Mapping Financial Secrecy 2011

Changes, Process, Methodology and Implications

WORK IN PROGRESS – COMMENTS WELCOME

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Abstract: *This paper summarizes the main features of the qualitative side of the Financial Secrecy Index 2011. It describes and explains the methodological changes to the FSI 2009 and how the opacity scores are calculated, what each of the Key Financial Secrecy Indicators is measuring and what the underlying data sources are. The process of compiling the FSI is explained, as well as the principles guiding our research. The implications of the methodological setup are explained, as well as preliminary results presented. The paper is intended to stir debate on messaging around the FSI 2011.*

[1] This paper is based to some extent on materials published in 2009 on the www.secrecyjurisdictions.com website and on some occasions uses its text without explicitly highlighting this fact. It is deemed appropriate since the 2009 website was a TJN-team effort, and so is this paper and website.

Contents

1. Introduction

Mapping Financial Secrecy 2011 is the continuance of TJN's Mapping the Faultines project from 2009[2]. Its objective remains to provide data and analysis that helps explaining how secrecy jurisdictions or tax havens facilitate illicit financial flows, including flows from developing to developed countries of up to US$1 trillion a year. One particular usage of this data consists of feeding opacity scores for use in the financial secrecy index[3].

A secrecy jurisdiction is not a natural phenomenon that is, or is not, observable[4]. All countries have some attributes of secrecy jurisdictions, ranging on an imagined continuum from highly secretive to perfectly transparent. Therefore, we have built a set of indicators which allow an assessment of the degree to which the legal and regulatory systems (or their absence) of a country contribute to the secrecy that enables illicit financial flows. Taken together, these indicators result in an opacity score given for each jurisdiction.

This project was and is breaking new ground. Anything similar has never been attempted before. The experimental quality to this project therefore suggests that changes to the content, structure and emphasis of the database and the indicators are a natural reflection of a learning process by all involved. As you will read in more detail in chapter 4, we do not pretend that there is a single objective best measure for financial opacity and we are in possession of it. It is rather the fruit of ongoing debate that in the past has been and will in the future be driven to a large extent by the choice expertise available in and to the Tax Justice Network, often shared freely in an extraordinary cooperative fashion.

Chapter 2 will introduce the reader into the most important changes between 2009 and this year's database and secrecy indicators. Chapter 3 will describe in some detail the process of compiling the data and explain methodological principles underlying the work. Chapter 4 summarizes the general logic of the Key Financial Secrecy Indicators and provides details about each indicator. Chapter 5 presents some preliminary findings and proposes core messages to be drawn out of the index. The annexes contain lists of jurisdictions covered both in 2009 and 2011, as well as the respective lists of KFSIs.

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[2] http://www.secrecyjurisdictions.com/.

[3] The index can be found here: http://www.financialsecrecyindex.com/, and some initial news coverage is summarized here: http://taxjustice.blogspot.com/2009/11/financial-secrecy-index-what-papers.html.

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

2. Main Changes 2009-2011

2.1 Jurisdictions Covered

The number of jurisdictions covered by the 2011 project has increased to 73. The 2009 project analyzed 60 jurisdictions, selected on the basis of listings issued by international bodies and academics (e.g. IMF, FATF, OECD, TJN 2005)[5]. Places that had been named on at least two of those international listings have included in2009.

The 73 new jurisdictions now include all those 20 jurisdictions which in 2009 had the highest global shares of financial services exports (based on 2007 data). Those of the 13 jurisdictions which had been selected upon this criterion are listed in part (A) of the following table. The other countries (B) have been selected because of their known secrecy jurisdiction characteristics. The full list of jurisdictions in 2011 and 2009 are attached in Annexes A and B, respectively.

	A	
Canada	Denmark	France
Germany	India	Italy
Japan	Korea	Spain
	B	
Botswana	Ghana	Guatemala
San Marino		

2.2 Indicators

The 2009 FSI used twelve opacity indicators which are listed in Annex C[6]. They were organised into the following themes:

- Knowledge of beneficial ownership
- Key aspects of corporate transparency regulation
- International cooperation

This year, we increased the number of indicators to 15 – see Annex D for an overview and section four for an explanation of each. They are organized in four groups, and the first two groups remained the same, while the last group was renamed in "International standards

[5] The selection process for the initial 60 jurisdictions is explained in detail here: http://www.secrecyjurisdictions.com/PDF/SJ_Mapping.pdf.

[6] www.financialsecrecyindex.com/documents/FSI%20-%20Methodology.pdf; 27.6.2011.

and cooperation". A fourth group is now included with the name "efficiency of tax and financial regulation":

- Knowledge of beneficial ownership
- Key aspects of corporate transparency regulation
- Efficiency of Tax and Financial Regulation
- International Standards and Cooperation

We dropped three indicators of the 2009 index and created a total of six new indicators. In addition, we changed a number of indicators in the way they are computed.

For instance, we have reduced our reliance on binary yes-no indicators which often do not allow a sufficient degree of variance. We achieved this either by changing the computation of existing data to allow for sliding scale ratings (resulting in a value between 0 and 1 with two decimal places, e.g. indicator 11 and 13 in FSI 2011[7]), or by bundling additional variables into an existing indicator (e.g. KFSI 1 in both 2011 and 2009 FSI).

The result highlights the range of issues that cause us concern about provision of financial secrecy and non-cooperation. The changes also decrease the arithmetic sensitivity of the index as the relative importance of each single indicator is reduced by increasing their total number to 15.

The indicators we dropped are (old FSI 2009-numbering):

- KFSI 7 on participation in the TJN-survey - it conveyed too much an image of self-importance of TJN and gave credit too easily just for responding.
- KFIS 10 on access on banking information for exchange purposes was amended and merged with KFSI 1 on banking secrecy. The old indicator showed not enough variance (all rated non-compliant).
- Indicator 11 on company redomiciliation was dropped after extensive discussions, including with a small expert group specifically convened for this purpose. We agreed that further detailed analyses would be required for every jurisdiction in order to substantiate the claim that company redomiciliation adds to financial secrecy. We could not find data sources containing the required level of detail.

The new indicators are (new FSI 2011-numbering):

[7] Consider this example regarding KFSI 13 on bilateral treaties. It is displaying the percentage of compliance with the required standard, which is to have 60 bilateral treaties in place. If, for example, a jurisdiction has 50 treaties in place, it will be considered to be 50 out of a maximum of achievable 60 treaties, i.e. 83%, i.e. a transparency value of 0,83).

- Indicator 6 measures a country's contribution to transparency in financial reporting of multinational companies by asking if the compliance with EITI-standards for the extractive industries is mandatory for a company's listing on a national stock exchange (half credit), and if full country-by-country reporting is required (full credit).
- Indicator 7 reflects whether income payments covering both dividends and interest paid to non-residents are reported to revenue bodies. It shows to what extent countries choose not to make information available that they should be readily disposing of for exchange purposes. Only if for both income categories reporting is obligatory a full transparency credit is given, if one category is covered is half the score.
- Indicator 8 is a proxy for the efficiency of a tax administration. It is based on the use of taxpayer identifiers for information reporting and matching for the income categories of dividends and interest. In addition, it is analyzed if a jurisdiction does have a large taxpayer unit which dedicates special attention and expertise to the taxation of corporations and sometimes wealthy individuals. The taxpayer identifiers count for each category of income 0.4 credits, a large taxpayer unit 0.2 credits.
- KFSI 9 checks if a jurisdiction grants unilateral tax credits for foreign tax payments as a mechanism to avoid double taxation in order not to promote tax evasion and tax competition. Without a unilateral tax credit, double tax treaties are easily imposed on trading partners, and if a jurisdiction operates an exemption system, it creates incentives for other nations to lower their tax rates for the attraction of investments. Only if a unilateral credit system is in place for all kinds of dividend and interest payments we award the jurisdiction a full score.
- Indicator 14 checks if a jurisdiction has ratified the five most relevant international treaties relating to financial transparency. The conventions are a) the amending protocol of the CoE/OECD 1988 Convention on Mutual Administrative Assistance in Tax Matters, b) UN Convention Against Corruption, c) UN Drug Convention 1988, d) UN International Convention for the Suppression of the Financing of Terrorism, and e) UN Convention Against Transnational Organized Crime. Each is awarded a 0.2 credit.
- Indicator 15 reflects the level of international judicial cooperation a jurisdiction grants in crime issues, particularly for money laundering offences. It is based on the FATF Recommendations 36 to 40. If all five recommendations had been rated compliant, we would give a full credit. If not, we give a correspondingly lower credit.

The changes to the existing indicators were as follows (new FSI 2011-numbering):

- KFSI 1 - Banking secrecy: Instead of a binary yes-no question on formal banking secrecy, we now have bundled various questions into this indicator in order to allow for a gradual assessment. For instance, elements of the old KFSI 10 on access on banking information have been incorporated into this indicator. In addition, banks' compliance with record keeping and customer due diligence obligations is assessed, too.

- KFSI 4 - Public Company Ownership: We are now giving a fraction of a full credit if the jurisdiction at least publishes consistently online information on legal/nominee owners of companies at a maximum cost of 10 US$.
- KFSI 10 - Harmful Legal Vehicles: Instead of giving a full credit for the absence of protected cell companies, we have combined this question now with the question if trusts with flee clauses are prohibited as well. Each question receives a 50% credit.
- KFSI 11 - Anti-Money Laundering: As we have explained above, this indicator now offers a sliding scale rating with values between "0" and "1" reflecting the overall compliance score with FATF recommendations, with "1" reflecting compliant ratings on all 49 recommendations.
- KFSI 13 - Bilateral Treaties: In a similar way we are calculating the share of bilateral treaties as a percentage of 60 treaties as a maximum "1" full credit awarded. Alternatively, if a country has ratified the 1988 European Council/OECD convention, it is awarded a full transparency rating irrespective of the number of bilateral treaties.

2.3 Database

The database reports to be published on the secrecy jurisdictions website underwent major changes and extension. While the 2009 database covered a maximum of 208 variables, the 2011 database contains 221 variables. Importantly, two new tables have been included in the tax system section. One table displays the unilateral relief provisions to prevent double taxation. Another table gives the unilateral withholding tax rates for different types of payments in absence of a double tax treaty. This data is an important contribution to the tax section, and this has been complemented by a section on tax administration.

Many sections in the database have been reorganized, most importantly the tax system and anti-money laundering sections, but also the section on banking secrecy. The section "key features" has been deleted.

3. Process and Methodological Principles

3.1 Process

Since the launch of the secrecy jurisdictions website and the financial secrecy index we received a lot of feedback on the work. Among them were useful suggestions for improvements which we have been collecting over the year and a half.

Partly based on these suggestions, partly out of a learning process within the secretariat, some proposals for change of the index have been developed and later discussed at a small team meeting in London in June 2010. The proposed changes have been submitted to and agreed by the global board of TJN in July 2010.

Two template questionnaires for a survey to collect data for the index and database have been prepared in August 2010. The addressees of the survey were the ministries of finance and the anti-money laundering units in each country. These templates, together with the memo previously submitted to the global board, have been circulated for review and comment through the internal TJN-mailing list in September 2010. Furthermore, TJN-members were asked to provide names and mail addresses of people within their ministries of finance to direct the questionnaires to.

The questionnaires have been sent out early October, together with a print out of the 2009 database report concerning the jurisdiction in question, inviting review and comments on this database report. The deadline for answering was 15 January 2011 in order to allow respondents to take into account regulatory and legal changes as of 31.12.2010.

In January and February, the indicator on redomiciliation has been discussed at length. Phone and email consultations with experts familiar with the issue converged into a small phone conference which ultimately led to the decision to drop this indicator.

The remaining process of data collection and analysis had to take many different considerations into account. Just to name a few, the process was evidently dependent upon the **database structure**, which in turn depended to some extent on the design of the financial secrecy indicators.

Secondly, the process was dependent on the availability of **public sources**. Some of the regulatory reports we used were published irregularly during the course of the last 2 years (FATF, IMF, and later Global Forum as well). Other materials, however, had specific launch dates (INCSR, OECD Tax Co-operation reports, OECD tax administration series) which in some cases were as late as February or March 2011.

Thirdly, the availability and degree of expertise of **supporting staff** such as an intern and IT-consultant was a relevant factor in planning of and working on the database update. Similarly, the process needed to dovetail with the quantitative part of the financial secrecy index undertaken by Christian Aid.

Fourthly, the decision on the **launch date** of the index imposed the overarching deadline with many months ahead needed for data testing and combining and producing the supporting materials.

A challenge ahead will be to disseminate the materials to our partners around the world and to understand and cater to their needs if they want to use the index, taking on a supporting role. This is closely related to plan the media **outreach** work.

3.2 Guiding Methodological Principles

The criteria used for assessing legal and regulatory provisions were tough. It is our opinion that both the standards and the assessment procedures used by bodies such as the Organisation for Economic Cooperation Development (OECD) are too lenient. The OECD's

Global Forum often assesses on the basis of the "highest available denominator" within a jurisdiction, a fact that hardly improved since the launch of the peer-review process in 2010.

In the Tax Co-operation report[8], the OECD/Global Forum may highlight a jurisdiction for requiring accounts to be filed with a government authority, while writing in footnotes that this requirement does not apply to "non-resident" companies or holds only for certain providers of financial services. However, while this report had its flaws, the notes allowed researchers to reach their own conclusions. The breadth of the reviewed information, as well as the tabular comparative presentation provided usefully structured data which often served as a point of departure for assessing the jurisdictions. These Tax Co-operation reports will no longer be published because the new peer reviews replaced them.

The relatively new peer review process the OECD and the Global Forum started in 2010, in contrast, does provide little comparative information in a systematic way. Often, it does not permit to arrive at unbiased opinions because the peer reviews are narrowly based on checking the so-called OECD-standard of information exchange of 2002. This standard is very weak and has been designed by a handful of tax havens and OECD countries with the purpose of ignoring the issue of illicit financial flows. Particularly worrying in the checklist of the peer reviews is the absence of registries containing beneficial ownership information of companies. Apart from our briefing paper on TIEAs dated 2009[9], a more detailed set of critiques can be found in our background paper on the peer reviews[10].

For the purposes of the secrecy jurisdiction database, in contrast, we have examined the lowest standard (or denominator) available in each jurisdiction. For example, if a jurisdiction offers three types of companies, two of which are required to file beneficial ownership information, but the third is not required to disclose this information if the owner is a foreign company, then we have not awarded a transparency credit on this particular indicator. We have followed this 'lowest common denominator' principle throughout our assessment process.

[8] The full title of this annual publication is "Tax Co-operation. Towards a Level Playing Field". This publication served as a main source for many variables and, in the following, is referred to by "OECD-report" or "OECD publication".

[9] http://www.taxjustice.net/cms/upload/pdf/Tax_Information_Exchange_Arrangements.pdf; 24.6.2011.

[10] Not published yet. WWW.

During the data collection process we erred on the side of caution: where doubt existed on data quality we marked the relevant field as 'unknown' or 'information not available'. However, when applying the 15 indicators to the selected jurisdictions we awarded (partial) transparency credits only in cases where we were able to collect the corresponding data. Absence of data received an opacity score if the information has been asked for in the TJN-survey 2011 sent to the ministries of finance and the anti-money laundering bodies.

At the same time, an assessment procedure on the issue of financial secrecy and with the scale of this project cannot be rooted in evident facts alone, but will involve occasional use of reasoned judgement. Where this was the case, we have tried to be transparent about our criteria and reasons. As a result, in addition to references to all the sources we used, the database reports[11] also includes a huge amount of supporting information and notes relating to data analysis.

Another underlying principle guiding the database consists in the built-in logic of display. When skimming through the database report, one may find that some questions are left out in some of the reports. This happens whenever the answer to a prior question has been negative so as to invalidate the relevance of the following, omitted questions. For instance, if a trust does not need to be registered in the first place, it is no use displaying the registered information section of trusts. It does not make sense neither asking if annual accounts need to be submitted by companies, or if underlying accounting records have a minimum retention period, as long as there is no obligation to keep accounting records in the first place over the course of a business year. This explains why in some jurisdiction reports, the numbers on the questions in the database are not always continuous, but “jumping”.

As regards the cut-off date for the key financial secrecy indicators, we used regulatory reports, legislation, regulation and news available at 31.12.2010. An exception concerns KFSI 13 on bilateral treaties where we relied on table A of the aforementioned tax co-operation report 2010, which had a cut-off date at 30 June 2010. All jurisdictions had the opportunity to provide us with up-to-date information by answering our questionnaire.

The cut-off date for data contained in our database varies more widely. It is usually up to date as of 31.12.2010, but includes sometimes more recent data if available.

4. The 15 KFSIs 2011

Three principles guided the design of the Key Financial Secrecy Indicators (KFSI).

First and foremost, the selected indicators should most accurately capture a jurisdiction's status as a secrecy jurisdiction ("laws for the primary benefit for those not resident" and "veil of secrecy"). The choice of these indicators has necessarily been subjective, but it must

[11] http://www.secrecyjurisdictions.com/sj_database/menu.xml; 28.6.2011.

be acknowledged that an objective choice of indicators does not exist, and never will: the issue boils down to whether or not our selected indicators are plausible.

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

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

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

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

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

We arrived at the overall opacity scores for each jurisdiction by summing up the transparency credits of the 15 KFSIs and projecting them as a percentage value. For example, if a jurisdiction was given a transparency credit for all 15 indicators, the resulting opacity score would be 0%. No indicator being rated as transparent, in contrast, would result in a 100% opacity score.

4.1 KFSI 1 - Banking secrecy

4.1.2 What is measured?

This indicator assesses whether a jurisdiction provides banking secrecy. We seek to go beyond the statutory dimension to assess the absence or inaccessibility of banking information as a form of banking secrecy. For a jurisdiction to obtain full credit on this indicator, it must ensure that banking data exists and that it has effective access to this data. We consider that effective access exists when the tax authorities can obtain account information without the need for separate authorisation, for example, from a court, and if this access is unrelated to a specific treaty.

In order to measure whether banking secrecy enjoys formal status in a jurisdiction, we rely on table B1 of the OECD-report[12]. If a jurisdiction does not provide formal banking secrecy, we award 0.2 credit points.

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

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[13]. If a jurisdiction fully complies with this recommendation, we award a further 0.2 credit points.

FATF-recommendation 10 requires financial institutions to "maintain, for at least five years, all necessary records on transactions, both domestic and international"[14]. A further 0.2 credits are awarded if a jurisdiction fully applies this recommendation[15]. We have relied mainly on the mutual evaluation reports by the FATF, FATF-like regional bodies or the IMF for the assessment of these two criteria.

In addition, and in order to diversify our sources, we have also used data contained in the 2010 International Narcotics Control Strategy Report (INCSR, Volume 2 on Money Laundering and Financial Crimes)[16]. This report indicates for a large number of countries a) whether banks are required to maintain records of large transactions in currency or other monetary instruments, and b) whether banks are required to keep records, especially of large or

[12] The full title of this annual publication is "Tax Co-operation. Towards a Level Playing Field". This publication served as a main source for many variables and, in the following, is referred to by "OECD-report" or "OECD publication". See reference section for more details. The OECD writes the following explanation to this variable: "Table B 1 shows for all of the countries reviewed whether the basis for bank secrecy arises purely out of the relationship between the bank and its customer (e.g. contract, privacy, common law) […or] whether it is reinforced by statute […]." (OECD 2010: 142; TJN-notes in [brackets]).

[13] http://www.fatf-gafi.org/document/58/0,3746,en_32250379_32236920_43642938_1_1_1_1,00.html (21.05.2011).

[14] http://www.fatf-gafi.org/document/21/0,3746,en_32250379_32236920_43681621_1_1_1_1,00.html (21.05.2011)

[15] In order to measure compliance the FATF uses the following scale: 1 = non-compliant; 2 = partially compliant; 3 = largely-compliant; 4 = fully compliant. We give 0 credits for non-compliant, 0.7 for partially compliant, 0.13 for largely compliant and finally 0.2 credit points for fully compliant jurisdictions.

[16] This report is available here: http://www.state.gov/p/inl/rls/nrcrpt/2010/vol2/index.htm (21.05.2011).

unusual transactions, for a specified period of time (e.g. five years). We award 0.1 credit points for a positive answer for each a) and b)[17].

However, since it is not sufficient for banking data to merely exist, we also measure whether this data can be accessed for information exchange purposes in both civil and criminal tax matters, and if so, whether this applies only within the framework of a specific treaty (DTA or TIEA). Therefore, we rely on table B.2 and B.3 in the OECD-report.

Table B2 shows in rather general terms "to what extent the countries reviewed have access to bank information for exchange of information purposes in all tax matters" (table B2; OECD 2010: 146).

Table B3 details "for each of the countries reviewed whether the country's competent authority has the power to obtain bank information directly or if separate authorisation is required" (ibid: 157).

Only if both instances - "having access" and "obtain information directly"- are answered "yes" without strings attached do we credit the jurisdiction with 0.2 points for having effective access to banking data. If the jurisdiction has access, but only within the framework of a treaty, we award 0.1 credit points.

4.1.2 Why is it important?

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

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

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

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[17] The information is nicely presented in this table: http://www.state.gov/p/inl/rls/nrcrpt/2010/vol2/137217.htm (21.05.2011) under the columns "Record large transactions" and "Maintain records over time".

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

4.2 KFSI 2 - Trust and Foundations Register

4.2.1 What is measured?

This indicator reveals whether a jurisdiction has a central register of trusts and foundations which is publicly accessible via the internet[18].

The indicator builds on a variety of sources, including tables D2 and D3 of the OECD-report (Tax Co-operation 2010[19]), private sector internet sources, FATF and IMF reports, and the TJN-Survey 2011. In cases where there is indication that online information on trust registries is available, related websites have also been consulted.

A precondition for a positive assessment of this indicator is that all trusts and foundations in a jurisdiction must be required to register with a central agency in order to become legally effective. If a trust is valid without a requirement for registration there is no reason to believe that such a registry adds to financial transparency since anybody intending to conceal the existence of their financial arrangements will simply not register the existence of a trust.

Following the same logic, it is not sufficient to secure a positive score if, for instance, a jurisdiction has a stringent registration requirement for foundations, but not for trusts. Both legal arrangements need to be covered unless, of course, one is unavailable in the relevant jurisdiction. There is an exception: where neither foundations nor trusts are available in a

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

[19] The full title of this annual publication is "Tax Co-operation. Towards a Level Playing Field". OECD-table D2 details which countries have domestic trust laws, which have specific trust laws applying to non-residents only and which countries do not have trust laws but allow their residents to act as trustees of foreign trusts (OECD 2010: 210). Table D3 in turn details what kind of information needs to be submitted to a government authority, defined as including "trust registries, regulatory authorities and tax authorities." (OECD 2010: 241).

jurisdiction we have given that jurisdiction credit for this contribution to financial transparency.

If there is a generalised registration requirement for trusts and foundations, we have given credit only if it requires that information be disclosed that is relevant for assessing its tax and ownership implications. For example, the published information must at least comprise information on the identity of the settlor, the trust deed, and the names of the trustees, the annual accounts, and details of identified beneficiaries of the arrangement.

4.2.2 Why is it important?

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

The most basic secrecy jurisdiction 'product' comprises a secrecy jurisdiction company that operates a bank account. That company is run by nominee directors on behalf of nominee shareholders who act for an offshore trust that owns the company's shares. Structures like these are created primarily to avoid disclosing the real identity of the settlor and beneficiaries who hide behind the trust: these people will be 'elsewhere'[20] in another jurisdiction as far as the secrecy jurisdiction 'secrecy providers' (the lawyers, accountants and bankers actually running this structure) are concerned. If - as is often the case - these structures are split over several jurisdictions then any enquiries by law enforcement authorities and others about the structure can be endlessly delayed by the difficulties incurred when trying to identify who hides behind the trust.

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

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

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

4.3 KFSI 3 – Recorded Company Ownership

4.3.1 What is measured?

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

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

This indicator is mainly informed by four different types of sources. First, table D1 of the OECD-report (Tax Co-operation 2010[21]) reveals what sort of ownership information companies must register with a governmental authority. Beneficial ownership information must be ticked to be recorded for other sources to be consulted further. Second, private sector internet sources have been analysed in cases of jurisdictions not covered by the OECD or where the OECD information was not satisfactory (Lowtax.net, Ocra.com, Offshoresimple.com, etc.). Third, where doubts have arisen we have consulted the Global Forum and FATF peer reviews. Fourth, the results of the TJN-Survey 2011 have also been included.

A precondition for awarding a positive result is that all available types of companies with limited liability must be required to submit beneficial ownership information. If there are types of companies available that dispense with such a requirement, people intending to conceal their identities from public view will simply opt for company types where no beneficial ownership information is required to be registered.

[21] The full title of this annual publication is "Tax Co-operation. Towards a Level Playing Field". This publication served as a main source for many variables and, in the following, is referred to by "OECD-report" or "OECD publication". The OECD writes of table D1: "Table D.1 shows the type of ownership information required to be held by governmental authorities (column 2), at the company level (column 3) and by service providers, including banks, corporate service providers and other persons (column 4)." (OECD 2010: 189). An important distinction is made between beneficial ownership information which refers to the ultimate human beings owning the company and legal ownership that "refers to the registered owner of the share, which may be an individual, but also a nominee, a trust or a company, etc" (ibid.). A governmental authority is defined as to include "corporate registries, regulatory authorities, tax authorities and authorities to which publicly traded companies report" (ibid.).

To meet a reasonable standard, registered ownership information must comply with a minimum requirement: it should include the full names of all beneficial owners and their address, personal ID-number, date and place of birth. These must be the natural human beings who have the right to enjoy ownership of the rewards flowing from ownership of the entity. If there are no such persons then the settlor or creator of the structure that owns the entity must be named instead. For this purpose, unless it is a publicly quoted entity, trusts, foundations, partnerships, limited liability corporations and other legal persons do not count as beneficial owners.

4.3.2 Why is it important?

Absence of beneficial ownership information obstructs law enforcement. When a jurisdiction, such as the US state of Wyoming (see FATF evaluation 2006 for details[22], pages 236, or here[23]), 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[24] is very restricted.

These so-called 'shell companies' are nothing more than letterboxes serving as conduits for financial flows in many different guises. Foreign individuals can use a front company to shift money illicitly while claiming to their domestic government authorities that they have no ownership interest in the company.

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

In reality, however, the Wyoming company is a shell owned and controlled by the Kenyan national. Noone knows this fact. While the Kenyan tax authority might have a suspicion that these fund transfers are for illicit purposes e.g. tax evasion, in the absence of registered ownership information the only way for the Kenyan tax authority to confirm its suspicions may be - under certain conditions - to contact its US-counterpart.

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

[22] http://www.fatf-gafi.org/dataoecd/44/9/37101772.pdf; 20.6.2011.
[23] http://www.ioserv.com/ios/en/jurisdictions/usa/wyoming_corp.sql; 20.6.2011.
[24] http://www.oecdbookshop.org/oecd/display.asp?K=5LMQCR2KM20R&DS=Behind-the-Corporate-Veil; 20.6.2011.

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.

4.4 Public Company Ownership

4.4.1 What is measured?

This indicator considers whether a jurisdiction requires all available types of company with limited liability to publish beneficial ownership or legal ownership information on public record accessible via the internet[25]. If beneficial ownership is published, a full transparency credit is awarded. If only legal ownership information is available for all types of company, a 0.2 transparency credit is awarded.

The indicator draws information from four sources:

First, table D1 of the OECD-report (2010[26]) displays what sort of ownership information companies must register with a governmental authority. Accurate ownership information can only be made available online when there is a requirement for it to be registered and kept up to date.

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

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

[26] The full title of this annual publication is “Tax Co-operation. Towards a Level Playing Field”. This publication served as a main source for many variables and, in the following, is referred to by “OECD-report” or “OECD publication”. The OECD writes of table D1: “Table D.1 shows the type of ownership information required to be held by governmental authorities (column 2), at the company level (column 3) and by service providers, including banks, corporate service providers and other persons (column 4).” (OECD 2010: 189). An important distinction is made between beneficial ownership information which refers to the ultimate human beings owning the company and legal ownership that “refers to the registered owner of the share, which may be an individual, but also a nominee, a trust or a company, etc” (ibid.). A governmental authority is defined as to include “corporate registries, regulatory authorities, tax authorities and authorities to which publicly traded companies report” (ibid.).

Third, results of the TJN-Survey 2011 have also been included.

Fourth, where the above sources indicate that beneficial or legal ownership information is available online, we have checked the corresponding websites.

For practical purposes we consider this information to be publicly available when it can be accessed at a fixed cost below 10US$ and does not require the establishment of complex payment arrangements (e.g. registration of bank account)[27].

A precondition for this indicator to be fully credited is that all available types of companies with limited liability must be required to publish beneficial ownership information online. Even if only one type of company has derogation from the requirement to publish beneficial ownership information, we can reasonably assume that anyone intending to conceal his or her identity from public view will simply opt for that type of company.

However, we award a partial transparency credit of 0.2 where legal ownership information (that is, the nominee and/or trustee and/or corporate shareholders of the company) is accessible online because such availability may, in some circumstances, reduce the time required to identify the beneficial owners of the company.

We also require minimum standards for registered ownership information. First, all owners must be named with full names plus either addresses or birthdates and –place or passport ID. Second, unless the owner is a publicly quoted company, the beneficial owners must be real human beings as prescribed by anti-money laundering standards[28]. If the published owners are trusts, nominees or other companies, we award a minimal credit.

4.4.2 Why is it important?

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

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

[28] FATF the "natural person(s) who ultimately owns or controls a customer and/or the person on whose behalf a transaction is being conducted.": Financial Action Task Force 2004a: Methodology for Assessing Compliance with the FATF 40 Recommendations and the FATF 9 Special Recommendations. 27 February 2004 (Updated as of February 2009) Paris, in: http://www.fatf-gafi.org/dataoecd/16/54/40339628.pdf; 25.1.2010.

Furthermore, with the prevalence of limited liability, even in the highly unlikely case of specific human individuals being identified as directing or benefiting from corporate structures that facilitate impropriety without this information being required on public record the chances of successful prosecution by proper authorities are drastically reduced when there is no legal requirement for certification and registration of this information. If beneficial ownership is required to be recorded in an online directory but is not correctly disclosed, the perpetrator of impropriety is also open to being prosecuted for failure to disclose accurate information. On occasion such simple methods of prosecution are essential when all other ways of pursuing criminality are blocked.

However, the online availability of detailed legal ownership information may enable foreign authorities 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 an absence of beneficial ownership information, and the allowance of tipping off provisions may warn and ultimately frustrate any law enforcement effort. Therefore, we give only a 0.2 credit for legal ownership being publicly available.

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

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

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

4.5 Public Company Accounts

4.5.1 What is measured?

This indicator shows whether a jurisdiction requires all types of companies with limited liability to publish their annual accounts online and makes them readily accessible via the internet[29].

We have drawn this information from four principal sources:

First, table D6 of the OECD-report (Tax Co-operation 2010[30]) indicates whether a company's financial statements are required to be submitted to a government authority.

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

Third, results of the TJN-Survey 2011 have been included.

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

We assessed the information as being available on public record when download was possible at a fixed cost below US$10 and did not impose complex payment arrangements (e.g. registration of bank account, sending of hard-copy mails) [31].

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

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[29] We believe this is a reasonable criterion given a) the prevalence of the internet in 2011, b) international financial flows are transacted using modern technology, and c) the people affected by these cross border financial flows are likely to be in many jurisdictions, and hence *need* online access to public records in other jurisdictions.

[30] The full title of this annual publication is "Tax Co-operation. Towards a Level Playing Field". The OECD notes for table D6: "This table shows for each of the countries reviewed the legal requirements relating to the nature of the accounting records that must be created and retained, specific requirements with respect to their auditing and lodgement with a governmental authority and the rules regarding the retention of the records." (OECD 2010: 245). "Financial statements" are synonymous to "annual accounts". Column four and five are described as follows: "Column 4 shows whether jurisdictions require the preparation of financial statements. Column 5 shows whether a requirement exists to file financial statements with a governmental authority and/or to file a tax return" (ibid.).

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

4.5.2 Why is it important?

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

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

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

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

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

4.6 Country-by-Country Reporting

4.6.1 What is measured?

This indicator measures whether the companies listed on the stock exchanges or incorporated in a given jurisdiction are required to publish financial reporting data on a country-by-country basis. A full credit would be given if country by country reporting[32] was required by all companies (which is not the case yet). A 50% credit is awarded if a country requires limited country by country reporting similar to the principles elaborated by the Extractive Industries Transparency Initiative (EITI)[33]. These principles prescribe that all payments to the government made by companies active in the extractive sector must be published.

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[32] http://www.taxresearch.org.uk/Documents/CBC.pdf; 16.6.2011.

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

Generally, a jurisdiction could require all companies incorporated under its laws (including subsidiaries) to publish in their accounts information on their global activity on a country-by-country basis. As no jurisdiction does this today, as a minimum indication of responsible regulation, it can require those companies listed on stock exchanges under the jurisdiction's control to do the same. While such a requirement is narrower in scope, it nevertheless indicates a first step in the right direction on behalf of a jurisdiction. Such reporting requirements can be achieved either by regulations issued by the stock exchange or by a legal or regulatory provision enacted by the competent regulatory or legislative body.

The main data source we used for this indicator was the TJN-Survey 2011 as well as the information available at www.revenuewatch.org and at www.eiti.org.

4.6.2 Why is it important?

Country by country reporting[34] makes multinational corporations disclose vital information in their annual financial statements for each country in which they operate. This information would comprise its financial performance, including:

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

b) Purchases, split the same way

c) Financing costs, split the same way

d) Pre-tax profit

e) Labour costs and number of employees.

In addition, the cost and net book value of its physical fixed assets, the gross and net assets, the tax charge, actual tax payments, tax liabilities and deferred tax liabilities would be published on a country by country basis by the multinational corporation.

Today, it is near impossible to find out even about all the countries in which a corporation is operating. It is even more difficult to ascertain *what* multinational companies are doing in particular countries, and how much they are effectively paying in tax in any given country. The consequence is that today corporations can minimize their global tax rates without being successfully challenged anywhere[35]. Large scale shifting of profits to low tax jurisdictions and of costs to high tax countries enables this.

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[34] http://www.financialtaskforce.org/wp-content/uploads/2009/06/Final_CbyC_Report_Published.pdf; 16.6.2011.

[35] For instance: http://www.bloomberg.com/news/2010-10-21/google-2-4-rate-shows-how-60-billion-u-s-revenue-lost-to-tax-loopholes.html; 16.6.2011.

The means to achieve profit shifting are primarily based on transfer mispricing, internal financing or reinsurance operations, or the artificial relocation and licensing of intellectual property rights. They all share in the fact that they are taking place “inside” of a multinational corporation, between different parts of a related group of companies. Today’s financial reporting standards allow such intra-group transactions to be consolidated with the normal third-party trade in the annual financial statements. Therefore, a corporation’s international tax and financing affairs are effectively hidden from scrutiny.

As a consequence, neither tax authorities know where to start looking for suspicious activity, nor does civil society dispose of reliable information about a company’s tax compliance record in a given country in order to question the company’s tax policy or its corporate and social responsibility and make enlightened consumer choices.

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

While much narrower in scope, the Extractive Industries Transparency Initiative (EITI) has succeeded in growing awareness of the importance of transparency about the payments made by companies to governments. It is specifically targeted at those countries rich in mineral resources (such as oil and metals).

If a country voluntarily commits to the EITI, it is required after a transitional period to publish annually details on the activities of extractive companies active in the country. These details include all the payments the government received by companies active in this sector. EITI also requires the companies to publish this information so that discrepancies from both reporting parties can be questioned by the civil society in the country. Mismatches can be indicative of illicit activity such as bribery or embezzlement.

It is of particular interest also because it may reveal for the first time in a given country information on tax payments made by companies to governments. Without such information, voting electorates, civil society and consumers can hardly make informed choices. It may help trigger further questions which may result in greater transparency, such as full country by country reporting.

4.7 Fit for Information Exchange

4.7.1 What is being measured?

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

In order to assess this indicator we have mainly relied on our TJN-Survey 2011 and on the OECD publication entitled "Tax Administration in OECD and Selected Non-OECD Countries: Comparative Information Series (2008)" published in 2009[36]. In addition, we have enquired with country experts in instances where the available information appeared contradictory.

4.7.2 Why is it important?

In many countries, dividend payments and interest payments are automatically reported to the tax administrations, not least to levy withholding taxes. Obviously, in the case of dividend payments, this information is reported by joint stock companies, and in case of interest payments, the reporting institutions are mainly banks.

However, this reporting requirement is sometimes limited to payments to resident taxpayers. Payments to non-residents are often not reported, especially if the specific underlying income payments are tax exempt, either for non-residents, or for everybody.

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

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

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

[36] http://www.oecd.org/dataoecd/57/23/42012907.pdf; 23.05.2011.

Automatic tax information exchange[37] requires as a first step that (income) information is reported regularly by all paying agents to the tax administration, irrespective of who or where the recipients of the payments are. Without such a reporting requirement, a tax administration cannot be fit for information exchange.

4.8 Efficiency of Tax Administration

4.8.1 What is measured?

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

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

In order to measure this indicator we have relied on both our TJN-Survey 2011 and on the OECD publication entitled "Tax Administration in OECD and Selected Non-OECD Countries: Comparative Information Series (2010)" published in March 2011[38]. Table 47 of this publication (OECD 2011: 214) provides information as to whether taxpayer identifiers are used for information reported by both financial institutions on interest payments and companies on dividend payments. Table 5 (ibid: 43) in turn provides information as to whether a tax administration has a large taxpayer unit.

4.8.2 Why is it important?

A local tax administration faces a globalizing domestic economy with increasing shares of value added and income received involving an international element. Scale effects realized 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 the multinational corporation. A tax administration that does not adapt to this new environment of growing complexity through organizational and technical innovations will soon see decrease its capacity to effectively levy taxes.

The absence of adequate organizational and technical capacity of a tax administration, by accident or design, can serve as a means of attracting personal wealth and corporations that shy the light of the day and are rather looking to operate in jurisdictions with low and lax tax enforcement, and low risks to be challenged about the way in which the corporation structures its tax affairs.

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[37] http://www.taxjustice.net/cms/upload/pdf/AIE_100926_TJN-Briefing-2.pdf; 17.6.2011.

[38] http://www.oecd.org/dataoecd/2/37/47228941.pdf; 23.05.2011.

With respect to the taxpayer identifiers, the aforementioned OECD-report notes (2011: 210):

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

Therefore, the use of taxpayer identifiers is a common sense means of detecting instances of non-compliance and to improve information exchange between government agencies, thus contributing to financial transparency in a given jurisdiction.

Large taxpayer units (LTU) make sense on the grounds of efficiency for a number of reasons. The taxpayers dealt with by these LTUs share common characteristics which require highly specialist and skilled expertise that can hardly be mobilized in a context of a decentralized tax administration. Among these reasons figures the high concentration of revenue in the hand of a small number of taxpayers, the high degree of complexity in their business and tax affairs, major compliance risks from the viewpoint of the tax authority and the use of professional tax advice on behalf of the large taxpayers (ibid.: 54-55).

While certainly not in itself a measure to guarantee proper taxation of large taxpayers, the absence of a LTU can nowadays be interpreted as willingness by a jurisdiction to let large taxpayers go untaxed. In this case, the tax and financial dealings of a multinational corporation can be expected to remain unchallenged, effectively contributing to financial opacity.

4.9 Avoids Promoting Tax Evasion

4.9.1 What is measured?

This indicator shows whether a jurisdiction grants an unilateral tax credit for foreign tax paid on certain capital income. The types of capital income include interest and dividend payments.

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

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

The data has been collected primarily through the IBFD-database[39]. A secondary source was our TJN-Survey 2011. In addition, the Worldwide Tax Summaries from PricewaterhouseCoopers[40] have been consulted on some occasions.

4.9.2 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 the income is increasingly difficult to answer. A basic conflict exists between the emphasis of taxing the income where it arises, or of taxing it where its recipient resides (Background here[41]). A mixture of both principles is implemented in practice.

However, this may lead to instances of double taxation, when both countries claim the right to tax on the same income (tax base). In order to remedy such instances, countries have taken resort to unilateral relief provisions to avoid double taxation. In addition, countries may also conclude bilateral treaties in order to avoid double taxation, so-called double taxation avoidance agreements (DTA).

Assuming that cross-border trade and exchange can be mutually beneficial, the problem of double taxation needs to be addressed in one of both ways because it hinders cross-border economic activity. Treaties are expensive to negotiate, and often impose a cost on the weaker negotiating partner because of reduced tax rates the weaker partner has to accept in return for the faint prospect of more investment[42]. Therefore, the existence of unilateral relief provisions is of importance to remedy the pressure towards other countries to negotiate double tax treaties.

Home countries of investors or multinational companies offer such relief from double taxation because they want to promote outward investment. They are doing this primarily by 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).

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[39] http://online.ibfd.org/kbase/; 20.6.2011.

[40] http://www.pwc.com/taxsummaries; 20.6.2011.

[41] TJN-Briefing on source and residence-based taxation: http://www.taxjustice.net/cms/upload/pdf/Source_and_residence_taxation_-_SEP-2005.pdf; 20.6.2011.

[42] See, for instance 1) Neumayer, Eric 2007: Do Double Taxation Treaties Increase Foreign Direct Investment to Developing Countries?, in: Journal of Development Studies 43: 8, 1501–1519; and 2) Dagan, Tsilly 2000: The Tax Treaty Myth, in: New York University Journal of International Law and Politics 32: 939.

As one can see from the tables included in the database[43], in most cases it is a myth that bilateral treaties are necessary to provide relief from double taxation. Countries that are home to investors and multinationals typically offer provisions in their own laws to prevent double taxation[44]. Instead, these treaties can expose capital importing countries to risks and disadvantages. In addition, with more than 2500 double tax treaties in place today, the system has become overly complex and has offered corporations wide discretion with respect to their tax payments, inviting a practice called treaty shopping and other practices resting on abuse at the margin of tax evasion. These are the reasons why we analysed unilateral mechanisms to avoid double taxation in the first place. However, not all such mechanisms are equally useful[45].

When using an **unilateral exemption mechanism** to exempt all foreign income from liability to tax at home, this residence country is inviting other jurisdictions to compete for the location of investments 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.

Today, in many countries capital income is already tax exempt if paid to non-residents, especially as regards interest on bank deposits and on government debt obligations, or dividends. This has an important collateral effect: those countries who are not offering an exemption mechanism to their residents nonetheless see their resident taxpayers move their assets and legal structures (such as holding companies) into these countries where capital income is not taxed or taxed lowly. By doing so, and because information sharing between

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[43] http://www.secrecyjurisdictions.com/sj_database/menu.xml.

[44] It must be conceded, however, that unilateral provisions to avoid double taxation are not as comprehensively and totally preventing double taxation as double tax treaties do. 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 rather the exception 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.

[45] 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; 26.5.2011.

states is weak, taxpayers can easily evade the taxes due at home on their foreign income. As a consequence, a country offering low or no taxes to non-residents promotes tax evasion in the rest of the world.

To summarize the logic:

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

In contrast, a unilateral **tax credit system** does not promote tax evasion and does not incentivize 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 this case, the effective amount of tax paid abroad on the income will be subtracted from the corresponding amount of tax due at home.

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

4.10 Harmful Legal Vehicles

4.10.1 What is being measured?

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

The main sources for this information are internet websites such as Lowtax.net, Ocra.com and Offshoresimple.com. These sources display the availability of protected cell companies either in a tabular or textual format. They have also helped us determine whether trusts with flee clauses are prohibited. In some cases the TJN-Survey 2011 also provided useful information. We have also referred to local regulators’ websites.

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

As for the flee clause in trust agreements[46] (also termed flight clause), we have defined it in our glossary[47] as follows:

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

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

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

4.10.2 Why is this important?

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

The structure of PCCs has been compared to a house with a lock at the entrance and many rooms inside, each room locked separately with its own door, but also with an escape tunnel only accessible from inside the room. If an investigator seeks to find out what is going on in

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

[47] http://www.secrecyjurisdictions.com/glossary; 20.6.2011.

one room inside the house, she first needs to unlock the main outer door. But imagine that by opening that first door everybody inside the building is alerted to the fact that someone has entered the house. Anybody seeking to flee the investigator will be given enough time to do so thanks to the second lock at the individual room door. While the investigator tries to unlock the second door (by filing a second costly information request), the perpetrator has plenty of time to erase evidence and escape through the secret tunnel. This colourful metaphor neatly illustrates how a PCC might work in practice.

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

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

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

4.11 Anti-Money Laundering

4.11.1 What is being measured?

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

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

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

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

For our indicator, we have calculated the overall compliance score, where 100% indicate that all recommendations have been rated as “compliant”, whereas 0% would mean that all indicators have been rated as non-compliant.

4.11.2 Why is this important?

Many of FATF’s anti-money laundering (AML) recommendations touch upon minimal financial transparency safeguards within the legal and institutional fabric of a jurisdiction. Through low compliance ratios with AML recommendations, a jurisdiction wittingly invites domestic money launderers and criminals from around the world to deposit and launder the proceeds of crime (e.g. drug trafficking, tax evasion) in their own financial system.

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

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

Another issue assessed by the FATF relates to shell banks (recommendation 18). In the case of Ireland, a ‘partially compliant’ assessment reveals: “There is no prohibition on financial institutions from entering into, or continuing correspondent banking relationships with shell banks.” (FATF 2006, V2: 157).

The FATF defines a shell bank as “a bank incorporated in a jurisdiction in which it has no physical presence and which is unaffiliated with a regulated financial group.” (FATF website).

Many secrecy jurisdictions allow or condone shell banks to operate. Often these are little more than money laundering schemes. Therefore, the absence of targeted measures at shell banks allows banks in an apparently respectable jurisdiction (such as Ireland) to enter into business relationships with a shell bank and so to become the connecting interface between a highly dubious shell bank jurisdiction and the regulated banking world. Individual tax evaders, other criminals and banks willing to help facilitate this process can take advantage of this absence of scrutiny.

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

4.12 Automatic Information Exchange

4.12.1 What is being measured?

This indicator registers whether the jurisdiction participates in multilateral automatic information exchange on tax matters. Since there is currently no global mechanism implementing automatic tax information exchange, we have taken participation in the European Savings Tax Directive (EUSTD) as a proxy for this indicator. If a jurisdiction exchanges information automatically within the confines of the EUSTD, we credit it with contributing to financial transparency.

The main sources for this indicator are the official EU website on the savings tax directive[48] and the relevant website of the Council of the European Union[49].

The current version of the EUSTD was agreed in 2003 and became operational in mid-2005. It relates solely to information about interest payments made to individuals (as opposed to legal entities). It covers more countries than are EU-member states. However, not all countries participating in the scheme do actually automatically exchange information. After fierce opposition by Luxembourg, Austria and Belgium (EU member states) and from Switzerland, an opt-out from information exchange was included in the EUSTD from its inception. Belgium subsequently withdrew from the opt-out and has switched to automatic information exchange.

The alternative arrangement for those states not participating in automatic information exchange requires those jurisdictions to withhold an agreed percentage in tax on the interest income paid. Such payments are mainly made in respect of interest-bearing bank accounts. 75 percent of the withheld tax is then distributed to the tax collector of the individual account holder's country of residence. No information about the bank account or the account holder is shared in this process, which means that the underreporting of income and arising tax evasion is likely to continue.

We do not give credit here to any country that has opted out of automatic information exchange under the EUSTD.

[48] http://ec.europa.eu/taxation_customs/taxation/personal_tax/savings_tax/rules_applicable/index_en.htm; 21.6.2011.

[49] http://www.consilium.europa.eu/showPage.aspx?id=916&lang=en; 21.6.2011.

The EUSTD is currently the only international standard for automatic information exchange, which limits the application of this indicator. Once other regions adopt a similar exchange process, or a global standard for automatic information exchange is adopted, we will broaden the scope of this indicator to incorporate other regional standards or the global regime.

4.12.2 Why is this important?

Tax authorities around the world face immense difficulties with obtaining foreign-country based evidence when investigating suspected domestic tax evasion and/or aggressive tax avoidance schemes. The international standard for information exchange promoted by the OECD and the Global Forum is weak and largely ineffective (as we have pointed out in great detail in our briefing paper here and time and time again in our blog here and in the Financial Times here[50]).

The consequences of this weakness reach far beyond mere tax enforcement, but have huge implications for the global economy. Ultimately, it incentivizes a distorted pattern of global financial flows and investment that is known best in terms of capital flight. As we have argued in our policy paper[51], 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)[52], the root of this scandal dates back at least to the mid-1940s when the USA blocked the newly created IMF from requiring international cooperation to stem capital flight, and instead used European flight capital to institute the Marshall Plan.

While tax authorities domestically often have the powers to cross-check data obtained through tax returns, for instance by access to bank account information, this does not hold true internationally. While economic activity has globalised, the tax collector's efforts remain nationally focussed and are deliberately obstructed by secrecy jurisdictions.

The OECD-standard for information exchange consists of bilateral treaties that rely on information exchange 'upon request' only. However, the power to judge what constitutes an appropriate request rests with the secrecy jurisdictions' tax authorities, financial ministries and/or courts. Secrecy jurisdictions pride themselves on maintaining 'financial privacy' in spite of tax information exchange treaties and of exchanging information very reluctantly

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[50] http://www.ft.com/intl/cms/s/0/0f687dee-5eea-11e0-a2d7-00144feab49a.html#axzz1PtjiCeHN; 21.6.2011.

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

[52] http://treasureislands.org/; 21.6.2011.

under these agreements (click here for the example of Jersey). They go to great lengths to reassure their criminal clients that they will block 'fishing trips' by foreign tax authorities.

An example of the ineffectiveness of the OECD-'standard' is provided by recent data about the use of UK's bilateral treaties with its tax haven Crown Dependencies: Guernsey, the Isle of Man and Jersey. It suggests that in tax year 2008/2009 the UK received information on only 25 occasions from the three secrecy jurisdictions combined (click here for details). This number appears very low considering the close ties between the UK and the three territories and considering that the Crown Dependencies are ultimately constitutionally dependent upon the UK and therefore hardly free to deny information exchange to the UK. More examples on the practical deficiencies of the OECD / Global Forum standards and peer reviews can be found in our recent background paper (XXX HERE).

Very few bilateral Tax Information Exchange Agreements have been concluded between secrecy jurisdictions and the world's poorer countries. We are concerned that even when such agreements are negotiated, they will prove ineffective in practice due to the practical barriers imposed by the cost and effort involved in make 'on request' application. Automatic information exchange would help overcome this problem.

There is a further issue: in addition to their being ineffective and expensive to operate, bilateral information exchange arrangements are inefficient because thousands of treaties are required to achieve global coverage. A treaty may take years to conclude and due to variances from one treaty to the next may allow further hurdles for information exchange to be included by powerful negotiating players in talks with developing countries.

Instead, what is required is a truly multilateral automatic tax information exchange agreement on all types of capital income irrespective of whether paid to individuals, trusts, foundations, companies or partnerships. Participation in such a scheme would need to be open to any 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.

There would not be any need of establishing a central database. It suffices if each jurisdiction's paying agents (banks, etc.) remit identity information on the recipients of capital income to the domestic tax authority, and this domestic tax authority forwards the information to the tax authority of the respective citizen's state of residence (for more details read our briefing paper here[53]). An alternative, reduced system would be the automatic information exchange only on the beneficial owners of bank accounts, companies, trusts, foundations, etc. (details here)[54].

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

[54] http://www.taxresearch.org.uk/Documents/InfoEx0609.pdf; 21.6.2011.

4.13 Bilateral Treaties

4.13.1 What is measured?

This indicator shows to what extent a jurisdiction has signed and ratified bilateral treaties conforming to the "upon request" standard developed by the OECD and the Global Forum with 60 other countries, or if the jurisdiction has signed and ratified the Amending Protocol of the 1988 Council of Europe/OECD Convention on Mutual Administrative Assistance in Tax Matters ("the 1988 Convention")[55]. The cut-off-date is 30 June 2010[56].

As for the bilateral treaties, as long as they are implementing the aforementioned upon request provisions, they can either be full double taxation agreements (DTAs) or tax information exchange agreements (TIEAs)[57] which have a much reduced scope.

The main source for this is indicator is table A of the OECD-report (Tax Co-operation 2010[58]). This table displays the number of bilateral agreements for information exchange, both signed and in force as of June 2010. Where the OECD did not cover the jurisdiction, we did consult other private sources such as Lowtax.net or the jurisdiction's finance ministries. A list of all the parties to the 1988 Convention and its Amending Protocol can be found on the OECD website[59].

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55 http://www.oecd.org/document/19/0,3746,en_21571361_44315115_48093843_1_1_1_1,00.html; 21.6.2011.

56 This date deviates from the general cut-off-date of the FSI 2011, which is 31.12.2010. The reason is that the OECD or the Global Forum no longer publish the Tax Co-operation report, and will not publish table A or the information contained therein elsewhere. Therefore, the most reliable measure of reasonably effective bilateral treaties is table A contained in the 2010 Tax Co-operation report, with a cut-off-date 30 June 2010. There is no reason to believe that the *relative* amount of treaties after 30 June 2010 substantially deviated from the situation before. Therefore, and given the absence of alternative sources, we decided to include this data. It is an indication of the questionable value of the current Global Forum peer review process that such comprehensive and ambitious statistics are no longer published (SEE NEW BRIEFING ON PEER REVIEWS XXX).

57 http://www.taxjustice.net/cms/upload/pdf/Tax_Information_Exchange_Arrangements.pdf; 21.6.2011.

58 The full title of this annual publication is "Tax Co-operation: Towards a Level Playing Field". This publication served as a main source for many variables and, in the following, is referred to by "OECD-report" or "OECD publication". Table A's title is "Relationships providing for information exchange to the standard" (OECD 2010: 139). More precisely, the information is taken out of column 5 (entitled "DTCs [i.e. Double Taxation Conventions] in force to the standard") and column 6 (entitled "TIEAs in force to standard").

59 Here: http://www.oecd.org/dataoecd/34/7/47507468.doc

We give a full credit here either if a jurisdiction is part to the CoE/OECD Convention and its Amending Protocol or if a jurisdiction has at least 60 qualifying treaties in place, with a proportionate credit awarded for fewer agreements in place. This number of agreements was selected because it is the average number of information exchange provisions contained in bilateral treaties a G20-country had in 2010[60]. As many secrecy jurisdictions claim to be major financial services centres we have taken them at their word and concluded that it is fair to compare their treaty network with that of the major trading nations, represented by the G20-nations. This does also imply that the figure of 60 qualifying agreements is a moving target. When G20-nations increase their average number of treaties, so will the average we use also increase and therefore the minimum number of treaties for the purpose of this indicator will increase. With respect to our last financial secrecy index 2009 this number remained stable at 60[61].

4.13.2 Why is it important?

Currently, tax authorities around the world face immense difficulties when trying to secure foreign-country based evidence relating to suspected domestic tax evasion and/or aggressive tax avoidance schemes. While tax authorities domestically often have the powers to cross-check data obtained through tax returns, for instance though having access to bank account information, this does not hold true internationally. Whereas economic activity has become increasingly global, the tax collectors' efforts remain locally based and those efforts are very often deliberately obstructed by secrecy jurisdictions. Therefore, the rule of law is severely constrained by the inability of tax authorities to readily and affordably collect information about the international economic activity of their populations and companies.

The current international "standard" for information exchange promoted by the OECD and the Global Forum is weak and largely ineffective (as we have pointed out in great detail in our briefing paper here and time and time again in our blog here and in the Financial Times here[62]). The consequences of this weakness reach far beyond mere tax enforcement, but have huge implications for the global economy. Ultimately, it incentivizes a distorted pattern of global financial flows and investment that is known best in terms of capital flight. As we

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[60] As reported in OECD 2010 (pages 139-141). The exact average per G20-nation except Saudi Arabia is 61.9 according to this source. We excluded Saudi Arabia from the calculation because it was not included in this OECD publication.

[61] It is important to note that from 2011 onwards, the OECD or the Global Forum will no longer publish the useful Tax Co-operation reports and valuable comparative data will disappear from public view as a result. Read our recent background document to understand the reasons behind, here XXX.

[62] http://www.ft.com/intl/cms/s/0/0f687dee-5eea-11e0-a2d7-00144feab49a.html#axzz1PtjiCeHN; 21.6.2011.

have argued in our policy paper[63], this distortion creates huge imbalances in the world economy and concerns 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)[64], the root of this scandal dates back at least to 1944 when the USA refused the new IMF to require international cooperation to stem capital flight, and instead used European flight capital to institute the Marshall Plan.

While this current international "standard" for information exchange promoted by the OECD and the Global Forum is has severe shortcomings, such a system may be a step forwards if covering many countries. In April 2009, the OECD announced that the conclusion of twelve bilateral agreements for information exchange is sufficient to be taken off the OECD's grey list of tax havens. It was completely arbitrary that the OECD chose to pass judgement about adherence to its "standards" based on a threshold of twelve treaties. 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.

If, in contrast, the number of treaties required of secrecy jurisdictions reaches far higher numbers, it would become increasingly difficult to sign meaningless agreements e.g. those with other secrecy jurisdictions or miniscule states such as the Faroe Islands. We have therefore opted to set the bar far higher than the OECD and employ the number of tax treaties a G20-country has on average as our yardstick. That is the reason why we chose to give credit for having a significant number of bilateral treaties, although we remain highly critical of the bilateral OECD-"standards".

We argue that bilateralism does not and cannot tackle the issue of information exchange in an effective and efficient manner. Therefore, we are specifically rewarding the membership of any jurisdiction in the 1988 Convention and its Amending Protocol that in principle opened the Convention up for all countries, not just OECD or European ones. The Convention appears to provide a useful framework for information exchange upon request, for simultaneous and cross-border tax examinations, for the protection of data confidentiality and for a number of other important areas. The Amending Protocol entered into force on 1 June 2011[65], with the membership of five jurisdictions, only one of which is monitored by the FSI (Denmark)[66].

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

[64] http://treasureislands.org/; 21.6.2011.

[65] http://www.oecd.org/dataoecd/8/62/48094428.pdf; 21.6.2011.

[66] As of 21.6.2011, two additional countries of little relevance to the FSI 2011 have indicated a date for entering into force of the protocol (Poland and Sweden).

Another reason for our criticism of the OECD-standard relates to the limitations of the "upon request" type of information exchange being promoted (see KFSI number 12). A simplified system of automatic information exchange of the type proposed in a paper by Richard Murphy (downloadable here) could make sense of the existing OECD structure by providing the necessary 'smoking gun' information to make it work. Ultimately, a system of full multilateral automatic tax information exchange[67] must be the outcome of any serious international efforts to cooperate on tax flight.

4.14 International Transparency Commitments

4.14.1 What is measured?

This indicator measures the extent to which a jurisdiction has entered into international transparency commitments. We have checked whether a jurisdiction is party to five different international conventions. Having ratified the adherence to each convention as of 31.12.2010 is awarded with 0.2 credit points. Thus, if it participates in all of them, it receives full credit. The five conventions are:

1) 1988 Council of Europe / OECD Convention on Mutual Administrative Assistance in Tax Matters ("1988 CoE/OECD Convention");

2) 2003 UN Convention against Corruption;

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

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

5) 2000 UN Convention against Transnational Organized Crime.

The 1988 CoE/OECD Convention has as its object the promotion of "administrative co-operation between states in the assessment and collection of taxes, in particular with a view to combating tax avoidance and evasion"[68]. Its amending protocol stipulates that bank secrecy cannot be brought forth as a ground for denying the exchange of information upon request and opened it up to countries which are not member of either the Council of Europe

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

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

or the OECD[69]. It allows for spontaneous and automatic information exchange, but requires the signatory parties only to implement upon request information exchange.

The 2003 UN Convention against Corruption (UNCAC) aims to promote the prevention, detection and sanctioning of corruption, as well as the cooperation between State Parties on these matters[70]. Relevant provisions include the prohibition of tax deductibility of bribe payments (Art. 14, Para. 4), the 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 investigations in relation to bribery (Art. 40).

The 1988 UN Drug Convention "provides comprehensive measures against drug trafficking, including provisions against money-laundering and the diversion of precursor chemicals. It provides for international co-operation through, for example, extradition of drug traffickers, controlled deliveries and transfer of proceedings"[71].

The 1999 UN Terrorist Financing Convention requires its parties to prevent and counteract the financing of terrorists. The parties must identify, freeze and seize the funds allocated to terrorist activities[72].

Finally, the UN Convention against Transnational Organized Crime seeks to prevent and combat transnational organized 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 necessary capacity of national authorities[73].

The United Nations Treaty Collection served as a source for all four UN conventions[74]. A chart of the signatures and ratifications of the 1988 CoE/OECD Convention can be found on the OECD website[75].

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[69] http://www.oecd.org/document/19/0,3746,en_2649_33767_43772307_1_1_1_1,00.html; 23.05.2011.

[70] The official site of the convention is here: http://www.unodc.org/unodc/en/treaties/CAC/index.html; 21.6.2011. A succinct summary of the convention's measures can be found here: http://www.transparency.org/global_priorities/international_conventions/conventions_instruments/uncac; 23.05.2011.

[71] http://www.unodc.org/unodc/en/treaties/illicit-trafficking.html; 23.05.2011.

[72] http://www.un.org/terrorism/instruments.shtml; 23.05.2011.

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

[74] http://treaties.un.org/home.aspx; 23.05.2011.

4.14.2 Why is it important?

In today's globalised world, organised crime, terrorism and large-scale tax evasion are essentially international problems that do not stop short at national borders any longer. At the same time, jurisdictions reluctant to cooperate may seek to attract substantial amounts of that criminal money by offering a thin fabric of weak national rules and regulations or an absence of cross-border cooperation. Therefore, it is important to verify to what extent a jurisdiction is committed to certain principles.

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

The Conventions will to a varying degree help 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 accountable to a standard in a given issue area. 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, the implementation is what ultimately matters. Out of the five international Conventions, only one (UNCAC) has started implementing a systematic review process of the adherence to the commitments made under UNCAC[76].

4.15 International Judicial Cooperation

4.15.1 What is measured?

The indicator measures the degree to which a jurisdiction engages in international judicial cooperation on money laundering and other criminal issues. In order to measure this, we rely on the degree of compliance of the FATF recommendations[77] 36 through to 40.

The Financial Action Task Force (FATF) is the international body dedicated to counter money laundering. In 2003, the FATF established its 49 recommendations concerning the laws, the

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[75] http://www.oecd.org/document/57/0,3746,en_2649_33767_2489998_1_1_1_1,00.html; 23.05.2011.

[76] http://www.uncaccoalition.org/en/home/166.html; 21.6.2011.

[77] http://www.fatf-gafi.org/document/28/0,3343,en_32250379_32236930_33658140_1_1_1_1,00.html; 21.6.2011.

institutional structures, and the policies that it thought should address money laundering and terrorist financing.

Recommendation 36[78] exhorts countries to "provide the widest possible range of mutual legal assistance in relation to money laundering and terrorist financing investigations, prosecutions, and related proceedings".

Recommendation 37[79] requires that countries "to the greatest extent possible, render mutual legal assistance notwithstanding the absence of dual criminality". Extradition or mutual legal assistance is to take place irrespective of legal technicalities as long as the underlying conduct is treated as a criminal offence in both countries.

Recommendation 38[80] requires a country to have "authority to take expeditious action in response to requests by foreign countries to identify, freeze, seize and confiscate property laundered, proceeds from money laundering or predicate offences, instrumentalities used in or intended for use in the commission of these offences, or property of corresponding value". In addition, there should also arrangements for coordinated action and sharing of confiscated assets.

Recommendation 39[81] asks a country to "recognise money laundering as an extraditable offence". It further details the grounds on which extradition is to take place, and in what manner.

Recommendation 40[82] 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 here "all administrative and law enforcement authorities concerned with combating money laundering and terrorist financing, including the FIU and supervisors".

[78] http://www.fatf-gafi.org/document/29/0,3746,en_32250379_32236920_43734685_1_1_1_1,00.html; 22.6.2011.

[79] http://www.fatf-gafi.org/document/47/0,3746,en_32250379_32236920_43734703_1_1_1_1,00.html; 22.6.2011.

[80] http://www.fatf-gafi.org/document/26/0,3746,en_32250379_32236920_43734746_1_1_1_1,00.html; 22.6.2011.

[81] http://www.fatf-gafi.org/document/34/0,3746,en_32250379_32236920_43734754_1_1_1_1,00.html; 22.6.2011.

[82] http://www.fatf-gafi.org/document/16/0,3746,en_32250379_32236920_43734928_1_1_1_1,00.html; 22.6.2011.

Compliance with these recommendations means that a jurisdiction is not just willing to receive requests for cooperation by foreign authorities, but also able to act upon these requests.

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

The assessment methodology rates the compliance with every recommendation on a four-tiered scale, from “compliant” to “largely compliant” to “partially compliant” to “non-compliant”. For our indicator, we have calculated the overall compliance score, where 100% indicate that all recommendations have been rated as “compliant”, whereas 0% would mean that all indicators have been rated as non-compliant.

As a source for the data we have used the mutual evaluation reports produced by the FATF, regional analogous bodies or the IMF. They usually contain a table at the end of the report showing the degree of compliance of a given jurisdiction to each recommendation. The assessment methodology rates the compliance with every recommendation on a four-tiered scale, from “compliant” to “largely compliant” to “partially compliant” to “non-compliant”.

If a jurisdiction fully complies with a recommendation, we give it 0.2 credit points. In case it is largely compliant, it receives 0.13 credit points and 0.7 credit points if it is only partially compliant. Thus, a jurisdiction receives full credit (1 point) if it fully complies with all five recommendations. Look at the KFSI 11 for more details on these reports.

4.15.2 Why is it important?

In a world of free financial flows, criminal money launderers find it easy to establish schemes of money laundering across borders in order to cover their tracks. If judicial cooperation across borders is not as seamless as the criminal money flowing between two companies or bank accounts, law enforcement such as public prosecutors or police will always remain on step behind the criminal. In order to catch criminals, it is important to have cooperation on wide range of stages within the law enforcement process.

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

> "In terms of efficiency, exchange of information through letters of rogatory may take months or years since some requests may have to be processed through diplomatic channels." (OECD 2001[83]: 66).

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

5. Preliminary findings and core messages

While detailed results are not yet tested and available, and in depth analysis of the material has not yet been carried out, some preliminary findings can be presented here.

First, some improvements in jurisdiction behavior are worth highlighting. Chief among these is the move of Belgium and the Isle of Man to switch from the withholding option under the EU-Savings Tax Directive to automatic information exchange. Another positive step is the opening of the 1988 EuC/OECD Convention on Mutual Administrative Assistance in Tax Matters for all countries. However, some details need to be further explored, for instance if this Convention applies a higher standard in the definition of company ownership than the model for bilateral tax information exchange agreements (TIEA) created by the OECD and tax havens in 2002.

A clear example of a worsening of secrecy in the international financial system is the proliferation of private foundations. Over the course of the last two years there were a number of jurisdictions who introduced new legislation for private foundations. These are sometimes explicitly created to cater to the needs of foreign residents of civil law jurisdictions who may be skeptical and averse towards trusts, which tend to be associated with common law.

The rate of responses to our survey fell substantially. We directed one of the questionnaires to the ministries of finance instead of the financial regulator. The other remained addressed at the financial intelligence units in charge of anti-money laundering action. The numbers of answers received in case of the FIUs was six and the number of answers received by ministries of finance was eight. In case of FIUs, the response ratio dropped from 16% in 2009 to 8% in 2011, and the ratio for ministries of finance dropped from 24% in 2009 to 8% in 2011.

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[83] Organisation for Economic Co-Operation and Development 2001: Behind the Corporate Veil. Using Corporate Entities for Illicit Purposes, Paris.

Another area where stagnation is apparent relates to the publication decisions of OECD's and Global Forum's tax area. The OECD will no longer publish its tax co-operation reports which have been published annually between 2006 and 2010. These reports, for all their shortcomings, contained some relevant information presented in a comparative manner, open for proper analysis and interpretation by interested parties. These annual publications with around 300 pages covering around 90 jurisdictions have been replaced by peer reviews undertaken by the global forum.

The peer reviews, apart from checking the compliance with the deeply flawed OECD-standard, lack objective comparative information. They continue to paint a distorted and incomplete picture of data availability, accessibility, and information exchange. They typically comprise around 70-80 pages per jurisdiction, extending the volume of pages necessary to cover 90 jurisdictions to 7200 pages. Among other reasons, this leads us to the assessment that the new peer review process is in fact a step backwards if compared to the situation in 2009.

As regards the core messages of the FSI this year, the first three are likely to be similar to 2009.

1) Major players in financial secrecy and main recipients of illicit financial flows are not tiny little islands. The focus of the public attention and debate needs to shift from small islands and jurisdictions to major western financial centres because they are likely to remain the main contributors to the international shadow financial system and therefore are chief facilitators of illicit financial flows.
2) The corruption debate needs urgent adjustment to include the supply side of corruption services. The question about Gaddafi's funds being frozen in western financial institutions highlights the hypocrisy of western banks and governments. Is it only now that Gaddafi et al. have been implicated in large-scale corruption? Did bankers and regulators not know before?
3) The OECD and Global Forum approach to the problem is deeply flawed from the outset because the standards the OECD's Global Forum promotes are designed to ignore the problem of illicit financial flows and thus the grey elephant in the room. Little surprise, the Global Forum standards have been designed by OECD countries plus a handful of notorious tax havens back in 2002, excluding developing countries.
4) By relying on the OECD/Global Forum process, the G20 have failed to deliver the "end of banking secrecy" proclaimed with fanfare in London's April 2009 summit. A cause for this failure is exemplified in denying developing countries a true voice when it comes to designing the new international financial architecture, as exemplified by the refusal of OECD nations to support an upgrade of the UN-Tax Committee.
5) The cloak of financial secrecy that helped creating the biggest financial crises in 2008-2009 has not been removed. A renewed meltdown of the global financial

system has therefore not been prevented, a missed historical chance that may prove fatal in the next two years to come.

6) Citizens of developing countries and of rich countries alike will suffer as a consequence of the failure to address the problem of illicit financial flows. Millienium Development Goals will be missed and vicious circles of poverty and economic hardship will persist in many countries. Public services such as schools and hospitals will continue to deteriorate in most part of the world at the expense of corporations and wealthy individuals. Private risks will be easily transformed into public debt. The income inequality in most parts of the world will be pushed.

Annex A: List of 73 Jurisdictions Monitored in 2011

Number	ISO	Jurisdiction	Number	ISO	Jurisdiction
1	AD	Andorra	38	KR	Korea
2	AI	Anguilla	39	LV	Latvia
3	AG	Antigua & Barbuda	40	LB	Lebanon
4	AW	Aruba	41	LR	Liberia
5	AT	Austria	42	LI	Liechtenstein
6	BS	Bahamas	43	LU	Luxembourg
7	BH	Bahrain	44	MO	Macau
8	BB	Barbados	45	MY	Malaysia (Labuan)
9	BE	Belgium	46	MV	Maldives
10	BZ	Belize	47	MT	Malta
11	BM	Bermuda	48	MH	Marshall Islands
12	BW	Botswana	49	MU	Mauritius
13	VG	British Virgin Islands	50	MC	Monaco
14	BN	Brunei	51	MS	Montserrat
15	CA	Canada	52	NR	Nauru
16	KY	Cayman Islands	53	NL	Netherlands
17	CK	Cook Islands	54	AN	Netherlands Antilles
18	CR	Costa Rica	55	PA	Panama
19	CY	Cyprus	56	PH	Philippines
20	DK	Denmark	57	PT	Portugal (Madeira)
21	DM	Dominica	58	WS	Samoa
22	FR	France	59	SM	San Marino
23	DE	Germany	60	SC	Seychelles
24	GH	Ghana	61	SG	Singapore
25	GI	Gibraltar	62	ES	Spain
26	GD	Grenada	63	KN	St Kitts and Nevis
27	GT	Guatemala	64	LC	St Lucia
28	GG	Guernsey	65	VC	St Vincent & Grenadines
29	HK	Hong Kong	66	CH	Switzerland
30	HU	Hungary	67	TC	Turks & Caicos Islands
31	IN	India	68	AE	United Arab Emirates (Dubai)
32	IE	Ireland	69	GB	United Kingdom
33	IM	Isle of Man	70	UY	Uruguay
34	IL	Israel	71	USV	US Virgin Islands
35	IT	Italy	72	US	USA
36	JP	Japan	73	VU	Vanuatu
37	JE	Jersey			

Annex B: List of Jurisdictions Monitored in 2009					
ID	ISO	Jurisdiction	ID	ISO	Jurisdiction
1	AD	Andorra	31	LI	Liechtenstein
2	AI	Anguilla	32	LU	Luxembourg
3	AG	Antigua & Barbuda	33	MO	Macao
4	AW	Aruba	34	MY	Malaysia (Labuan)
5	AT	Austria	35	MV	Maldives
6	BS	Bahamas	36	MT	Malta
7	BH	Bahrain	37	MH	Marshall Islands
8	BB	Barbados	38	MU	Mauritius
9	BE	Belgium	39	MC	Monaco
10	BZ	Belize	40	MS	Montserrat
11	BM	Bermuda	41	NR	Nauru
12	VG	British Virgin Islands	42	NL	Netherlands
13	BN	Brunei	43	AN	Netherlands Antilles
14	KY	Cayman Islands	44	PA	Panama
15	CK	Cook Islands	45	PH	Philipines
16	CR	Costa Rica	46	PT	Portugal (Madeira)
17	CY	Cyprus	47	WS	Samoa
18	DM	Dominica	48	SC	Seychelles
19	GI	Gibraltar	49	SG	Singapore
20	GD	Grenada	50	KN	St Kitts & Nevis
21	GG	Guernsey	51	LC	St Lucia
22	HK	Hong Kong	52	VC	St Vincent & Grenadines
23	HU	Hungary	53	CH	Switzerland
24	IE	Ireland	54	TC	Turks & Caicos Islands
25	IM	Isle of Man	55	AE	United Arab Emirates (Dubai)
26	IL	Israel	56	GB	United Kingdom (City of London)
27	JE	Jersey	57	UY	Uruguay
28	LV	Latvia	58	USVI	US Virgin Islands
29	LB	Lebanon	59	US	USA (Delaware)
30	LR	Liberia	60	VU	Vanuatu

Annex C: The indicators we used in 2009 (KFSI)

1	Is legal banking secrecy banned (i.e. Is there no legal right to banking secrecy)?
2	Is there a Public Trust and Foundations Registry?
3	Does the FATF rate 90% largely compliant and with no non-compliant ratings?
4	Are company accounts available for inspection by anyone for a fee of less than US$10?
5	Are details of the beneficial ownership of companies available on public record online for less than US$10?
6	Are details of the beneficial ownership of companies submitted to and kept updated by a competent authority?
7	Did the jurisdiction participate in the TJN Survey in 2009 (1=both questionnaires; 0.5 one questionnaire)?
8	Does the jurisdiction fully participate in Automatic Information Exchange (the European Savings Tax Directive)?
9	Has the jurisdiction at least 60 bilateral treaties providing for broad information exchange clauses covering all tax matters (either DTA or TIEA)?
10	Has the jurisdiction's authority effective access to bank information for information exchange purposes?
11	Does the jurisdiction prevent company redomiciliation?
12	Does the jurisdiction prevent protected cell companies from being created in its territory?

Annex D: The indicators we are using in 2011 (KFSI)

KNOWLEDGE OF BENEFICAL OWNERSHIP	
1	**Banking secrecy**: Does the jurisdiction have banking secrecy?
2	**Trust and Foundations Register**: Is there a public register of Trusts and Foundations?
3	**Recorded Company Ownership**: Does the relevant authority obtain and keep updated details of the beneficial ownership of companies?
KEY ASPECTS OF CORPORATE TRANSPARENCY REGULATION	
4	**Public Company Ownership**: Does the relevant authority make details of ownership of companies available on public record online for less than US$10?
5	**Public Company Accounts**: Does the relevant authority require that company accounts are made available for inspection by anyone for a fee of less than US$10?
6	**Country-by-Country Reporting**: Are companies listed on a national stock exchange required to comply with country-by-country financial reporting?
EFFICIENCY OF TAX AND FINANCIAL REGULATION	
7	**Fit for Information Exchange**: Are resident paying agents required to report to the domestic tax administration information on payments to non-residents?
8	**Efficiency of Tax Administration**: Does the tax administration use taxpayer identifiers for analysing information effectively, and is there a large taxpayer unit?
9	**Avoids Promoting Tax Evasion**: Does the jurisdiction grant unilateral tax credits for foreign tax payments?
10	**Harmful Legal Vehicles**: Does the jurisdiction allow cell companies and trusts with flee clauses?
INTERNATIONAL STANDARDS AND COOPERATION	
11	**Anti-Money Laundering**: Does the jurisdiction comply with the FATF recommendations?
12	**Automatic Information Exchange**: Does the jurisdiction participate fully in Automatic Information Exchange such as the European Savings Tax Directive?
13	**Bilateral Treaties**: Does the jurisdiction have at least 60 bilateral treaties providing for broad information exchange, covering all tax matters, or is it part of the European Council/OECD convention?
14	**International Transparency Commitments**: Has the jurisdiction ratified the five most relevant international treaties relating to financial transparency?
15	**International Judicial Cooperation**: Does the jurisdiction cooperate with other states on money laundering and other criminal issues?