

# NARRATIVE REPORT ON ITALY



## PART 1: NARRATIVE REPORT

### 1) International Standards & Cooperation

Italy is an important economic player in Europe, being one of founding members of the **European Union (EU)**, **European Council**, **North Atlantic Treaty Organization (NATO)**, **Organization for Economic Co-Operation and Development (Organizzazione per la Cooperazione e lo Sviluppo Economico or OCSE)**; Italy is also one of **G7**, **G8** and **G20** members. Furthermore, it adheres to **Schengen Treaty** and takes part to the **NATO's nuclear sharing for nuclear deterrence**.

In the scope of OECD, Italy is one of the addressee of the so-called **Common Reporting Standard (CRS)** that is an information standard for the automatic exchange of tax and financial-related pieces of information (comprehensive of fiscal residences) on global level, developed and implemented in 2014, whose final purpose is to eradicate tax evasion. Its set up is the **Convention on Mutual Administrative Assistance in Tax Matters**. After the amendments done by the **Protocol 2010**, Italy signed off and ratified such convention, entered into force at the beginning of May 2012. It focus on international standards concepts connected to transparency and tax-related information exchange issues. Such agreement, aimed to combat tax evasion and avoidance, widens the range of administrative cooperation among the signatory jurisdictions.

Regarding the international tax system, Italy plays an important part in the geopolitical scenario both as EU member and as single player, in fact the country signed off several bilateral covenants with different jurisdictions. An example is the agreement between Italian and US Internal Revenue Agencies on **FATCA (Foreign Account Tax Compliance Act)**, signed off on January 2014 14<sup>th</sup>. Summing it up, such obligation compels Italy to inform US administration about different pieces of information regarding banking accounts, held in Italy, of US-classified persons.

Other examples of bilateral agreements are the **mutual pacts** Italy made with typical tax haven jurisdictions, namely **Liechtenstein (Law 210/2016)** and **Monaco (Law 231/2016)** for tax-related information sharing. These entered into force respectively on December 20<sup>th</sup> 2016 and February 4<sup>th</sup> 2017.

From an anti-money laundering and counter terrorist financing perspective, Italy is also one of the 35 members of the **Financial Action Task Force<sup>1</sup> (Gruppo di Azione Finanziaria Internazionale or GAFI)**. This is an inter-governmental policy-making body established in 1989 by its affiliated jurisdictions, whose goal is primarily to set standards and implementations to combat money laundering, terrorist financing and related threats, in order to ensure financial system's integrity and fairness. FAFT is famous for its **40 Recommendations**, dated 2004 and subject to review and periodic implementation, recognized as international standards to comply with.

Rank: 41

Chart 1 - How Secretive?

49  
Secrecy Score

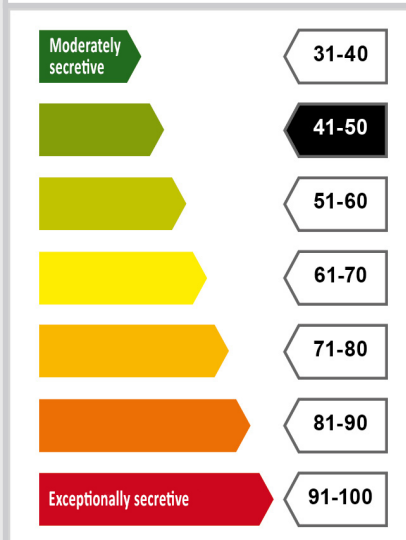
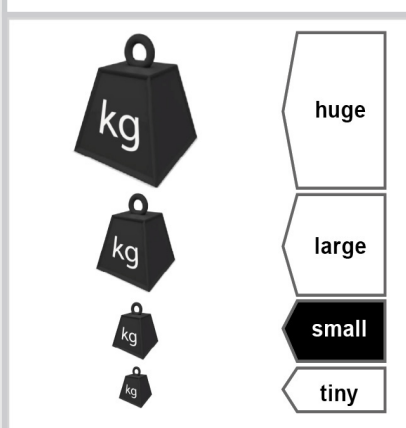


Chart 2 - How Big?



Italy accounts for less than 1 per cent of the global market for offshore financial services, making it a small player compared with other secrecy jurisdictions.

The ranking is based on a combination of its secrecy score and scale weighting.

Full data on Italy is available here: [www.financialsecrecyindex.com/database](http://www.financialsecrecyindex.com/database).

To find out more about the Financial Secrecy Index, please visit: [www.financialsecrecyindex.com](http://www.financialsecrecyindex.com).

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On February 10<sup>th</sup> 2016, a very important TAFT report, containing the outcome of Italian AML and CTF compliance to TAFT Recommendation, was published. The **International Monetary Fund (Fondo Monetario Internazionale or FMI)** on behalf of TAFT itself, carried out this assessment, called Mutual Evaluation, from January 14<sup>th</sup> to 30<sup>th</sup> 2015. The previous appraisal on Italy was performed in 2005; this is because all TAFT members are subject to periodical review, on a rotational basis. Such analysis takes into consideration not only the level of compliance to the 40 Recommendations adopted by the different member jurisdictions (**Technical Compliance**), but also the strength level (**Effectiveness**) reached by them.

**Technical Compliance** verification is based on all Recommendations requirements and, among these, major importance is given to those referred to legal, regulatory and institutional system of the country under audit, as well as procedures and powers with which competent authorities are bestowed with. The outcome is expressed with a synthetic mark that can be: compliant, largely compliant, partly compliant and non-compliant.

The evaluation about **Effectiveness** instead aims to verify in which level the country can reach the predetermined objectives against money-laundering and terrorist financing threats, which can be commonly expected from a solid and healthy system. This indicator is also assessed with ranks: high, substantial, moderate and finally low level of effectiveness.

The **Italy Mutual Evaluation 2015**<sup>2</sup> highlights a generally positive outcome, with still some grey areas to be implemented and enhanced. The following points represent the outcome main considerations:

- Italy has an advanced and suitable anti-money laundering and counter terrorist financing system, combined with a well-structured institutional and legal framework; however the country faces a significant money-laundering risk mainly coming from tax-related crimes, frequently associated to organized crime, corruption and drug trafficking;
- Italian authorities have good understanding of risks coming from money-laundering and terrorist financing threats and, in general, they show proper cooperation and coordination levels;

- Italian police and judiciary authorities have access to and use good-quality pieces of information and they can properly and successfully conduct investigations;

- Terrorist financing risk in Italy appears to be reasonably low and the country has efficiently put in place several economic sanctions that however should be implemented, above all for the connected crimes. Italy furthermore mitigates activities connected with mass destruction weapons. Relating to it however, a major consciousness in the private sector would be desirable;

- Italian financial intermediaries have, generally considering, a good understanding of money-laundering risks they are exposed to and large banks appear to be the only subjects with more intense actions in place;

- Information about UBOs' legal entities are quickly accessible although crosschecks are needed to be performed in order to certify its correctness. Italian companies are, in some cases, used illicitly from organized crime. Foreign entities working in Italy represent a future challenge;

- Italian finance police (**Guardia di Finanza** or **GdF**) and local finance authorities should see their tools implemented and strengthened.

## 2) The Italian AML Legislation

**Legislative Decree 90/2017**<sup>3</sup>, entered into force on July 4<sup>th</sup> 2017 for transposing the **Directive (EU) 2015/849**, most commonly known as **4<sup>th</sup> European Anti-Money Laundering Directive**<sup>4</sup>, currently defines the Italian AML legislation. Before that, the **Legislative Decree 231/2007**, now revoked, ruled and normed the industry in Italy. The current law is applicable to a wide range of financial intermediaries like **banks, SIM, SICAV, SGR, Nominees (Società Fiduciarie)** as well as to all-the-above-related Italian branches, with head office based outside the country, and companies offering products and services in Italy from another country (without physical presence in Italy). As prescribed by the new law, among the new addressees there are also **gaming/gambling** and **cash-for-gold businesses** and **money transfers**.

Legislative Decree 231/2007 covered subjects of great importance for the AML sector such as **Client Due Diligence (Adeguata Verifica)** and its variants,

namely **Simplified (Adeguata Verifica Semplicata)** and **Enhanced Due Diligence (Adeguata Verifica Rafforzata)**. It also included requirements in relation to **Ultimate Beneficial Ownership (Titolarità Effettiva)**, as well as the related criteria for unwrapping complex ownership structures, **Politically Exposed Persons, Financial Information Unit** and the **Archivio Unico Informatico**.

#### a) Client Due Diligence & Ultimate Beneficial Ownership

Before entering in the relationship and on-boarding a client, the economic subjects addressed by the law must undertake reasonable actions for satisfactorily completing the **KYC (Know Your Client)**, namely screening the prospect client and assessing eventual high-risk indicators, for evaluating the level of risk and due diligence to apply, following a risk-based approach. The rationale behind this process is to protect the fairness, correctness and integrity of the financial system, as well as of its economic players, from any eventual consequential exposure to credit and reputational threats. **Simplified Due Diligence** is a lighter assessment, referable to clients with low-level money-laundering indicators while, on the other hand, the **Enhanced Due Diligence** is the strengthened one, applicable to clients with high level money-laundering features (e.g. **Bearer Shares, PEPs**, etc.) or active in particular industries (e.g. **Defence/Dual Use, Gaming/Gambling, Arts, Gold/Metal**, etc.). Legislative Decree 231/2007 was more specific as to when the Simplified approach could be applied (e.g. publicly listed entities on equivalent AML jurisdictions' stock exchanges); the Legislative Decree 90/2017 instead, being more innovative, leaves the subjects free to decide if and when to apply it. In any case, financial institutions must always identify a ultimate beneficial owner ("UBO"). However, for both the Simplified and the Strengthened approaches, the law provides a sort of guidance concerning different features to consider in the evaluation process such as business and industry, geographical place and scope of business, source of wealth/funds, transactions, etc.

Economic subjects are required to identify the client through a valid ID or business report (if companies or other types of entities) and also to verify the correctness of such pieces of information using independent and reliable sources, like vendor applications or public companies' registers. If the client is a company, it is necessary then to unwrap

all its ownership structure in order to identify, and subsequently verify, eventual individuals to label as final UBOs. Italy has two criteria for such determination. The first and main method is the so-called **Mathematical Method (Criterio Matematico)**, for which is mandatory to investigate all the structure to understand who holds more than 25% of the capital, considered as fixed percentage for every single layer and without dilution, even owned through different controlled entities or through fiduciary companies/nominees. Such percentages can create problems to foreign entities' Italian branches as they need to apply both the threshold defined by the Italian law (more than 25%) as well as the one prescribed by the group policies (usually 10% or 20%). If this cannot be applicable, is necessary then to apply the alternative method, the **Administrative Method (Criterio Amministrativo)**, for which the final UBOs will be the individuals who, at the very end, have the management powers over the entity client. Such category can include directors and administrators<sup>5</sup>.

Unwrapping clients' ownership structures could also lead to **fiduciary companies/nominees**<sup>6</sup>, namely businesses that usually offer fiduciary and custody services to clients and this can create serious problems from an AML perspective. Given the assumption to have such type of entity in the ownership structure, firstly is important to understand if the nominee holds the shares on its own or, as before stated, on third parties' behalf. If the company itself owns the shares, then is necessary to use the mathematical method to identify the final UBOs; otherwise the nominee is required to provide copy of the fiduciary mandate, making a full disclosure of the final beneficiaries. Such communication, strictly private and confidential, must be equipped with copies of valid IDs.

#### b) Politically Exposed Persons

Unlike what happens in other jurisdictions like United Kingdom, **in Italy PEPs can only be individuals and not entities**. Legislative Decree 231/2007 included a wide range of different roles in this category, like high ranking State officials (e.g. Heads of States, Prime Ministers, Ministers and their Deputies, Parliament members and political parties' senior representatives), judges and supreme courts' members, as well as their foreign equivalents, central banks senior officers, ambassadors, consuls and high ranking militaries (e.g. Generals). Included

in the list there are also board of directors' members of governments-owned entities. Their relatives (e.g. parents, wives/husbands, sons, daughter and their partners) and their business associates are also classified as PEPs. The rationale behind this classification is that the PEP might be aware of privileged information and the related risk is the misuse/abuse of such data to gain personal advantages and profits. As prescribed by the law hence, prior entering in the relationship with a PEP-classified individual, a senior officer must give the green light to proceed, as this scenario can lead to apply the Enhanced Due Diligence for a better and more frequent monitoring.

Legislative Decree 90/2017 expanded the PEP definition, also including Regional Council Assessors, European Parliament members, Mayors of metropolitan cities and Mayors of cities having more than 15.000 citizens.

#### c) Financial Intelligence Unit

The 3<sup>rd</sup> **European Anti-Money Laundering Directive**<sup>7</sup>, also known as **Directive 2005/60/CE**, compelled member jurisdictions to equip themselves with a **Financial Intelligence Unit (FIU)**, namely a fully independent agency bestowed with all the necessary powers, administrative and operative, for combating money-laundering and terrorist financing threats. Under the Legislative Decree 231/2007 hence, issued to be compliant with the European act, on January 1<sup>st</sup> 2008 Bank of Italy set up the **Unità di Informazione Finanziaria (UIF)**, issuing also a set of rules of operation and conduct.

In compliance with its functions, UIF is in charge of analysing **Suspicious Activity Reports (Segnalazioni di Operazioni Sospette)** sent by financial intermediaries and other subjects bind by such obligation, as these warnings could bring connections with money laundering and/or terrorist financing activities. UIF can gather all the relevant pieces of information and sharing data with judicial authority, for the related counter-actions.

Italian UIF, of course, actively collaborates and shares information with other **European FIUs**.

#### d) Archivio Unico Informatico

**Archivio Unico Informatico (AUI)**, prescribed by the Legislative Decree 231/2007, is a unique feature of the Italian AML legislation. It is a centralized IT

tool settled up by and for the supervisory authority for assuring financial intermediaries' due diligence obligations compliance. **All monetary transactions**, for an amount equal to or greater than EUR 15.000, must flow and be recorded into this virtual register, indiscriminately considered as single or fractioned. It is also compulsory to register all ongoing relationships the intermediaries have in place with clients as well as all the connections (e.g. UBOs). Ad hoc provisions describe its modus operandi, as well as other collateral obligations.

A **fractioned operation** is an overall-considered operation, for an amount equal to or greater than EUR 15.000, put in place through different operations carried out in different moments but still in a defined timespan, generally considered of 7 days. Legislative Decree 90/2017 abolished AUI registrations and, in replacement, introduced new obligations regarding data conservation and reporting to the UIF, but the authority must still issue implementing acts for a better understanding.

Archivio Unico Informatico was a very useful tool as it was a source of big amounts of data, available upon request to third parties (e.g. magistrates, UIF, Bank of Italy, etc.)

#### e) GIANOS

**GIANOS (Generatore Indici di ANomalia per Operazioni Sospette)** is an Italian IT operative procedure, commonly used by financial intermediaries as it allows to alert the authorities about potentially suspicious operations. It is based on the analysis of AUI registrations but is neither compulsory for financial institutions to have nor very exhaustive. It was created by a working group of legal, IT and statistic experts and under the supervision of the **Italian Banking Association (Associazione Bancaria Italiana or ABI)**.

Several modules, like **Inattesi**, **GPR** and **KYC**, compose GIANOS program. **Inattesi** analyses eventual unexpected and unforeseen transactions that might not be consistent with the client' economic profile. **GPR (Gestione del Profilo di Rischio)** can set up clients' risk profiles taking into consideration current operations, eventual past anomalies, ID information, type of relationship with the financial intermediary, etc. Eventually, is also possible to modify different parameters, tailoring criteria for any need. This section is very useful as

it allows the monitoring of AML risk rating during time, as it can change. Finally, **KYC (Know Your Client)** allows the operator to manage clients' pieces of information gathered thanks to the Client Due Diligence (Adeguata Verifica) form.

In order to be fully suitable with the new European AML Directive obligations, a new version of GIANOS, namely **GIANOS 4D** (based on 4<sup>th</sup> European AML Directive), is currently being implemented.

### 3) Key Aspects of Corporate Transparency Regulation

From an anti-money laundering perspective, similarly to what happens in other jurisdictions in order to unwrap legal entities' ownership structures based in the country, in Italy there is the possibility to run a search in fee-paying public companies registers. Upon payment to these subjects classified as **Information Providers**, like **Cerved Information Solutions SpA** or **CRIF SpA**<sup>8</sup>, is possible to consult several reports containing companies-related economic and financial data. Unlike other jurisdictions, the data contained is trustworthy and verified, maybe not always up-to-date, but definitely eligible to be considered as "independent and reliable sources".

Such data-storing third parties manage pieces of information retrieved from the **Italian Chambers of Commerce** and, taking advantages of this public data, create useful and detailed reports aimed to verify information like companies' reliability, solvency and economic/financial frameworks, in order also to assess the related credit risk exposure.

Other pieces of information downloadable include balance sheets, number of employees, foundation date, email and telephone number, assets and eventual legal actions or negative/adverse events in course (seizures, protests and/or requisitions).

A very important point to outline is that, for companies only, such reports also highlight the immediate UBOs/shareholders with related share percentages. When the immediate identified shareholder is another Italian company, there is the possibility to download another extract, and so on until the detection of the final UBO. No matter what vendor company you have the membership with, all registers have a national-based range hence, in case of foreign entities, is necessary to rely on non-Italian companies registers.

The Legislative Decree 90/2017, as before stated, issued the obligation of having a special section for trusts and related subjects. The measure is still ongoing and being studied.

Reports can be downloaded not only for legal entities, for which would be good to be in possession of **Italian VAT (Partita IVA)** or **Fiscal Code No. (Codice Fiscale)**, but also for individuals, running a search having ID data, like birthdate and/or sex. For individuals is also possible to retrieve the information related to the number and types of offices held in other companies.

### 4) Efficiency of Tax and Financial Regulation

Italian judicial system is commonly recognized as one of the more disorganized and slower of Europe and tax-related proceedings make no exception in this sense. In a country where tax evasion is widespread, different governments have attempted to put in place some sort of remedial/counter-actions.

In 2009, under the 4<sup>th</sup> **Berlusconi Government**, **Legislative Decree 194/2009**, alternatively known as "**Mille Proroghe**", was approved, giving the possibility to taxpayers to take advantages of the so-called **Scudo Fiscale Ter (Third Tax Amnesty)**, as two similar versions were issued in 2001 and 2002), a tax-amnesty for all the assets irregularly held abroad (e.g. tax havens). In exchange of a one-time flat tax, comprehensive of fines, but still lower than the ordinary tax rate, the law inhibited criminal prosecution and tax assessment by **Italian Internal Revenue Agency (Agenzia delle Entrate)**. More in detail, this specific measure, as thought when issued, also abolished the punishment for some related crimes, like deliberately fraudulent tax declarations, fraudulent statements using false invoices, false accounting, documents concealing or destruction, etc. This measure also referred to foreign holding companies, most of the time based in tax havens.

At the time, the Italian government estimated additional revenues for a total of EUR 3 billion while the **Ministry for Economics and Finance** estimate was of cEUR 3-5 billion to be brought back to Italy. In February 2010, as per the valuations done by the government, EUR 80 billion were regularized; about 60 billion came back from **Switzerland**, 4 billion approximatively from **Luxembourg/Monaco** and the remaining part from the rest of the world.

From 2014 onwards, Italy had a revival of such measures as the **Italian Law 186/2014**, entered into force from January of that year, launched the so-called **Voluntary Disclosure<sup>9</sup> (Collaborazione Volontaria)**, set up for the regularization of amounts illegally held outside Italy. This money-laundering and tax evasion/avoidance counter-action was not available for taxpayers who already had inspections or legal actions in place. People willing to fix their tax profile should self-report their violations to the authorities, starting the regularization process (**Procedura di Collaborazione Volontaria**).

According to a public statement issued by the Internal Revenue Agency in December 9<sup>th</sup> 2015, the revenues from the regularization process were estimated to be of EUR 3,8 billion, rounded off to EUR 4 billion considering interest rates, coming from the following tax havens: from: **Switzerland** (69.6%), **Monaco** (7.7%), **Bahamas** (3.7%), **Singapore** (2.3%), **Luxembourg** (2.2%) and **San Marino**<sup>10</sup> (1.9%).

An additional disclosure facility, the **Voluntary Disclosure second version (Collaborazione Volontaria Bis)** started on February 7<sup>th</sup> 2017.

*Authors: Nicolo' Perrazini, AML specialist; and Tommaso Faccio, Head of Secretariat at ICRICT and Lecturer in Accounting, Nottingham University Business School.*

#### Endnotes:

1 More details about TAFF/GAFI can be found on its official website, in English, here <http://www.fatf-gafi.org/>

2 **Italy Mutual Evaluation 2015** report can be found, in English, on TAFT/GAFI official website at the following link: <http://www.fatf-gafi.org/countries/d-i/italy/documents/mer-italy-2016.html>; 31.1.2018.

3 Copy of the **Legislative Decree 90/2017**, in Italian, is available for free consultation on the **Gazzetta Ufficiale** website at the following link: <http://www.gazzettaufficiale.it/eli/id/2017/06/19/17G00104/sg>; 31.1.2018.

4 Copy of the **4<sup>th</sup> European Anti-Money Laundering Directive**, in different languages, is available for free consultation on the EUR-LEX official website here: <http://eur-lex.europa.eu/legal-content/IT/TXT/?uri=CELEX-3A32015L0849>; 31.1.2018.

5 Further details can be found in the Italian Legislative Decree 90/2017, art. 20.

6 Under Italian law, nominees can be under supervision of **Bank of Italy** or not. Is possible however to run a search on the regulator's following official website <https://www.bancaditalia.it/compiti/vigilanza/albi-elenchi/> under the section "**Albi ed Elenchi di Vigilanza**".

7 Copy of the **3<sup>rd</sup> European Anti-Money Laundering Directive**, in different languages, is available for free consultation on the EUR-LEX official website here: <http://eur-lex.europa.eu/legal-content/IT/TXT/?uri=LEGISUM%3A32003L016a>; 31.1.2018.

8 More details about **Cerved** and **CRIF** can be found in their official websites, in English, at the following links: <https://www.cerved.com/en> and <https://www.crif.com/>; 31.1.2018.

9 The definition as well as the terms and conditions to apply for the Voluntary Disclosure process, in Italian, is available for free consultation on the Internal Revenue Agency (**Agenzia delle Entrate**) official website at the following link: <http://www.agenziaentrate.gov.it/wps/content/Nsilib/Nsi/Schede/Istanze/Collaborazione+volontaria+%28voluntary+disclosure%29/Collaborazione+volontaria+infogen/?page=istanzecomunicazionicit>; 31.1.2018.

10 The related public statement is available to public for free consultation, in Italian, on the Internal Revenue Agency official website at the following link, under the voice "**Comunicato Stampa del 9 Dicembre 2015**": <http://www.agenziaentrate.gov.it/wps/content/Nsilib/Nsi/Schede/Istanze/Collaborazione+volontaria+%28voluntary+disclosure%29/Statistiche+Collaborazione+volontaria/?page=istanzecomunicazionicit>; 31.1.2018.

PART 2: ITALY'S SECRECY SCORE

OWNERSHIP REGISTRATION

- 27% 1. Banking Secrecy
- 50% 2. Trust and Foundations Register
- 65% 3. Recorded Company Ownership
- 50% 4. Other Wealth Ownership
- 95% 5. Limited Partnership Transparency

LEGAL ENTITY TRANSPARENCY

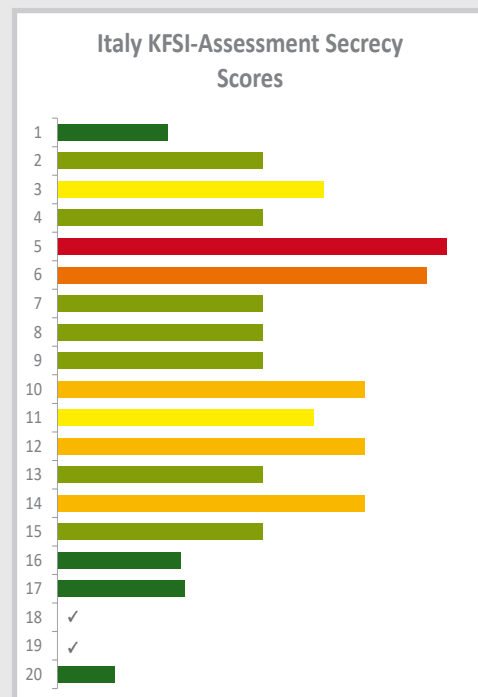
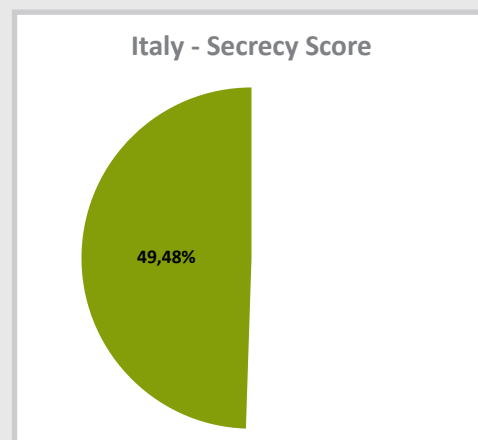
- 90% 6. Public Company Ownership
- 50% 7. Public Company Accounts
- 50% 8. Country-by-Country Reporting
- 50% 9. Corporate Tax Disclosure
- 75% 10. Legal Entity Identifier

INTEGRITY OF TAX AND FINANCIAL REGULATION

- 63% 11. Tax Administration Capacity
- 75% 12. Consistent Personal Income Tax
- 50% 13. Avoids Promoting Tax Evasion
- 75% 14. Tax Court Secrecy
- 50% 15. Harmful Structures
- 30% 16. Public Statistics

INTERNATIONAL STANDARDS AND COOPERATION

- 31% 17. Anti-Money Laundering
- 0% 18. Automatic Information Exchange
- 0% 19. Bilateral Treaties
- 14% 20. International Legal Cooperation



**Notes and Sources**

The ranking is based on a combination of its secrecy score and scale weighting (click [here](#) to see our full methodology).

The secrecy score of 49 per cent has been computed as the average score of 20 Key Financial Secrecy Indicators (KFSI), listed on the left. Each KFSI is explained in more detail by clicking on the name of the indicator.

A grey tick indicates full compliance with the relevant indicator, meaning least secrecy; red indicates non-compliance (most secrecy); colours in between partial compliance.

This paper draws on data sources including regulatory reports, legislation, regulation and news available as of 30.09.2017.

Full data on Italy is available here: <http://www.financialsecrecyindex.com/database>.

To find out more about the Financial Secrecy Index, please visit <http://www.financialsecrecyindex.com>.