

Key Financial Secrecy Indicators

6: Registered Ownership of Companies

What is measured?

This indicator shows if a jurisdiction requires all available types of company to submit beneficial ownership information upon incorporation, and whether this information must be kept updated on a register maintained by the relevant jurisdictions even if not on public record.

The indicator resembles KFTI 5 regarding public company ownership information. The difference is that this indicator measures only if the public ownership information needs to be recorded and updated, but not whether this information is on public record. Therefore, if a jurisdiction gets credit for KFTI 5, it will automatically have a credit for this indicator as well. However, the opposite does not hold true: many jurisdictions require beneficial ownership information to be submitted and updated, but do not publish this information.

This indicator is mainly informed by three different types of sources. First, table D1 of the OECD-report (Tax Co-operation 2007 and 2008¹) displays 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, the results of the TJN-Survey 2009 have been included, too.

A precondition for this indicator to be answered affirmatively is that all available types of companies must be required to submit beneficial ownership information. If there are types of companies available that dispense with such a requirement, there is no reason to believe that the remaining company types' submission of ownership information does significantly add to financial transparency since anybody intending to conceal his identity from public

¹ 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 reports 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.).

view will simply opt for company types where no beneficial ownership information needs to be registered.

The registered ownership information must, to meet the standard we expect, comply with a minimum requirement. This means it must include the full and all names of all beneficial owners. For this purpose unless it is a publicly quoted entity trusts, foundations, partnerships and limited liability corporations do not count as beneficial owners. 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.

Why is it important?

Absence of beneficial ownership information obstructs law enforcement. When a jurisdiction, such as the US state of Delaware (see [FATF evaluation 2006 for details](#), pages 231-233), allows private companies to be formed without recording beneficial ownership information, the chances for domestic and foreign law enforcement agencies alike to look behind [the corporate veil](#) are very few indeed.

These so-called “shell companies” are in effect nothing more than letterboxes, but they thereby serve as conduits for financial flows in many different guises. Foreign individuals can run such front companies, whilst claiming to their domestic government authorities that they are unrelated to these same companies, and yet use them to transfer money out of their country.

As example, suppose that an Argentinean national claims that a Delaware registered company delivers consultancy services to his Argentinean business and the Delaware company charges, let us say US\$1,000 a month for these services. As a consequence the Argentinean national pays US\$1,000 every month to the Delaware 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.

However let us suppose that the Delaware company is in reality run by the Argentinean national – a fact that nobody knows. Whilst the Argentinean tax authority may well find out, or have a suspicion, that these transfers of funds are for illicit purposes e.g. the circumvention of capital controls or tax evasion, since the beneficial ownership information is not available, the only way for the Argentinean 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 Argentine 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 Delaware. But the due process necessary may take months to initiate and even then, a

possible result is that the required beneficial ownership information is not available in the USA but may in fact be 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 just this reason.

The result of these obstacles to discovering the identity of beneficial owners of a company is that these requests are extremely costly and time consuming, with no guarantee of success (due to the use of third jurisdictions) and therefore such enquiries are rare.

What are the crimes that might hide behind banking secrecy?

Tax evasion by individuals, financial 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 may hide behind the absence of registration requirements of company ownership.

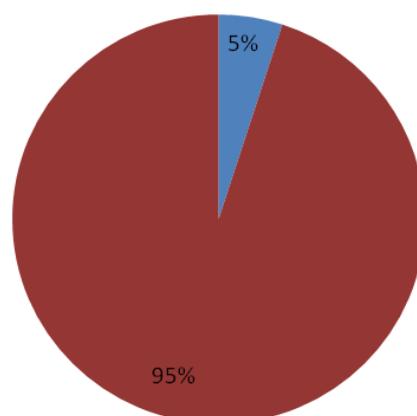
Results Overview

Out of the 60 reviewed jurisdictions, there are only three that require beneficial company ownership information to be registered and updated. They are Andorra, Guernsey and Monaco.

Table 1: Registered Company Ownership - Overview

Number of Jurisdictions with requirement to register company ownership:	3
Number of Jurisdictions without requirement to register company ownership:	57

Graph 1: Registration of Company Ownership - Overview



■ With Registration of Company Ownership: Andorra, Guernsey, Monaco
 ■ Without Registration of Company Ownership

Results Detail

Table 2: Registered Company Ownership – Details

1	Andorra	Yes	31	Liechtenstein	No
2	Anguilla	No	32	Luxembourg	No
3	Antigua & Barbuda	No	33	Macao	No
4	Aruba	No	34	Malaysia (Labuan)	No
5	Austria	No	35	Maldives	No
6	Bahamas	No	36	Malta	No
7	Bahrain	No	37	Marshall Islands	No
8	Barbados	No	38	Mauritius	No
9	Belgium	No	39	Monaco	Yes
10	Belize	No	40	Montserrat	No
11	Bermuda	No	41	Nauru	No
12	British Virgin Islands	No	42	Netherlands	No
13	Brunei	No	43	Netherlands Antilles	No
14	Cayman Islands	No	44	Panama	No
15	Cook Islands	No	45	Philippines	No
16	Costa Rica	No	46	Portugal (Madeira)	No
17	Cyprus	No	47	Samoa	No
18	Dominica	No	48	Seychelles	No
19	Gibraltar	No	49	Singapore	No
20	Grenada	No	50	St Kitts & Nevis	No
21	Guernsey	Yes	51	St Lucia	No
22	Hong Kong	No	52	St Vincent & Grenadines	No
23	Hungary	No	53	Switzerland	No
24	Ireland	No	54	Turks & Caicos Islands	No
25	Isle of Man	No	55	United Arab Emirates (Dubai)	No
26	Israel	No	56	United Kingdom (City of London)	No
27	Jersey	No	57	Uruguay	No
28	Latvia	No	58	US Virgin Islands	No
29	Lebanon	No	59	USA (Delaware)	No
30	Liberia	No	60	Vanuatu	No