

## Key Financial Secrecy Indicators

### 5: Public Record of Company Ownership

#### What is measured?

This indicator shows if a jurisdiction requires all available types of company to publish beneficial ownership information on public record accessible via the internet<sup>1</sup>.

The indicator is fed mainly by four different types of sources. First, table D1 of the OECD-report (Tax Co-operation 2007 and 2008<sup>2</sup>) displays what sort of ownership information companies must register with a governmental authority in the first place. Only if beneficial ownership information needs to be registered and be updated, this information can be consistently published online. Second, private sector internet sources have been consulted (Lowtax.net, Ocra.com, Offshoresimple.com, etc.). Third, results of the TJN-Survey 2009 have been included, too. Fourth, in cases where the previous sources indicated that beneficial ownership information is available online, the corresponding websites have been consulted as well.

Only if the access of beneficial ownership information is possible at a fixed cost below 10US\$ and does not require the establishment of complex payment arrangements (e.g. registration of bank account) did we credit here<sup>3</sup>.

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<sup>1</sup> We believe this is a reasonable criteria given a) the prevalence of the internet in 2009, b) as international financial flows are now completely cross border through 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.

<sup>2</sup> The full title of this annual publication is "Tax Co-operation. Towards a Level Playing Field". Because the OECD published its 2008 report during the research process, both the 2007 and 2008 report have been used. These publications served as a main source for many variables and, in the following, are 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 2008: 103). 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.).

<sup>3</sup> We consider that for something to be truly 'on public record' there must not exist prohibitive cost constraints, be they monetary or in terms of time lost or unnecessary inconvenience caused.

A precondition for this indicator to be answered affirmatively is that all available types of companies must be required to publish beneficial ownership information online. If there are types of companies available that dispense with the requirement to publish beneficial ownership information, there is no reason to believe that the remaining company types' ownership information does significantly add to financial transparency since anybody intending to conceal his or her identity from public view will simply opt for company types where no beneficial ownership information needs to be registered and/or published.

We also require that the registered ownership information must meet a minimum standard. This is in two parts: firstly all beneficial owners must be named with full names and addresses given. Second, unless the owner is a publicly quoted company the beneficial owners must be real human beings: other companies or trusts are not sufficient to meet the test since this would not be acceptable for anti-money laundering purposes either.

### Why is it important?

Absence of readily available beneficial ownership information obstructs law enforcement and distorts markets because of information asymmetries. If multinational companies or individual traders can rely upon anonymity in combination with limited liability, incentives to break the law are drastically increased because there is no realistic chance that law enforcement agents would ever discover the real human beings individuals committing impropriety, hidden behind the corporate structures.

In addition, with the prevalence of limited liability, even in the highly unlikely case of specific human individuals being identified as directing or employing corporate structures that facilitate impropriety without this information being required on public record, the chances of successful prosecution by proper authorities is drastically reduced if certification of correct data having been made available is not required. If beneficial ownership must be recorded in an on-line directory and is not correctly disclosed amongst the offences the perpetrator of impropriety might be charged with is simple failure to disclose. On occasion such simple methods of prosecution are essential when all other ways of pursuing criminality are blocked.

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 done. 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 kept, 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 for 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 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 identifiable. This holds true especially for private companies that are not trading their shares on a stock exchange.

#### What are the crimes that might hide behind banking secrecy?

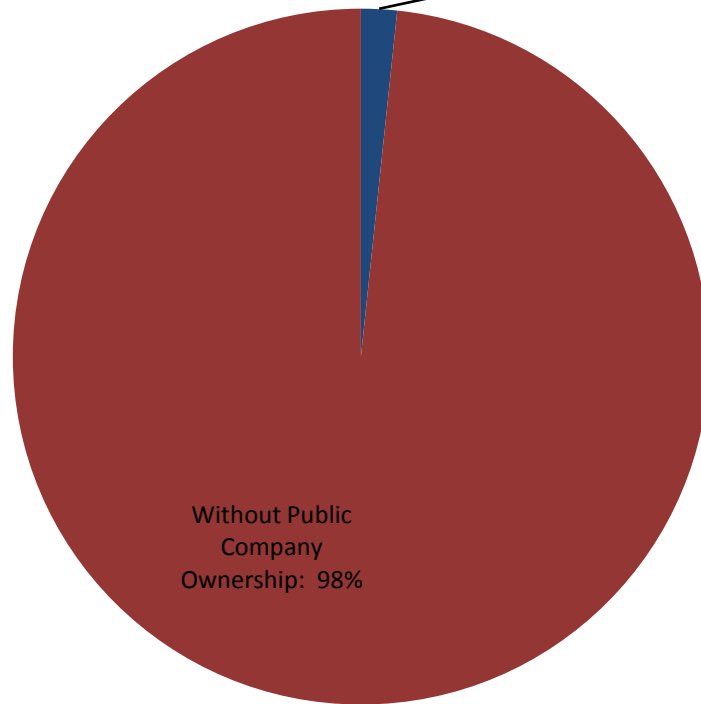
Any or all of tax evasion by individuals, financial fraud, infringement of competition rules, non-payment of alimonies, bankruptcy fraud, hiding of the proceeds of corruption, organised crime (especially drug trafficking), illegal arms trading, trafficking in human beings, money laundering, the covering of illicit intelligence activity and more besides might hide behind unpublished company ownership.

#### Results Overview

Out of the 60 reviewed jurisdictions, there is only one that requires beneficial company ownership information to be published online and that is Monaco.

Number of Jurisdictions with public ownership information:	1
Number of Jurisdictions without public ownership information:	59

**Graph 1: Results Overview - Public Company Ownership**



With Public  
Company  
Ownership:  
Monaco  
2%

Without Public  
Company  
Ownership: 98%

## Results Detail

Table 2: Public Company Ownership

Andorra	No	Liechtenstein	No
Anguilla	No	Luxembourg	No
Antigua & Barbuda	No	Macao	No
Aruba	No	Malaysia (Labuan)	No
Austria	No	Maldives	No
Bahamas	No	Malta	No
Bahrain	No	Marshall Islands	No
Barbados	No	Mauritius	No
Belgium	No	Monaco	Yes
Belize	No	Montserrat	No
Bermuda	No	Nauru	No
British Virgin Islands	No	Netherlands	No
Brunei	No	Netherlands Antilles	No
Cayman Islands	No	Panama	No
Cook Islands	No	Philippines	No
Costa Rica	No	Portugal (Madeira)	No
Cyprus	No	Samoa	No
Dominica	No	Seychelles	No
Gibraltar	No	Singapore	No
Grenada	No	St Kitts & Nevis	No
Guernsey	No	St Lucia	No
Hong Kong	No	St Vincent & Grenadines	No
Hungary	No	Switzerland	No
Ireland	No	Turks & Caicos Islands	No
Isle of Man	No	United Arab Emirates	No
Israel	No	United Kingdom (City of	No
Jersey	No	Uruguay	No
Latvia	No	US Virgin Islands	No
Lebanon	No	USA (Delaware)	No
Liberia	No	Vanuatu	No