UNIVERSITY OF SUSSEX | CSC CENTRE FOR THE STUDY OF CORRUPTION | Foreign, Commonwealth & Development Office | ACE GOVERNANCE & INTEGRITY Anti-Corruption Evidence Research Programme

The Regulation of Illicit Financial Flows (RIFF) dataset:

Methodological Details

Daniel Haberly
Valentina Gullo
Tom Shipley
Tomas Boukal
Miroslav Palansky
Robert Barrington

School of Global Studies and Centre for the Study of Corruption,
University of Sussex

The Regulation of Illicit Financial Flows (RIFF) dataset: Methodological Details

Daniel Haberly [1], d.haberly@sussex.ac.uk
Valentina Gullo [1]
Tom Shipley [1]
Tomas Boukal [2]
Miroslav Palansky [2, 3]
Robert Barrington [1]

[1] University of Sussex
[2] Charles University, Prague
[3] Tax Justice Network

December 11, 2024

Suggested citation: Haberly, D., Gullo, V., Shipley, T., Boukal, T., Palansky, M., and Barrington, R. 2024. The Regulation of Illicit Financial Flows (RIFF) Dataset: Methodological Paper. Centre for the Study of Corruption Working Paper No. 21.

This research is part of the Governance & Integrity Anti-Corruption Evidence programme (GI ACE) which generates actionable evidence that policymakers, practitioners and advocates can use to design and implement more effective anti-corruption initiatives. This GI ACE project is funded by the UK Foreign, Commonwealth & Development Office (FCDO). The views expressed in this report do not necessarily reflect the UK Government's official policies.

1. Introduction to RIFF indicator scoring and coverage

The design of the RIFF reflects the priorities of generating high-quality indicators of historical IFF regulatory change, at the jurisdiction-level, which can support multidecadal time series statistical analyses of policy impacts. This requires a dataset that 1) covers the largest possible number of key financial intermediary jurisdictions, 2) covers the longest possible historical period, to make possible effective before-and-after comparisons of reform impacts, 3) collects and presents data at the highest possible temporal resolution, to allow for the statistically rigorous probing of cause-and-effect, and, most importantly, 4) defines and codes indicators according to a temporally consistent rubric.

Figure 1. Jurisdictions covered in regulation of Illicit Financial Flows (RIFF) dataset (1990-2020)

The RIFF provides data on 70 jurisdictions selected based on a weighted combination of criteria designed to ensure coverage of the world's most important offshore as well as other leading international financial centers. These selection criteria include the concentration of service provider intermediaries and shell companies in the Panama and Paradise Papers datasets, the headquarters locations of major public multinational corporations, and the inclusion of jurisdictions on various offshore / tax haven lists. All G-20 member states are also included. As shown in figure 1, the resulting list of jurisdictions covers most of the largest OECD economies—including the United States, United Kingdom, France, Germany, Spain and Canada—as well as other OECD and non-OECD jurisdictions home to large offshore financial services sectors, such as Switzerland, the Netherlands, Luxembourg, Cyprus, Singapore, Hong Kong, and numerous "small islands"—and several large developing countries including all of the BRICS, and other major developing economies including Mexico, Argentina, Indonesia, Saudi Arabia, Egypt, and Thailand.

For these 70 jurisdictions, the RIFF provides annual resolution data for 1990-2020. This was determined to be longest possible period over which data could be feasibly collected, and covers most of the historical development of the global IFF regulatory project with the exception of the earliest period of AML framework implementation in the 80s, and the most recent developments post-2020.

This combination of extensive geographic coverage, and long-term, annual temporal resolution—following the requirements of supporting long-term time series statistical analysis of regulatory changes and their impacts—poses challenges for achieving the final, and most important RIFF design objective. This is the need to maintain methodological consistency in indicator coding over time, and to precisely locate the timing of changes in indicator scores. Achieving these priorities has necessitated a relatively narrow focus, in the RIFF, on recording the formal statutory situation of rules "on paper," and their implementation at a basic level. Reflecting this trading-off of coding nuance to gain coding temporal precision, indicators are scored on a simple three-level rubric wherein: 0 represents the total or nearly total absence of a particular area of regulation/reform; 0.5 represents a "partial" level of reform with significant gaps or contradictions at the level of statute or basic implementation; and 1 represents "full" implementation for a particular indicator according to the basic parameters of its definition.

This simplified indicator coding scheme, with its emphasis on formal statutory change, allows for relatively precise pinpointing of historical reform event timing—which would be impractical to meaningfully achieve for a more finely grained indicator scoring of historical policy effectiveness. In a few cases, it has nevertheless not been possible to precisely determine the year in which an indicator score should be assessed as having changed, with change rather only being determined to have occurred within a particular time range. These cases are explicitly identified in the data via a recorded score of 0.25, for periods of scoring ambiguity / transition from 0 to 0.5, and as 0.75, for periods of scoring ambiguity / transition from 0.5 to 1.

The RIFF does not attempt to build fine-grained assessments of policy rigor or effectiveness into the coding of regulatory indicators themselves. The primary goal is rather to provide a dataset that can support empirical assessments of the impact of historical policy changes on the international organization of various types of illicit financial activities, structures, and relationships—when used in conjunction with other sources of data on the latter. In this respect, the three-level indicator scoring scheme should be conceptualized as essentially qualitative rather than quantitative in nature. This is particularly true in the context of time series statistical modeling of regulatory change impacts, wherein the conversion of indicators into binary dummy variables—capturing either indicator change events or indicator scoring categories—may be advisable.

The RIFF is comprised of 23 indicators covering the period 1990-2020. Of these, 11 indicators can be classified as falling into the domain of AML/CFT compliance and enforcement. These indicators cover: general as well as PEPs enhanced client due diligence; the institutional infrastructure of financial intelligence units and domestic inter-agency cooperation, as well as non-tax-related on-demand international information sharing; rules concerning the reporting of suspicious transactions, and restriction of client tipping-off in the context of this reporting, as well as the protection of whistleblowers; and the definition of the basic legal concepts of terrorist financing and money laundering, including in relation to different predicate offenses.

Meanwhile, the remaining 12 RIFF indicators capture the broader legal and infrastructural underpinnings of financial secrecy and transparency, including in relation to taxation. These indicators encompass: statutory banking secrecy (at a formal or de facto legal level); beneficial ownership registration, updating, and transparency requirements, including in relation to trusts, the limitation of instruments such as bearer shares, and the public scope of beneficial ownership data accessibility; restrictions on shell bank formation and correspondent relationships; tax-related international information exchange on-demand, and automatic information exchange as

governed by the EU Savings Directive, OECD Common Reporting Standard (CRS), and US Foreign Tax Account Compliance Act (FATCA).

The following two sections of this methodological appendix provide additional details on the definition and scoring of these indicators. Section 2 (reproduced from Appendix A in the accompanying working paper) provides an overview list of RIFF indicators and scoring criteria. Section 3 provides more detailed information on indicator background and scoring, as well as illustrative examples of scoring methodology. For additional information on indicator construction, or queries about specific cases please contact the corresponding author of this methodological document (d.haberly@sussex.ac.uk).

2. Summary Scoring Rubrics for RIFF indicators

Indicator	Score	Rubric
Banking Secrecy (BankingSecrecy)	0	Full statutory banking secrecy is in place. Banks and their past and present officers or agents have a legal obligation not to disclose any customer information with third parties (including government authorities, except within limited contexts and mechanisms), with breaches resulting in prison terms or other criminal penalties. This includes jurisdictions that have signed onto international information exchange agreements (e.g. the OECD CRS) that override statutory banking secrecy laws within specific parameters without otherwise altering the broader underlying legal basis of banking secrecy.
	0.5	Banking secrecy exists short of full statutory secrecy. De facto secrecy may exist on the basis of civil liability and/or broader client confidentiality law. Banks are allowed to reveal customer information to authorities in specific circumstances beyond the limited context of e.g. domestic legal proceedings or international information exchange mechanisms. Certain bank officers or agents can be exempted from statutory criminal penalties for secrecy breaches in specific situations.
	1	There are no statutory or de facto banking secrecy provisions, and authorities can easily access and exchange client banking data without being impeded by legal restrictions.
Trust Registration (TrustRegistr)	0	There are no requirements to register information on trusts with either a central trust register or tax authorities, and/or the scope of trust registration requirements is so limited in terms of the categories of trusts covered, and/or so easily evaded through readily available arbitrage strategies, as to be of limited practical utility.
	0.5	Registration requirements exist for a substantial portion of available trust categories, but there are significant gaps in the scope of these requirements (e.g. in relation to different categories of domestic versus foreign law trusts), and/or registration requirements are only with jurisdiction tax authorities rather than a dedicated central trust register.
	1	Registration of both domestic and foreign law trusts is required with a central register maintained by a public authority.
Trust Ownership Registration (TrustOwn)	0	There are either no or highly limited requirements to register trusts with either a central trust register or tax authorities (see trust registration indicator 0 score criteria), or, to the extent that registration requirements exist, no or limited provisions for the effective reporting of trust beneficiaries/settlors. This also includes cases where trustees are only required to share information on trust beneficiaries and settlors with authorities upon request from the latter.

	0.5	Trust beneficiaries/settlors must be identified to a central register and/or tax authorities for a substantial portion of available trust categories, as part of trust registration requirements, but there are either general limitations in the scope and design of reporting requirements (see trust registration 0.5 score criteria), or limitations in these requirements as they apply to beneficiary/settlor reporting specifically. Examples include the exclusion of significant categories of domestic versus foreign law trusts, and/or registration only being required with jurisdiction tax authorities rather than a dedicated central trust register.
	1	Both foreign and domestic law trusts are required to identify beneficiaries/settlors as part of registration requirements with a central register maintained by a public register. Note that trust beneficiary/settlor reporting requirements do not necessarily correspond in substance to ultimate beneficial ownership reporting as defined for companies.
Beneficial Ownership (BO): Central Register (BORegistr)	0	Jurisdiction does not have in place legislation requiring the reporting of company beneficial ownership information to a central register, or has severe shortcomings in beneficial ownership registration requirements (e.g.: excessive scope of exempt company categories; problematic definition of beneficial ownership; seriously inadequate collection of information).
	0.5	Beneficial ownership requirements suffer from only one notable shortcoming mentioned above, in a manner that does not create significant scope for most companies to escape registration requirements.
	1	A central beneficial ownership register exists with at most minimal gaps in reporting requirements or comprehensiveness of coverage. Some lapses may still exist at the level of information verification and/or updating.
Beneficial Ownership (BO): Public Access to Central Register (BOPublicAccess)	0	Company beneficial ownership register is either nonexistent or only accessible for selected official governmental purposes and users.
	0.5	Beneficial ownership register is at least partially accessible to the public, but access is subject to some form of restriction beyond user database registration (e.g. fees, national ID card requirements, need to file official freedom of information requests on a case-by-case basis, or excessively complex and/or time consuming use procedures that severely undermine the practical user-friendliness of registers).
	1	Beneficial ownership data is publicly available with no access restrictions.

Beneficial Ownership (BO): Update of information (BOUpdate)	0	Company beneficial ownership register is either nonexistent, or there is no compulsory requirement to update of beneficial ownership information.
	0.5	Requirements exist to update beneficial ownership information, however no sanctions apply in the case of non-compliance, and/or updating is carried out with inadequate frequency (less than annual).
	1	Updating of beneficial information is required on at least an annual basis, with sanctions applied in the case of non-compliance.
Bearer Shares (BearerShares)	0	Unregistered bearer shares are widely available and/or circulating.
	0.5	There are laws stipulating bearer share restriction or immobilization, but these may not apply to certain categories of bearer shares and/or instruments such as bearer warrants, and/or bearer shares may in some circumstances remain circulating, or be registered with private custodians with potentially inadequate controls.
	1	It is not possible to issue bearer shares and/or any bearer shares issued, including existing shares, must be registered/immobilized. A score of 1 may still be awarded in cases where selected categories of outstanding shares are still circulating, in cases where this is unlikely to allow for the effective preservation of secrecy, and there are provisions in place that will eventually lead to bearer share elimination or registration/immobilization.
Domestic Cooperation* (Domestic_coop)	0	No national AML/CFT legislation framework is in place, or it has major flaws that prevent effective cooperation and coordination among policymakers, financial intelligence units (FIUs), law enforcement, supervisors, and other relevant authorities to combat money laundering and terrorist financing.
	0.5	There are deficiencies (such as ineffective cooperation, delays, lack of synchronization between some institutions or between different administrative centers of power - regional and federal) in national AML/CFT cooperation and coordination (other than deficiencies linked to AML/CFT risk identification).
	1	Jurisdiction has national AML/CFT policies which are regularly reviewed, and ensure that policymakers, the FIU, law enforcement authorities, and supervisory and other relevant competent authorities have effective powers enabling them to cooperate and coordinate domestically to combat money laundering and terrorist financing.
Tax Information Exchange* (TaxInfoEx)	0	There are severe limitations within any existing mechanisms of international tax information exchange.
	0.5	There are less severe but still significant shortcomings in the scope, speed or effectiveness of information provision, or number of tax information exchange agreements.

	1	Tax information can be easily and effectively exchanged and accessed internationally in an effective manner.
Other Information Exchange* (OthInfoEx)	0	Jurisdiction offers very limited, highly ineffective, or no cooperation with foreign counterparts.
	0.5	While jurisdiction offers some level of cooperation with foreign counterparts, it is not always offered in a timely or rapid manner (no prioritization), and/or is not provided on a spontaneous basis (without a formal request). There may also be a lack of cooperation between agencies such that the law enforcement authorities are not fully authorised to conduct investigations on behalf of foreign counterparts, where permitted by domestic law.
	1	Authorities can rapidly and effectively cooperate on international information exchange and investigations.
Automatic Exchange of Information (AEOI): EU Savings Directive (EU_SD)	0	EU Savings Directive either not adopted, or withholding tax penalty adopted in lieu of AEOI
	1	AEOI provisions of EU Savings Directive fully adopted
AEOI: OECD Common Reporting Standard (CRS) (OECD_CRS)	0	OECD CRS not adopted
	1	OECD CRS adopted
AEOI: US Foreign Account Tax Compliance ACT (FATCA)	0	No FACTA agreement with US in force
	1	FATCA agreement with US in force
Shell Banks (ShellBanks)	0	There is no prohibition of shell bank operation or establishment. Furthermore, financial institutions are not prohibited from entering into or continuing correspondent banking relationships with shell banks.
	0.5	Some regulations exist constraining shell bank formation (e.g. requirements for banks to acquire a license and be physically present in the jurisdiction). However, shell bank establishment, operation, or the maintenance of correspondence relationships with shell banks are not expressly prohibited ("ensured"), leading to gaps in compliance and effectiveness of shell banking restrictions.
	1	Shell banks cannot be established. Furthermore, financial institutions are prohibited from correspondent banking relationships with shell banks.
Client Due Diligence (CDD)	0	There are no provisions for CDD or the gaps in the legal and regulatory framework are so wide-ranging that a CDD regime cannot be reasonably said to exist.

	0.5	There are provisions for CDD, but the regime is incomplete. These gaps relate to important elements of the CDD legal and regulatory framework or significant problems that have been identified in relation to the implementation of this framework.
	1	There is a comprehensive legal and regulatory framework for CDD, and evidence to suggest this is satisfactorily implemented.
Enhanced Due Diligence (ECDD) on Politically Exposed Persons (PEPs) (PEPsECDD)	0	There are no provisions for ECDD on PEPs, or the gaps in the legal and regulatory framework are so wide-ranging that an ECDD regime for PEPs cannot reasonably be said to exist.
	0.5	There are provisions for ECDD on PEPs, but the regime is incomplete. These gaps relate to important elements of the legal and regulatory framework or significant problems in relation to the implementation of this framework.
	1	There is a comprehensive legal and regulatory framework for ECDD on PEPs, and evidence to suggest this is satisfactorily implemented.
Obligation to report suspicious transactions (STRoblig)	0	There are no obligations for financial institutions to report suspicious transactions to the Financial Intelligence Unit (FIU).
	0.5	There are obligations for financial institutions to report suspicious transactions to FIU, but also gaps in the legal framework which mean that some suspicious transactions may not be reported.
	1	There is a clear and enforceable obligation for financial institutions to report suspicious transactions to the FIU.
Legal protection for whistleblowers (Whistleblowers)	0	There is no legal protection for whistleblowers at financial institutions.
	0.5	There are legal protections for whistleblowers at financial institutions who report suspicions in good faith, but some gaps in the legal framework that could lead to whistleblowers being exposed to repercussions.
	1	There is full legal protection for whistleblowers at financial institutions if they report suspicions in good faith.
No client tipping-off provisions (TippingOff)	0	There are no legal provisions which prohibit individuals at financial institutions from 'tipping-off' individuals connected to suspicious transaction reports (STRs).
	0.5	There are legal provisions prohibiting client tipping off, but gaps in the legal framework governing this prohibition.
	1	There are full legal provisions which prohibit individuals at financial institutions from 'tipping-off' individuals connected to STRs.
Money laundering criminalisation (drugs) (MLcrim_drugs)	0	Money laundering in connection with drug-related crime is not explicitly criminalised in law.

	0.5	There is partial criminalisation of money laundering in connection with drug-related crime but gaps in the legal framework which could undermine enforcement.
	1	Money laundering in connection with drug-related crime is fully criminalised in law.
Money laundering criminalisation (predicate offences other than drugs) (MLcrim_oth)	0	Money laundering in connection with predicate offences other than drug-related crime is not explicitly criminalised in law.
	0.5	There is partial criminalisation of money laundering in connection with predicate offences other than drug-related crime, but gaps in the legal framework which could undermine enforcement.
	1	Money laundering in connection with predicate offences other than drug-related crime is fully criminalised in law.
Terrorist financing criminalisation (TFcrim)	0	Terrorist financing is not explicitly criminalised in law.
	0.5	There are provisions criminalising terrorist financing, but significant gaps in the legal framework governing this criminalization.
	1	Terrorist financing is fully criminalised.
Financial Intelligence Unit (FIU)	0	There is no operational FIU.
	1	An FIU exists and it is operational.

*Indicator has limited pre-2000 geographic coverage.

3. Detailed RIFF indicator scoring criteria and illustrative examples

Banking secrecy (BankingSecrecy)

This indicator assesses the provision of banking secrecy in a jurisdiction. It refers to the legal principle and practice of safeguarding the confidentiality and privacy of financial and banking information held by financial institutions on behalf of their clients or account holders. It encompasses a set of rules, regulations, and practices that restrict the disclosure of such information to third parties apart from the bank and account holder. The indicator here focuses on the presence of legal provisions that can result in the application of criminal or civil sanctions in the case of client banking data disclosure. The most significant such provision is statutory banking secrecy stipulating prison terms or other criminal penalties in the case of confidentiality breaches. The threat of criminal prosecution for breaches of banking secrecy has long served as a formidable mechanism enabling the concealment of various illicit and unlawful activities, and has proven to be a highly effective tool for deterring, suppressing, or retaliating against whistleblower actions.[1]

A score of 0 is given where full statutory banking secrecy is in place, i.e. where banks and their past and present officers or agents have a legal obligation not to disclose any customer information with third parties, with breaches resulting in prison terms or other criminal penalties. This typically includes governmental authorities, except within specific limited contexts and mechanisms as governed by e.g. domestic legal proceedings or international information exchange agreements. A score of 0 can still be given to jurisdictions that have signed onto international information exchange agreements (e.g. the OECD CRS) that override statutory banking secrecy laws within their specific context without otherwise altering the broader underlying legal basis of banking secrecy. A score of 0.5 is given where banking secrecy exists short of full statutory secrecy, including de facto secrecy based on civil liability and/or broader client confidentiality law. Partial secrecy is also assessed to exist when banks are allowed to reveal customer information to authorities in specific circumstances beyond the limited context of e.g. domestic legal proceedings or international information exchange mechanisms, or when certain bank officers or agents can be exempted from statutory criminal penalties in specific situations. A full score of 1 is awarded where there are no statutory or de facto banking secrecy provisions in a jurisdiction, and there are no legal impediments to the ability of authorities to access and exchange client banking information.

The principal source of information for this indicator is *Banking Secrecy* in the Financial Secrecy Index (last updated May 2023), specifically Component 1: Penalties for breaching banking secrecy.[2] This indicator also incorporates information from Global Forum reports (Section “ToR B.1.5 Secrecy provisions”) in cases where additional information is needed to support scoring.

Illustrative examples:

1] Tax Justice Network, 2022. Financial Secrecy Index 2022 Methodology. London. pp. 22-25. https://fsi.taxjustice.net/fsi2022/methodology.pdf & Gerald Hilsher, "Banking Secrecy: Coping with Money Laundering in the International Arena," in Current Legal Issues Affecting Central Banks, Volume I, ed. Robert C. Effros (Washington, DC: International Monetary Fund, 1992), 12. https://www.elibrary.imf.org/view/books/071/07167-9781455282554-en/ch12.xml.
[2] Tax Justice Network, 2022. Financial Secrecy Index 2022 Methodology. London. pp. 22-25. https://fsi.taxjustice.net/fsi2022/methodology.pdf

- **Switzerland:** As described in the 2022 FSI: “Article 47 of the LB [Swiss Banking Law] provides that, a person who in his role in an entity (“organe”), employer, agent, liquidator of a bank, reveals a secret which was confided to them or of which they have knowledge as a result of their responsibilities or job, or who encourages others to violate professional secrecy, is liable for a fine of up to CHF 250 000 (EUR 195 000) where negligent, or a fine or imprisonment for up to three years where the conduct is intentional.” Switzerland is one of the few jurisdictions that has tightened its statutory banking secrecy laws, in recent years, even while signing onto international information exchange agreements that override these laws in specific contexts. By the Federal Act of December 12, 2014 (in force since July 1, 2015), the penalty for secrecy breaches has been extended from three to five years imprisonment. Switzerland scores 0 on this indicator, as of 2020.

- **Brazil**: Banking secrecy is governed by Complementary Law N. 105/2001 (the Banking Secrecy Law).[3] The duty of financial institutions to protect customer information is not absolute. Financial institutions will not be considered to have breached their duty of confidentiality if they communicate with competent authorities concerning a crime that has been committed, the conduct of financial transactions with illicit funds, or exchange information with other financial institutions for specific purposes. Brazil scores 0.5 from 2001.

Trust registration (TrustRegistr)

The indicator evaluates the criteria governing the registration of domestic or foreign law trusts with public authorities via either a dedicated trust register, or indirectly via filings with tax authorities. Given that trusts are, in contrast to corporations, a legal contractual arrangement among private parties, rather than a legal entity formed through registration with the state, public authorities do not automatically possess information on even the existence of trusts. The focus of this indicator is thus on whether mechanisms are in place for governments to systematically record basic information on trust formation and administration (i.e. at the trustee level—see trust ownership registration indicator below for discussion on the compilation of information on trust beneficiaries and settlors). In addition to English common law trusts, this indicator seeks to cover registration requirements for similar devices available in other legal contexts—for example the Liechtenstein Anstalt, or Islamic law waqf—which have the potential to be abused in a similar manner as trusts to obscure the ownership or control of assets.

A score of 0 is given where there are no requirements to register information on trusts with either a central trust register or tax authorities, or where the scope of registration requirements is so limited in terms of the categories of trusts covered, and/or so easily evaded through readily available arbitrage strategies, as to be of limited practical utility. A score of 0.5 is given where registration requirements exist for a substantial portion of available trust categories, but there are significant gaps in the scope of these requirements (e.g. in relation to different categories of domestic versus foreign law trusts), and/or registration requirements are only with jurisdiction tax authorities rather than a dedicated central trust register. A full score of 1 is given where registration of both domestic and foreign law trusts is required with a central register maintained by a public authority.

[3] COMPLEMENTARY LAW No. 105, OF JANUARY 10, 2001. Available in English version at: https://www.moneylaundering.com/wp-content/uploads/2018/09/Laws_Brazil_105_011001.pdf

·The Trust and Foundations Register indicator in the FSI, and Trust sections in Global Forum reports, serve as the principal sources for understanding the obligations concerning the registration of various categories of trusts across different jurisdictions.

Illustrative examples:

- **Singapore:** The 2011 Global Forum report states that Singapore law recognizes waqfs under the Administration of Muslim Law Act (AMLA, 1966), and that all waqfs must be registered at the office of the Islamic Religious Council of Singapore (Majlis Ugama Islam, Singapura).[4] However, registration requirements for trusts rooted in the English common law tradition are much more lax and incomplete, and, to the extent that they exist, are operationalized via filings with tax authorities rather than being compiled in a central register. According to the Global Forum, domestic law trusts may need to file information (including trustee information) when they are subject to tax, while foreign law trusts, which can be administered in Singapore on behalf of foreign settlors and beneficiaries, are exempt from filing tax returns altogether. These requirements are considered to be inadequate in scope and rigor to support the systematic official registration of basic information on vehicles that can be readily abused to hide asset ownership, resulting in a score 0.

- **Portugal:** While Portuguese law does not recognize trusts, foreign trusts can be established with a Portuguese resident as trustee, in which case "the assets and income derived in connection with the foreign trust are subject to tax as with any other assets or income of the Portuguese resident trustee and the Portuguese resident trustee is subject to record keeping requirements for the determination of their income" (GF 2015: 38),[5] and any transfer of property owned by the trust has to be registered with the Immovable Property Registry (ibid 51). Additionally, foreign trusts “whose settlor(s) and beneficiaries are non-residents in Portugal, can be recognised and authorised to perform business activities exclusively in the Madeira Free Trade Zone (FTZ)” under Decree-Law 352-A/88” (1988); which required Madeira trusts with terms >1 year to register with the Commercial Registry. These requirements are deemed sufficient for a trust registration (but not trust ownership registration —see below) score of 0.5 from 1990 (ibid. 49Art. 3.2.e of the Annex of Law 89/2017 (incorporated by Law 58/2020) now requires beneficial ownership registration for all trusts (regardless if they have relations with an obliged entity, TIN, etc) with a trustee resident in Portugal (expanding beneficiary registration requirements in Law No. 83/2017, which did not apply to all trusts residing in Portugal).[6] Portugal is thus upgraded to 1 for trust registration (and trust ownership registration) from 2020.

[4] Global Forum on Transparency and Exchange of information for Tax Purposes (2011). Singapore 2011: Phase 1: Legal and Regulatory Framework. Paris: OECD Publishing. Available at: https://www.oecd-ilibrary.org/taxation/global-forum-on-transparency-and-exchange-of-information-for-tax-purposes-peer-reviews-singapore-2011_9789264114647-en
[5] Global Forum on Transparency and Exchange of Information for Tax Purposes (2015). Portugal 2015 Phase 2: Implementation of the Standard in Practice. Paris: OECD Publishing. Available at: https://www.oecd.org/en/publications/global-forum-on-transparency-and-exchange-of-information-for-tax-purposes-peer-reviews-portugal-2015_9789264231634-en.html
[6] Tax Justice Network. Financial Secrecy Index 2022. Country detail: Portugal. Available at: https://fsi.taxjustice.net/country-detail/#country=PT&period=22 (Accessed Feb 10, 2024).

Trust ownership registration (TrustOwn)

While trusts are administered by a trustee, who exercises legal control over assets held by the trust, these assets are administered on behalf of separate beneficiaries, as designated by the settlors who initially established a trust. This complex unbundling of aspects of legal control, ownership, and beneficiary status, creates opportunities for the true nature of these relationships to be obscured. To effectively understand whose interests are actually represented by a trust, it is necessary for states to not only compile information on the basic existence and legal control of trusts, as defined at the trustee level, but to also require the systematic reporting of information on beneficiaries and settlors.

The indicator assesses the identification of either trust beneficiaries or settlors (i.e. with at least one being required) in the context of trust registration with public authorities, either with a dedicated trust register or via tax filings. A score of 0 is given where there are no requirements to register information on either trust beneficiaries or settlors with either a central trust register or tax authorities, or where the scope of registration requirements is so limited in terms of the categories of trusts covered, so easily evaded through readily available arbitrage strategies, and/or so weakly implemented (e.g. by simply appending this information in submission of a trust deed to tax authorities), as to be of limited practical utility. This also includes cases where trustees are only required to share information on trust beneficiaries or settlors with authorities upon request from the latter. A score of 0.5 is given where registration requirements for trust beneficiaries or settlors exist for a substantial portion of available trust categories, but there are significant gaps in the scope of these requirements (e.g. in relation to different categories of domestic versus foreign law trusts), and/or registration requirements are only with jurisdiction tax authorities rather than a dedicated central trust register. A full score of 1 is given where registration of settlor/beneficiary information for both domestic and foreign law trusts is required with a central register maintained by a public authority. Scores for trust ownership registration cannot exceed scores for the trust registration indicator (see above). Note that trust beneficiary/settlor reporting requirements do not necessarily correspond in substance to ultimate beneficial ownership reporting as defined for companies.

The Trust and Foundations Register indicator in the FSI, and Trust sections in Global Forum reports, serve as the principal sources for understanding the obligations concerning the registration of beneficiary and settlor information for various categories of trusts across different jurisdictions.

Illustrative examples:

- **Cook Islands:** The Global Forum (2015: 40-41) states that both domestic and international trusts have to register. Domestic trusts, which are registered for tax income purposes under the Income Tax Act of 1997, must also register settlor and beneficiary information.[7] However, for international trusts, according to the Global Forum (2015: 42), only a copy of the trust deed or any amendments need be provided to the Registrar as part of registration requirement. FATF states that trust deeds must be provided (APG 2018: 155-158).[8] However, both sources note that this requirement can be avoided for foreign trusts with less than one-third foreign ownership or trusts investing exclusively abroad. We thus score the Cook Islands as 0.5 on the general trust registration indicator, based on the Income Tax Act of 1997. However, due to gaps including the identification of beneficiaries only in trust deeds, and the potential for such information to not be shared with authorities, the Cook Islands score for trust ownership remains at 0 throughout the time series.

- **Argentina:** Argentina introduced the “fideicomiso“ (concenpt of trust) in Law 24.441 of 1995 (ss. 1 to 26) (GF 2012: 31).[9] Under General AFIP Resolution No. 2419/08, trustees (fiduciarios) of domestic trusts (fideicomisos) were required to report the identities of settlors (fiduciantes), trustees (fiduciarios), ultimate beneficiaries (fideicomisarios), and other beneficiaries, where applicable, to the tax administration (GF 2012: 31). On 18 April 2012, Argentina adopted General Resolution No. 3312, establishing a regime for information collection and registration for both financial and non-financial Argentinean fideicomisos (trusts) and foreign trusts. Trusts must be registered with the Administracion Federal De Ingresos Publicos (AFIP) within 10 days of establishment, and information must be provided on an annual basis (GF 2012: 32). The 2022 FSI adds that Settlors, trustees, and beneficiaries must be identified with name, address, and tax identification number (TIN) (Annex II, Article 2). Argentina is scored at 0.5 in trust registration as well as trust ownership registration from 2008, following its adoption of tax administration-based registration requirements, and is upgraded to a score of 1 on both indicators from 2012.

Beneficial Ownership (BO): Central Register (BORegistr)

This indicator evaluates the strength of mandatory systems ensuring that company beneficial ownership information is collected in a centralized government register. The Panama and Paradise Papers, which unveiled the true identities of beneficial owners behind otherwise anonymous shell companies, underscored the importance of robust and transparent beneficial ownership information.[10] However, the widespread establishment of beneficial ownership registration requirements is a relatively recent policy development, and the scope and stringency of beneficial ownership registration requirements remains uneven across jurisdictions.[11]

[7] Global Forum on Transparency and Exchange of Information for Tax Purposes (2015). Cook Islands 2015 Phase 2: Implementation of the Standard in Practice. Paris: OECD Publishing. Available at: https://www.oecd.org/en/publications/global-forum-on-transparency-and-exchange-of-information-for-tax-purposes-peer-reviews-cook-islands-2015_9789264231450-en.html
[8] Asia/Pacific Group on Money Laundering (APG) 2018. Cook Islands Mutual Evaluation Report: September 2018. Available at: https://www.fatf-gafi.org/en/publications/Mutualevaluations/Mer-cook-islands-2018.html
[9] [1] Global Forum on Transparency and Exchange of Information for Tax Purposes Peer Reviews (2012). Argentina 2012, Combined: Phase 1 + Phase 2. OECD Publishing. https://doi.org/10.1787/9789264181946-en. (Accessed Feb 10, 2024).
[10] "ICIJ Releases New Investigation: The Paradise Papers," International Consortium of Investigative Journalists (ICIJ), November 5, 2017, https://www.icij.org/investigations/paradise-papers/icij-releases-the-paradise-papers/.
[11] Knobel, Andres and Harari, Moran and Meinzer, Markus, The State of Play of Beneficial Ownership Registration: A Visual Overview (June 27, 2018). Available at SSRN: https://ssrn.com/abstract=3204532 or http://dx.doi.org/10.2139/ssrn.3204532

A score of 0 is given where a jurisdiction either does not have in place legislation requiring the reporting of company beneficial ownership information to a central register, or has severe shortcomings in beneficial ownership registration requirements (e.g.: excessive scope of exempt company categories; problematic definition of beneficial ownership; seriously inadequate collection of information). A score of 0.5 is given where registration requirements suffer from at most one notable shortcoming that does not create significant scope for the majority of companies to escape beneficial ownership registration. A full score of 1 is given where requirements to register company beneficial ownership information with a central register have at most minimal gaps in coverage comprehensives of effectiveness. Other lapses may however exist at the level of official information verification effectiveness and/or updating, which are not directly assessed in this indicator.

The principal source for this indicator is Recorded Company Ownership in the Financial Secrecy Index, specifically the Companies, Beneficial Ownership, Registration sub-indicator.[12]

Illustrative examples:

- **Germany:** The establishment of beneficial ownership registration was mandated by §20 of the AML Act (2017).[13] According to the 2022 FSI, however, the law had a significant flaw related to incomplete obligations of legal entities to obtain information on beneficial owners with respect to non-offshore holding structures. The amendment GWG §20.3.a of 2019 (entering into force in 2020) aimed to address this flaw. However, according to the 2022 FSI this amendment can be interpreted as "*unduly limiting its obligation on the company in cases where no beneficial owners have been identified. This limitation in the amendment §20.3.a only requires the company to demand of its shareholders "to the extent known, adequate information on its beneficial owners" (TJN Translation)*."[14] Due to the incomplete scope of its beneficial ownership registration requirements, Germany is scored as 0.5 since 2017.

- **Bermuda:** Bermuda was an early mover in reforms in this area, with the Companies Act of 1981 setting out the main rules for the registration of beneficial ownership ·information.[15] According to the FSI, certain companies are exempt from beneficial ownership registration, such as companies listed on the Bermuda's Stock Exchange, or closed-ended investment vehicles as defined under the Investment Business Act 2003 or the Investment Funds Act 2006.[16] However, as these structures are regulated through other mechanisms as set out in these acts, Bermuda is given a full score of 1 on beneficial ownership registration throughout data coverage period here. 2006.

[12] Tax Justice Network, 2022. Financial Secrecy Index 2022 Methodology. London. pp. 39-49. https://fsi.taxjustice.net/fsi2022/methodology.pdf.
[13] GwG Money Laundering Act. § 20. Available at: https://www.bafin.de/SharedDocs/Veroeffentlichungen/EN/Aufsichtsrecht/Gesetz/GwG_en.html;jsessionid=4010B7C2818124FE46DF342F63936CC9.internet981?nn=19586032#doc19618182bodyText24 (Accessed Feb 8, 2024).
[14] Tax Justice Network. Financial Secrecy Index 2022. Country detail: Germany. Available at: https://fsi.taxjustice.net/country-detail/#country=DE&period=22 (Accessed Feb 8, 2024).
[15] Bermuda Companies Act 1981. Part VIA: Beneficial Ownership. Available at: https://www.bma.bm/viewPDF/documents/2023-11-14-10-39-37-Companies-Act-1981.pdfAccessed Feb 7, 2024).
[16] Tax Justice Network. Financial Secrecy Index 2022. Country detail: Bermuda. Available at: https://fsi.taxjustice.net/country-detail/#country=BM&period=22 (Accessed Feb 8, 2024).

Beneficial Ownership (BO): Public Access (BOPublicAccess)

This indicator deepens the assessment of company beneficial ownership registration provisions by evaluating the public accessibility of the central beneficial ownership register. FATF's 2023 guidelines on Beneficial Ownership of Legal Persons stresses that *"information held by the company registry should be made publicly available"*.[17] Public access to this information facilitates efforts by legal and financial institutions to identify the natural persons behind corporate entities, which is essential for law enforcement, regulatory compliance, and due diligence processes. It also supports investigative efforts by journalists, civil society organizations and academics who frequently play a key role in the initial uncovering of financial wrongdoing subsequently pursued by authorities.

A score of 0 is given for this indicator is cases where a central beneficial ownership register either does not exist, or is only accessible for selected official governmental purposes and users. A score of 0.5 is given where the beneficial ownership register is at least partially accessible to the public, but access is subject to some form of restriction beyond user database registration (e.g. fees, national ID card requirements, need to lodge official freedom of information requests on a case-by-case basis, or excessively complex and/or time consuming use procedures that severely undermine the practical user-friendliness of registers). A full score of 1 is given where beneficial ownership data is publicly accessible with no restrictions on or practical hurdles to access.

The principal sources for this indicator are Recorded Company Ownership in the Financial Secrecy Index[18], and online tests of the accessibility of national registers by RIFF researchers, with FATF and Global Forum reports utilized as supplemental sources.

Illustrative examples:

- **Ireland**: In 2019, following Statutory Instrument No. 110 of 2019: Art. 20(2) all domestic companies have to report beneficial owners to a Central Register.[19] Regulation 25 of Statutory Instrument 110 provides that the public and designated persons have a right of access to the name, month and year of birth, country of residence, and nationality of each beneficial owner, as well as a statement of the nature and extent of the interest held, or the ·nature and extent of control exercised, by each such beneficial ·owner. However, access is only granted on completion of a BOR 4 form which must be submitted to BOR@centralbank.ie with payment of a designated fee. Ireland thus scores 0.5 on Beneficial Ownership (BO): Public access from 2019, due to the presence of significantly burdensome access hurdles restricting the practical accessibility of data.[20]

[17] FATF (2023), Guidance on Beneficial Ownership for Legal Persons, FATF, Paris, http://www.fatf-gafi.org/publications/FATFrecommendations/guidance-beneficial-ownership-legalpersons.html
[18] Tax Justice Network, 2022. Financial Secrecy Index 2022 Methodology. London. pp. 39-49. https://fsi.taxjustice.net/fsi2022/methodology.pdf.
[19] STATUTORY INSTRUMENTS. S.I. No. 110 of 2019. Available at: https://www.irishstatutebook.ie/eli/2019/si/110/made/en/pdf
[20] For more information on how to access the beneficial ownership information in Ireland see: https://www.centralbank.ie/regulation/anti-money-laundering-and-countering-the-financing-of-terrorism/beneficial-ownership-register/about-the-register-and-faqs

- **France:** According to the FSI, commercial and legal entities, which are registered in the Commercial and Companies Register, are required to (i) obtain and hold accurate and current information on their beneficial owners from 1 August 2017, and (ii) file this beneficial ownership information with the Register (article L. 561-2-2 of the Monetary and Financial Code).[21] Through ordinance No. 2020-115, France introduced a public register of beneficial owners (Article L561-46 of the Monetary and Financial Code).[22] Based on this, France scores 1 on Beneficial Ownership (BO): Central Register from 2017, and 1 on Beneficial Ownership (BO): Public Access from 2020.

Beneficial Ownership (BO): Update of Information (BOUpdate)

This indicator further extends the assessment of company beneficial ownership provisions by examining whether the information originally reported upon company formation must be subsequently updated in the central register at regular intervals. A score of 0 is given in cases where the updating of BO information is not compulsory. A score of 0.5 is given where there are provisions requiring BO information updating, but no sanctions apply in the case of non-compliance, and/or updating is carried out with inadequate frequency (less than annual). A full score of 1 is given where there are provisions requiring the updating of BO information on at least an annual basis (following the FSI's standard of updating frequency adequacy), with sanctions applied in the event of non-compliance.

Recorded Company Ownership (ID 473: BO Update) in the Financial Secrecy Index is the principal source of data for this indicator.[23]

Illustrative examples:

- **Bermuda**: Bermuda was an early mover in the introduction of requirements for beneficial ownership updating as well as registration requirements. Initially, the ultimate beneficial owners of Bermudian companies were only universally required to be registered at the time of company formation, with subsequent updating of beneficial ownership information only being required for non-residents.[24] Bermuda thus scores 0.5 on beneficial ownership updating from 1990-2016. In 2017, the legislation was amended by the Companies and Limited Liability Company (Beneficial Ownership) Amendment Act, stipulating mandatory regular updating of beneficial ownership information for all companies.[25] Bermuda's score on this indicator is thus upgraded to 1 from 2017.

[21] GF 2018: 36, 43; Greffe du Tribunal de Commerce, DOCUMENT RELATIF AU BENEFICIAIRE EFFECTIF D'UNE SOCIETE (L. 561-46, R. 561-55 et suivants du code monétaire et financier), DBE-S-1 (Version du 30/04/2018) in Tax Justice Network. Financial Secrecy Index 2022. Country detail: France. Available at: https://fsi.taxjustice.net/country-detail/#country=FR&period=20 (Accessed Feb 9, 2024).
[22] Code monétaire et financier Replier: Partie législative (Articles L111-1 à L785-16). Available at: https://www.legifrance.gouv.fr/codes/article_lc/LEGIARTI000041578272/ (Accessed Feb 9, 2024).
[23] Tax Justice Network, 2022. Financial Secrecy Index 2022 Methodology. London. pp. 39-49. https://fsi.taxjustice.net/fsi2022/methodology.pdf.
[24] Global Forum on Transparency and Exchange of Information for Tax Purposes: Bermuda 2017 (Second Round). Available at: STATUTORY INSTRUMENTS. S.I. No. 110 of 2019. Available at:. pp 44-46.
[25] Companies and Limited Liability Company (Beneficial. Ownership) Amendment Act 2017. art. 98L(3)). Available at: http://199.27.70.12/laws/Annual%20Laws/2017/Acts/Companies%20and%20Limited%20Liability%20Company%20(Beneficial%20Ownership)%20Amendment%20Act%202017.pdf

Bearer Shares (BearerShares)

This indicator evaluates restrictions on the availability and circulation of bearer shares within a jurisdiction. Bearer shares, defined as negotiable instruments granting ownership in a legal entity to whoever holds the physical share certificate, pose significant challenges to transparency and accountability in corporate ownership. Unlike registered shares, wherein shareholders are clearly identified in records accessible to third parties, bearer shares allow for anonymity, as ownership is determined solely by physical possession of the share certificate. This lack of transparency facilitates illicit activities such as money laundering and terrorist financing, as the true owners remain untraceable. Recognizing the risks associated with bearer shares, bodies including FATF have urged jurisdictions to take measures to either eliminate them altogether or ensure their immobilization and/or registration with government authorities. Such measures aim to enhance transparency and prevent misuse of bearer shares for illicit purposes.[26]

A score of 0 is given to jurisdictions where unregistered bearer shares are widely available and/or circulating. A score of 0.5 is given where there are laws stipulating bearer share restriction or immobilization, but these laws may not apply to certain categories of bearer shares and/or instruments such as bearer warrants, and/or bearer shares may in some circumstances remain circulating, or be registered with private custodians with potentially inadequate controls. A full score of 1 is given where it is not possible to issue bearer shares and/or any bearer shares issued, including existing shares, must be registered/immobilized. A score of 1 may still be awarded in cases where selected categories of outstanding shares are still circulating, in cases where this is unlikely to allow for the effective preservation of secrecy, and there are provisions in place that will eventually lead to bearer share dissolution or registration/immobilization.

The principal source for this indicator is Recorded Company Ownership[27] in the Financial Secrecy Index. This is supplemented by FATF reports, particularly in relation to the assessment of Recommendation 24, [28] and Global Forum reports, specifically section “Bearer shares (ToR A.1.2)”.

Illustrative examples:

- **Cayman Islands**: The issuance of bearer shares was partially restricted by the Companies Law of 1961, which required bearer shares to be licensed with a custodian (where the definition of the custodian was significantly amended and specified by the Companies Law 2004 Revision).[29] As a result, the Cayman Islands scores 0.5 on this indicator through 2015. The Companies (Amendment) Law enacted in May 2016 prohibited the use and issuance of bearer shares as of May 13, 2016,[30] with the Cayman Islands thus scoring 1 from 2016.

[26] FATF (2023), Guidance on Beneficial Ownership for Legal Persons, FATF, Paris. Available at: http://www.fatf-gafi.org/publications/FATFrecommendations/guidance-beneficial-ownership-legalpersons.html. pp 43-47.
[27] Tax Justice Network, 2022. Financial Secrecy Index 2022 Methodology. London. pp. 39-49. https://fsi.taxjustice.net/fsi2022/methodology.pdf.
[28] FATF, no date. Guidance on Beneficial Ownership of Legal Persons. Available at: https://www.fatf-gafi.org/en/publications/Fatfrecommendations/Guidance-Beneficial-Ownership-Legal-Persons.html#:~:text=10%20March%202023%20%2D%20In%20March,the%20true%20owners%20of%20companies.
[29] Companies Law (2004 Revision). Available at: https://legislation.gov.ky/cms/images/LEGISLATION/PRINCIPAL/1961/1961-0003/CompaniesAct_2004%20Revision.pdf
[30] Cayman Islands, MER 2019, p 231. Available at: https://www.fatf-gafi.org/content/dam/fatf-gafi/fsrb-mer/CFATF-Cayman-Islands-Mutual-Evaluation.pdf

Domestic Cooperation (Domestic_coop)

This indicator assesses the effectiveness of institutional cooperation and coordination within a jurisdiction in the context of AML/CFT policy implementation and information-sharing. FATF Recommendation 2 sets out the elements of good practice for robust national AML/CFT policies, stipulating that concerned institutions have effective mechanisms for domestic cooperation and coordination. The formation of coordination bodies comprising representatives from relevant agencies, including law enforcement, financial intelligence units, and regulatory bodies, is particularly essential to fostering collaboration in developing and executing strategies to combat money laundering and terrorist financing.

Several challenges may undermine the effectiveness of coordination mechanisms. These include a lack of formal decision-making authority within coordination bodies, leading to potential delays and inefficiencies in cooperation efforts. While operational-level cooperation may be effective in certain areas, gaps may also persist in joint agency work, information sharing, and decision-making processes related to AML/CFT priorities. Moreover, deficiencies may also arise from the absence of nationwide AML/CFT policies or legislation, as well as coordination mechanisms for implementation and enforcement.

A score of 0 is given for this indicator where no national AML/CFT legislation framework is in place, or this framework has major flaws that prevent effective cooperation and coordination among policymakers, FIUs, law enforcement, supervisors, and other relevant authorities to combat money laundering, and terrorist financing. A score of 0.5 is given in cases where less serious deficiencies exist in national AML/CFT cooperation and coordination (other than deficiencies linked to AML/CFT risk identification). A score of 1 is given where a jurisdiction has national AML/CFT policies which are regularly reviewed, and ensure that policymakers, the financial intelligence unit (FIU), law enforcement authorities, and supervisory and other relevant competent authorities have effective powers enabling them to cooperate and coordinate domestically to combat money laundering and terrorist financing.

The principal source used for this indicator are FATF reports, particularly in relation to the assessment of Recommendation 2 - National cooperation and coordination.[31] These are supplemented by direct reviews of national laws and other available information about the establishment of financial intelligence units (or similar institutions) within a given jurisdiction.

[31] FATF (February 2012). Best Practices Paper on Recommendation 2. FATF/OECD. Available at: https://www.fatf-gafi.org/content/dam/fatf-gafi/guidance/BPP%20on%20Recommendation%202%20Sharing%20among%20domestic%20competent%20authorities%20re%20financing%20of%20proliferation.pdf.coredownload.inline.pdf. Note that for earlier versions of FATF this indicator has been evaluated under “National co-operation and coordination (R.31 & 32).”

Illustrative examples:

- **Hong Kong:** FATF (2008)[32] describes close working relationships between the different policy and regulatory agencies in Hong Kong with relevant responsibilities. However, it raised concerns about effectiveness due to this cooperation often being reactive in nature, as well as an observed reluctance or unwillingness to amend or update legal regulations and ordinances, and the lack of a central committee overseeing AML/CFT policy. Hong Kong is thus scored as 0.5 on domestic cooperation through 2016. In 2017, Hong Kong created two new institutions that boosted its effective capacity in this area.[33] First, the Fraud and Money Laundering Intelligence Task Force was created to detect and disrupt fraud, money laundering, and other financial crimes. Secondly, the Anti-Deception Co-ordination Centre was established to enhance cooperation between financial intelligence units, reduce victim losses, and support AML compliance efforts. These two bodies addressed the previously assessed lack of a central committee effectively overseeing AML/CFT policy, with Hong Kong thus scoring 1 on domestic cooperation from 2017.

Tax Information Exchange (TaxInfoEx)

Strengthening cooperation mechanisms as well as expanding networks of information exchange agreements are crucial for combating tax evasion, money laundering, and terrorist financing. This indicator assesses the strength of a jurisdiction's facilities for the on-request exchange of tax-related information with the authorities of other jurisdictions. Such mechanisms allow tax authorities to gain access to previously inaccessible financial information across borders, and frequently override underlying financial secrecy laws that would normally apply to the disclosure or sharing of such information. In addition to being crucial to the investigation and deterrence of international tax evasion, such data may also feed into broader investigations of other related criminal activity.

A score of 0 is given where there are severe limitations in any existing mechanisms of international tax information exchange. A score of 0.5 is given where there are less severe shortcomings in the scope, speed or effectiveness of information provision, or the total number of tax information exchange agreements. A full score of 1 is given where tax information can be easily and effectively exchanged with and accessed in a large number of partner countries.

The main data source for this indicator is the Global Forum on Transparency and Exchange of Information for Tax Purposes, particularly Section C: Exchanging Information. This is supplemented by the review of FATF reports, specifically in relation to the recommendation on Other Forms of International Co-operation (Recommendation 40).

Illustrative examples:

- **Malaysia**: Malaysia is scored as 0.5 on tax information exchange (on demand) from 2009, when it committed to the adoption of international transparency and information exchange standards in tax matters. While Malaysia had long maintained an extensive tax treaty network,

[32] FATF GAFI (2008). Hong Kong, China, MER. p.178. Available at: https://www.fatf-gafi.org/content/dam/fatf-gafi/mer/MER%20Hong%20Kong%20full.pdf.coredownload.pdf
[33] FATF (2019). Hong Kong, China, MER. pp. 166-167. Available at: https://www.fatf-gafi.org/content/dam/fatf-gafi/mer/MER-Hong-Kong-China-2019.pdf.coredownload.pdf.

prior to 2009 these did not include provisions for the exchange of bank and other information. The OECD (2011) subsequently noted that only 18 out of 71 signed agreements adhered to international standards for effective information exchange.[34] In 2017 the Multilateral Convention on Mutual Assistance in Tax Matters came into effect in Malaysia, with Malaysia given a score of 1 in tax information exchange from this year.[35]

Other (Non-Tax) Information Exchange (OthInfoEx)

This indicator measures the strength of facilities for the international exchange of information and cooperation in non-tax related matters. Mutual Legal Assistance (MLA) mechanisms allow jurisdictions to request and receive crucial evidence and information from other countries, which can be pivotal in the investigation and prosecution of financial and other crimes with transnational dimensions. The exchange of information between Financial Intelligence Units, financial supervisors, and law enforcement agencies enables the sharing of intelligence on suspicious transactions and networks, as well as the detection and prevention of money laundering, and facilitates joint international investigations.

A score of 0 is given for this indicator where a jurisdiction offers very limited, highly ineffective, or no cooperation with foreign counterparts. A score of 0.5 is given where a jurisdiction offers some level of cooperation with foreign counterparts, but this is not always offered in a timely or rapid manner (no prioritization), and/or not provided on a spontaneous basis (without a formal request). There may also be a lack of cooperation between agencies such that the law enforcement authorities are not fully authorised to conduct investigations on behalf of foreign counterparts, where permitted by domestic law. This indicator also assesses the scope of information exchanged, as a lack of provision for certain types of information may result in regulatory blind spots and discrepancies across jurisdictions that can be exploited by actors engaged in illicit activities. A full score of 1 is given where authorities can rapidly and effectively exchange international information and cooperate in investigations.

The principal data source for this indicator are FATF report assessments of Recommendation 40 - Other Forms of International Cooperation,[36] supplemented with direct reviews of national laws and other jurisdiction-specific sources.

Illustrative examples:

- **United Arab Emirates:** According to FATF (2008) the UAE had mechanisms in place to exchange information and cooperate with foreign counterparts, principally through the UAE National Anti-Money Laundering and Combatting Financing of Terrorism and Financing of Illegal Organizations Committee (NAMLCFTC), established in 2000. However, there were limitations within the provisions under which the Central Bank, ESCA, or Ministry of Economy may share confidential information with foreign counterparts, as well as concerns regarding

[34] OECD (2011), Global Forum on Transparency and Exchange of Information for Tax Purposes Peer Reviews: Malaysia 2011: Phase 1: Legal and Regulatory Framework, Global Forum on Transparency and Exchange of Information for Tax Purposes, OECD Publishing, Paris, https://doi.org/10.1787/9789264126657-en.
[35] OECD (2019), Global Forum on Transparency and Exchange of Information for Tax Purposes: Malaysia 2019 (Second Round): Peer Review Report on the Exchange of Information on Request, Global Forum on Transparency and Exchange of Information for Tax Purposes, OECD Publishing, Paris, https://doi.org/10.1787/d422824d-en.
[36] The FATF Recommendations. International standards on combating money laundering and the financing of terrorism & proliferation (November 2023). Paris. pp.116-121. Available at: https://www.fatf-gafi.org/content/dam/fatf-gafi/recommendations/FATF%20Recommendations%202012.pdf.coredownload.inline.pdf.

the timeliness and effectiveness of information exchange.[37] Subsequently, the UAE took steps to enhance international cooperation by entering into memoranda of understanding with relevant regulatory bodies, which has in-turn supported improved information exchange with equivalent foreign entities (FATF FUR 2014). However, decisive reforms in this area were only implemented with the Federal Decree-law No. 20 of 2018 on Anti-Money Laundering and Countering the Financing of Terrorism and Financing of Illegal Organizations, which mandates that competent authorities have the capability for extensive international cooperation in relation to money laundering (ML), terrorist financing (TF), and predicate offenses.[38] The UAE is thus scored 0.5 on this indicator from 2000-2017, and 1 from 2018.

Automatic Exchange of Information (AEOI) (EU_SD, OECD_CRS, FACTA)

In contrast to on-request international tax information exchange agreements, automatic exchange of information (AEOI) agreements entail the continuous cross-border sharing of information between financial firms and national tax authorities in multiple countries. Due to their pervasive scope and proactive operation, these AEOI facilities are typically regarded as being substantially more effective at detecting and deterring international tax evasion than standard tax information exchange facilities. AEOI agreements also provide facilities for overriding underlying financial secrecy laws within the specific context and scope of the intergovernmental information sharing facilities thereby created.

The RIFF separately assesses the adoption of two multilateral AEOI frameworks—the EU Savings Directive, and OECD Common Reporting Standard (CRS)—as well as cooperation with the US Foreign Account Tax Compliance Act (FATCA). The EU Savings Directive, adopted in 2003, and entering into force in 2005, is the older and weaker of the two multilateral AEOI frameworks assessed, with major limitations including the coverage of only bank accounts belonging to natural rather than legal persons, and the provision of an opt-out option allowing EU states to adopt a 20% withholding tax on dividend payments to non-residents in lieu of information exchange. The EU Savings Directive was repealed and superseded following the OECD's 2014 negotiation of the Common Reporting Standard, which is open to adoption by all countries, and closes key Savings Directive loopholes. The US Foreign Account Tax Compliance Act was adopted by the United States in 2010, and came into force in 2014, and unilaterally imposes requirements on foreign financial firms to report US person financial data, either directly or indirectly via intergovernmental agreements. A score of either 0 or 1 is given to jurisdictions for each of these three AEOI mechanisms, depending on whether they have been adopted

Shell Banks (ShellBanks)

Shell banks are financial institutions that lack a meaningful physical presence in their jurisdiction of incorporation. This poses inherent problems for the operationalization of regulatory, including AML/CFT controls. By prohibiting the establishment of shell banks, and imposing restrictions on

[37] United Arab Emirates. MENAFATF (2008). pp 145-150. Available at: https://www.uaefiu.gov.ae/media/5yzfqknu/uae-mutual-evaluation-report-2008.pdf.
[38] United Arab Emirates. FATF MER (2020). p.276 referencing Federal Decree-law No. (20) of 2018 Anti-Money Laundering and Countering the Financing of Terrorism and Financing of Illegal Organizations Available at: https://www.centralbank.ae/media/05mli3jt/federal-decree-law-no-20-of-2018.pdf

the ability of other financial institutions to maintain correspondent relationships with shell banks, jurisdictions aim to mitigate risks associated with money laundering, terrorist financing, and other financial crimes.

A score of 0 is given where shell banks are not prohibited in the jurisdiction, and/or financial institutions are not prohibited from entering into or continuing correspondent banking relationships with shell banks. A score of 0.5 is given where some regulations exist constraining shell bank formation (e.g. requirements for banks to acquire a license and be physically present in the jurisdiction), but shell bank establishment, operation, or the maintenance of correspondence relationships with shell banks are not expressly prohibited ("ensured"); potentially leading to gaps in shell banking restrictions. A 0.5 score may also be given where enforcement mechanisms or oversight are otherwise inadequate in relation to shell banking restrictions, as well as cases where legal terminology/language creates ambiguities that could potentially hinder effective enforcement. A score of 1 is given where shell banks cannot be established, and financial institutions are prohibited from maintaining correspondent banking relationships with shell banks.

The principal data sources for this indicator are FATF reports, particularly in relation to Recommendation 13 - Correspondent banking.[39]

Illustrative examples:

- **Panama:** Through Agreement No. 3-2001 of the Superintendencia de Bancos, Panama introduced restrictions on shell banks, stipulating that representation licenses "can only be granted to banks with physical presence and main branch constituted outside the country, with management and substantial operations in their country of origin, which must be subject to the control and supervision of a Foreign Supervising Entity".[40] Further amendments were made to ensure the physical presence of banks.[41] However, shell banking restrictions remained incomplete until 2015, when Agreement 10-2015 of the SBP explicitly prohibited the establishment or continuation of relationships, whether inter-bank or correspondent, with banks lacking physical presence in their jurisdiction of origin or not affiliated with a financial group subject to consolidated supervision.[42] Panama thus scored 0.5 from 2001-2014, with this being upgraded to 1 from 2015.

Client due diligence (CDD)

When financial institutions fail to conduct adequate background checks on their clients, they risk facilitating money laundering and other forms of financial crime. Client due diligence (CDD) is therefore a key tenet of the international regulatory architecture for AML/CFT. In their oversight role of the financial sector, national governments should ensure there are clear obligations on financial institutions to assess customers for their risk of involvement in financial crime.

[39] FATF (October 2016). FATF Guidance on Correspondent Banking Services, FATF, Paris www.fatf-gafi.org/publications/fatfrecommendations/documents/correspondent-banking-services.html
[40] Superintendencia de bankos. Agreement No. 3-2001. Article 13. Available at: https://www.superbancos.gob.pa/documents/laws_regulations/rules/2001/acuerdo_3-2001.pdf
[41] Republic of Panama Superintendency of Banks. RESOLUTION JD 32-2005. Article 1. Available at:n https://www.superbancos.gob.pa/documents/laws_regulations/resolutions_BD/2005/Resolution_032-2005_en.pdf
[42] Panama, FATF MER, 2018. p.148. Available at: https://www.fatf-gafi.org/content/dam/fatf-gafi/fsrb-mer/MER-GAFILAT-Panama-Jan-2018.pdf.coredownload.inline.pdf

This indicator assesses the strength of the legal and regulatory obligations on financial institutions operating in a jurisdiction to undertake CDD. The FATF recommendations (last updated February 2023) set out the elements of good practice for CDD at financial institutions, the foundations of which are collection and verification of identity and beneficial ownership information, as well as ongoing monitoring of customer transactions. This indicator as assessed here only encompasses financial institutions, and not other types of businesses required to conduct CDD (commonly referred to as Designated Non-Financial Businesses and Professions). It also does not assess the rigor of implementation of CDD requirements, but rather only whether legal requirements are in place and implemented at a basic level.

A score of 0 is given for this indicator where there are no legal provisions for CDD, or the gaps in the legal and regulatory framework are so wide-ranging that a CDD regime cannot be reasonably said to exist. A score of 0.5 is given where there are provisions for CDD, but the regime is incomplete, with gaps relating to important elements of the CDD legal and regulatory framework, or significant problems that have been identified in relation to the implementation of the framework. A full score of 1 is given where a comprehensive legal and regulatory framework is in place for CDD, and there is evidence to suggest this is implemented. Jurisdictions may still be given a full score if gaps in the AML/CFT framework are assessed as minor, for example if issues relate to what is deemed to be a non-material sub-sector of financial services.

The principal data sources for this indicator are FATF reports, AML/ CFT laws and regulations, including financial sector directives, and, where available, reviews of country controls by other organizations such as international financial institutions or regional AML/ CFT bodies.

Illustrative examples:

- **Gibraltar**: In 1995 the Criminal Justice Ordinance Act introduced requirements for financial institutions to verify the identity of clients, and to form a clear understanding of their business.[43] However, there have been persistent gaps in these measures. Among other issues, a 2019 review conducted by the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (Moneyval) found that in the case of legal arrangements, financial institutions were only required to identify beneficiaries holding more than 25% of the property. This is a loophole which could potentially be exploited for money laundering.[44] Gibraltar thus scores 0.5 from 1995 onwards, and is not as of 2020 upgraded to a full score of 1.

- **Barbados:** The 2002 Money Laundering and Financing of Terrorism (Prevention and Control) Act introduced basic CDD provisions. There were however important gaps in these requirements, including the lack of an obligation to conduct ongoing CDD. In 2011 amendments to the Money Laundering and Financing of Terrorism (Prevention and Control) Act (2011) addressed these gaps. A 2018 review of the CDD regime referenced the 2011 law, and identified only minor gaps, including a lack of clear CDD requirements for the beneficiaries of life insurance policies.[45] Barbados is thus scored as 0.5 from 2002, which is

[43] International Monetary Fund, Gibraltar: Detailed Assessment Report on Anti-Money Laundering and Combating the Financing of Terrorism (2007), p.157. Available at: https://rm.coe.int/gibraltar-detailed-assessment-report-on-anti-money-laundering-and-comb/1680716081
[44] Gibraltar, MER 2019, pp.186 – 190. Available at: https://www.fatf-gafi.org/content/dam/fatf-gafi/fsrb-mer/Moneyval-Mutual-Evaluation-Report-Gibraltar.pdf.coredownload.inline.pdf
[45] Barbados, MER, 2018, p.117. Available at: https://www.fatf-gafi.org/content/dam/fatf-gafi/fsrb-mer/MER-Barbados.pdf

upgraded to 1 from 2011 onwards.

Enhanced Due Diligence (ECDD) on Politically Exposed Persons (PEPs) (PEPsECDD)

FATF defines Politically Exposed Persons (PEPs) as “individuals who are or have been entrusted with prominent public functions by a foreign country, for example Heads of State or of government, senior politicians, senior government, judicial or military officials, senior executives of state owned corporations, important political party officials”.[46] It makes a distinction between foreign and domestic PEPs, and extends the definition to cover individuals who have been entrusted with a prominent function by an international organisation. Numerous high-profile cases have demonstrated that PEPs are at an elevated risk of involvement in corruption. They may seek to launder illicitly acquired wealth through financial institutions and, as a result, their background and transactions should be subject to more detailed review. The indicator assesses the strength of legal and regulatory obligations on financial institutions operating in a jurisdiction to undertake Enhanced Client Due Diligence (ECDD) on PEPs. The FATF recommendations (last updated February 2023) set out the key elements of good practice as assessed here, which include taking reasonable measures to establish the source of wealth / funds of PEPs.

A score of 0 is given for this indicator where there are no provisions for ECDD on PEPs, or the gaps in the legal and regulatory framework are so wide-ranging that an ECDD regime for PEPs cannot be reasonably be said to exist. A score of 0.5 is given where there are provisions for ECDD on PEPs but the regime is incomplete, and gaps relate to important elements of the legal and regulatory framework, or significant problems have been identified in relation to the implementation of the framework. The most common gaps which prevent jurisdictions from obtaining a full score on this indicator include the adoption of a PEP definition not in line with FATF standards, e.g. with the definition (and therefore controls) not extending to family members and close associates of PEPs. Other issues preventing the awarding of a full score included incomplete or unclear requirements related to source of wealth and funds checks. A full score of 1 is given where there is a comprehensive legal and regulatory framework for ECDD on PEPs, and evidence to suggest this is satisfactorily implemented. Jurisdictions may still receive a full score of 1 if any gaps are assessed as minor, for example if they relate to what is deemed to be a non-material sub-sector of financial services.

The principal data source for this indicator are FATF reports, the review of jurisdiction AML/CFT laws and regulations including financial sector directives and, where available, reviews of country controls by additional organizations such as international financial institutions or regional AML/CFT bodies.

Illustrative examples:

- **Belgium:** In 1993 Belgium introduced legislation (known as La Loi du 11 Janvier 1993) which required financial institutions to conduct background due diligence on clients, while highlighting PEPs as a category of customer requiring additional review.[47] A 2015 review

[46] FATF glossary (Accessed January 2014). Available at: https://www.fatf-gafi.org/en/pages/fatf-glossary.html#accordion-a13085a728-item-054eacaff0

[47] Belgium, MER, 2005, p.85. Available at: https://www.fatf-gafi.org/content/dam/fatf-gafi/mer/MER%20Belgium%20full%20FRE.pdf.coredownload.pdf

conducted by FATF identified several shortcomings with the law, however. These included that the definition of a PEP neither clearly encompassed domestic PEPs, nor PEPs at international organisations. PEP status was also considered to lapse one year after leaving public office, a timeframe which can be considered too short.[48] In 2017 Belgium addressed these issues through the Act of 18 September 2017 on the Prevention of Money Laundering and Terrorist Financing and Restriction of the Use of Cash.[49] Belgium consequently is scored at 0.5 from 1993 to 2016, with this being upgraded to 1 in 2017.

Obligation to report suspicious transactions (STRoblig)

The international AML/CFT regime relies on financial institutions to report to a country's financial intelligence unit when they have reasonable grounds to suspect that funds are the proceeds of criminal activity or are related to terrorist financing. Financial institutions raise these concerns through what are known as Suspicious Transaction Reports (STR). These need to be filed promptly if authorities are to act on the concerns raised. The indicator assesses whether financial institutions are required by law to promptly report suspicious transactions to a financial intelligence unit. The indicator does not assess the effectiveness of suspicious transaction reporting regimes within the jurisdiction, but rather focuses on the legal obligation to report. Many commentators have raised concerns around the efficacy of suspicious transaction reporting regimes. These systems often generate high volumes of reports which authorities do not necessarily have the capacity to adequately investigate.[50]

A score of 0 is given where there are no obligations for financial institutions to report suspicious transactions to the Financial Intelligence Unit (FIU). A score of 0.5 is given where there are obligations for financial institutions to report suspicious transactions to FIU, but there are gaps in the legal framework which mean some suspicious transactions may not be reported. The types of gaps in legal frameworks which prevented jurisdictions from achieving a full score included the permission of significant time lags between identification of suspicion transactions and reporting; unreasonable exemptions or reporting thresholds, which may mean some suspicious transactions are not reported; and the lack of a requirement to report incomplete or attempted transactions. A full score of 1 is given where there is a clear and enforceable obligation for financial institutions to report suspicious transactions to the FIU.

The principal data sources for this indicator are FATF reports, the review of AML/CFT laws and regulations, including financial sector directives and, where available, reviews of country controls by other organizations such as international financial institutions or regional AML/CFT bodies.

Illustrative examples:

- **Canada:** The Proceeds of Crime (Money Laundering) Act (1991) established obligations for financial institutions to report suspicion. FATF reviews in 2008 and 2016 however identified issues with the legal framework on STRs in Canada. Most significantly, financial institutions

[48] Belgium, MER, 2015, p.176. Available at: https://www.fatf-gafi.org/en/publications/Mutualevaluations/Mer-belgium-2015.html, p.176
[49] Belgium, FUR, 2018, p.6. Available at: https://www.fatf-gafi.org/content/dam/fatf-gafi/fur/FUR-Belgium-2018.pdf.coredownload.inline.pdf
[50] For discussion see Haberly, D., Shipley, T., and Barrington, R. (2023). Corruption, shell companies, and financial secrecy: providing an evidence base for anti-corruption policy. Centre for the Study of Corruption, University of Sussex.

were only required to report suspicion within 30 days of the detection of activity. This cannot be considered a prompt reporting requirement.[51] As confirmed by a follow-up review by FATF in 2021, the lack of a prompt timeframe for reporting was addressed through the Proceeds of Crime (Money Laundering) and Terrorist Financing Act (PCMLTFA) in 2019.[52] In consequence, Canada scores 0.5 from 1991 to 2018, and 1 from 2019 onwards.

Legal protection for whistleblowers (Whistleblowers)

Whistleblowers in the financial sector are an important means by which authorities can become aware of individuals and institutions implicated in money laundering and other forms of financial crime. If whistleblowers are to come forward, they must feel protected from any potentially negative repercussions. The indicator assesses whether whistleblowers at financial institutions are protected in law from criminal or civil liability if they report suspicion in good faith to national authorities. It does not assess the strength of whistleblower protections as implemented in practice.

A score of 0 is given where there is no legal protection for whistleblowers at financial institutions. A score of 0.5 is given where there are legal protections for whistleblowers at financial institutions who report suspicion in good faith, but gaps in the legal framework exist that could lead to whistleblowers being exposed to repercussions. An example of a gap preventing a jurisdiction from receiving a full score is where provisions de not explicitly extend to all types of staff at financial institutions, including directors and employees. A full score of 1 is given where there is full legal protection for whistleblowers at financial institutions if they report suspicion in good faith.

The principal data sources for this indicator are FATF reports, the review of AML/CFT laws and regulations including financial sector directives and, where available, reviews of country controls by other organizations such as international financial institutions or regional AML/CFT bodies.

Illustrative example:

- **Romania:** Under Law 656/2002 Romania established that, provided reports are made in good faith, staff at financial institutions should not be subject to “any disciplinary, civil or penal repercussions.[53] A 2014 review by the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL), however, found the provisions to be only partially compliant with FATF recommendations. This was because protection appeared only to extend to suspicions directly related to money laundering or terrorist financing, and not reports concerning other forms of illicit activity. Through amendments to the 2019 AML/ CFT Law, Romania extended these protections to cover reports of any form of criminal activity, as confirmed by a 2023 FATF review.[54] Romania is thus scored 0.5 on this indicator from 2002 to 2018, and 1 from 2019 onwards.

[51] Canada, MER 2016, p.157. Available at: https://www.fatf-gafi.org/en/publications/Mutualevaluations/Mer-canada-2016.html
[52] Canada, FUR, 2021, p.3. Available at: https://www.fatf-gafi.org/content/dam/fatf-gafi/fur/Follow-Up-Report-Canada-2021.pdf.coredownload.inline.pdf
[53] Romania, MER, 2014, p.219. Available at: http://rm.coe.int/report-on-fourth-assessment-visit-anti-money-laundering-and-combating-/1680716481
[54] Romania, MER, 2023, p.266. Available at: https://www.fatf-gafi.org/content/dam/fatf-gafi/fsrb-mer/Romania-Moneyval-Mutual-Evaluation-2023.pdf.coredownload.pdf

No client tipping-off provisions (TippingOff)

Suspicious transaction reporting regimes can only be effective if customers do not become aware that they are under suspicion. A regulatory regime must therefore prevent staff from informing customers that they are under suspicion, commonly known as “tipping off”. The indicator assesses whether employees and directors at financial institutions are prohibited by law from tipping-off customers or other relevant actors about the scrutiny of suspicious transactions.

A score of 0 is given where there are no legal provisions which prohibit individuals at financial institutions from ‘tipping-off’ individuals connected to suspicious transaction reports (STRs). A score of 0.5 is given where there are legal provisions prohibiting tipping off, but there are gaps in the legal framework governing this prohibition. The types of gaps which prevented jurisdictions from receiving a full score included the prohibition on tipping off not clearly extending to all staff at financial institutions; restrictions applying only to the tipping off of customers, and not other connected parties; and prohibitions on disclosure only applying to the filing of STRs, and not other forms of information. A score of 1 is given where there are full legal provisions which prohibit individuals at financial institutions from ‘tipping-off’ individuals connected to STRs.

The principal data sources for this indicator are FATF reports, the review of AML/ CFT laws and regulations including financial sector directives and, where available, reviews of country controls by other organizations such as international financial institutions or regional AML/ CFT bodies.

Illustrative example:

- **Cayman Islands:** Through the 1996 Proceeds of Criminal Conduct Law (PCCL), the Cayman Islands introduced prohibitions on customer tipping off. A 2019 FATF review, however, identified a key gap in the law, namely that it only applied if the customer was under formal investigation (as opposed to simply being under suspicion).[55] Amendments to the Proceeds of Crime Law in 2019 made clear that no tipping off provisions apply regardless of whether or not the disclosure of information had resulted in an investigation.[56] The Cayman Islands are thus scored at 0.5 from 1996 to 2018, and at 1 from 2019 onwards.

[55] Cayman Islands, MER, 2019, p.223. Available at: https://www.fatf-gafi.org/content/dam/fatf-gafi/fsrb-mer/CFATF-Cayman-Islands-Mutual-Evaluation.pdf.coredownload.pdf
[56] Cayman Islands, FUR, 2021, p.8. Available at: https://www.fatf-gafi.org/content/dam/fatf-gafi/fsrb-fur/CFATF-2nd-Follow-Up-Report-Cayman-Islands.pdf.coredownload.pdf

Money laundering criminalisation (drug-related / non-drug predicate offences) (MLcrim_drugs, MLcrim_oth)

Enacting legislation which criminalises money laundering is the basic premise on which AML regimes are based. These indicators assess whether a jurisdiction has criminalised money laundering as defined in the Vienna and Palermo Conventions. Many countries historically criminalised the laundering of funds from drug-related crimes at an earlier date than the laundering of funds from a wider range of other predicate offences. The RIFF therefore scores the criminalisation of money laundering linked to drugs-related crimes, and the criminalisation of money laundering linked to broader predicate offences, as two separate indicators.

A score of 0 is given where money laundering in connection with drug-related / other predicate crimes is not explicitly criminalised in law. A score of 0.5 is given if there is partial criminalisation of money laundering in connection with drug-related / other predicate crimes, but there are gaps in the legal framework which could undermine enforcement, such as where sanctions for money laundering are clearly not severe enough to be dissuasive, or do not apply to legal entities. A full score of 1 is given where money laundering in connection with drug-related / other predicate crimes is fully criminalised in law. A full score of 1 may still be given in cases where only minor gaps in AML criminalisation exist, for example in relation to self-laundering of funds, or minor omissions in the types of predicate offences formally listed in money laundering laws.

The indicator draws principally on FATF and US International Narcotics Control Strategy Reports.

Illustrative examples:

- **British Virgin Islands (BVI):** As confirmed ·by a 2008 evaluation by the Caribbean Financial Action Task Force, in 1992 BVI criminalised money laundering associated with drugs crimes through the Drug Trafficking Offences Act (1992). It subsequently expanded criminalisation of money laundering from a range of other forms of criminal activity through the Proceeds of Criminal Conduct Act (1997).[57] BVI is thus scored at 1 on drug-related money laundering criminalisation from 1992, and at 1 on money laundering criminalisation for other predicate offences from 1997.

- **China:** In 1997 China amended its Criminal Law to include a specific article concerning the crime of money laundering. Reviews conducted by FATF in 2007 and 2019 found China to be partially compliant in relation to its recommendations on money laundering criminalisation. This was due to the presence of various gaps in the legislation, including a lack of ability to hold legal entities criminally liable for money laundering. FATF also questioned whether prospective sanctions for money laundering were sufficiently dissuasive.[58] China is thus scored at 0.5 on both drug and non-drug-related money-laundering criminalisation from 1997 onwards, with this score remaining subsequently unchanged due to a lack of evidence that deficiencies have been addressed.

[57] BVI, MER, 2008, pp.6-7. Available at: https://www.cfatf-gafic.org/index.php?option=com_docman&Itemid=414&task=doc_download&gid=140&lang=en
[58] China, MER, 2019, pp.185 – 187. Available at: https://www.fatf-gafi.org/content/dam/fatf-gafi/mer/MER-China-2019.pdf

Terrorist financing criminalisation (TFcrim)

Terrorist individuals and organisations have long used the international financial system to raise and manage funds used for terrorism. Funds for terrorist financing may be derived from legitimate as well as illegitimate sources, meaning that countries require specific legislation to counter this crime, as distinct from money laundering criminalisation. This indicator assesses whether a jurisdiction has criminalised the financing of terrorist acts, and the provision of financing to terrorist individuals and organisations.

A score of 0 is given where terrorist financing is not explicitly criminalised in law. A score of 0.5 is given where there are provisions criminalising terrorist financing, but there are significant gaps in the legal framework governing this criminalization, such as where criminal liability does not clearly apply to legal entities in additional to individuals A full score of 1 is given where terrorist financing is fully criminalised. Jurisdictions may still receive a full score of 1 where only minor gaps are assessed, for example where the wording of legal documents does not explicitly refer to the financing of travel or a single element of the financing process.

The indicator draws principally on FATF and US International Narcotics Control Strategy Reports.

Illustrative example:

- **Mauritius:** In 2002 Mauritius introduced CFT legislation through the Prevention of Terrorism Act (2002).[59] A 2018 review conducted by the Eastern and Southern Africa Anti-Money Laundering Group (ESAAM), however, found the country to be only partially compliant on CFT measures. The legal framework, importantly, did not criminalise the provision of funds to individual terrorists and organisations when a terrorist act did not occur.[60] A follow-up review confirmed that the Convention for the Suppression for the Financing of Terrorist Act as amended by the Finance Act 2019 addressed this gap.[61] Mauritius is thus scored at 0.5 from 2002-2018, and at 1 from 2019 onwards.

Financial Intelligence Unit (FIU)

As defined by the Egmont Group, a Financial Intelligence Unit (FIU) functions as a ‘national centre for the receipt and analysis of suspicious transaction reports and relevant money laundering information, associated predicate offences, and terrorist financing’.[62] By serving as the key mediating institution between reporting private sector financial institutions and law enforcement, and a centralized hub for the analysis and investigation of data potentially related to financial crime, FIUs play a crucial role within national AML/CFT surveillance and enforcement systems.

The indicator establishes whether an FIU exists and is operational. It does not distinguish

[59] International Monetary Fund, Mauritius: Detailed Assessment Report on Anti-Money Laundering and Combating the Financing of Terrorism (2008). Available at: https://www.imf.org/external/pubs/ft/scr/2008/cr08319.pdf
[60] Mauritius, MER, 2018, p.144. Available at: https://www.fatf-gafi.org/content/dam/fatf-gafi/fsrb-mer/ESAAMLG-MER-Mauritius-2018.pdf.coredownload.pdf
[61] Mauritius, FUR, 2019, p.12. Available at: https://www.fatf-gafi.org/content/dam/fatf-gafi/fsrb-fur/ESAAMLG-Follow-Up%20Report-Mauritius-Sept-2019.pdf.coredownload.inline.pdf
[62] https://egmontgroup.org/about/financial-intelligence-units/

between different organisational models of FIUs, nor does it seek to assess whether an FIU is implementing its mandate effectively. All jurisdictions score 1 from the year in which their financial intelligence unit became operational.

The principal data sources for this indicator are the Egmont Group list of member FIUs, and FATF reports.

https://giace.org
gi-ace@sussex.ac.uk

Centre for the Study of Corruption
University of Sussex
Brighton
BN1 9QE