

NARRATIVE REPORT ON THE NETHERLANDS



PART 1: NARRATIVE REPORT

The Netherlands is one of the big risers in the 2018 Financial Secrecy Index, hitting 14th position – up from 41st in the 2015 index. This ranking is based on a combination of its secrecy score and a scale weighting based on its share of the global market for offshore financial services.

The rise in the Netherlands’ FSI ranking has been driven by an increase in its secrecy score. The country now has a score of 66 out of a potential 100, and increase of 17.5 points from the previous index. Although the Netherlands is famous for being a corporate tax haven, and trillions of Euros of corporate profits flow through the country each year, this is not picked up in our measure of the size of the offshore sector. The FSI is not a tax haven index.

The FSI looks at the market for offshore services, rather than financial flows routed through subsidiaries of multinational companies, which are internal to those companies. Under the FSI methodology, the Netherlands accounts for less than 1 per cent of the global market for offshore financial services.

Introduction

The Netherlands is home to 12,000 ‘special financial institutions’ (SFI’s) used by foreign multinational companies to route €4,000 billion through the Netherlands [every year](#) -- roughly ten times the Netherlands’ gross national product.¹

[According to the International Monetary Fund \(IMF\)](#), these flows of foreign direct investment (FDI) through SFIs cannot be understood without taking into account the crucial role the Netherlands plays in the field of international corporate tax avoidance.² The strong financial infrastructure developed in the Netherlands since the 1950s makes it a popular conduit country for multinational corporations (MNCs) as well as rich individuals.

While the presence of special financial institutions adds an economic value of [€3-3,4 billion per year](#), the scale of losses of (tax) revenue by third countries is unclear.³ [Estimates](#) run from 145 million euro to 800 million euro in losses for developing countries alone.⁴ The Dutch government so far has been reluctant to provide sufficient transparency on tax avoidance schemes. Nor has it taken steps to reduce risks associated with the financial sector in the Netherlands.

Ingredients for a conduit country

The Netherlands is a useful conduit country because of its combination of beneficial fiscal arrangements available to international corporations. Firstly, the Netherlands has an extensive Double Taxation Treaty (DTT) network, which allows MNCs to substantially reduce withholding taxes on dividends, interest and royalty payments on financial flows to and from other countries and tax havens via the Netherlands. Along with these come the Netherlands’ famous participation exemption, which exempts international subsidiaries from Dutch corporation tax; the absence of withholding taxes on interest and royalties and the possibility to have tax rulings (Advance Tax Ruling and Advance Pricing Agreement).

Rank: 14

Chart 1 - How Secretive?

66
Secrecy Score

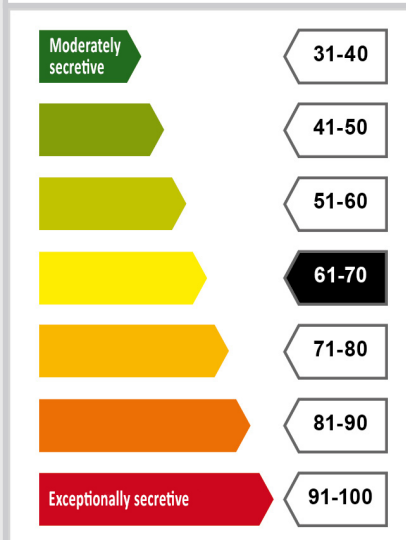
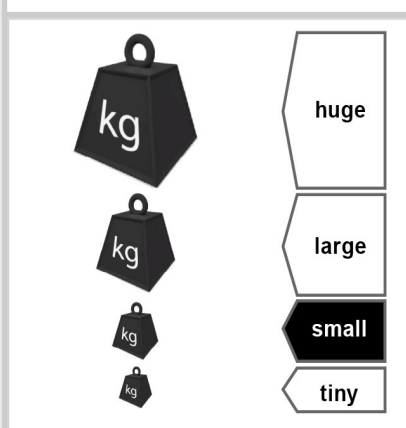


Chart 2 - How Big?



The Netherlands account 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 the Netherlands is available here: www.financialsecrecyindex.com/database.

To find out more about the Financial Secrecy Index, please visit www.financialsecrecyindex.com.

© Tax Justice Network 2018

If you have any feedback or comments on this report, contact us at info@taxjustice.net

The Netherlands also operates an ‘innovation box’ regime, which the country modified in 2017 to take account of the new OECD rules following the conclusion of the BEPS project.

No wonder that [91 of the 100 largest MNCs](#) in the world have financing firms in the Netherlands.⁵ [According to the New York Times](#), more US dollars are piped through the Netherlands than anywhere else in the world.⁶

On the other end of the line, most of the €4,000 billion euros flowing through the Netherlands end up in secrecy jurisdictions. Out of the top five countries in terms of origin and destination of inward and outward flows from the Netherlands, four are in the top ten of the FSI 2018. These are: Switzerland (€1195 billion), Luxembourg (€839 billion), United States (€3403 billion) and Germany (€1035 billion). The United Kingdom, was the origin and/or destination of €1,455 billion.

Revelations in Dutch media repeatedly show that in addition to MNCs using the Netherlands to avoid taxes, the Dutch financial sector is also being misused to evade taxes and engage in money laundering. [In 2014](#) a Dutch company became the centre of attention because it controlled US\$700 million in funds for Libyan institutions under the control of former dictator Muammar Ghaddafi.⁷ In 2014 the media [reported](#) that several Dutch letterbox companies owned by family and friends of former Ukrainian president Viktor Yanukovych were used to launder money.⁸ In 2016 the Dutch ING Bank became subject of criminal investigations by the Dutch and U.S. authorities regarding various requirements related to the on-boarding of clients, money laundering, and corrupt practices relating to the [Vimpelcom case](#).⁹ In 2017 the Public Prosecution Service started to investigate suspicious transactions at the [Amsterdam BK Group](#), a trust office that is suspected of facilitating money laundering and tax evasion. Three companies managed by the trust office are linked to two Ukrainians who are on the European sanction list.¹⁰ Another Dutch bank is suspected of facilitating money laundering is Rabobank. SMX Collective, a justice and human rights campaign, filed a statement against the Rabobank Group for laundering drug money, participating in a criminal organization and thereby contributing to human rights violations in Mexico. The allegations against Rabobank have [come to light](#) as the result of a US judicial investigation into the laundering of Mexican drug profits at a Rabobank subsidiary in Calexico, California.¹¹

Substance requirements

Starting in June 2014 the Dutch government has required all SFIs to fulfill substance requirements. Substance requirements should guarantee a certain level of activity to ensure a real presence in the Netherlands. However, in November 2014 the national Court of Audit [concluded](#) that the substance requirements are of such a low standard in the Netherlands that they are easily fulfilled.¹² In practice most SFIs hire so-called financial service providers to fulfill substance requirements such as having a registered address in the Netherlands, having at least 50 percent of the board seats filled by Dutch residents, and maintaining a main bank account in the Netherlands. Of the 12.000 SFIs in the Netherlands [75% use facilities provided by a financial service provider](#).¹³

Financial service providers in the Netherlands

Monitoring by financial service providers is based on due diligence. With thousands of billions flowing through the Netherlands this task carries serious responsibilities. In 2013 the Dutch Central Bank conducted an investigation into financial service providers. The Dutch Central Bank named the limited partnerships (in Dutch “CV structures”) that financial service providers offer to their clients as a serious risk. In 2012, 67 service providers hosted over 1600 limited partnerships mainly on behalf of beneficial owners in Central and South America. [The Dutch Central Bank](#) attributed the popularity of this structure to the anonymity it provides to beneficial owners.¹⁴ As the position of a director can be carried out by a legal entity (eg, an offshore company), beneficial owners are able to hide their true identity.

[In 2016](#), the Netherlands' FIU received over 400,000 reports of unusual transactions, an increase of more than 25% compared to 2015. After analysis, 53,533 transactions were declared suspicious. Payment service providers by far report the most, making 47,775 reports. They are followed by banks with 2,261 reports and vehicle traders with 2,029 reports. Accountants carried out 277 reports in 2016, notaries 181, trust offices 60, tax advisers 20 and lawyers 5.¹⁵

Following their investigation, the [Dutch Central Bank concluded in 2014](#) that the executive and supervisory functions within financial service providers are not sufficiently separated and that there is a clear lack of knowledge regarding the beneficial ownership of their clients. As a result,

the Dutch Central Bank fined some of the financial service providers and even revoked some of their licenses. Furthermore, the Dutch Central Bank defined the risks associated with limited partnership as exceptionally high, leading it to question whether limited partnership related services should be provided in the Netherlands at all.¹⁶

Beneficial ownership debate in the Netherlands

Given the high risks associated with beneficial ownership secrecy, it is reasonable to expect the Dutch government to take immediate measures. However, when in Spring 2014 the Dutch Parliament voted for a public beneficial ownership register, the Dutch government was reluctant to support a European Council proposal for such a public register. By the end of 2014 the European Union had approved a [beneficial ownership register](#), leaving the decision on whether to make that register public to individual Member States.¹⁷ At the end of 2017 the EU agreed to the fifth anti-money laundering directive which contains a set of new anti-money laundering rules and will increase transparency in the ultimate beneficial ownership of companies.

The long-awaited new rules are a breakthrough and a step closer to ending the existence of anonymous companies. The new rules must now be formally adopted by the member states of the European Union and be transposed into national legislation within eighteen months. The Netherlands still belongs to the coalition of the unwilling in the fight against money laundering and the tackling of tax avoidance. The EU has now adopted the fifth anti-money laundering directive, while the Netherlands has not yet implemented the fourth anti-money laundering directive.

The [new anti-money laundering directive](#) stipulates that the beneficial ownership register will become a public register. The committee proposes to publish certain information about the ultimate stakeholders of companies with a profit objective. Another proposal is the systematic exchange of information from the beneficial ownership registers by the EU member states.¹⁸

The fourth anti-money laundering directive had to be implemented by 26 June 2017 at the latest. The Netherlands failed and recently Brussels called on The Hague to implement the directive within two months. The European Commission has advised Member States to take into account the later published “5th anti-money laundering directive” when implementing the fourth anti-

money laundering directive. The Netherlands is [now](#) lagging behind two guidelines and it is questionable whether The Hague will comply with the EU’s requirement to transpose the fourth and the fifth Anti-Money Laundering Directive into national legislation on time.¹⁹

Next steps for Netherlands

Netherlands secrecy score shows that it must make major progress toward satisfactory financial transparency. If it wishes to play a full part in the modern financial community and to impede and deter illicit financial flows, including flows originating from tax evasion, aggressive tax avoidance practices, corrupt practices and criminal activities, it should take action on the points noted where it falls short of acceptable international standards.

Read More:

- Eurodad (2014) Hidden Profits: The EU’s role in supporting an unjust global tax system
- SOMO (2014) Fool’s Gold: How Canadian mining company Eldorado Gold destroys the Greek environment and dodges tax through Dutch mailbox companies

Endnotes

- 1 http://www.seo.nl/uploads/media/2013-31_Uit_de_schaduw_van_het_bankwezen_01.pdf; 23.01.2018.
- 2 <https://www.imf.org/external/pubs/ft/bop/2013/13-15.pdf>; 23.01.2018.
- 3 http://www.seo.nl/uploads/media/2013-31_Uit_de_schaduw_van_het_bankwezen_01.pdf; 23.01.2018.
- 4 <http://francisweyzig.com/2013/06/12/ver-schattingen-misgelopen-belasting/>; 23.01.2018.
- 5 Citizens for Tax Justice (2014) "Offshore Shell Games", <http://uspigdefund.org/sites/pirg/files/reports/OffshoreShellGamesUSPIRG-CTJ.pdf>; 23.01.2018.
- 6 <https://www.nytimes.com/2014/11/15/business/international/the-tax-attraction-between-starbucks-and-the-netherlands.html>; 23.01.2018.
- 7 <https://www.euromoney.com/article/b12kij-Qqznf4qq/libyan-plot-thickens-for-goldman-with-palldyne-money-laundering-suit>; 24.01.2018.
- 8 Volkskrant, 'Oekraïense elite volgt de Nederlandse belastingroute', 14 February 2014; <https://www.volkskrant.nl/buitenland/oekraïense-elite-volgt-de-nederlandse-belastingroute~a3596887/>; 23.01.2018.
- 9 <https://www.nrc.nl/nieuws/2017/09/06/om-jaagt-op-ing-in-vier-fraudezaken-12871893-a1572514>; 23.01.2018.
- 10 <https://fd.nl/ondernemen/1201271/om-onderzoekt-verdachte-transacties-bij-trustkantoor-bk-group>; 23.01.2018.
- 11 <https://www.volkskrant.nl/binnenland/aanklacht-rabobank-medeplichtig-aan-moord-en-misdaden-drugskartels~a4456671/>; 23.01.2018.
- 12 Algemene Rekenkamer, "Belastingontwijking", 6 november 2014; <https://www.rekenkamer.nl/publicaties/rapporten/2014/11/06/belastingontwijking>; 23.01.2018.
- 13 http://www.seo.nl/uploads/media/2013-31_Uit_de_schaduw_van_het_bankwezen_01.pdf; 23.01.2018.
- 14 <http://nieuwsbrief.dnb.nl/edition/nieuwsbrief-/nieuwsbrief-2014/147>; 25.01.2018.
- 15 https://www.fiu-nederland.nl/sites/www.fiu-nederland.nl/files/fiu_jaaroverzicht_2016.pdf; 23.01.2018.
- 16 <http://nieuwsbrief.dnb.nl/edition/nieuwsbrief-/nieuwsbrief-2014/147>; 25.01.2018.
- 17 http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=OJ:JOL_2015_141_R_0003&from=EN; 23.01.2018.
- 18 <http://transparency.eu/amld5/>; 23.01.2018.
- 19 <https://www.transparency.nl/nieuws/2017/12/doorbraak-eu-tegen-witwassen/>; 23.01.2018.

PART 2: NETHERLANDS' SECRECY SCORE

OWNERSHIP REGISTRATION

- 50% 1. Banking Secrecy
- 100% 2. Trust and Foundations Register
- 100% 3. Recorded Company Ownership
- 95% 4. Other Wealth Ownership
- 100% 5. Limited Partnership Transparency

LEGAL ENTITY TRANSPARENCY

- 100% 6. Public Company Ownership
- 100% 7. Public Company Accounts
- 50% 8. Country-by-Country Reporting
- 75% 9. Corporate Tax Disclosure
- 75% 10. Legal Entity Identifier

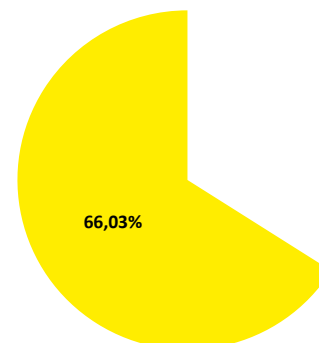
INTEGRITY OF TAX AND FINANCIAL REGULATION

- 50% 11. Tax Administration Capacity
- 75% 12. Consistent Personal Income Tax
- 100% 13. Avoids Promoting Tax Evasion
- 75% 14. Tax Court Secrecy
- 75% 15. Harmful Structures
- 30% 16. Public Statistics

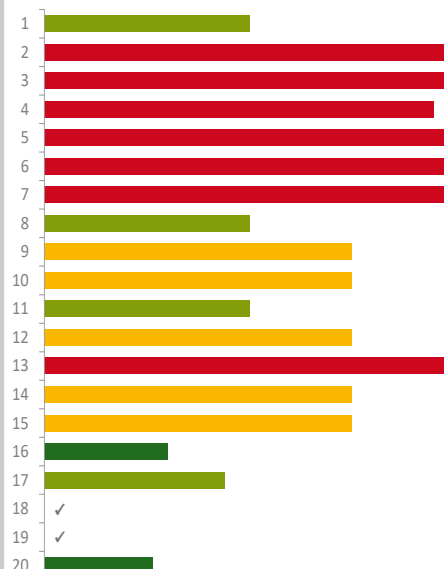
INTERNATIONAL STANDARDS AND COOPERATION

- 44% 17. Anti-Money Laundering
- 0% 18. Automatic Information Exchange
- 0% 19. Bilateral Treaties
- 27% 20. International Legal Cooperation

Netherlands - Secrecy Score



Netherlands KFSI-Assessment Secrecy Scores



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 66 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 names of the indicators.

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 the Netherlands is available here: www.financialsecrecyindex.com/database.

To find out more about the Financial Secrecy Index, please visit www.financialsecrecyindex.com.