

NARRATIVE REPORT ON NEW ZEALAND



PART 1: NARRATIVE REPORT¹

Introduction

New Zealand is not a major tax haven or financial secrecy jurisdiction. It is an extremely small player in the global market for offshore financial services when compared with other secrecy jurisdictions, accounting for 0.1 per cent of the market. It sits relatively low on the Financial Secrecy Index's scale of Key Financial Service Indicators (KSFI), with a score of 56.23 in 2018. Overall, New Zealand finds itself in 58th place on the 2018 index. This sits well with [New Zealand's reputation](#) as an open economy that has relatively low levels of corruption.²

However, New Zealand has recently been subject to criticism that it is a tax haven, for reasons that include financial secrecy considerations. The problem is New Zealand's tax treatment and disclosure requirements concerning 'foreign trusts', which have foreigners as the settlor and beneficiaries and do not have New Zealand sourced income. [Since 1989](#), foreigners have been able to gain greater secrecy for their affairs by establishing a trust in New Zealand, but generally without becoming liable to New Zealand taxation.³ 'New Zealand Foreign Trusts' have therefore become popular over the last quarter century.

In 2016, certain suspicious uses of these trusts [came to light](#) after the Panama Papers disclosures and high profile court cases.⁴ After intense media and political pressure, the New Zealand government set up an inquiry into New Zealand Foreign Trusts (NZFTs), [which concluded](#) that the lack of disclosure requirements meant that NZFTs could be utilized for tax evasion and tax avoidance.⁵ In response to the inquiry's recommendations, the government enacted legislation providing for further disclosure requirements through [amendments to the Income Tax Act 2007](#).⁶ [It is reported](#) that of the around 11,750 NZFTs previously registered with IRD, fewer than 3000 have re-registered and provided the required information, 3000 have actively deregistered and the 6000 others are unaccounted for.⁷

New Zealand's response to the Panama Papers disclosures provides a case study of how quickly jurisdictions can alter their laws to prevent or mitigate the use of trusts and other legal structures for illegitimate purposes, if media and political pressure can be brought to bear on a government and that government does not have a strong reason to support financial secrecy. This commentary will not explain the myriad legal rules and policy settings that contribute to New Zealand's KSFI score, but will analyze the way that New Zealand became embroiled in the global fallout from the Panama Papers, the response of the government and legislature in amending our laws, and the initial effects of these reforms as at July 2017.

The perception of New Zealand as a tax haven or secrecy jurisdiction

For a number of years, there has been a concern that NZFTs are used as vehicles for illegitimate activities such as tax evasion. There have been some reforms since the inception of the NZFT regime, including disclosure and automatic sharing of information relating to NZFTs that have self-declared that they have Australian settlors. In 2016, the concern about NZFTs exploded into a scandal after the Panama

Rank: 58

Chart 1 - How Secretive?

56
Secrecy Score

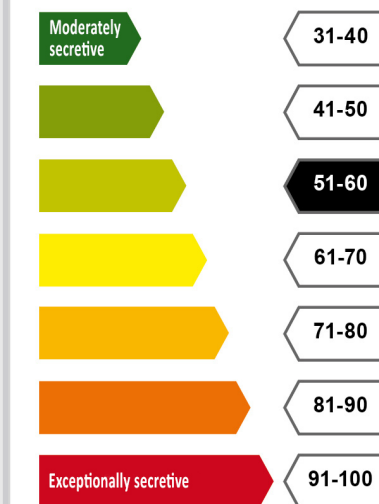
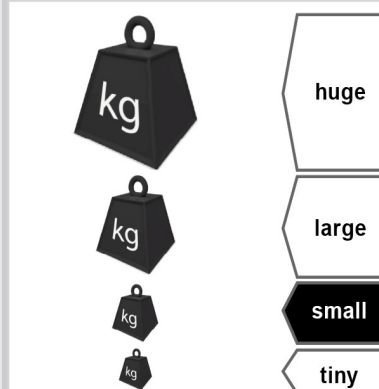


Chart 2 - How Big?



New Zealand accounts for less than 1 per cent of the global market for offshore financial services, making it a small player compared with other secrecy jurisdictions.

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

Full data on New Zealand is available here: www.financialsecrecyindex.com/database.

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Papers leak and other media stories linking New Zealand trusts with alleged corruption overseas. This section outlines some concerns and examples that contribute to the perception that NZFTs needed reform to combat our role as a tax haven.

1. Ongoing Australian concerns

Some of the earliest concerns were expressed by the Australian tax authorities, who identified NZFTs as vehicles for tax avoidance by Australian taxpayers.⁸ This prompted the first major reform response by New Zealand: the introduction of a requirement for the disclosure by NZFT trustees of information if the settlor of the trust was Australian. While this seemed to dissuade the worst kinds of tax evasion – with industry insiders saying that Australian NZFT business dried up after this reform⁹ - this did not completely allay Australia's concerns. [In 2012](#), the Australian Taxation Office (ATO) targeted the use of NZFTs by Australians, in the context of a major tax avoidance prevention review.¹⁰ [It warned Australian taxpayers](#) that the use of NZFTs to avoid income tax payable on Australian-sourced income might be ineffective, and the trust income may be still taxable in Australia.¹¹ The structure of a common scheme was [reported](#) to be as follows: "According to the ATO, the schemes being investigated involve establishing a foreign trust to provide administration to an Australian business for a fee which usually includes a mark up of 20 per cent to 30 per cent above cost. The fee, excluding the mark up, is paid to the trust to cover the administration costs. The mark up, however, may be paid indirectly by the business to the owner of the business. The income, including the mark up, is not reported in either Australia or New Zealand for tax purposes."¹² The fact that the ATO saw fit to release this advice demonstrates the continuing possibilities for misusing the NZFT regime. However, it should be remembered that, as long as the disclosure requirements are followed, the ATO should be able to request information from the New Zealand tax authorities in order to check whether an Australian taxpayer is using NZFTs in this way.

The Reaction to the Panama Papers

The more recent and explosive scandal was one of the many that was caused by the [Panama Paper](#) leaks and news stories based on them. New Zealand was [implicated](#) in the Panama Papers as soon as the story broke.¹³ The major focus of New Zealand media interest was the possible [use of the NZFT](#) regime for the purposes of tax avoidance or evasion.¹⁴ This was not a new concern: in addition to the Australian

concerns noted already, there had been significant criticism of the use of the NZFT regime [in the print](#) and television media in 2012.¹⁵ But the Panama Papers news stories of early 2016 [painted a more vivid picture](#) of overseas (often Latin American) wealth being held through New Zealand trusts as a safe, secret and tax-free structure for the assets.¹⁶ One of the [major stories](#), published in the Australian Financial Review,¹⁷ stated that a "wave of South American money" had flowed into the management of NZFTs, with South Americans attracted by New Zealand's clean reputation as well as the secrecy and tax benefits that could be achieved. One notable case of this sort concerned allegations of corruption on the part of a Mexican construction tycoon who had undertaken building work for Mexican government ministers.¹⁸ [Another story](#) detailed the use of a NZFT by a Brazilian politician accused of being part of the Lavo Jato (Car Wash) corruption.¹⁹ This media interest prompted a number of [informative articles](#) and blog posts explaining the workings of the regime and its possible failings to the layperson, with [academic tax experts explaining the regime](#) to the media and public.²⁰

The Maltese story

Although the Panama Papers were the main catalyst for media interest, weeks before their release there were [news stories](#) concerning the use of New Zealand trusts and companies in alleged corruption in Malta.²¹ [One of these stories](#) concerns banks established in Malta that do business for offshore companies owned by the Maltese Energy Minister, and the Prime Minister's chief of staff.²² This involved transfers of large amounts of money from figures associated with the Azerbaijan government to these offshore companies, with the allegation that this was [corruption associated with oil deals between Malta and Azerbaijan](#). Many of the offshore companies, located in Dubai and Panama, were owned by NZFTs.²³ [It is alleged](#) that the use of NZFTs was to ensure that these Politically Exposed Persons were not identified as shareholders of the companies.²⁴ The lack of disclosure of information about NZFTs has often been [promoted as a key attraction](#).²⁵ Those involved have [admitted that they breached Maltese income tax laws](#) by not declaring the NZ trusts.²⁶ A Financial Intelligence Analysis Unit investigation found evidence grounding a reasonable suspicion of money laundering.²⁷ The [accusations of corruption](#) have broadened to include the Prime Minister's wife, who is said to be a beneficiary of a Panama company.²⁸ ['Magisterial' inquiries](#) into many of these allegations were still in process as at July 2017.²⁹

The Malaysian story

Another noteworthy case is that of a Malaysian businessman, Low Taek Jho, who is being pursued by the US Justice Department for allegedly taking over \$4.5 billion US dollars of money from the Malaysian government development company [1Malaysia Development Berhad](#) (1MDB).³⁰ The alleged corruption flowed to associates of the Malaysian Prime Minister, Najib Razak, who set up the development company. The scandal came to light after a former employee of an oil company that did business with 1MDB leaked [227,000 emails and numerous other documents](#).³¹ [The US Department of Justice](#) states that:³²

“Using fraudulent documents and representations, the co-conspirators allegedly laundered the funds through a series of complex transactions and shell companies with bank accounts located in the United States and abroad. These transactions allegedly served to conceal the origin, source and ownership of the funds, and ultimately passed through U.S. financial institutions to then be used to acquire and invest in assets located in the United States and overseas.”

This was a news story that dominated Malaysian domestic headlines in 2016, as well as being [reported](#) on widely in the international media, some dubbing it the “worlds biggest financial scandal”.³³ This scandal’s link with New Zealand is that Jho Low’s relatives are the beneficiaries of property of a combined value of [\\$232 million held in NZFTs](#).³⁴ These relatives were successful in [replacing the New Zealand trustees](#) with trustees who are prepared to fight the US Department of Justice’s civil forfeiture claims against the trust assets.³⁵ These claims are ongoing, and in June 2017 the Department of Justice commenced [further civil forfeiture claims](#).³⁶

2. Evaluating the NZFT taxation regime

In order to understand how the NZFT regime is alleged to play a facilitative role in the above scandals, it is necessary to examine what a NZFT actually is and how it can be used to provide additional secrecy for a person’s financial affairs.

The Legal Nature of a New Zealand Foreign Trust

A NZFT is simply a trust to which special rules of taxation apply due to the lack of connection of the settlor, beneficiaries, and income of the trust to New Zealand.³⁷ A NZFT is created by the settlor (the

person who ‘settles’ the property on the trust) as a tool for managing her wealth. The settlor will be a person who is not tax resident in New Zealand, and is in that sense ‘foreign’.³⁸ She arranges for her property rights to be transferred into the ownership of another person, the trustee – who is based in New Zealand. The trustee will have a title to the trust property, which will usually be an asset that is held in a foreign jurisdiction. The asset might be a controlled company or financial securities, but to not be liable to New Zealand taxation the income from those investments must have a foreign source. In addition, there must be no distribution to any beneficiary who is a New Zealand tax resident.³⁹ The combination of foreign source and no New Zealand settlor or beneficiaries receiving distributions means that no tax is payable in New Zealand.⁴⁰

The Origins and uses of the NZFT Regime

Despite some suggestions that New Zealand Trusts were a loophole intentionally created to help the wealthy avoid taxation, the NZFT taxation regime is better seen as the by-product of a legitimate policy choice in international taxation.⁴¹ The policy rationale articulated in 1989 when it was conceived of was that a trustee is, in economic terms, merely an agent for the settlor, achieving the settlor’s purposes in a way that the settlor (for practical or legal reasons) could not.⁴² From the perspective of New Zealand tax authorities, there was a concern that foreign trusts established in other jurisdictions by New Zealand settlors would erode the tax base unless their income was taxed.⁴³ If we view the settlor as a person who has set up an offshore structure to hold wealth that may have otherwise been invested – and its income taxed – in New Zealand, then it makes sense to attribute the income to the settlor for tax purposes, unless that income is clearly never going to find its way into the hands of the settlor. Consistently, if a foreign settlor invests wealth in foreign income generating assets, and that income is regarded either as accruing to them or the trust’s foreign beneficiaries, then it seems consistent to not tax that income in New Zealand.⁴⁴ The New Zealand resident trustee should not be taxed on this income, as they cannot use it for their own benefit.

Yet the foreseeable side-effect of this policy of non-taxation of NZFTs is that they are an attractive option for people who wish to take advantage of the trust structure – for example those who come from civil law countries that do not recognise the trust. Simply

by transferring ownership to the New Zealand trustee along with the requisite payment and paperwork, the settlor can utilise the trust institution. The reasons for setting up a trust that the promoters of NZFTs gave to prospective clients include protecting the property from government confiscation, claims from former spouses / partners, forced heirship claims, and claims from creditors.⁴⁵

Whether foreigners should be enabled to create trusts to avoid these liabilities of ownership is one question. Another is whether those who use NZFTs in this way should be able to hide this from their home jurisdiction. For it seems that an equally attractive reason for establishing a NZFT is to add further secrecy to the existence and parties of the trust. After all, the trust property owned under the NZFT is likely to be held in a jurisdiction such as the Cayman Islands or British Virgin Islands, where the trust is a recognised legal institution and there is no taxation of trust income. These are the same features of NZFTs that are said to be so desirable. The suspicion therefore arises that it is not in fact access to the trust institution itself that is crucial for most settlors. Beyond any further tax or regulatory arbitrage that may be enabled by interposing the NZFT as a further structure over the wealth management, it seems that the key feature of the NZFT is the additional layer of secrecy that it provides without tax consequences in New Zealand.

This structuring of asset ownership through multiple layers based in different jurisdictions is called ‘[laddering](#)’, and is a well-known means of making beneficial ownership harder to identify.⁴⁶ The suspicion that secrecy is a reason for the use of NZFTs is given anecdotal support by the example of the use of foreign trusts by Australians ‘drying up’ when further disclosures were introduced for trusts with Australian settlors.⁴⁷ With this evident desire for secrecy comes the charges of New Zealand being a tax haven where people can hide their wealth from their jurisdiction of tax residence. This ‘tax haven’ concern has been on the agenda of the Inland Revenue (IR) for many years, as documents released in relation to the Inquiry demonstrate. Indeed, despite the increased disclosure and record-keeping requirements being introduced in 2006, the IR has continued to be worried about the international pressures concerning the NZFT regime. A [2014 IR tax policy report](#) noted international perceptions that New Zealand was a tax haven in this respect, which were “damaging to New Zealand’s ‘clean’ international reputation”.⁴⁸ That the

NZFT regime may be seen in this light was also the conclusion of Professor Michael Littlewood, whose [submission](#) stated that:⁴⁹

“New Zealand law allows non-residents to use trusts established in New Zealand to avoid the tax they would otherwise have to pay in their home country. ... [A] tax haven is “a jurisdiction that allows itself to be used by non-residents as a means of avoiding the tax that they would otherwise have to pay in their home countries”. By this definition, New Zealand is plainly a tax haven.”

Key problem: inadequate disclosure requirements

The key feature of the NZFT regime that make it useful for those who desire secrecy is the lack of disclosure of information about NZFTs to the New Zealand tax authorities (the Inland Revenue or ‘IR’) and the consequent lack of sharing of any such information with tax authorities in jurisdictions where the individuals involved are tax resident.

[Prior to 2006](#), NZFTs were not required to provide any information to IR or to keep financial records for New Zealand tax purposes.⁵⁰ IR itself identified problems in this situation, with a [2004 policy report](#) stating that: “there is a risk that New Zealand may be unable to supply its double tax agreement (DTA) partners with information relating to certain foreign trusts if requested.”⁵¹ Indeed, it was the concern of the [Australian tax officials](#) that NZFTs were causing problems for the collection of tax in that jurisdiction that was the catalyst for action on further disclosure.⁵²

[Essentially](#) all that was required to be disclosed on the establishment of the trust was the name of the trust, the name and contact details of the [New Zealand trustee](#), and whether the settlor of the trust is Australian.⁵³ This disclosure regime was, in the words of a leading tax expert, “[almost completely useless](#)” due to the lack of information gathered.⁵⁴ Similarly, Professor Craig Elliffe commented that:⁵⁵

“The reality is that information held by the New Zealand Inland Revenue is unlikely to be specific enough to be helpful to a foreign revenue authority unless they already have a significant amount of information about their non-compliant taxpayer. ... Countries outside of Australia may struggle to identify situations where the New Zealand foreign trust regime is being used by their residents because it is doubtful whether the New Zealand Inland Revenue would have access to the information to be able to appropriately respond to their query.”

3. Reforming the NZFT regime

While the [government initially defended](#) the present system of taxation of foreign trusts,⁵⁶ it soon saw fit to [set up an inquiry](#) tasked with assessing the accuracy of the criticisms that had been made.⁵⁷ The inquiry was undertaken by John Shewan, an experienced New Zealand taxation expert. [The report](#) that Mr Shewan produced was fairly critical of the current rules, finding that they were inadequate and recommending significant changes to the disclosure requirements for foreign trust information.⁵⁸ It stated that “New Zealand should not be or be seen as a country that effectively facilitates evasion through having disclosure and reporting requirements that are sufficiently weak to cause offshore parties to conclude that detection is highly improbable.”⁵⁹ This conclusion clearly persuaded the government that [action was necessary](#), for it quickly put in place most of the changes proposed.⁶⁰

Balancing NZ Tax Policy with Tax Cooperation

Although critical of the current NZFT disclosure regime, the inquiry’s report sought to balance the competing concerns about tax abuse and legitimate offshore planning business, rejecting the suggestion that NZFTs had no legitimate use and should be abolished. Echoing submissions from providers of foreign trust services, the report observed that many offshore trust users are compliant with their home jurisdiction’s tax rules, and argued that New Zealand should remain an attractive and safe place for international financial investment. However, the report ultimately concluded that the rules of the current regime “are not fit for purpose in the context of preserving New Zealand’s reputation as a country that cooperates with other jurisdictions to counter money laundering and aggressive tax practices.”⁶¹ Based on a review of New Zealand tax authority files, it was “reasonable to conclude” that NZFTs were being used to hide illicit wealth and to avoid or evade taxation in foreign jurisdictions.⁶²

The Solution: Enhanced Disclosure and Registration Requirements

The inquiry report’s proposed solution to the perceived problems with the NZFT are relatively simple: enhanced disclosure and record-keeping requirements, as well as a register that is searchable by the New Zealand authorities. The government quickly stated that it would [adopt all of the report’s recommendations](#),⁶³ and these were implemented in the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017. The

inquiry’s recommendations, and the government’s implementation of them (and the changes it made) can be summarised as follows.

Establish a formal register of foreign trusts and information on persons involved with the trust

The Inquiry recommended that a formal register of foreign trusts – searchable by regulatory agencies – be established. This is implemented by s 11 of the Act, replacing s 59B the Tax Administration Act 1994.

- The New Zealand trustee must register the NZFT, providing information including: the trust’s name; a copy of the trust deed and any other legally binding documents; information about each settlement of property made on the trust, including the settlor.
- The resident trustee must also provide identification details, contact details, and tax information relating to: each settlor; each “person with a power to appoint or dismiss a trustee, to amend the trust deed, or to add or remove a beneficiary”; each person with “power to control” the exercise of the aforementioned powers or a power to “control a trustee in the administration of the trust”; each trustee; each of the beneficiaries and nominees of a fixed trust; each of the minor beneficiaries, the parent or guardian of the beneficiary.
- The name, age, and taxpayer information number of minor beneficiaries of a fixed trust must also be disclosed. In the case of a discretionary trust – where the beneficiaries do not have a right to any particular portion of the trust property – the resident trustee must provide “details of each beneficiary or class of beneficiary sufficient for the Commissioner to determine, when a distribution is made under the trust, whether a person is a beneficiary”.

Annual Return to be filed and alterations to trust information disclosed

In addition to the initial registration of the NZFT, the report recommended that the filing of an annual return should be required, including any changes to the information provided on registration, financial statements, and the amount and identification details relating to any distributions of trust property to beneficiaries. This is implemented by inserting s 59D

into the Tax Administration Act 1994, which requires that the resident foreign trustee must make an annual return to the tax authorities, including financial statements, information about further settlements to the trust and the settlors who made them, and information about any distributions to beneficiaries.

Stricter sanction of losing tax exemption in cases of non-disclosure

The inquiry report recommended that the tax consequences for non-compliance with registration and disclosure requirements should be reviewed with an eye to strengthening them. Prior to the reforms, a NZFT that had a qualifying resident foreign trustee⁶⁴ could never be liable for tax due to non-compliance.⁶⁵ Even if this safe-harbour from the sanction does not apply, there had to be a conviction of the trustee for knowingly failing to keep or supply information before the tax exemption is lost.⁶⁶ While the Inquiry's formal recommendation was only for a review of these issues, it stated its view that:⁶⁷

“the exemption foreign trusts enjoy from New Zealand tax on foreign source income should apply only where the registration and associated disclosure obligations at that time have been complied with.”

The government responded not with a review, but by agreeing with the report's view that the tax exemption only apply where a trust has complied with registration and disclosure requirements. [It stated](#) that the appropriateness of this safe-harbour for qualifying resident foreign trustees had already been reviewed, and that the government agreed that it should be removed.⁶⁸ The change is realized in s 6 of the Act.⁶⁹

Expedited inclusion of lawyers, accountants and real estate agents in AML regime, and other changes to AML requirements

In the report's recommendation, the exclusion of lawyers and accountants from the AML reporting requirements should be removed sooner than the current plans for this to occur in late 2017.⁷⁰ This was not accepted by the government, which argued that the application of the AML regime to lawyers and accountants will be progressed as soon as practicable, but that this will remain within the government's planned development of phase II of the AML reforms. This is due to “issues surrounding legal privilege and regime supervision that can only be dealt with through

primary legislation and not regulation”. The planned timeframe was expedited, with legislation expected to be passed in the first half of 2017. [As of June 2017](#) the Anti-Money Laundering and Countering Financing of Terrorism Amendment Bill was in Select Committee, having passed its first reading in Parliament.⁷¹

Lacuna of Information Sharing?

Although the response of the government was generally proactive and comprehensive in relation to the inquiry report's recommendations, neither the recommendations nor the government's reforms lead to any automatic sharing of the information disclosed to foreign tax authorities, for example those of the jurisdictions of tax residence of the trust's settlor, beneficiaries, trustee, or other persons holding key powers over trust decisions. In other words, at the point that the trust is established and registered, the jurisdictions where the foreign individuals involved in the trust are tax residents will still not know of the trust's existence. The new disclosure regime does nothing to alter this.

Yet this is not really a lacuna, because the enhanced disclosure requirements sit within a wider framework of measures to tackle money laundering and harmful tax practices. Although the Inland Revenue will not automatically share the information that it receives through the new disclosure regime with other jurisdictions' tax authorities under the disclosure regime itself, there are other legal mechanisms under which this will happen.

One option would be for the Inland Revenue to disclose suspicious trust structures to home jurisdictions spontaneously – without request from the home jurisdiction. As mentioned above, this is (by volume) the main way currently that information about NZFTs is being provided to foreign tax authorities. According to many of New Zealand's double taxation agreements, New Zealand must provide such information where it is foreseeably relevant for the enforcement of the other state's tax law.⁷² It seems likely that the fuller information provided to the Inland Revenue will reveal more of the kinds of trust structures that Inland Revenue is already reporting spontaneously to foreign tax authorities.

The other way that the information concerning the NZFT may be made available to foreign tax authorities is through the international Automatic Exchange of Information (AEIO) regime;⁷³ the offshore financial institution that holds the assets of the foreign trust is likely to be located in a country that has undertaken automatic exchange obligations. If so, the account and personal information relating to all the parties

involved in the trust must be acquired and reported to their home jurisdiction. Then, on the basis of gaining information that its tax residents have some involvement with the NZ foreign trust, if there is an 'on request' obligation in place, the home jurisdiction may make a request for NZ to acquire and provide more detailed information about the NZ trust to help with the home jurisdiction's investigations. The disclosure requirements recommended by the report will be a good foundation for the provision of this information.

As is inevitable, there may be loopholes to exploit. The new information requirements depend on the information gathered and verified by the trustee, and there may be ways for the unscrupulous to hide their interests in the NZFT behind undeclared nominees. There is also the possibility that jurisdictional arbitrage may occur, with the assets of the NZFT being deliberately placed in jurisdictions that are not participating in the AEIO regime, or which have not agreed to provide information to the jurisdiction where the parties to the trust are resident. Or it may be that the parties to a trust are not resident in a jurisdiction that is participating in the AEIO regime. In such cases, the information about the existence of a NZFT that the home jurisdiction's tax residents have some relationship to will not be disclosed to those authorities. In such cases the NZFT will retain its status as an entity which provides a degree of secrecy from an individual's home tax authorities. However, with the continuing shift to transparency, it seems foolhardy to set up trusts for the reason of tax evasion or avoidance – at least if this requires a relatively long-term structure – because of the risk that holdouts against the AEIO regime will cave to international pressures or that the home jurisdiction may agree to further information-sharing with New Zealand, at which point the sharing of the information held by Inland Revenue seems likely.

Further reading

- Michael Littlewood "Using New Zealand as a Tax Haven: How is it Done? Could it Be Stopped? Should it Be Stopped?" (2016) <https://ssrn.com/abstract=2761993>
- Mark J. Bennett "Implications of the Panama Papers for the New Zealand Foreign Trusts Regime" (2015) 21 NZ Association of Comparative Law Yearbook 27 <https://ssrn.com/abstract=2914687>
- Global Forum on Transparency and Exchange of Information for Tax Purposes Peer Reviews: New Zealand 2013 <http://dx.doi.org/10.1787/9789264205864-en>
- Reserve Bank of New Zealand *AML guidance and publications* <http://www.rbnz.govt.nz/regulation-and-supervision/anti-money-laundering/guidance-and-publications>
- John Shewan *Government Inquiry into Foreign Trust Disclosure Rules* (2016) available at www.treasury.govt.nz/publications/reviews-consultation/foreign-trust-disclosure-rules/pdfs/report-giftdr-27jun2016.pdf
- Inland Revenue *Special Report on Foreign Trust Disclosure Rules* (March 2017) <http://taxpolicy.ird.govt.nz/sites/default/files/2017-sr-foreign-trust.pdf>
- John Prebble "The New Zealand Offshore Trust Regime" (2009) International Financial Centre Review 134 <https://ssrn.com/abstract=1605491>

Endnotes

- 1 This paper is based on research conducted in the course of writing the article named: Mark J. Bennett "Implications of the Panama Papers for the New Zealand Foreign Trusts Regime" (2015) 21 NZ Association of Comparative Law Yearbook 27; <https://ssrn.com/abstract=2914687>. It uses some passages from that paper, but is much updated and revised in order to provide this narrative report.
- 2 See Transparency International New Zealand 'Corruption Perceptions Index' <http://www.transparency.org.nz/Corruption-Perceptions-Index>; 29.01.2018.
- 3 See John Prebble "The New Zealand Offshore Trust Regime" (2009) International Financial Centre Review 134; https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1605491; 29.01.2018.
- 4 <https://www.taxjustice.net/2017/07/13/post-panama-papers-sunlight-new-zealand-trusts/>; 29.01.2018.
- 5 John Shewan *Government Inquiry into Foreign Trust Disclosure Rules* (2016) [Inquiry Report] available at www.treasury.govt.nz/publications/reviews-consultation/foreign-trust-disclosure-rules/pdfs/report-giftdr-27jun2016.pdf (29.01.2018)
- 6 Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017, available online at <http://www.legislation.govt.nz/act/public/2017/0003/latest/DLM6912415.html> (accessed 29.01.2018)
- 7 RNZ "Number of foreign trusts plunges following tough new rules" <http://www.radionz.co.nz/news/business/334517/number-of-foreign-trusts-plunges-following-tough-new-rules> RNZ (5 July 2017) (accessed 29.01.2018)
- 8 *Inquiry Report* at [4.19]-[4.20].
- 9 *Inquiry Report* at Appendix 4, [18].
- 10 Rob O'Neil "Aussie taxman targets NZ trusts" <http://www.stuff.co.nz/business/money/6956680/Aussie-taxman-targets-NZ-trusts> (accessed 29.01.2018); Tim Hunter "NZ foreign trusts among global tax havens" *Stuff* (online ed, 22 October 2012) <http://www.stuff.co.nz/business/opinion-analysis/7521775/NZ-foreign-trusts-among-global-tax-havens> (accessed 29.01.2018)
- 11 Australian Tax Office TR 2005/14 "Income tax: application of the Australia/New Zealand Double Tax Agreement to New Zealand Resident Trustees of New Zealand Foreign Trusts" <http://law.ato.gov.au/atolaw/view.htm?locid=%27TXR/TR200514/NAT/ATO%27&PiT=99991231235958> (accessed 29.01.2018)
- 12 Rob O'Neil "Aussie taxman targets NZ trusts" <http://www.stuff.co.nz/business/money/6956680/Aussie-taxman-targets-NZ-trusts> *Stuff* (online ed, 21 May 2012) (accessed 29.01.2018)
- 13 RNZ "New Zealand caught up in Panama data leak" <http://www.radionz.co.nz/news/national/300612/nz-caught-up-in-panama-data-leak> RNZ (4 April 2016) (accessed 29.01.2018); Hamish Fletcher "Panama Papers: Leak leaves stain on New Zealand's name" http://www.nzherald.co.nz/business/news/article.cfm?c_id=3&objectid=11619292 *New Zealand Herald* (online ed, 9 April 2016) (accessed 29.01.2018)
- 14 "Panama papers: Mossack Fonseca 'bragged about lax New Zealand tax rules'" http://www.nzherald.co.nz/business/news/article.cfm?c_id=3&objectid=11620120 *New Zealand Herald* (online ed, April 11 2016) (accessed 29.01.2018); Patrick O'Meara "Panama Papers put NZ laws under scrutiny" www.radionz.co.nz/news/national/300642/leak-puts-nz-laws-under-scrutiny RNZ (4 April 2016) (accessed 29.01.2018)
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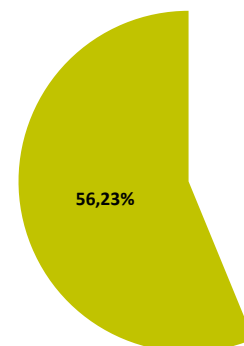
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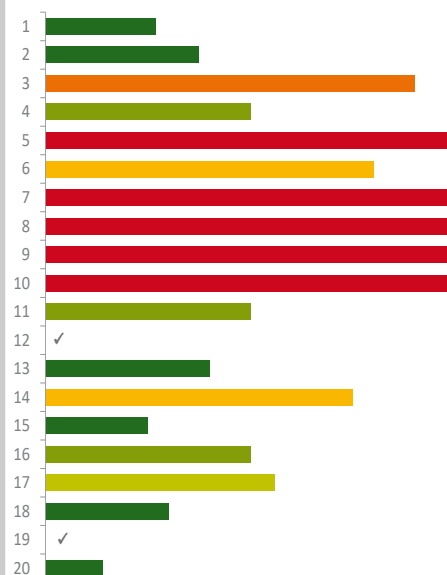
PART 2: NEW ZEALAND'S SECRECY SCORE



New Zealand - Secrecy Score



New Zealand KFSI-Assessment Secrecy Scores



Notes and Sources

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

The secrecy score of 56 per cent has been computed as the average score of 20 Key Financial Secrecy Indicators (KFSI), listed on the left. Each KFSI is explained in more detail by clicking on the name of the indicators.

A grey tick indicates full compliance with the relevant indicator, meaning least secrecy; red indicates non-compliance (most secrecy); colours in between partial compliance.

This paper draws on data sources including regulatory reports, legislation, regulation and news available as of 30.09.2017.

Full data on New Zealand is available here: www.financialsecrecyindex.com/database.

To find out more about the Financial Secrecy Index, please visit www.financialsecrecyindex.com.