://opencorporates.com/; 26.05.2015.

[133] We consider that for something to be truly 'on public record' prohibitive cost constraints must not exist, be they financial or in terms of time lost or unnecessary inconvenience caused.

[134] http://registries.opencorporates.com/; 30.8.2017.

[135] For six principles of open data, please consult https://opendatacharter.net/; 30.8.2017.

This first component of KFSI 5 draws information mainly from seven types of sources: first, the Global Forum peer reviews[136] have been analysed to find out what sort of ownership information partnerships must register and update with a government agency. A governmental authority is defined as including "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".

Second, where doubts or data gaps existed, and to the extent this was possible, we have directly analysed domestic legislation that implements beneficial ownership registration. Given that many countries in and outside the EU[137] have started to regulate beneficial ownership registration in 2017 and these new laws have not yet been assessed by either the Global Forum or the FATF, the FSI team has assessed the laws directly, to the extent capacity and language permitted, and has relied on comments by local experts. It is possible that these assessments may change after the Global Forum or FATF conduct an in-depth review of these new laws.

[136] 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/; 25.10.2017.

[137] As for the situation in the EU, we have reviewed the 4th EU Directive on Anti-Money Laundering and, to the extent possible, corresponding implementing legislation of EU member states. While in the Financial Secrecy Index 2013 no jurisdiction was considered to have any beneficial ownership registration, this has changed in 2015 and again in the FSI 2018. The said directive entails minimum standards for the registration of adequate, accurate and current information on the beneficial owners of corporates and other legal entities to be accessed by competent authorities, FIUs, entities obliged to conduct customer due diligence (such as banks) and persons and organizations with a legitimate interest. Member States may choose to go beyond this standard and publish the information on registries accessible by the public. In a case where an EU member state has not transposed by 31 August 2017 the EU's 4th Anti-Money Laundering Directive (AMLD) into domestic law, the relevant secrecy score for not having beneficial ownership registration will be applied (if no other domestic law has been passed to that effect). The deadline to transpose the Directive into national law was 26 June 2017, so any delayed jurisdiction is or was in breach of the EU AMLD. The definition of 'beneficial owner' under the Directive, however, is subject to a threshold of more than 25% ownership rights. In line with various other international developments, we consider this threshold to be too high and therefore only provide a partial reduction of the secrecy score if this threshold is implemented.
For instance, see EU Commission proposal: http://europa.eu/rapid/press-release_IP-16-2380_en.htm; 23.8.2017. Compare also with FATCA, where 10% of shares/capital in an entity is threshold to define a US substantial ownership ("FATCA + AML = an equation with too many variables?, Weis, Thinnes, PWC Luxembourg, May 2012, at: http://www.pwc.lu/en/press-articles/2012/fatca-aml-an-equation-with-too-many-variables.jhtml; 20.7.2014). And consider Transparency International EU/Financial Transparency Coalition/Eurodad 2016: European Commission Proposal on AMLD4. Questions and Answers, in: www.pastoral.at/dl/KKmsJKJKKmnOMJqx4KJK/QA_final.pdf; 23.2.2017.

The third source was private sector websites (Lowtax.net, Ocra.com, Offshoresimple.com, etc.); the fourth, FATF peer reviews[138]; and the fifth, the results of the TJN-Survey 2017 (or an earlier Survey).

Sixth, where the above sources indicated that beneficial or legal ownership information of limited partners and of partners that are legal entities is recorded by a government agency and may be made available online, we have searched for this information on the corresponding websites. In that case, finally, the open company data index published by open corporates has been consulted as well.[139]

Component II: Accounts (50%)

The second component of KFSI 5 reviews the online availability of annual accounts of limited partnerships. If a jurisdiction requires all limited partnerships to publish their annual accounts online for free and in open data format, it obtains a zero secrecy score. In case the information is available for free but not in open data format (i.e. there is an open license or no license for the reuse of the data, and the data is freely available for download), the jurisdiction obtains a 10% secrecy score. If the information is available online at a maximum cost of US$ 10, € 10 or £ 10, a 25% secrecy score is given. Finally, in case a jurisdiction does not require all limited partnerships to submit and publish their accounts online, a 50% secrecy score is due. If any exceptions are allowed for certain types of limited partnerships, we assume that anyone intending to conceal information from public view will simply opt for types of limited partnerships where no accounts need to be published or prepared. A precondition for a reduction in the secrecy score is that all available types of limited partnerships are required to keep accounting records, including underlying documentation.

We have drawn this information from five principal sources. First, the Global Forum peer reviews[140] have been used to find out whether a limited partnership's financial statements are required to be submitted to a government authority and if reliable accounting records need to be kept by the company in the jurisdiction (because if the accounts are kept outside the jurisdiction, it is much more difficult – and sometimes even impossible- to enforce this legal obligation). Second, private sector internet sources have been consulted (Lowtax.net, Ocra.com, Offshoresimple.com, etc.). Third, results of the TJN-Survey 2017 (or earlier) have been included. Fourth, in cases where the previous sources indicated that annual accounts are submitted and/or available online, the corresponding registry websites have been consulted and a random search has been performed to verify whether the information is effectively

[138] The FATF consolidated its 49 (40 plus 9 special) recommendations to a total of 40 in 2012 (the "new recommendations"). Because the mutual evaluation of compliance with the new recommendations has only begun in 2013, we are predominantly using the old evaluations.
[139] http://registries.opencorporates.com/; 30.8.2017.
[140] 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. Section A.2. in the reports refers, among others, to the requirement to keep underlying documentation as well as to the retention period for keeping accounting records. The reports can be viewed at: http://www.eoi-tax.org/; 30.10.2016

available online (see component I above for details). In that case, finally, the open company data index published by open corporates has been consulted as well.[141]

Following the weakest link principle[142] for our FSI research, a precondition for reducing the secrecy score in this component is that all available types of limited partnerships are required to publish the relevant information online and that the information is required to be updated at least annually. If any exceptions are allowed for certain types of limited partnerships, we assume that anyone intending to conceal information from public view will simply opt for limited partnerships types where information can be omitted.

All underlying data can be accessed freely in the FSI database. To see the sources we are using for particular jurisdictions please consult the assessment logic in **Table V (Annex B) and search for the corresponding info IDs **(IDs 269, 272, 273, 274, 476, 477 and 479 to 484)** in the database report of the respective jurisdiction.

3.5.2 Why is it important?

When a jurisdiction allows limited partnerships to be formed without requiring all of their partners – including their legal entity partners – to record their beneficial ownership information, the scope for domestic and foreign law enforcement agencies to look behind the corporate veil[143] is highly restricted. Absence of beneficial ownership information obstructs law enforcement and allows tax dodgers and money launderers to remain anonymous. In some jurisdictions, limited partners are not required to register, yet they are allowed to influence important management decisions, leaving the limited partnership vulnerable to misuse for illicit purposes. Where a limited partnership is not required to register the ownership of its legal partners and its legal entities' partners, the proceeds of bribery and corruption can be hidden and transferred by the partners via the limited partnership.

A recent example is the Azerbaijani Laundromat.[144] The four firms at its centre were limited partnerships registered in the UK. They were: Metastar Invest, based at a service address in Birmingham; Hilux Services and Polux Management, set up in Glasgow; and LCM Alliance, from Potters Bar, Hertfordshire. Their corporate "partners" are anonymous secrecy jurisdiction entities based in the British Virgin Islands, Seychelles and Belize. Furthermore, anonymous Scottish Limited Partnerships (SLPs) played a key role in a billion-dollar fraud in Moldova, uncovered by The Herald in 2015.[145]

[141] http://registries.opencorporates.com/; 30.8.2017.
[142] The "weakest link" research principle is used synonymously with "lowest common denominator" approach. During the assessment of a jurisdiction's legal framework, the review of different types of legal entities each with different transparency levels might be necessary within one indicator. For example, to ascertain the secrecy score, a choice between two or more types of companies might have to be taken. In such a case, we choose the least transparent option available in the jurisdiction. This least transparent option will determine the indicator's secrecy score.
[143] http://www.oecdbookshop.org/en/browse/title-detail/?ISB=212001131P1; 26.05.2015.
[144] https://www.theguardian.com/world/2017/sep/04/uk-at-centre-of-secret-3bn-azerbaijani-money-laundering-and-lobbying-scheme?CMP=share_btn_tw; 12.9.2017.
[145] http://www.heraldscotland.com/opinion/14641459.Herald_View__The_shame_of_Scotland__39_s_zero_tax_companies/?ref=rss; 25.8.2017.

SLPs with foreign members that do not carry out any commercial operations in the UK and receive no revenue in the UK are exempted from taxes on profits. Taxes shall be paid by the partners in their respective countries of residence or of incorporation only if provided by the relevant laws. In the case of Moldova's billion-dollar fraud, SLPs were misused by their partners for money laundering, corruption and embezzlement abroad while transferring out of the country almost 15% of Moldova's GDP from three Moldavian banks.

Denmark offers similar types of limited liability partnerships.[146]

Where online disclosure of beneficial ownership information does not exist, the availability of detailed legal ownership information may enable a foreign authority to follow up some initial suspicions on 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 the absence of beneficial ownership information, and failure to prevent tipping-off may frustrate law enforcement efforts.

If ownership information is held secretly on a government database without public access, there is little likelihood of appropriate checks being undertaken to ensure that the registry adequately performs its task of collecting and regularly updating beneficial ownership information. It is third party use that is likely to allow the scrutiny and create the pressure to ensure compliance. In a global setting of fierce regulatory and tax races to the bottom[147] in the hope of attracting capital, the likely outcome of this scenario would be registries that are not diligently maintained, containing information that is outdated or non-existent.

This does not mean that we demand that everybody must put his or her identity online for everybody else to view. Limited liability is a privilege conferred by society at large. In exchange, society can legitimately require as a very minimum that ownership identity is made publicly available as a safeguard for the functioning of markets and the rule of law. If somebody prefers to keep her financial dealings and identity confidential, she can dispense with opting for a limited partnership entity and deal in her own name, and/or through a general partnership instead. In such a case, personal identity information might not be required to be revealed online and thus the link between an individual and a business ownership could remain confidential.

Regarding accounts, access to timely and accurate annual accounts is crucial for every limited partnership for a variety of reasons.

First, accounts allow business and trading partners as well as clients to assess potential risks they face in trading with limited partnerships. This risk appraisal can only happen when accounts are available for public scrutiny.

[146] https://www.hjulmandkaptain.dk/english/corporate/company-law/establishment-corporate-form-and-company-structure/limited-liability-partnerships/; 25.8.2017; http://www.allian.co.uk/denmark/danish-limited-partnerships/ 25.8.2017.

[147] http://www.taxjustice.net/faq/tax-competition/; 25.8.2017.

Second, in an era of financial globalisation, financial regulators, anti-money laundering agencies and tax authorities need to be in a position to assess the cross-border implications of the activities of limited partnerships. Unhindered access to the limited partnership's accounts empowers regulators and authorities to assess the macro-consequences of the limited partnership undertakings without imposing excessive costs. Such access is likely to deter the partners from misusing the limited partnership for money laundering, tax evasion and other crimes.

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

3.6 KFSI 6 – Public Country Ownership

3.6.1 What is measured?

This indicator considers whether a jurisdiction requires all available types of companies with limited liability to publish updated beneficial ownership and/or legal ownership information on public records accessible for free via the internet.[148] A zero secrecy score can be achieved if both beneficial and legal ownership is published for free in open data format. If there are types of companies for which no or incomplete or outdated ownership information is published online, the secrecy score is 100%. Partial reductions of the secrecy scores can be achieved by making data on either beneficial or legal ownership (LO) information publicly accessible for a fixed cost not exceeding US$ 10, € 10 or £ 10. This indicator only assesses companies which are not listed on a public stock exchange.

The Secrecy Scoring Matrix can be found in Table 6.1 below, and full details of the assessment logic can be found in Table VI (Annex B).

Table 6.1: Secrecy Scoring Matrix KFSI 6

Regulation [Secrecy Score: 100% = full secrecy; 0% = full transparency]	**Online for free & in open data**	**Online for free, no open data**	**Online at small cost** [i.e. up to 10€/US$/GBP]
Incomplete ownership or high cost Complete and updated ownership information is not always published for a cost of up to 10€/US$/GBP, or unknown.	100%		
Legal Ownership All companies publish updated and complete legal owners, but fail on beneficial owners.	80%	85%	90%
Beneficial Ownership All companies publish updated and complete beneficial ownership, but fail on legal owners.	50%	55%	60%
Beneficial and Legal Ownership All companies publish both updated and complete beneficial and legal ownership.	0%	5%	10%

[148] We believe this is a reasonable criterion given a) the prevalence of the internet in 2017, b) as international financial flows are now completely relying on the use of modern technology, it would be an omission not to use that technology 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. This criterion is informed by the open data movement according to which all available company registry information, including ownership, should be made available, for free, in open and machine-readable format. For more information about this see http://opencorporates.com/; 25.8.2017.

To meet a reasonable standard, published ownership information must comply with minimum requirements. The recorded beneficial owners must be the natural human beings who enjoy the right to ownership or the rewards flowing from ownership of the entity, as prescribed by anti-money laundering standards.[149] For this purpose, trusts, foundations, partnerships, limited liability corporations and other legal persons do not count as beneficial owners. Different percentage thresholds of control or ownership applied in the definition of the beneficial owner are disregarded in this indicator as long as the definition and threshold of a beneficial owner is the same or stronger than the requirements of the Financial Action Task Force (FATF) and the European Union (see KFSI 3).[150]

For ownership information to be considered **updated**, the relevant data should be required to be updated at least annually. For ownership information to be considered **complete**, it needs to comprise specific minimal elements. It should include in case of **beneficial owners**:

- **a)** the full names of all beneficial owners of the entity, where a beneficial owner is identified in line with or stricter than the requirements of the Financial Action Task Force (FATF) and the European Union[151]; and for each beneficial owner:
- **b)** country of residence, and
- **c)** full address, or passport ID-number, or year and month of birth, or a Taxpayer Identification Number (TIN).

In case of **legal owners**, the minimum details required to be published online include:

- **a)** The full names of nominees and/or trustees and/or legal entities acting as legal owners or partners, and for each:
- **b)** country of residence or incorporation, plus
    - **i.** in case of individuals, full address, or passport ID-number, or year and month of birth, or a Taxpayer Identification Number (TIN); or
    - **ii.** in case of legal entities, company registration number and address of principle place of business or registered address.

[149] FATF defines 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 113 in Financial Action Task Force 2012: The FATF Recommendations. International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation (Updated in October 2016) Paris, in: http://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF_Recommendations.pdf; 26.05.2015.

[150] Both the recommendations of the international anti-money laundering agency Financial Action Task Force (FATF) and the 4th Anti-Money Laundering Directive of the European Union apply a minimum floor of control or ownership of 'more than 25%' of the company in the definition of a beneficial owner (BO) of a company. Under these rules, a natural person who directly or indirectly owns or controls 25% or less of a company's shares would not be identified as BO. Four members of one family suffice to frustrate this BO registration threshold if each held 25% of the shares. See KFSI 3

or the note above for further details: http://www.financialsecrecyindex.com/PDF/3-Recorded-Company-Ownership.pdf; 12.9.2017.

[151] See note above.

If this data is available online but there is a cost to access it, the secrecy score will be reduced but not to zero. To obtain a zero secrecy score the data must be accessible online for free.

Even if the cost per record is low, it can be prohibitively expensive to import this information into an open data environment which limits the uses of the data. For example, access costs create substantial hurdles for conducting real time network analyses, for constructing cross-references between companies and jurisdictions, and for new creative data usages.[152] Furthermore, complex payment or user-registration arrangements for accessing the data (e.g. registration of bank account, requirement of a local identification number or sending of hard-copy mails) should not be required.[153]

From an open data perspective, a zero secrecy score is subject to the type of license for the use of the data, and whether the data is fully downloadable from the internet. In cases where data was found to be freely available, we have consulted the corresponding jurisdiction at the open company data index published online by open corporates.[154] Only if there was an open license or no license for the reuse of the data, and if the data was freely available for download, we considered it as open data.[155]

This indicator mainly builds on analysis undertaken in KFSI 3 as regards company ownership registration.[156] If that analysis indicated that complete and updated 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 of the company registrars. Therefore, the sources for this indicator are identical to KFSI 3 with the only additional sources being a) the results of the random searches on the respective jurisdiction's online company registry; and b) the open company data index published by open corporates.[157]

The only difference applies to the requirements around the registration of birthdates. Whereas in KFSI 3, we require the birthdate to be registered, KFSI 6 only requires the year and month of birth to be disclosed.

Following the weakest link principle[158] which we follow for the purposes of FSI research, a precondition for reducing the secrecy score in this component is that all available types of

[152] These innovative ways to exploit the data are both widespread in the open data community and would greatly increase the likelihood of identifying illicit activity hidden behind corporate vehicles. For more information about this see http://opencorporates.com/; 26.05.2015.

[153] We consider that for something to be truly 'on public record' prohibitive cost constraints must not exist, be they financial or in terms of time lost or unnecessary inconvenience caused.

[154] http://registries.opencorporates.com/; 30.8.2017.

[155] For six principles of open data, please consult https://opendatacharter.net/; 30.8.2017.

[156] http://www.financialsecrecyindex.com/PDF/3-Recorded-Company-Ownership.pdf.

[157] http://registries.opencorporates.com/; 30.8.2017.

[158] The term "weakest link" research principle is used synonymously with „lowest common denominator" approach. During the assessment of a jurisdiction's legal framework, the review of different types of legal entities each with different transparency levels might be necessary within one indicator. For example, to ascertain the secrecy score, a choice between two or more types of companies might have to be taken. In such a case, we choose the least transparent option available in the jurisdiction. This least transparent option will determine the indicator's secrecy score.

companies are required to publish the relevant information online and that the information is required to be updated at least annually (including strict registration/immobilisation of bearer shares). If any exceptions are allowed for certain types of companies, we assume that anyone intending to conceal information from public view will simply opt for company types where information can be omitted.

All underlying data can be accessed freely in the FSI database. To see the sources we are using for particular jurisdictions please consult the assessment logic in **Table VI (Annex B) and search for the corresponding info IDs **(IDs 470 – 475, 485 and 486)** in the database report of the respective jurisdiction.

3.6.2 Why is this important?

The reasoning in favour of public registries of beneficial ownership has been laid out in great detail and through many case studies.[159] The Panama Papers[160] illustrate the abundancy of cases where the absence of beneficial ownership information has allowed the abuse of legal entities. In essence, these revelations added value by proving the identities of beneficial owners of otherwise anonymous shell companies. The secrecy provided by law firm Mossack Fonseca through shell companies, the largest number of which were registered in the British Virgin Islands, enabled criminals to launder illicit proceeds of corruption, tax evasion, drugs

[159] For example, consider these websites: https://www.globalwitness.org/en/campaigns/corruption-and-money-laundering/anonymous-company-owners/; https://www.globalwitness.org/en/blog/what-does-uk-beneficial-ownership-data-show-us/; https://www.opengovpartnership.org/stories/germany-do-not-let-personal-security-be-bait-and-switch-public-accountability; 12.01.2018. Furthermore, these studies provide further detail: Global Witness/Global Financial Integrity 2016: Chancing It. How Secret Company Ownership is a Risk to Investors, in: https://financialtransparency.org/wp-content/uploads/2016/09/04_Investors_report_AW_med_withlinks.pdf; 23.2.2017. Global Witness 2014: Poverty, Corruption and Anonymous Companies: How Hidden Company Ownership Fuels Corruption and Hinders the Fight against Poverty., in: https://www.globalwitness.org/documents/13071/anonymous_companies_03_2014.pdf; 23.2.2017. The B Team 2015: Ending Anonymous Companies: Tackling Corruption and Promoting Stability Through Beneficial Ownership Transparency. The Business Case, in: https://drive.google.com/uc?export=download&id=0BwNjrEEVS8DiRi1oa19MQmtNMVk; 23.2.2017. Global Witness 2015: Mystery on Baker Street. Brutal Kazakh Official Linked to £147m London Property Empire, in: https://www.globalwitness.org/documents/18036/Mystery_on_baker_street_for_digital_use_FINAL.pdf; 23.2.2017. Transparency International EU/Financial Transparency Coalition/Eurodad 2016: European Commission Proposal on AMLD4. Questions and Answers, in: www.pastoral.at/dl/KKmsJKJKKmnOMJqx4KJK/QA_final.pdf; 23.2.2017. Knobel, Andres/Meinzer, Markus 2016: Drilling down to the real owners – Part 1. "More than 25% of ownership" & "unidentified" Beneficial Ownership: Amendments Needed in FATF's Recommendations and in EU's AML Directive, in: http://www.taxjustice.net/wp-content/uploads/2013/04/TJN2016_BO-EUAMLD-FATF-Part1.pdf; 6.9.2016. Knobel, Andres/Meinzer, Markus 2016: Drilling down to the real owners – Part 2. Don't forget the Trust: Amendments Needed in FATF's Recommendations and in EU's AML Directive, London, in: http://www.taxjustice.net/wp-content/uploads/2016/06/TJN2016_BO-EUAMLD-FATF-Part2-Trusts.pdf; 28.11.2016.

[160] https://panamapapers.icij.org/; 28.8.2017. O'Donovan, James/Wagner, Hannes F./Zeume, Stefan 2016: The Value of Offshore Secrets Evidence from the Panama Papers (SSRN Scholarly Paper ID 2771095), Rochester, NY, in: http://papers.ssrn.com/abstract=2771095; 17.6.2016.

money and human trafficking as well as to finance terrorism. In a nutshell, the absence of readily available beneficial ownership information obstructs law enforcement and creates a criminogenic environment. Incentives to break laws are greatly increased when individuals can hide behind anonymity in combination with limited liability.

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 collects and regularly updates accurate beneficial ownership information. The reliability, accuracy and timeliness of data availability cannot be checked independently.

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 non-existent. Without public scrutiny, misleading or fraudulent data entries about the alleged owners of companies become almost impossible to detect until a criminal investigation attempts to reveal the corporate veil of such an entity – at which point it is too late, the fruits of the crime have been realized and crime prevention has failed. It is third party use that is likely to create the pressure to ensure compliance.

The Panama Papers revealed how misleading, if not fraudulent, ownership recordings were provided on a commercial basis to clients seeking secrecy. Parts of this practice might have even been legal under the EU's 4th Anti-Money Laundering Directive and in conformity with FATF's recommendations. These rules allow the registration of a company's senior manager instead of a beneficial owner under certain conditions. The Panama Papers revealed how the law firm Mossack Fonseca has provided so-called premium sham directors. By using these, the real beneficial owners could remain hidden and a premium sham director was recorded by the law firm instead: "For a five-digit sum, the law firm offered to have a person pose as the true company owner".[161] The same kind of misleading or fraudulent ownership recording is possible whenever beneficial ownership information is not made public but kept on confidential government registries.

Publishing beneficial ownership information online will maximise the deterrent effect of making data transparency. In cases where a company has been used for criminal purposes and the real identity of the beneficial ownership was falsely recorded in an online directory, board members or other parties responsible for supervision of the legal entity should face scrutiny, and / or prosecution. This will greatly increase the willingness of all parties to record accurate information.

The information asymmetries resulting from non-public beneficial ownership information also distort markets, for example in public procurement. Public officials and members of the inner circle of powerful politicians can easily hide behind shell companies. When these companies then participate in public tenders and win public contracts, they will benefit, behind the scenes, the very same politicians, ministers or presidents who are responsible for overseeing the public tendering process. As a consequence, public trust in fair market competition and in government is eroding.

[161] http://panamapapers.sueddeutsche.de/articles/5718f882a1bb8d3c3495bcc7/; 28.7.2017.

In Slovakia, where a new law for disclosure of beneficial owners in public procurement processes came into force on 1 January 2017, the effects are remarkable. As an opposition party source noted:

> *"Some notorious Slovak tycoons that were previously hidden behind foreign structures (and the public could only guess who owned them) actually admitted in the public register that they are beneficial owners of these companies. One case of particular interest is company Vahostav that builds most of Slovakia's highways and public buildings".*[162]

While Panama Papers were extraordinary in scale, detail and impact, these revelations were not the first instance that revealed the problems caused by hidden ownership. The World Bank reported in 2011 how the proceeds of bribery and corruption can be hidden and transferred by anonymous shell companies.

> *"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)[163]

In a joint publication of 2011 by the United Nations and the World Bank relating to stolen assets (by embezzlement, bribery, etc.), both argued 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"* (UNODC/World Bank 2011: 93)[164]

Where online disclosure of beneficial ownership information does not exist, the availability of at least detailed legal ownership information would enable a foreign authority to follow up some initial suspicions on wrong-doing and enable that authority 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 failure to prevent tipping-off may frustrate law enforcement efforts.

However, another reason for placing the ownership information on publicly accessible online record is that tax administrations and public prosecutors do not always have the political support and freedom to investigate cases of large scale tax evasion and big ticket money

[162] http://www.taxjustice.net/2017/03/07/good-news-slovakia/; 28.8.2017.

[163] http://star.worldbank.org/star/sites/star/files/puppetmastersv1.pdf; 25.05.2015.

[164] http://star.worldbank.org/star/publication/barriers-asset-recovery; 25.05.2015.

laundering. This is well illustrated through Swiss Leaks[165] about secret bank accounts held at HSBC private bank. While many of the accounts were related to tax evasion and money laundering, it was revealed[166] how some authorities had failed to request access to the data, and some others did not use the information they received to investigate. Some authorities only started to take action after the data had been leaked to the media.

This does not mean that we demand that everybody must put his or her identity online for everybody else to view. Far from it: if someone 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 do not trade their shares on a stock exchange.

In a decision of March 2017,[167] the European Court of Justice appears to support these principles in the face of counter arguments based on data protection and privacy.[168] The court denies that there is a right to be forgotten for personal data recorded in a business registry. In the press release on the verdict, the court states:

> *"By today's judgment, the Court notes first of all that the public nature of company registers is intended to ensure legal certainty in dealings between companies and third parties and to protect, in particular, the interests of third parties in relation to joint stock companies and limited liability companies, since the only safeguards they offer to third parties are their assets. The Court further notes that matters requiring the availability of personal data in the companies register may arise for many years after a company has ceased to exist. Having regard to (1) the range of legal rights and relations which may involve a company with actors in several Member States (even after its dissolution), and (2) the diversity of limitation periods provided for by the various national laws, it seems impossible to identify a single period after which the entry of the data in the register and their disclosure would no longer be necessary.*
>
> *(…) The Court considers that this interference with the fundamental rights of the persons concerned (in particular the right to respect for private life and the right to protection of personal data guaranteed by the Charter of Fundamental Rights of the Union) is not disproportionate in so far as (1) only a limited number of personal*

[165] http://www.independent.co.uk/news/business/hsbc-leaks-email-from-whistleblower-to-hmrc-proves-authorities-were-told-of-tax-evasion-10043456.html; 25.05.2015.

[166] http://uncounted.org/2015/02/09/swissleaks-tax-transparency-accountability/; 28.8.2017.

[167] http://curia.europa.eu/jcms/upload/docs/application/pdf/2017-03/cp170027en.pdf; 28.8.2017.

[168] http://www.taxjustice.net/2017/05/18/germany-rejects-beneficial-ownership-transparency/; 28.8.2017. See also https://blog.opencorporates.com/2017/02/28/germany-do-not-let-personal-security-be-the-bait-and-switch-for-public-accountability/; http://openownership.org/news/how-serious-is-germany-about-corporate-transparency/; 6.3.2017.

> *data items are entered in the company register and (2) it is justified that natural persons who choose to participate in trade through such a joint stock company or limited liability company, whose only safeguards for third parties are the assets of that company, should be required to disclose data relating to their identity and functions within that company."*

Two important aspects stand out in the European Court of Justice's decision. First, the court clearly endorsed the principle of requiring (more) public disclosure of the identities of those natural persons who choose to use legal entities that confer the privilege of limited liability. Second, the court ruled as commensurate and proportionate to the risks emanating from limited liability companies that the identities of those persons involved in the company should remain accessible on public record long after the dissolution of the company.

3.7 KFSI 7 – Public Company Accounts

3.7.1 What is measured?

This indicator considers whether a jurisdiction requires all available types of company with limited liability to file their annual accounts with a governmental authority/administration and to make them accessible online for free or at a maximum cost of US$ 10, € 10 or £ 10.[169]

The secrecy scoring matrix is shown in Table 7.1, with full details of the assessment logic given in Table VII (Annex B).

Table 7.1: Secrecy Scoring Matrix KFSI 7

Regulation	Secrecy Score [100% = full secrecy; 0% = full transparency]
Not online (at small cost) Companies do not always publish their annual accounts online for a cost of up to 10€/US$/GBP, or unknown.	100%
Online at small cost All types of companies file their annual accounts and publish them online at a cost of up to 10€/US$/GBP.	50%
Online for free, but not in open data All types of companies file their annual accounts and publish them online for free, but not in open data format.	25%
Online, free & in open data All types of companies file their annual accounts and publish them online for free and in open data format.	0%

If this data is available online but there is a cost to access it, the secrecy score will be reduced but not to zero. To obtain a zero secrecy score, this data needs to be accessible online for free and conforming to open data requirements. Even if the cost per record is low, it can be prohibitively expensive to import this information into an open data environment which limits the uses of the data. For example, access costs create substantial hurdles for conducting real time network analyses, for constructing cross-references between companies and jurisdictions, and for new creative data usages.[170]

[169] We believe this is a reasonable criterion given a) the prevalence of the internet in 2017, b) as international financial flows are now completely relying on the use of modern technology, it would be an omission not to use that technology 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. This criterion is informed by the open data movement according to which all available company registry information, including accounts, should be made available, for free, in open and machine-readable format. For more information about this see http://opencorporates.com/; 25.8.2017.

[170] These innovative ways to exploit the data are both widespread in the open data community and would greatly increase the likelihood of identifying illicit activity hidden behind corporate vehicles. For more information about this see http://opencorporates.com/; 26.05.2015.

Other requirements from an open data perspective for obtaining a zero secrecy score relate to the type of license for the use of the data, and if the data is fully downloadable from the internet. In cases where data was found to be freely available, we have consulted the corresponding jurisdiction at the open company data index published by open corporates.[171] Only if there was an open license or no license for the reuse of the data, and if the data was freely available for download, we considered it as open data.

Furthermore, complex payment or user-registration arrangements for accessing the data (e.g. registration of bank account, requirement of a local identification number or sending of hard-copy mails) should not be required.[172]

We performed a random search on each of the relevant corporate registries to ensure that the accounts are effectively available and that technical problems do not persistently block access. A precondition for a reduction of the secrecy score is that all available types of companies with limited liability are required to keep accounting records, including underlying documentation.

We have drawn this information from five principal sources[173]: First, the Global Forum peer reviews[174] have been used to find out whether a company's financial statements are required to be submitted to a government authority and if reliable accounting records need to be kept by the company in the jurisdiction (because if the accounts are kept outside the jurisdiction, it is much more difficult – and sometimes even impossible- to enforce this legal obligation). Second, private sector internet sources have been consulted (Lowtax.net, Ocra.com, Offshoresimple.com, etc.). Third, results of the TJN-Survey 2017 (or earlier) 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. In that case, fifth, the open company data index published by open corporates has been consulted as well.[175]

Following the weakest link principle[176] for our FSI research, a precondition for reducing the secrecy score in this component is that all available types of companies are required to publish

[171] http://registries.opencorporates.com/; 30.8.2017.

[172] We consider that for something to be truly 'on public record' prohibitive cost constraints must not exist, be they financial or in terms of time lost or unnecessary inconvenience caused.

[173] To see the sources we are using for particular jurisdictions please check the corresponding information in our database, available at www.financialsecrecyindex.com/database/menu.xml.

[174] 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. Section A.2. in the reports refers, among others, to the requirement to keep underlying documentation as well as to the retention period for keeping accounting records. The reports can be viewed at: http://www.eoi-tax.org/; 15.5.2015

[175] http://registries.opencorporates.com/; 30.8.2017.

[176] The "weakest link" research principle is used synonymously with "lowest common denominator" approach. During the assessment of a jurisdiction's legal framework, the review of different types of legal entities each with different transparency levels might be necessary within one indicator. For example, to ascertain the secrecy score, a choice between two or more types of companies might have to be taken. In such a case, we choose the least transparent option available in the jurisdiction. This least transparent option will determine the indicator's secrecy score.

the relevant information online and that the information is required to be updated at least annually. If any exceptions are allowed for certain types of companies, we assume that anyone intending to conceal information from public view will simply opt for those types where information can be omitted.

All underlying data can be accessed freely in the FSI database. To see the sources we are using for particular jurisdictions please consult the assessment logic in **Table VII (Annex B) and search for the corresponding info IDs **(IDs 188, 189 and 201)** in the database report of the respective jurisdiction.

3.7.2 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, public accounts allow to assess potential risks when trading with limited liability companies. Public accounts thus help to protect the legitimate interests of a wide range of actors. These actors include consumers and clients, business partners and creditors, as well as public officials dealing with public procurement and public private partnerships.

Second, in times of financial globalisation, financial regulators, tax authorities and anti-money laundering agencies 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. Journalists and civil society groups thus have a legitimate reason and need for accessing company accounts in order to assess them on matters of fair trade, environmental protection, the realisation of human rights and similar charitable purposes. This can be done only when accounts are available for public scrutiny.

Many transnational 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 resultant transparency would severely inhibit transfer mispricing 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 8).

3.8 KFSI 8 – Country-By-Country Reporting

3.8.1 What is measured?

This indicator measures whether the companies listed on the stock exchanges or incorporated in a given jurisdiction are required to publish publicly worldwide financial reporting data on a country-by-country reporting basis. A zero secrecy score can be achieved when public country-by-country reporting[177] (CBCR) is required by all companies (which is not yet the case in any jurisdiction). If a jurisdiction requires no public CBCR reporting for any corporation in any sector, the secrecy score is 100%. A slight reduction of 10% is available for jurisdictions requiring some narrow, one-off public CBCR for corporations active in the extractive industries. And larger, partial reductions of the secrecy score can be achieved by requiring some annual public CBCR for corporations active in the extractive industries and/or banking sector (25% reduction for each sector). For a full overview of all data fields included in various CBCR standards, please refer to Annex 1 on KFSI-8.

The secrecy scoring matrix is shown in Table 8.1, with full details of the assessment logic given in Table VIII (Annex B).

Table 8.1: Secrecy Scoring Matrix KFSI 8

Regulation	Secrecy Score [100% = full secrecy; 0% = full transparency]
No reporting: No public country-by-country reporting required for any corporations in any sector.	100%
One-off reporting: Some one-off public country-by-country reporting required for corporations active in the extractive industries (EITI equivalent, at least for those listed).	-10%
Some annual reporting: Some annual public country-by-country reporting required for corporations active in the extractive industries or banking.	-25% (for each sector covered)
Full reporting: Full annual public country-by-country reporting required for corporations of all sectors (at least for those listed or for all above EUR 750 million turnover).	0%

In principle, any jurisdiction could require all companies incorporated and operating under its laws (including subsidiaries, branches and holding companies) to publish in their accounts financial information on their global activity on a country-by-country basis. 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.

The key difference between the kind of country by country reporting monitored in this indicator and Action 13[178] of the OECD Base Erosion and Profit Shifting Action Plan, which

[177] http://www.taxresearch.org.uk/Documents/CBC2012.pdf; 16.10.2017.

[178] https://www.oecd.org/tax/beps/country-by-country-reporting.htm; 19.10.2017.

introduced filing of CBCR reports of large multinational companies, is that the latter does not require this information to be made public. Instead information is only disclosed to the tax authorities in the headquarter jurisdiction of a multinational company. Tax authorities in jurisdictions where the company has subsidiaries can request information through a series of different mechanisms. This limited access has been shown to exacerbate global inequalities in taxing rights.[179] It is discussed in further detail in KFSI 9.[180]

Public CBCR for financial institutions was introduced by EU member states in 2014-2015 (Capital Requirements Directive IV).[181] These EU CBCR rules for banks include annual disclosure of turnover, number of employees, profit or loss before tax, tax on profit or loss, and public subsidies received. On these grounds, a secrecy score reduction of 25% has been awarded to all EU member states that have fully transposed the measures[182]. There are infringement procedures related to transposition against Belgium, Croatia, Poland and Spain. Belgium has, nevertheless, implemented provisions on CBCR,[183] while the other three jurisdictions are not awarded a reduced secrecy score for lack of transposition.[184]

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[179] Knobel, Andres, and Cobham Alex 2016: Country-by-country-reporting: how restricted access exacerbates global inequalities in taxing rights, in: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2943978; 19.10.2017

[180] http://www.financialsecrecyindex.com/PDF/9-Corporate-Tax-Disclosure.pdf; 19.10.2017.

[181] The EU Capital Requirements Directive IV (CRD IV) required disclosure according to Article 89, here: http://eur-lex.europa.eu/legal-content/EN/NIM/?uri=CELEX:32013L0034; 5.10.2017. The only main item missing for full CBCR is capital assets. According to Article 89(1), the European Commission had to carry out an impact assessment of the envisaged publication of the data, and the Commission was empowered to defer or modify the disclosure through a so-called "delegated act" in case it identified "significant negative effects" consequences (Art. 89 (3)). In October 2014, the EU-commission adopted a report containing this assessment of the economic consequences of CBCR by banks and investment firms under CRD IV. The European Commission adopted the report's conclusion according to which: "the reporting obligation under CRD IV are not expected to have a significant negative economic impact, including on competitiveness, investment, credit availability or the stability of the financial system". For the press release, see: http://europa.eu/rapid/press-release_IP-14-1229_en.htm; 16.10.2017.

[182] EU member states were required to transpose the EU CRD IV by 31 December 2013. For transposition status, see: https://ec.europa.eu/info/publications/capital-requirements-directive-crd-iv-transposition-status_en; 5.10.2017.

[183] Email communication with Inti Ghysels, 30.10.2017. See also: http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=nl&la=N&table_name=wet&cn=2014112701 and http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=nl&la=N&cn=1992092331&table_name=wet; 8.11.2017.

[184] For information on Croatia, see http://ec.europa.eu/atwork/applying-eu-law/infringements-proceedings/infringement_decisions/index.cfm?lang_code=EN&r_dossier=&noncom=0&decision_date_from=&decision_date_to=&active_only=0&EM=HR&title=2013%2F36&submit=Search, on Poland, see http://ec.europa.eu/atwork/applying-eu-law/infringements-proceedings/infringement_decisions/index.cfm?lang_code=EN&r_dossier=&noncom=0&decision_date_from=&decision_date_to=&active_only=0&EM=PL&title=2013%2F36&submit=Search and http://europa.eu/rapid/press-release_MEMO-14-589_EN.htm, and Spain, see http://ec.europa.eu/atwork/applying-eu-law/infringements-proceedings/infringement_decisions/index.cfm?lang_code=EN&r_dossier=&noncom=0&decision_date_from=&decision_date_to=&active_only=0&EM=ES&title=2013%2F36&submit=Search;07.11.2017.

Another set of (far narrower) CBCR rules for the extractives industries has become law in the EU, Canada and Norway. These complement the voluntary, nationally-implemented Extractive Industries Transparency Initiative (EITI),[185] which prescribes the annual publishing of all "material payments" to government made by companies active in the extractive sector of that particular EITI implementing country; the threshold for the materiality of payments, which companies and government must comply with for a reporting year, is determined by a national multi-stakeholder group for each reporting cycle.

Compared to full CBCR and to the European Directive on CBCR in the banking sector, the EITI Standard (2016) is also far narrower in geographical scope because it requires disclosure of payments only with respect to countries where the corporation actually has extractive operations and only for the countries that are part of EITI. Payments to other country governments, for example where holding, 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 standard's value for resource rich (developing) countries, however, is substantial. Yet in our assessment, it is not sufficient for a country merely to oblige or allow extractive companies operating within their territory to publish payments to this country's government agencies.

Instead, for a reduction of the secrecy score by 25% for CBCR in the extractives, a country must require either all companies incorporated in 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. This is achieved, at present, in only Canada and EU countries.[186]

- **European Union:** The European Parliament and Council passed a new Accounting and Transparency Directive in 2013 (Directive 2013/34/EU[187]), obliging mining, oil and gas, and logging companies over a defined size to report payments to government. 26 member

[185] The EITI Standard (2016) Requirement 4, requires "a comprehensive reconciliation of company payments and government revenues from the extractive industries. The EITI requirements related to revenue collection include: (4.1) comprehensive disclosure of taxes and revenues; (4.2) sale of the state's share of production or other revenues collected in-kind; (4.3) Infrastructure provisions and barter arrangements; (4.4) transportation revenues; (4.5) SOE [State-Owned Enterprise] transactions; (4.6) subnational payments; (4.7) level of disaggregation; (4.8) data timeliness; and (4.9) data quality". Revenue streams include the host government's production entitlement (e.g. profit oil), national SOE production entitlement, profit taxes, royalties, dividends, bonuses, licence and associated concession fees, and any other significant payments/material benefit to government.
https://eiti.org/sites/default/files/migrated_files/english_eiti_standard_0.pdf; 5.10.2017

[186] Cobham, Alex, Gray, Jonathan, Murphy, Richard 2017: What Do They Pay?: Towards a public database to account for the economic activities and tax contributions of multinational corporations (CITYPERC Working Paper Series 2017/01), London, in:
www.city.ac.uk/__data/assets/pdf_file/0004/345469/CITYPERC-WPS-201701.pdf; 19.10.2017.

[187] For the full text of the Directive, see: http://eur-lex.europa.eu/legal-content/EN/NIM/?uri=CELEX:32013L0034; 5.10.2017.

states have transposed this directive,[188] while Cyprus[189] and Ireland[190] face infringement procedures and are not awarded a reduced secrecy score.

- **Norway:** The scope of Norway's regulated CBCR for enterprises in the extractive industry and in logging of non-planted forestry[191], effective as of 1 January 2014, is broader than similar rules in the EU. Norway's rules additionally require the disclosure of sales income, production volume, costs, and number of employees in every subsidiary[192]. However, Norwegian companies are only required to report data for countries "where there is a physical withdrawal of natural resources"[193] and do not have report data for their activities in countries where payments to authorities exceeds NOK 800,000, which is usually not required in third countries, which the Norwegian Ministry of Finance calls "supportive functions"[194]; the result is that companies in practice do not need to report key information on their activities in tax havens[195]. While as of 21 June 2015, the Norwegian parliament has decided the government should review the current CBCR regulations[196], no implementation date has been set for the Parliament's decision, and therefore we consider the current exemption for "supportive functions" to be too material to award Norway a reduced secrecy score.

[188] For Accounting Directive (2013/24/EU) transposition status, see: https://ec.europa.eu/info/publications/accounting-directive-transposition-status_en; 5.10.2017.

[189] For further information, see http://ec.europa.eu/atwork/applying-eu-law/infringements-proceedings/infringement_decisions/index.cfm?lang_code=EN&r_dossier=&noncom=0&decision_date_from=&decision_date_to=&active_only=0&EM=CY&title=2013%2F34&submit=Search and http://europa.eu/rapid/press-release_MEMO-17-1577_EN.htm; 7.11.2017.

[190] The EU has taken Ireland to the Court of Justice in relation to these infringement procedures. See http://ec.europa.eu/atwork/applying-eu-law/infringements-proceedings/infringement_decisions/index.cfm?lang_code=EN&r_dossier=&noncom=0&decision_date_from=&decision_date_to=&active_only=0&EM=IE&title=2013%2F34&submit=Search and http://europa.eu/rapid/press-release_IP-17-1050_EN.htm; 7.11.2017.

[191] The regulations can be viewed here: https://www.regjeringen.no/nb/dokumenter/forskrift-om-land-for-land-rapportering/id748525/; https://www.regjeringen.no/no/dokumenter/prop-1-ls-20132014/id740943/?q=land-for-land&ch=3; 21.6.2015. The announcement of the Norwegian Ministry of Finance can be view here: https://www.regjeringen.no/nb/aktuelt/forskrift-om-land-for-land-rapportering/id748537/; 21.6.2015.

[192] Publish What You Pay (PWYP) Norway, 2014, Briefing: http://www.publishwhatyoupay.no/sites/all/files/PWYP_PolicyBriefing_Eng_Web_0.pdf; 5.10.2017

[193] For an analysis of Norway's CBCR reporting, see PWYP Norway, 2016, Briefing: What Statoil reported and what Statoil should have reported: http://www.publishwhatyoupay.no/sites/all/files/PWYP_Briefing_As_Is_vs_Should_Have_Eng_Web.pdf; 5.10.2017.

[194] While the definition for the term 'Supportive functions' is missing in the Norwegian regulations, it is explained in the remarks for the Finance Committee's proposal, available here: https://www.stortinget.no/nn/Saker-og-publikasjoner/Publikasjoner/Innstillingar/Stortinget/2013-2014/inns-201314-004/30/#a1; 17.10.2017.

[195] PWYP Norway: http://www.publishwhatyoupay.no/en/node/17140; 24.10.2017.

[196] https://www.stortinget.no/no/Saker-og-publikasjoner/Saker/Lose-forslag/?p=61783; 17.10.2017.

- **Canada:** On 16 December 2014, Canada legislated the Extractive Sector Transparency Measures Act (ESTMA),[197] which entered into force on 1 June 2015. According to ESTMA, extractive companies that engage in the commercial development of oil, gas or minerals are required to report – on a project basis – on payments including taxes, royalties and fees to all levels of government in Canada and abroad. The reports are available to the public, with the first reports submitted in November 2016[198]. Canada is therefore awarded a reduced secrecy score.

- **USA:** The USA's Securities Exchange Council (SEC) resource extraction disclosure rule Section 13q to implement Section 1504 of the Dodd-Frank Wall Street Reform and Consumer Protection Act was affected in September 2016[199]. However, the rule was repealed by Congress in February 2017, at which point no company had yet been required to make disclosures under the rule, as the deadline for compliance was for years ending on or after 30 September 2018.[200] Section 1504 of Dodd-Frank remains intact but can only be implemented through a SEC rule. As a result, a reduced secrecy score remains out of reach for the USA.

- **Hong Kong:** 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"[201] 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. Because one-off disclosure is better than no disclosure, but nonetheless unlikely to deter bribery or tax evasion, we only reduce Hong Kong's secrecy score by 10%.

A comparison of data included in the various CBCR standards is provided in Annex 1 (KFSI 8).[202]

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[197] See Government of Canada's FAQs on ESTMA: http://www.nrcan.gc.ca/mining-materials/estma/18802; 5.10.2017.

[198] All reports submitted under ESTMA are available online: https://www.nrcan.gc.ca/mining-materials/estma/18198; 5.10.2017.

[199] See Securities and Exchange Commission for final rule 13q applying to the disclosure of payments by resource extraction issuers, https://www.sec.gov/rules/final/2016/34-78167.pdf; 5.10.2017.

[200] Lynn, D.M. and Lesmes, S. 6 March 2017. United States: Repeal of resource extraction disclosure rule. Mondaq. http://www.mondaq.com/unitedstates/x/573904/Corporate+Governance/Repeal+Of+Resource+Extraction+Disclosure+Rule; 5.10.2017.

[201] See chapter 18.05(6)(c), in: http://www.hkex.com.hk/eng/rulesreg/listrules/mbrules/documents/chapter_18.pdf; 16.10.2017. 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; 17.10.2017.

[202] Cobham, Alex, Gray, Jonathan, Murphy, Richard 2017: What Do They Pay?: Towards a public database to account for the economic activities and tax contributions of multinational corporations (CITYPERC Working Paper Series 2017/01), London, in: http://www.city.ac.uk/__data/assets/pdf_file/0004/345469/CITYPERC-WPS-201701.pdf; 19.10.2017.

The main data sources we used for this indicator were original sources from the EU, Canada, Norway, USA and Hong Kong, and interviews and/or email-exchanges with various experts from, among others, resourcegovernance.org, eiti.org, publishwhatyoupay.org, oxfam.org.hk and foei.org/en.

All underlying data can be accessed freely in the FSI database. To see the sources we are using for particular jurisdictions please consult the assessment logic in **Table VIII (Annex B) and search for the corresponding info IDs **(ID 318)** in the database report of the respective jurisdiction.

3.8.2 Why is it important?

CBCR helps to remove the veil of secrecy from the operations of multinational companies. Current reporting requirements are so opaque that it is almost impossible to find even basic information, such as the countries where a corporation is operating. 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. This opacity helps corporations minimise their global tax rates without being successfully challenged anywhere.[203] Large-scale shifting of profits to low tax jurisdictions and of costs to high tax countries ensues from this lack of transparency.

A recent re-estimation[204] of revenue loss from tax avoidance puts the annual figure at around USD 500 billion. Losses have the greatest impact in terms of proportion of GDP for low and lower middle-income countries, as the graph below shows.[205] On average, for a comparable volume of economic activity, low income countries lose five times the amount of public revenue that high income OECD countries lose due to global tax avoidance. A revenue that could be used to fund local infrastructures and social programs, thereby reducing reliance on foreign aid.

[203] For instance: http://www.reuters.com/article/2012/10/15/us-britain-starbucks-tax-idUSBRE89E0EX20121015; 17.10.2017 and http://www.reuters.com/article/2012/12/06/us-tax-amazon-idUSBRE8B50AR20121206; 17.10.2017 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; 17.10.2017.

[204] Cobham, Alex/Janskỳ, Petr 2017: Global distribution of revenue loss from tax avoidance. Re-estimation and country results (WIDER Working Paper 2017/55), in: https://www.wider.unu.edu/sites/default/files/wp2017-55.pdf; 19.10.2017

[205] Graph from page 19, Cobham, Alex/Janskỳ, Petr 2017: Global distribution of revenue loss from tax avoidance. Re-estimation and country results (WIDER Working Paper 2017/55), in: https://www.wider.unu.edu/sites/default/files/wp2017-55.pdf; 19.10.2017. GRD is the ICTD-WIDER Government Revenue Database.

Graph: Average losses/GDP per region and income

Note: Means of IIIMF and IIGRD refer to mean values of revenue loss estimates using IMF and GRD data, respectively.

Source: Cobham & Janský (2017) calculations based on data from Crivelli et al. (2016) and the GRD.

The means used for profit shifting are primarily based on transfer mispricing, internal debt financing (thin capitalisation) or reinsurance operations, or artificial relocation and licensing of intellectual property rights. These transactions take 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 normal third-party trade in the annual financial statements. Therefore, a corporation's international tax and financing affairs are effectively hidden from view.

Investors, trading partners, tax authorities, financial regulators, civil society organisations, and consumers would be able to make better informed decisions if information was made available on public record. Civil society does not have access to reliable information about a company's tax compliance record in a given country in order to question a company's policies on tax and corporate social responsibility and to make enlightened consumer choices. When the development charity Oxfam reviewed in 2017 the data published under banking CBCR rules in the EU, the extent of the use of tax havens by the 20 biggest European banks was revealed: one in four euros of their profits was registered in tax havens (approx. EUR 25 billion) and tax havens accounted for 26% of total profits, while the level of real economic activity was far lower, accounting for just 12% of banks' total turnover and 7% of employees.[206]

[206] Aubry, Manon and Dauphin, Thomas, March 2017: Opening the vaults: the use of tax havens by Europe's biggest banks. https://www.oxfam.org/sites/www.oxfam.org/files/bp-opening-vaults-banks-tax-havens-270317-en.pdf; 23.10.2017.

If public CBCR information was available, investors could better evaluate if a given corporation is exposed to reputational tax risks by relying on complex networks of subsidiaries in secrecy jurisdictions, or whether it is heavily engaged in conflict-ridden countries. Tax authorities and supreme audit institutions would be better able to make risk assessments of particular sectors or companies to guide their audit activity by comparing profit levels or tax payments to sales, assets and labour employed.

At present, even tax authorities often hardly know where to start looking for suspicious activity because the corporate tax returns provided to them show only a part view of the full corporate group picture.[207] The cases of LuxLeaks[208] has shown that it may not be enough for tax administrations to have access to such data, since tax administrations may be entering into special and tailored tax arrangements with corporations. Instead, public scrutiny of CBCR, such as through cross-country collaboration and investigation, will ensure a deterrent effect as it can reveal the extent of profit shifting and potential associated political interference in tax administrations. For example, in 2016, the European Commissioner for Competition ruled that Apple had to pay up to EUR 13 billion in taxes plus interest to Ireland after it found that two tax rulings issues made by Irish tax authorities on the tax treatment of Apple's corporate profits constitute illegal state aid under EU law.[209] The European Commission's findings on another 'sweetheart tax deal' are similar; Amazon is required to pay about EUR 250 million in back taxes in Luxembourg on grounds it benefited from illegal state aid.[210]

TJN's proposal for public CBCR[211] would ensure comprehensive information on multinational corporate activities is in the public domain for different stakeholders. This proposal goes beyond all CBCR rules currently in existence. It requires multinational corporations of all sectors, listed and non-listed, to disclose key 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.

[207][207] For an explanation of why this is very likely to remain the case even after introduction of OECD's non-public country-by-country reporting at least for most developing countries, please read: Knobel, Andres/Cobham, Alex 2016: Country-By-Country Reporting: How Restricted Access Exacerbates Global Inequalities in Taxing Rights, in: https://www.taxjustice.net/wp-content/uploads/2016/12/Access-to-CbCR-Dec16-1.pdf; 9.2.2017.

[208] The relevant articles are available at: http://www.icij.org/project/luxembourg-leaks; 17.10.2017. See also: https://www.taxjustice.net/2017/03/15/luxleaks-appeal-verdict-tax-justice-heroes-convicted/; 17.10.2017.

[209] http://www.taxjustice.net/2016/08/30/apple/; 31.10.2017.

[210] https://www.ft.com/content/69ee1da6-a8ed-11e7-93c5-648314d2c72c; 31.10.2017.

[211] http://www.taxresearch.org.uk/Documents/CBC2012.pdf; 16.10.2017.

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 and deferred tax liabilities would be published on a country-by-country basis. It is worth noting that small- and medium-sized enterprises that operate in only one country are required by the nature of their business activity to report information in their annual financial statements that is proposed for MNCs. The present rules of the game therefore disadvantage smaller enterprises.

TJN along with partners in the movement for Open Data in Tax Justice[212] is working towards a public database to bring together all information disclosed under CBCR[213], ultimately to capture the full extent of profit misalignment. This database would provide an opportunity for companies to unilaterally publish their own disclosures and to resolve data consistency and quality issues in CBCR. Data would cover four main areas: 1) identity of a multinational group, 2) activity (scale of sales, assets, employment for each jurisdiction of operations, 3) intra-group transactions (sales, purchases, royalties and interest), and 4) key financial data (declared pre-tax profit or loss and tax accrued and paid). In comparison, OECD reporting rules include some significant variances: payroll costs and intragroup transactions for purchases, royalties and interest are omitted and a financial capital approximation is included instead of tangible asset investment.

In contrast to our CBCR proposal, variations that have been put forth by the EU and OECD as well as the extractives related rules are less comprehensive and often not public. Under the Base Erosion and Profit Shifting project, all OECD and G20 countries committed to implement CBCR for fiscal periods commencing 1 January 2016; many countries have implemented this.[214] This OECD CBCR "requires multinational enterprises (MNEs) to report annually and for each tax jurisdiction in which they do business the amount of revenue, profit before income tax and income tax paid and accrued. It also requires MNEs to report their total employment, capital, retained earnings and tangible assets in each tax jurisdiction" (Action 13: 2014 Deliverable).[215] However, these requirements do not entail publication of any data and they are only applicable for multinational companies with an annual consolidated group revenue of at least 750 million Euro.[216] Furthermore, most developing countries, especially low-income countries, would be

[212] http://datafortaxjustice.net/; 19.10.2017

[213] Cobham, Alex, Gray, Jonathan, Murphy, Richard 2017: What Do They Pay?: Towards a public database to account for the economic activities and tax contributions of multinational corporations (CITYPERC Working Paper Series 2017/01), London, in: www.city.ac.uk/__data/assets/pdf_file/0004/345469/CITYPERC-WPS-201701.pdf; 19.10.2017.

[214] For CBCR implementation status, see: https://www.oecd.org/tax/automatic-exchange/country-specific-information-on-country-by-country-reporting-implementation.htm; 17.10.2017.

[215] See page 9: www.oecd-ilibrary.org/guidance-on-transfer-pricing-documentation-and-country-by-country-reporting_5jz122nl1vxw.pdf;jsessionid=andfh9d0ag7gb.x-oecd-live-03?contentType=%2fns%2fOECDBook%2c%2fns%2fBook&itemId=%2fcontent%2fbook%2f9789264219236-en&mimeType=application%2fpdf&containerItemId=%2fcontent%2fserial%2f23132612&accessItemIds=; 17.10.2017. For more information see also: http://www.taxresearch.org.uk/Blog/2014/09/16/the-era-of-country-by-country-reporting-is-arriving/; 17.10.2017.

[216] According to the OECD, the threshold of EUR 750 million 'will exclude approximately 85 to 90 percent of MNE groups from the requirement to file the CbC [Country-by-Country] Report, but that the CbC Report will nevertheless be filed by MEN groups controlling 90 percent of corporate

left out and existing inequalities in taxing rights are likely to be exacerbated, to the detriment of low income countries.

The EU continues to take steps towards full public CBCR. In July 2017, the EU parliament adopted its draft report on public CBCR for MNEs (amending Directive 2013/34/EU).[217] Although it significantly improves on the initial proposal made by EU Commission in April 2016, it still contains a significant loophole.[218] A provision allows MNEs to avoid reporting "commercially sensitive information".[219] This proposal is expected to be negotiated over the course of 2018 and perhaps beyond during the so-called Trialogue negotiations between the EU Council, the EU-Commission and the EU-Parliament. Importantly, the proposal made by the EU Commission in 2016 was already a watered down version of a much more ambitious public CBCR provision that had been included as an amendment to the Shareholders' Rights Directive (Directive 2007/36/EC)[220] by the EU-Parliament in 2015.

These provisions had been voted in plenary on 8 July 2015, where they were favoured by 404 members of parliament, whilst 127 voted against.[221] However, the new incoming EU-Commission soon stopped this legislative proposal by issuing its own (much watered down) proposal in April 2016. The intense lobbying by business sectors and the German government during these (and earlier) negotiations around public CBCR have been explored in a TJN-Briefing Paper (in German, here[222]).

While much narrower in scope than our proposal, the Extractive Industries Transparency Initiative (EITI)[223] has succeeded in raising awareness about the importance of transparency of

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revenues', page 4: https://www.oecd.org/ctp/beps-action-13-guidance-implementation-tp-documentation-cbc-reporting.pdf; 17.10.2017. https://www.oecd.org/tax/guidance-on-the-implementation-of-country-by-country-reporting-beps-action-13.pdf; 17.10.2017

[217] For the Directive text, see: http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2017-0284+0+DOC+XML+V0//EN; 17.10.2017.

[218] http://www.epsu.org/sites/default/files/article/files/Joint%20Paper%20on%20CBCR%20post%20EP%20final.pdf; 17.10.2017.

[219] See amendments 82 and 83: http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2017-0284+0+DOC+XML+V0//EN; 17.10.2017.

[220] For the Directive text, see: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2007:184:0017:0024:EN:PDF; 23/10/2017.

[221] Email by Koen Roovers/FTC of 8 July 2015 and https://financialtransparency.org/european-parliament-sets-the-stage-for-europe-to-embrace-more-corporate-fiscal-transparency/; 23.10.2017. For a version of the proposal as of 10th June 2015 see: http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-%2f%2fEP%2f%2fTEXT%2bREPORT%2bA8-2015-0158%2b0%2bDOC%2bXML%2bV0%2f%2fEN&language=EN; 23.10.2017. For a more extended explanation on the planned revision, see: http://ec.europa.eu/justice/civil/company-law/corporate-governance/index_en.htm; 23.10.2017.

[222] Meinzer, Markus/Trautvetter, Christoph 2017: Lobbyismus in der Steuerpolitik. Der lange und steinige Weg der länderbezogenen Berichterstattung (TJN-Briefing Paper), in: http://www.taxjustice.net/wp-content/uploads/2017/11/MeinzerTrautvetter2017-TJN-CBCR-Lobbyismus.pdf; 13.11.2017.

[223] For the current EITI Standard (2016) governing EITI implementation, see: https://eiti.org/document/standard; 17.10.2017.

payments made by companies to governments. If a country voluntarily commits to the EITI, it is required after a transitional period to annually publish details on the activities of extractive companies active in the country at the project level. For a reporting period, among other data collected, government entities submit records of payments received from extractive industry companies and companies submit records of payments made to government to an 'independent administrator', typically an audit firm. In the process of producing an EITI report, the independent administrator reconciles and investigates discrepancies between reported government receipts and company payments. The multi-stakeholder group, made up of government, industry and civil society, that governs the process is 'required to take steps to act upon lessons learned; to identify, investigate and address the causes of any discrepancies'.[224] Mismatches can be, but are not necessarily, indicative of illicit activity such as bribery or embezzlement.

The information provided under the EITI requirements is of special interest because it may reveal for the first time in a given country information on tax payments made by companies to the respective government. 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 and transfer mispricing remains largely unchallenged, to the detriment of the most vulnerable people in societies.

[224] See EITI Standard Requirement 7.3 'Discrepancies and recommendations from EITI Reports': https://eiti.org/document/standard#r7-3; 17.10.2017.

3.9 KFSI 9 – Corporate Tax Disclosure

3.9.1 What is measured?

This indicator assesses two aspects of a jurisdiction's rules on corporate tax disclosure:

1. Regarding **global country-by-country reports** (CbCR) related to OECD's BEPS Action 13: it assesses whether a jurisdiction ensures its own access to the CbCR of any relevant[225] foreign Multinational Enterprises (MNEs) with domestic operations. Such access is ensured if the jurisdiction - going beyond the legal framework proposed by the OECD in the Model domestic legislation for CbCR - requires the "local filing" of the CbCR (by the local subsidiary or branch of a foreign MNE), whenever the jurisdiction cannot obtain it via automatic exchange of information. [Instead, the OECD framework allows a jurisdiction to require "local filing" only in specific circumstances];

2. Regarding **unilateral cross-border tax rulings**: it assesses whether all unilateral cross-border tax rulings are published online for free, or if at least some are made available upon payment of a fee.

Accordingly, we have split this indicator into two components. The overall secrecy score for this indicator is calculated by simple addition of the secrecy scores of each of these components. The secrecy scoring matrix is shown in Table 9.1 on the following page, with full details of the assessment logic given in Table IX (Annex B).

One half of this KFSI concerns local filing of CbCR. A zero secrecy score is given if all relevant foreign MNEs with domestic operations are required to file a local CBCR, whenever the jurisdiction cannot obtain the CbCR via automatic exchange of information. A 50% secrecy score is given if the jurisdiction abides by the OECD legal framework or if CbCR is not even required to be filed in any circumstance, or if the domestic legal framework is unknown.

The other half of the indicator concerns the public disclosure of unilateral cross-border tax rulings. A zero secrecy score is given if all cross-border tax rulings are published online for free. A partial secrecy score of 25% is given either if tax rulings are only published against a cost (irrespective of whether all or only some are accessible against a cost), or only some, but not all are published online for free.

[225] Relevant in this instance refers to MNEs with over 750 million Euro global consolidated turnover, that are required to produce and file the CbCR according to BEPS Action 13.

Table 9.1: Secrecy Scoring Matrix KFSI 9

Regulation	Secrecy Score Assessment [Secrecy Score: 100% = full secrecy; 0% = full transparency]
COMPONENT 1: CBCR LOCAL FILING (50%)	
Access to CBCR is not ensured The jurisdiction abides by the OECD legal framework and requires "local filing" of the CbCR only when authorized by the OECD, if local filing is required at all; or unknown.	50%
Access to CbCR is ensured (comprehensive "local filing") The jurisdiction - going beyond the legal framework proposed by the OECD - requires "local filing" of the CbCR (by the local subsidiary or branch of a foreign MNE), whenever the jurisdiction cannot obtain it via automatic exchange of information.	0%
COMPONENT 2: PUBLIC TAX RULINGS (50%)	
Tax Rulings Not Available Online Unilateral cross-border tax rulings cannot be accessed online, or unknown.	50%
Tax Rulings Available for a Fee Unilateral cross-border tax rulings are available online only against a cost (irrespective of whether all or only some are available). **Or** **Only Some Tax Rulings Online For Free** While some unilateral cross-border tax rulings are available free of cost, not all are available online.	25%
All Tax Rulings Online For Free All unilateral cross-border tax rulings are published online free of cost	0%

With respect to tax rulings, it is important to differentiate unilateral cross-border tax rulings from bi- or multilateral advance pricing arrangements. While the latter involve a priori agreement by all tax administrations of all jurisdictions involved in a cross-border transaction for which the agreement is sought, unilateral cross-border tax rulings do not require, per se, prior agreement. In this indicator, we are focusing only on unilateral cross-border tax rulings, as these represent the highest risk for abusive tax policies.

For the purposes of this KFSI, we define cross-border tax rulings similarly, but not entirely identical to the European Union in its directive on administrative assistance (which provides automatic information exchange of advance cross-border rulings and advance pricing arrangements).[226]

A unilateral cross-border tax ruling is any unilateral agreement, communication, or other instrument or action with similar effects, including one issued, amended or renewed in the context of a tax audit, and which meets certain conditions.[227]

[226] For a comparison with the actual text in the directive amending the relevant directive on administrative cooperation (EC 2011/16/EU), please refer to Art. 1.1.b (inserting points 14 and 16), on pages 5-6, (Council of the European Union 2015).

[227] These are the conditions for tax rulings:

> (a) is issued, amended or renewed by, or on behalf of, the government or the tax authority of a State (the first State), or that State's territorial or administrative subdivisions, including local authorities, irrespective of whether it is effectively used;
>
> (b) is issued, amended or renewed, to a particular person or a group of persons, and upon which that person or a group of persons is entitled to rely;
>
> (c) concerns the interpretation or application of a legal or administrative provision concerning the administration or enforcement of national laws or international rules relating to taxes of that first State, or its territorial or administrative subdivisions, including local authorities;
>
> (d) relates to a cross-border transaction or to the question of whether or not activities carried on by a person of another State in the first State create a permanent establishment in the first State; and
>
> (e) is made in advance of the transactions or of the activities in another jurisdiction potentially creating a permanent establishment or in advance of the filing of a tax return covering the period in which the transaction or series of transactions or activities took place, or is made during a tax audit, but has implications, explicitly or implicitly, for future transactions or other future aforementioned activities.
>
> The cross-border transaction may involve, but is not restricted to, the making of investments, the provision of goods, services, finance, insurance or the use or relocation of tangible or intangible assets and does not have to directly involve the person receiving the advance cross-border ruling.
>
> In the context of the above, 'cross-border transaction' means all transactions or series of transactions where:
>
> (a) not all the parties to the transaction or series of transactions are resident for tax purposes in the first State giving the cross-border ruling, or;

Whenever there is no formal system available for the issuance of unilateral cross-border tax rulings, we consider that these are not available, unless we found more evidence that issuance of rulings is an established practice. The documented possibility to engage in informal discussions with the tax administrations with non-binding outcomes is considered insufficient for considering the availability of unilateral cross-border tax rulings.

Furthermore, it is important to stress that unilateral cross-border tax rulings are referring to private rulings applicable to individual taxpayers and singular cases. These are not the same as generally applicable decisions, guidance notes or other types of binding interpretation of tax law issued publicly by the tax administration through circulars, regulations or similar administrative acts.

In contrast to this, advance pricing arrangements (APAs) have their roots in international tax norms for the avoidance of double taxation.[228]

We define an advance pricing arrangement as always involving all affected jurisdictions of an advance pricing arrangement – thus, APAs always involve bi- or multilateral negotiation. This definition is similar, but not identical to the definition used by the OECD in its Transfer Pricing Guidelines as updated in 2010 (OECD 2010: 169-172).[229]

> (b) any of the parties to the transaction or series of transactions is simultaneously resident for tax purposes in more than one jurisdiction, or;
>
> (c) one of the parties to the transaction or series of transactions carries on business in another State through a permanent establishment and the transaction or series of transactions forms part or the whole of the business of the permanent establishment. A cross-border transaction or series of transactions shall also include arrangements made by a single legal person in respect of business activities in another State which that person carries on through a permanent establishment.

[228] While no explicit reference to APAs is made in the OECD Model Convention of 2008 (including the commentary), the Commentary to the UN Model Convention of 2011 refers to APAs with respect to information exchange (United Nations Department of Economic & Social Affairs 2011: 447). The relevant article in the UN Model Tax Convention allowing for APAs is Art. 25.3:

> "The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention. They may also consult together for the elimination of double taxation in cases not provided for in the Convention." (United Nations Department of Economic & Social Affairs 2011: 31).

Art. 25 (3) of the OECD Model Tax Convention of 2008 contains exactly the same wording (OECD 2008: 37), which "permits countries to enter into Advance Pricing Agreements (Hereafter APAs)." (European Commission 2007: 9).

[229] The definition we use is fully in line with the definition used by the Joint Transfer Pricing Forum of the European Commission in 2007:

> "An APA is an agreement between tax administrations over the way in which certain transfer pricing transactions between taxpayers will be taxed in the future." (European Commission 2007: 5).

All underlying data can be accessed freely in the FSI database. To see the sources we are using for particular jurisdictions please consult the assessment logic in **Table IX (Annex B) and search for the corresponding info IDs **(IDs 363, 419 and 421)** in the database report of the respective jurisdiction.

3.9.2 Why is it important?

Regarding access to CbCR, the OECD has established a complex scheme to access the CbCR[230] (see the diagram below). In essence, each MNE's headquarters is supposed to produce and file the CbCR with their local authority. The local authority is then supposed to automatically exchange this CbCR with authorities of all countries where the MNE has operations. In other words, all other jurisdictions (where an MNE has operations) should receive the CbCR from the country where the MNE is headquartered, via automatic exchange of information (AEoI).

However, AEoI requires countries willing to receive the CbCR from the headquarters' jurisdiction to have the necessary legal framework, especially international agreements with the headquarters' jurisdiction that allow such automatic exchanges, in addition to complying with confidentiality provisions and appropriate use of the received CbCR.

While the framework and its alternatives are complex (see diagram below), the key condition imposed by the OECD framework to access the CBCR is to have an international agreement[231] between the country where the MNE has operations (O) and the headquarters' country (HQ). If this condition is met, there are three possible ways to access the CbCR for O under the OECD framework: (i) AEoI with HQ, (ii) AEoI with another country, called "Surrogate" (S); or if neither (i) or (ii) apply, then (iii) by "local filing" (a subsidiary of the MNE resident in O would file the CbCR directly to O's authorities).

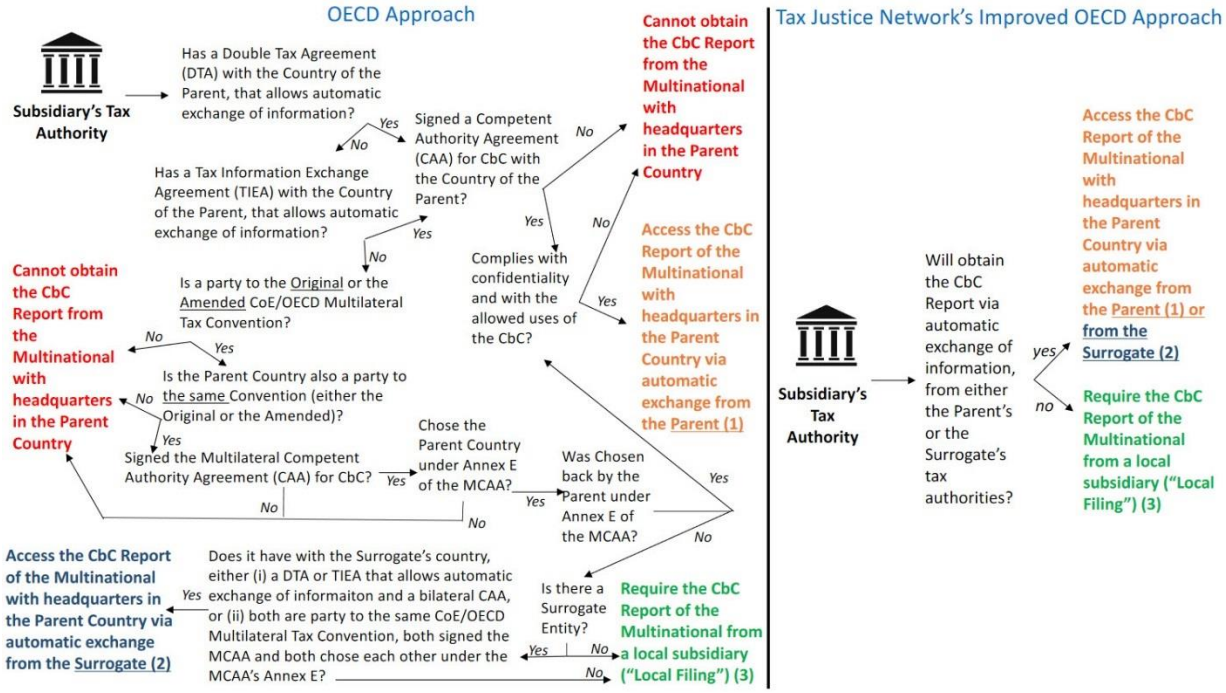
Countries that comply with the OECD legal framework for CbCR, will not ensure access to the CbCR: they will first need to have an international agreement with HQ, subject to HQ's discretion to sign one or not. Countries that go beyond the OECD proposed legislation will ensure access in all cases because, if they cannot obtain the CbCR via AEoI (for example because they lack an international agreement with HQ), they will require the local subsidiary of an MNE to file it with local authorities ("local filing").

"An APA is an arrangement that determines, in advance of controlled transactions, an appropriate set of criteria (e.g. method, comparables and appropriate adjustments thereto, critical assumptions as to future events) for the determination of the transfer pricing for those transactions over a fixed period of time." (European Commission 2007: 9).

"An APA application should typically have four distinct stages: (a) Pre-filing stage/Informal application (b) Formal application (c) Evaluation and negotiation of the APA (d) Formal agreement." (European Commission 2007: 11).

[230] To see more details about the CbCR and its uses, please refer to KFSI 8 here.

[231] There are three possible international agreements: 1) The Multilateral Convention on Administrative Assistance in Tax Matters, 2) Double Tax Agreements, and 3) Tax Information Exchange Agreements.



Source: https://www.taxjustice.net/wp-content/uploads/2013/04/access-to-cbcr-comic-march-1.pdf; http://www.taxjustice.net/2017/03/07/19628/; 1.9.2017.

As regards unilateral cross-border tax rulings, their inherently problematic nature has been exposed widely during the Lux Leaks scandal in 2014. During the subsequent investigations by the European Commissioner for Competition, it was determined that some of these rulings conflicted with EU- state aid rules and therefore were illegal. These decisions are currently being appealed against by EU-jurisdictions such as Ireland, the latter having been ordered by the EU-Commission to collect additional taxes.

This episode has revealed that in addition to the profit-shifting tricks multinational corporations such as Google, FIAT, Starbucks, BASF, SAP or Amazon use to reduce their tax bill, tax authorities – often sanctioned if not mandated by their respective finance ministers – help companies to avoid tax if not illegally, then at least questionably. The sums involved are gigantic. Apple alone has been ordered to pay an additional €13billion in taxes due through a complex tax manoeuvre agreed with the Irish tax agency.[232] Estimates put global tax avoidance by multinationals at around $500billion per year.[233]

As the Lux Leaks scandal has made amply clear, the practice of unilaterally issuing binding tax rulings for individual taxpayers distorts the market by benefiting specific (large) companies over other (often smaller) competitors who either cannot obtain or did not know about the possibility for obtaining similar treatment. Beyond concerns around fair market competition,

[232] http://www.zeit.de/wirtschaft/unternehmen/2016-09/apple-steuern-eu-kommission-transparenz; 12.10.2016.

[233] https://www.wider.unu.edu/publication/global-distribution-revenue-loss-tax-avoidance; 4.11.2017.

a core tenet for the rule of law is jeopardised if there is an exit option from equal treatment before the (tax) law.

A similar history of so-called private letter rulings issued by the US tax administration was (and continue to be) made public in 1977 after the NGO Tax Analysts took the IRS to court over this practice in 1972. This practice had been gaining pace in the 1940s and was criticised for facilitating favouritism where a few privileged law firms were effectively guardians of this kind of "privatised law", allowing them to build over time libraries of privatised tax law and interpretation, giving them an edge over smaller firms.[234] It is however important to note that since 1991 the US provides the option of so-called "unilateral APAs" which may include cross-border transfer pricing issues and which are not public.[235] In contrast in Belgium, all unilateral cross-border tax rulings are published in anonymised form.[236]

Furthermore, attracting profits on paper shrinks the tax bases accordingly in jurisdictions elsewhere. These unilateral rulings usually impact negatively the tax bases of other nations at least to the extent that they go unnoticed or unchallenged by the tax administration. Therefore, developing countries are likely to be hit hardest by the tax base poaching impact of unilateral tax rulings.

While the European Union has subsequently introduced automatic information exchange on these rulings,[237] this action does not necessarily guarantee access to rulings by third party

[234] See pages 184-185, in: Meinzer, Markus 2015: Steueroase Deutschland. Warum bei uns viele Reiche keine Steuern zahlen, München. Furthermore, see Reid, Thomas R. 1973: Public Access to Internal Revenue Service Rulings, in: The George Washington Law Review 41: 1, 23-43; Sugarman, Norman A. 1955: Federal Tax Rulings Procedure, in: N.Y.U. Tax Law Review 10: 1, 1-40; Givati, Yehonatan 2010: Resolving Legal Uncertainty: The Unfulfilled Promise of Advance Tax Rulings, in: Virginia Tax Review 29, 137-175. In the USA, there are also so-called unilateral APAs

[235] Although the IRS states a "Preference for Bilateral and Multilateral APAs" over unilateral ones (Rev. Proc. 2015-41, Section 2.4.d, https://www.irs.gov/pub/irs-drop/rp-15-41.pdf), the latter may nonetheless be available under certain conditions. After a lawsuit brought by BNA for disclosure of APAs, legislative action in December 1999 led to preventing disclosure of APAs (see FN 52, page 160, in: Ring, Diane M. 2000: On the frontier of procedural innovation: advance pricing agreements and the struggle to allocate income for cross border taxation, in: Michigan Journal of International Law 21: 2, 143-234; FN 130, page 174, in: Givati 2010, *op. cit.*; Hickman, Kristin E. 1998: Should Advance Pricing Agreements Be Published, in: Nw. J. Int'l L. & Bus. 19: 1, 171-194). In our classification (see above), these so-called "unilateral APAs" would be considered to be unilateral tax rulings despite the name suggesting that it is an APA and thence involving at least two tax administrations.

[236] See page 185, in: Meinzer 2015, *op. cit.*

[237] Council of the European Union 2015: COUNCIL DIRECTIVE (EU) 2015/2376 of 8 December 2015 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation, in: http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32015L2376&from=EN; 19.1.2017. Council of the European Union 2015: COUNCIL DIRECTIVE (EU) 2015/2376 of 8 December 2015 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation, in:

countries. Because it is difficult to define a unilateral cross border tax ruling, and because it is even more difficult, if not outright impossible, to monitor compliance with any obligation to report and exchange those rulings without making them public, there is a risk for exchange mechanisms only to capture the tip of the iceberg.

Various examples document the failure of reporting and exchange mechanisms around tax rulings. First, the inconsistent and misleading reporting practice of unilateral rulings by Luxembourg within the European Commission's Joint Transfer Pricing Forum prior to the LuxLeaks scandal[238] bears witness to the unreliability of data that is only reported by the tax administration without any possibility for verifying the content of the data more publicly. Second, the TAXE Committee (EU Parliament's Special Committee on Tax Rulings) explains how for decades requirements under EU directives on reporting of tax rulings have not been complied with:

> "The European Parliament […] Concludes […] Member States did not comply with the obligations set out in Council Directives 77/799/EEC and 2011/16/EU since they did not and continue not to spontaneously exchange tax information, even in cases where there were clear grounds, despite the margin of discretion left by those directives, for expecting that there may be tax losses in other Member States, or that tax savings may result from artificial transfers of profits within groups,[…]." (Para. 86)[239]

http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32015L2376&from=EN; 19.1.2017.

[238] Luxembourg had reported only 2 unilateral APAs to be in force in 2012, while reporting 119 in 2013. In contrast, more than 500 unilateral tax rulings were disclosed through LuxLeaks which were reported to have been agreed mainly between 2002 and 2010. These appear not to have been captured by the EU Joint Transfer Pricing Forum statistic which builds on information submitted by member states such as Luxembourg. See pages 178-179, in: Meinzer 2015, *op. cit.*

[239] http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2015-0408+0+DOC+XML+V0//EN&language=EN; 19.12.2017.

3.10 KFSI 10 – Legal Entity Identifier

3.10.1 What is measured?

This indicator reviews the extent to which a jurisdiction requires domestic legal entities to use the Legal Entity Identifier (LEI). A global LEI system has been developed under the guidance of the Financial Stability Board (FSB) and provides a unique identification number for legal entities engaging in financial transactions. Sometimes labelled a global business card for legal entities, all legal entities incorporated in any country can apply for and use a LEI. The cost for obtaining a LEI has fallen and stands currently at about 90€ for first registrations, and about 60€ for annual renewal.[240]

The LEI is a 20-character, alpha-numeric code and all entities using a LEI can be searched on their website for free.[241] In essence, the information contained in any LEI record is currently limited to the name(s), legal jurisdiction and legal form of the entity, its address, as well as date and details of registration.[242] From May 2017 onwards additional information on the direct and ultimate accounting consolidating parents is required for each LEI record upon annual renewal.[243] The accuracy of any LEI record can be challenged online.

Some jurisdictions have required the use of a LEI in some segments of financial markets.[244] The global system for automatic exchange of tax information (Common Reporting Standard, CRS) allows jurisdictions to use the LEI as an identifier for the reporting financial institutions.[245]

For a jurisdiction to obtain a 0% secrecy score, it must require by 15 September 2017 all legal entities created under its laws to use an annually updated LEI. Otherwise, a 100% secrecy score applies.

However, the 100% secrecy score can also be reduced by 25% for each specific purpose for which the jurisdiction requires by the same date annually updated LEIs:

- for some financial market operators and/or asset classes; and/or
- for the identification of reporting financial institutions (pursuant to the CRS, as referred to in the CRS commentaries, page 97, section I, subpara A (3).[246]

The Secrecy Scoring Matrix (Table 10.1 below) provides an overview of KFSI 10, and the full details of the assessment logic can be found in Table X (Annex B).

[240] See for examples prices here: https://www.lei.direct/; 30.8.2017.

[241] https://www.gleif.org/en/lei/search/; 30.8.2017.

[242] https://www.gleif.org; 1.9.2017.

[243] The data required to be provided on accounting consolidating parents for parents without a LEI is limited to legal name, legal address, headquarter address and business register information (identification of register and registry number). In a transitional period at least until November 2017, this data is not going to be made public. Then, the LEI Regulatory Oversight Committee "will determine whether the parent metadata can be made public as part of the reference data of the child or whether the pilot should be extended, to provide additional time to address any issues associated with

Table 10.1: Secrecy Scoring Matrix KFSI 10

Regulation [Secrecy Score: 100% = fully secretive; simple addition/subtraction]	Secrecy Score
No mandatory and updated LEI for all companies The use of an annually updated Legal Entity Identifier (LEI) is not mandatory for all domestic companies	100%
Mandatory and updated LEI for all companies The use of an annually updated Legal Entity Identifier (LEI) is mandatory for all domestic companies	0%
Mandatory and updated LEI for one type of operators/asset classes The use of an annually updated LEI is mandatory either for trading in "Over the Counter" (OTC) derivatives, or for financial market operators and/or asset classes beyond (OTC) derivatives. **Or** **Mandatory and updated LEI for two types of operators/asset classes** The use of an annually updated LEI is mandatory both for trading in "Over the Counter" (OTC) derivatives and for some financial market operators and/or asset classes beyond trading in OTC derivatives.	-25% **Or** -50%
Mandatory and updated LEI for automatic exchange of tax information The use of an annually updated LEI is mandatory for the identification of reporting financial institutions (pursuant to the Common Reporting Standard (CRS), as referred to in the CRS commentaries, page 97, section I, subpara A (3))[247]	-25%

publication, with the expectation that publication will take place as soon as feasible" (page 18, in: LEI ROC 2016: Collecting data on direct and ultimate parents of legal entities in the Global LEI System – Phase 1, in: http://www.leiroc.org/publications/gls/lou_20161003-1.pdf; 1.9.2017.

See also https://www.gleif.org/en/about-lei/common-data-file-format/parent-reference-data-format/; 1.9.2017.

[244] https://www.gleif.org/en/about-lei/regulatory-use-of-the-lei; 1.9.2017.

[245] See page 97, in: OECD 2014: Standard for Automatic Exchange of Financial Account Information in Tax Matters. Including Commentaries., in: http://www.keepeek.com/Digital-Asset-Management/oecd/taxation/standard-for-automatic-exchange-of-financial-account-information-for-tax-matters_9789264216525-en; 14.2.2017.

[246] See page 97, in: OECD 2014: Standard for Automatic Exchange of Financial Account Information in Tax Matters. Including Commentaries, Op. Cit.

[247] OECD 2014, op. cit.

This indicator is largely derived from two sources. First, the GLEIF website has been reviewed, especially the page "Regulatory Use of the LEI".[248] Second, the results of the TJN-Survey 2017 have been taken into account.

All underlying data can be accessed freely in the FSI database. To see the sources we are using for particular jurisdictions please consult the assessment logic in **Table X (Annex B) and search for the corresponding info IDs **(IDs 414, 415 and 420)** in the database report of the respective jurisdiction.

3.10.2 Why is it important?

In response to the global financial crisis, the LEI has been developed originally to increase transparency in financial markets and to "uniquely identify parties to financial transactions".[249] However, there are more reasons why the use of an updated and globally unified legal entity identifier is curtailing financial secrecy.

The crisis had evidenced flaws and failures in financial data systems, in risk assessment and mitigation as well as in fraud detection and prevention, all of which were exacerbated, if not caused, by the absence of a unique and public identification system of legal entities engaging in financial transactions. For example, the critical issue of derivatives reporting and aggregation has been hampered in the past by failures of automated systems to aggregate data correctly to a single financial institution because of different spellings or codings of that same financial institution. As a result, regulators may have incomplete or misleading information about the critical risk exposure of financial institution and might therefore fail to take appropriate actions. Therefore, the development and provision of a global LEI system has been conceived as a public good which provides collective benefits.[250]

In June 2012, the Financial Stability Board, an international body promoting financial stability, published a report 'A Global Legal Entity Identifier for Financial Markets'. This report was endorsed by the G20 at the Los Cabos Summit in June 2012.[251] A non-for-profit foundation (Global Legal Entity Identifier Foundation, GLEIF) and an oversight committee (Regulatory Oversight Committee, LEI ROC) were established to implement the global LEI system. Meanwhile, the scope of the LEI has been widened and it is open also to any legal entity that engages in financial transactions. Adhering to the Open Data Charter as of January 2016, the GLEIF is committed to providing data in open data format by default.[252] As a consequence, it

[248] While this website provides for a list of mandatory regulatory uses, it does not specify if these include a requirement to annually update the LEI. Therefore, those regulations of jurisdictions which were classified as having a a mandatory LEI requirement were analysed in depth.

See https://www.gleif.org/en/about-lei/regulatory-use-of-the-lei; 1.9.2017.

[249] Page 1, in: Financial Stability Board 2012: A Global Legal Entity Identifier for Financial Markets, in: https://www.leiroc.org/publications/gls/roc_20120608.pdf; 30.8.2017.

[250] Page 2, in FSB 2012, op. cit.

[251] http://www.fsb.org/what-we-do/policy-development/additional-policy-areas/legalentityidentifier/; 30.8.2017.

[252] https://www.gleif.org/en/about/open-data; 30.8.2017.

can be "freely used, reused, and redistributed by anyone, anytime, anywhere", thus enabling it to play a role far beyond financial market regulation.

There are good reasons for mandating LEI usages beyond the financial markets. Legal entities are the vehicles of choice for large scale embezzlement, money laundering, tax evasion and other forms of corruption.[253] Many secrecy jurisdictions have specialised in fast and cheap production and dissolution of shell companies. Among those specialist offers feature

- ready-made shelf companies[254] including nominee directors or shareholders,[255] which may allow backdating the existence of a company and misleading law enforcement;
- so-called Series LLCs[256] which enable the creation of dozens or even hundreds of separate legal entities at very low costs;
- tailored private trust companies[257] for the secretive administration of high net worth individuals' wealth;
- creation of companies only for a few days followed by them being struck off the Register, and subsequently dissolved.[258]

These features of companies can make it very difficult for legitimate interests such as law enforcement, market regulators, Financial Intelligence Units, public procurers, clients, business partners, tax officials, civil society, journalists and all those in charge of undertaking anti-money laundering due diligence to understand the background, nature and network of legal entities.

One key obstacle in accessing relevant data is the lack of interconnectivity of existing data sets and records. Taken together, the information about a legal entity available on all public records worldwide may offer very important insights and reveal connections that could prove pivotal for the above mentioned legitimate interests. For example, a legal entity may be recorded in public corporate registers of several jurisdictions. However, the functions in which

[253] See for example: OECD 2001: Behind the Corporate Veil: Using Corporate Entities for Illicit Purposes, Paris, in: http://www.oecd.org/daf/ca/behindthecorporateveilusingcorporateentitiesforillicitpurposes.htm; 27.7.2013. Van der Does de Willebois, Emile/Halter, Emily M./Harrison, Robert A./Park, Ji Won/Sharman, J. C. 2011: The Puppet Masters. How the Corrupt Use Legal Structures to Hide Stolen Assets and What to Do About It (StAR - World Bank / UNODC), Washington, DC, in: http://star.worldbank.org/star/sites/star/files/puppetmastersv1.pdf; 22.7.2013. O'Donovan, James/Wagner, Hannes F./Zeume, Stefan 2016: The Value of Offshore Secrets Evidence from the Panama Papers (SSRN Scholarly Paper ID 2771095), Rochester, NY, in: http://papers.ssrn.com/abstract=2771095; 17.6.2016.

[254] https://companiesinc.com/aged-shelf-corporations/; 22.8.2017.

[255] Brinkmann, Bastian/Obermaier, Frederik/Obermayer, Bastian 2016: The Secret World Of Sham Directors, München, in: http://panamapapers.sueddeutsche.de/articles/5718f882a1bb8d3c3495bcc7/; 22.8.2017.

[256] https://ct.wolterskluwer.com/resource-center/articles/series-llcs-wise-option-or-risky-strategy; 22.8.2017.

[257] https://www.careyolsen.com/briefings/cayman-islands-private-trust-companies; 22.8.2017.

[258] https://www.careyolsen.com/briefings/administrative-strike-off-of-a-bvi-company; 22.8.2017.

the same company is registered may differ. Often the company will be publicly registered in the jurisdiction of incorporation, but may be recorded as well in other jurisdictions for example if it is a shareholder or a director of a local company, or if it is bidding in public procurement tenders. In addition, not all jurisdictions require the same information to be recorded and/or made available online or on hard copy record. Some jurisdictions may require the publication of accounts or of beneficial ownership information, while other jurisdictions might publish only the name and business number, or a registered business address – possibly a mere letter box. And only some public registers deliver free of charge access to the corporate data, inhibiting further the access on information. Therefore, the interconnection of information in existing databases and public records is of paramount importance.[259]

While the interconnectivity of existing data records often fails because the data of company registers is not provided in open data format, another related problem consists of the lack of a unique global identifying number for each company. A unique and uniform number with established data verification procedures is an important condition for matching data records from different sources, because company names can be misspelled and might change over time. Similarly, if each jurisdiction provides its own identifier numbers e.g. through tax administrations or the business registries, these numbers are specific to that jurisdiction and will therefore not allow the linking of another jurisdiction's records on that same legal entity. Furthermore, if the data quality is not regularly checked and linked back to local registers, the data identifiers may soon be outdated or could be abused.

For tax purposes, the OECD has long been exploring introduction of a unique taxpayer reference number, and has confirmed in the past the benefits of a unique taxpayer ID system.[260] However, because of taxpayer confidentiality these taxpayer IDs and identities are not routinely exchange across borders and, even if they are, they are not harmonised. The taxpayer ID from country A is of little use to country B if it does not match the ID country B had given the same legal entity. Furthermore, legal entities can be set up precisely to avoid paying taxes in other jurisdictions, including by avoiding local registration. Therefore, taxpayer IDs are not suitable to serve as a basis for universal matching of public domain data on corporate entities.

For the global automatic exchange of tax information pursuant to the OECD's Common Reporting Standard, the reporting financial institutions need to be identified uniquely to efficiently collect, administer and exchange data with partner jurisdictions. The LEI is explicitly mentioned as one possible identifying number for reporting financial institutions. The respective passage in the Commentaries to the CRS (Subparagraph A(3)) reads as follows:

[259] For a list of more than 650 business registers on the globe, please visit: https://www.gleif.org/en/about-lei/gleif-registration-authorities-list; 1.9.2017.

[260] Pages 154-155, in: Organisation for Economic Co-Operation and Development 2009: Tax Administration in OECD and Selected Non-OECD Countries: Comparative Information Series (2008), Paris, in: http://www.oecd.org/dataoecd/57/23/42012907.pdf; 15.3.2010. Furthermore, see page 21, in: Organisation for Economic Co-Operation and Development 2012: Tackling Offshore Tax Evasion. The G20/OECD Continues to Make Progress, Paris, in: www.oecd.org/dataoecd/19/9/50630916.pdf; 21.6.2012.

"The Reporting Financial Institution must report its name and identifying number (if any). Identifying information on the Reporting Financial Institution is intended to allow Participating Jurisdictions to easily identify the source of the information reported and subsequently exchanged in order to, e.g. follow-up on an error that may have led to incorrect or incomplete information reporting. The "identifying number" of a Reporting Financial Institution is the number assigned to a Reporting Financial Institution for identification purposes. Normally this number is assigned to the Reporting Financial Institution by its jurisdiction of residence or location, but it could also be assigned globally. Examples of identifying numbers include a TIN, business/company registration code/number, Global Legal Entity Identifier (LEI),[6] or Global Intermediary Identification Number (GIIN).[7] Participating Jurisdictions are expected to provide their Reporting Financial Institutions with guidance with respect to any identifying number to be reported. If no such number is assigned to the Reporting Financial Institution, then only the name and address of the Reporting Financial Institution are required to be reported."[261]

[261] See OECD 2014, op. cit. The corresponding footnotes 6 and7 of the CRS Commentaries read as follows (page 97): "6. See the Regulatory Oversight Committee (ROC) of the Global Legal Entity Identifier System (GLEIS) webpage, available on www.leiroc.org/. 7. The Global Intermediary Identification Number (GIIN) is an identification number that is assigned to certain financial institutions by the Internal Revenue Service (IRS) of the United States."

3.11 KFSI 11 – Tax Administration Capacity

3.11.1 What is measured?

This indicator considers the capacity of jurisdictions' tax administration to collect and process data for investigating and ultimately taxing those people and companies who usually have most means and opportunities to escape their tax obligations. The indicator assesses organisational capacity, informational data processing preconditions as well as the availability of rules for targeted collection of intelligence about complex and risky tax avoidance activities.

As concerns organisational features, two aspects are considered:

1. Regarding Large Taxpayers: the indicator assesses whether a jurisdiction has one centralised unit for large (corporate) taxpayers within the tax administration;
2. Regarding High Net Worth Individuals (HNWIs): it assesses whether a jurisdiction has one centralised unit for HNWIs.

With respect to informational data processing preconditions, the prevalence of taxpayer identifiers is considered:

3. Regarding taxpayer identifiers: the indicator assesses whether a) all natural persons subject to personal income tax and/or b) all legal persons subject to corporate income tax are provided with unique and mandatory Taxpayer Identifier Numbers (TINs) which are mandatory for filing their tax returns.

As for rules for targeted collection of intelligence about complex and risky tax avoidance activities, two types are analysed:

4. Regarding tax avoidance schemes: the indicator reviews whether a) taxpayers and/or b) tax advisers are required to report at least annually on certain tax avoidance schemes they have used/sold/marketed.
5. Regarding uncertain tax positions: it assesses whether a) taxpayers and/or b) tax advisers are required to report at least annually on details of uncertain tax positions for which reserves have been created in the annual accounts.

Accordingly, we have split this indicator into five components. The overall secrecy score for this indicator is calculated by simple addition of the secrecy scores of each of these components. The secrecy scoring matrix is shown in Table 11.1, with full details of the assessment logic given in Table XI below.

Table 11.1: Secrecy Scoring Matrix KFSI 11

Regulation	Secrecy Score Assessment [Secrecy Score: 100% = full secrecy; 0% = full transparency]
COMPONENT 1: Large Taxpayer Unit (12.5%)	
Large Taxpayer Unit (LTU) There is one centralised unit for large (corporate) taxpayers within the tax administration.	0%
There is no LTU	12.5%
COMPONENT 2: High Net Worth Individuals Unit (12.5%)	
High Net Worth Individuals Unit (HNWI) There is one centralised unit for HNWIs within the tax administration.	0%
There is no HNWI Unit	12.5%
COMPONENT 3: Taxpayer Identification Numbers (25%)	
TINs for both natural persons and legal entities All natural persons subject to personal income tax are provided with unique and mandatory Taxpayer Identifier Numbers (TINs) which are mandatory for filing their tax returns. **AND** All legal persons subject to corporate income tax are provided with unique and mandatory Taxpayer Identifier Numbers (TINs) which are mandatory for filing their tax returns.	0%
TINs for either natural persons or legal entities, but not both	12.5%
No TINs for legal entities or natural persons	25%
COMPONENT 4: Reporting on tax avoidance schemes (25%)	
Taxpayers reporting schemes Taxpayers are required to report at least annually on certain tax avoidance schemes they have used.	Reporting by both taxpayers and advisers: 0% Reporting by either taxpayers or advisers: 15%
Tax Advisers reporting schemes Tax advisers (who help companies and individuals to prepare tax returns) are required to report at least annually on certain tax avoidance schemes they have sold/marketed.	
No reporting by taxpayers or tax advisers	25%

COMPONENT 5: Reporting on uncertain tax positions (25%)	
Taxpayers reporting uncertain tax positions Taxpayers are required to report at least annually on details of uncertain tax positions for which reserves have been created in the annual accounts.	Reporting by both taxpayers and advisers: 0% Reporting by either taxpayers or advisers: 15%
Tax Advisers reporting uncertain tax positions Tax advisers are required to report at least annually on details of uncertain tax positions for which reserves have been created in the annual accounts of the companies they advised.	
No reporting by taxpayers or tax advisers	25%

For assessing the indicator, our research draws on several sources: a) the TJN-Survey 2017; b) the OECD publication entitled "Tax Administration 2017"[262]; c) OECD's portal on Tax identification numbers[263] within its Automatic Exchange Portal; d) local websites of jurisdictions' tax authorities; d) local tax legislation of jurisdictions; e) the OECD publication entitled "Mandatory Disclosure Rule. Action 12: 2015 Final Report"[264]; f) IBFD Country Analyses[265]; g) Bloomberg BNA Global Tax Guide.[266]

All underlying data can be accessed freely in the FSI database. To see the sources we are using for particular jurisdictions please consult the assessment logic in **Table XI (Annex B) and search for the corresponding info IDs **(IDs 317 and 400 to 406)** in the database report of the respective jurisdiction.

3.11.2 Why is it important?

National tax administrations face a globalising domestic economy with increasing shares of value added and income received from external sources. 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 increasingly complex environment through organisational and technical innovations will rapidly lose its ability to effectively assess and collect taxes.

[262] http://www.keepeek.com/Digital-Asset-Management/oecd/taxation/tax-administration-2017_tax_admin-2017-en#.WldJJK6nHIU; 11.01.2018.

[263] http://www.oecd.org/tax/automatic-exchange/crs-implementation-and-assistance/tax-identification-numbers/; 19.12.2017.

[264] http://www.oecd-ilibrary.org/docserver/download/2315371e.pdf?expires=1513933793&id=id&accname=guest&checksum=7D18A82E8F1E50F8E71E0F0AD836D08A; 19.12.2017.

[265] http://www.ibfd.org/IBFD-Tax-Portal/About-Tax-Research-Platform; 12.05.2015.

[266] https://www.bna.com/tax/; 19.12.2017.

The absence of adequate organisational and technical capacity of a tax administration, whether by accident or design, can attract wealthy individuals and corporations wanting to escape taxation.

Components 1 and 2: Large Taxpayer Unit and Unit for High Net Worth Individuals

In the case of large taxpayers units (LTUs), the OECD argues in their favour because of the 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 advisers by large taxpayers (ibid.: 84-85).

LTUs and units dedicated to the taxation of high net worth individuals (HNWIs) make sense on the grounds of efficiency for a number of reasons. The taxpayers dealt with by these units share common characteristics which require highly specialist and skilled expertise that can hardly be mobilised in a context of a decentralised tax administration.

We would not argue that these specialist units are a panacea to tax evasion and aggressive tax avoidance, but their absence might indicate a willingness on the part of a jurisdiction to tolerate such practices by large taxpayers and wealthy individuals. Such permissiveness on the part of governments effectively contributes to financial opacity.

While the threshold for defining a high net worth individual or a large taxpayer may vary between jurisdictions, there is undoubtedly a high concentration of revenue in the hands of a small number of taxpayers and their tax affairs are complex and often require a more in-depth analysis of relevant tax laws. In absolute terms, this group poses the greatest risks for tax losses because of the high concentration of taxable income/wealth in their hands. But recent research also suggests that in relative terms, both (large and multinational) corporations and wealthy individuals are more likely to engage in tax evasion and/or avoidance than their smaller competitors/those with lower levels of income and/or wealth.[267]

These risks are significantly exacerbated by the fact that both large corporations and high net wealth individuals are usually represented by teams of highly specialised lawyers, accountants and tax advisers. Therefore, dedicated units that foster cooperation among highly skilled tax experts in the tax administration increase the chances to match the expertise mustered by the private sector to ensure that tax laws will be strictly applied and complex disputes resolved in an evenhanded way.

[267] Regarding individuals, see: Zucman, Gabriel/Johannesen, Niels/Alstadsaeter, Annette 2017: Tax Evasion and Inequality, in: gabriel-zucman.eu/files/AJZ2017.pdf; 31.5.2017. With respect to companies, see: Gebhardt, Heinz/Siemers, Lars-HR 2016: Volkswirtschaftliche Diskussionsbeiträge Discussion Papers in Economics, in: https://www.researchgate.net/profile/Heinz_Gebhardt/publication/313420303_Die_relative_Steuerbelastung_mittelstandischer_Kapitalgesellschaften_Evidenz_von_handelsbilanziellen_Mikrodaten/links/5899d5a9a6fdcc32dbdeaccd/Die-relative-Steuerbelastung-mittelstaendischer-Kapitalgesellschaften-Evidenz-von-handelsbilanziellen-Mikrodaten.pdf; 14.9.2017. And: Egger, Peter/Eggert, Wolfgang/Winner, Hannes 2010: Saving taxes through foreign plant ownership, in: Journal of International Economics 81: 1, 99-108.

Furthermore, if a jurisdiction operates several regional specialist units without central management, this could potentially create incentives for tax wars and lax and uneven enforcement of tax laws between the different subnational regions. In addition, multiple parallel institutions might create opacity through (unnecessary) complexity, interagency rivalry and restricted cooperation.

Component 3: Taxpayer Identifiers

With respect to the taxpayer identifiers, the OECD notes (2015: 290)[268]:

> "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."

Unique and mandatory taxpayer identifiers are a basic building block for data mining and other tools for efficiently analyzing risks, detecting instances of non-compliance and improving information exchange between government agencies. They are therefore an effective deterrent to cross-border tax evasion.

Component 4: Reporting of tax avoidance schemes

Regarding mandatory reporting of tax avoidance schemes, there are several significant reasons to support the imposition of such a requirement: **firstly**, the reporting requirements help the tax administration to identify areas of uncertainty in the tax law that may need clarification or legislative improvements, or regulatory guidance, or further research.[269] **Secondly**, providing the tax administration with early information about tax avoidance schemes allows it to assess the risks they pose before the tax assessment is made and focus audits more efficiently. This is significant mainly because in many jurisdictions, tax administrations do not have enough capacity to fully audit a large part of the tax files and hence flagging up certain files which impose a higher risk for tax avoidance is likely to increase the efficiency of tax administration and its ability to increase tax revenues. **Thirdly**, requiring mandatory reporting of tax schemes is likely to deter taxpayers from using these tax schemes because they know there are higher chances that files will be flagged, exposed and assessed accordingly. **Fourthly**, such mandatory reporting may reduce the supply of these schemes by altering the economics of tax avoidance of their providers because a) they will be more exposed to claims of promoting aggressive tax schemes, increasing the risk of reputational damage, and b) their profits and rate of return on the promotion of these schemes is likely to be reduced because schemes are closed down more quickly (this is all the more true if contingency fees are part of contracts).

[268]Organisation for Economic Co-Operation and Development 2015: Tax Administration 2015. Comparative Information on OECD and Other Advanced and Emerging Economies, Paris, in: http://www.keepeek.com/Digital-Asset-Management/oecd/taxation/tax-administration-2015_tax_admin-2015-en#page1; 11.01.2018.

[269] https://www.ato.gov.au/Business/Large-business/Compliance-and-governance/Reportable-tax-positions/Reportable-tax-position-schedule/; 22.12.2017.

The big risk in setting up a mandatory reporting regime for tax avoidance schemes consists in the potential for ambiguity of what constitutes a tax avoidance scheme. In order to mitigate against this risk, the reporting obligation should not only fall on either the client using an avoidance scheme or the promoter (tax advisers) of the scheme, but on both. If both are obliged to report independently on marketed/used tax avoidance schemes, the detection risk of hidden dubious schemes rises. Precisely because there are numerous and regular conflicts between the tax administration and taxpayers/advisers on the interpretation of tax laws, it should be expected that many schemes will be designed in grey areas which certain promoters might chose to interpret as not being subject to the remit of the reporting obligation. Third party reporting obligations increase the detection risk of these dubious schemes and thereby incentivises the reporting of a broader set of schemes.

Component 5: Reporting of uncertain tax positions

A reporting obligation of uncertain tax positions as reported in the annual financial accounts further mitigates against the risk of failure to define and report properly on all relevant tax avoidance schemes. The International Financial Reporting Standards, which most multinational companies are adhering to in their annual financial reporting, require the reporting of uncertain tax positions. Whenever a tax payment related to a tax risk is "probable", these positions need to be included in their financial accounts.[270] Because under international financial reporting standards, prudence[271] is an important principle for the preparation of accounts, and because shareholders may hold management to account for prudential reporting, it is likely that even more tax avoidance schemes end up being reported to the tax administrations if there was a consistent requirement to report details on uncertain tax positions to the tax administration. Similarly, if both tax advisers and taxpayers are under an obligation to annually report on any uncertain tax positions of accounts they prepared or submitted, the detection risks of errors in or failures to report increases.

[270] https://blogs.pwc.de/accounting-aktuell/ifrs/bewertung-einer-steuerrisikoposition-uncertain-tax-position/685/; 19.12.2017.

[271] http://www.accaglobal.com/content/dam/acca/global/PDF-technical/financial-reporting/tech-tp-prudence.pdf; 19.12.2017.

3.12 KFSI 12 – Consistent Personal Income Tax

3.12.1 What is measured?

This indicator analyses whether a jurisdiction applies a Personal Income Tax (PIT) regime which is compatible with the (progressive) income tax systems of most jurisdictions worldwide, or if its laws provide laxity around citizenship and/or residency, and if its personal income tax legislation is narrow in scope, resulting in financial secrecy sinks for tax dodgers and criminals.

Two dimensions of a jurisdiction's legal framework are jointly analysed.

1) **Comprehensive scope** of a PIT: it assesses if there is any PIT at all; if worldwide income is subject to this tax (instead of a territorial or remittance system); if a uniform tax regime applies (no opt-outs through lump sum taxation etc.); and if it is complete (including capital gains; no exemption or exclusion of specific types of income).

2) **Tight citizenship and/or residency:** it assesses whether (i) citizenship (passports) can be acquired against a passive investment or payment only after a period of more than two years of physical presence in the jurisdiction (instead of obtaining citizenship against any investment or payment made by the person within a period of 2 years or less); and (ii) a certificate of "residency" can be acquired against a passive investment or payment.

For the purpose of this KFSI, a zero secrecy score [full transparency] will be awarded to jurisdictions which levy a PIT with a comprehensive scope, regardless of the citizenship or residency rules. Jurisdictions that fail on the comprehensive worldwide personal income tax receive a partial secrecy score, depending on their scope and the tight or lax citizenship and residency rules. The highest 100% secrecy score [full opacity] applies to jurisdictions that provide lax citizenship or residency rules while not levying any personal income tax. These jurisdictions export financial secrecy by creating incentives for non-residents to abuse passports/citizenship and residency certificates for the circumvention of tax information exchange and for escaping litigation and law enforcement.

The secrecy scoring matrix is shown in Table 12.1 on the following page, with full details of the assessment logic given in Table XII (Annex B).

Table 12.1: Secrecy Scoring Matrix KFSI 12

Regulation [Secrecy Score: 100% = full secrecy; 0% = full transparency]		Citizenship/Residency	
		Tight Citizenship/Residency acquisition Citizenship (by investment) only after 2 years of physical presence and resident status is not granted against investment	**Lax Citizenship/Residency acquisition** Citizenship (by investment) within 2 years of physical presence or resident status can be purchased
Personal Income Tax Regime	**No Personal Income Tax (PIT)** PIT does not exist or is not applied or a jurisdiction is part of Annex A under the MCAA (voluntary secrecy)	75%	100%
	Incomprehensive PIT Regime While there is a PIT regime, any of the subsequent limitations apply: **Territorial scope**: Only domestic source income is included, or worldwide income only on a remittance basis **OR** **Incomplete scope**: capital gains are not taxed, or specific types of income are exempt or excluded **OR** **Opt Out Available**: (covering worldwide income), there is an opt out from the overall PIT regime (e.g. lump sum taxation, non-domiciled regime, etc.)	37.5%	75%
	Comprehensive PIT Regime There is one single uniform PIT that taxes worldwide income (**and** the jurisdiction has not chosen voluntary secrecy under MCAA's Annex A)	0%	

For a personal income tax to be considered **comprehensive in its scope**, there needs to be one **single uniform PIT** that applies the same tax base rules (see below) and a rate above zero percent equally to all natural persons considered tax residents. Any opt out from the general tax regime in a certain jurisdiction, e.g. through lump sum tax regimes for new residents, or residents considered to be non-domiciled for tax purposes, would imply that the jurisdiction does not have a single uniform PIT.

Furthermore, the single uniform PIT's tax base would need to include all income a tax resident is entitled to or paid anywhere in the world (**worldwide income criterion**). If (some or all) overseas income can remain untaxed, either because the jurisdiction only applies a territorial tax base or taxes on a remittance and/or accrual basis only, the PIT would not be considered comprehensive. For the question of a comprehensive PIT, the top personal income tax rate is disregarded.

In addition, the PIT needs to be **complete** in terms of the income covered. All capital gains earned worldwide should be part of PIT or be taxed separately – either as part of another tax, e.g. wealth tax, or independently - for the PIT to be considered complete. The same applies for any specific types of income, especially investment income: any investment income should not be exempt nor excluded from the overall tax base, or it should be taxed independently. For example, a jurisdiction that does not tax dividends, capital gains or income derived from foreign sources is therefore considered as having an incomplete PIT. Many jurisdictions, however, allow for tax exemption on capital gains from the sale of a private home or from real estate held longer than a certain number of years. We consider the PIT to be complete as long as the exemption from capital gains taxation on real estate applies after holding it for longer than 3 years or if it only applies to a privately held home.

For **citizenship programs to be considered tight**, citizenship and passports by investment or monetary payment should not be provided without a requirement to reside at least 2 years in the jurisdiction (whereby a year of residency means a physical presence of at least 183 days).

For **residency programs to be considered tight**, residency permits should not be available in exchange for passive investments, payments or on financial grounds only. If permits are available under such conditions, these should be revoked if the individual does not maintain a significant physical presence (more than 183 days in a year) in the jurisdiction. A resident permit is different from a simple tourist visa if it allows the individual to stay longer than 1 year in the jurisdiction. Permits that need to be renewed by a simple formal procedure after 1 year are also considered.

Consequently, jurisdictions that issue passports or residency permits to individuals who only purchase real estate or other financial assets in the country or show proof of high-net-worth will be considered as having lax citizenship and residency rules.

All underlying data can be accessed freely in the FSI database. To see the sources we are using for particular jurisdictions please consult the assessment logic in **Table XII (Annex B) and search for the corresponding info IDs **(IDs 374, 435 and 489)** in the database report of the respective jurisdiction.

3.12.2 Why is it important?

Most jurisdictions have adopted the *residence principle* with regards to the taxation of individuals. A jurisdiction levies taxes on the worldwide income received by an individual who resides within its boundaries. The underlying logic is that individuals who are resident in one country will make use of the country's public services which are funded by tax revenues.[272] It is not decisive *where* an individual derives their income from, therefore their worldwide income should be taken into account.

Jurisdictions that only tax income on a territorial basis, apply lump sum taxation, exempt some types of income, or do not use any income tax at all are therefore attractive for individuals wishing to escape law enforcement, to avoid taxation or wishing to avoid the assessment of their worldwide income. Without assessment of their worldwide income, the information available on any individual's finances is severely constrained. If an individual is engaged in illicit financial activity in another jurisdiction, relevant financial information available for answering requests for information exchange may not exist, shielding that individual from effective prosecution and facilitating the escape from accountability.

But also for a jurisdiction applying the residence principle, its enforcement relies on a tax administration's capacity to correctly assess the worldwide income of the jurisdiction's residents. This might be hampered by other jurisdictions with incomprehensive income tax regimes and/or jurisdictions that provide passports or residency status against investment. The reasoning for the way lax citizenship and residence by investment programs may lead to secrecy spill-overs resulting in lower or no taxation elsewhere, is explained below.

Until recently, tax administrations have relied almost exclusively on information exchange upon request: If a jurisdiction suspected an individual of tax evasion it could request information from the tax administrations of other jurisdictions (see KFSI 19 on bilateral treaties for information exchange upon request[273]). But if a jurisdiction does not tax worldwide income (or if worse- it does not levy any income tax) it will collect only insufficient (or no) tax information on its residents. Therefore, such jurisdictions are especially attractive for any individual who does not wish financial information to be collected.

To address some of these deficiencies and to rely less on the jurisdictions' specific tax systems, the Common Reporting Standard (CRS) for automatic exchange of information for tax purposes was devised and published by the OECD in February 2014. It provides a multilateral framework for exchanging details of accounts owned or controlled by individuals between participating jurisdictions, i.e. jurisdictions that have signed the Multilateral Competent Authority Agreement (MCAA). As of August 2017, 95 jurisdictions have signed the MCAA, although not every signatory exchanges data with every other signatory (see KFSI 18 for details[274]).

[272] Dietsch, P., & Rixen, T. (2014). Tax competition and global background justice. *Journal of Political Philosophy*, *22*(2), 150-177., p. 159

[273] http://www.financialsecrecyindex.com/PDF/19-Bilateral-Treaties.pdf.

[274] http://www.financialsecrecyindex.com/PDF/18-Automatic-Info-Exchange.pdf

Financial institutions (FIs) in jurisdictions that have signed up to the CRS (i.e. 'participating jurisdictions'), will be required to collect and report account information about, among other, any (natural person) account holder or any natural person controlling some types[275] of companies, trusts or foundations, as long as any of these individuals (natural persons) are resident in any jurisdiction with which the former jurisdiction has an activated exchange relationship. The account holders and controlling persons are thus considered "reportable persons".

However, even a jurisdiction which has signed and implemented the CRS and has activated exchange relationships, can still contribute to financial secrecy. A crucial part of the CRS is the correct determination of an individual's residence for tax purposes because the tax residency determines to which jurisdiction the collected information will be sent.[276] In order to ascertain tax residency pursuant to the CRS, financial institutions of a participating jurisdiction need to collect specific information of any "reportable person".[277] On the following page, Table 12.2 provides an overview of the process and indicia determining tax residency depending on the type of account.

For a financial institution's pre-existing accounts of lower value (less than 1 Million USD), an individual is only required to self-certify its residence with a government document containing a current address (for example an ID, passport, driving license, residence certificate) or a utility bill or tax assessment containing the individual's name and address.[278] However, the Common Reporting Standard requires the financial institution in the case of higher value accounts (more than 1 Million USD) to search its records for indicia (such as former residence addresses, other mailing addresses, telephone numbers, or instructions to transfer funds) that could also suggest a residence in another jurisdiction.[279] If the financial institution found contradicting indicia (there is indicia about more than one jurisdiction or the indicia does not match what the account holder declares as his/her residency) the financial institution has to obtain an explanation from the account holder. If the FI receives no explanation or if it is not satisfied with the explanation, the FI would need to send information to any jurisdiction that it finds indicia for.[280] Moreover, in the case of new accounts, a financial institution must test the

[275] Controlling persons will only be identified if the entity (company, trust or foundation) through which they hold an account is considered "passive" because most of its income is passive (e.g. interests, dividends, royalties, etc.).

[276] In principle, the only indicator that could quite clearly attribute tax residency of an individual to one jurisdiction and thus avoid both double-taxation and double-non-taxation is the test whether the individual effectively spends 183 days or more in the jurisdiction. However, since this is not always easy to assess and since it also theoretically possible that a frequently moving individual does not spend 183 days in a year in any jurisdiction, most jurisdictions use several indicators to determine tax residency, such as the disposal of a permanent home and the center of economic and personal interests of an individual.

[278] Model Competent Authority Agreement and Common Reporting Standard, Section III, B; Commentaries on the Model Competent Authority Agreement and Common Reporting Standard, Section III, B

[279] Model Competent Authority Agreement and Common Reporting Standard, Section III, B, C

[280] For pre-existing individual accounts: "A self-certification (and/or documentary evidence) would be needed in case of conflicting indicia, in the absence of which reporting would be done to all

residence information provided by the client for reasonableness, notably based on information obtained through Anti-Money-Laundering and Know-Your-Customer procedures.[281]

Table 12.2: Determination of tax residence under the CRS

Preexisting account		New account
Lower value (Less than 1 M USD)	**Higher value (More than 1 M USD)**	**Any value**
Residence address based on documentary evidence Acceptable documentary evidence: Any government ID containing a current address such as identity card; driving license; voting card; certificate of residence **OR** When those do not contain a current address or any address: Formal notifications or assessments by a tax administration; electricity bill; water bill; landline bill; gas/oil bill **OR** Self-declaration under penalty of perjury	Residence address based on documentary evidence (see left column) **AND** Search for indicia indicating residence in reportable jurisdiction in bank's records *Indicia* are: Former residence address; mailing address; telephone numbers; standing instructions of fund transfer to an account in reportable jurisdiction; power of attorney to a person with address in rep. jurisdiction; "Hold-mail" or "In care of"-address in rep. jurisdiction **AND** Enquiry with relationship manager	Residence address based on documentary evidence (see left column) **AND** Comparison with data obtained under Anti-Money-Laundering and Know-Your-Customer procedures for other regulatory purposes which generally also require a documented permanent address and a proof of identity through passport
Source: CRS commentary on Section III[282]	*Source:* CRS Section III, §10	*Source:* CRS Section IV, FATF recommendation R.5[283]

reportable jurisdictions for which indicia have been found." (Common Reporting Standard, pages 15-16).

[281] As for new accounts, information collected pursuant to the anti-money laundering due diligence procedures is taken into account as part of a reasonableness test for determining the residency, but multiple reporting is not foreseen. For new accounts, sending information to multiple jurisdictions happens when there is a change of circumstances and the account holder does not explain the situation. In such case, information is sent to jurisdiction of original self-certification, and to the jurisdiction that is resulting from the "change of circumstances" (See pages 129-146, in: OECD 2014, op. cit.). The question of what "reasonableness" and the "reason to know" regime embedded in the CRS implies in this context has been discussed by Küpper, Karl/von Schweinitz, Oliver 2015: The Definition of "Residency" Under the Common Reporting Standard, in: International Journal for Financial Services 2, 119-125.

[282] OECD 2014: Standard for Automatic Exchange of Financial Account Information in Tax Matters. Including Commentaries., in: http://www.keepeek.com/Digital-Asset-Management/oecd/taxation/standard-for-automatic-exchange-of-financial-account-information-for-tax-matters_9789264216525-en; 14.2.2017.

[283] Financial Action Task Force 2012: The FATF Recommendations. International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation (Updated in October

This is where citizenship-by-investment or residency-by-investment comes into play. Economic citizenship programmes, passports of convenience, certificates of residence and similar phenomena and associated challenges of governance and integrity have been debated for a long time.[284] In recent years, however, several countries have started to loosen the criteria for obtaining citizenship and/or residency and provided various "economic citizenship programmes" where foreign individuals can acquire passports[285] or residency permits by paying[286] money into a state fund, investing in financial assets or real estate, renting an apartment in the jurisdiction or else.[287]

An account holder living in country A (but trying to remain hidden from country A's authorities) could thus use a passport or a certificate of residency from country X to convince the financial institution that he/she is resident (for CRS purposes) in country X, even if in reality that person resides and works in country A. For example, if the client can produce a passport indicating citizenship or a certificate of residency indicating residency in the same jurisdiction as the FI, there is a greater probability that the person will be considered a non-reportable person.[288]

Therefore, citizenship-by-investment and residency-by-investment programmes constitute a significant obstacle for the automatic exchange of information for tax purposes. Obviously, an

2016), Paris, in: http://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF_Recommendations.pdf; 31.8.2017.

[284] For the "passports of convenience"-debate prior to 2007 see Van Fossen, Anthony 2007: Citizenship for Sale: Passports of Convenience from Pacific Island Tax Havens, in: Commonwealth & Comparative Politics 45: 2, 138-163. A broader discussion of the issue is available by Xu et al: Xu, Xin/El-Ashram, Ahmed/Gold, Judith 2015: Too Much of a Good Thing? Prudent Management of Inflows under Economic Citizenship Programs (Band 15–93), in: www.imf.org/~/media/Websites/IMF/imported-full-text-pdf/external/pubs/ft/wp/2015/_wp1593.ashx; 5.10.2017.

[285] https://www.theguardian.com/commentisfree/2017/sep/18/peak-injustice-world-without-borders-super-rich-buying-citizenship-migration?CMP=share_btn_tw; 5.10.2017. See also Küpper, Karl/von Schweinitz, Oliver 2015: The Definition of "Residency" Under the Common Reporting Standard, in: International Journal for Financial Services 2, 119-125.

[286] Walshww.com lists 50 residency by investment program including countries such as the USA, Montserrat, Austria, the Cayman Islands or the United Arab Emirates: http://www.walshww.com/the-50-residency-by-investment-programs/; 19.10.2017. In Dubai for example, obtaining a residency permit is particularly easy, i.e. through simple incorporation of a company in Dubai: https://en.dubai-freezone.ae/residence-visas-in-uae.html; 19.10.2017.

[287] See for example, Christians, Allison 2017: Buying in: Residence and Citizenship by Investment (SSRN Scholarly Paper ID 3043325), Rochester, NY, in: https://papers.ssrn.com/abstract=3043325; 27.9.2017. For examples of current citizenship by investment schemes, please consider Dominica, Malta, St. Kitts and Nevis, Antigua and Barbuda, Vanuatu. The respective URLs are: http://www.huffingtonpost.com/till-bruckner/dominica-citizenship-by-i_b_9237094.html; https://www.ccmalta.com/publications/malta-residence-by-investment; https://www.bloomberg.com/news/articles/2015-06-03/buying-your-st-kitts-citizenship-may-get-more-expensive-soon; http://www.cip.gov.ag/; http://www.newsweek.com/bitcoin-now-buys-you-citizenship-pacific-nation-vanuatu-680443; 5.10.2017.

[288] https://francisweyzig.com/2017/09/24/defying-the-oecds-crackdown-on-tax-evasion/; 11.10.2017. https://thegrid.ae/crs-the-question-of-tax-residency-for-expats/; 17.10.2017.

individual wishing to evade taxes has an incentive to falsely declare tax residency in a jurisdiction that only applies a territorial income tax system, other kinds of incomprehensive income taxation or (worse) does not levy income tax at all.

Therefore, even if all jurisdictions become participating jurisdictions to the CRS, the selling of passports or residency certificates by a jurisdiction could enable tax dodgers to avoid their information being reported to their relevant jurisdiction of residence by either:

a) falsely declaring residence in a jurisdiction which doesn't have a comprehensive personal income tax and providing a passport or certificate of residence by the same jurisdiction. This way, the account information will end up being transmitted to the tax haven jurisdiction which will then ignore it or parts of it, given the account holder will not be liable for worldwide income tax there;

b) falsely declaring residence in a jurisdiction which is listed in Annex A of the MCAA (i.e. jurisdictions which only send, but not receive any account information) or in a jurisdiction which is not committed to the CRS. This way, information will not be collected nor reported on those account holders.

And even if an individual was found guilty of tax evasion or other financial crimes, citizenship-by-investment or residency-by-investment could play another role. As Global Witness put it: *"After all, if the passport makes you a citizen of a country that has a non-extradition treaty with your country and enjoys strong rule of law you can sleep safe and sound in your luxury home."*[289]

[289] https://www.globalwitness.org/en/blog/red-notice-golden-visas/; 16.10.2017.

3.13 KFSI 13 – Avoids Promoting Tax Evasion

3.13.1 What is measured?

This indicator assesses whether a jurisdiction includes worldwide capital income in its income tax base and if it grants unilateral tax credits for foreign tax paid on certain foreign capital income. The types of capital income included are interest and dividend payments.

Three different payment scenarios are considered.

1. Payments received by an independent legal person.
2. Payments received by a related party legal person.
3. Payments received by a natural person.

A zero secrecy score is given if a jurisdiction grants unilateral tax credits for all payment scenarios for both type of payments (dividends and interest). A 50% secrecy score applies to 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, the secrecy score is reduced by 10%.

Accordingly, we have split this indicator into two components; the overall secrecy score for this indicator is calculated by simple addition of these components. The secrecy scoring matrix is shown in Table 13.1 below, with full details of the assessment logic given in Table XIII (Annex B).

The **secrecy score is not reduced** where a jurisdiction does any of the following:

1. effectively **exempts** foreign income from domestic taxation, be it through
   - **a)** a pure territorial tax system;
   - **b)** or through exemptions for
     - **i.** specific payments (such as dividends) or
     - **ii.** specific legal entities (such as International Business Companies);
   - **c)** deferral rules which disable taxation unless income is remitted;
   - **d)** zero or near zero tax rates (e.g. on corporate income);[290]
2. only offers the option to **deduct** foreign payments from the tax base;
3. provides **no unilateral double taxation relief** whatsoever.

[290] Examples of pure territorial tax systems (a) include Panama and Hong Kong; examples of selective payment exemptions (b) include Cyprus and the United Kingdom; examples of specific legal entity exemption (c) include Luxembourg and Saint Kitts and Nevis; examples of exemption of income except if remitted (d) include the USA and Liberia; examples of countries applying a zero or near zero tax rate 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.

Table 13.1: Secrecy Scoring Matrix KFSI 13

Regulation	Secrecy Score Assessment [Score: 100% = full secrecy; 0% = full transparency]
COMPONENT 1: DIVIDENDS (50%)	
No unilateral double taxation relief through a tax credit system	50%
Unilateral double taxation relief through a tax credit system for one payment scenario (if recipient is either an independent or related legal person, or natural person)	40%
Unilateral double taxation relief through a tax credit system for two payment scenarios (if recipient is either an independent and/or related legal person, and/or natural person)	30%
Unilateral double taxation relief through a tax credit system for all three payment scenarios (recipients always receive a unilateral tax credit, regardless of whether s/he is an independent or related legal person, or a natural person)	0%
COMPONENT 2: INTEREST (50%)	
No unilateral double taxation relief through a tax credit system	50%
Unilateral double taxation relief through a tax credit system for one payment scenario (if recipient is either an independent or related legal person, or natural person)	40%
Unilateral double taxation relief through a tax credit system for two payment scenarios (if recipient is either an independent and/or related legal person, and/or natural person)	30%
Unilateral double taxation relief through a tax credit system for all three payment scenarios (recipients always receive a unilateral tax credit, no matter if it is an independent or related legal person, or a natural person)	0%

The data has been collected primarily through the IBFD-database (country analyses and country surveys).[291] In some instances we have also consulted the Worldwide Tax Summaries from PricewaterhouseCoopers[292] and other websites.

[291] http://www.ibfd.org/IBFD-Tax-Portal/About-Tax-Research-Platform; 12.05.2015.

[292] http://www.pwc.com/taxsummaries; 12.05.2015.

All underlying data can be accessed freely in the FSI database. To see the sources we are using for particular jurisdictions please consult the assessment logic in **Table II (Annex B) and search for the corresponding info IDs **(IDs 204, 206, 214, 234, 236 - 240, 244, 355, 384, 393, 395 and 396)** in the database report of the respective jurisdiction.

3.13.2 Why is it important?

In a world of integrated international economic activity and cross-border financial flows, the question about who taxes what portion of income has become increasingly complex. A conflict exists between the emphasis on taxing the income where it arises (i.e. at source), or taxing it where its recipient resides.[293] 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 the same income (tax base). While the concept of "double taxation" is theoretically plausible, evidence for real life occurrence is exceptionally rare[294] , especially since many countries have adopted unilateral relief provisions to avoid double taxation. In addition, countries also negotiate bilateral treaties to avoid double taxation, so-called double taxation avoidance agreements (DTA).

A potential third option to ensure single taxation would be a multilateral agreement on the definition of the formula for apportioning transnational corporations' global income[295]. Even though the G20 declared that "Profits should be taxed where economic activities deriving the profits are performed and where value is created"[296], which could be interpreted as a mandate to treat the corporate group of MNE as a single firm and ensure that its tax base is attributed according to its activities in each country,[297] the OECD's BEPS[298] project has continued to follow the independent entity principle and refused to consider unitary taxation and formulary apportionment to tax transnational corporations. Thus, this option is unlikely to come into effect in the foreseeable future.

Assuming that cross-border trade and investment 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

[293] TJN-Briefing on source and residence-based taxation: http://www.taxjustice.net/cms/upload/pdf/Source_and_residence_taxation_-_SEP-2005.pdf; 12.05.2015.

[294] See pages 3 and 7 here: www.taxjustice.net/cms/upload/pdf/Unitary_Taxation_Responses-1.pdf; 12.05.2015.

[295] See page 297, in: Avi-Yonah, Reuven 2016: A Proposal for Unitary Taxation and Formulary Apportionment (UT+FA) to Tax Multinational Enterprises, in: Rixen, Thomas/Dietsch, Peter (Hrsg.): Global Tax Governance – What is Wrong with it, and How to Fix it, Colchester, 289-306.

[296] G20 Leaders' Declaration, September 6, 2013, St Petersburg, http://www.g20.utoronto.ca/2013/2013-0906-declaration.html#beps

[297] https://bepsmonitoringgroup.files.wordpress.com/2015/10/general-evaluation.pdf

[298] http://www.oecd.org/ctp/BEPSActionPlan.pdf; 19.7.2013.

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.[299]

Home countries of investors or transnational companies usually offer unilateral relief from double taxation because they want to support outward investment.

They do this primarily through two different mechanisms:

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 graphs below 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 transnationals typically offer provisions in their own laws to prevent or reduce double taxation.[300]

[299] See, for instance, 1) Hearson, Martin 2016: Measuring Tax Treaty Negotiation Outcomes: The ActionAid Tax Treaties Dataset (ICTD Working Paper 47), Brighton, in http://www.ictd.ac/publication/2-working-papers/99-measuring-tax-treaty-negotiation-outcomes-the-actionaid-tax-treaties-dataset;12.01.2018; 2) a comprehensive analysis of the Netherlands double tax treaty network, here: McGauran, Katrin 2013: Should the Netherlands Sign Tax Treaties with Developing Countries?, Amsterdam, in: https://www.somo.nl/wp-content/uploads/2013/06/Should-the-Netherlands-sign-tax-treaties-with-developing-countries.pdf; 18.12.2017; 3) the example of Switzerland renegotiating its DTAs with developing countries, pages 23-24, here: www.taxjustice.net/cms/upload/GlobalForum2012-TJN-Briefing.pdf; 12.05.2015, or for more details on this case (in German): http://www.alliancesud.ch/de/publikationen/downloads/dokument-24-2013.pdf ; 12.05.2015; 4) Neumayer, Eric 2007: Do Double Taxation Treaties Increase Foreign Direct Investment to Developing Countries?, in: Journal of Development Studies 43: 8, 1501–1519; and 5) Dagan, Tsilly 2000: The Tax Treaty Myth, in: New York University Journal of International Law and Politics 32: 939. A full literature review on the relationship between DTAs, development, growth and FDI can be found (in German) here: www.suz.uzh.ch/herkenrath/publikationen/workingpapers/FDI_EL-Forschungsnotiz-01-10.pdf; 12.05.2015.

[300] 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; 12.05.2015). This "modestly higher overall effective tax rate" could be higher than the corporate tax rate of one particular country, but it may still be lower than another country's corporate tax rate. If one called this situation double taxation, then this implies speaking about double taxation also in situations in which two unrelated companies operate in two different countries, with one country levying twice as high a corporate tax

There is a third mechanism called "deduction" which is sometimes used to offer relief from double taxation. However, the deduction method does not offer full relief from double taxation. It allows deducting 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.

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 indirectly exert 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 8 above).

In addition, with more than 3000 double tax treaties currently in operation, the system has become overly complex and permissive, encouraging corporations to engage in profit shifting, treaty shopping and other practices at the margins of tax evasion (see here[301] for ways to address these issues and the various reports of the various reports of the BEPS Monitoring Group[302]). This is the context in which we review unilateral mechanisms to avoid double taxation in the first place. However, not all such mechanisms are equally useful.[303]

When using a **unilateral exemption mechanism** to exempt all foreign income from liability to tax at home, the residence country may be 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), 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 may have an important collateral effect: countries not offering an exemption mechanism to their residents nonetheless may see their resident taxpayers move their assets and legal structures (such as holding companies) into those countries where capital income is not taxed or taxed lowly. By doing so, and because information sharing between states is weak, taxpayers

rate as the other country. This, of course, is non-sense and reveals the dubious and theoretically flawed nature of the concept of double taxation.

[301] www.taxjustice.net/cms/upload/pdf/Towards_Unitary_Taxation_1-1.pdf; 12.05.2015.

[302] https://bepsmonitoringgroup.wordpress.com/tag/bmg/; 12.05.2015.

[303] 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 (see endnote 11 above for details). For details about the exemption and credit method, see for instance pages 19-22 in: United Nations Department of Economic & Social Affairs 2003: Manual for the Negotiation of Bilateral Tax Treaties between Developed and Developing Countries (ST/ESA/PAD/SER.E/37), New York, in: http://unpan1.un.org/intradoc/groups/public/documents/un/unpan008579.pdf; 12.05.2015.

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 puts pressure on source countries to reduce tax rates on investments by non-residents in a process of tax war (or competition).[304] Second, citizens and corporations from other countries 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 wars 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 host 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 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.

[304] For a background on the terminology around tax competition and tax wars, see: http://foolsgold.international/fools-gold-rethinking-competition/; 12.5.2015.

3.14 KFSI 14 – Tax Court Secrecy

3.14.1 What is measured?

This indicator assesses the openness of a jurisdiction's judicial system in tax matters by analysing two relevant aspects.

1. **Regarding the openness of court proceedings/lawsuits/trials**: it assesses for a) criminal and b) civil/administrative tax matters[305], whether the public always has the right to attend the full proceedings and cannot be ordered to leave the court room even if a party invokes tax secrecy, bank secrecy, professional secrecy or comparable confidentiality rules. **Acceptable justifications** for exceptions for the principle of public access may include (subject to contextual analysis): against morale, involvement of a minor, public order, national security, administration of justice, business or trade secrets or exceptional circumstances. **Unacceptable exceptions** include: discretion by the judge, the taxpayer requesting privacy or the involvement of, for example, a trustee.

2. **Regarding the public online availability of verdicts/judgements/sentences**: it assesses for a) criminal and b) civil/administrative tax matters, whether all written judgments are published online for free or at a cost of no more than EUR/GBP/USD 10. Only personal details which are not relevant for assessing the tax matter in question, such as personal addresses and account numbers, could be redacted. Tax Secrecy, bank secrecy, professional secrecy or comparable confidentiality rules are not acceptable as the basis for exceptions from public disclosure.

If court proceedings are openly accessible, this indicator's secrecy score is reduced by 25% for each criminal and civil tax matters. By the same token, the secrecy score will be reduced by 25% if all judgments in criminal tax are published online for free; and likewise by another 25% for judgements in civil tax matters. However, the score is reduced only by 12.5% (instead of 25%) if judgments are available online only against a cost of no more than EUR/GBP/USD 10.

Thus, for instance, a jurisdiction with public and comprehensively accessible criminal and civil tax proceedings, will have a secrecy score of 0% if the judgements/verdicts resulting from those proceedings are published online for free. The jurisdiction would have a 25% secrecy score if the judgements resulting from both criminal and civil tax proceedings are available online against a cost of up to 10 EUR/GBP/USD each.

The information for this indicator has been drawn from the following sources: a) results of the TJN-Survey 2017; b) Thomson Reuters Practical Law Tax Litigation Global Guide[306] or similar

[305] Civil and administrative tax matters are treated synonymously throughout this document. They refer to any dispute between a taxpayer and the tax administration which is not governed by criminal law/procedures.

[306] https://uk.practicallaw.thomsonreuters.com/Browse/Home/International/TaxLitigationGlobalGuide?t

online sources; c) in certain cases we searched for and analysed the local legislation of jurisdictions to find out whether there are any limitations to public access embedded in the laws; and d) in cases where the above sources indicated that written judgments of both criminal and civil tax court cases are published online, the corresponding local court website or other government agencies' websites were consulted to ensure that both criminal and civil tax judgments are effectively available and that technical problems do not prevent access to information.

If we were unable to find supporting evidence (either any (i) academic article or source, such as Thomson Reuters Practical Law Tax Litigation Global Guide, or (ii) a Law plus Section/Article/Paragraph), we concluded the answer to be "unknown", and described the situation in a note (e.g. while the Ministry of Finance said X, we could not verify this).

For practical purposes, we consider court judgments to be publicly available online when it is not necessary to establish complex payment or user-registration arrangements for accessing the data (e.g. registration of bank account, requirement of a local identification number, or sending a request by post).[307]

Accordingly, we have split this indicator into two components. The overall secrecy score for this indicator is calculated by simply addition of the secrecy scores of each of these components. The secrecy scoring matrix is shown in Table 14.1 (on the following page), with full details of the assessment logic given in Table XIV (Annex B).

ransitionType=Default&contextData=(sc.Default)&navId=1DAC9212383A024E61CC2AB0DFB085D1&comp=pluk; 18.12.2017.

[307] We consider that for something to be truly available 'on public record' prohibitive cost constraints must not exist, be they financial or in terms of time lost or unnecessary inconvenience caused.

Table 14.1: Secrecy Scoring Matrix KFSI 14

Regulation		Secrecy Score Assessment [Secrecy Score: 100% = full secrecy; 0% = full transparency]
Component 1: Public access to tax court proceedings (50%)		
No or restricted access to **both** criminal and civil tax proceedings: For both criminal and civil tax proceedings, the public cannot access the courtroom or it may be ordered to leave by invoking tax secrecy, bank secrecy, professional secrecy or comparable confidentiality rules.		50%
No or restricted access to **either** criminal **or** civil tax proceedings: While criminal (or civil) tax proceedings are generally public; civil (or criminal) tax proceedings are not public, or the audience may be ordered to leave by invoking tax secrecy, bank secrecy, professional secrecy or comparable confidentiality rules.		25%
Public access to both criminal and civil tax proceedings: Criminal and civil tax proceedings are public, and the audience may not be ordered to leave by invoking tax secrecy, professional secrecy, or comparable confidentiality rules.		0
Component 2: Online publication of tax judgements/verdicts (50%)		
Criminal tax judgements/verdicts	Not available online	25%
	Available up to 10 EUR/GBP/USD	12,5%
	Available online for free	0%
Civil tax judgments/verdicts	Not available online	25%
	Available up to 10 EUR/GBP/USD	12,5%
	Available online for free	0%

All underlying data can be accessed freely in the FSI database. To see the sources we are using for particular jurisdictions please consult the assessment logic in **Table XIV (Annex B) and search for the corresponding info IDs **(IDs 407 to 410)** in the database report of the respective jurisdiction.

3.14.2 Why is it important?

The public's right to open courts is well established in most countries, regardless of whether the legal system is rooted in common law or civil law (Bocock 2014: 6).[308] Open court proceedings and public availability of verdicts are often considered to be important pillars of a modern democratic state, directly derived from a jurisdiction's constitution and/or the principle of the rule of law, on which the legitimacy of the entire judicial process hinges.

The "Rule of Law Department" of the Organization for Security and Co-operation in Europe (OSCE) makes a direct connection between the Universal Declaration of Human Rights and public access to court judgements:

> "The obligation of states to 'make public' the decisions of their courts is found within the provisions on 'the right to a fair trial'. This right stems from Article 10 of the Universal Declaration of Human Rights (1948) and has been elaborated and set down in binding form in the International Covenant on Civil and Political Rights (ICCPR) and the European Convention on Human Rights and Fundamental Freedoms (ECHR)." (p.5)[309]

Governments and private actors alike abide by court decisions at least in part because the openness of the process allows the public to monitor if it meets requirements of procedural justice. These requirements include the transparency of the process, thereby building confidence in the non-arbitrary application of the law. The transparency of the process safeguards the independence and impartiality of courts.

Closely linked to the fundamental human rights of the freedom of expression and freedom of the press,[310] open courts not only allow the scrutiny of judicial decisions, but also are a prerequisite for the accountability of governments (in the form of the public prosecutor and/or tax administration).[311] Furthermore, open courts are essential in ensuring compliance with

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[308] Bocock, Randall S.: Introduction of Topics and Privacy Protection of Taxpayers, presented at: The Court of Canada: 5th International Assembly of Tax Judges Protection of the Taxpayer in Court Panel Presentation, in: http://www.iatj.net/congresses/documents/Protection_Bocock.pdf; 18.1.2017.

[309] Organisation for Security and Co-operation in Europe 2008: Access to Court Decisions. A Legal Analysis of Relevant International and National Provisions, in: http://www.right2info.org/resources/publications/publications/OSCE_AnalysisAccesstoCourtDecisions17092008.pdf; 19.12.2017.

[310] Universal Declaration of Human Rights, (10 December 1948), at: http://www.ohchr.org/EN/UDHR/Documents/UDHR_Translations/eng.pdf; 18.1.2017.

[311] An example of relevant research being enabled through tax court transparency is the study "Corporate Shams" cited in the following article: http://articles.chicagotribune.com/2012-04-05/news/sns-rt-usa-taxcorporations-courtl2e8f40g1-20120405_1_tax-code-tax-transaction-cases-study (19.12.2017). Another example for the potential impact of open tax court judgements on policy decisions and public trust in government are changes at the US tax administration IRS in response to large scale tax avoidance cases, as reported here: https://www.forbes.com/sites/kellyphillipserb/2012/03/27/irs-brings-a-team-to-crush-transfer-pricing-abuse/#5b167cc96945; 19.12.2017.

both the letter of the law and its spirit.[312] Thus, open courts are an important element in protecting the integrity of the entire judicial system and of the administration.

If any exceptions are allowed for certain types of civil and/or criminal tax matters, governments and private sector actors may misuse these exceptions for sweetheart deals, questionable out of court settlements or political vendettas. Generally speaking, the possibility of allowing exceptions to public access to proceedings may invite pressures by powerful lobbyists and/or defendants on judges not to grant access to court proceedings or verdicts in order to avoid public scrutiny.

While specific exceptions to this open court principle are widely seen to be legitimate with respect to "the protection of children or victims of sexual crimes" (Bocock 2014: 7), the holding of closed sessions of a court ('in camera') should be restricted to such specific situations.

Nonetheless, in practice in some countries tax proceedings are typically conducted behind closed doors and/or tax judgements are not published. The justification given for non-disclosure or exclusion of the public sometimes refers to privacy arguments or official 'tax secrecy' legislation which sometimes has the power to override the open court principle.

This practice creates fundamental conflicts with the rule of law. While all tax proceedings should be public, to address data protection concerns, specific personal data of taxpayers (dates of birth, addresses, names of children, bank account numbers, etc.) could be redacted from verdicts, and their reporting could be restricted. These details are not required for judicial decision making and hence removing them does not conflict with the open court principle.[313] This approach balances the taxpayer's right to privacy over their personal affairs and to informational self-determination, and the public's right to transparent judicial proceedings.

Preventing public access to tax court judgments may result in important court decisions that have an impact on the public's revenue, being made without the public's knowledge. This denies the public the information required to exercise the right to protest or criticise decisions, to determine the need for a policy change, or to engage the court through an "amicus curiae" process. In some jurisdictions, all "important" or "relevant" court verdicts are said to be chosen by judges or others to be made public. However, this selection process of relevant cases for the public inevitably is subjective and thus rife with risk that cases considered to be relevant by some parts of the public remain out of reach of legitimate scrutiny.

Furthermore, court adjudications usually provide an essential part of the application of the laws by setting precedent and therefore provide clarity among citizens about the right way to interpret the law. Furthermore, they are often an important driver of policy changes and legislative action by exposing gaps and loopholes in, or unintended consequences of, laws and regulations. Not disclosing judgements therefore cuts off an important feedback loop for policy- and lawmakers, and may lead over time to flawed legislation as well as to a low

[312] Commonwealth Human Rights Initiative, 'Our rights our information' (2007), in: http://www.humanrightsinitiative.org/publications/rti/our_rights_our_information.pdf; 18.1.2017.

[313] Sujoy Chatterjee 2014: 'Balancing privacy and the open court principle in family law: does de-identifying case law protect anonymity?', in: Dalhousie Journal of Legal Studies, (2014) Vol.23, p.91, in: https://ojs.library.dal.ca/djls/article/download/4754/4286; 18.1.2017.

deterrence effect and impaired law enforcement by prosecutorial authorities and tax administration's failure to collect taxes as intended by parliament. Without public access to all tax verdicts, meaningful empirical research about the outcomes of tax trials, especially with respect to large taxpayers, is near impossible. Consequently, sweetheart deals at court and undue political interference in the administration can neither be detected nor ruled out.

The secrecy emanating from a lack of open tax proceedings and verdicts shields both domestic and non-resident actors who are engaging in domestic economic activity and seek to aggressively minimise their tax payments from public scrutiny. For example, any non-resident individual or multinational company fearing spontaneous tax information exchange with home jurisdiction authorities may feel reassured to invest in jurisdictions with strict tax secrecy provisions that allow them to intervene to postpone or even frustrate that exchange at court in silence.

Similarly, in the context of tax wars (or "tax competition") non-resident individuals and/or companies may be given special tax deals by local administrations in the race to the bottom which may not withstand legal and/or public scrutiny. While limited access to information about special tax deals brokered between taxpayers and the tax administration is a problem separate from the issue of tax court secrecy (and is dealt with in KFSI 9[314]), the latter can act as an important backstop for the former in case for some reason a non-resident is taken to court.

Therefore, without public scrutiny, the risk of (undetected) biases by tax administrations and courts in favour of non-resident investors increases.

The reason why we place emphasis on open, unpaid data access lies in the enhanced utility in open data environments when data is available free of cost. If relevant data can only be accessed by paying a fee, it can be prohibitively expensive to import this data into an open data environment or to access sufficient cases for research/media purposes, even when the cost per record is low. This creates substantial hurdles for making comparisons between jurisdictions and new creative data usages.[315]

[314] http://www.financialsecrecyindex.com/PDF/9-Corporate-Tax-Disclosure.pdf

[315] For more information about this see http://opencorporates.com/; 28.11.2016.

3.15 KFSI 15 – Harmful Structures

3.15.1 What is measured?

This indicator assesses the availability of four harmful instruments and structures within the legal and regulatory framework of a jurisdiction:

1. Regarding Large Banknotes (or high denomination cash bills): it assesses whether a jurisdiction issues or accepts the circulation of large banknotes of its own currency (of value greater than 200 EUR/GBP/USD);
2. Regarding Bearer Shares: it assesses whether companies are available with unregistered bearer shares. Either bearer shares[316] should not be available in the jurisdiction or, if available, there should be mechanisms to ensure that all existing bearer shares are[317] immobilised or registered (for instance, by a custodian) and that updated information on holders of bearer shares is filed with a government authority;
3. Regarding "Series limited liability companies" (Series LLCs) and/or "protected cell companies" (PCC): it assesses whether a jurisdiction allows the creation of Series LLCs and/or PCCs in its territory. The latter is also known as an "incorporated cell company" or "segregated account company";
4. Regarding trusts with flee clauses: it assesses whether a jurisdiction prohibits the administration of (foreign or domestic law) trusts with flee clauses for any trustee within its territory.

Accordingly, we have split this indicator into four components. The overall secrecy score for this indicator is calculated by simple addition of the secrecy scores of each of these components. The secrecy scoring matrix is shown in Table 1, with full details of the assessment logic given in Table 4 below.

The main sources for this information are the Global Forum peer reviews[318] and private internet websites such as www.offshoreinvestment.com, www.ocra.com and www.lowtax.net, or directly searching the specific features by name on the internet for their availability or advertisement. Some of the aforementioned sources display the availability of Series LLCs and/or 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 2017 provided useful information. Main sources for the issuance and circulation of large cash

[316] Bearer shares are shares which are not registered, where the owner can be any person physically holding the share certificate and where the transferring of the ownership involves only delivering the physical certificate.

[317] We consider that the obligation to register bearer shares exists when legal provisions establish a timeframe for immobilisation/registration of all existing bearer shares before 2020 and where the consequence for non-compliance is the loss of those shares. Provisions where the only consequence of non-compliance is the loss of voting rights or rights to dividends are not considered to be sufficient because this would involve the mere suspensions of rights. In such case, the holders of bearer shares may still transfer those shares or avoid identification until they are intending to regain their rights.

[318] 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/; 21.07.2015.

bills were studies by the Financial Action Task Force and the European Police Office's Financial Intelligence Group, as well as Peter Sands' (Harvard Kennedy School) case for their elimination. We have also referred to local regulators' and central banks' websites.

Table 15.1: Secrecy Scoring Matrix KFSI 15

Regulation	Secrecy Score Assessment [Secrecy Score: 100% = full secrecy; 0% = full transparency]
COMPONENT 1: LARGE BANK NOTES (25%)	
Large banknotes are accepted as legal tender and/or issued Own currency banknote of value greater than 200 EUR/GBP/USD.	25%
Large banknotes neither accepted as legal tender nor issued No own currency banknote with a value of, or greater than, 200 EUR/GBP/USD.	0%
COMPONENT 2: BEARER SHARES (25%)	
Bearer shares available Companies with unregistered bearer shares are available.	25%
Bearer shares not available Bearer share companies are not available or all bearer shares are registered with a public authority.	0%
COMPONENT 3: SERIES LLCs/PCCs (25%)	
Series LLCs or PCCs are available Domestic legislation provides for the creation of Series Limited Liability Companies or of Protected Cell Companies.	25%
Neither Series LLCs nor PCCs are available Domestic legislation does not provide for the creation of Series Limited Liability Companies nor of Protected Cell Companies.	0%
COMPONENT 4: TRUSTS WITH FLEE CLAUSE (25%)	
Administration of trusts with flee clauses is not effectively prevented Domestic and/or Foreign Law trusts administered by domestic trustees can include flee clauses in their deeds.	25%
Trusts with flee clauses cannot be administered or created Domestic and Foreign Law trusts administered by domestic trustees are prevented from including flee clauses in their deeds.	0%

All underlying data can be accessed freely in the FSI database. To see the sources we are using for particular jurisdictions please consult the assessment logic in **Table XV (Annex B) and search for the corresponding info IDs **(IDs 172, 184, 224 and 488)** in the database report of the respective jurisdiction.

3.15.2 Why is this important?

Component 1: Large Banknotes

Cash is anonymous, does not leave an audit trail and is universally accepted, which is why it is often used in illicit activities. Cash is almost always used by criminals at some stage in the money laundering process.[319] The Financial Action Task Force's 2015 study of over 60 jurisdictions on money laundering through the transportation of cash shows that "criminally derived cash physically transported across international borders originates from an extremely wide range of predicate offences", including drug and human trafficking, terrorism, corruption, and tax fraud (page 30).[320]

In many instances, where concealment is necessary for smuggling, large cash bills or high denomination banknotes are used because they are easier to hide than mixed or lower denomination notes, making it harder for law enforcement authorities to intercept. The existence of large banknotes enables the transportation of higher values of currency at one time, but also increases the size of loss if discovered. The EUR 500, also known as the 'bin Laden' after the former Al Qaeda leader Osama bin Laden and the second largest note in circulation in Europe after the CHF 1,000, is particularly popular for illicit activity for its ease in concealment. For example, EUR 20,000 in EUR 500 notes can be hidden in one cigarette packet and an adult male cash courier – or 'mule' – can stuff and swallow EUR 150,000 using these large banknotes.[321] The EUR 500 also takes up far less space than the largest US dollar note, the USD 100. A 2016 Harvard University study showed that carrying USD 1 million in new 100 dollar bills weighs 10 kilograms and would fill most of a 15-litre briefcase, while carrying the same amount in EUR 500 would weigh just 2.2 kilograms and could be carried in a small bag.[322]

Large banknotes are used infrequently in the legitimate cash economy. Most consumers do not make payments with these high denomination notes, preferring electronic payment options for high value purchases and transactions. The European Police's (EUROPOL) Financial Intelligence Group queried the purpose of the EUR 500 because it is not commonly used for payments but accounted for one-third of EUR notes in circulation; some of which could be hoarded, but even if only a small amount is used in criminal activity and money laundering, it is still substantial in absolute terms.[323] Many businesses do not accept these large notes due

[319] European Police Office Financial Intelligence Group (EUROPOL) (2015), Why is cash still king?: A strategic report on the use of cash by criminal groups as facilitator for money laundering. https://www.europol.europa.eu/sites/default/files/documents/europolcik%20%281%29.pdf [Accessed 28 September 2017].

[320] FATF and MENAFATF (2015), Money laundering through the physical transportation of ash: p.30, www.fatf-gafi.org/publications/methodsandtrends/documents/ml-through-physical-transportation-of-cash.html [Accessed 25 September 2017].

[321] Holden, M. (13 May 2010), UK stops selling 500 euro notes over crime fears. *Reuters UK*. http://uk.reuters.com/article/uk-britain-euro/uk-stops-selling-500-euro-notes-over-crime-fears-idUKTRE64C1JN20100513 [Accessed 2 October 2017].

[322] Sands, P. (February 2016), Making it harder for the bad guys: The case for eliminating high denomination notes. M-RCBG Associate Working Paper Series No. 52. Mossavar-Rahmani Centre for Business and Government, Harvard Kennedy School: p.11, Figure 3. https://www.hks.harvard.edu/sites/default/files/centers/mrcbg/files/Eliminating%2BHDNfinalXYZ.pdf [Accessed 25 September 2017].

[323] EUROPOL (2015): p.7, 49. Op. cit.

to security and fraud risks. Rather, as the denomination and value of cash increases, the balance of benefits with risks and costs deteriorates.[324] Various studies and anecdotes reveal the extent to which large banknotes are used for criminal purposes.

For example, the United Kingdom's Serious and Organised Crime Agency carried out an 8-month assessment on the use of the EUR 500 banknote, revealing that 90% of the demand for it within the UK was from criminals.[325] As a result, the EUR 500 was voluntarily withdrawn from circulation by the private sector.[326] Other European countries have also had similar experiences with this large note. The biggest ever cash seizure in Portugal was made following investigations into suspected money laundering organized by an Angolan General and it amounted to EUR 8 million, almost all denominated in EUR 500 notes.[327] EUROPOL even reports that certain law enforcement agencies have observed that the 'EUR 500 notes trade hands at above their face value in the criminal environment, so important is their role in cash transportation for money laundering' (page 20).[328]

Following concerns over the illicit use of the EUR 500 banknote, the European Central Bank announced in May 2016 that it would discontinue production of the EUR 500. However, it remains legal tender and retains value,[329] and the UK's National Crime Agency[330] suggests that EUR 200 and EUR 100 notes are likely to be increasingly used in criminal activity. Similarly, Canada discontinued its CAD 1,000 banknote in 2000, but the notes remain in circulation[331], and the largest banknote in the world, the Singapore Dollar 10,000 (approx. USD 7,400), was discontinued in 2014, but remains legal tender indefinitely, and Brunei continues to issue its BND 10,000 which is worth the same and can be used in Singapore.[332] Singapore chose to

[324] Sands, P. (February 2016): p.12. Op. cit.

[325] http://news.bbc.co.uk/2/hi/8678979.stm; 5.10.2017.

[326] Serious and Organised Crime Agency (2011), Annual report and accounts 2010/2011: p.15. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/247328/1241.pdf# [Accessed 28 September 2017].

[327] EUROPOL (2015): p.16. Op. cit.

[328] EUROPOL (2015): p.20. Op. cit.

[329] European Central Bank (4 May 2016), ECB ends production and issuance of €500 banknote. https://www.ecb.europa.eu/press/pr/date/2016/html/pr160504.en.html [Accessed 28 September 2017].

[330] National Crime Agency (2017), National strategic assessment of serious and organised crime: p.24. http://www.nationalcrimeagency.gov.uk/publications/807-national-strategic-assessment-of-serious-and-organised-crime-2017/file [Accessed 2 October 2017].

[331] Bank of Canada (8 May 2000), Bank of Canada to stop issuing $1000 note. http://www.bankofcanada.ca/2000/05/bank-canada-stop-issuing-1000-note/; Humphreys, A. (15 November 2012), The hunt for Canada's $1,00 bills: There are nearly a million left, most in the hands of criminal elites. http://nationalpost.com/news/canada/the-hunt-for-canadas-1000-bills-there-are-nearly-a-million-left-most-in-the-hands-of-criminal-elites [Accessed 28 September 2017]

[332] Monetary Authority of Singapore (2017), Frequently Asked Questions: Currency notes and coins, ten thousand dollar note. http://www.ifaq.gov.sg/MAS/TOPICS/CURRENCY_NOTES_AND_COINS/Ten_Thousand_Dollar_Note/8456#FAQ_65788 [Accessed 28 September 2017].

discontinue the issuance of the SGD 10,000 to mitigate money laundering risks, especially associated with its popular gambling industry.[333]

Cash, and therefore large banknotes, can also help facilitate tax evasion through enabling the hoarding of cash outside the banking system and the payment for transactions without a paper trail. To tackle tax evasion and counterfeit money, the Indian government withdrew its two largest notes from circulation INR 1,000 and INR 500 (equivalent to just over USD 15 and 7, respectively) at the end of 2016 as part of a demonetization and remonetization process, requiring people to swap this money at banks and post offices for legal tender.[334]

As Sands points out, the impact of ending the issuance of large denomination notes on money laundering is limited as long as large banknotes issued by different jurisdictions remain legal tender and in circulation.[335] Therefore, in particular the elimination of the highest banknotes with values above 200 EUR/GBP/USD would curtail the secrecy in financial transactions that enables illicit financial flows. Those currencies and the corresponding banknotes are, in order of diminishing value: BND 1,000, SGD 1,000, CHF 1,000, CAD 1,000, EUR 500, ANG 500 and AED 1,000. Ending their circulation by ending the status of legal tender of those banknotes would not negatively affect licit uses of cash, but increase the cost and risk of detection of criminal cash transactions.

Component 2: Bearer Shares

The Financial Action Task Force defines bearer shares as referring to "negotiable instruments that accord ownership in a legal person to the person who possesses the bearer share certificate".[336]

Ordinarily, joint stock companies issue registered shares. On a registered share certificate, the name of the shareholder is spelled out. In addition, the names of the shareholders are recorded at registers held by the company, and are often reported to public registries run by the government. This ensures in principle that ownership of the company can be verified by third parties at any time.

In contrast, on bearer shares, the names of the shareholders are not written, nor is a record kept at company level or elsewhere about the identities of the shareholders. Instead, any

[333] Singapore to stop issuing $10,000 banknote to prevent money laundering, (2 July 2014). *Reuters*. https://www.reuters.com/article/singapore-regulations/singapore-to-stop-issuing-s10000-banknote-to-prevent-money-laundering-idUSL4N0PD2M120140702 [Accessed 2 October 2017].

[334] Remonetisation process almost complete: Arun Jaitley, (16 February 2017). *Times of India*. http://timesofindia.indiatimes.com/business/india-business/remonetisation-process-almost-complete-arun-jaitley/articleshow/57190069.cms [Accessed 2 October 2017]. Midthanpally, Raja Shekhar 2017: Demonetisation and Remonetisation in India: State-Induced Chaos or Responsible Governance?, in: South Asia Research 37: 2, 213-227.

[335] Sands, P. (February 2016). Op. cit.

[336] Page 113, in: Financial Action Task Force 2012: The FATF Recommendations. International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation (Updated in October 2016), Paris, in: http://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF_Recommendations.pdf; 31.8.2017.

person who literally holds the share certificates in his or her hands, is for legal purposes the owner of the share and of the company (if all shares are held). They are used to preserve anonymity on the part of owners because they are effectively untraceable.

In their landmark joint report on grand corruption "The Puppet Masters", the World Bank and UNODC argue that investigators found bearer shares "[…] to be one of the most challenging obstacles to overcome"[337]. In the same report, a case is described in detail on how bearer shares have been abused:

> "The Case of Former President Frederick Chiluba (Zambia): Iqbal Meer, a London-based solicitor, was among the defendants in a private civil asset recovery action brought by the Zambian attorney general in the U.K. High Court against his law firm and others for their role in assisting President Frederick Chiluba and his director general of the Zambian Security and Intelligence Services (ZSIS), X. F. Chungu, to funnel funds stolen from the Zambian government. In his judgment delivered on May 4, 2007, Mr. Justice Peter Smith held that Meer had incorporated a British Virgin Islands International Business Company, Harptree Holdings Ltd., with the company's bearer shares held in trust by a nominee at Bachmann Trust Company Ltd. Harptree Holdings had been formed to purchase real estate in Belgium—a block of flats and an apartment hotel—to pay off one of the co-conspirators in the case, Faustin Kabwe, who was identified in the court's judgment as a close friend and financial adviser to Chiluba and Chungu. This involved the transfer of funds from Zambia's ministry of finance to an account in London (referred to as the Zamtrop account) and from that account to a Zambian financial services company, in which Kabwe was one of the main controlling officers. Suspicions of Meer's involvement in this Zamtrop conspiracy (as it later became known) resulted in the U.K. Office for the Supervision of Solicitors paying Meer a visit in April 2003. They asked him specifically about the ownership of Harptree. He responded, "I have no idea whether Kabwe is holding the bearer shares in his hands or whether somebody else is holding [the] bearer shares"—demonstrating clearly how a bearer-share construction can allow someone to easily and accurately deny knowledge of ownership of a legal entity.
>
> Mr. Justice Smith concluded: In my view it is obvious. The (. . .) purchase was FK's [Faustin Kabwe's] payoff for his role in the conspiracy. IM [Iqbal Meer], whilst he did not know the overarching conspiracy details, took instructions from FK on behalf of Harptree, because he believed it belonged to him beneficially. Yet he knew that the purchase was funded by government monies via the Zamtrop account but did not question FK's entitlement to them. That failure (even if his case that it was a ZSIS purchase is to be believed) and the failure to record that matter in any document are actions again which an honest solicitor would not do. Such a large purchase of a block

[337] Page 154, in: van der Does de Willebois, Emile/Halter, Emily M./Harrison, Robert A./Park, Ji Won/Sharman, J. C. 2011: The Puppet Masters. How the Corrupt Use Legal Structures to Hide Stolen Assets and What to Do About It (StAR - World Bank / UNODC), Washington, DC, in: http://star.worldbank.org/star/sites/star/files/puppetmastersv1.pdf; 22.7.2013.

[337] Pages 88-89, in FATF 2012, op. cit.

> of flats and an apartment hotel cannot conceivably have been regarded as a purchase for ZSIS operations. Equally, the labyrinthine routing of the ownership of the properties—via a BVI holding company with nominee directors and bearer shares and a Luxembourg company interposed— shows that the whole operation was to hide things."[338]

Because of the international consensus about the enormous risks associated with bearer shares (e.g. among FATF, UNODC, World Bank), many jurisdictions have legislated for ending the issuance of bearer shares in the future. Following recommendation 24 by the FATF,[339] some jurisdictions have added a requirement to convert existing bearer shares into registered shares, or to immobilise and/or register existing bearer shares with a custodian or public registry. However, these policies have not always been successful. Whilst some countries might require by law that bearer shares are converted into registered shares, a deadline might not have been set. Or other countries require the shares to be registered only by some company service provider or professional, without reporting the shareholders and beneficial owners to a registry. In this case, the risk and incentives for manipulation (such as backdating changes) of the ownership remain far higher than with publicly registered shares.

Component 3: Series LLCs/PCCs

Protected Cell Companies are a rare type of corporate entity found almost exclusively in secrecy jurisdictions. Essentially a PCC is a legal 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 sole owner of one cell but owns only a percentage of the overall PCC.

Series LLCs serve similar purposes as PCCs and have originated in Delaware,[340] but are now available in other US states.[341] They are frequently used by hedge funds, venture capital funds and real estate investors.[342] Series LLCs are a cheap way for producing hundreds of companies within an umbrella company. Depending on the state law, each of those series/cells needs to

[338] Pages 42-43, in: van der Does de Willebois et al., op. cit.

[339] Pages 88-89, in FATF 2012, op. cit.

[340] http://www.delawarellc.com/learning/Series-LLC.htm; 21.07.2015. See also http://www.gerardfoxlaw.com/news/legal-perspectives/series-llcs-the-next-generation-of-passthrough-entities/; 10.10.2017.

[341] https://ct.wolterskluwer.com/resource-center/articles/series-llcs-wise-option-or-risky-strategy; 29.9.2017.

[342] Griffith, Cara 2015: Series LLCs: The Next Generation Of Passthrough Entities?, Forbes, in: https://www.forbes.com/sites/taxanalysts/2015/02/16/series-llcs-the-next-generation-of-passthrough-entities/; 10.10.2017.

prepare a separate annual account, but needs to file only one tax return.[343] The cost for setting up 100 companies therefore could be as low as 5700 USD.[344]

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 key, 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 costly and time-consuming information request), the occupant of that particular room 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 serious doubts remain 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”.

Component 4: Trusts with Flee Clause

Some trusts[345] contain a flee clause (or flight clause) in their trust deeds or agreements obliging the trustee to change the trust address, its governing law, or the trustee itself under certain

[343] https://www.thebalance.com/series-llc-is-it-right-for-your-business-398447; 10.10.2017.

[344] http://www.gardilaw.com/does-your-business-need-a-series-llc-in-illinois/; 10.10.2017. This assumes a cost of setting up the master LLC of 750 USD, plus 50 USD per series/cell.

[345] For a comprehensive introduction to trusts and their associated risks read: Knobel, Andres 2017: Trusts: Weapons of Mass Injustice?, in: www.taxjustice.net/wp-content/uploads/2017/02/Trusts-Weapons-of-Mass-Injustice-Final-12-FEB-2017.pdf; 15.2.2017.

circumstances. Flight is commonly triggered as soon as the trust becomes subject to, say, an investigation by a foreign authority, or a change of laws that could affect the trust, like a new tax. This clause is incredibly simple yet hard to detect. It only requires the trustee to state on a piece of paper that the trust is now governed by X jurisdiction's laws, or that the trustee is now Y person, and – voilà – the trust has relocated to a jurisdiction thousands of kilometres away, with no registration or external approval.[346]

Flee clauses allow trusts to remain under the radar. A settlor may choose the law of a supposedly "respectable" jurisdiction (like New Zealand) that would not tend to raise suspicion by any authority. Flee clauses typically relocate the trust so that it is governed under the laws of a debtor-protecting jurisdiction, such as the Cook Islands or Belize. This mechanism allows the settlor or beneficiary to remain one step ahead of law enforcement authorities or private investigators and therefore boosts secrecy to users of trusts.

Trust flee clauses are particularly obstructive of law enforcement. There are few situations in which flee clauses cannot be deployed 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.

[346] An example of a flee clause reads as follows: "The assets will […] be removed to a separate foreign jurisdiction which is deemed suitable for maintaining investments. At the same time, the individual domestic trustee would resign (subject to reinstatement by the foreign trustee) and, under the terms of the trust agreement, the foreign trustee would be unable to comply with any instructions as may be communicated by the grantor or trust protector (if given under duress)... in the event of a creditor's claim, the assets of the foreign trust will have become so undesirable to the creditor (in terms of the cost of pursuing an action in one or more foreign jurisdictions, with limited expectations for a favorable result), that the creditor will have the incentive to settle the matter for a much-reduced sum. When the threat of creditor claims has subsided, the design would revert to the original structure in order to again provide the client with direct access to the trust income and principal as a trust beneficiary" (Tanzi, William 2013: Foreign Situs Asset Protection/Estate Planning Structure (Basic Elements), in: http://static1.1.sqspcdn.com/static/f/1397518/18536698/1364242367820/Foreign+Situs+Trust+Investments+RC+William+Tanzi.pdf?token=lVQ9JnRjDQvJ69q4Ex7FPmU4fOQ%3D; 10.10.2017.

A similar scheme was described in LoPucki, Lynn M. 2000: The Death of Liability (SSRN Scholarly Paper ID 7589), Rochester, NY, in: https://papers.ssrn.com/abstract=7589; 10.10.2017.

3.16 KFSI 16 – Public Statistics

3.16.1 What is measured?

This indicator measures the degree to which a jurisdiction makes publicly available ten relevant statistical datasets about its international financial, trade, investment and tax position. Accordingly, we have split this indicator into ten equally weighted subcomponents. Public availability of data on each of these statistics (or equivalent data) in a timely fashion reduces the overall secrecy score by 10%.

Note that in each case we identify the standard international data source; but this indicates only the level of disclosure expected, not the means. Jurisdictions will receive equal credit for making equivalent data available through alternative channels, provided it is equally readily available to the public.

The Secrecy Scoring Matrix for this indicator is presented in Table 16.1 below, with full details of the assessment logic given in Table XVI (Annex B).

Table 16.1: Secrecy Scoring Matrix KFSI 16

Component			Sub-Component / Source(s)	Secrecy Score Assessment (Sum; 100% = full secrecy; 0% = full transparency)
Stock or flow	Sub-category	Sub-sub-category		
Trade	Goods		**(1) Bilateral trade in goods** (UN Comtrade or equivalent, and/or more disaggregated version)	10%
	Services		**(2) Bilateral trade in services** (in UNCTADstat, and/or more disaggregated version)	10%
		Financial services	**(3) Financial services trade** (component of IMF Balance of Payment Statistics)	10%
		Merchanting or transit trade	**(4) Bilateral Merchanting/Transit trade of services** (national level, e.g. Hong Kong)	10%
Invest-ment	Portfolio		**(5) Portfolio Investment** (IMF Coordinated Portfolio Investment Survey, CPIS)	10%
	Direct		**(6) Direct Investment** (IMF Coordinated Direct Investment Survey, CDIS)	10%
Bank assets	BIS locational		**(7) Cross-Border Banking Liabilities, BIS** (Bank for International Settlements locational reporting, table a2.1)	10%

Component			Sub-Component / Source(s)	Secrecy Score Assessment (Sum; 100% = full secrecy; 0% = full transparency)
Stock or flow	Sub-category	Sub-sub-category		
	National Bilateral		**(8) National bilateral country level breakdown of Cross-Border Banking Liabilities** (data equivalent to A5-A7 in locational banking, e.g. Germany on pages 63 and 65 of Assets and liabilities of banks in Germany vis-à-vis non-residents, by country)	10%
	AEoI aggregates (CRS)		**(9) CRS Aggregates** (data on information exchanged under the Common Reporting Standard (CRS) equivalent to that described on pages 8-12 in TJN's statistics template)	10%
CBCR	OECD standard		**(10) CBCR Aggregates** (Aggregates of all domestically filed country by country reports (CBCR) filed by multinational companies under OECD BEPS Action 13, see Annex III of Chapter V, pages 29-30)	10%

All underlying data can be accessed freely in the FSI database. To see the sources we are using for particular jurisdictions please consult the assessment logic in **Table XVI (Annex B) and search for the corresponding info IDs **(IDs 425 to 434)** in the database report of the respective jurisdiction.

3.16.2 Why is it important?

The public statistics being assessed here provide, in total, a comprehensive overview of a jurisdiction's economic and financial engagement with the wider world. Crucially, bilateral disaggregation ensures that the data offers valuable insights to every partner jurisdiction. In that way, the data can be considered the most basic quid pro quo for access to the benefits of economic and financial globalisation: a minimum level of transparency, to affirm that each jurisdiction is committed to acting properly and not taking advantage of its global neighbours.

Of the ten statistics, four relate to trade. First among these is the long-established international bilateral series, physical trade by commodity, including price and quantity (typically through UN Comtrade). While falling short of transaction-level data, this variable allows tracking of major anomalies in import and export values, and supports a clear understanding of global patterns of trade. Similar data for services from UNCTADstat, albeit with more limited detail, serves the same purpose.

Important complementary data for goods trade is that on merchanting and transit trade – the provision of services in support of trade between jurisdictions (requiring bilateral breakdown for major partners covering at least the majority of trade), ensuring transparency both about ultimate destinations and about any profit-stripping or other price abnormalities at this stage. In addition, aggregate data specifically on the exports of *financial* services provides insight into the respective importance of jurisdictions in the provision of financial services to non-residents (the key indicator of global scale used in the compilation of the Financial Secrecy Index).

There are then a further four variables related to financial positions: bilateral statistics on portfolio and direct investment stocks, plus total and bilaterally disaggregated cross-border banking liabilities. Together these statistics provide a comprehensive overview of the positions of jurisdictions in relation to inward and outward investment and bank holdings.

The last two statistics relate to the degree of public information around two key measures of tax transparency. First, the indicator assesses whether jurisdictions provide aggregate information about the (bilateral) volumes of assets about which they cooperate in the automatic exchange of financial information; and second, whether they publish aggregate information (i.e. not company level) about the country-by-country reporting of multinational companies. These measures identify the bare minimum transparency around what are currently purely private transparency mechanisms – so that the public and researchers can have both an overall perspective on progress, and the means to hold individual jurisdictions and/or tax authorities to account for their performance.

3.17 KFSI 17 – Anti-Money Laundering

3.17.1 What is measured?

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

Since 2003, the FATF has issued recommendations concerning the laws, institutional structures, and policies deemed necessary to counter money laundering and terrorist financing. Since then the extent to which jurisdictions comply with these recommendations has been assessed through peer review studies on five to ten years cycles. The studies are conducted by either the FATF, or analogous regional bodies, or the IMF. The resulting comprehensive mutual evaluation reports are mostly published online.

The published assessments include tables with the level of compliance with each of the recommendations, on a four-tiered scale. For the FSI, we calculate the overall non-compliance score with all recommendations, using a linear scale giving each recommendation equal weight. The Secrecy Scoring Matrix is shown in Table 17.1 below, and full details of the assessment logic can be found in Table XVII (Annex B).

Table 17.1: Secrecy Scoring Matrix KFSI 17

Type of most recently available full mutual evaluation report	Categories of indicators (number of Indicators)	Maximum total number of indicators	Secrecy Score Assessment (Transformation of FATF assessments) 100% = fully secretive
FATF 2012, Methodology 2013/2017 [NEW]	FATF Recommendations (40), Immediate Outcomes (11)	51	**1.** Coding of FATF ratings (x) as follows: 0=compliant; 1=largely compliant; 2=partially-compliant; 3=non-compliant; analogously for levels of effectiveness in immediate outcomes (high, significant, moderate, low). **2.** Average overall non-compliance score of all FATF-recommendations and immediate outcomes in percentage, each given an equal weight (100% = all indicators rated non-compliant or low level of effectiveness; 0% = all indicators rated compliant or highly effective).
FATF 2003, Methodology 2004 [OLD]	FATF recommendations (40), Special Recommendations (9)	49	

In 2003, the FATF adopted its 49 recommendations[347] and corresponding mutual evaluation reports have been published for all jurisdictions included in the FSI. For most jurisdictions, this is the most recent type of report available for use in the FSI.

[347] The (old) 2003 recommendations can be downloaded at http://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF%20Recommendations%202003.pdf; 7.6.2015. The 2003 recommendations include 40 recommendations and 9 special recommendations on terrorist financing, and referred to jointly as the FATF Recommendations. For the methodology on

In 2012, the FATF reviewed and updated its 49 recommendations (hereinafter: the "old recommendations") and consolidated them to a total of 40[348] (hereinafter: the "new recommendations"). The new methodology (published 2013, updated 2017[349]) for assessing compliance with the FATF 40 recommendations also included guidelines for assessment of the effectiveness of the entire anti-money laundering system of a given jurisdiction.[350] Eleven indicators, so called "Immediate Outcomes", have been devised for measuring effectiveness.

The compliance assessment process based on the new recommendations and immediate outcomes began in 2013. At the cutoff date for this KFSI (31 August 2017), a total of 35 jurisdictions had been assessed on this basis, of which 16 are reviewed in the FSI 2018.[351] For those jurisdictions we have adjusted our calculation of this KFSI's secrecy score to include the 11 immediate outcome assessments alongside the 40 new recommendations.

FATF's assessment methodology for both old and new recommendations rates compliance with every recommendation on a four-tiered scale, from "compliant" to "largely compliant" to "partially compliant" to "non-compliant". Analogously, the assessment of the immediate outcomes ranges from "high-level of effectiveness" to "substantial level of effectiveness" to "moderate level of effectiveness" to "low level of effectiveness".

For our indicator, we have calculated the overall non-compliance score using a linear scale giving each old recommendation, new recommendation and immediate outcome equal weight[352]. A 100% secrecy score rating indicates that all recommendations have been rated as "non-compliant" or "low level of effectiveness", whereas a 0% rating indicates that the jurisdiction is entirely compliant/highly effective.

3.17.2 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

assessing compliance with the FATF Recommendations see: http://www.fatf-gafi.org/topics/fatfrecommendations/documents/methodologyforassessingcompliancewiththefatf40recommendationsandfatf9specialrecommendations.html; 7.6.2015.

[348] The (new) 2012 recommendation can be viewed at: http://www.fatf-gafi.org/media/fatf/documents/methodology/FATF%20Methodology%2022%20Feb%202013.pdf; 7.6.2015.

[349] Financial Action Task Force (FATF) 2017: Methodology For Assessing Technical Compliance With The FATF Recommendations And The Effectiveness Of AML/CFT Systems, in: www.fatf-gafi.org/media/fatf/documents/methodology/FATF%20Methodology-March%202017-Final.pdf; 13.7.2017.

[350] http://www.fatf-gafi.org/publications/fatfrecommendations/documents/fatfissuesnewmechanismtostrengthenmoneylaunderingandterroristfinancingcompliance.html; 13.7.2017.

[351] www.fatf-gafi.org/media/fatf/documents/4th-Round-Ratings.xlsx; 13.7.2017.

[352] To see the sources we are using for particular jurisdictions please check out the corresponding information in our database, available at www.financialsecrecyindex.com/database/menu.xml.

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

For instance, recommendation ten (equivalent to old recommendation five, with minor changes) sets out minimal standards for identifying customers of financial institutions (such as banks and foreign exchange dealers). If this recommendation is rated "partially compliant", as is the case with the USA, the resulting secrecy around bank customers increases the risk of money laundering.

The United States assessment arises because of several shortcomings, one of which is a "[l]ack of CDD [customer due diligence] requirements to ascertain and verify the identity of BO [beneficial owners] (except in very limited cases)" (see US assessment here,[353] page 255; [own explanation]). In other words, under US law there is no obligation for US-based bank employees to identify those who control bank accounts through companies and trusts. The Financial service providers and their affiliates are thus allowed to operate bank accounts whose real controlling persons can conceal their identity. This level of secrecy contravenes the FATF recommendations.

In February 2015, Swiss Leaks[354] revealed that HSBC private bank provided services to clients engaged in a spectrum of illegal behaviours. These client relationships were facilitated by various acts of negligence revealed both before and after in a mutual evaluation report of Switzerland. The country was rated "partially compliant" on the old recommendation five which relates to customer due diligence. The FATF report specified a long list of deficiencies in customer due diligence procedures, including:

> "There is no general obligation on financial intermediaries to identify the purpose and envisaged nature of the business relationship desired by the customer." (page 13-14)[355]

Since banks have been assessed as not being obliged to enquire about the purpose and nature of a new client requesting financial services, important details of a new customers' background could be ignored, thus enabling the management of accounts with money of illicit origin.

In the latest evaluation of Switzerland, that same recommendation (now recommendation 10) on customer due diligence has still been rated only as "partially compliant". One among many deficiencies identified, the FATF mentions that:

[353] www.fatf-gafi.org/media/fatf/documents/reports/mer4/MER-United-States-2016.pdf; 14.7.2017.

[354] http://www.icij.org/project/swiss-leaks/banking-giant-hsbc-sheltered-murky-cash-linked-dictators-and-arms-dealers; 7.6.2015

[355] http://www.fatf-gafi.org/media/fatf/documents/reports/mer/mer%20switzerland%20resume%20english.pdf ; 7.6.2015

> "There is no general and systematic obligation to take reasonable measures to verify the identity of the beneficial owners of customers" (page 237)[356]

Similar to the situation in the US, this implies that banks can stop short of checking and storing ID documents of the supposed beneficial owners of companies, trusts or foundations that operate bank accounts.

We consider the swift and thorough implementation of all FATF recommendations by all jurisdictions as crucial to global financial transparency, to prevent the undermining of democracies by organised and financial crime, and to curb tax evasion and illicit financial flows.

While there has been some debate about the merits and costs of the FATF recommendations and the peer review mechanism, the quality of the most recent (4th) round of evaluation reports has increased significantly. In response to criticisms of past evaluation methodologies, including for applying what some described as a mechanistic approach of measuring compliance by checking boxes (e.g. here[357]), the FATF has developed ways for measuring a jurisdiction's overall effectiveness in achieving ultimate goals. The FATF uses eleven so-called 'immediate outcome indicators' for that purpose.

Even though the immediate outcome indicators rely more heavily on subjective criteria than the technical compliance assessments, there is a clear assessment methodology that provides coherent and detailed guidance. Furthermore, the indicators are all backed up by a detailed narrative. A review of a first sample of 9 assessments suggests that the assessments overall match the underlying qualitative/narrative text.[358] Therefore, for those jurisdictions that have already undergone the 4th round of FATF evaluation report, these indicators have been included in KFSI 17 alongside the 40 FATF technical recommendations for the first time in the FSI 2018.

[356] Financial Action Task Force 2016: Anti-money laundering and counter-terrorist financing measures, Switzerland, Fourth Round Mutual Evaluation Report, Paris, in: http://www.fatf-gafi.org/media/fatf/content/images/mer-switzerland-2016.pdf; 18.7.2017.

[357] Levi, Michael/Halliday, Terence/Reuter, Peter 2014: Global surveillance of dirty money: assessing assessments of regimes to control money-laundering and combat the financing of terrorism, in: http://orca.cf.ac.uk/88168/1/Report_Global%20Surveillance%20of%20Dirty%20Money%201.30.2014.pdf; 14.7.2017.

[358] See Heywood, Maximilian 2017: Is the global anti-money laundering system fit for purpose?, in: Tax Justice Annual Conference, 6 July 2017, London, City University, in: https://www.taxjustice.net/2017/06/29/tax-justice-network-annual-conference-2017-5-6-july-final-programme/; 14.7.2017. The only exception provided by Heywood is the case of Switzerland's assessment of IO 7 on sanctions that attests "substantial effectiveness", which does not seem match the findings presented in the accompanying text. Therefore, the quality and potential biases or otherwise especially of the effectiveness assessments should be closely monitored, and the inclusion of these ratings in the next FSI should be reviewed accordingly.

3.18 KFSI 18 – Automatic Information Exchange

3.18.1 What is measured?

This indicator assesses (1) whether jurisdictions have signed the Multilateral Competent Authority Agreement[359] (MCAA) which provides the multilateral legal framework to engage in automatic exchange of information (AEOI) pursuant to OECD's Common Reporting Standard[360] (CRS), (2) with how many other jurisdictions information exchange takes place under the MCAA, (3) to what extent hurdles are placed in the way of effective information exchange under the MCAA, and (4) whether a jurisdiction engages in a pilot project to assist developing countries.

As of November 2017, 96 jurisdictions have signed the MCAA,[361] although not every signatory exchanges data with every other signatory.

The full score for this indicator consists of various components, which are aggregated by simple addition, in Table 18.1 - A and B, as follows. Full details of the assessment logic are given in Table XVIII (Annex B).

Table 18.1 - A: Secrecy Scoring Matrix KFSI 18

Criteria	Secrecy Score	Source
Whether the jurisdiction has signed the MCAA	50% if yes 100% if no	OECD's list of MCAA signatories
Whether it will start exchanging information pursuant to the MCAA in 2017 or in 2018	+0% if 2017 +25% if 2018	OECD's list of MCAA signatories
Whether it engaged in Pilot Projects to assist developing countries	-50% (reduction) if yes	Global Forum 2016 Annual Report

[359] http://www.oecd.org/tax/exchange-of-tax-information/multilateral-competent-authority-agreement.htm; 15.6.2015.

[360] http://www.oecd.org/ctp/exchange-of-tax-information/standard-for-automatic-exchange-of-financial-information-in-tax-matters.htm; 15.6.2015.

[361] http://www.oecd.org/tax/automatic-exchange/international-framework-for-the-crs/MCAA-Signatories.pdf; 14.12.2017.

For jurisdictions that have signed the MCAA we also consider the following matters:

Table 18.1 - B: Secrecy Scoring Matrix KFSI 18

Criteria	Secrecy Score	Source
The number of jurisdictions chosen under the MCAA's Annex E to engage in AEOI with them (if the data is available) or the final number of "activated AEOI relationships" (under the MCAA[362]) published by the OECD	-50% (reduction) if the jurisdiction chose all other co-signatories under Annex E, or if it has activated AEOI relationships with all other possible co-signatories (69 relevant relationships). Less reduction pro-rata according to the actual number of (i) jurisdictions chosen under Annex E or (ii) activated AEOI relationships.	OECD's list of activated AEOI relationships or FSI Survey
Whether it refused to engage in AEOI with any co-signatory of the MCAA even though the latter complies with domestic law and confidentiality provisions to engage in AEOI	+10% if yes	OECD's list of activated AEOI relationships, FSI Survey and/or declaration by a country's authority
Whether it postponed AEOI with specific co-signatories of the MCAA	+10% if yes	OECD's list of activated AEOI relationships, FSI Survey and/or declaration by a country's authorities
Whether it chose "voluntary secrecy" (to be listed under the MCAA's Annex A to prevent receiving information)	+10% if yes	OECD's list of activated AEOI relationships
Whether it imposed additional conditions to engage in AEOI (beyond those required by the MCAA) such as amnesty programs, market access, etc.	+10% if yes	Declaration by a country's authorities

Note: after adding and subtracting all secrecy scores, negative values will be considered a 0% and values above 100% will be considered 100%.

[362] The OECD publishes the full list of activated AEOI relationships, pursuant to both the MCAA and bilateral competent authority agreements (CAAs). This KFSI only considers the activated relationships under the MCAA. The full maximum number of exchange relationships (as of 15 November 2017) is 69, based on 49 signatories to the MCAA beginning information exchanges in 2017, plus 20 of those signatories committed to start later who already communicated their exchange partnership preferences. http://www.oecd.org/tax/exchange-of-tax-information/first-automatic-crs-exchanges-between-49-jurisdictions-to-take-place-over-2000-bilateral-exchange-relationships-in-place.htm; 15.11.2017.

This indicator considers all available measurable data surrounding the Common Reporting Standard that either promotes transparency with all other countries, or affects it. In principle, the secrecy score is reduced more the earlier AEOI takes place and the more countries a jurisdiction chooses to engage in AEOI with. By the same token, the later AEOI takes place and the more obstacles are imposed to prevent AEOI among all countries, the higher a secrecy score is obtained.

Since the Global Forum has undertaken an initial assessment[363] of jurisdiction's compliance with domestic law and confidentiality provisions to implement the CRS, there should be no reason why a country refuses to engage in AEOI with another one considered "compliant" by the Global Forum. Therefore, all countries should opt to exchange information with all other cosignatories of the MCAA under Annex E.

Unfortunately, the OECD keeps Annex E (with the list of countries chosen by each jurisdiction) confidential. The OECD only publishes here the number of activated AEOI relationships (those countries that were matched together because they both chose each other under Annex E). The FSI Survey, however, asked the ministries of finance of all surveyed jurisdictions whether they chose all other co-signatories under Annex E. This question is thus answered based on the available data – either the OECD website, or complemented by jurisdiction's replies to the survey.

By looking only at the number of activated AEOI relationships, it is impossible to prove who is responsible for the lack of an AEOI relationship between two specific countries, say a secrecy jurisdiction and a developing country: maybe neither chose each other, or maybe one choses the other but the latter didn't reciprocate. However, if we find out in the FSI survey that developing country A chose all other cosignatories, then we can know that the secrecy jurisdiction B is responsible, even if B did not reply to this part of our survey. An alternative source of information would be a declaration by a country's authorities stating that they will not choose all signatories of the MCAA.

A similar case occurs when two countries agree to postpone AEOI until 2019 or later. We cannot know whether this was the intention of both countries, or whether one country was forced to agree to this in order to obtain information from the other. However, if country S postponed AEOI with countries A, B and C, but with regard to other countries (other than S) A, B and C have chosen to engage in AEOI in 2017 or 2018 or even chose all other cosignatories, then it is clear that country S was responsible for the delay, and it will be the only country with a higher secrecy score.

Similarly, if a country decides to impose additional conditions to engage in AEOI, it is restricting AEOI beyond the CRS' own conditions (compliance with domestic laws and confidentiality). It also encourages other countries to impose their own arbitrary conditions. Examples of these conditions are requirements that either have nothing to do with AEOI (e.g. market access for

[363] http://www.oecd.org/tax/transparency/GF-annual-report-2016.pdf; 14.12.2017.

a country's financial industry) or that protect the interests of tax evaders (e.g. requiring amnesty programs, even if called in a different way, such as "regularisation" programmes).

In addition, countries are given a higher secrecy score when they opt for "voluntary secrecy" by choosing to be listed under Annex A of the MCAA. These countries will have to send information, but they will not receive any information from other countries. Annex A makes little sense because no country is forced to do anything with the received information, they are allowed to discard it or not use it. However, by refusing to obtain information, countries are sending a signal to potential criminals and tax dodgers that they will guarantee secrecy. This is problematic because any resident of an Annex A jurisdiction will become a non-reportable person, so their information will not even be collected by financial institutions. This may be abused, especially if these jurisdictions provide lenient residency and citizenship rules (passports or residency certificates for sale) in exchange for money, allowing persons to pretend to be resident in those countries, while still living and working in their real countries of residence (see KFSI 12 on Consistent Personal Income Tax[364] for more details).

We are aware that many developing countries lack capacity to implement AEOI and hence have not yet signed the MCAA nor committed to exchange information either in 2017 or 2018. Therefore, we still provide a 50% reduction in the secrecy score for developing countries that have declared their interest in joining the Global Forum's Pilot Program, which consists of partnering with a developed country to start exchanging some kind of information and prepare for AEOI. This pilot programme is part of the Global Forum's roadmap[365] for developing countries' participation in AEOI. At the same time, developed countries that joined a pilot project to partner with a developing country also obtain a reduction of 50% in the secrecy score.

The data sources used for collating KFSI 18 are: (i) the OECD's list of jurisdictions which signed the MCAA[366], (ii) the OECD list of activated AEOI relationships, (iii) the FSI Survey, (iv) relevant declarations by countries' authorities (if any), and (v) the 2016 Global Forum Annual Report which provides the most up-to-date list of pilot programmes.

Please note that as for the hurdles to information exchange (IDs 372, 373, 377) we deviate from the "unknown is secrecy"-principle because these questions were not included in the TJN-Survey questionnaire and previous research only revealed one country imposing such additional conditions.[367]

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[364] http://www.financialsecrecyindex.com/PDF/12-Consistent-Personal-Income-Tax.pdf

[365] http://www.oecd.org/ctp/exchange-of-tax-information/global-forum-AEOI-roadmap-for-developing-countries.pdf; 15.6.2015.

[366] http://www.oecd.org/tax/exchange-of-tax-information/MCAA-Signatories.pdf; 15.6.2015.

[367] See for example Knobel, Andres 2017: Findings of the 2nd TJN Survey on Automatic Exchange of Information (AEOI). Sanctions against financial centres, AEOI statistics and the use of information beyond tax purposes, in: https://financialtransparency.org/wp-content/uploads/2017/01/Knobel2017_AEOI-Survey-Report.pdf; 14.2.2017; and Knobel, Andres/Meinzer, Markus 2014: Automatic Exchange of Information: An Opportunity for Developing

While the CRS has its origins in the United States' Foreign Account Tax Compliance Act (FATCA) and its Inter-Government Agreements (IGAs) to receive, and in some cases exchange, information, KFSI 18 does not consider participation in FATCA for two reasons. First, FATCA does not entail multilateral AEOI but only agreements between the U.S. and other countries, though the latter cannot exchange any information with each other under FATCA.

Second, out of all the IGAs signed between the US and other countries, only IGAs 1 A entail some kind of reciprocity, while all other IGAs request information to be sent to the US only. On top of this, even IGAs 1 A do not require full reciprocity but much more information being sent to the US.[368]

In contrast to FATCA, the CRS allows for multilateral AEOI between all countries on a reciprocal basis.

There is another factor that may affect a global implementation of the CRS, relating to the bilateral approach. Signing the MCAA (multilateral approach) is the easiest way to engage in multilateral AEOI, while bilateral CAAs (bilateral approach) create obstacles because they require each country to spend time and resources to negotiate and sign a CAA with every other country. Some secrecy jurisdictions such as Singapore and Hong Kong have chosen the bilateral approach, making it harder for other countries to engage in AEOI with them. Some countries like the UK and Australia (that did sign the MCAA) have agreed to sign bilateral CAAs with them. This is problematic because thereby, they are tacitly endorsing the bilateral approach, allowing secrecy jurisdictions not to be blacklisted (after all they are implementing the CRS, although with a limited number of countries). However, this has not been included in the KFSI (and thus signatories to the MCAA will for now not incur increased secrecy scores for also signing bilateral CAAs with secrecy jurisdictions) because we understand that it may be the only way to obtain information from these financial centres. Countries that sign the MCAA have points deducted from their secrecy score; those that only sign bilateral CAAs receive no deduction from their secrecy score.

Changes since FSI 2015

In 2015 the list of activated AEOI relationships was not available nor other authorities' declarations, such as Annex A. Therefore, this indicator only considered the likelihood of countries engaging in AEOI, by considering both (i) whether countries had signed the MCAA and (ii) whether they had committed to implement the CRS either in 2017 or 2018. Participation in pilot projects was also considered for developing countries.

Countries to Tackle Tax Evasion and Corruption (TJN-Report June 2014), London, in: http://www.taxjustice.net/wp-content/uploads/2013/04/AIE-An-opportunity-for-developing-countries.pdf; 9.10.2015.

[368] Knobel, Andres 2016: The Role of the U.S. as a Tax Haven - Implications for Europe (A study commissioned by the Greens/EFA Group in the European Parliament), Brussels, in: https://www.greens-efa.eu/legacy/fileadmin/dam/Documents/Studies/Taxation/The_US_as_a_tax_haven_Implications_for_Europe_11_May_FINAL.pdf; 10.01.2018.

All underlying data can be accessed freely in the FSI database. To see the sources we are using for particular jurisdictions please consult the assessment logic in **Table XVIII (Annex B) and search for the corresponding info IDs **(IDs 150, 371 - 374, 376 and 377)** in the database report of the respective jurisdiction.

3.18.2 Why is it 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 investigating already identified 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 "upon request" 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 our "Creeping Futility"-report here,[369] in a shorter briefing paper here[370] and time and time again in our blog here. The Financial Times has also addressed this here[371]). For identifying unknown cases of tax evasion, which are by far the majority of all cases (see page 12-13, here[372]), the upon-request Global Forum process is 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[373]). 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$10.1-13.1tn**. […] 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[374] – 19th July 2012).

Ultimately, the failure to automatically exchange taxpayer data among responsible governments incentivises a distorted pattern of global financial flows and investment that is

[369] www.taxjustice.net/cms/upload/GlobalForum2012-TJN-Briefing.pdf; 15.6.2015.

[370] www.taxjustice.net/cms/upload/pdf/Tax_Information_Exchange_Arrangements.pdf; 15.6.2015.

[371] http://www.ft.com/intl/cms/s/0/0f687dee-5eea-11e0-a2d7-00144feab49a.html#axzz1PtjiCeHN; 15.6.2015.

[372] www.taxjustice.net/cms/upload/GlobalForum2012-TJN-Briefing.pdf; 15.6.2015.

[373] http://taxjustice.blogspot.ch/2012/07/the-price-of-offshore-revisited-and.html; 15.6.2015.

[374] www.taxjustice.net/cms/upload/pdf/The_Price_of_Offshore_Revisited_Key_Issues_120722.pdf; 15.6.2015.

known best in terms of capital flight. As we have argued in our policy paper,[375] this distortion creates huge imbalances in the world economy and impacts both southern and northern countries with devastating effects on all citizens and on the environment.

Moreover, as Nicholas Shaxson has argued in the book Treasure Islands (2011: 74-79),[376] the root of this scandal dates back to at least 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 through 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 obstructed by secrecy jurisdictions.

The previous -but still existing- 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 reluctantly under these agreements (click here for the example of Jersey). They go to great lengths to reassure their criminal clientele 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[377] 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)[378]

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 prove ineffective in practice due to the practical barriers imposed by the cost and effort involved in making 'on request' applications. 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

[375] http://www.taxjustice.net/cms/upload/pdf/AIE_100926_TJN-Briefing-2.pdf; 15.6.2015.

[376] http://treasureislands.org/; 15.6.2015.

[377] http://taxjustice.blogspot.de/2013/02/french-updates-hollande-supports-full.html; 15.6.2015.

[378] http://taxjustice.blogspot.de/2013/02/french-updates-hollande-supports-full.html; 15.6.2015.

Double Taxation Conventions (see pages 23-24 on Switzerland, here,[379] and these recent reports in German on Switzerland[380] and Germany[381]).

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 identity of the real owners of assets. 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 the CRS is indeed a first big step towards a truly global framework for multilateral AEOI, it is filled with loopholes which will prevent its effectiveness, as we have identified here.[382]

Implementing the CRS will have reputational consequences (implementation will be reviewed by the Global Forum) and will be one of the three criteria to avoid being included in the OECD's blacklist. Therefore, some jurisdictions may attempt to achieve a good reputation and avoid being blacklisted by only engaging in AEOI with a limited number of countries, while refusing to exchange information with others, and even impact their future involvement: if it becomes the norm that secrecy jurisdictions impose arbitrary conditions, postpone AEOI or sign bilateral CAAs, many other countries, especially developing countries when they are ready to implement the CRS, will find it harder to engage in AEOI with everyone else. That is why a detailed analysis of the fine print of jurisdiction's commitments is necessary in order not to be misled.

[379] www.taxjustice.net/cms/upload/GlobalForum2012-TJN-Briefing.pdf; 15.6.2015.

[380] http://www.alliancesud.ch/de/publikationen/downloads/dokument-24-2013.pdf; 15.6.2015.

[381] http://steuergerechtigkeit.blogspot.de/2013/04/neue-verhandlungsgrundlage-fur.html; 15.6.2015.

[382] http://www.taxjustice.net/wp-content/uploads/2013/04/TJN-141124-CRS-AIE-End-of-Banking-Secrecy.pdf; 15.6.2015.

3.19 KFSI 19 – Bilateral Treaties

3.19.1 What is measured?

This indicator examines the extent to which a jurisdiction has entered into 98 effective information exchange relationships conforming to the 'upon request' standard developed by the OECD and the Global Forum. The number of 98 stems from the number of jurisdictions that (99, as of 5 October 2017) have adhered to the multilateral Amended Council of Europe / OECD Convention on Mutual Administrative Assistance in Tax Matters[383] ("Tax Convention") which enables information exchange upon request among adherent country pairs.

A jurisdiction that has signed and ratified the Tax Convention is given a zero secrecy score. Other jurisdictions are scored according to the number of effective bilateral information exchange relationships they've entered into expressed as a proportional share of 98. To arrive at the secrecy score, the transparency score is subtracted from 100. The cut-off-date for the number of bilateral treaties is 5 October 2017.[384]

The Secrecy Scoring Matrix can be found in Table 19.1 below, and full details of the assessment logic can be found in Table XIX (Annex B).

Table 19.1: Secrecy Scoring Matrix KFSI 19

Regulation	Secrecy Score [100% = full secrecy; 0% = full transparency]
No Tax Convention Adherence Jurisdiction has not joined the Tax Convention as of 5 October 2017. In this case the number of bilateral treaty exchange relationships are counted and expressed as a proportion of 98 (which is equivalent to the number of information exchange relationships under the Tax Convention).	0-100%
Tax Convention Adherence Jurisdiction has joined the Tax Convention as of 5 October 2017 and thus has effective upon request information exchange relationships with at least 98 jurisdictions.	0%

In respect to bilateral treaties, the upon request provisions can either be tax information exchange agreements (TIEAs)[385] or full double taxation agreements (DTAs) whose scope extends far beyond information exchange. The source for this information is the table on

[383] http://www.oecd.org/ctp/exchange-of-tax-information/convention-on-mutual-administrative-assistance-in-tax-matters.htm; http://www.oecd.org/tax/exchange-of-tax-information/Status_of_convention.pdf; 11.10.2017.

[384] While the cut-off date is a few months before the publication of the Financial Secrecy Index, there is no reason to believe that the *relative* amount of treaties in January 2018 dramatically deviated from the situation on 05.10.2017.

[385] http://www.taxjustice.net/cms/upload/pdf/Tax_Information_Exchange_Arrangements.pdf; 21.07.2015.

agreements in the Exchange of Information online portal of OECD's Global Forum.[386] This table displays the bilateral agreements allowing for information exchange upon request, broken down into various categories. We have included those treaties that a) were in force as of 05.10.2017 and which b) met the OECD upon request standard (column 5 of the table).

With respect to the adherence of the Amended Council of Europe / OECD Convention on Mutual Administrative Assistance in Tax Matters,[387] the published document of ratifications has been analysed (accessed 11 October 2017, with Status as of 12 September 2017).[388] All jurisdictions whose entry into force date as listed in the last column was on or before 5 October 2017 were counted as having Article 5 in force. A detailed analysis of the Convention can be found here.[389] Unlike KFSI 20, which considers adherence by jurisdictions to the other provisions of the Tax Convention excluding article 5 ('exchange of information on request'), for KFSI 19, we assess only the adherence of jurisdictions to article 5 of the Tax Convention.

Since this indicator assesses active upon request bilateral relationships (the possibility for two jurisdictions to exchange information with each other upon request), we provide the combined number of DTAs and TIEAs because this eliminates double counting in approximately 18 cases where a pair of jurisdictions had both a valid TIEA and DTA.

In a context of largely unrestricted cross-border financial flows, this Convention provides a minimum backstop to guard against proliferation of cross border tax crimes and offences through adherence to a network of information exchange relationships. Hence, the figure of 98 qualifying agreements is a moving target; when the average number of jurisdictions adhering to the Convention increases, the number of bilateral treaties required to obtain a zero secrecy score will change accordingly.

All underlying data can be accessed freely in the FSI database. To see the sources we are using for particular jurisdictions please consult the assessment logic in **Table XIX (Annex B) and search for the corresponding info IDs **(IDs 301 and 143)** in the database report of the respective jurisdiction.

[386] 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/; 21.07.2015. For the purpose of our research, we relied on a website scraping carried out on 5 October 2017 – with thanks to Wouter Lips for the code.

[387] http://www.oecd.org/ctp/exchange-of-tax-information/convention-on-mutual-administrative-assistance-in-tax-matters.htm; http://www.oecd.org/tax/exchange-of-tax-information/Status_of_convention.pdf; 11.10.2017.

[388] http://www.oecd.org/tax/exchange-of-tax-information/Status_of_convention.pdf; 11.10.2017.

[389] Meinzer, Markus 2012: Analysis of the CoE/OECD Convention on Administrative Assistance in Tax Matters, as amended in 2010 (Tax Justice Network), London, in: http://www.taxjustice.net/cms/upload/CoE-OECD-Convention-TJN-Briefing.pdf; 10.11.2013.

3.19.2 Why is this 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 tax avoidance. While tax authorities domestically often have powers to cross-check data obtained through tax 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 nationally based and are frequently obstructed by secrecy jurisdictions. Barriers to effective information exchange undermine the rule of law and impose huge costs on revenue authorities wanting to tackle tax dodging and on society at large which is footing the bill for missing tax revenues from mobile and international activity.

The upon request standard for information exchange promoted in isolation by the OECD and the Global Forum up until 2013 is insufficient to stem tax driven illicit financial flows and has many shortcomings (as we have pointed out in our "Creeping Futility"- Report from March 2012[390]). The consequences of this weakness reach far beyond mere tax enforcement, and have huge implications for the global economy. Ultimately, it has incentivised 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),[391] this distortion creates 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),[392] the root of this scandal dates back to at least 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 upon request standard for information exchange promoted by the OECD has severe shortcomings, such a system may be a step forwards especially if combined with automatic information exchange processes, and if a sufficient number of countries, including poorer countries, are able to effectively use the upon request model to collect evidence needed to prosecute offenders.

As for the automatic information exchange, a concern about the effectiveness of the 'upon request' model of information exchange relates to the need for a 'smoking gun' to alert tax authorities to possible cases of tax evasion (see KFSI 18). This explains why we regard automatic information exchange as a necessary complement for 'upon request' information exchange and a more effective deterrent of tax evasion. Public registries of the beneficial owners of companies, trusts and foundations are an important pillar of such a system.

Yet, while jurisdictions may now become party to the OECD's Common Reporting Standard (CRS) for Automatic Information Exchange (AIE), many loopholes and obstacles for the

[390] See the full report here: www.taxjustice.net/cms/upload/GlobalForum2012-TJN-Briefing.pdf; 21.07.2015. 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; 21.07.2015.

[391] http://www.taxjustice.net/cms/upload/pdf/AIE_100926_TJN-Briefing-2.pdf; 21.07.2015.

[392] http://treasureislands.org/; 21.07.2015.

inclusion of developing countries have been identified.[393] Therefore, the upon request standard will be the only mechanism whereby some countries can obtain at least some information. Moreover, even countries able to implement AIE will depend on the upon request model: after automatically receiving large records of bulk information, many countries will depend on subsequent specific requests to obtain more detailed proof and evidence about a particular taxpayer for administrative or criminal proceedings.

As for the expansion of the 'upon request' information exchange network, the most cost efficient and quickest way for (developing) countries to obtain vital information access to a maximum number of relevant and notorious destinations of illicit financial flows would be through a multilateral tax agreement enabling (bilateral) upon request information exchange among all state parties. Without a multilateral framework weaker jurisdictions are likely to remain excluded from the benefits of exchange relationships,[394] most of which flow from the collective bargaining clout of a large group of nations. Instead of incurring high costs and facing risks or insurmountable barriers during bilateral negotiations, a multilateral option holds the potential for a 'big bang' boost to the prosecution of offshore tax crimes and offences.

For this reason, we argue that bilateralism does not and cannot tackle the issue of information exchange in an effective and efficient manner. Accordingly, a jurisdiction that participates in the Tax Convention is given a zero secrecy score. This Tax Convention is open to all countries, not just OECD or European ones. The Amending Protocol entered into force on 1 June 2011, and in October 2017 had been ratified by 99 countries.[395] Any jurisdiction not wishing to participate in the Tax Convention, possibly because of suspicion of OECD's dominance,[396] has to be measured nonetheless by its commensurate engagement in information exchange relationships by other means (e.g. bilateral TIEAs or DTAs with exchange clauses). That is why 98 effective bilateral exchange relationships is the bar for any jurisdiction which has not ratified the Tax Convention.

This number is far higher than the original number of twelve exchange relationships which the OECD announced in April 2009 as the threshold for removal from 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

[393] Knobel, Andres 2015: OECD's Handbook for Implementation of the CRS: TJN's preliminary observations, in: www.taxjustice.net/wp-content/uploads/2013/04/OECD-CRS-Implementation-Handbook-FINAL.pdf; 26.4.2016. Knobel, Andres/Meinzer, Markus 2017: Delivering a level playing field for offshore bank accounts. What the new OECD/Global Forum peer reviews on automatic information exchange must not miss, in: www.taxjustice.net/wp-content/uploads/2013/04/TJN_AIE_ToR_Mar-1-2017.pdf; 16.3.2017. Knobel, Andres 2017: Findings of the 2nd TJN Survey on Automatic Exchange of Information (AEOI). Sanctions against financial centres, AEOI statistics and the use of information beyond tax purposes, in: https://financialtransparency.org/wp-content/uploads/2017/01/Knobel2017_AEOI-Survey-Report.pdf; 14.2.2017.

[394] http://uncounted.org/2015/09/14/oecd-country-by-country-reporting-only-for-the-strong/; 12.10.2017.

[395] http://www.oecd.org/tax/exchange-of-tax-information/Status_of_convention.pdf; 11.10.2017.

[396] http://www.taxjustice.net/cms/upload/CoE-OECD-Convention-TJN-Briefing.pdf; 12.10.2017.

to conclude just twelve agreements, often negotiating agreements among themselves, the OECD created a 'white list' of secrecy jurisdictions[397] which offered some form of official endorsement from the OECD itself.

397 http://www.oecd.org/tax/transparency/Tax%20Transparency%202012_JM%20MB%20corrections%20final.pdf; 21.07.2015.

3.20 KFSI 20 – International Legal Cooperation

3.20.1 What is measured?

KFSI 20 measures the extent to which a jurisdiction participates in international transparency commitments[398] and engages in international judicial cooperation on money laundering and other criminal matters.

Both components are worth an equal 50% secrecy score, and each component is subdivided into four or five subcomponents. Each of the four subcomponents of international transparency commitments is given a maximum 12.5% secrecy score. Each of the five subcomponents of international judicial cooperation is given a maximum 10% secrecy score. All subcomponents are combined by simple addition to arrive at the secrecy score of KFSI 20. The Secrecy Scoring Matrix is shown in Table 20.1 (on the following page), and full details of the assessment logic can be found in Table XX (Annex B).

Component I: International Transparency Commitments (50%)

In the case of the International Transparency Commitments, we have focused on the extent to which a jurisdiction adheres to widespread international legal conventions which support transparency in international financial and tax matters. For the first four subcomponents, a failure to ratify the relevant international legal instruments results in a secrecy score of 10% for each, which are simply added to result in the component's secrecy score.

1. Subcomponent: 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"[399]. The 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 members 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 exchange. A detailed analysis of this Tax Convention can be found here.[400]

[398] Signature alone is insufficient: ratification is required. An exception is made for subcomponent 5, the Multilateral Instrument (MLI). The MLI is so novel that first ratifications are expected to occur during 2018 only, and the expected entry into force of the MLI is 2019.
See https://home.kpmg.com/xx/en/home/insights/2017/06/tnf-initial-impressions-of-multilateral-instrument-implementing-beps-in-tax-treaties.html; 21.7.2017.
Furthermore, the commitment expressed through signature to a robust anti-tax treaty abuse provision already constitutes a reference point that will impact the dynamics of current treaty negotiations of a given jurisdiction, and may even influence the interpretation of current treaties by taxpayers, administrations and possibly even courts.

[399] http://www.oecd.org/ctp/exchange-of-tax-information/conventiononmutualadministrativeassistanceintaxmatters.htm; 21.07.2015.

[400] www.taxjustice.net/cms/upload/CoE-OECD-Convention-TJN-Briefing.pdf; 21.07.2015.

Table 20.1: Secrecy Scoring Matrix KFSI 20

Component	Sub-Component / Source(s)	Secrecy Score Assessment (Sum; 100% = full secrecy; 0% = full transparency)
I: International transparency commitments (50%)	**(1)** Amended Council of Europe / OECD Convention on Mutual Administrative Assistance in Tax Matters[401] ("Tax Convention")	12.5%
	(2) 2003 UN Convention against Corruption[402]	12.5%
	(3) 1999 UN International Convention for the Suppression of the Financing of Terrorism[403]	12.5%
	(4) 2000 UN Convention against Transnational Organised Crime[404]	12.5%
II: International Judicial Cooperation (50%)	**(5)** Will mutual legal assistance be given for investigations, prosecutions, and proceedings (old FATF-recommendation 36/new 37)?	10%
	(6) International co-operation delivers appropriate information, financial intelligence, and evidence, and facilitates action against criminals and their assets (New FATF 2013/2017 methodology, Immediate Outcome 2 of the effectiveness assessments)? **Or** Is mutual legal assistance given without the requirement of dual criminality (old FATF methodology, recommendation 37)?	10%
	(7) Is mutual legal assistance given concerning identification, freezing, seizure and confiscation of property (FATF recommendation 38)?	10%
	(8) Is money laundering considered to be an extraditable offense (FATF recommendation 39)?	10%
	(9) 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)?	10%

[401] http://www.oecd.org/tax/exchange-of-tax-information/conventiononmutualadministrativeassistanceintaxmatters.htm; 21.07.2015.

[402] http://www.unodc.org/unodc/en/treaties/CAC/index.html; 21.07.2015.

[403] http://www.un.org/law/cod/finterr.htm; 21.07.2015.

[404] http://polis.osce.org/portals/orgcrime/index/details?doc_id=3210&lang_tag=&qs; 22.07.2015.

2. Subcomponent: 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[405]. 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).

3. Subcomponent: 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.[406]

4. Subcomponent: 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.[407]

The United Nations Treaty Collection served as a source for all three UN conventions.[408] A chart of the signatures and ratifications of the Tax Convention can be found on the OECD website.[409]

In previous publications of FSI, we have included the Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.[410] However, given that the convention has already been ratified by all FSI assessed jurisdictions, we have removed it from the indicator.[411]

Component II: International Judicial Cooperation (50%)

The second component of KFSI 20 examines the extent to which a jurisdiction engages in international judicial cooperation on anti-money laundering and other criminal matters. We use the level of compliance with five of the Financial Action Task Force (FATF) recommendations[412] as the appropriate measures. These recommendations review the laws,

[405] The official site of the convention is here: http://www.unodc.org/unodc/en/treaties/CAC/index.html; 21.07.2015. A succinct summary of the convention's measures can be found here: http://www.uncaccoalition.org/about-the-uncac; 22.07.2015.

[406] http://www.un.org/law/cod/finterr.htm; 21.07.2015.

[407] http://polis.osce.org/portals/orgcrime/index/details?doc_id=3210&lang_tag=&qs; 22.07.2015.

[408] http://treaties.un.org/home.aspx;22.07.2015. The specific source for each jurisdiction and convention can be found in the corresponding database report for each jurisdiction, here: http://www.financialsecrecyindex.com/database/.

[409] https://www.oecd.org/tax/exchange-of-tax-information/Status_of_convention.pdf; 25.10.2017.

[410] http://www.unodc.org/unodc/en/treaties/illicit-trafficking.html; 20.7.2017.

[411] Re-inclusion of the convention will be considered again for FSI 2020, in accordance with the list of jurisdictions we assess.

[412] The (new) 2012 recommendation can be viewed at: http://www.fatf-gafi.org/media/fatf/documents/methodology/FATF%20Methodology%2022%20Feb%202013.pdf; 7.6.2015. The corresponding methodology to assess compliance with those recommendations is available at: www.fatf-gafi.org/media/fatf/documents/methodology/FATF%20Methodology-

institutional structures, and policies deemed necessary to counter money laundering and terrorist financing. For more details on the FATF and its recommendations, please read KFSI 17 on Anti-Money Laundering.[413]

Depending on whether a jurisdiction has been assessed according to the old or to the new FATF recommendations (which took effect from 2012 onwards), this component's methodology is adjusted in two main ways. First, the contents of the recommendations reflecting judicial cooperation have changed slightly. We reflect these changes by selecting those new recommendations for assessment which most closely match with the content of the old recommendations. We provide a quick comparison of the main content of the new and the old recommendation below.

Second, for one of the five subcomponents a different type of recommendation is applied to jurisdictions for which there is already a report available prepared under the new FATF methodology. This is because the total number of recommendations dealing with international judicial cooperation has reduced from five to four in the new FATF recommendations. However, eleven effectiveness measures, so-called "immediate outcomes" (IO), have been added. One of these IO measures reviews effectiveness of judicial cooperation in practice. This is the indicator we have adopted under the new methodology. In both the old and new FSI methodology, the total number of subcomponents thus remains at five.

FATF's assessment methodology for both old and new recommendations rates compliance with every recommendation on a four-tiered scale, from "compliant" to "largely compliant" to "partially compliant" to "non-compliant". Analogously, the assessment of the immediate outcomes ranges from "high-level of effectiveness" to "substantial level of effectiveness" to "moderate level of effectiveness" to "low level of effectiveness". These four tiers are linearly scaled to values between 0% and 10%.[414]

Thus, a non-compliant rating will result in a secrecy score of 10% for each subcomponent. All subcomponents are simply added to result in the overall component's secrecy score.

March%202017-Final.pdf; 13.7.2017. The (old) 2003 recommendations can be viewed at http://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF%20Recommendations%202003.pdf; 7.6.2015. The 2003 recommendations include 40 recommendations and 9 special recommendations on terrorist financing, and referred to jointly as the FATF Recommendations. For the methodology for assessing compliance with the FATF Recommendations, see: http://www.fatf-gafi.org/topics/fatfrecommendations/documents/methodologyforassessingcompliancewiththefatf40recommendationsandfatf9specialrecommendations.html; 7.6.2015.

[413] http://www.financialsecrecyindex.com/PDF/17-Anti-Money-Laundering.pdf; 21.7.2017.

[414] In order to keep the measurement in line with KFSI 1 (where we are including some recommendations from the FATF), we attribute a 10% secrecy score for non-compliant, 6.5% for partially compliant, 3.5% for largely compliant and zero secrecy for fully compliant answers.

5. Subcomponent: The old recommendation 36[415] encourages countries to "provide the widest possible range of mutual legal assistance in relation to money laundering and terrorist financing investigations, prosecutions, and related proceedings".
The new recommendation 37[416] (formerly old recommendation 36 combined with old special recommendation 5) 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". In addition, countries must "Maintain the confidentiality of mutual legal assistance requests they receive and the information contained in them [...]". Furthermore, countries should "make best efforts to provide complete factual and legal information that will allow for timely and efficient execution of requests [...]". Finally, they should ensure that their authorities "maintain high professional standards, including standards concerning confidentiality [...]".

6. Subcomponent: Old recommendation 37[417] requires that countries "to the greatest extent possible, render mutual legal assistance notwithstanding the absence of dual criminality". Extradition or mutual legal assistance should 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.

This old recommendation has no direct correspondent in the new recommendations. As a substitute, as explained above, for jurisdictions assessed under the new recommendations/methodology, we include the effectiveness assessment of immediate outcome 2 (IO2). It requires that "International co-operation delivers appropriate information, financial intelligence, and evidence, and facilitates action against criminals and their assets". For a discussion of these new effectiveness measures, please read KFSI 17 on Anti-Money Laundering.[418]

7. Subcomponent: Old recommendation 38[419] 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

[415] See page 10 in: www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF%20Recommendations%202003.pdf; 7.6.2015.

[416] See pages 27-28 in: http://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF_Recommendations.pdf; 7.6.2015. While old recommendation 37 was officially omitted, most of its content was merged to new recommendation 37.

[417] See page 10 in: www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF%20Recommendations%202003.pdf; 7.6.2015.

[418] http://www.financialsecrecyindex.com/PDF/17-Anti-Money-Laundering.pdf; 21.7.2017.

[419] See page 10 in: www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF%20Recommendations%202003.pdf; 7.6.2015.

of corresponding value". In addition, there should also be arrangements in place for coordinated action and sharing of confiscated assets.

New recommendation 38[420] (formerly old recommendation 38) 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, countries' authority should be "able to respond to requests made on the basis of non-conviction-based confiscation proceedings and related provisional measures [...]" as well as to "have effective mechanisms for managing such property [...]". Finally, there should also be arrangements in place for coordinated action and sharing of confiscated assets.

8. Subcomponent: Old recommendation 39[421] 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.

New recommendation 39[422] (formerly old recommendation 39) requires a country to "ensure money laundering and terrorist financing are extraditable offences". It further details the grounds on which extradition must take place, and in what manner. It also calls on countries to "take all possible measures to ensure that they do not provide safe havens for individuals charged with the financing of terrorism, terrorist acts or terrorist organisations".

9. Subcomponent: Old recommendation 40[423] 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 administrative and law enforcement authorities concerned with combating money laundering and terrorist financing, including the FIU and supervisors".

New recommendation 40[424] (formerly old recommendation 40) prompts countries to ensure that their competent authorities "provide the widest range of international co-operation in relation to money laundering, associated predicate offences and terrorist financing". The competent authorities "should have clear and efficient processes for the prioritisation and timely execution of requests, and for safeguarding the information received".

[420] See page 28 in: http://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF_Recommendations.pdf; 7.6.2015.

[421] See pages 10-11 in: www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF%20Recommendations%202003.pdf; 7.6.2015.

[422] See page 29 in: http://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF_Recommendations.pdf; 7.6.2015.

[423] See page 11 in: www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF%20Recommendations%202003.pdf; 7.6.2015.

[424] See pages 29-30 in: http://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF_Recommendations.pdf; 7.6.2015.

3.20.2 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. Some jurisdictions aim to attract substantial amounts of that criminal money by offering a thin fabric of weak national rules and regulations or by an absence of cross-border cooperation. Against this background, it is important to verify to what extent a jurisdiction is committed to certain principles.

Regarding the jurisdiction's international transparency commitments, 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 contribute to varying degrees 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 three international Conventions, only one (UNCAC) has started to implement a systematic and partly transparent review process of adherence to commitments made under that Convention.[425]

Regarding the second component of KFSI 20, i.e. the jurisdiction's international judicial cooperation on money laundering and other criminal matters, it is crucial that judicial cooperation across borders is as seamless as the criminal money flowing between two companies or bank accounts. Otherwise, law enforcement agencies, such as public prosecutors or police, inevitably remain one step behind the criminals.

From the stages of investigation and prosecution to extradition of perpetrators and the confiscation and repatriation of criminal assets, law enforcement processes are fragile and require cross-border cooperation at every stage. Without established means of cooperation, a judge may only have letters of rogatory as a last resort, 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).[426]

Compliance with old recommendations 36 through 40, and with new recommendations 37 through 40 and IO 2, respectively, can be seen as indicators of the minimum threshold of judicial cooperation required to take part in the international financial system.

[425] http://www.uncaccoalition.org/uncac-review/uncac-review-mechanism; 22.07.2015.

[426] Organisation for Economic Co-Operation and Development 2001, Behind the Corporate Veil: Using Corporate Entities for Illicit Purposes, Paris.

4. Quantitative component: 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, which we use a measure of risk. The more cross-border financial services a jurisdiction provides, the greater the potential threat if the jurisdiction is not fully transparent. We explain how the scale 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 build on a methodology pioneered at the IMF (Zoromé 2007) to extrapolate from stock measures in order to generate flow estimates. This allows us to create a comprehensive 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. In addition, for FSI 2018 we have explored alternative data sources and approaches for the GSW and we discuss these in detail in Annex G. For 2015, the most recent year which has achieved relatively full coverage, the BOPS cover 154 jurisdictions for exports of financial services. Next, 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-B below).

Data on stocks of portfolio assets and liabilities are taken from two IMF sources: the Coordinated Portfolio Investment Survey (CPIS)[427] and the International Investment Position (IIP) statistics, of which the latter is part of the BOPS.[428] CPIS data for 2015 covers 88 jurisdictions for total portfolio assets, and 225 jurisdictions for total portfolio liabilities, which are derived from reported assets of other countries. IIP data for 2013 covers 151 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. Gabriel Zucman (2013) focuses in his estimation of "the missing wealth of nations" on liability mismatches. TJN has made some critical comments on this approach (see footnote 1, here[429]), and for the purpose of the FSI, 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

[427] The CPIS data was downloaded on 24 March 2017 from http://data.imf.org/CPIS
[428] The BOPS data was downloaded on 20 November 2017 from http://data.imf.org/?sk=7A51304B-6426-40C0-83DD-CA473CA1FD52
[429] www.taxjustice.net/wp-content/uploads/2014/06/The-Price-of-Offshore-Revisited-notes-2014.pdf; 9.10.2015.

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.

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 (2001-2016) rather than a single year on which to base the extrapolation, which appears to allow marginally more accurate estimation of flows from stock data.

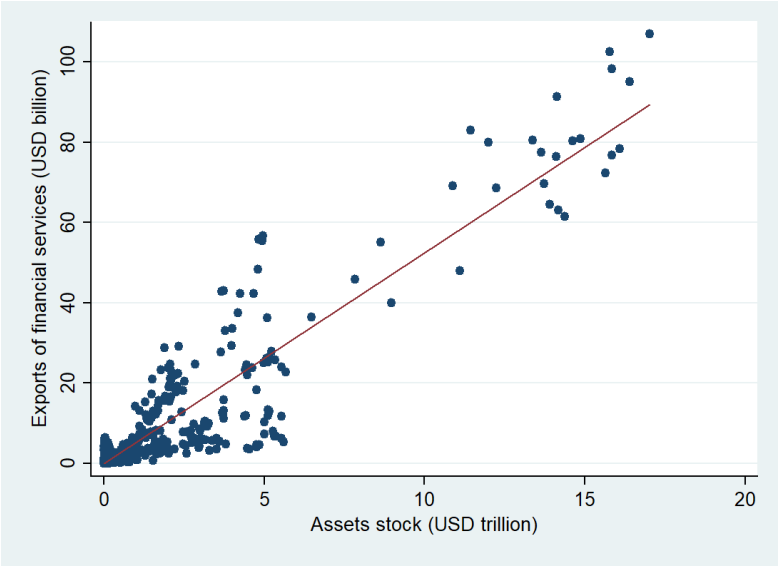
Table 4-A: Regression results for extrapolation from total portfolio assets stock - specification makes little difference

Model	Coefficient on independent variable (asset stock)	R-squared
Pooled OLS, no constant	0.0052448	0.8829
Pooled OLS	0.0052618	0.8750
Panel, fixed effects	0.0052567	0.8750
Panel, random effects	0.0052561	0.8750
N (number of observations)		1740
Number of groups (in panel)		151
Average observations per country (out of 16, 2001-2016)		11.5

Source: Authors.

As Table 4-A shows, the implied coefficients (all significant at the 1% level) are very similar regardless of the specification chosen, including a fixed-effects panel regression. We ultimately select a pooled OLS regression to allow the constant to be constrained to zero, as in Figure 4-A, which shows the first regression in the extrapolation process, as detailed in Table 4-B below.

Figure 4.1: Relationship between Asset stocks and Exports of financial services



Source: Authors

In total, we are able to create flow data (true or extrapolated) for 231 jurisdictions (out of 259 jurisdictions theoretically considered), which we believe cover the majority of the global provision of financial services to non-residents.

Table 4-B shows the breakdown of data availability in each step of the extrapolation process. 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 not available (not declared by jurisdictions), we extrapolate from liability data declared by other jurisdictions (case 4).[430] Of the 112 jurisdictions considered in the Financial Secrecy Index 2018, we have true data on exports of financial services for 85 jurisdictions, and can extrapolate for all the remaining 27 jurisdictions.

Table 4-B: Summary of the extrapolation for the exports of financial services

Data source	No. of jurisdictions evaluated for FSI 2018	All (2018)	No. of obser-vations	R^2
1. True trade in financial services data (BXSOFI_BP6_USD, IMF BoP)	85	154		
2. Extrapolated from asset data (IA_BP6_USD, IMF BoP)	5	11	1 740	0.8829
3. Extrapolated from asset data (I_A_T_T_USD_BP6_USD, IMF CPIS)	6	6	927	0.7532
4. Extrapolated from liability data (based on non-declaration of asset data) (I_L_T_T_T_BP6_DV_USD, IMF CPIS)	16	60	1 832	0.7512
5. No data available	0	28		
TOTAL	112	259		

Source: Authors. Data year: 2015.

Finally, then, we can use the total level of exports of financial services, for the 231 jurisdictions where exports of financial services can be established, as a global total of cross-border financial services, and take the values of each of the 112 FSI-2018 jurisdictions as a share of this global total. This creates a global scale weight reflecting the relative importance of each jurisdiction. The global scale weight for jurisdiction i, GSW_i, is thus defined as:

$$GSW_i = \frac{Exports\ of financial\ services\ (true\ or\ extrapolated)_i}{Sum\ of\ global\ exports\ of financial\ services\ (true\ or\ extrapolated)}$$

The sum of all global scale weights for the 112 FSI-2018 jurisdictions (i.e. the share of all cross-border financial services provided by the 112 jurisdictions covered by the FSI 2018) is 99.33%.

[430] In FSI 2015, there was one more step in the extrapolation, which concerned only the Cayman Islands because of its non-credible reported data for 2013, but they seem credible for 2015 (but not for 2014 or before). The Cayman Islands are now in category 3 (extrapolated from asset data). See the methodology for FSI 2015 for more details on the issue.

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. The higher the global scale weight of a given jurisdiction, the greater the risk posed to others if secrecy is chose, and sothe greater its responsibility to be transparent.

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 global scale weights is that a large part, perhaps even the majority, of illicit financial flows may occur through trade in goods rather than through financial flows.[431] 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 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 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

[431] 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).

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, 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 the creation of the FSI is to combine the global scale weights with the secrecy scores, to generate a single number by which jurisdictions can be ranked, reflecting the potential global harm done by each jurisdiction. 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 the relative global scale weight, the choice of method to combine secrecy and scale is necessarily subjective. In each case, however, the approach taken is transparent and reflects the expertise of a wide group of stakeholders over many years.

In the choice of how to combine secrecy scores with global scale weights we are led by the FSI's core objective (stated above): the FSI measures a jurisdiction's contribution to global financial secrecy in a way that highlights harmful secrecy regulations. By doing so, the FSI contributes to and encourages research by collecting data and providing an analytical framework to show how jurisdictions facilitate illicit financial flows. Second, it focuses policy debates among media and public interest groups by encouraging and monitoring policy change globally towards greater financial transparency.

For the FSI 2018, we use the same formula as in the previous editions of the FSI. The formula that defines the FSI 2018 for jurisdiction i thus looks as follows:

$$FSI\ 2018_i = Secrecy\ Score_i^{\,3} * \sqrt[3]{Global\ Scale\ Weight_i}$$

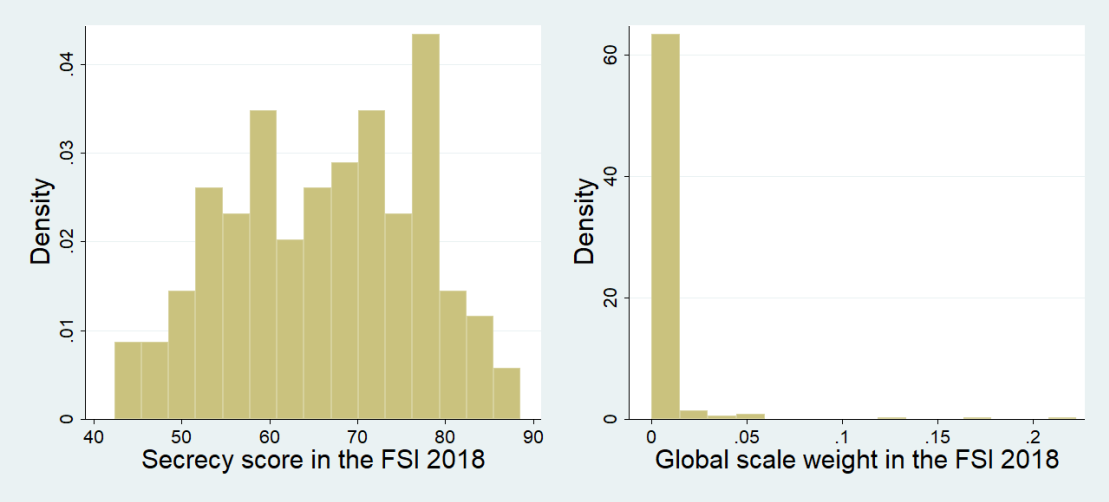
Therefore, in line with the core objective of the FSI, relative to a simple multiplicative combination of the two entities, by cubing the secrecy score and taking a cube root of the global scale weight, we highlight the importance of harmful secrecy regulations in contributing to global financial secrecy. A number of other alternatives for the combining formula has been explored. The most straightforward way to combine the two entities would be a simple multiplication formula, whereby each jurisdiction's secrecy score would be multiplied by the jurisdiction's global scale weight, without any prior scaling. The problem with this alternative is best described by Figure 5-A, which shows the histograms of both distributions. We recognize three main problems.

First, both the theoretical and empirical ranges of both variables are fundamentally different. While secrecy scores range theoretically from 0 to 100 and empirically from 42.35 to 88.575, global scale weights range theoretically from 0 to 0.993 (because, as described in the previous chapter, the 112 jurisdictions considered for the FSI 2018 cover 99.3% of all global exports of financial services) and empirically from $8.71 * 10^{(-10)}$ to 0.223.

Second, the distribution of global scale weights is heavily skewed to the left, leaving little space for secrecy scores to play a significant role for the vast majority of jurisdictions if we were to use simple multiplication. As a result, the correlation between the global scale weights and the FSI would be 98% and thus would tell a story driven almost entirely by the GSW.

Third, while the global scale weights are constrained to sum up to 0.993, the secrecy scores are not constrained nor from above nor below.[432]

Figure 5-A: Histograms of secrecy score and global scale weights



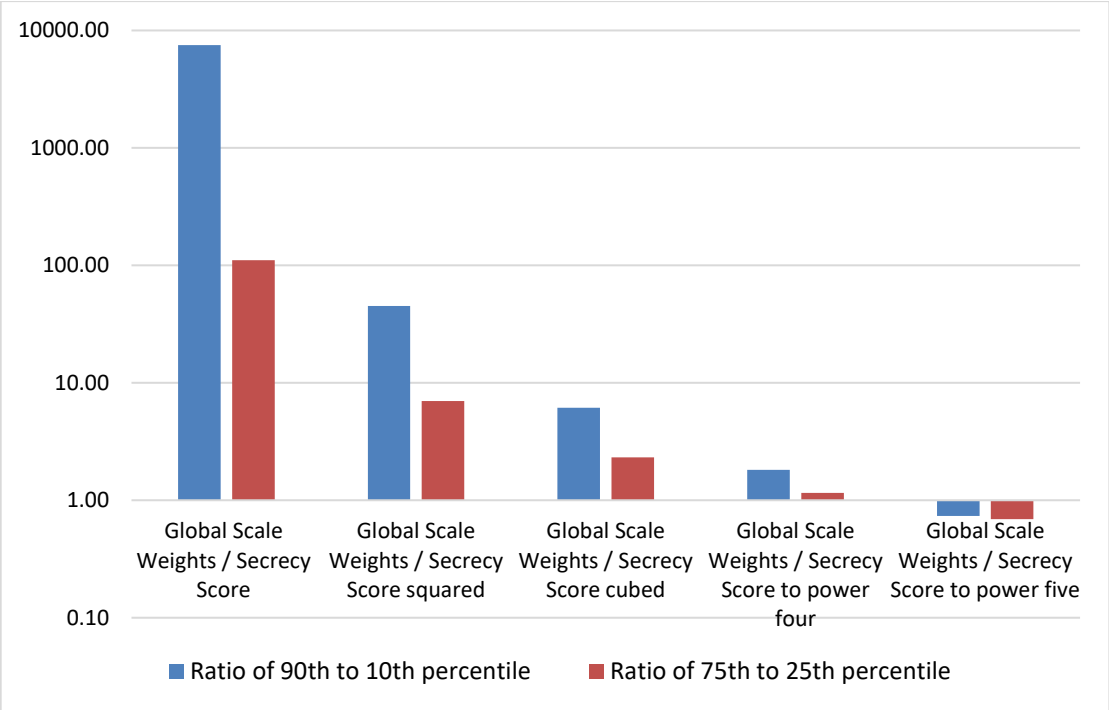
Source: Authors.

The next alternative that has been explored in this context was to use powers (and, respectively, roots) to incease (decrease) the dominance of secrecy scores (global scale weights). Let us consider the ratios in each series (secrecy scores and global scale weights) between the 90th and 10th percentiles, and between the 75th and 25th percentiles, for the untransformed data, squared and square-rooted, cubed and cubed-rooted, and so on. The higher this ratio, the wider the range in the series. We can then compare the ranges of the SS and GSW by simply taking a ratio of the two ratios.

Figure 5-B shows the result. In the original, untransformed series, the 90/10 percentile ratio is more than seven and a half thousand times higher for GSW than for SS; the 75/25 ratio more than a hundred times higher. If we square the SS and take the square root of the GSW, these ratios fall to below 45 and 7, respectively; if we cube the SS and take the cube root of the GSW, they fall around 6 and 2, respectively. Finally, looking at fourth and fifth powers and roots, we see that these result in the variation of the GSW series becoming disproportionately small. Therefore, the cube power/cube root combination is preferred.

[432] Obviously, the secrecy scores could, in theory, sum up to the minimum of 0 and a maximum of 112*100=11,200, however, such secrecy scores would mean that each and every considered jurisdiction is as secretive as possible, or as unsecretive as possible. It is reasonable to assume that such a case is not even theoretically possible, because if such scores were to result from a previously defined methodology, the methodology to construct the individual components of the secrecy scores would have been changed in the first place.

Figure 5-B: Relative size of ratios of global scale weights / secrecy score



Source: Authors.

Another branch of alternatives has been explored by the JRC in their audit (see the following chapter). For the FSI 2018, we have opted against the alternatives of the formula proposed by the JRC, because the used scaling of the SS and GSW is a transformation which impacts on the final ranks, and thus is a departure from a pure "weighing" of the secrecy score by magnitude.

After careful consideration of each of the proposed alternatives and their advantages and disadvantages, we prefer the cubed formula because of its specific characteristics that were highlighted by the JRC:

> "The gradient of the surface varies quite substantially over the space of countries—for example, the gradient is quite high in corner of high SS and low GSW, meaning that in this area, a small increase in GSW results in a very sharp increase in the FSI. The implication is that countries that have a similar SS can have markedly different FSIs as a result in relatively small differences in GSW. On the other hand, countries with low SS and low GSW will only experience a small increase in FSI if the GSW were to be increased. Overall, for countries with small GSW, their FSI is driven much more by their GSWs than by their SSs. The opposite is true for countries with large GSW: here countries are differentiated mainly on their secrecy scores." (p.178)

This particular feature of the cube/cube-root formula matches very well the revised core objective of the FSI to measure a jurisdiction's contribution to global financial secrecy while highlighting harmful secrecy regulations. If a jurisdiction's secrecy score is on the high end of the spectrum, we do expect even a small GSW increase to imply a disproportional increase of global financial secrecy (and accompanying responsibility). If, on the other hand, a jurisdiction's SS is relatively low, a small change in the jurisdiction's GSW should not add much to the global financial secrecy overall.

Another reason to favour a somewhat disproportionate impact of the global scale weight at the high end of the secrecy spectrum is the "race to the bottom" effect that those jurisdictions on the high end of the secrecy spectrum have on other countries; the responsibility of such countries is higher than what we measure strictly speaking in our two components, because these jurisdictions act as accelerators in a global "race to the bottom" towards regulatory laxity and secrecy (in a context of perceived competition among jurisdictions).

Once decided on the cubed/cubed-root formula to combine the secrecy scores with the global scale weights, we proceed with one additional step to arrive at the final number that best matches the objective of the FSI – taking the share of each jurisdiction's FSI on the total sum of FSI scores for all jurisdictions. Assuming that the sum of FSI scores for all 112 jurisdictions in the FSI 2018 can be considered as the total amount of financial secrecy provided in the world, the constructed shares will represent each jurisdiciton's contribution, in percentage terms, to the global financial secrecy. This contribution to global financial secrecy, CGFS, of jurisdiction i is thus defined as follows:

$$CGFS_i = \frac{FSI_i}{\sum_{i=1}^{112} FSI_i} * 100\%$$

We present the results of the FSI 2018 in four parts: secrecy scores, global scale weights, financial secrecy index value, and the contribution to financial secrecy. The full results for all 112 jurisdictions are reported in Annex A.

A special methodological consideration concerns the aggregation of jurisdictions which are controlled by and dependent upon another jurisdiction. Most importantly, this question arises with respect to the large network of satellite jurisdictions associated with the United Kingdom. In Overseas Territories (OTs) and Crown Dependencies (CDs) the Queen is head of state; powers to appoint key government officials rest with the British Crown; laws must be approved in London; and the UK government holds various other powers.[433] Arguably, political responsibility for the secrecy scores of OTs and CDs rests with the United Kingdom.

Therefore, we seek to compute an FSI for the entire group of OTs and CDs, we first need to calculate the group's joint Secrecy Score and joint Global Scale Weight. Calculating the joint Global Scale Weight is straightforward - we just sum up each jurisdiction's individual Global Scale Weight to arrive at 22.57% (or 5.2% excluding the UK). To combine the Secrecy Scores, we see at least four relevant options.

First, and most consistent with the overall FSI approach of applying the weakest link principle, is to search across all relevant dependencies for the highest secrecy score in each of the KFSIs separately. This secrecy score is then allocated to the whole group, and the set of highest secrecy scores is averaged to arrive at the group secrecy score. The resulting Secrecy Score for the UK sphere of influence then would be 85.40 and the UK would top the FSI by a very large margin with a FSI value of 3792.

[433] www.financialsecrecyindex.com/PDF/UnitedKingdom.pdf

Second, we could use the highest Secrecy Score of any of these jurisdictions, 77.5 (for both Anguilla and Montserrat), to arrive at an FSI of 2834 (or 1737.7 excluding the UK), again resulting in the whole group topping the list.

Third, we could take a simple arithmetic average to arrive at 69.13 (or 71.81 excluding the UK), resulting in an FSI of 1382.2 (or 2011.31 including the UK), putting the whole group again at the first (or second, excluding the UK) behind Switzerland, which has an FSI of 1589.6.

Fourth, using average Secrecy Scores weighted by each jurisdiction's Global Scale Weight, which emphasises the relative transparency of the UK over its secrecy network, we arrive at 49.05 (71.4 excluding the UK), resulting in an FSI of 718.29 (or 1358.56 excluding the UK), putting the whole group at the ninth place (or second excluding the UK). Note that our list excludes many British Commonwealth realms where the Queen remains head of state.

6. The JRC Statistical Audit of the Financial Secrecy Index 2018

William Becker and Michaela Saisana, European Commission, Joint Research Centre

Summary

The construction of the Financial Secrecy Index (FSI) from 115 variables to 20 Key Financial Indicators (KFSIs) that are grouped further into a Secrecy Score and aggregated together with a global scale weight across 112 jurisdictions worldwide inevitably entails both conceptual and practical challenges. The statistical audit discussed in this chapter constitutes the first collaboration between the Tax Justice Network and the European Commission's Joint Research Centre (JRC). The statistical assessment carried out by JRC aims at enhancing the transparency and reliability of the FSI and thus to enable policymakers to derive more accurate and meaningful conclusions. Prior to undertaking this statistical assessment, the Tax Justice Network and JRC engaged in previous discussions during spring 2016 and fall 2017, whereby earlier versions of the FSI were assessed by the JRC. Preliminary JRC suggestions were taken into account by TJN for the final computation of the FSI scores and rankings.

The intentions of the audit are to:

- Investigate the characteristics of the underlying data and check for eventual errors in calculation
- Assess the associations between indicators and see to what extent they agree with the conceptual framework
- Review the methodology used to treat, weight, and aggregate data
- Assess the impact of modelling assumptions (uncertainty and sensitivity analysis) on the FSI ranks
- Eventually recommend modifications based on the conclusions of the above.[434]

In particular, the JRC analysis complements the reported FSI ranks for the 112 jurisdictions with estimated confidence intervals, in order to better appreciate the robustness of these ranks to some modelling choices (such as choice of the variable to capture the global scale weight, the normalisation the weighting scheme and the aggregation formula).

Importantly, the construction of a composite indicator is a balance between statistical "rigour" and conceptual considerations, which can not infrequently contradict each other. This audit aims to investigate and analyse the statistical side of the equation, but does not aim to offer conceptual suggestions (which are better left to experts in international finance and regulations), or suggest where the balance should be struck between statistics and the concept of financial secrecy.

6.1 Construction of the Financial Secrecy Index

While the making of the FSI is described in more detail in the previous chapters of this report, a brief description of the index is helpful to put the audit in context and to allow the present chapter to be read independently if necessary.

The Financial Secrecy Index aims to *measure a jurisdiction's contribution to global financial secrecy in a way that highlights harmful secrecy regulations*. The FSI 2018 covers 112 jurisdictions, which have been selected according to their importance in international financial

[434] The JRC statistical audit was based on the recommendations of the OECD & JRC (2008) Handbook on Composite Indicators, and on more recent research from the JRC. Generally, JRC audits of composite indicators and scoreboards are conducted upon request of their developers, see https://ec.europa.eu/jrc/en/coin and https://composite-indicators.jrc.ec.europa.eu/

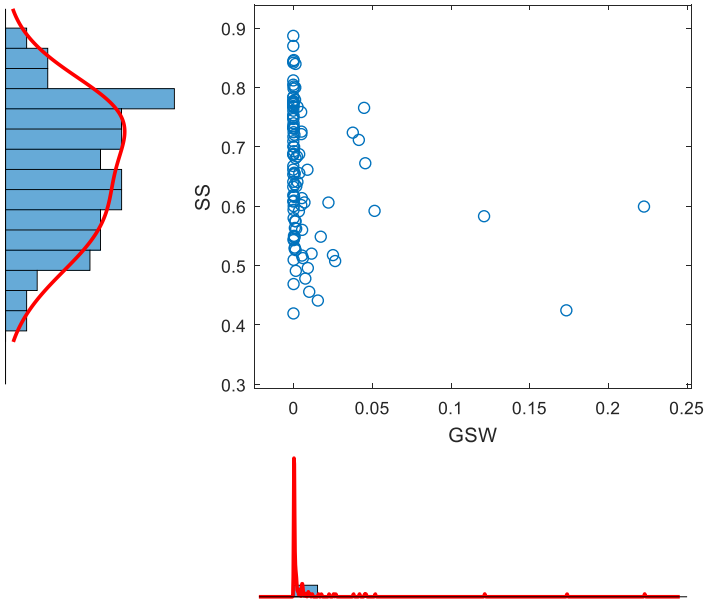
services. In fact, these 112 jurisdictions cover 99.3% of all global exports of financial service, as reported by the index developers. The number of jurisdictions has increased in successive editions of the FSI, with the present edition adding nine new jurisdictions. The FSI does not offer full global coverage because of gaps in data coverage, and the significant research effort of gathering data (much of which is based on original research). For more information on jurisdictions see Chapter 2, Jursdictions Covered.

The FSI is constructed (for each jurisdiction, indexed by *i*) as the product of a *secrecy score* (SS) and a *global scale weight* (GSW) as follows:

$$\mathrm{FSI}_i = \mathrm{GSW}_i^{1/3} . \mathrm{SS}_i^3 \qquad (1)$$

Figure 6-A shows the distributions of the GSW and SS: while the distribution of the SS is roughly normal, the GSW distribution is highly skewed to the left (reflecting the fact that some few jurisdictions have very large GSWs, while the large majority have very small GSWs). Highly skewed distributions are problematic when aggregating indicators, because the variability of the indicator is only due to some very few points, with the remainder having (relatively) almost no variability.

Figure 6-A: Scatterplot and marginal histograms of GSW and SS



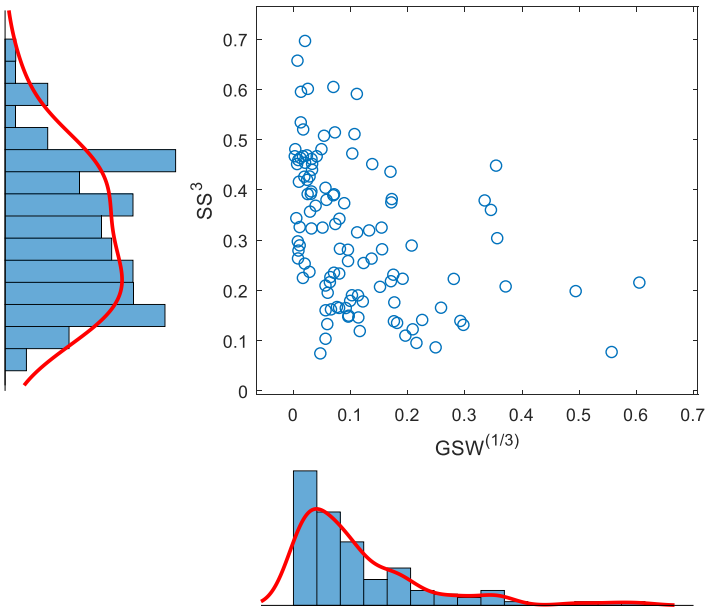
Source: European Commission, Joint Research Centre (JRC), 2017

The TJN acknowledge these problems by illustrating the imbalance in percentiles (see previous chapter). Their solution is to take the cube root of the GSW, and the cube of the SS—this results in a much better balance in percentiles between the two variables. Figure 6-B shows the distributions after this transformation. The distribution of the GSW is much improved, although still slightly skewed to the left. The SS now has a slight skew to the right.

The JRC tested different approaches to combine the SS and GSW into one number, all of which have different statistical and conceptual properties, and are presented later in this chapter. Yet, all aggregation methods involve different compromises between achieving statistical balance and not distorting the measured reality of the GSW (as well as conceptual considerations), therefore none of them are recommended per se. After careful

consideration, the TJN decided to retain the original formula for calculating the FSI scores, for a number of reasons that are discussed in the previous chapter. Nevetheless, the different approaches tested by JRC are retained here as a useful discussion of the statistical properties of the FSI.

Figure 6-B: Scatterplot and marginal distributions of SS^3 and $GSW^{(1/3)}$



Source: European Commission, Joint Research Centre (JRC), 2017

6.1.1 Secrecy Score

Underlying the Secrecy Score are 20 *Key Financial Secrecy Indicators* (KFSIs). This data is compiled by original desk-based research of TJN analysts, and comes from analysis of reports published by international agencies and organisations, country level original legislation, and a questionnaire that is sent to the ministries of finance and anti-money laundering "financial intelligence units" of each reviewed jurisdiction. Each KFSI is itself comprised of one or more questions which are posed to the experts, so in a sense each KFSI already represents an aggregation of sorts. Overall 115 questions have been selected by the TJN for the calculation of the twenty KFSIs. For each of these sub-indicators (questions), data that was not forthcoming from the questionnaire is assigned the most secretive score. After accounting for this assumption, the KFSI data does not have any missing data for the 112 jurisdictions covered.

The original sources of data for each KFSI are all referenced in detail on the website, and the definitions of each KFSI are given in depth on the individual KFSI fact sheets. This transparency and detail in the source information lends considerable credibility to the FSI and opens the data for use by stakeholders, as well as other researchers and analysts.

The KFSIs are grouped according to four conceptual themes as shown in Table 6-A, on the following page.

Table 6-A: Definitions and grouping of Key Financial Secrecy Indicators

Grouping	Number	Definition
Ownership registration	1	Bank Secrecy
	2	Trust and Foundations Register
	3	Recorded Company Ownership
	4	Other Wealth Ownership
	5	Limited Partnership Transparency
Legal entity transparency	6	Public Company Ownership
	7	Public Company Accounts
	8	Country-by-Country Reporting
	9	Corporate Tax Disclosure
	10	Legal Entity Identifier
Integrity of tax and financial regulation	11	Tax Administration Capacity
	12	Consistent-Personal-Income-Tax
	13	Avoids Promoting Tax Evasion
	14	Tax Court Secrecy
	15	Harmful legal vehicles
	16	Public Statistics
International standards and cooperation	17	Anti-Money Laundering
	18	Automatic Information Exchange
	19	Bilateral Treaties
	20	International Legal Cooperation

To obtain the Secrecy Score, SS for country *i* is obtained by taking the arithmetic average of the 20 KFSIs (indexed here by *k*) for each jurisdiction:

$$\mathrm{SS}_i = \frac{1}{20}\sum_{k=1}^{20} \mathrm{KFSI}_{k,i} \qquad (2)$$

6.1.2 Global Scale Weight

The global scale weight aims to measure each jurisdiction's share of offshore financial services activity in the global total. To do this, the TJN considers several alternative possible variables, which are discussed in Annex G. A description of the alternative GSW measures are as follows:

GSW-A	Trade in financial services (IMF Balance of Payments data)
GSW-B	Foreign direct investment (UNCTAD Foreign Direct Investment statistics)
GSW-C	Derived liabilities (IMF Coordinated Portfolio Investment Survey data)
GSW-D	Trade in services (UNCTADStat statistics)
GSW-E	Trade in goods (UN Comtrade data)
GSW-F	Bank deposits (Bank of International Settlements)
GSW-α	GSW-A, GSW-B, GSW-C

GSW-β	GSW-B, GSW-C, GSW-D

After an analysis of these alternatives, the TJN decided to use GSW-A, the *Trade in financial services* (TFS), from the IMF Balance of Payments data[435] as it is conceptually the closest to the definition of the GSW and the aims of the FSI. In this audit, this version of the GSW will be used in the analysis (although some analysis on the alternatives is performed in the following section, and an alternative is considered in the uncertainty analysis at the end of this chapter).

The TFS is scaled for each country *i* by dividing country's TFS by the sum of the TFS for all jurisdictions. This results in a GSW that represents the share of the global total (neglecting jurisdictions for which no data was available):

$$\mathrm{GSW}_i = \frac{\mathrm{TFS}_i}{\sum_{i=1}^{112} \mathrm{TFS}_i} \qquad (3)$$

GSW data was directly available for 85 of the 112 jurisdictions (76%). For the remainder, GSWs were estimated using data on stocks of internationally-held financial assets with which there is a strong correlation (see Chapter 4).

An important conceptual difference between the SS and the GSW is that the GSW is a measurable quantity which, for each country, can be reasonably interpreted as the share of the global total of offshore financial activity. The SS is more subjective: although it is based on objective indicators, the choice of which indicators to include and which scores to assign for various responses is necessarily subjective. The SS represents the extent to which each jurisdiction is secretive in its financial activity.

[435] http://www.imf.org/external/datamapper/datasets/BOP

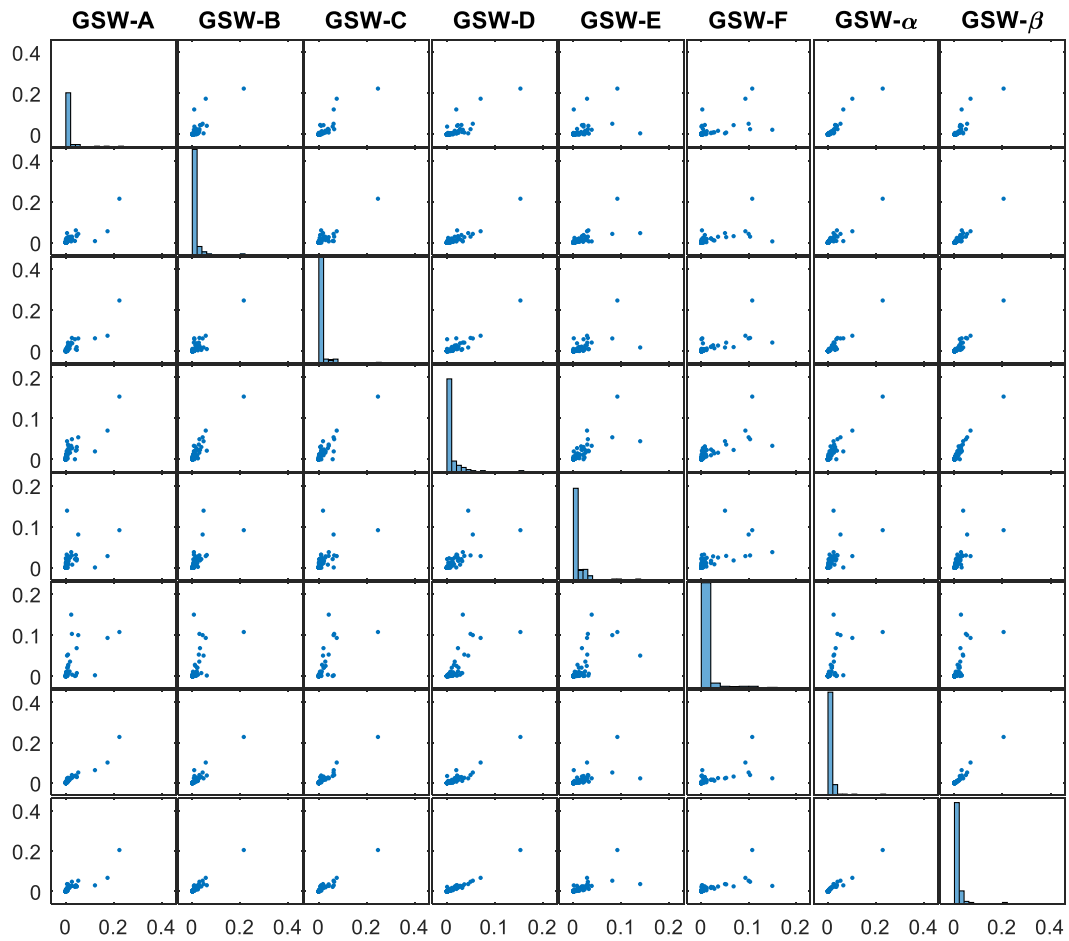
6.2 Exploring the data

This section comprises an exploratory analysis of the data at the indicator level (i.e. within the two FSI components, the global scale weight and the secrecy score). For the global scale weight, this comprises mostly an analysis of eight alternative GSW measures. For the secrecy score it examines the correlations between the twenty KFSIs and the links between individual KFSIs and the overall SS.

6.2.2 Global Scale Weight

The GSW data, for all the alternative variables considered, is classical log-normal data. This means that it is heavily skewed to the left, i.e. most jurisdictions have very small GSWs, while a small number have very large values. To emphasise this point, Figure 6-C shows scatter plots of all alternative GSW variables against each other, with histograms of each variable on the diagonal. From this figure it is difficult to understand the extent to which the variables are related to each other, because of the heavy skew of the distributions.

Figure 6-C: Scatter plots and histograms of untransformed GSW data.



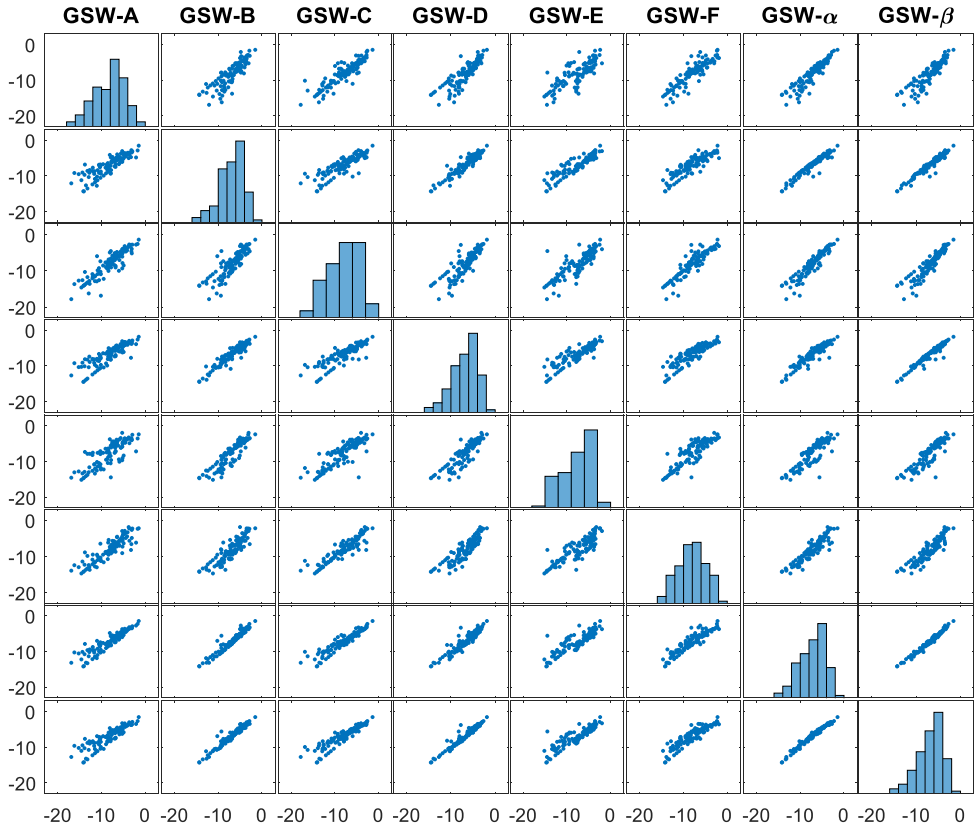
Note: The rows are in the same order as the columns.

Source: European Commission, Joint Research Centre (JRC), 2017

In order to see the relationship between the eight alternative measures to capture the global scale weight, the log transform is taken of all variables. The new scatter plot matrix is shown

in Figure 6-D. Now the relationships become easily visible: there are strong linear relationships between all of the variables considered. Since correlation is a linear measure of dependence between two variables, the log-transformed correlation values are much more representative of the relationships between the variables. These relationships support the TJN's approach of using regression to estimate the 24% of the missing values for GSW-A.

Figure 6-D: Scatter plots and histograms of log-transformed GSW data.

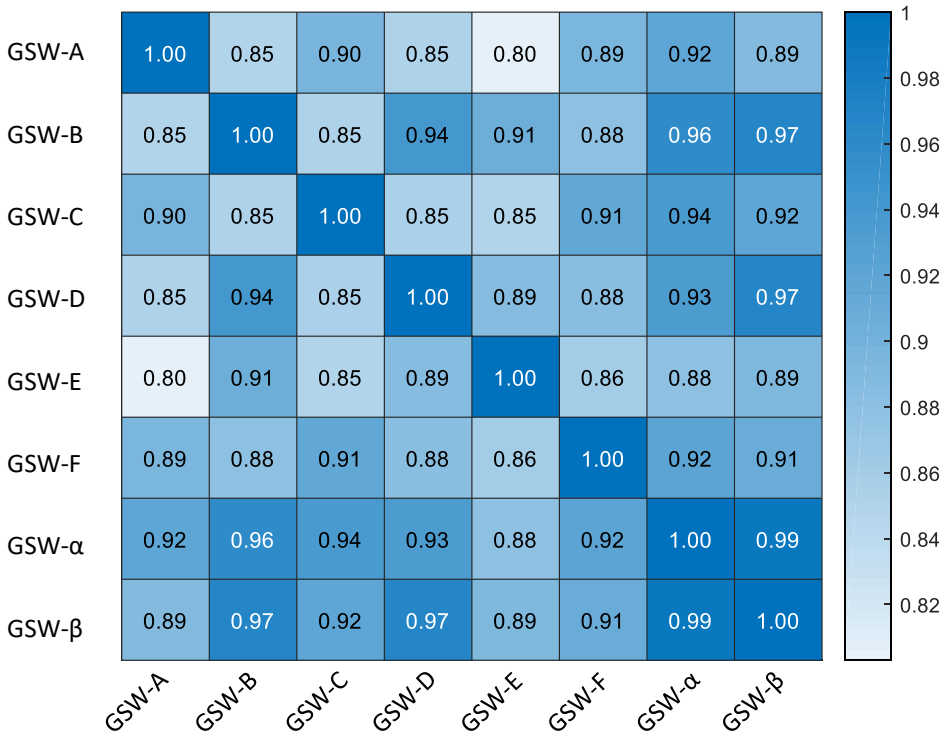


Note: The rows are in the same order as the columns.

Source: European Commission, Joint Research Centre (JRC), 2017

Figure 6-E shows a heat map of the correlation values (after log transforms) of the various GSW measures. The lowest correlation between any pair of variables is around 0.8: this means that the GSWs all appear to measure a similar concept. If the GSWs are taken as independent possible GSW measures, the GSW variable with the highest overall correlation with other variables is GSW-α (an average of GSW-A B and C), with an average bivariate correlation of 0.94. This is in fact no surprise since it is constructed from three of the other indicators. The lowest average bivariate correlation is found with GSW-E, namely the trade in goods (0.88). Despite the strong correlations between the eight alternative measures, the choice of the variable to represent each jurisdiction's global share of offshore financial services activity may have a noteworthy impact on the FSI ranks. For this reason, the impact of this assumption is assessed in the uncertainty and sensitivity analysis in Section 6.5. Overall, GSW-A has an average correlation of 0.87 with the other GSW alternatives.

Figure 6-E: Pearson correlation coefficients between GSW variables after log transforms.

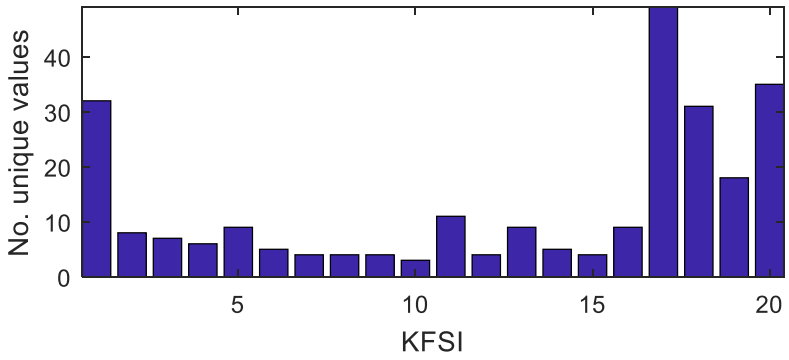


Note: Shading relates to strength of correlation. All values are significant at the 1% level.
Source: European Commission, Joint Research Centre (JRC), 2017

6.2.3 Secrecy Score

A similar exploratory analysis of the KFSI data can also be performed. In this case however, the context is different because the KFSIs are all used in the final FSI, and are aggregated together using an arithmetic average—see Equation (2). A heat map can again be generated which shows the relationships between the twenty KFSIs. However in this case, the data is largely discrete, with many indicators having only a small number of unique values—see Figure 6-F below.

Figure 6-F: Number of unique values in each KFSI over all 112 jurisdictions



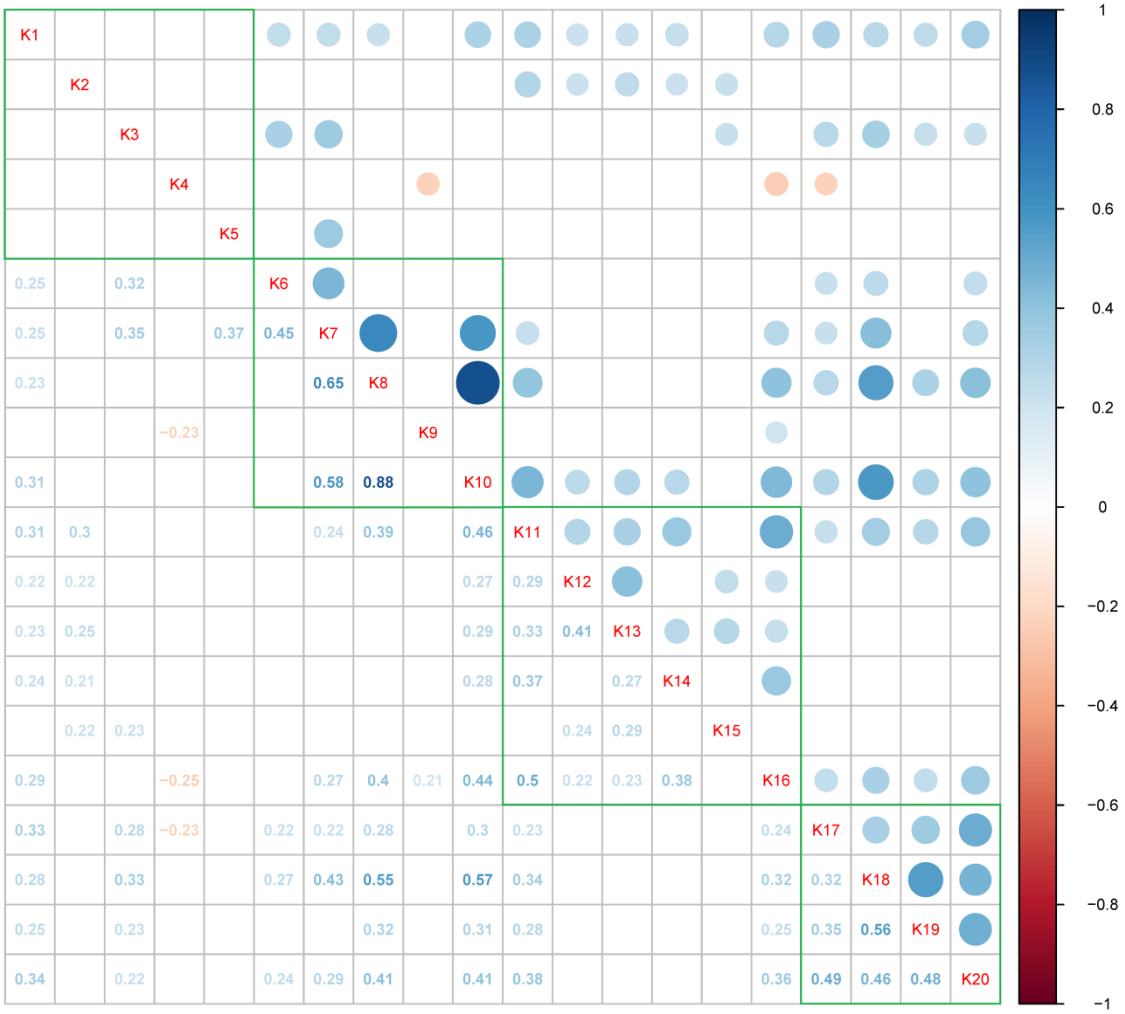
Source: European Commission, Joint Research Centre (JRC), 2017

In the case of the KFSIs, the data cannot be interpreted by linear regression, and log transforms do not help either. To understand the data structure, the Kendall-Tau rank correlation is used: this is essentially a measure of how similar the ranking is between pairs of KFSIs. An alternative measure would be to use the Spearman rank correlation, which is also a measure of rank similarity. Figure 6-G shows the heat map of Kendall-Tau correlations: evidently the large majority of KFSIs are positively correlated, although they are not in general strongly correlated.

Only a few strong correlations (above 0.6) are present: between KFSI-8 ("Country-by-Country Reporting") and KFSI-10 ("Legal Entity Identifier") or KFSI-7 ("Public Company Accounts").

Furthermore, many variables also do not have statistically significant correlations (using p=0.01 as a threshold for statistical significance). In particular, KFSI-5 ("Limited Partnership Transparency") and KFSI-9 ("Corporate Tax Disclosure") have no statistically significant association to any of the other KFSIs, except for a moderate to low association to one KFSI.

Figure 6-G: Kendall-tau rank correlations between KFSIs.



Note: Size and colour of circles relates to strength of correlation according to the colour scale on the right. Correlations that are not significant at the 1% level are left blank. Green boxes show conceptual grouping of KFSIs.

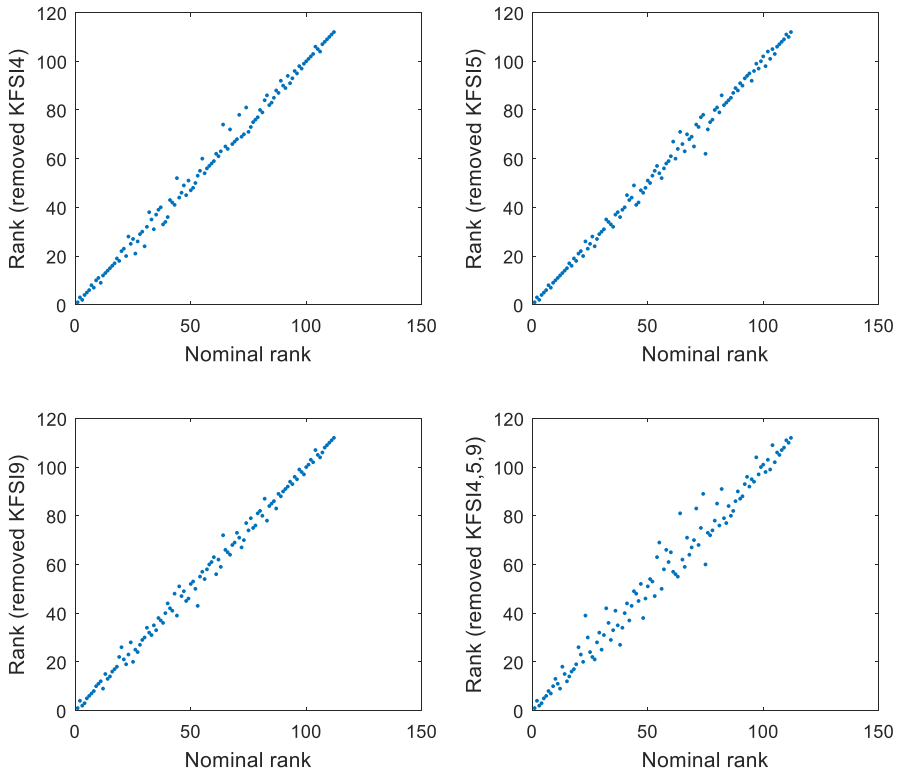
Source: European Commission, Joint Research Centre (JRC), 2017

There are some undesirable negative correlations, all of which are associated with KFSI-4 ("Other Wealth Ownership") and which help to flag possible conceptual issues with this indicator. In this case, KFSI-4 is negatively correlated with 3 of the 19 other KFSIs and it is not

statistically related to any of the remaining 16 KFSIs. This might be a concern, because (purely from a statistical point of view) "Other Wealth Ownerhsip" seems to be measuring a type of secrecy that goes against the trend of other indicators and is entirely different from the secrecy aspects captured in the framework as a whole.

A first recommendation from this type of analysis is therefore to review KFSI-4, KFSI-5 and KFSI-9 to make sure that they indeed have an added value in the framework. From a purely statistical point of view, it is possible to check the rank changes which occur when removing these KFSIs. Figure 6-H shows the rank plots which result when removing each of these indicators one by one, and all three at once. Visually, there is the greatest rank change when removing all three indicators simultaneously, whereas when each is removed individually, the impact is relatively modest. The average absolute rank shifts are, respectively, 1.8, 1.5, 1.7 and 3.7 for removing KFSI 4, 5, 9, and all three simultaneously. In all four cases, Portugal is the country with the greatest drop in rank as a result (-10, -7, -8 and -17 places respectively), whereas the countries that gain the most ranks are Turkey, Tanzania, Belgium and Tanzania, with increases of 6, 13, 10 and 15 places respectively. Given the effort that is put into collecting KFSI data, it may be useful to consider the added value of each KFSI for future versions of the FSI.

Figure 6-H: Scatter plots of nominal FSI ranks against ranks obtained after removing KFSI4 (top left), KFSI5 (top right), KFSI9 (bottom left) and KFSIs 4, 5 and 9 together (bottom right).



Source: European Commission, Joint Research Centre (JRC), 2017

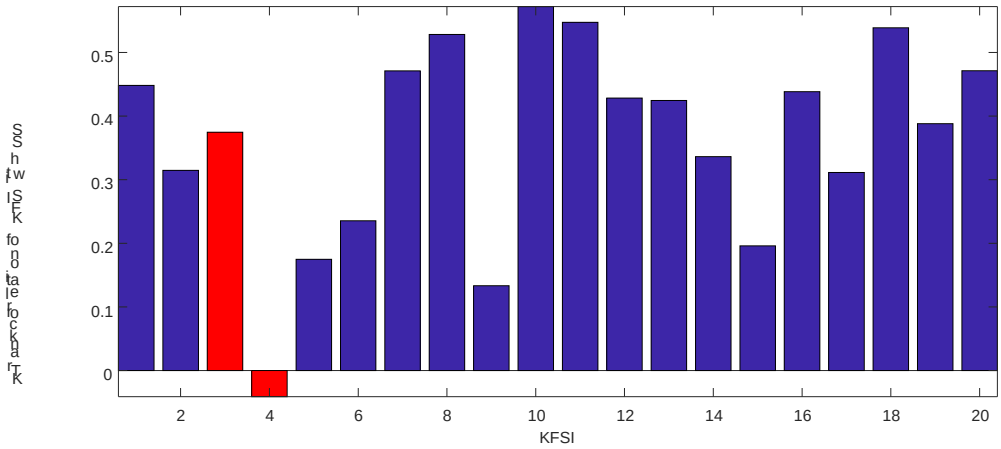
Another type of analysis looks into the cross-correlations between indicators belonging to different conceptual groupings. The expectation here is that the KFSIs should be in general more related to the indicators in their own group than to any of the other three groups. Indeed the six indicators (KFSI-11 to KFSI-16) capturing *Integrity of tax and financial regulation* and the four indicators (KFSI-16 to KFSI-19) summarising *International standards and cooperation*

fit well together. This is not the case for the other two conceptual groups on *Ownership Registration* and *Legal entity transparency*. The statistical analysis suggests that indicators from the two groups have a greater statistical association with the indicators under the other two groups. More specifically, KFSI-2 ("Trust and Foundations Register") and KFSI-10 ("Legal Entity Identifier") fit well together with the six indicators under *Intergrity of tax and financial regulation*. Instead, KFSI-1 ("Bank Secrecy"), KFSI-3 ("Recorded Company Ownership"), KFSI-6 ("Public Company Ownership"), KFSI-7 ("Public Company Accounts") and KFSI-8 ("Country-by-Country Reporting") fit well together with the four indicators under the *International standards and cooperation*.

Hence, a second recommendation to the FSI developing team is to review the grouping of indicators and eventually consider two groups instead of four, if this latter can be justified on conceptual grounds on top of the statistical findings. This adjustment should be seen more as a refinement. It is not expected to have a noteworthy impact on the overall secrecy scores that are calculated as the simple average of the 20 KFSIs (without taking into account any grouping). Yet, this fine-tuning is expected to add to the coherence of the framework and to building sounder narratives based on the two conceptual groupings that may be renamed to encompass elements from the additional indicators.

Following on from this analysis, Figure 6-H shows the correlation (again using the Kendall Tau rank measure because of the discrete nature of the data) between each KFSI and the aggregated Secrecy Score (arithmetic average of the 20 KFSIs as per the FSI methodology). Here, the effect of the negative correlations of KFSI-4 is visible, because the rank of KFSI-4 is negatively correlated with the SS. However, this is not statistically significant, so does not provide any evidence of a problem in statistical consistency. The remaining KFSIs are all positively correlated with the SS, which means that higher values of the KFSIs mean higher values of the SS. There is some variation in the degree of correlation, but the fact that they are all positive (apart from KFSI-4) is reassuring.

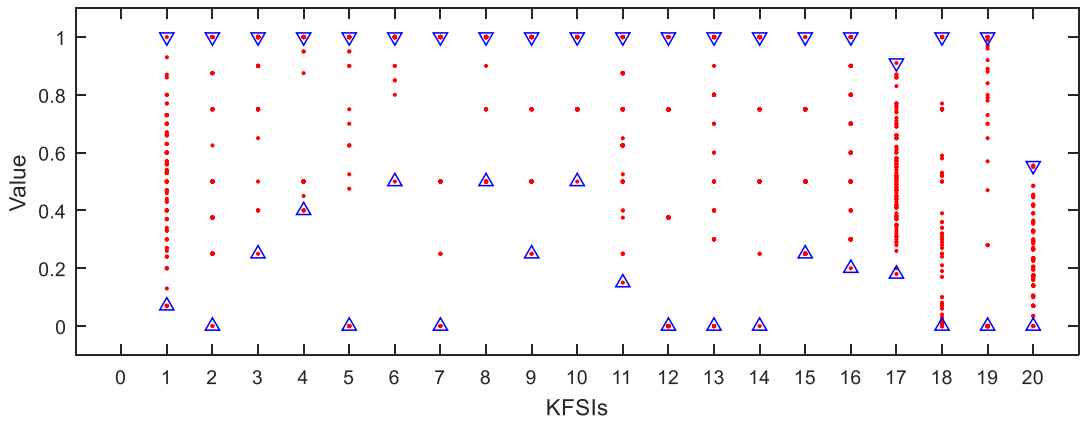
Figure 6-H: Kendall-Tau rank correlation of KFSIs with SS. Correlations that are not statistically significant are marked in red.



Source: European Commission, Joint Research Centre (JRC), 2017

The variation of the correlations of the KFSIs with the secrecy score may be in part attributed to the differing ranges of variation between the KFSIs: see the distributions of the KFSIs visualised in Figure 6-I. While most KFSIs have maximum values of 1, the minimum values vary substantially. However, if the distributions of each KFSI are transformed so that the minimum values are all 0, and the maximum values are all 1 (i.e. the min-max transformation), the resulting correlations are almost identical to Figure 6-H.

Figure 6-I: Visualisation of the distributions of the KFSIs



Note: Red points are data points and blue triangles represent maximum and minimum values.

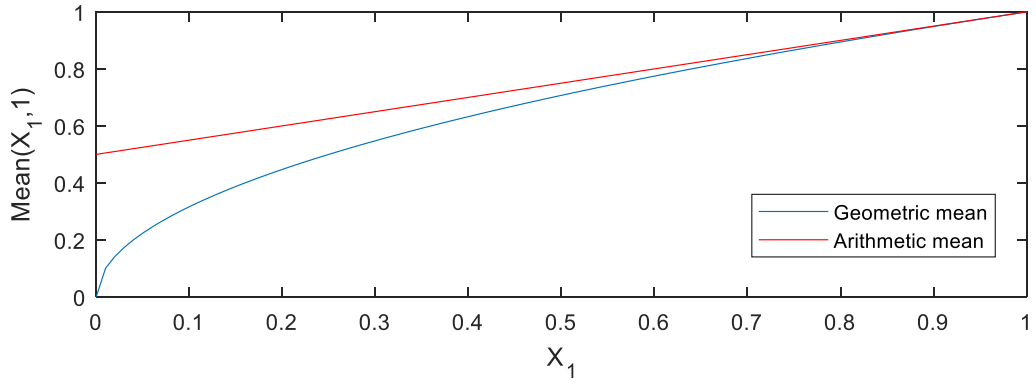
Source: European Commission, Joint Research Centre (JRC), 2017

In general, it is good practice to scale indicators to the same scale to ensure that they contribute more or less equally to the composite. In Section 6.5 the uncertainty analysis will include this normalisation as an alternative assumption.

A second reason – the most plausible in the FSI case – for the variation of the correlations of the KFSIs with the overall secrecy score are the correlations among the KFSIs. In fact, KFSI-10 ("Legal Entity Identifier"), KFSI-11 ("Tax Administration Capacity"), KFSI-18 ("Automatic Information Exchange") and KFSI-8 ("Country-by-Country Reporting") have the highest average bivariate correlations with the indicators in the framework, and consequently, they are more influential in the secrecy scores.

A final consideration that might be relevant to the SS is the way that the KFSIs are aggregated to give the SS. The current method is to take the arithmetic mean: this is a *compensatory* statistic that allows poor values in one KFSI to be "compensated" by good values in another, i.e. two indicators with values 0.1 and 0.9 would have an average score of 0.5. An alternative aggregation is to use the geometric mean, which compensates much less—in fact, the geometric mean of 0.1 and 0.9 is 0.3. To illustrate this relationship a little further, Figure 6-J shows the arithmetic and geometric means of two values: X_1, which varies between 0 and 1, and a second value, which is always 1. This illustrates the conceptual difference: when one of the two values is low, the geometric mean is lower than the arithmetic mean. To interpret this in the context of indicators, the geometric mean requires that all indicators have high values to give a high geometric mean. For example, if one were to try to measure quality of life, one might reason that even if a country has a high GDP, it is meaningless if there is no personal freedom. This is not to say that the geometric mean is necessarily the best choice for aggregating the KFSIs, but only to mention that it is an alternative option, depending on the intended meaning of the SS. If the geometric mean were to be considered, the scale of the KFSIs would also have to be adjusted to avoid all zeros and adjusted as the higher the better (less secrecy). After calculating the geometric mean, the overall scores would then be brought to the intended direction as the higher the worse (more secrecy) and subsequently aggregated with the global scale weight.

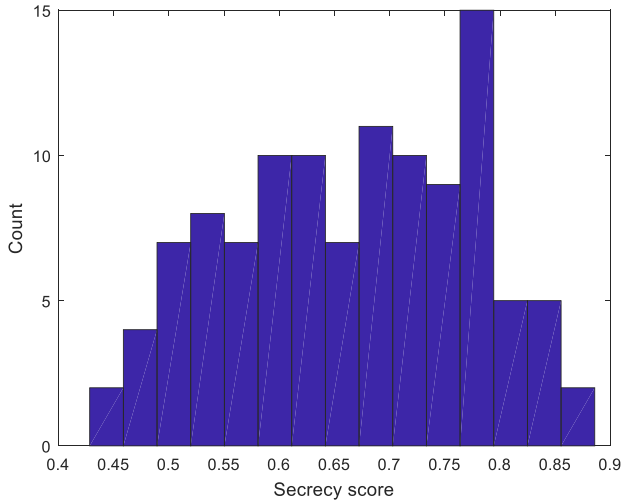
Figure 6-J: Comparison of arithmetic and geometric means of the set {X1, 1}



Source: European Commission, Joint Research Centre (JRC), 2017

As a final point of investigation, Figure 6-K shows the distribution of secrecy scores as a histogram. The distribution is roughly normal, which means that no treatment of outliers or skew/kurtosis is necessary.

Figure 6-K: Histogram of Secrecy Scores, using original arithmetic mean aggregation of KFSIs



Source: European Commission, Joint Research Centre (JRC), 2017

6.3 Transformation and Aggregation

In order to arrive at a single score and rank for each jurisdiction, it is necessary to aggregate the secrecy scores and the global scale weights. Two questions that arise in are therefore:

1. Should the GSW and/or SS be transformed in any way?
2. How should the GSW and SS be aggregated together?

Both decisions will have a significant impact on the final results. As with most decisions in building composite indicators, the choices should be made given a full understanding of the implications of alternative methodologies, and how this relates to the concepts that are meant to be conveyed.

The FSI 2018 uses the cube/cube-root aggregation formula given in Equation 1. This section first explores the implications of this formula, and then tests a few possible alternative transforms which have different statistical properties. These alternatives were carefully considered by the TJN in the preparation for the FSI 2018, but on balance the original formula was retained. The reasoning is summarised in the concluding remarks of this section and given in more detail in the previous chapter.

As with many aspects of composite indicators, there is no objectively "right" way of aggregating variables together. Instead, it is important to understand the statistical properties of the aggregation, and balance them against conceptual considerations. The fundamental aims of the index must therefore be accounted for: in the case of the FSI, the core objective is to "measure a jurisdiction's contribution to global financial secrecy in a way that highlights harmful secrecy regulations". On the other hand, the FSI should ideally reflect a balanced contribution from both the SS and the GSW: this can be analysed statistically.

A recurring them in investigating aggregations for the FSI has been that "statistical balance" (which is based on the dependence of the FSI on the GSW and SS) comes at the expense of distorting measured reality. Because the GSW is a highly skewed variable, it is very difficult to ensure that it has an equal contribution with the SS to the FSI, without applying strong transformations which significantly distort the fact that the GSW of jurisdictions consists of some few "giants", with the large majority having relatively very small values.

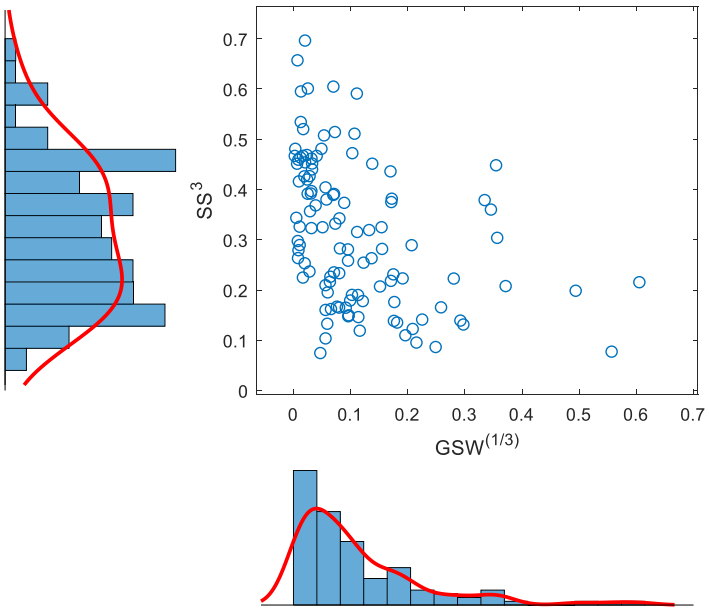
A final important issue is that, if an alternative formula is to be used, it implies discontinuity with previous years and risks sending mixed messages. These considerations are all taken into account in the following analyses.

6.3.1 FSI 2018

The FSI 2018 (and previous versions of the FSI) use the formula shown in Equation 1, in which the secrecy score is cubed, and the global scale weight is cube-rooted. The two quantities are then multiplied together. The reasoning for the cube/cube-root transformations is that it largely removes the skew in the distribution of the GSW, and results in similar percentile ratios between the GSW and SS, as opposed to the untransformed variables which are substantially different. As noted by the TJN, if the variables were not transformed, they would be extremely unbalanced in terms of their correlations with the final FSI scores and ranks.

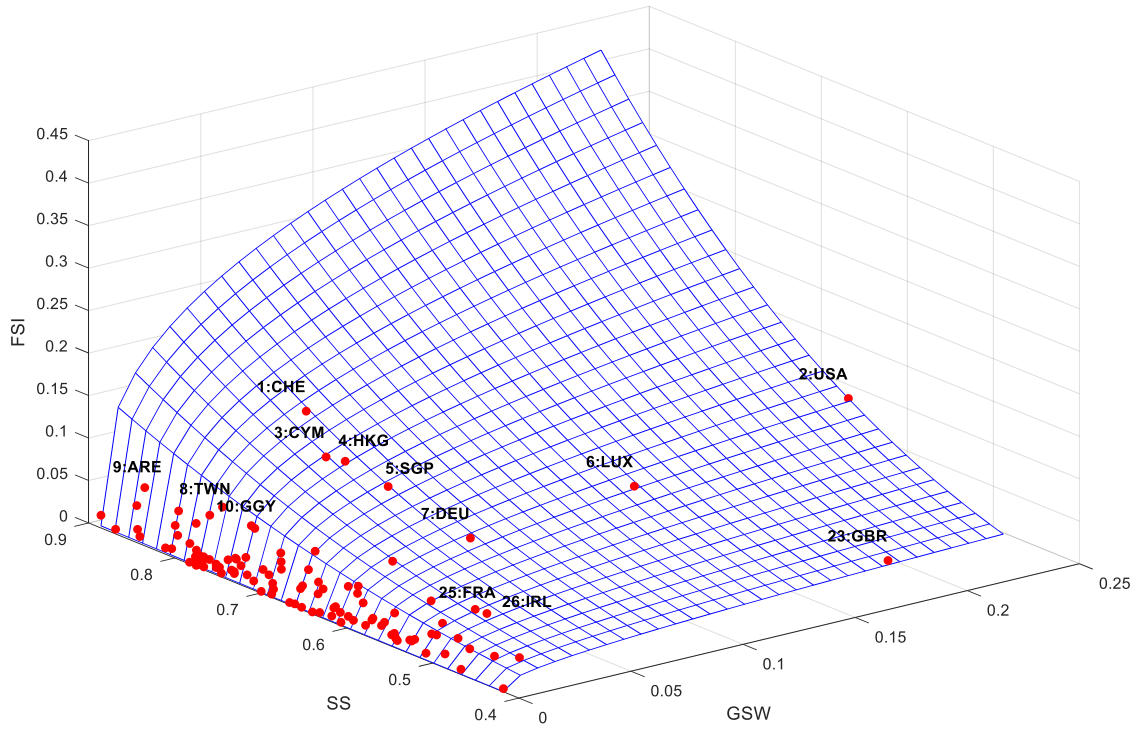
The effect of the cube/cube-root transformations is shown in Figure 6-L—evidently the result is a roughly normal distribution for the SS (although still slightly skewed to the left) and a still quite skewed distribution for the GSW.

Figure 6-L: Scatterplot and marginal distributions of SS^3 and $GSW^{(1/3)}$



Source: European Commission, Joint Research Centre (JRC), 2017

Figure 6-M: Surface plot of FSI against GSW and SS.



Note: Countries labelled with highest 10 FSI scores, and highest 10 GSW scores. Numbers indicate FSI ranks.

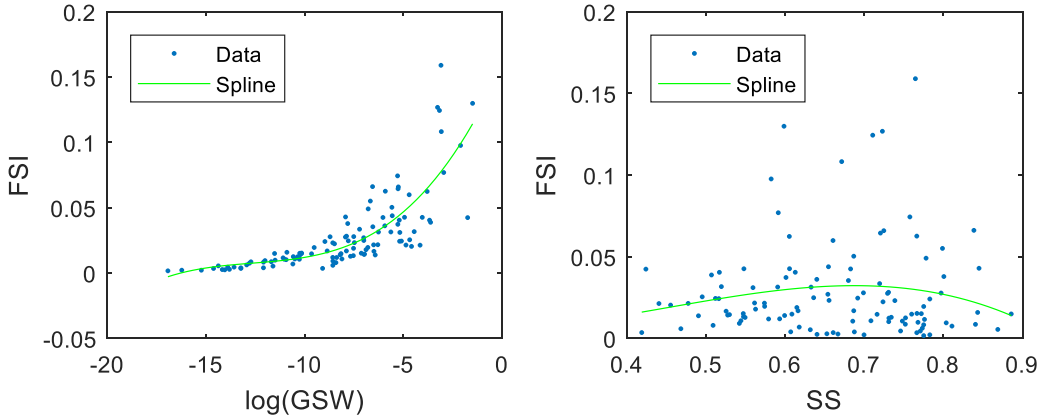
Source: European Commission, Joint Research Centre (JRC), 2017

The cube/cube-root transformations applied to the SS and GSW are *nonlinear*, which can mean that the relationship between the FSI and its constituents is not immediately obvious. In order to better understand this relationship, Figure 6-M shows FSI plotted against the SS and GSW, with jurisdictions plotted as red dots. The blue surface interpolates between the points and allows us to see the "functional form" of the FSI. The countries with the ten highest FSI scores are labelled, as well as those with the ten highest GSWs.

This plot reveals a number of features. First, the relationship of the FSI with the GSW and SS is nonlinear and slightly complicated. The gradient of the surface varies quite substantially over the space of countries—for example, the gradient is quite high in corner of high SS and low GSW, meaning that in this area, a small increase in GSW results in a very sharp increase in the FSI. The implication is that countries that have a similar SS can have markedly different FSIs as a result in relatively small differences in GSW. On the other hand, countries with low SS and low GSW will only experience a small increase in FSI if the GSW were to be increased. Overall, for countries with small GSW, their FSI is driven much more by their GSWs than by their SSs. The opposite is true for countries with large GSW: here countries are differentiated mainly on their secrecy scores.

To investigate the relative influence of the GSW and SS on the FSI, two measures are used. Due to the nonlinearity of the FSI with respect to the GSW and SS, the nonlinear *correlation ratio* is used: this is a nonlinear extension of the correlation coefficient, which measures the dependence of two variables on one another. Further, the Kendall-Tau rank correlation measure is used to compare the similarity of the FSI rank with its constituents.

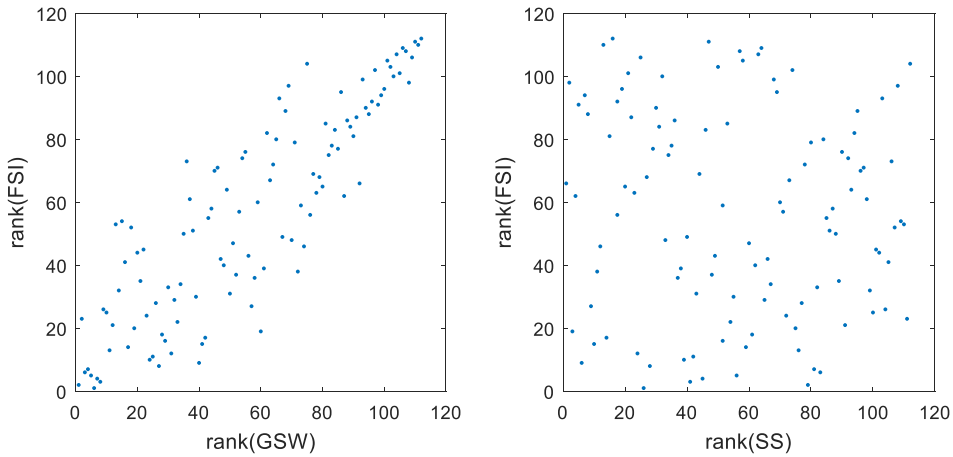
Figure 6-N: Scatter plots of FSI (original version) scores against log(GSW) and SS (used to calculated correlation ratio)



Source: European Commission, Joint Research Centre (JRC), 2017

Figure 6-N shows the nonlinear regression fits used to calculate the correlation ratio: here there is a clear visual indication that the GSW dominates the FSI: it shows a strong nonlinear relationship with the FSI. The SS plot is quite diffuse and shows that it only has a weak effect on the FSI.

Figure 6-O: Rank plots of FSI (original version) against ranks of GSW and SS



Source: European Commission, Joint Research Centre (JRC), 2017

A further useful visualisation is to see how the FSI ranks compare to the GSW ranks and SS ranks (Figure 6-O). This also gives a measure of the strength of the signal between each variable and the composite. Again, we see that the GSW has a very dominant contribution to the FSI compared to the SS. This is confirmed numerically by the values of the correlation ratio (measuring the [nonlinear] similarity in scores between FSI and constituents), and the rank correlation (similarity of ranks) in Table 6-B: from a statistical point of view, the GSW and SS provide quite unequal contributions to the FSI. This might seem like a contradiction of sorts when re-examining Figure 6-M, because the effect of SS is clearly visible in the shape of the surface. However the analysis of correlation focuses on the *average* association of the *sample points*, not the surface of the function itself. From Figure 6-M we see what almost all of the points (jurisdictions) are located in the low-GSW area where the effect (partial gradient of the FSI) of the GSW is very dominant over the SS. This is why, on average, the SS has a much lesser influence on the FSI than the GSW.

Nevertheless, the secrecy scores are responsible for putting the spotlight on some jurisdictions that may have gone unnoticed had only the global scale weight been considered. More specifically, the following six jurisdictions are classified in top 30 positions of the FSI owing to their high secrecy scores: United Arab Emirates (Dubai), Panama, Thailand, Bahrain, Bahamas and Kenya.

Jurisdiction	Rank FSI	Rank Secrecy Score (SS)	Rank Global Scale Weight
United Arab Emirates (Dubai)	9	6	40
Panama	12	24	31
Thailand	15	10	41
Bahrain	17	14	42
Bahamas	19	3	60
Kenya	27	9	57

For these jurisdictions, except for Bahamas and Thailand, the TJN provides special narrative reports exploring the history and politics of their offshore sectors on their dedicated website.

Table 6-B: Correlation ratio and Kendall-Tau rank correlation of FSI (original version) with GSW and SS

Measure	Global Scale Weight (GSW)	Secrecy Score (SS)
Correlation ratio	0.64	0.02
KT rank correlation	0.69	-0.05

Source: European Commission, Joint Research Centre (JRC), 2017

In summary, the main advantages of the original FSI methodology are as follows:

- Partial treatment of skew of GSW
- Continuing using this methodology would cause minimal upheaval because ranks of jurisdictions would change very little (it is following the status quo)
- To some extent, it strikes a balance between the pursuit of statistical balance against the distortion of the GSW distribution

On the other hand, the disadvantages are arguably as follows:

- By transforming GSW, there is a departure from the measurable reality
- From the perspective of correlation, the influence of the SS is much less than that of the GSW, when averaged over all jurisdictions.
- By transforming both SS and GSW, the resulting measure risks being difficult to interpet

6.3.2 Different aggregations

Here three alternative aggregations are tested (called Alt 1, Alt 2 and Alt 3). The aim is to investigate the statistical properties of different approaches to aggregate the secrecy scores and the global scale weights. These alternatives were presented in greater detail in correspondence between the JRC and the TJN, and after extensive discussion, the original FSI formula was retained. Here, a summary of the properties of these alternatives is given mainly

because it helps to shed more light on the methodology of the FSI, and serves as brief record of the alternative possibilities that were tested.

Alternative 1

Alt 1 tries to follow the logic that global financial secrecy is a quantity which is the sum of the contributions of each country (one of the stated aims of previous versions of the FSI). Following this logic, this would imply *not* transforming either of the variables, because the reality is distorted. However, since GSW and SS are on very different scales, it is at least necessary to rescale them onto the same interval. Here [0,10] is used for both variables. The FSI-Alt1 is therefore defined as follows:

$$\mathrm{FSI}_{\mathrm{Alt1},i} = \mathrm{GSW}_i . \mathrm{SS}_i; \quad \mathrm{GSW}, \mathrm{SS} \in [0,10] \tag{4}$$

As already discussed, while the secrecy scores have a fairly normal distribution, the global scale weights are very heavily skewed. This is what led the TJN to originally consider transforming the GSW.

Table 6-C shows the nonlinear correlation ratio and the Kendall-Tau rank correlation of the SS and GSW with the FSI-Alt1. The effects are clearly very unbalanced, and the SS even has a slight negative rank correlation with the overall FSI. However, the objective of the FSI-Alt1 is not to try to balance the GSW and SS, but to attempt to treat the FSI as a "physical quantity" that can be measured and added together. From this perspective alone it is arguably the most suitable.

Table 6-C: Correlation ratio and Kendall-Tau rank correlation of FSI (Alt.1) with GSW and SS

Measure	Global Scale Weight (GSW)	Secrecy Scores (SS)
Correlation ratio	0.66	0.03
KT rank correlation	0.88	-0.24

Source: European Commission, Joint Research Centre (JRC), 2017

Since the FSI-Alt1 is a departure from the current FSI methodology, Figure 6-P shows the rank of the FSI-Alt1 plotted against the FSI using the original methodology. While there is some scatter, the "upheaval" is not very huge and rank shifts are fairly modest. The rank correlation of this plot is 0.81: if we subtract this from 1, we can get a loose measure of the upheaval[436] of this option: 19%.

To summarise, the main advantages of this approach would be:

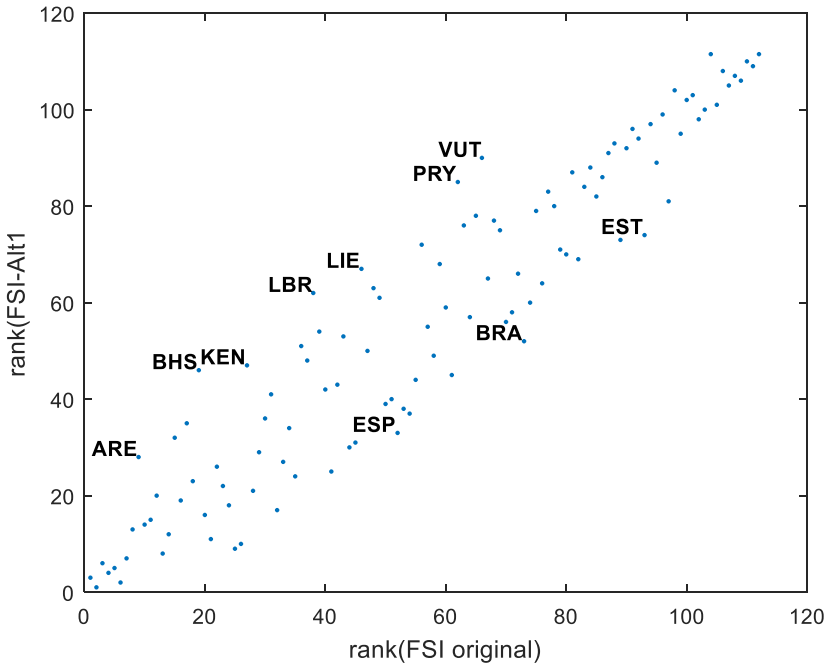
- No transformation means a more faithful representation of reality: jurisdictions with a huge financial sector are held more strongly to account because even a small amount of secrecy is applied to a large volume of financial activity.
- It is arguably the easiest formula to interpret (because no nonlinear transformations are involved)
- It has only a modest upheaval score

[436] An upheaval value of 0% would mean no change in rank for any country (compared to original methodology). A value of 100% would mean that the ranks of all countries change significantly.

The disadvantages are:

- The GSW and SS are very unbalanced: the SS ranks have effectively no relation to the FSI ranks.

Figure 6-P: Plot of original FSI ranks against FSI-Alt1 ranks, with top ten greatest rank shifts labelled



Source: European Commission, Joint Research Centre (JRC), 2017

Alt 2: Log transform

As observed in previous sections, the GSW data is a typical log-normal distribution. By taking the log of a log-normal variable, the variable becomes normal. So, if the objective is to correct the skew of the GSW, the log transform is the best choice. Note that both the log, cube and cube root transformations are *monotonic*, which means that they will not change the ranks of the GSW, but only the scores. However the choice of transformation will inevitably change the FSI ranks.

The FSI-Alt2 is therefore constructed by taking the log of the GSW, and then scaling both log(GSW) and SS to the [0,10] interval:

$$\mathrm{FSI}_{\mathrm{Alt2},i} = \log(\mathrm{GSW}_i).\,\mathrm{SS}_i; \quad \log(\mathrm{GSW}), \mathrm{SS} \in [0{,}10] \tag{5}$$

By taking the log transformation, the GSW is very significant for small jurisdictions, such that small changes in GSW will have a large change in FSI. For the large-GSW jurisdictions, the FSI scores are much more separated from one another by the secrecy scores. Clearly the log transform represents a departure from the reality for the global scale weight. However the secrecy score is arguably easier to interpret than the original FSI methodology because it is untransformed (i.e. no *nonlinear* transformation is used, such as cube-root or log transform).

Table 6-D shows the correlation ratio and KT rank correlation: the GSW and SS are indeed much more balanced than in the original FSI and FSI-Alt1. Yet, now the SS is actually more

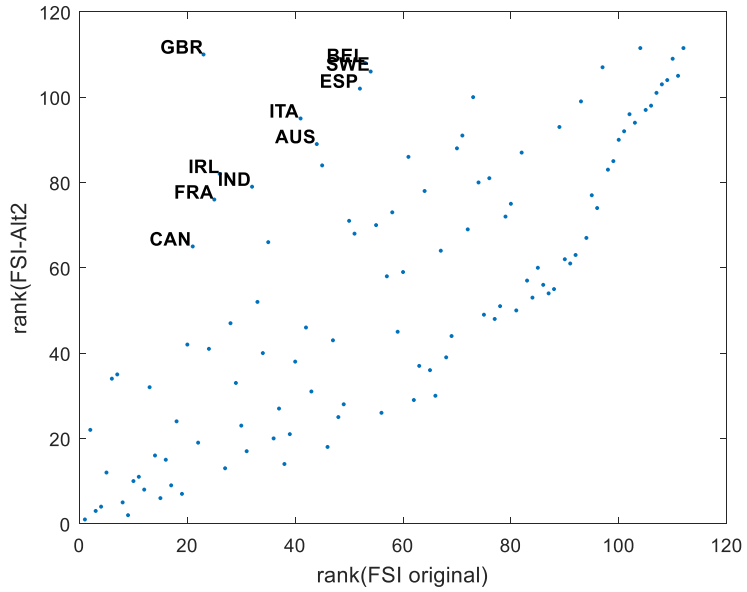
influential in the index. This could be corrected by further adjustments, however the balance of an easy-to-communicate formula must be kept in mind. Further transformations to match percentiles would probably over-complicate the message.

Table 6-D: Correlation ratio and Kendall-Tau rank correlation of FSI (Alt.2) with GSW and SS

Measure	Global Scale Weight (GSW)	Secrecy Score (SS)
Correlation ratio	0.19	0.34
KT rank correlation	0.25	0.39

Source: European Commission, Joint Research Centre (JRC), 2017

Figure 6-Q: Plot of original FSI ranks against FSI-Alt2 ranks, with top ten greatest rank shifts labelled



Source: European Commission, Joint Research Centre (JRC), 2017

The rank plot comparing FSI-Alt2 with the original FSI is shown in Figure 6-Q. Evidently there is a more significant departure from the original FSI ranking than with FSI-Alt1. The biggest rank shifts are from jurisdictions with fairly large GSW scores such as the UK. The rank correlation of this plot is 0.56, which gives an "upheaval score" of 44%.

To summarise, the main advantages are:

- The GSW distribution is properly "corrected" (if that is desirable).
- The GSW and SS are much more balanced compared to either the original FSI or FSI-Alt1.
- Although it involves a log transform, it is still reasonably easy to communicate the formula.

The disadvantages are:

- The log transform strongly distorts the reality of the size of the financial sectors of the jurisdictions. Therefore there is no longer the possibility to interpret the scores as shares of offshore financial services activity in the global total.

- The upheaval score is quite large and some very visible jurisdictions will experience large changes in the overall index rank (e.g. UK).

Alt 3: Log transform and arithmetic average

A final alternative that is studied here is simply to take the arithmetic mean of the GSW and SS (rather than the product). In this case it makes sense to also transform the GSW to correct for skew, and seek to balance the influence of the two components in the index. The FSI-Alt3 is essentially the same as the FSI-Alt2, but uses the arithmetic mean instead of the product:

$$\mathrm{FSI}_{\mathrm{Alt3},i} = (\log(\mathrm{GSW}_i) + \mathrm{SS}_i)/2; \quad \log(\mathrm{GSW}), \mathrm{SS} \in [0,10] \tag{6}$$

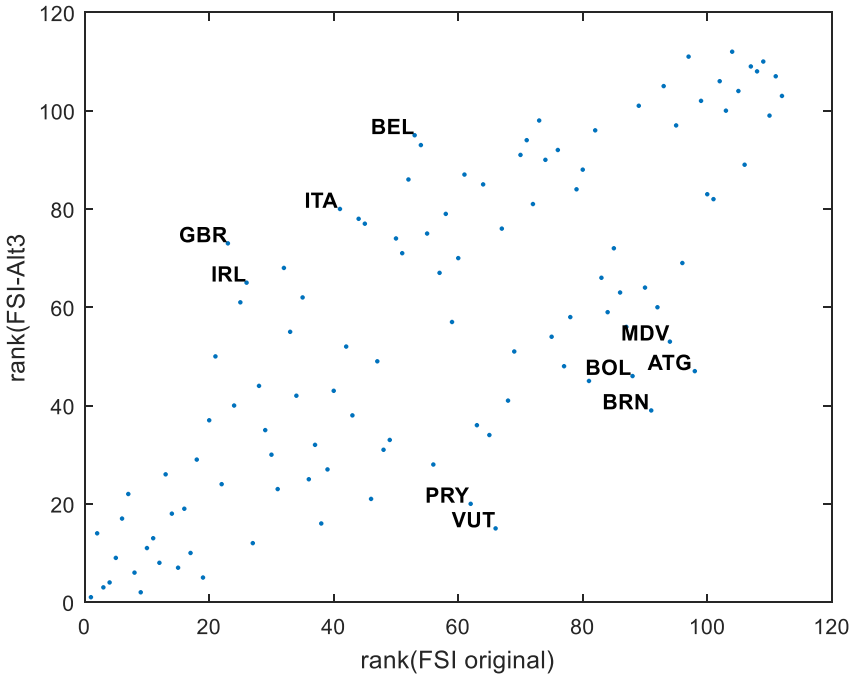
Table 6-E shows the correlation ratio and rank correlation values. This shows that in terms of statistical dependence, the GSW and SS are actually quite balanced. They could be further balanced by assigning weights, but again this does not seem to be worth complicating the formula.

Table 6-E: Correlation ratio and Kendall-Tau rank correlation of FSI (Alt.3) with GSW and SS

Measure	Global Scale Weight (GSW)	Secrecy Scores (SS)
Correlation ratio	0.21	0.30
KT rank correlation	0.28	0.37

Source: European Commission, Joint Research Centre (JRC), 2017

Figure 6-R: Plot of original FSI ranks against FSI-Alt3 ranks, with top ten greatest rank shifts labelled



Source: European Commission, Joint Research Centre (JRC), 2017

Finally, the plot of rank shifts compared to the original FSI is shown in Figure 6-R. While there are significant changes in ranks, the largest shifts in rank are less than in the FSI-Alt2, and the big ranks shifts are in both directions, so it seems like a more "balanced" change in methodology. The rank correlation of 0.58 gives an upheaval score of 42%.

The main advantages here are:

- It is reasonably easy to explain: first we take the log of GSW to correct the skew. Then we scale each variable on a [0,10] scale and take the average.
- The fact that it is linear in SS increases its interpretability.
- The GSW and SS are statistically fairly well-balanced.

The disadvantages are:

- It is the furthest away from the idea of measuring a share of a global total of financial secrecy.
- It is quite a significant departure from the existing FSI methodology, both in terms of the transformation and the aggregation.

6.3.3 Summary

No particular transformation is recommended here. Instead the approach is to show the properties of a number of differing alternatives. These are summarised in Table 6-F.

Table 6-F: Summary of properties of alternative FSI aggregation and transformation approaches.

	Original FSI	FSI-Alt1	FSI-Alt2	FSI-Alt3
Formula	$GSW^{(1/3)}.SS^3$	GSW.SS; GSW,SS ϵ [0,10]	log(GSW).SS; log(GSW), SS ϵ [0,10]	(log(GSW)+SS)/2; log(GSW), SS ϵ [0,10]
Statistical balance	Low	Very low	Fair/good	Good
Simplicity	Fair	Good	Fair/good	Fair/good
Upheaval	0%	19%	43%	41%

Source: European Commission, Joint Research Centre (JRC), 2017

To conclude, there are two reasons to continue with the present methodology for combining the global scale weight with the secrecy score. The first is that the cube/cube-root aggregation, in some sense, is a compromise between statistical balance (in terms of correlation) and distorting the distribution of the GSW. The second reason is simply to minimise disruption. On the other hand, if one were to pursue the goal of interpreting the FSI as a summable quantity of two measurable variables, FSI-Alt1 seems the best option (because no nonlinear transformations are used), but comes at the price of a very heavy imbalance. If one were purely interested in balancing the correlations of the GSW and SS, FSI-Alt2 and Alt3 are both alternatives with better statistical properties, and are arguably simpler than the original FSI in that only one variable is transformed. FSI-Alt3 has the best statistical balance and also implies less upheaval than FSI-Alt2. Of course, all of the statistical considerations

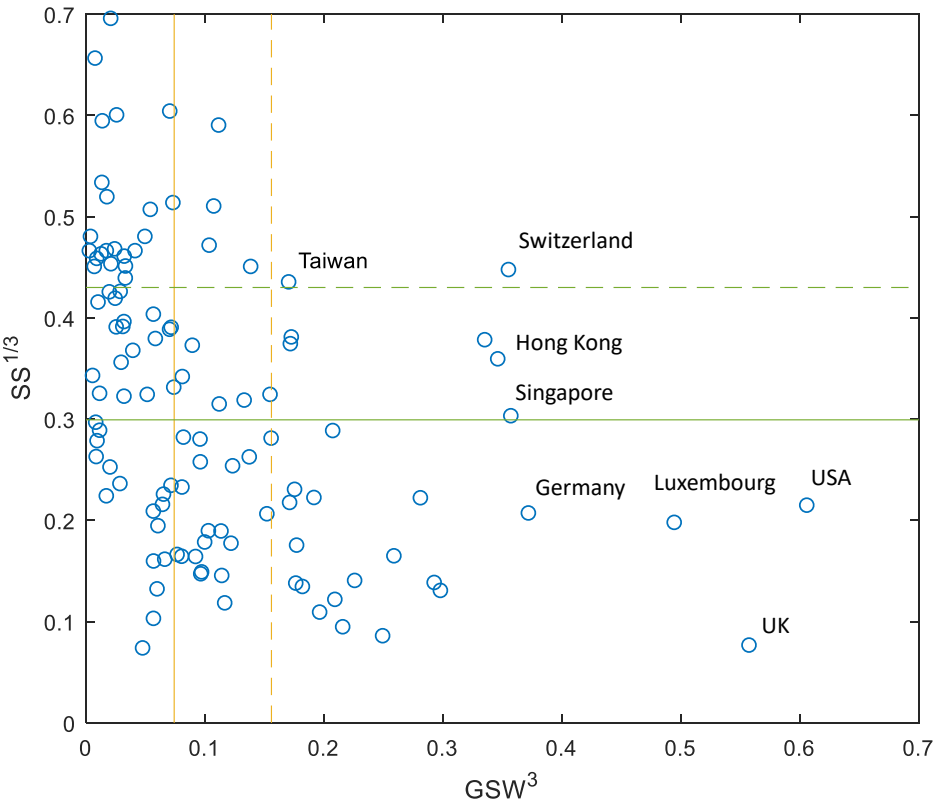
presented here have to be balanced against the conceptual considerations, and this is a matter left to the developers.

6.4 Communicating the FSI results

The challenges in identifying a suitable formula to combine the two FSI components into an overall index stem from the negative association between the two FSI components. As shown in Figure 6-L above, the global scale weight has a significant and negative correlation to the secrecy score (Spearman rank correlation: -0.52). When it comes to monitoring financial secrecy aspects, this finding is reassuring. It suggests that on average jurisdictions with high global scale weights tend to be less secretive and vice-versa. Had juridictions with high global scale weight (high share of offshore financial activities) been the most secretive ones would have been particularly worrying. Yet, from a methodological point of view, this negative association between the two components poses the challenges discussed and illustrated above.

The JRC recommendation would be not to aggregate the GSW and SS into an overall index but to focus the communication of the FSI results using a plot of the two components (see below). Jurisdictions at the right hand side and top left side should be carefully monitored.

Figure 6-S: Scatter plot of SS^3 and $GSW^{1/3}$



Note: Solid lines represent median values of the transformed variables. Dashed lines represent 75th percentiles.

Source: European Commission, Joint Research Centre (JRC), 2017

Despite these suggestions, the aggregation into a single number of financial secrecy and an overall ranking thereafter would undoubtedly seem irresistible to some. An overall

classification may also better serve as advocacy tool by helping to put the spotlight on certain jurisdictions. To this end, the FSI developing team, alongside the FSI ranking could also provide special narrative reports for those jurisdictions that arrive at the top 30 positions of the financial secrecy classification, when alternative aggregation approaches are considered. Besides the top 30 ranked jurisdictions in the overall FSI, and staying with three approaches tested above, one should carefully monitor the offshore financial activities in the following jurisdictions:

Table 6-G: Jurisdicitons in the alternative top 30 other than those in FSI top 30.

FSI-Alt-1	FSI-Alt-2	FSI-Alt-3
Australia	Anguilla	Anguilla
Austria	Barbados	Bermuda
India	Bermuda	Liberia
Italy	Liberia	Liechtenstein
South Korea	Liechtenstein	Malaysia
	Malaysia	Marshall Islands
	Marshall Islands	Paraguay
	Mauritius	Vanuatu
	Paraguay	
	Saudi Arabia	
	Vanuatu	

Source: European Commission, Joint Research Centre (JRC), 2017

6.5 Robustness

An important part of a composite indicator audit is to check the effect of varying assumptions inside plausible ranges. In this section, the question of how to aggregate the GSW and SS is not included, because that is largely a conceptual decision and it has already been discussed in the previous section. Instead, three assumptions are tested that have plausible alternatives, and can be easily varied. The assumptions are as follows:

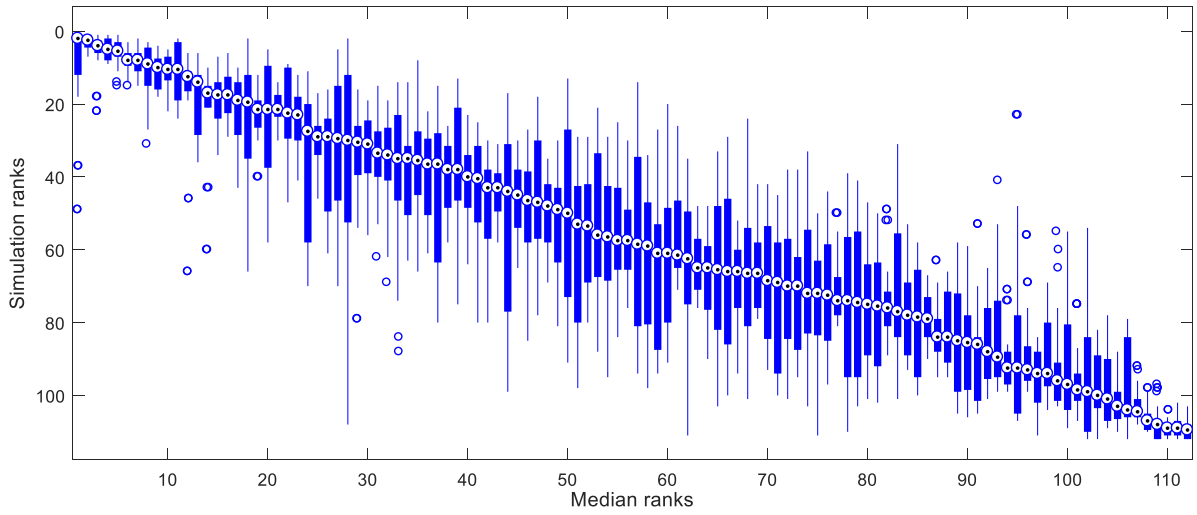
1. **Choice of GSW:** Although as shown, the GSW alternatives are strongly correlated, it is worth checking the effect of the plausible alternatives. Here, we take the GSW alternative that is least correlated with the default GSW-A, which is GSW-E, and use this as an alternative measure. This should serve as a plausible upper bound on the uncertainty in this respect.
2. **Normalisation of KFSIs:** as noted earlier in the report, the KFSIs are not all strictly scaled on to the same [0,1] scale, as is more common in composite indicator practice. Here the alternative assumption is tested where all KFSIs are scaled exactly to [0,1] before aggregating. There are a total of two alternative assumptions here, including the nominal.
3. **Aggregation of KFSIs:** an alternative method is tested where the median of the KFSIs is taken, rather than the mean. The geometric mean is not tested here. There are a total of two alternatives here, including the nominal.

The total number of alternative procedures tested for building the FSI is all combinations of the above alternatives, which is 8 x 2 x 2 = 32.

To first visualise the uncertainty of all these assumptions varied simultaneously, Figure shows the distributions of ranks over the 32 alternative simulations, for each jurisdiction, ordered by median rank. Essentially, the height of these boxes represents the uncertainty in their ranks, given the assumptions tested. We see that although there is some uncertainty, as expected, the magnitude of uncertainty is manageable and the ranking is relatively robust. Instead, for

those juridisctions that present wide confidence intervals, ranks should be analysed within those intervals instead of being taken at face value. Furthermore, one should be careful in attributing great significance to small changes in ranking. It is important to note however that the alternative assumptions tested here might be less plausible than the nominal assumptions, in which case the uncertainty here would be reduced. This argument is particularly relevant for the choice of the variable to capture the global scale weight, which is discussed next.

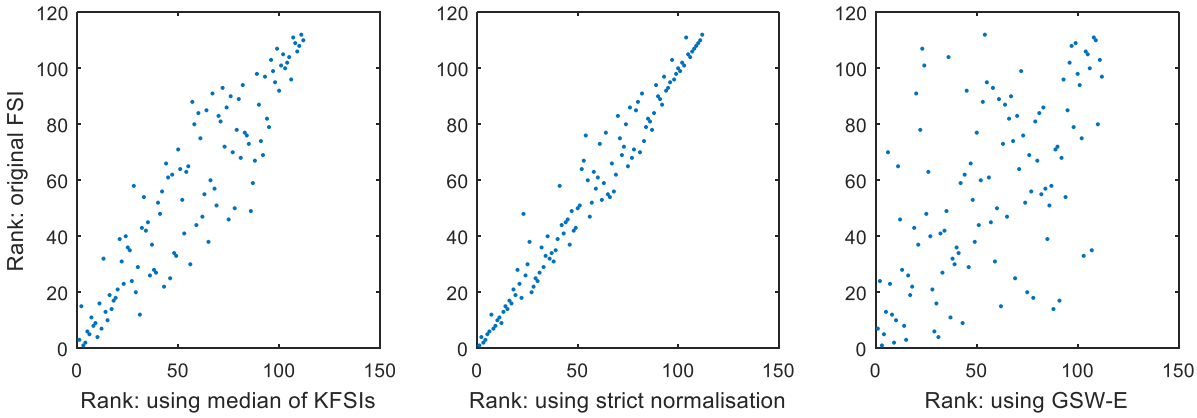
Figure 6-T: Box plots of rank distributions on Monte Carlo analysis, against median ranks observed



Source: European Commission, Joint Research Centre (JRC), 2017

To give a cursory idea of sensitivity, Figure shows rank plots of the original FSI rank against three alternatives: the first which is the same except the median of KFSIs is used; the second is the same but strict normalisation is used (in the sense defined previously); and the third where GSW-E ("Trade in goods") is used instead of GSW-A ("Trade in financial services"). With regard to the use of GSW-E, this was chosen because it has the lowest correlation with GSW-A (see Figure 6-E above), hence it represents the limit of uncertainty for this assumption.

Figure 6-U: Effect on ranks of individually varying assumptions.



Note: Right: original ranks vs. ranks using median of KFSIs; centre: original ranks vs ranks using strict normalisation of KFSIs; left: original ranks vs. ranks using GSW-E instead of GSW-A.

The plots show that the greatest scatter is found in the alternative using GSW-E, with the least found for the alternative normalisation method, and the use of median being somewhere in the middle. The fact that the choice of normalisation is fairly inconsequential is often observed

in composite indicator sensitivity analysis. The median produces a moderate amount of uncertainty as an alternative. The GSW-E produces a fairly substantial change in rankings, despite being well-correlated with GSW-A. The conclusion here is to re-examine the choice of GSW-A, and see whether the other GSWs can be discarded on conceptual grounds. If this is the case, the uncertainty will be reduced because the number of plausible alternative models will be reduced and because the choice of the GSW, of the three analysed here, is the most influential in the FSI development. The median is a viable alternative which could also be examined. If there is no good reason to neglect this alternative then it will have to be accepted as a plausible alternative which comes with associated uncertainty.

For full transparency and information, Table 6-I reports the FSI 2018 ranks together with the simulated 80% confidence intervals in order to better appreciate the robustness of the results to the choice of the variable for calculating the global scale weight, the normalisation and aggregation approaches for the twenty KFSIs. While in some cases these confidence intervals are wide, it should be noted that the inclusion of an alternative GSW in the analysis might be discarded on conceptual grounds (i.e. GSW-A is simply a better measure of international financial activity than GSW-E). In that case, the intervals would become narrower.

Table 6-I: FSI rankings with 10% and 90% percentiles in brackets (according to uncertainty analysis)

Country Code	Rank [interval]	Country Code	Rank [interval]	Country Code	Rank [interval]
CHE	1 [1, 6]	MHL	39 [26, 60]	SYC	77 [56, 83]
USA	2 [3, 22]	PHL	40 [25, 54]	GTM	78 [20, 77]
CYM	3 [1, 37]	ITA	41 [34, 77]	HRV	79 [69, 92]
HKG	4 [2, 18]	IMY	42 [43.7, 78]	GRC	80 [51, 93]
SGP	5 [5, 19]	UKR	43 [9, 41.6]	WSM	81 [67.4, 101]
LUX	6 [8.8, 68]	AUS	44 [29, 74]	MEX	82 [42, 95.2]
DEU	7 [9.1, 36]	NOR	45 [52, 99]	GIB	83 [41, 91]
TWN	8 [3, 15]	LIE	46 [23.7, 61]	CUW	84 [13, 80.5]
ARE	9 [1, 9]	ROM	47 [35, 91]	VEN	85 [29, 70.9]
GGY	10 [4, 17]	BRB	48 [33.7, 62]	VIR	86 [43.1, 103]
LBN	11 [16, 65]	MUS	49 [13, 54]	TCA	87 [52, 102]
PAN	12 [9.7, 46]	ZAF	50 [46, 91]	BOL	88 [18, 74]
JPN	13 [7, 44]	POL	51 [44, 70]	BGR	89 [74, 98]
NLD	14 [5, 13]	ESP	52 [51, 76]	BLZ	90 [72, 87]
THA	15 [2, 11]	BEL	53 [69.1, 98]	BRN	91 [20, 92]
VGB	16 [10, 29]	SWE	54 [62.4, 111]	MCO	92 [61.4, 104]
BHR	17 [14, 30]	LVA	55 [72.7, 103]	EST	93 [95.1, 107]
JEY	18 [15, 39]	AIA	56 [42, 93]	MDV	94 [24, 92.6]
BHS	19 [14, 43]	IDN	57 [22, 74.7]	GHA	95 [33, 97]
MLT	20 [34.3, 86]	NZL	58 [58.7, 100]	DMA	96 [85, 110]
CAN	21 [22.4, 47]	CRI	59 [31, 65]	LTU	97 [98.7, 112]
MAC	22 [20.8, 78]	CHL	60 [32, 73.3]	ATG	98 [35, 94.3]
GBR	23 [55, 106]	DNK	61 [53, 95.3]	MNE	99 [94, 109]
CYP	24 [38, 86]	PRY	62 [19, 42.8]	COK	100 [85.4, 108]
FRA	25 [25, 57]	KNA	63 [55, 110]	GRD	101 [71, 101]
IRL	26 [34.4, 71]	PRT	64 [57, 92]	MKD	102 [75, 103]
KEN	27 [17, 40]	PRI	65 [36.4, 90]	BWA	103 [44, 95.1]
CHN	28 [7, 41]	VUT	66 [48, 82]	SVN	104 [104, 111]
RUS	29 [11, 25.9]	URY	67 [67, 94]	ADO	105 [102.5, 110]
TUR	30 [16, 25.9]	ABW	68 [38, 79]	GMB	106 [64, 107]
MYS	31 [3, 18]	DOM	69 [21, 60]	TTO	107 [37, 103.2]
IND	32 [34.8, 56]	CZE	70 [79.1, 103]	NRU	108 [106.7, 111]
KOR	33 [18, 57]	FIN	71 [55, 79.6]	SMR	109 [105.4, 112]
ISR	34 [28, 54]	ISL	72 [78, 102]	LCA	110 [45, 104.5]

AUT	35 [35.7, 62]	**BRA**	73 [50, 91.2]	**VCT**	111 [84, 110]
BMU	36 [4, 104]	**HUN**	74 [52, 87]	**MSR**	112 [83, 112]
SAU	37 [11, 40]	**TZA**	75 [17, 73.6]		
LBR	38 [23, 54]	**SVK**	76 [69, 97]		

Note: Nominal ranks that fall outside the 10/90 percentile interval are highlighted red.

Source: European Commission, Joint Research Centre (JRC), 2017

6.6 Conclusions

The JRC statistical audit has delved around in the workings of the Financial Secrecy Index to assess the statistical properties of the data, and the methodology used in its construction. Overall the FSI is a well-constructed index into which a lot of thought has clearly been put. One of the greatest strengths is the amount of original research into financial secrecy, and the transparency and detail of all data associated with the index, as well as the extensive documentation on the methodology. The KFSIs framework is also coherent within two of the four groups, namely *Integrity of tax and financial regulation* (KFSI-11 to KFSI-16) and *International standards and cooperation* (KFSI-16 to KFSI-19). The FSI 2018 version is already an improved version of the FSI 2015.

Nevertheless, a few recommendations or points for discussion have been raised.

First, the issue of combining the global scale weight with the secrecy score into an overall FSI score is quite crucial and must be decided on a best understanding of the alternative possibilities and the implications. Of the alternatives aggregation methods tested here, three paths seem to be possible:

a. *Keep the aggregation as it is.* The main advantage of doing this is minimising disruption in terms of changes in ranking and communicating the new methodology. Moreover, it looks for a middle-ground between balance of correlations and distortion of measured data. At the same time, this aggregation formula puts the spotlight on some jurisdictions that may have gone unnoticed had only the global scale weight been considered. Six jurisdictions are classified in top 30 positions of the FSI owing to their high secrecy scores: United Arab Emirates (Dubai), Panama, Thailand, Bahrain, Bahamas and Kenya. On the other hand, the present aggregation results in imbalance between Global Scale Weight and Secrecy Score, such that the Secrecy Score is very uninfluential in the ranking of the FSI for the majority of the jurisdictions. Moreover, the transformation is somewhat hard to communicate.

b. *Use no transformations*: this path is in line with the philosophy of treating the FSI as a global quantity to which each jurisdiction contributes its own share. This is simple to communicate, however because of the huge skew of the GSW the global scale weight will dominate the secrecy score, such that the FSI will essentially be an alternative measure of global scale.

c. *Use log transformation*: Statistically, the log transformation is the "correct" way to normalise the GSW distribution. Then the SS and GSW can be aggregated either by multiplying or by taking the mean (after scaling). The advantage of this approach is that the GSW and SS are statistically well-balanced in the calculation of the overall index. On the other hand, it is a significant departure from the original methodology and heavily distorts the distribution of measured data.

Second, the inclusion of three KFSIs in the framework merits reconsideration. The KFSI-4 ("Other Wealth Ownership") is negatively correlated with three KFSIs and bears no statistical relevance to the remaining indicators. The KFSI-5 ("Limited Partnership Transparency") and KFSI-9 ("Corporate Tax Disclosure") bear no statistically significant association to any of the

other indicators in the framework. This is simply a statistical flag which calls for a second look at the KFSI framework.

Third, the framework could be simplified from four to two groups of indicators, if this can also be justified on conceptual grounds on top of the statistical findings. In this case, KFSI-2 ("Trust and Foundations Register") and KFSI-10 ("Legal Entity Identifier") fit well together with the six indicators under *Intergrity of tax and financial regulation*, whilst KFSI-1 ("Bank Secrecy"), KFSI-3 ("Recorded Company Ownership"), KFSI-6 ("Public Company Ownership"), KFSI-7 ("Public Company Accounts") and KFSI-8 ("Country-by-Country Reporting") fit well together with the four indicators under the *International standards and cooperation*. This adjustment should be seen more as a refinement, which is not expected to have a noteworthy impact on the overall secrecy scores.

Fourth, the aggregation of the KFSIs could also be done by the median, as opposed to the arithmetic mean, or indeed the geometric average. These should be checked as alternatives, based on conceptual reasoning. The normalisation could also strictly map each variable onto the [0,1] interval.

Fifth, the sensitivity analysis shows that the choice of the variable to calculate the global scale weight is the most significant uncertainty of the three tested (the other two being the normalisation and aggregation method for the twenty KFSIs). The GSW-alpha variable (trade in financial services) has the highest overall correlation to all other variables tested, and hence provides a the most suitable variable from a statistical viewpoint. However, as a composite measure, it is (arguably) conceptually further from the intended concept than GSW-A.

Sixth, the uncertainty analysis shows that the rankings are reasonably robust. Yet, for the majority of the jurisdictions the FSI ranks should be analysed within their expected confidence intervals instead of being taken at face value. The intervals presented here might be refined on further study (excluding or including plausible alternatives).

Finally, the JRC recommendation is not to aggregate the global scale weight and the secrecy score into an overall index, the reason being the negative correlation between the two FSI components. While this negative association is desirable from a conceptual point (jurisdictions with high global scale weight are on average less secretive and vice versa), it poses numerous methodological challenges. Hence, the JRC suggestion is that the communication of the FSI results should mainly be done using a plot of the two components, where jurisdictions at the right hand side and top left side should be carefully monitored. At the same time, arriving at a single number of financial secrecy would undoubtedly seem irresistible to some because an overall classification may better serve as advocacy tool by helping to put the spotlight on certain jurisdictions. To this end, it is recommended that the FSI developing team, alongside the FSI ranking could also provide special narrative reports for those jurisdictions that arrive at the top 30 positions of the financial secrecy classification, when alternative aggregation approaches are considered. In the FSI 2018, besides the top 30 FSI ranked jurisdictions, this would imply additional reporting and careful monitoring of the offshore financial activities in sixteen jurisdictions: Anguilla, Australia, Austria, Barbados, Bermuda, India, Italy, Liberia, Liechtenstein, Malaysia, Marshall Islands, Mauritius, Paraguay, Saudi Arabia, South Korea and Vanuatu.

Overall, the FSI 2018 offers an extremely detailed analysis of the concept of financial secrecy based on a wealth of original research. While the aggregation (or not) of the secrecy score and global scale weight still calls for further discussion and investigation, no objectively "right" solution exists, and the methodology of any composite indicator, as necessarily subjective instruments, is always open for debate Nevertheless, a number of recommendations are offered herein as food for thought order to help the Tax Justice Network to bring the FSI reach its full potential as a monitoring and benchmarking tool that can guide policy formulation.

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Appendix

Table 6-G: Kendall-Tau correlation of KFSIs with SS

Indicator	KT Correlation	p-value
KFSI1	0.456	0.0000
KFSI2	0.295	0.0000
KFSI3	0.347	0.0000
KFSI4	-0.054	**0.4769**
KFSI5	0.183	**0.0149**
KFSI6	0.257	0.0009
KFSI7	0.451	0.0000
KFSI8	0.521	0.0000
KFSI9	0.225	0.0028
KFSI10	0.568	0.0000
KFSI11	0.546	0.0000
KFSI12	0.417	0.0000
KFSI13	0.431	0.0000
KFSI14	0.336	0.0000
KFSI15	0.198	0.0072
KFSI16	0.459	0.0000
KFSI17	0.316	0.0000
KFSI18	0.528	0.0000
KFSI19	0.385	0.0000
KFSI20	0.471	0.0000

Table 6-H: Rankings of aggregation alternatives

Rank	FSI 2018 Country	Alt 1 Country	Alt 1 Rank shift	Alt 2 Country	Alt 2 Rank shift	Alt 3 Country	Alt 3 Rank shift
1	CHE	USA	1	CHE	0	CHE	0
2	USA	LUX	4	ARE	7	ARE	7
3	CYM	CHE	-2	CYM	0	CYM	0
4	HKG	HKG	0	HKG	0	HKG	0
5	SGP	SGP	0	TWN	3	BHS	14
6	LUX	CYM	-3	THA	9	TWN	2
7	DEU	DEU	0	BHS	12	THA	8
8	TWN	JPN	5	PAN	4	PAN	4
9	ARE	FRA	16	BHR	8	SGP	-4
10	GGY	IRL	16	GGY	0	BHR	7
11	LBN	CAN	10	LBN	0	GGY	-1
12	PAN	NLD	2	SGP	-7	KEN	15
13	JPN	TWN	-5	KEN	14	LBN	-2
14	NLD	GGY	-4	LBR	24	USA	-12
15	THA	LBN	-4	VGB	1	VUT	51
16	VGB	MLT	4	NLD	-2	LBR	22
17	BHR	IND	15	MYS	14	LUX	-11
18	JEY	CYP	6	LIE	28	NLD	-4
19	BHS	VGB	-3	MAC	3	VGB	-3
20	MLT	PAN	-8	BMU	16	PRY	42
21	CAN	CHN	7	MHL	18	LIE	25
22	MAC	GBR	1	USA	-20	DEU	-15
23	GBR	JEY	-5	TUR	7	MYS	8
24	CYP	AUT	11	JEY	-6	MAC	-2
25	FRA	ITA	16	BRB	23	BMU	11
26	IRL	MAC	-4	AIA	30	JPN	-13
27	KEN	KOR	6	SAU	10	MHL	12
28	CHN	ARE	-19	MUS	21	AIA	28
29	RUS	RUS	0	PRY	33	JEY	-11
30	TUR	AUS	14	VUT	36	TUR	0
31	MYS	NOR	14	UKR	12	BRB	17
32	IND	THA	-17	JPN	-19	SAU	5
33	KOR	ESP	19	RUS	-4	MUS	16
34	ISR	ISR	0	LUX	-28	PRI	31
35	AUT	BHR	-18	DEU	-28	RUS	-6
36	BMU	TUR	-6	PRI	29	KNA	27
37	SAU	SWE	17	KNA	26	MLT	-17
38	LBR	BEL	15	PHL	2	UKR	5
39	MHL	ZAF	11	ABW	29	BRN	52
40	PHL	POL	11	ISR	-6	CYP	-16
41	ITA	MYS	-10	CYP	-17	ABW	27
42	IMY	PHL	-2	MLT	-22	ISR	-8
43	UKR	IMY	-1	ROM	4	PHL	-3
44	AUS	LVA	11	DOM	25	CHN	-16
45	NOR	DNK	16	CRI	14	WSM	36
46	LIE	BHS	-27	IMY	-4	BOL	42
47	ROM	KEN	-20	CHN	-19	ATG	51
48	BRB	SAU	-11	SYC	29	SYC	29
49	MUS	NZL	9	TZA	26	ROM	-2
50	ZAF	ROM	-3	WSM	31	CAN	-29
51	POL	BMU	-15	GTM	27	DOM	18
52	ESP	BRA	21	KOR	-19	IMY	-10
53	BEL	UKR	-10	CUW	31	MDV	41
54	SWE	MHL	-15	TCA	33	TZA	21
55	LVA	IDN	2	BOL	33	KOR	-22

Rank	FSI 2018 Country	Alt 1 Country	Alt 1 Rank shift	Alt 2 Country	Alt 2 Rank shift	Alt 3 Country	Alt 3 Rank shift
56	AIA	CZE	14	VIR	30	TCA	31
57	IDN	PRT	7	GIB	26	CRI	2
58	NZL	FIN	13	IDN	-1	GTM	20
59	CRI	CHL	1	CHL	1	CUW	25
60	CHL	HUN	14	VEN	25	MCO	32
61	DNK	MUS	-12	BRN	30	FRA	-36
62	PRY	LBR	-24	BLZ	28	AUT	-27
63	KNA	BRB	-15	MCO	29	VIR	23
64	PRT	SVK	12	URY	3	BLZ	26
65	PRI	URY	2	CAN	-44	IRL	-39
66	VUT	ISL	6	AUT	-31	GIB	17
67	URY	LIE	-21	MDV	27	IDN	-10
68	ABW	CRI	-9	POL	-17	IND	-36
69	DOM	MEX	13	ISL	3	DMA	27
70	CZE	GRC	10	LVA	-15	CHL	-10
71	FIN	HRV	8	ZAF	-21	POL	-20
72	ISL	AIA	-16	HRV	7	VEN	13
73	BRA	BGR	16	NZL	-15	GBR	-50
74	HUN	EST	19	DMA	22	ZAF	-24
75	TZA	DOM	-6	GRC	5	LVA	-20
76	SVK	KNA	-13	FRA	-51	URY	-9
77	SYC	ABW	-9	GHA	18	NOR	-32
78	GTM	PRI	-13	PRT	-14	AUS	-34
79	HRV	TZA	-4	IND	-47	NZL	-21
80	GRC	GTM	-2	HUN	-6	ITA	-39
81	WSM	LTU	16	SVK	-5	ISL	-9
82	MEX	VEN	3	IRL	-56	GRD	19
83	GIB	SYC	-6	ATG	15	COK	17
84	CUW	GIB	-1	NOR	-39	HRV	-5
85	VEN	PRY	-23	MNE	14	PRT	-21
86	VIR	VIR	0	DNK	-25	ESP	-34
87	TCA	WSM	-6	MEX	-5	DNK	-26
88	BOL	CUW	-4	CZE	-18	GRC	-8
89	BGR	GHA	6	AUS	-45	GMB	17
90	BLZ	VUT	-24	COK	10	HUN	-16
91	BRN	TCA	-4	FIN	-20	CZE	-21
92	MCO	BLZ	-2	GRD	9	SVK	-16
93	EST	BOL	-5	BGR	-4	SWE	-39
94	MDV	MCO	-2	BWA	9	FIN	-23
95	GHA	MNE	4	ITA	-54	BEL	-42
96	DMA	BRN	-5	MKD	6	MEX	-14
97	LTU	MDV	-3	ADO	8	GHA	-2
98	ATG	MKD	4	GMB	8	BRA	-25
99	MNE	DMA	-3	EST	-6	LCA	11
100	COK	BWA	3	BRA	-27	BWA	3
101	GRD	ADO	4	TTO	6	BGR	-12
102	MKD	COK	-2	ESP	-50	MNE	-3
103	BWA	GRD	-2	NRU	5	MSR	9
104	SVN	ATG	-6	SMR	5	ADO	1
105	ADO	TTO	2	VCT	6	EST	-12
106	GMB	SMR	3	SWE	-52	MKD	-4
107	TTO	NRU	1	LTU	-10	VCT	4
108	NRU	GMB	-2	BEL	-55	NRU	0
109	SMR	VCT	2	LCA	1	TTO	-2
110	LCA	LCA	0	GBR	-87	SMR	-1
111	VCT	MSR	0.5	MSR	0.5	LTU	-14
112	MSR	SVN	-7.5	SVN	-7.5	SVN	-8

7. TJN's Response to JRC Audit

The Tax Justice Network are grateful to the JRC for their excellent statistical analysis, and for discussions over the last two years which have proceeded alongside our stakeholder survey and rounds of deep, expert engagement on the substantive content and structure of the index. As leading global experts on index evaluation, we warmly welcome their overall assessment that the FSI is a well-constructed index, and their appreciation of the depth and originality of the underlying research.

Perhaps inevitably, the statistical and substantive analyses are not always in agreement. Where experts identify additional areas of financial secrecy that pose a global risk, the resulting variable will not necessarily have all the desirable statistical properties, for example. But we firmly believe that the index is strengthened by ensuring rigorous, open and ongoing evaluation of this work and the choices made. We record here the main points of our response, and look forward to continuing these discussions over the following two-year cycle of the FSI.

The JRC statistical audit raises seven points. The first and sixth jointly form the most important issue, which is a criticism of the FSI's method of combination of secrecy and scale. While the JRC do not recommend moving away from the current method, they highlight two points: first, that the role of secrecy is dominated by the role of scale (compared to alternatives designed around the 'statistically correct' log transformation of the scale variable); and second, that because the components of secrecy and scale have a negative statistical relationship, it would be better to present them separately and to focus more on narrative reporting for individual jurisdictions.

We welcome the analysis here, although naturally we do not share it fully. The FSI plays a valuable role, in contrast to any existing 'tax haven' or 'non-cooperative jurisdiction' list, in setting a level playing field for all jurisdictions, by assessing them each against the same, objectively verifiable criteria. Highlighting the secrecy score separately makes sense for this reason, and in the 2018 release we give it more prominence accordingly. We also provide narrative reports for more jurisdictions than any previous release of the index.

We do, however, maintain the view that the overall index ranking is valuable. In addition to the statistical analysis, we cannot neglect the substantive issues being addressed. In particular, the combination of secrecy and scale reflects the key insights of our approach. Firstly, because no jurisdiction is completely transparent, all jurisdictions pose some risk: and so we should think of a secrecy spectrum on which all jurisdictions sit, rather than a list of jurisdictions of concern – where all others are by definition of no concern.

Secondly, the jurisdiction's share of the global provision of offshore financial services is crucial – not (only) as a separate indicator, but as a measure of the degree to which their secrecy should be of concern. It matters that a jurisdiction with near-zero financial service exports is secretive – but not nearly as much as does the secrecy of a major financial centre. As the JRC assessment notes, the current approach reflects this logic well (emphasis added):

The implication is that countries that have a similar SS can have markedly different FSIs as a result in relatively small differences in GSW. On the other hand, countries with low SS and

low GSW will only experience a small increase in FSI if the GSW were to be increased. *Overall, for countries with small GSW, their FSI is driven much more by their GSWs than by their SSs. The opposite is true for countries with large GSW: here countries are differentiated mainly on their secrecy scores.*

Once we recognise that there is important meaning to a ranking based on combined secrecy and scale, the question is how that combination should be made. The JRC alternatives analysed make very clear that there is no obvious answer. A multiplication with no transformation eliminates the impact of secrecy. A statistically 'correct' log transformation of scale results in a ranking which, per JRC, "distorts the reality of the size of the financial sectors of the jurisdictions… and some very visible jurisdictions will experience large changes in the overall index rank". Given the choice between statistical correctness and correct representation of the actual economic phenomenon, we retain a preference for the former. However, we continue to believe that further analysis may allow the development of an alternative which is statistically 'cleaner' than the current transformation, without distorting the substantive meaning of the two components.

The JRC's second point is that three of the 20 KFSIs exhibit a negative or zero association with the others. While this may be statistically unattractive, we are confident in the substantive importance of the issues reflected, and see the absence of association as positive confirmation that additional information is being conveyed. Similarly, the third point involves a suggestion to rework the groupings of KFSIs to reflect their statistical associations, rather than their substantive meaning. We see the statistical analysis as shedding interesting new light on the types of strategy pursued by secrecy jurisdictions. Potentially, further analysis on this point may demonstrate a substantive reason to rework the groups – but current correlations alone do not rise to this level.

The fourth point made is to suggest using geometric rather than arithmetic means, to combine the KFSIs into a single secrecy score. We do not see a strong case here, and reflect that it adds minor complexity in understanding the compilation, and a significant deviation, without any great benefit. Such a change is mostly preferred where a compensatory statistical feature is not intended. However, compensatory aggregation appears to make sense for the KFSIs, because none of the KFSIs are clear substitutes for another KFSI. If there was full substitutability between any of the KFSIs, it might make sense to decrease the "compensatory" aspect of the arithmetic aggregation by moving to a geometric aggregation. This option is set aside for now, but could be reconsidered should future changes to KFSIs shift the balance of costs and benefits.

The fifth point concerns the 'uncertainty' of the rankings around the choice of scale measure. As part of the expansion of FSI analysis, we created a set of alternative scale measures, different by design, to consider the case for change and to give options for more bespoke risk analysis in different areas of economic and financial activity. Inevitably the range of measures compiled (see Annex H) would lead to a range of rankings, and these are likely to be of value in country-level risk analysis in particular. While the main focus of the FSI remains on the risks associated with secrecy in offshore financial services, however, the substantive case for remaining with the current GSW is clear – and 'uncertainty' seems not

to be the right expression for the fact that rankings differ if based on different types of activity (i.e. trade in goods rather than financial services).

The sixth point made by JRC is that the uncertainty analysis shows the rankings to be relatively robust; and that it would be worthwhile to publish confidence intervals alongside the ranking. This makes sense, and in addition to publishing the JRC analysis this year we will examine a process to construct more precise confidence intervals for future releases of the index.

Once again, we extend our great thanks to the JRC, and to William Becker and Michaela Saisana, for their excellent contribution.

For further information please visit:
www.financialsecrecyindex.com
www.taxjustice.net
www.coffers.eu

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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

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Annexes

Annex A: FSI 2018 - Ranking of 112 Jurisdictions[1]

RANK	Jurisdiction	FSI Value[6]	Secrecy Score[4]	Global Scale Weight[5]
1	Switzerland[2]	1589,57	76,45	4,50 %
2	United States[2]	1298,47	59,83	22,30 %
3	Cayman Islands[2]	1267,68	72,28	3,79 %
4	Hong Kong[2]	1243,68	71,05	4,17 %
5	Singapore[2]	1081,98	67,13	4,58 %
6	Luxembourg[2]	975,92	58,20	12,13 %
7	Germany[2]	768,95	59,10	5,17 %
8	Taiwan[2]	743,38	75,75	0,50 %
9	United Arab Emirates (Dubai)[2,3]	661,15	83,85	0,14 %
10	Guernsey[2]	658,92	72,45	0,52 %
11	Lebanon[2]	644,41	72,03	0,51 %
12	Panama[2]	625,84	76,63	0,27 %
13	Japan[2]	623,92	60,50	2,24 %
14	Netherlands[2]	598,81	66,03	0,90 %
15	Thailand	550,60	79,88	0,13 %
16	British Virgin Islands[2]	502,76	68,65	0,38 %
17	Bahrain[2]	490,71	77,80	0,11 %
18	Jersey[2]	438,22	65,45	0,38 %
19	Bahamas	429,00	84,50	0,04 %
20	Malta	426,31	60,53	0,71 %
21	Canada[2]	425,84	54,75	1,75 %
22	Macao	424,92	68,25	0,24 %
23	United Kingdom[2]	423,76	42,35	17,37 %
24	Cyprus[2]	404,44	61,25	0,55 %
25	France	404,18	51,65	2,52 %
26	Ireland[2]	387,94	50,65	2,66 %
27	Kenya[2]	378,35	80,05	0,04 %
28	China	372,58	60,08	0,51 %
29	Russia	361,16	63,98	0,26 %
30	Turkey[2]	353,89	67,98	0,14 %
31	Malaysia (Labuan)[3]	335,11	71,93	0,07 %
32	India[2]	316,62	51,90	1,16 %
33	South Korea	314,06	59,03	0,36 %
34	Israel[2]	313,55	63,25	0,19 %
35	Austria[2]	310,41	55,90	0,56 %

RANK	Jurisdiction	FSI Value[6]	Secrecy Score[4]	Global Scale Weight[5]
36	Bermuda	281,83	73,05	0,04 %
37	Saudi Arabia	278,58	69,88	0,05 %
38	Liberia[2]	277,29	79,70	0,02 %
39	Marshall Islands	275,29	72,93	0,04 %
40	Philippines	269,81	65,38	0,09 %
41	Italy[2]	254,14	49,48	0,92 %
42	Isle of Man	248,68	63,58	0,09 %
43	Ukraine	246,25	69,15	0,04 %
44	Australia[2]	244,36	51,15	0,61 %
45	Norway[2]	242,85	51,58	0,55 %
46	Liechtenstein	240,86	78,28	0,01 %
47	Romania[2]	232,30	65,53	0,06 %
48	Barbados	230,95	73,85	0,02 %
49	Mauritius[2]	223,47	72,35	0,02 %
50	South Africa[2]	216,44	56,10	0,18 %
51	Poland	215,40	57,35	0,15 %
52	Spain	213,89	47,70	0,77 %
53	Belgium[2]	212,97	44,00	1,56 %
54	Sweden	203,55	45,48	1,01 %
55	Latvia	195,65	57,38	0,11 %
56	Anguilla	195,04	77,50	0,01 %
57	Indonesia	188,79	61,45	0,05 %
58	New Zealand[2]	178,56	56,23	0,10 %
59	Costa Rica	168,78	68,65	0,01 %
60	Chile	168,64	61,60	0,04 %
61	Denmark[2]	166,12	52,50	0,15 %
62	Paraguay	158,52	84,33	0,00 %
63	St. Kitts and Nevis	152,55	76,65	0,00 %
64	Portugal (Madeira)[3]	151,63	54,68	0,08 %
65	Puerto Rico	151,06	77,20	0,00 %
66	Vanuatu[2]	149,27	88,58	0,00 %
67	Uruguay	148,20	60,83	0,03 %
68	Aruba[2]	148,05	75,98	0,00 %
69	Dominican Republic	147,09	71,60	0,01 %
70	Czech Republic	145,10	52,93	0,09 %
71	Finland	142,23	52,70	0,09 %
72	Iceland	139,69	59,90	0,03 %
73	Brazil[2]	138,00	49,00	0,16 %
74	Hungary	132,73	54,70	0,05 %

RANK	Jurisdiction	FSI Value[6]	Secrecy Score[4]	Global Scale Weight[5]
75	Tanzania[2]	128,92	73,40	0,00 %
76	Slovakia	127,89	54,90	0,05 %
77	Seychelles[2]	125,26	75,20	0,00 %
78	Guatemala[2]	123,63	73,10	0,00 %
79	Croatia	119,36	59,28	0,02 %
80	Greece	118,58	57,88	0,02 %
81	Samoa	115,90	77,60	0,00 %
82	Mexico	107,57	54,38	0,03 %
83	Gibraltar	107,44	70,83	0,00 %
84	Curacao[2]	105,66	74,80	0,00 %
85	Venezuela	105,03	68,53	0,00 %
86	US Virgin Islands	101,89	73,08	0,00 %
87	Turks and Caicos Islands	98,08	76,78	0,00 %
88	Bolivia	94,82	80,35	0,00 %
89	Bulgaria	91,38	54,18	0,02 %
90	Belize[2]	86,30	75,18	0,00 %
91	Brunei	85,60	84,05	0,00 %
92	Monaco	82,93	77,50	0,00 %
93	Estonia	79,47	50,85	0,02 %
94	Maldives	74,87	81,08	0,00 %
95	Ghana[2]	68,85	61,75	0,00 %
96	Dominica	62,02	77,33	0,00 %
97	Lithuania	58,75	46,78	0,02 %
98	Antigua and Barbuda	54,53	86,88	0,00 %
99	Montenegro	52,64	63,15	0,00 %
100	Cook Islands	44,97	74,58	0,00 %
101	Grenada	44,61	77,08	0,00 %
102	Macedonia	39,76	60,68	0,00 %
103	Botswana[2]	39,45	68,73	0,00 %
104	Slovenia	35,32	41,83	0,01 %
105	Andorra	35,05	66,05	0,00 %
106	Gambia[2]	34,51	76,63	0,00 %
107	Trinidad and Tobago	27,86	65,25	0,00 %
108	Nauru	26,32	66,65	0,00 %
109	San Marino	24,31	64,00	0,00 %
110	St. Lucia	21,52	78,28	0,00 %
111	St. Vincent and the Grenadines	21,38	69,95	0,00 %
112	Montserrat	16,53	77,50	0,00 %

Footnote 1: The territories marked in **Dark Blue** are Overseas Territories (OTs) and Crown Dependencies (CDs) where the Queen is head of state; powers to appoint key government officials rests with the British Crown; laws must be approved in London; and the UK government holds various other powers (see here for more details).

Territories marked in **Light Blue** are British Commonwealth territories which are not OTs or CDs but whose final court of appeal is the Judicial Committee of the Privy Council in London (see here for more details).

To compute an FSI for the entire group of OTs and CDs (or also including the UK), we first need to calculate the group's joint Secrecy Score and joint Global Scale Weight. Calculating the joint Global Scale Weight is straightforward - we just sum up each jurisdiction's individual Global Scale Weight to arrive at 5.26% (or 22.63% including the UK). To combine the Secrecy Scores, we see at least three relevant options. **First**, we could take a simple arithmetic average to arrive at 75.02 (or 73.47 including the UK), resulting in an FSI of 2416.2 (or 2836.6 including the UK), putting the whole group at the first place by a large margin ahead of Switzerland, which has an FSI of 1589.6. **Second**, we could use the highest Secrecy Score of these jurisdictions, 86.88 for Antigua and Barbuda, to arrive at an FSI of 2457.7 (or 3996.2 including the UK), again putting the whole group at the top of the list. **Third**, using average Secrecy Scores weighted by each jurisdiction's Global Scale Weight, which emphasises the relative transparency of the UK over its secrecy network, we arrive at 71.53 (49.13 including the UK), resulting in an FSI of 1371.6 (or 723 including the UK), putting the whole group at the second place (or ninth including the UK). Note that our list excludes many British Commonwealth realms where the Queen remains head of state.

Footnote 2: For these jurisdictions, we provide special narrative reports exploring the history and politics of their offshore sectors. You can read and download these reports by clicking on the country name.

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 Secrecy Scores are calculated based on 20 indicators. For full explanation of the methodology and data sources, please refer to Chapter 3 of this document.

Footnote 5: The Global Scale Weight represent a jurisdiction's share in global financial services exports. For full explanation of the methodology and data sources, please refer to Chapter 4.

Footnote 6: The FSI Value 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. For full explanation of the methodology, see Chapter 5.

Annex B: Assessment Logic of 20 KFSIs, all details

Table I: Assessment Logic KFSI 1 – Banking Secrecy

Info_ID	Text_Info_ID	Answers (Codes applicable for all questions: -2: Unknown; -3: Not Applicable)	Valuation % Secrecy
360	Criminal sanctions, custodial sentencing or any other statutory sanctions for breaches of banking secrecy?	0: Yes, there are prison terms for disclosing client's banking data to any third party (and possibly fines); 1: Yes, there are fines for disclosing client's banking data to any third party, but no prison terms; 2: No, there are no statutory sanctions for disclosing client's banking data to any third party.	20% unless answer is >0
352	To what extent are banks subject to stringent customer due diligence regulations ("old" FATF-recommendation 5/"new" 10)?	0: Fully; 1: Largely; 2: Partially; 3: Not at all.	20% pro rata
353	To what extent are banks required to maintain data records of their customers and transactions sufficient for law enforcement ("old" FATF-recommendation 10/"new" recommendation 11)?	0: Fully; 1: Largely; 2: Partially; 3: Not at all.	20% pro rata
89	Are banks and/or other covered entities required to report large transactions in currency or other monetary instruments to designated authorities?	Y/N	20% if N, or -2
157	Sufficient powers to obtain and provide banking information on request?	1: Yes without qualifications; 2: Yes, but some barriers; 3: Yes, but major barriers; 4: No, access is not possible, or only exceptionally.	10% except if answer is 1
158	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% except if answer is 1

Table II: Assessment Logic KFSI 2 – Trusts and Foundations Register

Info_ID	Text_Info_ID	Answers (Codes applicable for all questions: -2: Unknown; -3: Not Applicable)	Valuation % Secrecy
204	Are 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.	Integrated assessment of domestic and foreign law trusts as per assessment matrix in KFSI 2, Table 2.1 (see FSI-methodology or KFSI 2 paper). If both domestic and foreign law trusts are always registered and details published online, 0% secrecy score. If domestic trust law exists, and/or foreign law trusts are legally endorsed, and no registration nor disclosure is required, 50% secrecy.
355	Is the jurisdiction a party to the Convention of 1 July 1985 on the Law Applicable to Trusts and on their Recognition?	YN	
206	Trusts: Is any formal registration required at all?	0: NEITHER: Neither domestic law trusts nor foreign law trusts domestically managed have to register; 1: BOTH: Domestic law trusts have to register and foreign law trusts domestically managed have to register; 2: TRUSTEE: Only domestically managed trusts have to register (both foreign and domestic law trust); 3: FOREIGN, BUT NO DOMESTIC: Domestic law trusts cannot be created and foreign law trusts domestically managed have to register; 4: NEITHER, BUT NO DOMESTIC: Domestic law trusts cannot be created, but no registration of domestically managed foreign law trusts; 5: ONLY DOMESTIC: Domestic law trusts have to register, but no registration of domestically managed foreign law trusts; 6: ONLY FOREIGN: Domestic law trusts do not have to register, but foreign law trusts domestically managed have to.	
214	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); 2: Yes, for both domestic and foreign law trusts (if applicable).	
234	Are Private Foundations available?	YN	Integrated assessment of private foundations as per assessment matrix in KFSI 2, Table 2.1 (see above). If private foundations do not exist, or need to disclose online all their key parties, 0%
236	Foundations: Is any formal registration required at all?	YN	
237	Are the settlors/founders named?	0: No, nobody has to be named; 1: Yes, but a legal entity or nominee could be named; 2: Yes, but it is not clear if this refers to a natural person (beneficial owner); 3: Yes, a natural person (beneficial owner) has to be registered.	

393	What information has to be registered for those who need to be named (above)?	0: Only the names are always registered; 1: Only names and countries of residence are always registered; 2: All names plus countries of residence plus either addresses or TINs or birthdates, passport or personal IDs, or incorporation numbers are always registered.	secrecy score. If private foundations exist but do not make available online any information on their key parties, 50% secrecy.
238	Are the members of the foundation council named?	See categories for ID 237 above.	
394	What information has to be registered for those who need to be named (above)?	See categories for ID 393 above.	
239	Is the enforcer/protector named?	See categories for ID 237 above.	
395	What information has to be registered for those who need to be named (above)?	See categories for ID 393 above.	
240	Are the beneficiaries named?	0: No, nobody has to be named; 1: Yes, but a legal entity or nominee could be named, or a class of beneficiaries is identified; 2: Yes, but it is not clear if this refers to a natural person (beneficial owner), or a class of beneficiaries is identified; 3: Yes, every natural person mentioned as a trust beneficiary, and everyone who receives a payment from the foundation has to be registered, and classes of beneficiaries or indetermined/discretionary beneficiaries are not allowed.	
396	What information has to be registered for those who need to be named (above)?	See categories for ID 393 above.	
384	Is it mandatory to update the identity of those related parties (e.g. founders, council members, etc.) that have to be registered?	YN	
244	Is registration data available online ('on public record') for up to 10 €/US$?	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	

Table III: Assessment Logic KFSI 3 – Recorded Company Ownership

Info ID	Text_Info_ID	Answers	Valuation % Secrecy
470	LO Record: Does the registration of domestic companies comprise legal owner's identity information?	0: No. Companies available without recorded legal ownership information; 2: All LO: Yes, all companies require recording of all legal owners.	Integrated assessment of BO and LO as per assessment matrix in KFSI 3, Table 3.1 (see FSI-methodology or KFSI 3 paper). If all beneficial owners are always registered and updated with all details at the 1 share level, 0% secrecy score. If not even legal owners are always registered, or incomplete, or not updated, 100% secrecy score. Seven intermediate scores for partial compliance. Absence of a senior manager clause in the definition of the beneficial owner results in a reduction of 0.25 of the secrecy score.
472	LO Update: Is the update of information on the identity of legal owners mandatory?	0: No; 1: No, because bearer shares are available/circulating/not registered with a public authority (see below); 2: Yes.	
486	What information has to be registered for those legal owners who need to be named (above)?	0: Only the names are always registered; 1: Only names and countries of residence are always registered; 2: All names plus countries of residence plus either addresses or TINs or birthdates, passport or personal IDs, or incorporation numbers are always registered.	
471	BO Record: Does the registration of domestic companies comprise beneficial owner's identity information?	0: No. Companies available without recorded beneficial ownership information; 1: Yes, more than 25%. All companies require recording of all beneficial owners at threshold of more than 25% (FATF); 2: Yes, 10%-25%: All companies require recording of all beneficial owners at threshold of more than 10%, up to 25%; 3: Yes, up to 10%. All companies require recording of all beneficial owners at threshold of more than any share/influence, up to 10%; 4: Yes all. All companies require recording of every single natural person with any share/influence ('beneficial owner').	
473	BO Update: Is the update of information on the identity of beneficial owners mandatory?	0: No; 1: No, because bearer shares are available/circulating/not registered with a public authority (see below); 2: Yes.	
485	What information has to be registered for those beneficial owners who need to be named (above)?	0: Only the names are always registered; 1: Only names and countries of residence are always registered; 2: All names plus countries of residence plus either addresses or TINs or birthdates, passport or personal IDs are always registered.	
388	Can a senior manager ever be registered as a beneficial owner (because no individual passed the threshold to be considered a beneficial owner)?	0: Yes, a senior manager may be registered as a beneficial owner, making it impossible to distinguish him/her from a real beneficial owner; 1: No, even if the senior manager is registered (because no individual passed the threshold to be considered a beneficial owner), he/she is registered as such, but not as an ordinary 'beneficial owner'; 2: No, if no individual has passed the threshold to be considered a beneficial owner, then the top 10 owners have to be identified as beneficial owners, or the company is struck off the registry.	

Table IV: Assessment Logic KFSI 4 – Other Wealth Ownership

Info_ID	Text_Info_ID	Answers (Codes applicable for all questions: -2: Unknown; -3: Not Applicable)	Valuation % Secrecy
416	**Real Estate Registry**: Is there a central registry of domestic real estate publicly available online?	0: No, there is no central registry of real estate; 1: CENTRAL: While there is a central registry of real estate, it is not - or only exceptionally - available online to the public; 2: ONLINE: Yes, there is a central registry of real estate open to the public and accessible online; 3: FREE: Yes, there is a central registry of real estate available online for free; 4: OPEN: Yes, there is a central registry of real estate available online for free & in open data format.	Integrated assessment of BO and LO as per assessment matrix in KFSI 4, Table 4.1 (see FSI-methodology or KFSI 4 paper). If all beneficial and legal owners are always registered and updated with all details, and made available online in open data format, then zero secrecy score. If not even legal owners are always registered, or incomplete, or not updated, 50% secrecy score. Eight intermediate scores for partial compliance.
437	Is **legal ownership** information of real estate available on public online record (up to 10 EUR/GBP/USD)?	0: No, information on legal owners is not always available online (up to 10 EUR/GBP/USD); 1: COST: Yes, legal ownership is always available but only at a cost of up to 10 EUR/GBP/USD; 2: FREE: Yes, legal ownership is always available for free but not in open data format; 3: OPEN: Yes, legal ownership is always available for free & in open data format.	
487	Is **beneficial ownership** information of real estate available on public online record (up to 10 EUR/GBP/USD)?	0: No, beneficial ownership not always available online (up to 10 EUR/GBP/USD); 1: COST: Yes, beneficial ownership (with the exception of real estate where the beneficial owner actually resides, if applicable) is always available but only at a cost of up to 10 EUR/GBP/USD; 2: FREE: Yes, beneficial ownership (with the exception of real estate where the beneficial owner actually resides, if applicable) is always available for free but not in open data format; 3: OPEN: Yes, beneficial ownership (with the exception of real estate where the beneficial owner actually resides, if applicable) is always available for free & in open data format.	
418	Are **freeports**/free trade zones/foreign trade zones/bonded warehouses **promoted** as places to store valuable assets (e.g. gold bullion, art, precious stones, jewellery, cash, antiquities, wines, cigars, cars)?	YN	If answer is No: 0% secrecy score; otherwise see below (ID 439)

439	**Freeport Owners**: Is information on legal and beneficial owners of assets stored in freeports/free trade zones/foreign trade zones/bonded warehouses always registered by a government agency, and sent to respective countries of residence of the owners?	0: **Neither legal nor beneficial** owners need to be reported in all cases to a domestic government agency (e.g. customs office, a commercial registry, tax administration, central bank or a similar body); 1: **Only legal owners** need to be reported in all cases to a domestic government agency (e.g. customs office, a commercial registry, tax administration, central bank or a similar body); 2: **Legal and beneficial owners** need to be reported in all cases to a domestic government agency (e.g. customs office, a commercial registry, tax administration, central bank or a similar body); 3: **Information on legal and beneficial ownership is sent** to the corresponding countries of residence of the owners.	0: 50%; 1: 37.5%; 2: 25%; 3: 0%

Table V: Assessment Logic KFSI 5 – Limited Partnership Transparency

Info_ID	Text_Info_ID	Answers **(Codes applicable for all questions: -2: Unknown; -3: Not Applicable)**	Valuation % Secrecy
269	**Available Types**: Partnerships with Limited Liability?	YN	If answer is No: 0% secrecy score; otherwise see below
476	**LO Record**: Does the registration of domestic limited partnerships comprise information on the legal ownership of all partners?	0: No, for some partnerships no legal ownership information is recorded; 2: Yes, all partnerships require recording of all partners/legal owners of all partners.	Integrated assessment of BO and LO as per assessment matrix in KFSI 5, Table 5.1 (see FSI-methodology or KFSI 5 paper). If all beneficial owners and all legal owners are always registered and updated with all details and made available in open data format, 0% secrecy score. If not even legal owners are always registered, or incomplete, or not updated, or not made public against a cost of up to 10 EUR/GBP/USD, 50% secrecy score. Eight intermediate scores
479	**LO Update**: Is the update of legal ownership information mandatory for all partners?	YN	
483	What information has to be registered for those legal owners who need to be named (above)?	0: Only the names are always registered; 1: Only names and countries of residence are always registered; 2: All names plus countries of residence plus either addresses or TINs or birthdates, passport or personal IDs are always registered.	
477	**BO Record**: Does the registration of domestic limited partnerships comprise information on the beneficial ownership of all partners?	0: No, for some partnerships no beneficial ownership information is recorded; 1: While some beneficial ownership information is always recorded, it is incomplete/not recorded for all partners; 2: Yes, all partnerships require recording of all partners' beneficial ownership.	
480	**BO Update**: Is the update of beneficial ownership information mandatory for all partners?	YN	

484	What information has to be registered for those beneficial owners who need to be named (above)?	0: Only the names are always registered; 1: Only names and countries of residence are always registered; 2: All names plus countries of residence plus either addresses or TINs or birthdates, passport or personal IDs are always registered.	for partial compliance.
481	**LO**: Are partners/legal owners available on a public online record (up to 10 €/US$/GBP)?	0: No, information on partners/legal owners is not always available online (up to 10 EUR/GBP/USD); 1: COST: Yes, information on partners/legal owners is always available but only at a cost of up to 10 EUR/GBP/USD; 2: FREE: Yes, information on partners/legal owners is always available for free, but not in open data format; 3: OPEN: Yes, information on partners/legal owners is always available for free & in open data format.	
482	**BO**: Are partners' beneficial owners available on a public online record (up to 10 €/US$/GBP)?	0: No, information on partners' beneficial owners is not always available online (up to 10 EUR/GBP/USD); 1: COST: Yes, beneficial ownership information about all partners is always online, but only at a cost of up to 10 EUR/GBP/USD; 2: FREE: Yes, beneficial ownership information about all partners is always available online for free, but not in open data format; 3: OPEN: Yes, beneficial ownership information about all partners is always available online for free & in open data format.	
272	Is there an obligation to keep accounting data?	YN	0: 50%; only if answers re accounting data and submission are not "no": (1: 25%; 2: 12.5%; 3: 0%).
273	Are annual accounts submitted to a public authority?	YN	
274	Are annual accounts available on a public online record (up to 10 €/US$/GBP)?	0: No, annual accounts are not always online (up to 10 EUR/GBP/USD); 1: COST: Yes, annual accounts are always online but only at a cost of up to 10 EUR/GBP/USD; 2: FREE: Yes, annual accounts are always online for free, but not in open data format; 3: OPEN: Yes, annual accounts are always available online for free & in open data format.	

Table VI: Assessment Logic KFSI 6 – Public Company Ownership

Info_ID	Text_Info_ID	Answers	Valuation % Secrecy
470	**LO Record**: Does the registration of domestic companies comprise legal owner's identity information?	0: No. Companies available without recorded legal ownership information; 2: All LO: Yes, all companies require recording of all legal owners.	Integrated assessment of BO and LO as per assessment matrix in KFSI 6, Table 6.1 (see FSI-methodology or KFSI 6 paper). If all beneficial owners and all legal owners are always registered and updated with all details and made available in open data format, 0% secrecy score. If not even legal owners are always registered, or incomplete, or not updated, or not made public against a cost of up to 10 EUR/GBP/USD, 100% secrecy score. Eight intermediate scores for partial compliance.
472	**LO Update**: Is the update of information on the identity of legal owners mandatory?	0: No; 1: No, because bearer shares are available/circulating/not registered with a public authority (see below); 2: Yes.	
486	What information has to be registered for those legal owners who need to be named (above)?	0: Only the names are always registered; 1: Only names and countries of residence are always registered; 2: All names plus countries of residence plus either addresses or TINs or birthdates, passport or personal IDs are always registered.	
471	**BO Record**: Does the registration of domestic companies comprise beneficial owner's identity information?	0: No. Companies available without recorded beneficial ownership information; 1: Yes, more than 25%. All companies require recording of all beneficial owners at threshold of more than 25% (FATF); 2: Yes, 10%-25%: All companies require recording of all beneficial owners at threshold of more than 10%, up to 25%; 3: Yes, up to 10%. All companies require recording of all beneficial owners at threshold of more than any share/influence, up to 10%; 4: Yes all. All companies require recording of every single natural person with any share/influence ('beneficial owner').	
473	**BO Update**: Is the update of information on the identity of beneficial owners mandatory?	0: No; 1: No, because bearer shares are available/circulating/not registered with a public authority (see below); 2: Yes.	
485	What information has to be registered for those beneficial owners who need to be named (above)?	0: Only the names are always registered; 1: Only names and countries of residence are always registered; 2: All names plus countries of residence plus either addresses or TINs or birthdates, passport or personal IDs are always registered.	

475	**LO Online**: Are companies' legal owners available on a public online record (up to 10 €/US$/GBP)?	0: No, information on legal owners is not always available online (up to 10 EUR/GBP/USD); 1: COST: Yes, legal ownership is always available but only at a cost of up to 10 EUR/GBP/USD; 2: FREE: Yes, legal ownership is always available for free, but not in open data format; 3: OPEN: Yes, legal ownership is always available for free & in open data format.	
474	**BO Online**: Are companies' beneficial owners available on a public online record (up to 10 €/US$/GBP)?	0: No, beneficial ownership is not always available online (up to 10 EUR/GBP/USD); 1: COST: Yes, beneficial ownership is always available but only at a cost of up to 10 EUR/GBP/USD; 2: FREE: Yes, beneficial ownership is always available for free, but not in open data format; 3: OPEN: Yes, beneficial ownership is always available for free & in open data format.	

Table VII: Assessment Logic KFSI 7 – Public Company Accounts

Info_ID	Text_Info_ID	Answers (Codes applicable for all questions: -2: Unknown; -3: Not Applicable)	Valuation % Secrecy
188	Accounting data required?	YN	0: 100%; 1: 50%; 2: 25%; 3: 0% (only if answers re accounting data and submission are not "no")
189	Accounts submitted to public authority?	YN	
201	Online Availability of Information: On public record (up to 10 €/US$/GBP): Accounts?	0: No, company accounts are not always online (up to 10 €/US$); 1: Yes, company accounts are always online but only at a cost of up to 10€/10$; 2: Yes, company accounts are always online for free, but not in open data format; 3: Yes, company accounts are always online for free & in open data format.	

Table VIII: Assessment Logic KFSI 8 – Country-by-Country Reporting

Info_ID	Text_Info_ID	Answers (Codes applicable for all questions: -2: Unknown; -3: Not Applicable)	Valuation % Secrecy
318	**CBCR**: Are companies listed on the national stock exchange or incorporated in the jurisdiction required to comply with a worldwide country-by-country reporting standard?	0: No public country-by-country reporting at all; 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 public country-by-country reporting for all sectors.	0: 100%; 1: 90%; 2: 75%; 3: 50%; 4: 0%.

Table IX: Assessment Logic KFSI 9 – Corporate Tax Disclosure

Info_ID	Text_Info_ID	Answers (Codes applicable for all questions: -2: Unknown; -3: Not Applicable)	Valuation % Secrecy
419	**CBCR**: Is there a local filing requirement of a global country-by-country reporting file (according to OECD's BEPS Action 13) by large corporate groups (with a worldwide turnover higher than 750 million Euro) and local subsidiaries of foreign groups?	0: No; 1: OECD Legislation: Secondary mechanism is subject to restrictions imposed by OECD model legislation; or no secondary mechanism at all (only the domestic ultimate parent entity has to file the CbCR); 2: Beyond OECD Legislation: Secondary mechanism is not subject to restrictions imposed by OECD model legislation: any domestic subsidiary of a group would have to file the CbCR in all cases in which the jurisdiction cannot obtain the CbCR via AEoI.	If answer is 2: 0%; otherwise 50%.
363	**APAs & Tax Rulings**: Are unilateral cross-border tax rulings (e.g. advance tax rulings, advance tax decisions) or bi-or multilateral advance pricing agreements (APA) available in laws or regulation, or in administrative practice?	0: Neither APAs nor unilateral cross-border tax rulings are available; 1: Yes, but only bilateral/multilateral APAs are available; 2: Yes, but only unilateral cross-border tax rulings are available; 3: Yes, both unilateral cross-border tax rulings and bilateral/multilateral APAs are available.	If answer is 0 or 1: 0%; otherwise see below.

421	**Tax Rulings**: Are all unilateral crossborder tax rulings (e.g. advance tax rulings, advance tax decisions) published online for free, either anonymised or not?	0: No; 1: SOME FOR FREE: Some unilateral crossborder tax rulings are published online for free; 2: COST: Unilateral cross-border tax rulings are published online only against a cost (irrespective of if all or only some are available online); 3: ALL FOR FREE: All unilateral crossborder tax rulings are published online for free.	0: 50%; 1 or 2: 25%; 3: 0%.

Table X: Assessment Logic KFSI 10 – Legal Entity Identifier

Info_ID	Text_Info_ID	Answers **(Codes applicable for all questions: -2: Unknown; -3: Not Applicable)**	Valuation % Secrecy
414	Is the use of an annually updated Legal Entity Identifier (LEI, developed under the guidance of the Financial Stability Board, FSB) mandatory for all companies?	YN	If Y: 0%; otherwise 100%; All of following scores below are added/subtracted. If sum is above 100% = 100%, below 0% = 0%.
415	Is the use of an annually updated Legal Entity Identifier (LEI, developed under the guidance of the Financial Stability Board, FSB) mandatory for some financial market operators and/or asset classes?	0: No; 1: Yes, but only for trading in "Over the Counter" (OTC) derivatives; 2: Yes, but only for some financial market operators and/or asset classes beyond "Over the Counter" (OTC) derivatives; 3: Yes, both for trading in "Over the Counter" (OTC) derivatives and for some financial market operators and/or asset classes beyond trading in OTC derivatives.	If answer 1 or 2: -25%; 3: -50%.
420	Is the use of an annually updated LEI mandatory for identification of reporting financial institutions (pursuant to the Common Reporting Standard (CRS), as referred to in the CRS commentaries, page 97, section I, subpara A (3))?	YN	If Y: -25%.

Table XI: Assessment Logic KFSI 11 – Tax Administration Capacity

Info_ID	Text_Info_ID	Answers (Codes applicable for all questions: -2: Unknown; -3: Not Applicable)	Valuation % Secrecy
317	**Large Taxpayer Unit**: Does the tax administration operate one central unit for large taxpayers (large taxpayer unit, LTU)?	YN	If Y: -12.5%
400	**HNWI Unit**: Does the tax administration operate one central unit dedicated to the taxation of High Net Worth Individuals (HNWI)?	YN	If Y: -12.5%
401	**Individual TIN**: Are all natural persons subject to personal income tax provided with unique and mandatory Taxpayer Identifier Numbers (TINs) which are mandatory for filing their tax returns?	YN	If Y: -12.5%
402	**Corporate TIN**: Are all legal persons subject to corporate income tax provided with unique and mandatory Taxpayer Identifier Numbers (TINs) which are mandatory for filing their tax returns?	YN	If Y: -12.5%
403	**Taxpayers reporting schemes**: Are taxpayers required to report at least annually on certain tax avoidance schemes they have used?	0: No; 1: Yes, but the schemes are only reported to the tax administration, and are not published; 2: Yes, and the schemes are made publicly available.	If answer is 1: -10% for each. If both answers are 1: bonus of -5%.
404	**Tax advisers reporting schemes**: Are tax advisers (who help companies and individuals to prepare tax returns) required to report at least annually on certain tax avoidance schemes they have sold/marketed (if applicable)?	See categories above.	
405	**Taxpayers reporting uncertain tax positions**: Are taxpayers required to report at least annually on details of uncertain tax positions for which reserves have been created in the annual accounts?	0: No; 1: Yes, but the details are only reported to the tax administration (they are not published); 2: Yes, and the details are made publicly available.	If answer is 1: -10% for each. If both answers are 1: bonus of -5%.

406	**Tax advisers reporting uncertain tax positions**: Are tax advisers required to report at least annually on details of uncertain tax positions for which reserves have been created in the annual accounts of the companies they advised?	See categories above.	

Table XII: Assessment Logic KFSI 12 – Consistent Personal Income Tax

Info_ID	Text_Info_ID	Answers **(Codes applicable for all questions: -2: Unknown; -3: Not Applicable)**	Valuation % Secrecy
435	**Personal Income Taxation**: Is there a personal income tax with a comprehensive scope?	0: No, there is no personal income tax; 1: No, personal income tax is only levied on a territorial or remittance basis; 2: No, lump sum/flat charge/exemption of taxes are available instead of regular personal income taxation; 3: Yes, there is a uniform personal income tax regime with a worldwide income tax base.	Integrated assessment of Personal Income Tax and Citizenship- or Residency-by-Investment Schemes as per assessment matrix in KFSI 12, Table 12.1 (see FSI-methodology or KFSI 12 paper). If there is a comprehensive personal income tax with worldwide scope, 0% secrecy score. If no PIT or Annex A in CRS (see KFSI 18), and lax residency- or citizenship-by-investment rules: 100% secrecy score. Three intermediate scores for partial compliance.
374	**CRS MCAA Voluntary Secrecy**: Has the jurisdiction chosen "voluntary secrecy" (listed under the MCAA's Annex A to prevent receiving information)?	YN	
489	**Citizenship-By-Investment and Residency-By-Investment Schemes**: Can individuals acquire citizenship, passports or residency status in exchange for an investment or another payment without a prior requirement to spend more than 2 years in the jurisdiction?	YN	

Table XIII: Assessment Logic KFSI 13 – Avoids Promoting Tax Evasion

Info_ID	Text_Info_ID	Answers (Codes applicable for all questions: -2: Unknown; -3: Not Applicable)	Valuation % Secrecy
None	In the absence of a bilateral treaty, does the jurisdiction apply a tax credit system for receiving interest income payments?	3: yes, all three types of recipients [i) legal person – independent party; ii) legal person – related party; iii) natural person]; 2: for 2; 1: for 1; 0: for none.	(3): 0%; (2): 30%; (1): 40%; (0): 50%
None	In the absence of a bilateral treaty, does the jurisdiction apply a tax credit system for receiving dividend income payments?	3: yes, all three types of recipients [see above]; 2: for 2; 1: for 1; 0: for none.	(3): 0%; (2): 30%; (1): 40%; (0): 50%

Table XIV: Assessment Logic KFSI 14 – Tax Court Secrecy

Info_ID	Text_Info_ID	Answers (Codes applicable for all questions: -2: Unknown; -3: Not Applicable)	Valuation % Secrecy
407	Are all court proceedings on criminal tax matters openly accessible to the public, and the public cannot be ordered to leave the court room by invoking tax secrecy, bank secrecy, professional secrecy or comparable confidentiality rules?	Y/N	If answer Y: 0%; otherwise 25%.
408	Are all court proceedings on civil tax matters openly accessible to the public, and the public cannot be ordered to leave the court room by invoking tax secrecy, bank secrecy, professional secrecy or comparable confidentiality rules?	Y/N	If answer Y: 0%; otherwise 25%.
409	Is the full text of judgements / verdicts issued by criminal tax courts published online for free?	0: No, full text of verdicts is not always online (up to 10€/US$); 1: Yes, full text of verdicts is always online but only at a cost of up to 10€/US$; 2: Yes, full text of verdicts is always online for free.	If answer 2: 0%; 1: 12.5%; 0: 25%

410	Is the full text of judgements / verdicts issued by civil tax courts published online for free?	0: No, full text of verdicts is not always online (up to 10€/US$); 1: Yes, full text of verdicts is always online but only at a cost of up to 10€/US$; 2: Yes, full text of verdicts is always online for free.	If answer 2: 0%; 1: 12.5%; 0: 25%

Table XV: Assessment Logic KFSI 15 – Harmful Structures

Info_ID	Text_Info_ID	Answers **(Codes applicable for all questions: -2: Unknown; -3: Not Applicable)**	Valuation % Secrecy
488	Does the jurisdiction issue or accept circulation **of large banknotes/cash bills** of its own currency (of value greater than 200 EUR/GBP/USD)?	YN	If answer N: 0%; otherwise 25%
172	Are **bearer shares** available?	0: No, bearer shares are not available/not circulating; 1: No, bearer shares are always immobilised/registered by a public authority; 2: Yes, but status is unknown; 3: Yes, unregistered bearer shares are available/circulating or registered by a private custodian.	If answer 0 or 1: 0%; otherwise 25%
184	Companies - Available Types: Protected **Cell Companies/Series LLCs**?	YN	If answer N: 0%; otherwise 25%
224	**Trusts** - Are trusts with flee clauses prohibited?	YN	If answer Y: 0%; otherwise 25%

Table XVI: Assessment Logic KFSI 16 – Public Statistics

Info_ID	Text_Info_ID	Answers (-2: Unknown; -3: Not Applicable)	Valuation % Secrecy
426	**Trading goods**: Is data on bilateral trade in goods (equivalent to UN Comtrade, and/or more disaggregated version) published in a timely fashion online for free through the relevant international organisation?	YN	If answer Y: 0%; otherwise 10%
427	**Trading services**: Is data on bilateral trade in services (equivalent to UNCTADstat, and/or more disaggregated version) published in a timely fashion online for free through the relevant international organisation?	YN	If answer Y: 0%; otherwise 10%
428	**Trading financial services**: Is data on trade in financial services (equivalent to IMF's balance of payment statistics, and/or more disaggregated) published in a timely fashion online for free through the relevant international organisation?	YN	If answer Y: 0%; otherwise 10%
429	**Offshore trade**: Is bilateral data on transit/merchanting trade (similar to Hong Kong's offshore trade in goods) published in a timely fashion online for free?	YN	If answer Y: 0%; otherwise 10%
430	**IMF CPIS**: Does the jurisdiction participate in the Coordinated Portfolio Investment Survey (CPIS) of the IMF and is the data published in a timely fashion online for free through the relevant international organisation?	YN	If answer Y: 0%; otherwise 10%
431	**IMF CDIS**: Does the jurisdiction participate in the Coordinated Direct Investment Survey (CDIS) of the IMF and is the data published in a timely fashion online for free through the relevant international organisation?	YN	If answer Y: 0%; otherwise 10%
432	**BIS Locational**: Does the jurisdiction participate in the locational banking statistics of the Bank for International Settlements (BIS), and is the data published in a timely fashion online for free through the relevant international organisation?	YN	If answer Y: 0%; otherwise 10%
433	**National Bilateral BIS**: Is data on national bilateral banking liabilities published with country level breakdowns of the countries of origin (equivalent to Bank for International Settlements (BIS) locational banking statistics, tables A5-A7)?	YN	If answer Y: 0%; otherwise 10%
434	**CBCR Aggregates**: Are global country-by-country reporting aggregates pursuant to OECD BEPS Action 13 (Annex III of Chapter V, pages 29-30) of all multinational corporate groups with domestic headquarters, published in a timely fashion online for free?	YN	If answer Y: 0%; otherwise 10%
425	**CRS Aggregates**: Are aggregates of the data reported under CRS published in a timely fashion (without identifying any specific person or account) online for free?	0: No; 1: Yes, but without country level breakdown; 2: Yes, broken down by country of origin.	If answer is >0, 0%; otherwise 10%

Table XVII: Assessment Logic KFSI 17 – Anti-Money Laundering

Info_ID	Text_Info_ID	Valuation % Secrecy
335	**FATF Performance**: Overall Non-Compliance Score of FATF-standards in Percentage (100% = all indicators rated non-compliant/low level of effectiveness; 0% = all indicators rated compliant or highly effective).	1. Coding of ratings (x) as follows: 0: compliant; 1: largely compliant; 2: partially-compliant; 3: non-compliant; analogously for levels of effectiveness in immediate outcomes (high, significant, moderate, low). 2. Define actual number of indicators: i (up to 49 or 51) 3. Define maximum secrecy: i*3 4. Define minimum secrecy: i*0 5. Calculate yi = [(x)1+(x)2+…(x)i] 6. Overall Non-Compliance Percentage: [yi]*100/(i*3)

Table XVIII: Assessment Logic KFSI 18 – Automatic Information Exchange

Info_ID	Text_Info_ID	Answers **(Codes applicable for all questions: -2: Unknown; -3: Not Applicable)**	Valuation % Secrecy
150	**CRS MCAA Signed**: Has the jurisdiction signed the Multilateral Competent Authority Agreement (MCAA) to implement the OECD's Common Reporting Standard (CRS) (the CRS-MCAA)?	0: Did not sign the MCAA; 1: Signed the MCAA, but committed to exchange information in 2018; 2: Signed the MCAA and committed to exchange information in 2017.	If answer (2): 50%; (1): 75%; (0): 100%; All of following scores are added/subtracted. If sum is above 100% = 100%, below 0% = 0%.
376	**CRS Pilot**: Has the jurisdiction engaged (or expressed interest in participating) in any Pilot Project, that involves partnering up a developed country with a developing country to assist implementing the CRS?	YN	If yes, then -50%
371	**CRS MCAA Dating Number**: Number of co-signatories of the MCAA chosen under the 'dating system' of Annex E (if disclosed), or number of Activated AEOI relationships (under the MCAA) published by the OECD as of 15 November 2017?	Number	If number is 100% of possible #co-signatories/relationships: -50%; otherwise pro rata
372	**CRS MCAA Refusal**: Has the jurisdiction refused to engage in AEOI with any co-signatory of the MCAA even though that co-signatory complies with domestic law and confidentiality provisions?	YN	+10% if answer is Yes

373	**CRS MCAA Postponement**: Has the jurisdiction postponed AEOI with specific co-signatories of the MCAA?	YN	+10% if answer is Yes
374	**CRS MCAA Voluntary Secrecy**: Has the jurisdiction chosen "voluntary secrecy" (listed under the MCAA's Annex A to prevent receiving information)?	YN	+10% if answer is Yes
377	**CRS Additional Conditions**: Has the jurisdiction imposed additional conditions to engage in AEOI (beyond those required by the MCAA) such as amnesty programs, market access, etc.?	YN	+10% if answer is Yes

Table XIX: Assessment Logic KFSI 19 – Bilateral Treaties

Info_ID	Text_Info_ID	Answers (Codes applicable for all questions: -2: Unknown; -3: Not Applicable)	Valuation % Secrecy
309	Amended Council of Europe / OECD Convention on Mutual Administrative Assistance in Tax Matters (Tax Convention)	1; No, jurisdiction is not party to the Convention; 2: Yes, but only party to the original Convention; 3: Yes, party to the Amended Convention.	If answer (3): 0%; otherwise: see ID 143
143	Bilateral Treaties for Information Exchange Upon Request: Number of Double Tax Agreements (DTA) or Tax Information Exchange Agreements (TIEAs) with provisions for 2002 OECD-style information exchange?	Number	inverse % of 98

Table XX: Assessment Logic KFSI 20 – International Legal Cooperation

Info_ID	Text_Info_ID	Answers (Codes applicable for all questions: -2: Unknown; -3: Not Applicable)	Valuation % Secrecy
309	Amended Council of Europe / OECD Convention on Mutual Administrative Assistance in Tax Matters (Tax Convention)	1: No, jurisdiction is not part to the Convention; 2: Yes, but only part to the original Convention; 3: Yes, part to the Amended Convention.	12.5% except if answer (3)
33	UN Convention Against Corruption	YN	12.5% if not Yes
35	UN International Convention for the Suppression of the Financing of Terrorism	YN	12.50% if not Yes
36	UN Convention Against Transnational Organized Crime	YN	12.5% if not Yes
310	Will mutual legal assistance be given for investigations, prosecutions, and proceedings (FATF-recommendation 36)?	0: Fully; 1: Largely; 2: Partially; 3: Not at all.	0: 0%; 1: 3.5%; 2: 6.5%; 3: 10%
311	Is mutual legal assistance given without the requirement of dual criminality (old FATF recommendation 37)?	0: Fully; 1: Largely; 2: Partially; 3: Not at all.	if old FATF: 0: 0%; 1: 3.5%; 2: 6.5%; 3: 10%
312	Is mutual legal assistance given concerning identification, freezing, seizure and confiscation of property (FATF recommendation 38)?	0: Fully; 1: Largely; 2: Partially; 3: Not at all.	0: 0%; 1: 3.5%; 2: 6.5%; 3: 10%
313	Is money laundering considered to be an extraditable offense (FATF recommendation 39)?	0: Fully; 1: Largely; 2: Partially; 3: Not at all.	0: 0%; 1: 3.5%; 2: 6.5%; 3: 10%
314	Is the widest possible range of international co-operation granted to foreign counterparts beyond formal legal assitance on anti-money laundering and predicate crimes (FATF recommendation 40)?	0: Fully; 1: Largely; 2: Partially; 3: Not at all.	0: 0%; 1: 3.5%; 2: 6.5%; 3: 10%
469	International co-operation delivers appropriate information, financial intelligence, and evidence, and facilitates action against criminals and their assets (Immediate Outcome 2 of the effectiveness assessments under new FATF 2013/2017 methodology)?	0: Fully; 1: Largely; 2: Partially; 3: Not at all.	if new FATF: 0: 0%; 1: 3.5%; 2: 6.5%; 3: 10%

Annex C: Detailed breakdown of results for 20 KFSI

Indicator / 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	KFSI 16	KFSI 17	KFSI 18	KFSI 19	KFSI 20	FINAL Secrecy Score
Andorra	0,87	0,25	0,9	0,5	0	1	1	1	1	1	0,75	0,75	0	1	0,5	1	0,61	0,75	0	0,33	66,1
Anguilla	0,7	1	1	0,5	1	1	1	1	1	1	1	0,75	1	1	0,75	0,9	0,42	0,32	0	0,16	77,5
Antigua and Barbuda	0,93	1	1	0,5	1	1	1	1	1	1	1	1	1	1	0,75	0,8	0,66	0,75	0,79	0,195	86,9
Aruba	0,57	0,25	1	0,5	1	1	1	1	1	1	1	0,75	1	1	0,75	0,5	0,77	0,75	0	0,355	76
Australia	0,2	0,5	1	1	1	1	1	1	0,25	1	0,4	0	0,5	0,5	0,25	0,2	0,43	0	0	0	51,2
Austria	0,57	0,625	1	1	0,75	1	0,5	0,5	0,5	0,75	0,625	0	0,4	1	0,75	0,3	0,41	0,36	0	0,14	55,9
Bahamas	0,7	1	1	0,5	1	1	1	1	1	1	1	1	1	1	0,5	0,6	0,54	1	0,73	0,33	84,5
Bahrain	0,8	0,5	1	0,5	1	1	1	1	1	1	1	1	1	0,75	0,5	0,4	0,48	0,75	0,65	0,23	77,8
Barbados	0,53	1	1	0,5	1	1	1	1	0,5	1	1	0,75	1	1	0,5	0,7	0,5	0,5	0	0,29	73,9
Belgium	0,07	0,75	0,75	0,5	1	1	0	0,5	0	0,75	0,75	0,375	0,5	0,5	0,5	0,3	0,38	0	0	0,175	44
Belize	0,73	0,875	1	0,5	1	1	1	1	0,5	1	0,75	1	1	1	0,5	0,7	0,69	0,52	0	0,27	75,2
Bermuda	0,67	0,5	0,75	1	1	1	1	1	1	1	1	0,75	1	1	0,5	0,4	0,57	0,24	0	0,23	73,1
Bolivia	0,6	0,5	1	0,5	1	1	1	1	1	1	1	0,375	1	1	0,5	0,5	0,74	1	1	0,355	80,4
Botswana	0,6	0,5	1	0,5	0	1	1	1	0,5	1	0,875	0,75	0	1	0,25	0,6	0,87	1	0,88	0,42	68,8
Brazil	0,5	0,25	0,75	0,5	1	1	1	1	0,5	1	0,5	0	0	0	0,5	0,3	0,52	0,34	0	0,14	49
British Virgin Islands	0,4	0,5	0,75	0,5	1	1	1	1	0,5	1	1	0,75	1	1	0,75	1	0,33	0,25	0	0	68,7
Brunei	0,63	0,5	1	0,5	1	1	1	1	1	1	1	0,75	1	1	0,75	0,8	0,72	1	0,8	0,36	84,1
Bulgaria	0,3	0,75	1	1	0,475	1	0,5	0,5	0,5	0,75	0,625	0,75	0,3	1	0,5	0,5	0,35	0	0	0,035	54,2
Canada	0,14	0,5	1	1	1	1	1	0,75	0,5	0,75	0,25	0	0,6	0,5	0,75	0,3	0,41	0,36	0	0,14	54,8
Cayman Islands	0,4	1	0,75	1	1	1	1	1	0,5	1	1	1	1	1	0,5	0,6	0,32	0,1	0	0,285	72,3
Chile	0,6	0,375	0,9	0,5	1	1	1	1	1	1	0,5	0	0,5	1	0,25	0,3	0,48	0,75	0	0,165	61,6
China	0,4	0,5	1	1	1	1	1	1	0,5	1	0,625	0	0,3	1	0,5	0,3	0,51	0,31	0	0,07	60,1
Cook Islands	0,5	0,875	1	0,5	1	1	1	1	1	1	1	0,375	0,8	1	0,5	1	0,44	0,75	0	0,175	74,6
Costa Rica	0,37	0,375	1	0,5	1	1	1	1	1	1	0,625	1	1	1	0,25	0,5	0,52	0,52	0	0,07	68,7
Croatia	0,37	0,25	1	0,4	1	1	1	0,75	1	0,75	0,625	0,375	0,4	1	0,5	0,6	0,62	0,04	0	0,175	59,3
Curacao	0,6	0,875	0,75	0,5	1	1	1	1	1	1	1	0,75	1	1	0,75	0,5	0,47	0,5	0	0,265	74,8
Cyprus	0,5	0,375	1	1	1	1	1	0,75	1	0,75	0,625	1	0,4	0,5	0,5	0,3	0,29	0,19	0	0,07	61,3
Czech Republic	0,4	0,25	0,75	0,5	0,525	1	0,25	0,5	1	0,75	0,625	0,375	1	1	0,5	0,5	0,51	0,01	0	0,14	53

Indicator / 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	KFSI 16	KFSI 17	KFSI 18	KFSI 19	KFSI 20	FINAL Secrecy Score
Denmark	0,6	0,75	1	0,5	1	1	1	0,5	0,25	0,75	0,625	0	0,3	1	0,25	0,3	0,5	0	0	0,175	52,5
Dominica	0,7	0,5	1	0,5	1	1	1	1	0,5	1	0,75	0,75	0,8	0,75	0,5	0,9	0,74	1	0,78	0,295	77,4
Dominican Republic	0,56	0,25	1	0,5	1	1	1	1	1	1	1	0,75	0	0,25	0,25	0,7	0,7	1	0,97	0,39	71,6
Estonia	0,24	0,75	0,9	0,45	0,7	0,9	0,5	0,5	1	0,75	0,75	0	0,7	0,5	0,5	0,5	0,38	0,01	0	0,14	50,9
Finland	0,53	0	1	1	1	1	0,5	0,5	0,75	0,75	0,5	0	0,3	1	0,75	0,3	0,51	0,01	0	0,14	52,7
France	0,54	0,375	0,75	1	1	1	0,5	0,5	0,25	0,75	0,625	0	1	0,75	0,5	0,3	0,35	0	0	0,14	51,7
Gambia	0,66	1	1	0,5	1	1	1	1	1	1	0,875	0	0	1	0,25	0,9	0,69	1	1	0,45	76,7
Germany	0,5	0,875	1	1	0,95	1	1	0,5	0,5	0,75	0,75	0	0,3	1	0,75	0,3	0,47	0	0	0,175	59,1
Ghana	0,53	0,5	0,4	1	0	1	1	1	1	1	0,875	0	0,8	0,75	0,25	0,9	0,77	0,25	0	0,325	61,8
Gibraltar	0,76	1	0,75	1	1	1	1	1	0,5	1	0,4	0,75	1	0,75	0,5	0,9	0,37	0,07	0	0,415	70,9
Greece	0,6	0,25	1	0,5	1	1	1	0,5	1	0,75	0,5	0,75	0,3	0,5	0,75	0,3	0,66	0,01	0	0,205	57,9
Grenada	0,77	0,5	1	0,5	0	1	1	1	1	1	1	0,75	1	1	0,5	0,9	0,71	0,75	0,84	0,195	77,1
Guatemala	0,37	0,5	1	0,5	1	1	1	1	1	1	0,875	0,75	1	1	0,5	0,6	0,35	1	0	0,175	73,1
Guernsey	0,57	1	0,75	1	1	1	1	1	1	1	1	0,75	0,8	1	0,5	0,8	0,18	0,07	0	0,07	72,5
Hong Kong	0,86	0,5	1	1	1	1	1	0,9	0,5	1	0,75	0,375	1	1	0,5	0,3	0,42	1	0	0,105	71,1
Hungary	0,7	0,25	0,75	1	1	1	0,5	0,5	1	0,75	0,625	0	0,4	1	0,25	0,5	0,53	0,01	0	0,175	54,7
Iceland	0,33	0,75	0,9	0,5	1	1	1	1	0,5	1	0,75	0,375	0,4	1	0,25	0,5	0,51	0,01	0	0,205	59,9
India	0,4	0,5	0,9	1	1	1	1	1	0,5	0,75	0,625	0	0	0,5	0,25	0,3	0,47	0,01	0	0,175	51,9
Indonesia	0,5	0,25	0,9	0,5	1	1	1	1	1	1	0,5	0,75	0,4	0,5	0,25	0,3	0,65	0,52	0	0,27	61,5
Ireland	0,24	0,375	0,9	0,5	1	0,9	0,5	0,75	0,5	0,75	0,25	0,75	0,9	0,5	0,5	0,3	0,41	0	0	0,105	50,7
Isle of Man	0,44	1	0,5	0,5	0,95	1	1	1	0,5	1	0,75	0,375	0,8	1	0,5	0,8	0,38	0,08	0	0,14	63,6
Israel	0,56	0,5	1	0,5	1	1	1	1	0,75	1	0,525	0,375	0	1	0,5	0,7	0,42	0,75	0	0,07	63,3
Italy	0,27	0,5	0,65	0,5	0,95	0,9	0,5	0,5	0,5	0,75	0,625	0,75	0,5	0,75	0,5	0,3	0,31	0	0	0,14	49,5
Japan	0,27	0,375	1	1	1	1	1	1	1	1	0,625	0,375	0,3	0,5	0,25	0,3	0,55	0,29	0	0,265	60,5
Jersey	0,43	1	0,4	0,5	1	0,9	1	1	0,5	1	0,875	0,75	1	1	0,5	0,8	0,26	0,07	0	0,105	65,5
Kenya	0,63	0,5	1	1	1	1	1	1	0,5	1	0,875	0,375	1	0,5	0,5	0,9	0,86	1	0,92	0,45	80,1
Latvia	0,66	0,25	0,75	1	1	1	1	0,5	1	0,75	0,625	0	0,4	1	0,5	0,5	0,44	0	0	0,1	57,4
Lebanon	0,73	0,5	1	0,5	1	1	1	1	1	1	0,75	0,375	1	0,75	0,5	0,7	0,55	0,75	0	0,3	72,1
Liberia	0,53	1	1	0,5	1	1	1	1	0,5	1	0,875	0	1	1	0,5	0,8	0,86	1	0,89	0,485	79,7
Liechtenstein	0,73	1	1	1	1	1	1	1	1	1	0,75	0,375	1	1	1	1	0,49	0,08	0	0,23	78,3

Indicator / 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	KFSI 16	KFSI 17	KFSI 18	KFSI 19	KFSI 20	FINAL Secrecy Score
Lithuania	0,13	0	0,75	0,5	1	1	1	0,5	1	0,75	0,5	0,375	0,3	0	0,5	0,5	0,39	0,06	0	0,1	46,8
Luxembourg	0,6	0,5	1	1	0,9	1	0,5	0,5	0,75	0,75	0,75	0	0,8	0,5	1	0,3	0,65	0	0	0,14	58,2
Macao	0,6	0,25	1	1	1	1	1	1	0,5	1	0,75	0,375	1	0,5	0,5	0,4	0,45	1	0	0,325	68,3
Macedonia	0,33	0,25	1	0,4	1	1	1	1	0,5	1	0,625	0	0	0,5	0,25	0,6	0,65	1	0,7	0,33	60,7
Malaysia (Labuan)	0,27	1	1	1	1	1	1	1	1	1	0,5	0,75	1	1	0,75	0,3	0,29	0,32	0	0,205	72
Maldives	0,8	0,25	0,9	0,5	1	1	1	1	1	1	0,875	0,375	1	1	0,25	0,8	0,91	1	1	0,555	81,1
Malta	0,47	1	0,9	1	0,9	0,85	0,5	0,5	1	0,75	0,625	0,75	0,8	0,5	0,75	0,5	0,31	0	0	0	60,6
Marshall Islands	0,3	0,375	1	0,5	1	1	1	1	1	1	0,75	0,375	1	1	0,75	1	0,55	0,75	0	0,235	73
Mauritius	0,6	1	1	1	1	1	1	1	0,5	1	0,625	0,75	1	1	0,5	0,5	0,52	0,3	0	0,175	72,4
Mexico	0,43	0,5	1	0,5	1	1	1	1	1	0,5	0,625	0	0	1	0,25	0,4	0,49	0,01	0	0,17	54,4
Monaco	0,5	0,5	1	1	1	1	1	1	1	1	1	1	0,7	1	0,5	1	0,52	0,39	0	0,39	77,5
Montenegro	0,54	0,25	0,9	0,5	1	1	1	1	0,5	1	0,625	0	0	0,5	0,5	0,6	0,45	1	1	0,265	63,2
Montserrat	0,8	0,5	1	0,5	1	1	1	1	1	1	1	1	1	1	0,5	0,9	0,47	0,28	0	0,55	77,5
Nauru	0,4	0,5	1	0,5	0	1	1	1	1	1	0,75	0,375	1	1	0,25	1	0,57	0,75	0	0,235	66,7
Netherlands	0,5	1	1	0,95	1	1	1	0,5	0,75	0,75	0,5	0,75	1	0,75	0,75	0,3	0,44	0	0	0,265	66,1
New Zealand	0,27	0,375	0,9	0,5	1	0,8	1	1	1	1	0,5	0	0,4	0,75	0,25	0,5	0,56	0,3	0	0,14	56,3
Norway	0,2	0,75	0,9	0,5	0,625	0,85	0,25	1	1	1	0,625	0	0,3	1	0,25	0,4	0,48	0,01	0	0,175	51,6
Panama	0,56	1	1	1	1	1	1	1	0,5	1	0,875	0,75	1	0,75	0,5	0,3	0,76	1	0	0,33	76,7
Paraguay	0,73	0,5	1	0,5	1	1	1	1	1	1	1	0,75	1	1	0,5	0,6	0,83	1	1	0,455	84,4
Philippines	0,5	0,375	1	0,5	1	1	1	1	1	1	0,875	0	0	1	0,25	0,5	0,58	0,5	0,7	0,295	65,4
Poland	0,53	0,25	1	0,5	1	1	1	0,75	1	0,75	0,625	0	0,3	1	0,5	0,5	0,58	0,01	0	0,175	57,4
Portugal (Madeira)	0,37	0,25	0,75	1	1	1	1	0,5	1	0,75	0,375	0,75	0,3	0,5	0,75	0,3	0,34	0	0	0	54,7
Puerto Rico	0,6	0,875	1	0,5	1	1	1	1	1	1	1	0	0,8	1	0,75	1	0,37	1	0,28	0,265	77,2
Romania	0,46	0,375	1	1	1	1	1	0,5	1	0,75	0,5	0,75	1	1	0,5	0,5	0,49	0,21	0	0,07	65,6
Russia	0,3	0,25	0,9	1	1	1	1	1	1	1	0,625	0	0,8	1	0,25	0,4	0,45	0,75	0	0,07	64
Samoa	0,63	1	1	0,5	1	1	1	1	1	1	0,75	1	0,8	1	0,75	0,7	0,56	0,53	0	0,3	77,6
San Marino	0,6	0,5	0,9	0,5	0	1	1	1	1	1	0,75	0	0,8	1	0,5	1	0,76	0,1	0	0,39	64
Saudi Arabia	0,43	0,375	1	1	1	1	1	1	0,5	1	0,625	0,75	1	1	0,25	0,6	0,46	0,75	0	0,235	69,9
Seychelles	0,73	0,875	1	0,5	1	1	1	1	1	1	0,75	0,75	1	1	0,5	0,7	0,77	0,17	0	0,295	75,2
Singapore	0,4	0,5	1	0,95	0,95	1	1	1	1	1	0,625	0,375	1	0,75	0,5	0,3	0,31	0,59	0	0,175	67,2

Indicator / 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	KFSI 16	KFSI 17	KFSI 18	KFSI 19	KFSI 20	FINAL Secrecy Score
Slovakia	0,5	0,25	0,9	0,4	0,525	1	0,25	0,5	1	0,75	0,625	0,375	1	1	0,5	0,5	0,65	0,02	0	0,235	54,9
Slovenia	0,07	0,25	0,65	0,5	0,525	1	0	0,5	1	0,75	0,625	0	0,4	0,5	0,5	0,5	0,41	0,01	0	0,175	41,9
South Africa	0,26	0,375	1	0,5	1	1	1	1	0,75	1	0,25	0,75	0,4	0,5	0,5	0,3	0,5	0,03	0	0,105	56,1
South Korea	0,5	0,375	1	1	1	1	1	1	0,5	1	0,65	0,75	0	0,5	0,5	0,3	0,58	0,01	0	0,14	59,1
Spain	0,07	0,25	1	0,5	1	1	1	0,75	0,5	0,75	0,5	0	0,4	0,5	0,75	0,3	0,2	0	0	0,07	47,7
St. Kitts and Nevis	0,77	0,875	1	0,5	1	1	1	1	0,5	1	0,75	1	1	1	0,5	0,9	0,56	0,75	0	0,225	76,7
St. Lucia	0,7	0,5	1	0,5	1	1	1	1	1	1	0,75	1	1	1	0,5	0,9	0,86	0,58	0	0,365	78,3
St. Vincent and the Grenadines	0,67	0,5	1	0,5	0	1	1	1	1	1	0,75	0,75	1	1	0,75	0,8	0,58	0,53	0	0,16	70
Sweden	0,27	0,5	0,4	0,5	1	1	0,5	0,5	0,75	0,75	0,625	0	0,3	1	0,25	0,3	0,37	0,01	0	0,07	45,5
Switzerland	0,73	1	1	0,875	1	1	1	1	1	1	0,75	0,75	1	0,75	0,75	0,3	0,38	0,77	0	0,235	76,5
Taiwan	0,66	0,5	1	1	1	1	1	1	1	1	0,75	0,375	0,6	0,25	0,5	0,7	0,52	1	1	0,295	75,8
Tanzania	1	0,5	1	0,5	0	1	1	1	1	1	0,625	0	0,5	1	0,5	0,7	0,87	1	1	0,485	73,4
Thailand	0,73	0,25	1	1	1	1	1	1	0,5	1	0,625	0,75	1	1	0,5	0,5	0,7	1	1	0,42	79,9
Trinidad and Tobago	0,47	0,5	0,9	0,5	0	1	1	1	0,5	1	0,875	0,375	0	1	0,25	0,8	0,47	1	0,99	0,42	65,3
Turkey	0,7	0,75	1	0,5	1	1	1	1	1	1	0,625	0	0,3	0,75	0,5	0,3	0,62	0,75	0,47	0,33	68
Turks and Caicos Islands	0,73	0,5	0,75	1	1	1	1	1	0,5	1	1	1	1	1	0,5	1	0,66	0,27	0	0,445	76,8
Ukraine	0,4	0,25	1	0,5	1	1	1	1	1	1	0,875	0	1	1	0,5	0,5	0,6	1	0	0,205	69,2
United Arab Emirates (Dubai)	0,47	0,5	1	1	1	1	1	1	1	1	1	1	1	1	0,75	0,8	0,57	0,75	0,57	0,36	83,9
United Kingdom	0,43	0,5	0,5	1	1	0,5	0	0,5	0,5	0,75	0,25	0,375	0,8	0,5	0,25	0,3	0,28	0	0	0,035	42,4
Uruguay	0,53	0,25	0,25	1	1	1	1	1	0,5	1	0,75	0,375	1	1	0,25	0,5	0,35	0,34	0	0,07	60,9
US Virgin Islands	0,4	0,5	1	0,5	1	1	1	1	1	1	1	0	0,8	1	0,5	1	0,37	1	0,28	0,265	73,1
USA	0,2	0,5	1	1	1	1	1	1	1	0,75	0,15	0	0,4	0,25	0,5	0,3	0,37	1	0,28	0,265	59,9
Vanuatu	0,4	1	1	0,5	1	1	1	1	1	1	1	1	1	1	0,75	0,8	0,75	1	0,96	0,555	88,6
Venezuela	0,56	0,375	0,9	0,5	1	1	1	1	1	1	0,625	0	0	1	0,25	0,6	0,6	1	1	0,295	68,6

Annex D: Secrecy Scores, alphabetical order

ISO Code	Jurisdiction	Secrecy Score
AD	Andorra	66,05
AI	Anguilla	77,50
AG	Antigua and Barbuda	86,88
AW	Aruba	75,98
AU	Australia	51,15
AT	Austria	55,90
BS	Bahamas	84,50
BH	Bahrain	77,80
BB	Barbados	73,85
BE	Belgium	44,00
BZ	Belize	75,18
BM	Bermuda	73,05
BO	Bolivia	80,35
BW	Botswana	68,73
BR	Brazil	49,00
VG	British Virgin Islands	68,65
BN	Brunei	84,05
BG	Bulgaria	54,18
CA	Canada	54,75
KY	Cayman Islands	72,28
CL	Chile	61,60
CN	China	60,08
CK	Cook Islands	74,58
CR	Costa Rica	68,65
HR	Croatia	59,28
CW	Curacao	74,80
CY	Cyprus	61,25
CZ	Czech Republic	52,93
DK	Denmark	52,50
DM	Dominica	77,33
DO	Dominican Republic	71,60
EE	Estonia	50,85
FI	Finland	52,70
FR	France	51,65
GM	Gambia	76,63
DE	Germany	59,10
GH	Ghana	61,75
GI	Gibraltar	70,83
GR	Greece	57,88
GD	Grenada	77,08
GT	Guatemala	73,10
GG	Guernsey	72,45
HK	Hong Kong	71,05
HU	Hungary	54,70
IS	Iceland	59,90
IN	India	51,90
ID	Indonesia	61,45
IE	Ireland	50,65
IM	Isle of Man	63,58
IL	Israel	63,25
IT	Italy	49,48
JP	Japan	60,50
JE	Jersey	65,45
KE	Kenya	80,05
LV	Latvia	57,38
LB	Lebanon	72,03

ISO Code	Jurisdiction	Secrecy Score
LR	Liberia	79,70
LI	Liechtenstein	78,28
LT	Lithuania	46,78
LU	Luxembourg	58,20
MO	Macao	68,25
MK	Macedonia	60,68
MY	Malaysia (Labuan)	71,93
MV	Maldives	81,08
MT	Malta	60,53
MH	Marshall Islands	72,93
MU	Mauritius	72,35
MX	Mexico	54,38
MC	Monaco	77,50
ME	Montenegro	63,15
MS	Montserrat	77,50
NR	Nauru	66,65
NL	Netherlands	66,03
NZ	New Zealand	56,23
NO	Norway	51,58
PA	Panama	76,63
PY	Paraguay	84,33
PH	Philippines	65,38
PL	Poland	57,35
PT	Portugal (Madeira)	54,68
PR	Puerto Rico	77,20
RO	Romania	65,53
RU	Russia	63,98
WS	Samoa	77,60
SM	San Marino	64,00
SA	Saudi Arabia	69,88
SC	Seychelles	75,20
SG	Singapore	67,13
SK	Slovakia	54,90
SI	Slovenia	41,83
ZA	South Africa	56,10
KR	South Korea	59,03
ES	Spain	47,70
KN	St. Kitts and Nevis	76,65
LC	St. Lucia	78,28
VC	St. Vincent and the Grenadines	69,95
SE	Sweden	45,48
CH	Switzerland	76,45
TW	Taiwan	75,75
TZ	Tanzania	73,40
TH	Thailand	79,88
TT	Trinidad and Tobago	65,25
TR	Turkey	67,98
TC	Turks and Caicos Islands	76,78
UA	Ukraine	69,15
AE	United Arab Emirates (Dubai)	83,85
GB	United Kingdom	42,35
UY	Uruguay	60,83
VI	US Virgin Islands	73,08
US	USA	59,83
VU	Vanuatu	88,58
VE	Venezuela	68,53

Annex E: Secrecy Scores, descending order

ISO Code	Jurisdiction	Secrecy Score
VU	Vanuatu	88,58
AG	Antigua and Barbuda	86,88
BS	Bahamas	84,50
PY	Paraguay	84,33
BN	Brunei	84,05
AE	United Arab Emirates (Dubai)	83,85
MV	Maldives	81,08
BO	Bolivia	80,35
KE	Kenya	80,05
TH	Thailand	79,88
LR	Liberia	79,70
LI	Liechtenstein	78,28
LC	St. Lucia	78,28
BH	Bahrain	77,80
WS	Samoa	77,60
AI	Anguilla	77,50
MC	Monaco	77,50
MS	Montserrat	77,50
DM	Dominica	77,33
PR	Puerto Rico	77,20
GD	Grenada	77,08
TC	Turks and Caicos Islands	76,78
KN	St. Kitts and Nevis	76,65
GM	Gambia	76,63
PA	Panama	76,63
CH	Switzerland	76,45
AW	Aruba	75,98
TW	Taiwan	75,75
SC	Seychelles	75,20
BZ	Belize	75,18
CW	Curacao	74,80
CK	Cook Islands	74,58
BB	Barbados	73,85
TZ	Tanzania	73,40
GT	Guatemala	73,10
VI	US Virgin Islands	73,08
BM	Bermuda	73,05
MH	Marshall Islands	72,93
GG	Guernsey	72,45
MU	Mauritius	72,35
KY	Cayman Islands	72,28
LB	Lebanon	72,03
MY	Malaysia (Labuan)	71,93
DO	Dominican Republic	71,60
HK	Hong Kong	71,05
GI	Gibraltar	70,83
VC	St. Vincent and the Grenadines	69,95
SA	Saudi Arabia	69,88
UA	Ukraine	69,15
BW	Botswana	68,73
VG	British Virgin Islands	68,65
CR	Costa Rica	68,65
VE	Venezuela	68,53
MO	Macao	68,25
TR	Turkey	67,98
SG	Singapore	67,13

ISO Code	Jurisdiction	Secrecy Score
NR	Nauru	66,65
AD	Andorra	66,05
NL	Netherlands	66,03
RO	Romania	65,53
JE	Jersey	65,45
PH	Philippines	65,38
TT	Trinidad and Tobago	65,25
SM	San Marino	64,00
RU	Russia	63,98
IM	Isle of Man	63,58
IL	Israel	63,25
ME	Montenegro	63,15
GH	Ghana	61,75
CL	Chile	61,60
ID	Indonesia	61,45
CY	Cyprus	61,25
UY	Uruguay	60,83
MK	Macedonia	60,68
MT	Malta	60,53
JP	Japan	60,50
CN	China	60,08
IS	Iceland	59,90
US	USA	59,83
HR	Croatia	59,28
DE	Germany	59,10
KR	South Korea	59,03
LU	Luxembourg	58,20
GR	Greece	57,88
LV	Latvia	57,38
PL	Poland	57,35
NZ	New Zealand	56,23
ZA	South Africa	56,10
AT	Austria	55,90
SK	Slovakia	54,90
CA	Canada	54,75
HU	Hungary	54,70
PT	Portugal (Madeira)	54,68
MX	Mexico	54,38
BG	Bulgaria	54,18
CZ	Czech Republic	52,93
FI	Finland	52,70
DK	Denmark	52,50
IN	India	51,90
FR	France	51,65
NO	Norway	51,58
AU	Australia	51,15
EE	Estonia	50,85
IE	Ireland	50,65
IT	Italy	49,48
BR	Brazil	49,00
ES	Spain	47,70
LT	Lithuania	46,78
SE	Sweden	45,48
BE	Belgium	44,00
GB	United Kingdom	42,35
SI	Slovenia	41,83

Annex F: Global Scale Weights, alphabetical order

ISO Code	Jurisdiction	GSW (%)
AD	Andorra	0,00019
AI	Anguilla	0,00736
AG	Antigua and Barbuda	0,00006
AW	Aruba	0,00385
AU	Australia	0,60880
AT	Austria	0,56120
BS	Bahamas	0,03595
BH	Bahrain	0,11315
BB	Barbados	0,01886
BE	Belgium	1,56262
BZ	Belize	0,00084
BM	Bermuda	0,03779
BO	Bolivia	0,00062
BW	Botswana	0,00018
BR	Brazil	0,16138
VG	British Virgin Islands	0,37525
BN	Brunei	0,00030
BG	Bulgaria	0,01899
CA	Canada	1,74696
KY	Cayman Islands	3,78564
CL	Chile	0,03756
CN	China	0,50747
CK	Cook Islands	0,00013
CR	Costa Rica	0,01420
HR	Croatia	0,01883
CW	Curacao	0,00161
CY	Cyprus	0,54528
CZ	Czech Republic	0,09378
DK	Denmark	0,15130
DM	Dominica	0,00025
DO	Dominican Republic	0,00644
EE	Estonia	0,02208
FI	Finland	0,09178
FR	France	2,52393
GM	Gambia	0,00005
DE	Germany	5,16908
GH	Ghana	0,00251
GI	Gibraltar	0,00277
GR	Greece	0,02290
GD	Grenada	0,00010
GT	Guatemala	0,00318
GG	Guernsey	0,52018
HK	Hong Kong	4,16915
HU	Hungary	0,05334
IS	Iceland	0,02746
IN	India	1,16174
ID	Indonesia	0,05386
IE	Ireland	2,66123
IM	Isle of Man	0,09066
IL	Israel	0,19029
IT	Italy	0,92418
JP	Japan	2,23657
JE	Jersey	0,38185
KE	Kenya	0,04013
LV	Latvia	0,11116
LB	Lebanon	0,51304

ISO Code	Jurisdiction	GSW (%)
LR	Liberia	0,01644
LI	Liechtenstein	0,01267
LT	Lithuania	0,01892
LU	Luxembourg	12,13203
MO	Macao	0,23878
MK	Macedonia	0,00057
MY	Malaysia (Labuan)	0,07306
MV	Maldives	0,00028
MT	Malta	0,71083
MH	Marshall Islands	0,03577
MU	Mauritius	0,02055
MX	Mexico	0,02996
MC	Monaco	0,00057
ME	Montenegro	0,00092
MS	Montserrat	0,00001
NR	Nauru	0,00008
NL	Netherlands	0,90051
NZ	New Zealand	0,10140
NO	Norway	0,55470
PA	Panama	0,26919
PY	Paraguay	0,00185
PH	Philippines	0,09005
PL	Poland	0,14891
PT	Portugal (Madeira)	0,07985
PR	Puerto Rico	0,00354
RO	Romania	0,05630
RU	Russia	0,26243
WS	Samoa	0,00153
SM	San Marino	0,00008
SA	Saudi Arabia	0,05445
SC	Seychelles	0,00256
SG	Singapore	4,57828
SK	Slovakia	0,04617
SI	Slovenia	0,01126
ZA	South Africa	0,18423
KR	South Korea	0,35621
ES	Spain	0,76538
KN	St. Kitts and Nevis	0,00389
LC	St. Lucia	0,00001
VC	St. Vincent and the Grenadines	0,00003
SE	Sweden	1,01398
CH	Switzerland	4,50241
TW	Taiwan	0,50026
TZ	Tanzania	0,00347
TH	Thailand	0,12613
TT	Trinidad and Tobago	0,00011
TR	Turkey	0,14304
TC	Turks and Caicos Islands	0,00102
UA	Ukraine	0,04131
AE	United Arab Emirates (Dubai)	0,14105
GB	United Kingdom	17,36518
UY	Uruguay	0,02857
VI	US Virgin Islands	0,00179
US	USA	22,30242
VU	Vanuatu	0,00100
VE	Venezuela	0,00348

Annex G: Global Scale Weights, alternatives

This annex discusses alternative definitions of the Financial Secrecy Index's Global Scale Weights (FSI GSW) that could potentially be used to estimate GSW-like indicators as alternatives to the FSI 2018 methodology. These different sources vary substantially in coverage. We identify an empirical trade-off between coverage and the appropriateness of each data source to be used to derive the GSW. Ideally, we would use a variable that tracks the level of provision of secrecy services to foreigners, however, no such data is available. Using a different data source thus already represents a departure from the ideal solution, with more general data (such as gross domestic product, GDP) being further away from this ideal, while providing higher coverage than data that is closer to this ideal (such as trade in services).

Before we proceed, a few words on the notation used in this annex are in order. We will explore six different alternatives of the GSW and FSI based on different sources of data and denote them A through F, and two composite alternatives which we will denote α and β. We will also differentiate between editions of the FSI, GSW and secrecy scores (SS) by using the last two numbers of the year in which the edition was published. Therefore, the GSW18C would denote the C version of the 2018 GSW, and FSI18C the corresponding FSI, and so on, and GSW15 would denote the GSW from the 2015 edition of the FSI.

In our view, the construction of the GSW has two crucial steps. First, we need to choose the primary variable and the corresponding data source to be used. We propose six different variables, each from a different data source, and derive a version of the GSW for each of these sources. These sources are summarized in Table G-1. Source A is the source ultimately used for the FSI 2018's GSW and it is described in more detail in Chapter 4, and it is only included here for the sake of comparison and completeness. In addition to these six alternatives, we derive and analyse two composite GSWs, called α and β, which each use a different combination of three data sources.

The second crucial step lies in the decision of how to fill in for missing data. There are 112 jurisdictions to be evaluated for the FSI 2018. Obviously, to have a viable version of the FSI for all these jurisdictions, we need to have an estimated GSW for each and every one of these 112 jurisdictions.[437] However, as indicated in the last column of Table G-1, none of the six data sources includes data for all 112 jurisdictions – the coverage ranges from 71 to 111 jurisdictions. For the remaining ones, we need to extrapolate from another source. The extrapolations are done in steps which follow the methodology used in FSI 2015 and are explained in detail below.

[437] Ideally, we would like to have data even for jurisdictions not covered by the FSI to be able to have a scale weight which would be truly global.

Table G-1: Summary of the used data sources

Version of GSW18	Data	Source	Number (and share on 112) of jurisdictions covered by original data
A	Trade in financial services	IMF's Balance of Payments	85 (75.89%)
B	Foreign direct investment	UNCTAD's FSI statistics	102 (91.07%)
C	Derived liabilities	IMF's Coordinated Portfolio Investment Survey	111 (99.11%)
D	Trade in services	UNCTADStat	97 (86.61%)
E	Trade in goods	Comtrade	81 (72.32%)
F	Locational bank deposit	Bank for International Settlements	39 (34.82%)
α	A, B, C		
β	B, C, D		

G.1.1: GSW18A - Trade in financial services

The primary source we use for the global scale weights for FSI 2018 are data on trade in (more specifically, exports of) financial services which were also used in the previous versions of the FSI. The reason why we take this source as primary is that we consider it the closest proxy for the quantity we would ideally like to measure – the value of all services that make use of, or abuse, the financial secrecy offered by a jurisdiction that exports these services. Of the 112 jurisdictions included in FSI 2018, we have available data for 85, and we thus need to extrapolate for 27 jurisdictions. We use several sources, in the same sequence as in FSI 2015, to extrapolate for these missing observations. The extrapolation is summarized in Table G-2, which also includes, in the last two columns, a comparison with the extrapolation done for GSW 2015.

Table G-2: Summary of extrapolation, GSW18A

Data source	No. of jurisdictions evaluated for FSI 2018	All (2018)	No. of observations	R-squared	No. of jurisdictions from FSI 2015 methodology	All (2015)
1. True trade in financial services data (BXSOFI_BP6_USD, IMF BoP)	85	154			66	125
2. Extrapolated from asset data (IA_BP6_USD, IMF BoP)	5	11	1 740	0.8829	4	19
3. Extrapolated from asset data (I_A_T_T_USD_BP6_USD, IMF CPIS)	6	6	927	0.7532	6	6
4. Extrapolated from liability data (based on non-credible declared asset data) (IMF CPIS)[438]	0	0			1	1

[438] This was done in FSI 2015 for the Cayman Islands because of non-credible data for 2013, but they seem credible for 2015 (but not for 2014 or before). The Cayman Islands are now in category 3 (extrapolated from asset data).

5. Extrapolated from liability data (based on non-declaration of asset data) (I_L_T_T_T_BP6_DV_USD, IMF CPIS)	16	60	1 832	0.7512	24	71
6. No data available	0	28			1	24
TOTAL	112	259			102	247

Source: Authors and Tax Justice Network (2015)

We then take the share of each jurisdiction's trade in (export of) financial services (TFS), either true or extrapolated, on the total global trade in financial services (true or extrapolated) and arrive at the first version of GSW for FSI 2018 which we call GSW18A in the accompanying Excel file.

$$GSW18A_i = \frac{TFS_i}{\sum_{i=1}^{112} TFS_i}$$

We then derive FSI18A using GSW18A in combination with the Secrecy Scores using the formula explained in detail in Chapter 5. The statistical properties of all alternatives of the GSW18 are similar and thus the reasoning described in Chapter 5 will apply to all these alternatives. In Chapters 5 and 6, we also discuss in greater detail some alternative versions of the formula and explain why we have decided to use the cube/cube-root formula. The FSI18A is thus defined as follows:

$$FSI18A = GSW18A^{1/3} * SS15^3$$

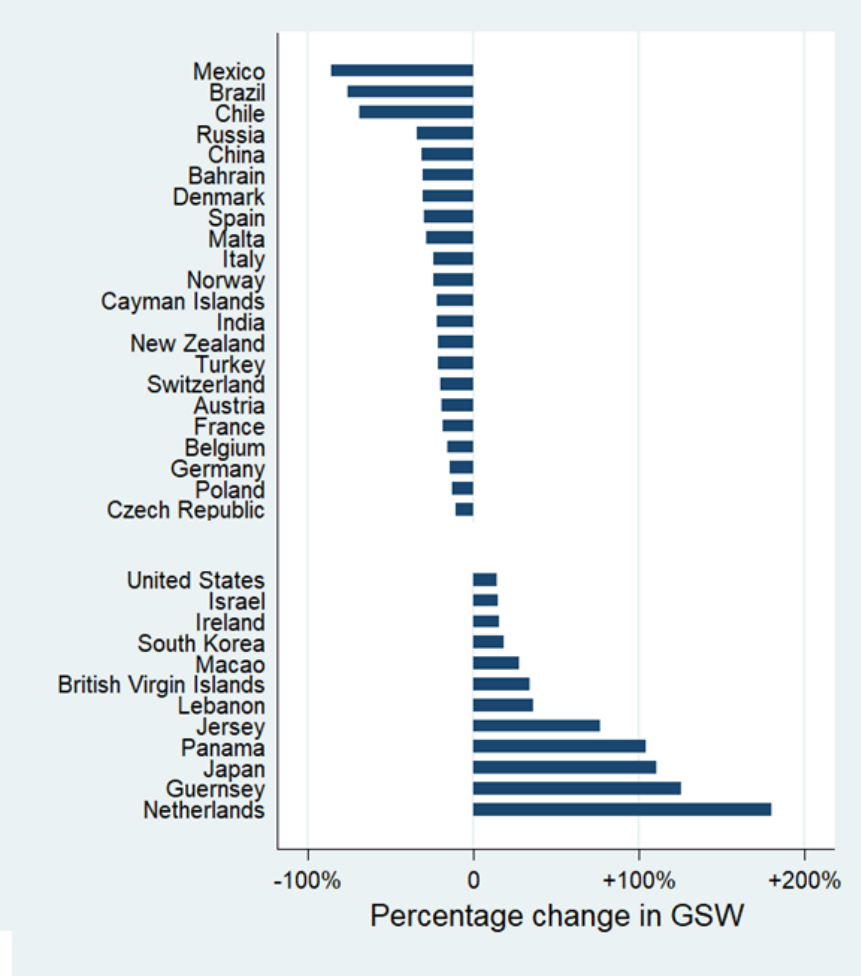
G.1.2: Comparing GSW18A and GSW15

Since the GSW18A and GSW15 use the same primary data source as well as a similar extrapolation process, we are able to run several tests to directly compare GSW18A and GSW15. First, we identify potential anomalies that arose in the two years that passed between the two sets of estimates by analysing the summary statistics of both sets, which are presented in Table G-3. We observe that the mean increases only marginally, as does the standard deviation and the spread between the first and last jurisdiction. The top four jurisdictions in terms of global scale weights have remained the same – United States, United Kingdom, Luxembourg, and Germany. At the fifth place, Switzerland was surpassed by a small margin by Singapore; a switch facilitated by both Singapore increasing its GSW and Switzerland decreasing it. The United States have gained the most importance with an increase of 2.7 percentage points, followed by Japan with a 1.17 and the Netherlands with a 0.58 percentage point increases. On the other hand, Switzerland was the country that lost the largest amount of percentage points in the global scale weights – 1.12, followed by the Cayman Islands with 1.07 and Germany with 0.86.

The data show some anomalies when we look at which jurisdictions lost the most as shares of what they had in 2015. We observe that St. Vincent and the Grenadines lost 94.86% of their global scale weight, Botswana lost 88.37%. While these countries' 2015 GSW was already very small and the losses thus do not represent large deviations in absolute terms, some countries

lost significant shares of their already quite high GSW. Figure G-1 shows the countries that lost and gained the highest share, given that they had at least 0.1% in the GSW15.

Figure G-1: Percentage change in GSW18A over GSW15 for countries with at least 0.1% in GSW15



Source: Authors

As a result, some jurisdictions rank much lower in the GSW18A than they did in the GSW15. The extremes on the other side of the ranking are high as well. Dominica gained 2 055%, the Cook Islands gained 1 792%, St. Kitts and Nevis 1 201%. Of the larger jurisdictions that had at least 0.1% in the GSW15, the Netherlands tops the list with an increase of 179.5%, or 0.57 percentage points. These jurisdictions might therefore deserve special attention as over the two-year period between 2013 (data used for GSW15) and 2015 (data used for GSW18A), they increased their GSW significantly.

G.2: Using FDI data

The second source we use for the GSW18 are data from UNCTAD's FDI statistics on inward FDI. Of the 112 jurisdictions included in FSI2018, this data covers 102. For the remaining ten jurisdictions (Turks and Caicos Islands, Puerto Rico, Andorra, Monaco, Jersey, US Virgin Islands, Isle of Man, Guernsey, Liechtenstein, San Marino), we extrapolate using the same process as in GSW18A. The extrapolation process for all alternatives is summarized in Table G-5 below.

Again, we take the share of the inward FDI of each jurisdiction (true or extrapolated) on the total global FDI (true or extrapolated). We call the resulting weights GSW17B.

$$GSW17B_i = \frac{FDI_i}{\sum_{i=1}^{112} FDI_i}$$

The summary statistics for all the alternatives are presented in Table 3. Similarly as above, we derive also FSI17B using GSW17B in combination with the Secrecy Scores, using the same formula:

$$FSI17B = GSW17B^{1/3} * SS15^3$$

G.3: Using CPIS derived liabilities

In our third simulation, we use directly the derived liabilities (DLIAB) data from the IMF Balance of Payments Statistics to derive the global scale weights as shares of each jurisdiction's DLIAB on the total global international liabilities. Data for only one jurisdiction is missing (Vanuatu); we extrapolate for this observation from Asset data (see Table G-5). The resulting GSW17C is thus defined as follows:

$$GSW17C_i = \frac{\mathrm{DLIAB}_i}{\sum_{i=1}^{112} \mathrm{DLIAB}_i}$$

And again, we use the same formula to derive FSI17C.

$$FSI17C = GSW17C^{1/3} * SS15^3$$

G.4: Using trade in services data

In our fourth simulation, we use data on trade in (exports of) services (EXS) from UNCTADStat, complemented again with similar extrapolations when necessary. The global scale weights are derived as shares of each jurisdiction's exports of services on the total global exports of services.

$$GSW17D_i = \frac{\mathrm{EXS}_i}{\sum_{i=1}^{112} \mathrm{EXS}_i}$$

Still the same formula is used to derive FSI17D as follows.

$$FSI17D = GSW17D^{1/3} * SS15^3$$

G.5: Using trade in goods data

In our fifth simulation, we use data on trade in (exports of) goods (EXG) from Comtrade, complemented again with similar extrapolations when necessary. The global scale weights are derived as shares of each jurisdiction's exports of services on the total global exports of services.

$$GSW17E_i = \frac{\mathrm{EXG}_i}{\sum_{i=1}^{112} \mathrm{EXG}_i}$$

Still the same formula is used to derive FSI17E as follows.

$$FSI17E = GSW17E^{1/3} * SS15^3$$

G.6: Using bank deposit data

In our sixth simulation, we use data on locational bank deposits (LBD) from the Bank for International Settlements (BIS). Compared to other sources used above, the coverage for this source is relatively low with 46 countries covered. A report by BIS (2016) estimates that these 46 countries account for 93% of total global international bank deposits. For the remaining countries, we thus extrapolate using the same extrapolation process, but constrain the total amount allocated in the remaining countries to 7 % of the global total. While a similar procedure would be desirable for all sources used above, only data on locational bank deposits are complemented by such information.

We construct the GSW17F as follows:

$$GSW17F_i = \frac{\text{LBD}_i}{\sum_{i=1}^{112} \text{LBD}_i}$$

Again, we derive the FSI17F using the same formula and secrecy scores from FSI15:

$$FSI17F = GSW17F^{1/3} * SS15^3$$

G.7: *GSWα*

Naturally, from the six sources outlined above, there are a large number of combinations that are possible and easy to construct at this point. Here we propose two combinations that we consider the most suitable for the construction of GSW 2018. In particular, in version α, we combine the sources used above in versions A, B and C, an in version β, we combine the sources used above in versions B, C and D.

Therefore, in $GSW\alpha$ we take a simple average of the global scale weights reached in GSWA, GSWB and GSWC:

$$GSW\alpha = \frac{GSWA + GSWB + GSWC}{3}$$

Accordingly, we define $FSI2018\alpha$ as follows:

$$FSI17\alpha = GSW17\alpha^{1/3} * SS15^3$$

G.8: *GSWβ*

In version β, we combine, in a similar way, data from versions B, C and D, as outlined above. Therefore, $GSW\beta$ is defined as follows:

$$GSW\beta = \frac{GSWB + GSWC + GSWD}{3}$$

This version's correlation with the 2015 GSW reaches 0.853. Accordingly, we define $FSI2018\beta$ as follows:

$$FSI17\beta = GSW17\beta^{1/3} * SS15^3$$

G.9: Summary

Tables G-3 and G-4 provide summary statistics for all six alternatives proposed above. In Table G-3, we constrain the list of jurisdictions only to the 92 jurisdictions included in the FSI 2015 to provide a direct comparison. An interesting observation can be made by comparing these summary statistics for GSW15 and GSW18A. While the mean remains virtually the same, the sum increases a little bit, indicating that the 92 jurisdictions covered have further gained importance in the global market for financial services as compared to the rest of the world. We also see that the spread of the distribution has increased – the minimum GSW is lower, while the maximum GSW is higher, and the standard deviation has also increased accordingly. This indicates that within the 92 covered jurisdictions, the inequality in terms of provision of financial services has increased – less jurisdictions are now responsible for a higher share of the global market for financial services.

The second column of Tables G-3 and G-4 indicates the share, in percentage points, of the global total of the variable used. Therefore, while the GSW18A would cover 98.43% of total global exports of financial services if only 92 jurisdictions were included, the inclusion of the additional 20 jurisdictions increases this share to 99.31%. A similar picture is painted by the other alternatives – while the 92 FSI15 jurisdictions already covered the bulk of the global totals, including additional 20 jurisdictions in this new edition of the FSI represents an important step towards covering the whole global market.

As expected, the highest correlation with the GSW15 is achieved by GSWA which uses the same primary source of data (exports of financial services). The correlation is quite high also for the alternatives B, C and D, and lower for E and F, indicating the level of interconnectedness of each variable with the exports of financial services.

Table G-3: Summary statistics, GSW15 and GSW18A-F, GSWα and GSWβ for the 92 FSI15 jurisdictions only.

Set	Obs.	Mean	Sum	Std. Dev.	Min	Max	Correlation with GSW15
GSW15	92	1.0671	98.1723	3.1014	0.0000045	19.6027	
GSW18A	92	1.0699	98.4338	3.2651	0.0000008	22.5283	0.994
GSW18B	92	0.9832	90.4509	2.4945	0.0000582	21.4310	0.792
GSW18C	92	1.0658	98.0496	2.9649	0.0000018	24.6354	0.858
GSW18D	92	0.9858	90.6920	2.0158	0.0000555	15.3050	0.824
GSW18E	92	0.9821	90.3568	2.0353	0.0000004	13.8812	0.475
GSW18F	92	1.0531	96.8812	2.6206	0.0000007	14.5082	0.586
GSW18α	92	1.0397	95.6480	2.7758	0.0000727	22.7906	0.933
GSW18β	92	1.0116	93.0677	2.4160	0.0000646	20.4582	0.853

Source: Authors and the Tax Justice Network (2018)

Table G-4 compares the different alternatives of the GSW for all 112 jurisdictions considered. We observe, as expected, that the mean GSW decreases when the additional 20 jurisdictions are included (since these new jurisdictions' economies are generally smaller than that of the average jurisdiction. Correspondingly, the standard deviation increases.

Table G-4: Summary statistics, GSW15 and GSW18A-F.

Set	Obs.	Mean	Sum	Std. Dev.	Min	Max
GSW15	92	1.0671	98.1723	3.1014	0.0000045	19.6027
GSW17A	112	0.8869	99.3290	2.9865	0.0000008	22.5283
GSW17B	112	0.8359	93.6177	2.2831	0.0000582	21.4310
GSW17C	112	0.8864	99.2752	2.7128	0.0000018	24.6354
GSW17D	112	0.8477	94.9395	1.8541	0.0000489	15.3050
GSW17E	112	0.8414	94.2355	1.8772	0.0000004	13.8812
GSW17F	112	0.8838	98.9880	2.4856	0.0000007	14.5082
GSW18α	112	0.8697	97.4073	2.5404	0.000067	22.7901
GSW18β	112	0.8566	96.9411	2.2145	0.0000598	20.4582

Source: Authors and the Tax Justice Network (2018)

Table G-5: Summary of the extrapolations

Data source	A	B	C	D	E	F
1. Actual data	71	102	111	97	81	39
2. Extrapolated from asset data (IA_BP6_USD, IMF BoP)	4	0	1	0	2	34
3. Extrapolated from asset data (I_A_T_T_USD_BP6_USD, IMF CPIS)	8	3	0	4	7	9
4. Extrapolated from liability data (based on non-credible declared asset data) (IMF CPIS)[439]	0	0	0	0	0	0

[439] This was done in FSI 2015 for the Cayman Islands because of non-credible data for 2013, but they seem credible for 2015 (but not in 2014 or before). The Cayman Islands are now in category 3 (extrapolated from asset data).

5. Extrapolated from liability data (based on non-declaration of asset data) (I_L_T_T_T_BP6_DV_USD, IMF CPIS)	29	7	0	11	22	30
TOTAL	112	112	112	112	112	112