

Tax Transparency in the Global Financial Services Ecosystem

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Speaking notes, Panel: Shaping Behaviour: Industry, Civil Society and Domestic Action

- **Organising principle for civil society: tax justice**
 - Specifically, that the intent and the implementation of national and international tax rules be aimed at the progressive realisation of **human rights globally**;
 - Many things follow, and many of these can be considered as transparency measures – but note that this is not transparency at any cost, nor for its own sake: but rather, **transparency for accountability** (to ensure (i) fair treatment of citizens and other taxpayers; (ii) fair behaviour of politicians and officials; and (iii) fair market practices).
 - **Who, after all**, wants to be unfairly treated as a citizen or a taxpayer, or as a voter or as a customer, supplier or business rival? Who doesn't want to know who they're doing business with? Or who their prime ministers or presidents are doing business with?

- **Scale of the issues**
 - Undeclared **assets** 'offshore': from around \$8 trillion, to over \$30 trillion – either way, material to the world economy
 - Hidden **profit shifting**: US MNEs 25-30% of global profits; revenue losses from all MNEs potentially \$600bn p.e. (IMF), \$500 bn (TJN) – implied distortions to global economic accounts potentially material
 - **Lose-lose**: Jurisdictions that 'win' from selling secrecy, benefit financially much less than 'losers' lose in terms of revenue. And all sides lose, from the promotion of corruption – both the corruption that undermines both market and state in the 'losers', and the corruption that the winners suffer, because the commercialisation of their sovereignty inevitably undermines the ability of the selling state to respond to its own citizens preferences.

- **Emergence of civil society voices**
 - The **end of the 1990s** saw the first significant crystallisation of civil society voices in respect of these problems, and the potential solutions. 2000 saw the publication of both the UK government's **white paper** on globalisation, identifying the issues, and the **Oxfam report** which brought the first significant public attention to civil society engagement. By 2003, that had coalesced into the formal establishment of the **Tax Justice Network**, under former chief economic advisor to Jersey, John Christensen.
 - Over 2003-05, the network brought together professional and academic experts from law, accounting, economics, finance, political science, international development and beyond; and assembled the basis of the **policy platform** that has underpinned a majority of civil society engagement at the international level ever since.

- **Specifics and progress**

- In addition to significant components relating to international corporate tax rules and to international governance in this space more generally, this included three transparency measures of critical importance:
 - **Public registers** of the beneficial ownership of companies, trusts and foundations
 - **Automatic, multilateral exchange** of financial information
 - Public **country-by-country** reporting by multinationals
- The **Financial Secrecy Index**, created in 2007 and published every two years since 2009, ranks more than a hundred jurisdictions according to their global scale, and the degree of financial secrecy on a set of indicators drawing from 49 underlying components, largely the evaluations of international organisations. The FSI is now widely cited in the media, in academic research, and increasingly in the work of ratings agencies and national and international policy institutions.
- **Dramatic progress:** Initially ridiculed as utopian or foolish, versions of all three measures were adopted by the G20, G8 and OECD groups of countries by 2013, as part of the post-GFC policy shakeup.
- **Current aims:** For civil society, the immediate aim is to ensure full delivery of each element, with full inclusion of lower-income countries, and to begin to address the untenably unequal global governance arrangements.

- **Cayman?**

- **Secrecy:** On the 2015 FSI, Cayman ranked 5th due to a combination of its scale (providing around 5% of financial services exports globally) and its high *but not extreme* secrecy (65, where 100 indicates total secrecy and 0 total transparency). As such, Cayman continues to represent **one of the major global risks** in terms of the corrupting effects of financial secrecy provided to residents of other jurisdictions.
 - Along with many others, Cayman has signed up to automatic, multilateral information exchange (starting in 2018). Although strange to apparently not wish to receive any information; which, coupled with the selling of [residence certificates for money](#), creates a clear risk.
 - Unlike growing numbers of others, Cayman has refused to consider public registers of beneficial ownership for companies, or trusts.
- On the **corporate tax** side, researchers for the US Joint Committee on Taxation estimate that less than half of the profits of US MNEs currently declared in Cayman would remain, absent profit shifting – making it the most extreme current recipient of US MNE profit-shifting along with Bermuda.

- **Prospects?**

- The **biggest threat to global financial secrecy is the USA**: backsliding on AEOI, while demanding data from everyone else, recalcitrant on ownership information, eliminating public CBCR for the extractive sector – and too big to be called out by the OECD. (The DBCFT might however allow for more progressive changes to international tax rules, by overthrowing the arm’s length principle once and for all.)
- Positive moves include:
 - Creation of a **UN SDG target on IFF, and another on tax**. Here to stay on the global policy agenda.
 - **G77 mobilisation** at the UN, in favour of representative international governance for tax.
 - Continuing EU leadership on beneficial ownership transparency (AMLD IV); and potentially on public CBCR and on profit shifting (CCCTB).
- The likelihood and nature of continued civil society and international political pressure has two implications for Cayman and other smaller secrecy jurisdictions, one good, one bad.
 - **The bad news**: We’re not going away. There will be continuing pressure for:
 - i. publication of beneficial ownership information, aligned with company accounts;
 - ii. for AEOI to be fully effective and inclusive; and
 - iii. for more effective curtailment of profit-shifting – especially if and when country-by-country reporting becomes public and lays bare the scale.
 - **The good news**: smaller jurisdictions and international civil society can combine to resist any efforts to return to the ‘unlevel playing field’ approach of the bad old days, that put smaller jurisdictions up against the wall and demanded they meet standards that the major economies had no intention of meeting themselves. Already we’ve seen some progress with the EU including the USA on its initial list of jurisdictions to respond to questions, in preparation for a list for countermeasures which will for the first time – like the FSI – be based on objectively verifiable criteria. *Equal assessment and treatment of all jurisdictions is the only way to deliver meaningful global progress, including for lower-income countries; and to ensure at the same time that smaller jurisdictions are not unfairly treated.*