

Key Financial Secrecy Indicators

12: Automatic Information Exchange

What is being measured?

This indicator registers whether a 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. At the beginning of June 2013, no other multilateral working system for automatic tax information exchange existed. If such an alternative (multilateral or regional) system existed, we would also credit participation in this system as a contribution to financial transparency.

The main sources¹ for this indicator are the [official EU website on the savings tax directive](#)² and the relevant [website of the Council of the European Union](#)³.

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 entities⁴). 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. At the beginning of June 2013, Austria and Luxembourg had not yet entered into any binding political or legal agreements to switch to automatic information exchange⁵.

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. Of the withheld tax, 75% 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.

While the EUSTD is currently the only international multilateral system for automatic information exchange, a potentially powerful and truly open multilateral system for automatic tax information exchange has been in the making as of June 2013⁶. Bolstered by the G20 announcement in April 2013 that automatic information exchange is “expected to be the standard”⁷ and by the strong dynamism predominantly originating from the US Foreign Account Tax Compliance Act (FATCA) law⁸, 17 European countries and the OECD were working towards creating a multilateral platform for automatic tax information exchange based on the due diligence rules and protocols included in FATCA’s model 1 agreements⁹.

At the G8 summit on 17-18 June 2013, more details of this thrust towards a “single global standard for automatic exchange of information covering a wide scope of income and entities”¹⁰ were expected, but not any binding decisions. Therefore, we have refrained from crediting these (most welcome) steps to build a multilateral platform based on FATCA at the moment of writing. While there is still a risk that the USA and others will not support an emerging new platform¹¹, and therefore crediting the USA for the FSI 2013 appears premature, the USA clearly supports this process through a commitment it has included in various bilateral treaties¹² for the implementation of FATCA Model 1 agreement to

“working with other partners and the Organisation for Economic Co-operation and Development, [and the European Union,] on adapting the terms of this Agreement to a common model for automatic exchange of information, including the development of reporting and due diligence standards for financial institutions.” (Article 6, para. 3, FATCA Reciprocal Model 1A¹³).

Once a global standard for automatic information exchange is adopted and openness for all countries is warranted, we will change the scope of this indicator to reflect the global regime.

Why is this important?

Tax authorities around the world face immense difficulties with identifying cases of tax evasion committed through bank accounts held abroad. To a lesser extent, obtaining foreign-country based evidence when investigating already known cases of suspected domestic tax evasion and/or aggressive tax avoidance is also a problem. The latter issue is partly addressed by the international standard for information exchange promoted by OECD’s Global Forum. But even for this limited purpose, the Global Forum peer review process remains riddled with problems (as we have pointed out in great detail in [“Creeping Futility”-report here](#)¹⁴, in a shorter [briefing paper here](#)¹⁵ and [time and time again in our blog here](#). The [Financial Times has also addressed this here](#)¹⁶). For identifying unknown cases of tax evasion, which are by far the majority of all cases (see [page 12-13, here](#)¹⁷), the upon-request Global Forum process is utterly useless.

The consequences of this difficulty in identifying offshore assets reach far beyond mere tax enforcement, but have huge implications for the global economy. For instance, the scale of privately held and undeclared offshore wealth was estimated in 2012 to stand at US\$ 21-32tn (see [our study here](#)¹⁸). These distortions imply, for instance, that

“...a large number of countries, which are traditionally regarded as debtors, are in fact creditors to the rest of the world. For our focus group of 139 mostly low-middle income countries, traditional data shows they had aggregate external debts of \$4.1 trillion at the end of 2010. But once you take their foreign reserves and the offshore private holdings of their wealthiest citizens into account, the picture flips into reverse: these 139 countries have aggregate net debts of **minus US\$10.1-13.1tn**. [...] The problem here is that their assets are held by a small number of wealthy individuals, while their debts are shouldered by their ordinary people through their governments.” ([The Price of Offshore Revisited: Key Issues](#)¹⁹ – 19th July 2012).

Ultimately, the failure to automatically exchange taxpayer data among responsible governments incentivises 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](#)²⁰, 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 \(2011: 74-79\)](#)²¹, the root of this scandal dates back to at least 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 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.

While the peer review process of the Global Forum does not require statistical disclosure of a country’s performance in responding to requests for information and therefore does little to reveal the effectiveness of the “upon request” model, France nationally disclosed such data. The resulting [picture broadly confirms](#)²² the analysis provided so far:

“The report said, among other things, that in 2011 France made 1922 information requests of its partners, including 308 requests to jurisdictions with which France has some kind of information exchange agreement. Of these 308, only 195 responses had been received by the end of the year [2012], and 113 had not replied - 84 of which concerned Switzerland and Luxembourg. The less transparent countries include Belgium, and Antigua and Barbuda (0% responses); Luxembourg (45%); Cayman Islands and Switzerland (55% each) and BVI (75%).” ([source here](#))²³.

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 making ‘on request’ applications. In addition, there is evidence that developing countries may be forced to pay a high price in terms of lowered withholding tax rates in exchange for “exchange upon request”-clauses being introduced in Double Taxation Conventions (see pages 23-24 on Switzerland, [here](#)²⁴, and these recent reports in German on [Switzerland](#)²⁵ and [Germany](#)²⁶).

Multilateral automatic information exchange would help overcome both problems. Such a system should exchange data about the financial accounts of natural persons and disregard legal entities and arrangements such as shell companies and trusts and foundations, which today are often used to hide the real owners of financial accounts. This system should cover all types of capital income. Participation in such a scheme would need to be open to any responsible 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. While such a system does not yet exist, the initiative to create a multilateral platform for automatic information exchange based on FATCA-rules (as described above), possibly embedded in the Council of Europe/OECD Convention²⁷, provide a promising point of departure. The planned amendments to the EU-Savings Tax Directive²⁸ could also play a role, provided that participation in the system was opened up to third parties, i.e. non-EU countries, and that the EU overcomes the directives limited territorial scope and the concomitant political delaying tactics by EU members and crucial third countries²⁹.

There would be no need to establish a central database. It suffices if each jurisdiction’s paying agents (banks, trustees, company directors, etc.) remit identity information on the real owners of accounts and legal entities and 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](#)³⁰). An alternative, reduced system would be the automatic information exchange only on the beneficial owners of bank accounts, companies, trusts, foundations, etc. ([details here](#))³¹.

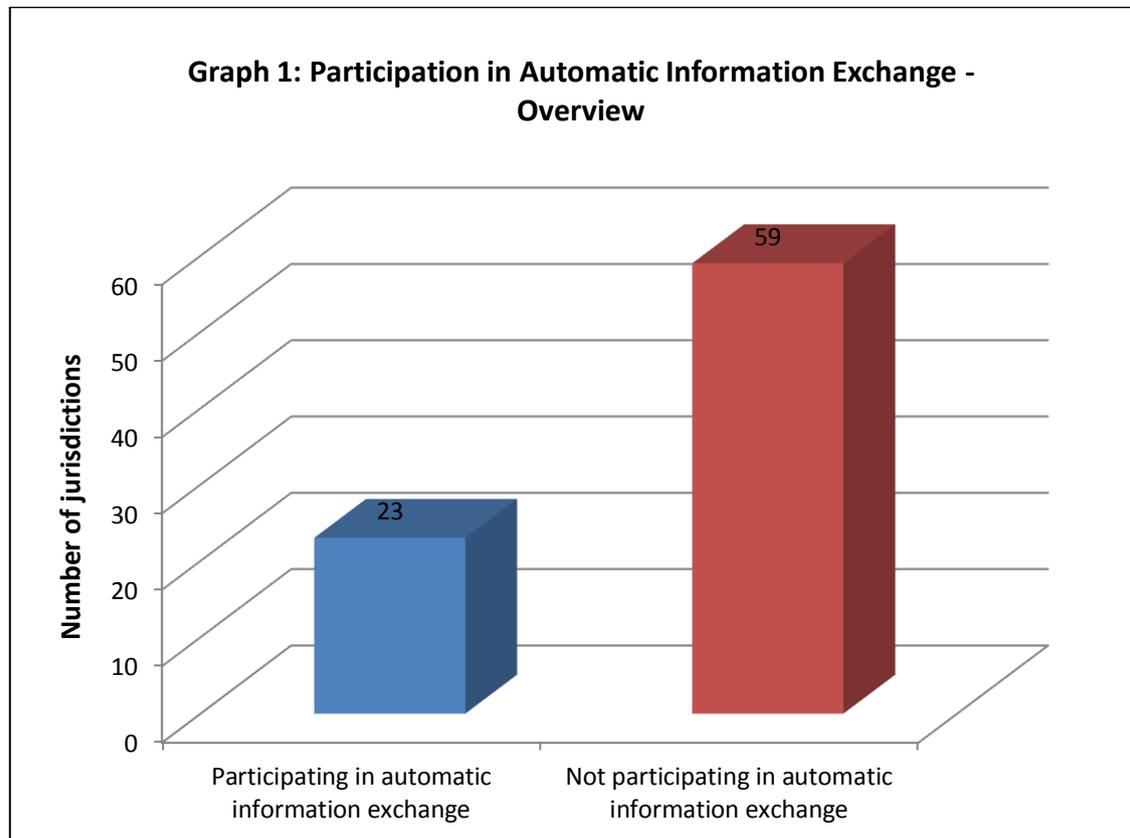
What crimes might hide behind non-participation in automatic information exchange?

Tax evasion might hide in the absence of automatic information exchange. In addition, automatic tax information exchange makes it easier to detect and identify the proceeds of and prosecute cases of corruption and crimes such as drug trafficking, human trafficking, insider trading, bankruptcy fraud, and many more besides.

Results Overview

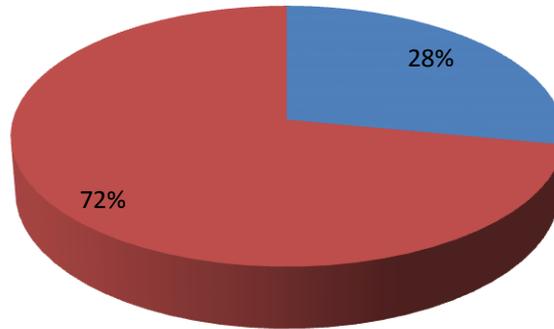
Table 1: Participation in Automatic Information Exchange - Overview

Number of jurisdictions participating in automatic information exchange	23
Number of jurisdictions not participating in automatic information exchange	59



Results Detail

Graph 2: Participation in Automatic Information Exchange - Details



- Jurisdictions participating in automatic information exchange: AI; AW; BE; CY; DE; DK; ES; FR; GB; GG; HU; IE; IM; IT; KY; LV; MS; MT; NL; PT; SE; TC; VG
- Jurisdictions not participating in automatic information exchange: All other jurisdictions

Table 2: Participation in Automatic Information Exchange - Details

ID	Country	ISO	Participating	ID	Country	ISO	Participating
1	Andorra	AD	No	42	Korea	KR	No
2	Anguilla	AI	Yes	43	Latvia	LV	Yes
3	Antigua & Barbuda	AG	No	44	Lebanon	LB	No
4	Aruba	AW	Yes	45	Liberia	LR	No
5	Australia	AU	No	46	Liechtenstein	LI	No
6	Austria	AT	No	47	Luxembourg	LU	No
7	Bahamas	BS	No	48	Macau	MO	No
8	Bahrain	BH	No	49	Malaysia (Labuan)	MY	No
9	Barbados	BB	No	50	Maldives	MV	No
10	Belgium	BE	Yes	51	Malta	MT	Yes
11	Belize	BZ	No	52	Marshall Islands	MH	No
12	Bermuda	BM	No	53	Mauritius	MU	No
13	Botswana	BW	No	54	Monaco	MC	No
14	Brazil	BR	No	55	Montserrat	MS	Yes
15	British Virgin Islands	VG	Yes	56	Nauru	NR	No
16	Brunei	BN	No	57	Netherlands	NL	Yes
17	Canada	CA	No	58	New Zealand	NZ	No
18	Cayman Islands	KY	Yes	59	Norway	NO	No
19	Cook Islands	CK	No	60	Panama	PA	No
20	Costa Rica	CR	No	61	Philippines	PH	No
21	Curacao	CW	No	62	Portugal (Madeira)	PT	Yes
22	Cyprus	CY	Yes	63	Russia	RU	No
23	Denmark	DK	Yes	64	Samoa	WS	No
24	Dominica	DM	No	65	San Marino	SM	No
25	Dominican Republic	DO	No	66	Saudi Arabia	SA	No
26	France	FR	Yes	67	Seychelles	SC	No
27	Germany	DE	Yes	68	Singapore	SG	No
28	Ghana	GH	No	69	South Africa	ZA	No
29	Gibraltar	GI	No	70	Spain	ES	Yes
30	Grenada	GD	No	71	St Kitts and Nevis	KN	No
31	Guatemala	GT	No	72	St Lucia	LC	No
32	Guernsey	GG	Yes	73	St Vincent & Grenadines	VC	No
33	Hong Kong	HK	No	74	Sweden	SE	Yes
34	Hungary	HU	Yes	75	Switzerland	CH	No
35	India	IN	No	76	Turks & Caicos Islands	TC	Yes
36	Ireland	IE	Yes	77	United Arab Emirates (Dubai)	AE	No
37	Isle of Man	IM	Yes	78	United Kingdom	GB	Yes
38	Israel	IL	No	79	Uruguay	UY	No
39	Italy	IT	Yes	80	US Virgin Islands	VI	No
40	Japan	JP	No	81	USA	US	No
41	Jersey	JE	No	82	Vanuatu	VU	No

¹ To see the sources we are using for particular jurisdictions please check out the assessment logic table in Annex C here <http://www.financialsecrecyindex.com/PDF/FSI-Methodology.pdf> and the corresponding information for individual countries in our database, available at www.financialsecrecyindex.com/database/menu.xml.

² http://ec.europa.eu/taxation_customs/taxation/personal_tax/savings_tax/rules_applicable/index_en.htm; 15.07.2013.

³ <http://www.consilium.europa.eu/policies/council-configurations/economic-and-financial-affairs/tax-policy-%28taxation-of-savings-income%29.aspx?lang=en>; 15.07.2013.

⁴ This is one of the key loopholes of the current EUSTD. They are sought to be closed by amendments currently under negotiation at the EU-Council level. For more background, please see: www.taxjustice.net/cms/upload/pdf/EUSTD-TJN-Briefing_-_JAN-2011.pdf and <http://taxjustice.blogspot.de/2012/10/list-of-killer-loopholes-in-swiss-rubik.html> 15.07.2013.

⁵ Instead, there were conflicting messages, for example: http://www.tax-news.com/news/Juncker_Defends_Automatic_Information_Exchange_Stance_60876.html and <http://mobile.nytimes.com/2013/05/23/business/global/european-union-leaders-meet-on-tax-avoidance.html?from=global.home> 15.07.2013.

⁶ Of course there exist many instances over the past decades that prepared the ground for this to happen. For instance, in June 2012, the OECD published a report that ended a 12 year period of silence of the organisation on the actual experiences with automatic tax information exchange (see report here: <http://www.s4tp.org/wp-content/uploads/2012/07/Tackling-Offshore-Tax-Evasion-OECD-publication-Jun-2012.pdf>; 15.07.2013). Shortly before the G20 summit in November 2011, India's [Prime Minister Singh publicly called](http://taxjustice.blogspot.de/2011/11/india-demands-automatic-information.html) (see here: <http://taxjustice.blogspot.de/2011/11/india-demands-automatic-information.html>; 15.07.2013) for automatic information exchange on bank account related information to be implemented among G20 nations. In the June 2012 [Los Cabos G20 summit communiqué](http://www.g20mexico.org/images/stories/docs/g20/conclu/G20_Leaders_Declaration_2012.pdf) (see here: http://www.g20mexico.org/images/stories/docs/g20/conclu/G20_Leaders_Declaration_2012.pdf; 15.07.2013) explicit language calls for G20 countries to lead by example in implementing automatic information exchange. A [report published by TJN in August 2012](http://www.taxjustice.net/cms/upload/pdf/AIE2012-TJN-Briefing.pdf) (see here: <http://www.taxjustice.net/cms/upload/pdf/AIE2012-TJN-Briefing.pdf>; 15.07.2013) shows how widespread and effective automatic tax information exchange is already implemented today. The [US FATCA law](http://taxjustice.blogspot.de/2012/03/fatca-progress-towards-automatic.html) (see here: <http://taxjustice.blogspot.de/2012/03/fatca-progress-towards-automatic.html>; 15.07.2013) implements automatic information exchange about US accounts held by banks worldwide and provides the basis for an emerging multilateral system (see here: <http://taxjustice.blogspot.de/2013/05/new-paper-emerging-countries-and.html>; 15.07.2013).

⁷ See page 4, here: www.en.g20russia.ru/load/781302507; 15.07.2013.

⁸ <http://taxjustice.blogspot.de/2013/05/new-paper-emerging-countries-and.html>; 15.07.2013.

⁹ <http://taxjustice.blogspot.de/2013/06/is-new-multilateral-automatic.html>; 15.07.2013. The model 1 Annex with the due diligence obligations is available here: <http://www.treasury.gov/resource-center/tax-policy/treaties/Documents/FATCA-AnnexI-to-Model1-Agreement-5-9-13.pdf>; 15.07.2013.

¹⁰ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/199016/Minute_statement_on_pilot_multilateral_exchange_facility.docx; 15.07.2013.

¹¹ For more background information on this, read: <http://taxjustice.blogspot.de/2013/05/new-paper-emerging-countries-and.html> 15.07.2013; and <http://taxjustice.blogspot.de/2013/04/automatic-information-exchange-will.html> 15.07.2013.

¹² <http://www.treasury.gov/resource-center/tax-policy/treaties/Pages/FATCA.aspx>; 15.07.2013.

¹³ <http://www.treasury.gov/resource-center/tax-policy/treaties/Documents/FATCA-Reciprocal-Model-1A-Agreement-Preexisting-TIEA-or-DTC-7-12-13.pdf>; 02.08.2013.

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- ¹⁴ www.taxjustice.net/cms/upload/GlobalForum2012-TJN-Briefing.pdf; 15.07.2013.
- ¹⁵ www.taxjustice.net/cms/upload/pdf/Tax_Information_Exchange_Arrangements.pdf; 15.07.2013.
- ¹⁶ <http://www.ft.com/intl/cms/s/0/0f687dee-5eea-11e0-a2d7-00144feab49a.html#axzz1PtjiCeHN>; 15.07.2013.
- ¹⁷ www.taxjustice.net/cms/upload/GlobalForum2012-TJN-Briefing.pdf; 15.07.2013.
- ¹⁸ <http://taxjustice.blogspot.ch/2012/07/the-price-of-offshore-revisited-and.html>; 15.07.2013.
- ¹⁹ www.taxjustice.net/cms/upload/pdf/The_Price_of_Offshore_Revisited_Key_Issues_120722.pdf; 15.07.2013.
- ²⁰ http://www.taxjustice.net/cms/upload/pdf/AIE_100926_TJN-Briefing-2.pdf; 15.07.2013.
- ²¹ <http://treasureislands.org/>; 15.07.2013.
- ²² <http://taxjustice.blogspot.de/2013/02/french-updates-hollande-supports-full.html>; 15.07.2013.
- ²³ <http://taxjustice.blogspot.de/2013/02/french-updates-hollande-supports-full.html>; 15.07.2013.
- ²⁴ www.taxjustice.net/cms/upload/GlobalForum2012-TJN-Briefing.pdf; 15.07.2013.
- ²⁵ <http://www.alliancesud.ch/de/publikationen/downloads/dokument-24-2013.pdf>; 15.07.2013.
- ²⁶ <http://steuergerechtigkeit.blogspot.de/2013/04/neue-verhandlungsgrundlage-fur.html>; 15.07.2013.
- ²⁷ www.taxjustice.net/cms/upload/CoE-OECD-Convention-TJN-Briefing.pdf; 15.07.2013.
- ²⁸ www.taxjustice.net/cms/upload/pdf/EUSTD-TJN-Briefing_-_JAN-2011.pdf; 15.07.2013.
- ²⁹ <http://taxjustice.blogspot.de/2013/04/fekter-austrian-ostritch-must-be.html>; 15.07.2013.
- ³⁰ http://www.taxjustice.net/cms/upload/pdf/AIE_100926_TJN-Briefing-2.pdf; 15.07.2013.
- ³¹ <http://www.taxresearch.org.uk/Documents/InfoEx0609.pdf>; 15.07.2013.