

Key Financial Secrecy Indicators

3: Recorded Company Ownership

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 require its publication online.

This indicator is mainly informed by four different types of sources. First, table D1 of the OECD-report (Tax Co-operation 2010¹) 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

¹ 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.).

conceal their identities from public view will simply opt for company types where no beneficial ownership information is required to be registered.

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.

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](#)¹, pages 236, or [here](#)²), 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](#)³ 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. No one 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

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.

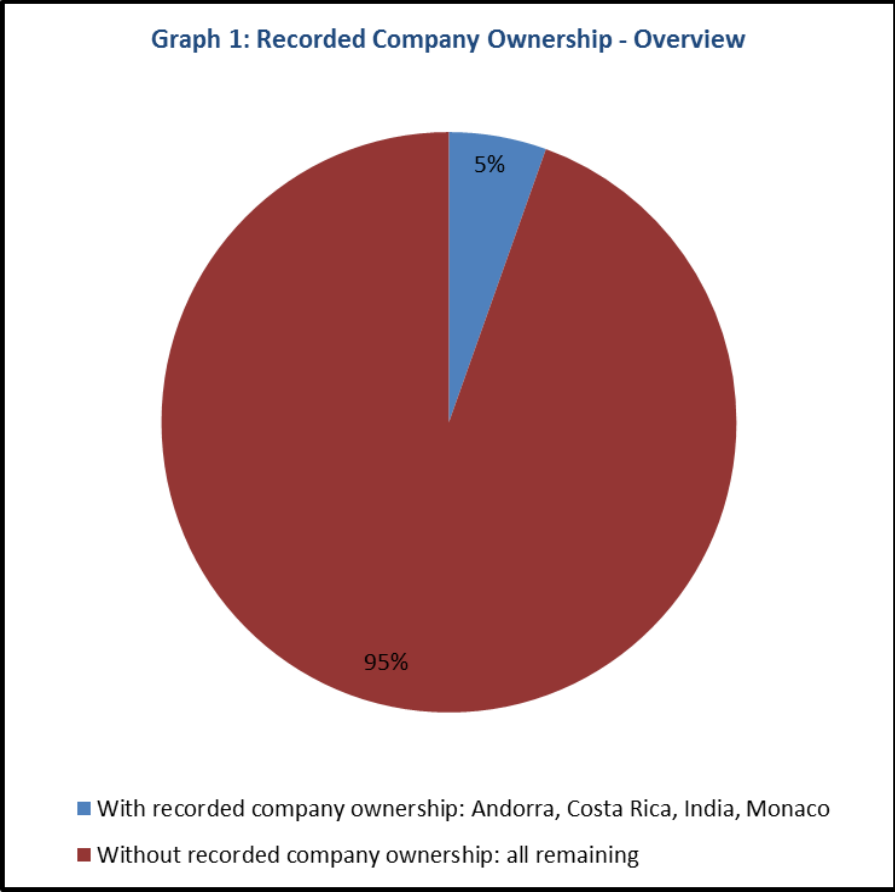
Faced with such time consuming and expensive obstacles to obtaining correct information on beneficial ownership of offshore companies, most national authorities seldom if ever pursue investigations.

What are the crimes that might hide behind a lack of company ownership information?

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

| Table 1: Recorded Company Ownership - Overview | |
|---|----|
| Number of jurisdictions with recorded company ownership: | 4 |
| Number of jurisdictions without recorded company ownership: | 69 |



Results Detail

| Table 2: Recorded Company Ownership - Details | | | | | | | |
|---|------------------------|-----|-----|----|------------------------------|-----|-----|
| ID | Jurisdiction | ISO | | ID | Jurisdiction | ISO | |
| 1 | Andorra | AD | Yes | 38 | Korea | KR | No |
| 2 | Anguilla | AI | No | 39 | Latvia | LV | No |
| 3 | Antigua & Barbuda | AG | No | 40 | Lebanon | LB | No |
| 4 | Aruba | AW | No | 41 | Liberia | LR | No |
| 5 | Austria | AT | No | 42 | Liechtenstein | LI | No |
| 6 | Bahamas | BS | No | 43 | Luxembourg | LU | No |
| 7 | Bahrain | BH | No | 44 | Macau | MO | No |
| 8 | Barbados | BB | No | 45 | Malaysia (Labuan) | MY | No |
| 9 | Belgium | BE | No | 46 | Maldives | MV | No |
| 10 | Belize | BZ | No | 47 | Malta | MT | No |
| 11 | Bermuda | BM | No | 48 | Marshall Islands | MH | No |
| 12 | Botswana | BW | No | 49 | Mauritius | MU | No |
| 13 | British Virgin Islands | VG | No | 50 | Monaco | MC | Yes |
| 14 | Brunei | BN | No | 51 | Montserrat | MS | No |
| 15 | Canada | CA | No | 52 | Nauru | NR | No |
| 16 | Cayman Islands | KY | No | 53 | Netherlands | NL | No |
| 17 | Cook Islands | CK | No | 54 | Netherlands Antilles | AN | No |
| 18 | Costa Rica | CR | Yes | 55 | Panama | PA | No |
| 19 | Cyprus | CY | No | 56 | Philippines | PH | No |
| 20 | Denmark | DK | No | 57 | Portugal (Madeira) | PT | No |
| 21 | Dominica | DM | No | 58 | Samoa | WS | No |
| 22 | France | FR | No | 59 | San Marino | SM | No |
| 23 | Germany | DE | No | 60 | Seychelles | SC | No |
| 24 | Ghana | GH | No | 61 | Singapore | SG | No |
| 25 | Gibraltar | GI | No | 62 | Spain | ES | No |
| 26 | Grenada | GD | No | 63 | St Kitts and Nevis | KN | No |
| 27 | Guatemala | GT | No | 64 | St Lucia | LC | No |
| 28 | Guernsey | GG | No | 65 | St Vincent & Grenadines | VC | No |
| 29 | Hong Kong | HK | No | 66 | Switzerland | CH | No |
| 30 | Hungary | HU | No | 67 | Turks & Caicos Islands | TC | No |
| 31 | India | IN | Yes | 68 | United Arab Emirates (Dubai) | AE | No |
| 32 | Ireland | IE | No | 69 | United Kingdom | GB | No |
| 33 | Isle of Man | IM | No | 70 | Uruguay | UY | No |
| 34 | Israel | IL | No | 71 | US Virgin Islands | USV | No |
| 35 | Italy | IT | No | 72 | USA | US | No |
| 36 | Japan | JP | No | 73 | Vanuatu | VU | No |
| 37 | Jersey | JE | No | | | | |

¹ <http://www.fatf-gafi.org/dataoecd/44/9/37101772.pdf>; 20.6.2011.

² http://www.ioserv.com/ios/en/jurisdictions/usa/wyoming_corp.sql; 20.6.2011.

³ <http://www.oecdbookshop.org/oecd/display.asp?K=5LMQCR2KM20R&DS=Behind-the-Corporate-Veil>; 20.6.2011.