Secret structures, hidden crimes:

Urgent steps to address hidden ownership, money laundering and tax evasion from developing countries: Summary

Introduction

Tax evasion poses an acute challenge to developing and developed countries. From 2000 to 2010, illicit financial flows deprived developing countries of US$5.86 trillion. Tax evasion is not a victimless crime – for people in the developing world, the consequences of tax evasion can be a matter of life and death.

Companies and other legal structures that are anonymously owned and controlled are a key mechanism of tax evasion. Securing more disclosure about who owns and controls these vehicles would not only help prevent capital flight in future but may also bring trillions of dollars of offshore wealth back into the tax net. If countries could start to recover this untaxed wealth, it could have an enormous impact on people's lives.

Tax evaders use many of the same techniques to move their assets as criminals involved in corruption, terrorist financing, nuclear proliferation, arms smuggling and many other abuses. Therefore many of the measures taken to tackle these activities, especially around transparency, are the same.

This summary sets out how opaque ownership structures are a key tool for money launderers, and facilitate crime. It also shows how anti-money laundering frameworks provide an opportunity to secure transparency by revealing the identity of beneficial owners – the real people who own and control bank accounts and legal structures such as companies, trusts and foundations.

Anti-money laundering frameworks could also address tax evasion by wealthy individuals –and to a lesser extent corporations – by deterring and punishing the companies and professionals who facilitate these activities. The main way of doing this is by ensuring tax crimes are included as a predicate offence of money laundering, making it a criminal offence to help someone to conceal tax-evaded money. However, weak implementation of anti-money laundering standards and lack of effective monitoring and credible sanctions hamper the effectiveness of such measures.

Frameworks to address money laundering, including tax evasion, are largely developed. The Financial Action Task Force (FATF) – the global anti-money laundering body – released its latest set of recommendations in February 2012. Countries around the world must now transpose these frameworks into law and cooperate with their neighbours to enforce them. Political pressure is needed to make sure that essential improvements are made, the review of the EU's Anti-Money Laundering Directive (AMLD) in 2013 will be one of the biggest opportunities.

The problem: tax evasion, money laundering and hidden beneficial ownership

According to the Tax Justice Network (TJN) developing countries could be losing between $120-$160 billion per year of potential tax revenue on the interest and other income generated by their citizens' hidden offshore wealth. Christian Aid has found that, even using a very conservative estimate, developing countries lose the equivalent of US$160 billion per year to *tax evasion by multinational companies* using false invoicing and blatant transfer mispricing. If this sum were channelled to developing countries' budgets, with allocation unchanged it would be enough to save the lives of 1,000 children every day. Over the past decades, tax evasion by individuals has led to the accumulation of US$21–32 trillion of untaxed offshore wealth, according to recent research by the TJN. About 25-30% of this (US$5.3–9.6 trillion) is from developing countries.

Money laundering is the process of concealing the source of money obtained by illegal means. It can be easier to hide tax-evaded income because, unlike other criminal proceeds, the money generally comes from a legitimate source initially. This money only becomes illegal later on, when the full amount of tax due is not paid. This generally involves the taxpayer concealing or under-declaring their income. Tax evasion and money laundering therefore go hand in hand.

Hidden ownership facilitates tax evasion

Secrecy of ownership and control facilitates money laundering and keeps money untaxed. Much of the untaxed capital identified by TJN is held in the name of opaquely owned legal structures spanning various countries, between which money is shifted using phoney invoices and loans. Opaque ownership structures help conceal evaded tax and other criminal income by draping a veil of corporate secrecy around the 'taxpayer's' identity when they want to access the banking system, while opaque legal structures frustrate transparency initiatives such as international cooperation through tax information exchange. This makes it harder to identify which country to share the information with and makes the information shared much less useful.

Secrecy of ownership enables 'round tripping', where tax dodgers send their money out of the country, then pose as foreign investors to bring it back in, thereby cashing-in on tax breaks designed to attract foreign direct investment (FDI).

Hidden ownership facilitates corruption and crime

Beneficial ownership transparency would also help address illicit capital flight, which cost developing countries an estimated US$859 billion in 2010. These flows comprise proceeds of corruption, crime and tax evasion. The United Nations Office on Drugs and Crime (UNODOC) estimated the total value of money laundering to be around US$2.1 trillion in 2009 – equivalent to 3.6% of global GDP.

The UN and World Bank STAR (Stolen Asset Recovery Initiative) published some 150 corruption cases involving hidden ownership of a corporate vehicle either to launder money or as part of the initial scam. Global Witness has produced a number of case studies on corrupt officials laundering their money abroad, while researchers have found that sub-Saharan Africa has lost US$700 billion to illicit capital flight since 1970, dwarfing its outstanding debt of US$175 billion. Corruption could also be curbed with strong AML rules.

Hidden ownership masks accountability for human rights and environmental violations

When a human rights violation takes place, those affected can find it difficult to take a case to court if the parent company or management further up the ownership chain cannot be identified. The same goes for environmental violations.

EU Member States have played a leading role in efforts to combat global climate change, for example by supporting forest-rich countries such as Indonesia to prevent deforestation and forest degradation. However, these efforts may well be undermined by the services provided by EU-linked secrecy jurisdictions, where opaque legal structures are used to launder the proceeds from forest destruction, illegal logging and tax dodging in Indonesia. Shell companies (companies which have very little or no assets or operations but are used to make transactions) have also been abused to undermine the EU's controversial Emission Trading System (ETS). In 2009, the European law enforcement agency Europol estimated that VAT (Value Added Tax) fraud linked to the EU ETS carbon credits was costing the EU €5 billion in lost taxes.

Use of complex structures to circumvent financial regulation

Before the financial crisis, many banks used complex and even illegal structures to hide losses that would later be bailed out by taxpayers. UK bank Northern Rock did this using an investment vehicle based in Guernsey registered in the name of a real charity, without the charity's knowledge. If ownership information was made publically available online people and organisations would be able to check if their identity was being abused in this way.

Tax avoidance

Greater organisational transparency and beneficial ownership disclosure would make it easier to understand aggressive tax planning and avoidance schemes that exploit legal loopholes when transactions take place between jurisdictions with different rules. Many of these schemes exist in a contested grey area between what is legal and illegal. One telling example of the impact of tax avoidance in developing countries is ActionAid's case study of UK brewing giant SABMiller. ActionAid found that, if the tax loopholes the brewer used could be closed, additional tax revenues in Africa from SABMiller alone would likely allow another 250,000 children to go to school.

How companies, trusts and other vehicles are abused

Trust and Company Service Providers

The challenges posed by unaccountable owners and shell companies are illustrated by rogue Trust and Company Service Providers (TCSPs), which can be used to set up companies, equivalent legal persons (i.e. foundations), and legal arrangements such as trusts. Second, they can play a role in running these vehicles, for example, acting as trustees or as company officers. Third, they can provide an address and mailbox for companies and other legal structures.

These functions can all be legitimate, but under current rules they can also be corrosive because they:

1. help provide opacity or even deception
2. set up shell companies and other opaque vehicles in various jurisdictions to take advantage of laxer anti-money laundering standards
3. set up structures that render the owners unaccountable for their actions and obligations.

Through the abuse of trusts and similar legal constructs, a person can legally dissociate themselves from ownership and therefore from taxes and other obligations, whilst retaining the option of the trust transferring the asset or income back to themselves later on. A trust normally has three components: settlor(s) who put the money in; trustee(s) who are responsible for looking after the money and transferring it to the intended beneficiary or using it as instructed; and the beneficiary. The trustee might have discretion to transfer the money back to the settlor – often ensured in an agreement known as a letter of wishes. For this reason, the arrangement should not have legal weight unless the settlor, the trustee and any letter of wishes linked to the trust are registered with the authorities. The same applies for similar constructions.

Setting up and selling legal structures without adequate customer checks

Under EU rules Companies can be set up and sold on by a TCSP without any due diligence because the transaction would generally fall below the €15,000 threshold (above which checks have to be done). Global Witness's investigation into alleged money laundering in Kyrgyzstan found companies set up by a UK company service provider had nominee shareholders and directors in the Seychelles, Russia and Panama. The British TCSP that registered the company therefore did not have a legal obligation to do the checks: this was left to the nominees. It is not clear what checks the nominees carried out on these companies, and no checks were carried out within the EU. FATF recommended that TCSPs should be one of the covered institutions meaning the organisations and professions that should be required to carry out customer due diligence under anti-money laundering rules.

Mailbox companies in lax jurisdictions can help money launderers

TCSPs are currently allowed to set up and provide an address for firms with no real operations in a jurisdiction that can then be used to take advantage of its laws. One such form of "regulatory arbitrage" is the hunt for extremely low tax rates.

TSCPs also provide the location for the infamous nameplate or mailbox companies that allow companies to locate in a jurisdiction with laws in place to protect financial secrecy, or with weak requirements to disclose ownership. This allows money launderers to take advantage of these jurisdictions' secrecy and weak AML standards. It is much easier to do this and to set up a front company in general if that company does not need to have any real operations.

Nominees and corporate company officers hide beneficial ownership

It is legal for nominees to charge a fee to record their name and pose as shareholders or company officers on official paperwork, obscuring the real beneficial owner(s).

Global Witness' Grave Secrecy report shows how these nominee arrangements frustrate investigations by obscuring who is really behind companies, and how companies which nominees notionally oversee can engage in extremely suspect activities, in this case moving hundreds of millions dollars from Kyrgyzstan via the UK.

"To summarise, five UK-registered companies shared three nominee directors in the Seychelles, and had Russian owners who 'held' their annual meetings on the same days at the same location in London, despite one of them being dead. Three of the companies – Mediton, Novelta and Nedox – were also all dissolved on the same day. These facts taken together suggest that the same individual or individuals are behind these companies, individuals whose identities remain hidden. The above information does not suggest that the service providers and nominees who fronted for the real beneficial owners of these five companies have done anything illegal. Neither does it prove illegal behaviour by the real beneficial owners..."
Global Witness (2012) Grave Secrecy, p.35

In many places it is not necessary to be a real person to act as a company officer, because a company is allowed to fulfil this role (known as a corporate company officer). By allowing nominees and companies to be registered as company officers, a state is accepting legal ownership information that does not have to correspond with beneficial ownership information.

Beneficial ownership: identification and disclosure

Beneficial owners' identities should always be verified when establishing a business relationship

Anti-money laundering standards create legal obligations for professionals and companies in sectors involved in making large financial transactions. Known as covered institutions, these professionals and companies are usually required to look out for suspected money laundering and report it. AML rules make it harder for individuals to cross borders with large amounts of cash. Out of the 70 jurisdictions in our sample (the main report compares the rules in 70 of the jurisdictions surveyed by TJN's mapping financial secrecy project), 52 monitor transnational flows of currency and other instruments, but 18 make no such requirements. These include some significant tax havens such as Luxembourg, Switzerland and Mauritius.

If covered institutions suspect money has been acquired illegally, they are required to reject the business and report it, generally through a "Suspicious Activity Report" (SAR). In 69 out of the 70 jurisdictions surveyed banks are required by law or regulation to record suspicious or unusual transactions to designated authorities in SARs. Because anti-money laundering rules make it harder for banks to accept cash or deposits from suspect individuals, money launderers set up shell companies and other structures before opening bank accounts in the name of these vehicles instead of using their real name.

At the EU level, customer due diligence rules must be improved so that they cannot be circumvented by opaquely owned vehicles, such as companies, foundations and trusts (or webs of such vehicles). A risk-based approach, as recommended by FATF, is meant to focus attention on situations where money laundering is most likely to happen. However, the EU uses a poorly transposed version of the risk-based approach, creating a loophole. EU rules, as they stand, mean that you only have to verify the beneficial owners' identity in high-risk cases. This does not make sense, because if the beneficial ownership information is hard to find or unconvincing, this is a clear indicator of risk. If Covered Institutions were required to verify the beneficial owner's identity each time as part of Customer Due Diligence, this would mean tax evaders would find it harder to access 'safe' banking systems within the EU, whatever the secrecy laws in a tax haven through which an individual was channelling their illicit money.

Disclosure requirements for companies

Currently very few countries adequately record who owns and controls legal structures. Even fewer countries make this information public, leaving most jurisdictions wide open to tax evasion and money laundering. First, governments should not simply rely on Covered Institutions to collect beneficial ownership information, which makes it much more likely that wrong-doers will slip through the net. Second, complex chains of opaque vehicles not only help to get around Customer Due Diligence when opening a bank account, they are also used to bamboozle law enforcement and tax authorities, frustrating prosecutions and asset recovery efforts. If information were collected in a government registry, it would be possible to find it more quickly and efficiently. Registers should be published online to allow public scrutiny.

Disclosure requirements for legal arrangements

When it comes to legal arrangements, such as trusts the secrecy is even greater, as many jurisdictions do not require registration. EU and other jurisdictions should require at the very least that trusts register with a central agency. Fiduciaries should also submit documents related to the legal arrangements to the registry in order for the arrangement to take effect. Information on all natural persons who are participants should be provided to the registry and updated annually. The registry would have a responsibility to verify the information provided and to apply sanctions for inaccurate reporting or failure to report. In addition, the TJN-CCFD report *Bank account registries in selected countries* found that at least five countries have bank account registries that are managed by their tax authorities. This measure could also be useful for addressing money laundering more broadly.

Accounting requirements for trusts and other arrangements

Many countries have accounting requirements for trusts but often these are riddled with loopholes – the most common is that if trusts do not have to register it is almost impossible to check if they are submitting accounts. It is important to ask for information about payees because otherwise the real beneficiary can get around the requirement by disguising any pay-outs they receive as disbursements for services provided to the trust, such as consultancy fees.

The full report surveys the rules around ownership and management transparency in 70 jurisdictions using data collected for TJN's mapping financial secrecy project. The results show that most jurisdictions would have to make changes in order to live up to the global FATF standard. If this is not done in the developed economies where so much dirty money ends up, tax evasion will continue to sap national budgets and impede development, with devastating human consequences for the world's poorest people.

Foreign and domestic tax crimes should be recognised as a predicate offence of money laundering

In addition to undisclosed ownership, a further problem is the impunity with which people who commit tax evasion – and the professionals who facilitate it – are able to operate. This is aggravated because of the partial or complete failure of various jurisdictions to include foreign and domestic tax crimes within their money laundering frameworks. Most jurisdictions consider money laundering to have taken place once it is proved that the money was wholly or partially the proceeds of a crime known as *a money laundering predicate offence*. A predicate offence is a crime that, either practically or in the eyes of the law forms an essential component of another crime. To date, most countries' lists of offences that predicate money laundering include at least drug trafficking, organised crime, smuggling and terrorist activities. In many countries, all crimes or all serious crimes count. Going still further, in some jurisdictions, if proof cannot be supplied that money was obtained legally then prosecution can be brought for money laundering. In the EU, money laundering rules require states to treat crimes that take place abroad, as a predicate offence, but only if the crime that took place abroad is also recognised in domestic law as a 'serious' crime (i.e. one with a maximum guideline sentence above one year, or a minimum guideline sentence above six months). This is known as *dual criminality*. One problem with this is that even large-scale tax violations are only viewed as misdemeanours or as a civil matter in several Member States. So for some jurisdictions within and outside the EU, the first step is to make tax evasion a crime, or to widen the scope of tax offences that are viewed as serious. Within the EU, drug trafficking, terrorism and corruption are automatically considered as predicate offences of money laundering regardless of the guideline sentences; this approach should also be applied to tax crimes.

In 2012, FATF recommended that tax crimes should be made a predicate offence of money laundering. This prompted Singapore, one of the world's largest financial centres, to reaffirm its commitment to making foreign and tax crimes a predicate offence – due to come into force in 2013. Making tax evasion a predicate offence means that a jurisdiction has to consider it in Customer Due Diligence, and in AML enforcement and cooperation. The FATF transposition represents a chance to make sure that not only individuals and companies committing illegal tax evasion are held to account, but also the professionals facilitating it.

Why a strong definition of tax crimes is crucial

FATF recommendations do not define "tax crimes" and the concept varies considerably between jurisdictions. This can obstruct cross-border cooperation and lead to certain types of tax crime not being covered.

When transposing FATF standards into law governments should define tax crimes to include all intentional underpayment of tax, including all direct or indirect taxes.

Putting anti-money laundering standards into practice

Existing AML standards are being poorly enforced. The amounts frozen due to AML measures in various jurisdictions are tiny compared to the US$2.1 trillion that UNODOC estimate was laundered in 2009, or the estimated US$859 billion of illicit flows from developing countries in 2010. FATF mutual evaluations do not take enough account of this practical question of implementation and results, as they focus too much on legislation. Results of evaluations also appear to be politically biased.

A further problem is that money laundering prosecutions are not being brought with sufficient regularity, and sanctions are not tough enough to create a deterrent effect. For example, in the USA the recent fine of US$340 million to Standard Chartered for concealing illegal sanctions-busting transactions with Iran was ridiculously small when compared with the US$250 billion worth of transactions the bank had handled as a result of this activity.

Removing obstacles to international cooperation

The new FATF standards seek to promote international cooperation, which is essential when dealing with cross-border money laundering and tax evasion. Currently many jurisdictions cooperate less fully on tax crimes than on other matters, and dual criminality requirements are a considerable obstacle to AML cooperation. Countries such as Luxembourg should also refrain from making exemptions in regard to AML cooperation when it concerns tax crimes.

Banking secrecy, data protection and group compliance

In some jurisdictions, banking secrecy laws prevent the sharing of information with other jurisdictions on tax evasion and other forms of money laundering. FATF's latest recommendations state that countries should: *"…not refuse to execute a request for mutual legal assistance on the grounds that laws require financial institutions to maintain secrecy or confidentiality"*.

The EU has made good steps in this direction, with the draft EU-Liechtenstein tax fraud agreement. The section on administrative cooperation in tax matters would require that information requests cannot be refused simply because the information is held by a bank or anonymous investment vehicle.

Equally, data protection laws sometimes prohibit the sharing of information on customers transnationally within a multinational bank. Data protection laws should be amended so that information needed for money laundering checks can be shared within multinational groups. Public institutions' AML compliance must be supervised, as highlighted by the case of the European Investment Bank and Commonwealth Development Corporation (discussed in the full report).

Who really benefits from the money laundering and tax evasion economy?

A light touch approach to regulation, and an 'anything goes' approach to attracting finance and customers can benefit the financial sector and bring money into an economy. However, it is not a sustainable way of boosting growth; it creates little employment and can create destabilising economic conditions beyond a government's control.

Banks in EU Member States and other developed countries are targeted by tax evaders from developing countries because they are perceived as the safest place to invest, while many states have actively adopted 'beggar thy neighbour' tax competition policies, looking to attract illicit capital from abroad to swell their financial sectors. In the USA, it is legal to handle the proceeds of various crimes committed abroad.

The economic benefits of becoming a tax haven are likely to be small, and may be negative. The UN Conference on Trade and Development (UNCTAD) 2012 *World Investment Report* found that countries which set themselves up as tax havens benefit little from the kind of FDI this attracts. For smaller conduit havens, the benefits are even less clear, as simply being a nominal paper or electronic destination generates few jobs, skills or revenues.

Equally, becoming a money laundering centre has its own risks. It encourages weak oversight and cultivated ignorance, meaning integrity breaks down, often leading to banking crises, up to and including the banks' own staff defrauding it to the point of bankruptcy. Lax financial regulation, manipulation of transnational chains of legal structures, and tax evasion all played a significant role in the financial crisis. One of the main reasons that this has been allowed to happen and continue is not because it benefits the population at large, but because it benefits a small, politically powerful interest group.

Political processes and opportunities to tackle hidden ownership and tax-related money laundering

The transposition of the FATF anti-money laundering standards are the largest political opportunity as it is taking place in 180 jurisdictions around the globe. But FATF standards are non-binding and leave much leeway for interpretation so strong public pressure is needed to secure effective standards. FATF transposition provides a 'moment for change', creating international pressure on countries whose standards are lagging. It also helps to create momentum as countries see benefits when their good practices are reciprocated, and helps to assuage concerns about any perceived competitive disadvantage that could be created by strong standards.

The EU's approach is crucial

- **At the EU level, the Directorate General for Internal Market and Services (DG MARKT) is in charge of drafting a new proposed directive that is scheduled to come out in early 2013.** This will first be agreed with heads of other commission departments who will also offer input, before being discussed by the European Parliament and Member States. These are minimum standards and Member States are free to go further.

- **The European Parliament expressed a clear desire for increased transparency and tougher rules in various statements, including in April 2012:**

  "strengthening the regulation of, and transparency as regards, company registries and registers of trust is a prerequisite for dealing with tax avoidance".

- **A strong EU directive would have clear implications for European tax havens outside the EU**, including the UK's three Crown Dependencies (which include Jersey) and 14 Overseas Territories (OTs), which include the British Virgin Islands and Cayman Islands. These jurisdictions are crucial players in global money laundering and tax dodging. The idea that Britain has no control over them is untrue – the OECD found that:

  "from a constitutional perspective the UK has unlimited power to legislate for the OTs… the UK stated that it may be a matter of good policy and administration to consult the OTs rather than legislate directly".

- **The next review of these territories should consider harmonising their money laundering, financial regulation and accounting standards with the United Kingdom's.**

- **The three European Economic Area (EEA) members, including Norway, Liechtenstein and Iceland, would generally be expected to transpose EU Internal Market regulations such as the AMLD.** The European Savings Tax Directive has demonstrated the pressure the EU can put on third countries closely linked to it – such as Switzerland, San Marino and Andorra – to move towards better standards.

Banks support public beneficial ownership registries as part of the AMLD

The European Banking Federation (EBF), which represents some 5,000 European banks, supports the idea of government registries of beneficial ownership information – at least for companies.

Other opportunities

USA money laundering review and executive support for ownership transparency: On 12 November 2012 the US administration announced it would undertake a holistic review of the USA's money laundering standards.

G20: In 2010 the G20 Anti-Corruption Working Group committed to improve AML rules, implement whistle-blower protection, and sign the UN Convention Against Corruption.

UN Convention Against Corruption (UNCAC): While FATF can only issue recommendations, UNCAC has the force of international law. It mandates states to require financial institutions to identify beneficial owners.

Conclusions and recommendations

Countries that aim to attract illicit inflows, or turn a blind eye to them, are undermining development by leaving their financial systems wide open to tax evaded income and other laundered money from the global south. These inflows of dirty money mainly benefit a small interest group, and are almost certainly detrimental to the broader public interest in these countries. Lax financial regulation, manipulation of chains of legal structures, and tax evasion have all played a significant role in the financial crisis. The effect of the crisis is still being felt in many of the destination tax havens of the developed world and the power of these interest groups is a major reason why this problem escalated and has not been satisfactorily addressed.

Tax evasion has already cost developing countries trillions of dollars and has locked many in a debt trap. Revealing the hidden owners and controllers of bank accounts, trusts and companies would be a hugely important step, addressing tax evasion and bringing offshore wealth back into the tax net. Transparency of beneficial ownership would remove a cloak that makes tax evasion and myriad other crimes possible and profitable.

However, beneficial ownership disclosure is not a silver bullet: it is a crucial part of the package of measures needed to reduce tax evasion at a global level. Momentum is building for two other measures, notably country-by-country reporting and automatic information exchange, but there would be many circumstances where information exchange could be undermined with opaque legal structures and hidden ownership.

The transposition of the new FATF standards into law provides opportunities that cannot be missed. This is a chance to regulate the tax planning industry as well as deter individual tax evaders. Identification and disclosure of beneficial ownership and tax crimes as a predicate offence of money laundering must be set into concrete laws, which must be properly enforced and complied with.

Recommendations

Ensure full beneficial ownership disclosure and prevent misuse of legal structures

Register all legal structures and their beneficial ownership information. Information about all forms of legal structure should be collected and verified by national authorities as a condition of establishing the structure in that jurisdiction. In the case of legal structures such as trusts and foundations, these should be required to register in any country where there is a bank account in the name of the arrangement. The names of fiduciaries and settlors should also be reported. This is especially important for discretionary structures with no predetermined beneficiary.

Publish all legal structure ownership and control records online, available without charge. The information should be published, for free, online, electronically tagged and in a searchable format.

Ensure definitions of beneficial ownership include both control and ownership. For taxation purposes, it is essential to know which taxpayer will receive the income or assets so they can be taxed accordingly. For anti-money laundering purposes, it is important to know who is in control. Identifying either ownership or control is not good enough.

There could be an exemption when it comes to identifying the beneficial owners for shares that are traded on a reputable exchange or state-owned enterprises. However, managers might be engaging in tax evasion or money laundering, so the managers of the relevant subsidiary should be identified. For the subsidiary of multinational companies, which can be part of a chain of companies, it is important to establish the direct parent company and also the ultimate parent company.

Legal structures such as trusts and foundations should be required to publish accounts in each country where they have a fiduciary or bank account. This is especially important for discretionary trusts and foundations. Accounts should disclose all payees. This should apply to trusts that either hold above €100,000 in assets or make aggregate annual payments of €15,000 or more.

Introduce substance requirements: companies with no meaningful staff or sales in a country should be made to close. To prevent the use of an artificial legal presence in lax jurisdictions to get around money laundering rules, moves should be made to close companies that have no staff or sales in a particular country. Countries could consider measures to preclude trade with conduit vehicles in other countries and require trade and transactions to take place directly between firms or subsidiaries where economic substance takes place. Holding companies should be based in a country where one of their subsidiaries has a substantial economic presence.

Disclose trading addresses. As a minimum, the actual place of doing business should be disclosed, because it is an indicator of AML risk and also useful for law enforcement and stolen asset recovery practitioners.

In the absence of public registries nominees should be compelled to always collect beneficial owner(s) details. TCSPs should be licensed and required to record beneficial ownership information. This information should ideally be put on public record and published. They should be subject to random checks to make sure that this is done, and lose their licence to operate if they fail to do so, regardless of whether money laundering has occurred as a result of their negligence.

Additionally, nominees (whether shareholders or officers) should always be flagged as such in the company registration and other official documents as they are a key indicator of money laundering risk. Failing to declare that you are a nominee should result in sanctions. This would not prevent nominees from posing as the real owner but would make it much harder for anyone to provide nominee services on an industrial scale to hundreds of companies. Nominee officers must be held liable for their companies' conduct in the same way as other company officers. Corporate directors, whether nominees or not, should be held responsible if they fail to take adequate measures to prevent money laundering.

Corporate company officers should not be permitted. A real person, not a legally constructed person, is needed to perform the oversight functions that ensure good corporate governance.

Governments should consider limiting the number of circumstances where nominee company officers are permitted. Failing this, nominees should be held to account for their companies' activities.

Introduce effective due diligence standards

Ensure verification of beneficial ownership by covered institutions. Covered Institutions should always have to verify the identity of the beneficial owner(s) before making a decision about the degree of further due diligence needed. When the beneficial owner cannot be verified, the business should be rejected and authorities should be tipped off.

Make all due diligence requirements on-going for the duration of the business relationship rather than one-off.

Make tax crimes a predicate offence

Both foreign and domestic tax crimes should be made a predicate offence of money laundering.

Tax crimes should be framed so as to recognise all deliberate attempts by a taxpayer to pay less than their legal obligations. This should apply to all direct and indirect taxes. The following definition proposed by Tax Research UK would be particularly difficult to circumvent.

"Any deliberate act that results in tax not being paid on an economic event whose substance occurs within a jurisdiction contrary to the law of the jurisdiction where that economic event either occurs or is recorded or that results in tax not being paid contrary to the laws of the jurisdiction in which a benefit of that economic event arises."

Jurisdictions should cooperate on tax matters in the absence of dual criminality. For example this would involve Jurisdiction A cooperating with Jurisdiction B to address tax crimes that took place in Jurisdiction B but are laundered through Jurisdiction A, even if Jurisdiction A does not recognise those crimes under domestic law. At the very least jurisdictions should include crimes that are broadly similar in their interpretation of dual criminality.

Ensure effective compliance, enforcement and cooperation

Tougher sanctions are needed to influence Covered Institutions' cost benefit analysis. The possibility of revoking the licences of institutions that are seriously implicated in money laundering should be considered. Equally, prosecutions should be brought against the individuals involved.

Regulators should study individual cases and carry out random undercover checks, as well as looking at actors' overall compliance procedures. More attention should be paid to accountants, lawyers and trust and company service providers.

Jurisdictions should actively detect the proceeds of foreign crimes, share information spontaneously, and cooperate with requests for assistance.

Conclusions and recommendations

Recommendations continued

Improve FATF mutual evaluations. Recommendation 24, which relates to transparency and beneficial ownership of legal persons (companies), and Recommendation 25, which covers transparency and beneficial ownership of legal arrangements (for example trusts), should become main assessment criteria. Equally, peer reviews by other countries should be used to hold countries to account for their international cooperation. For each of the mutual evaluation criteria, separate consideration should be given to legal frameworks and to implementation and effectiveness.

Ensure oversight of multilateral organisations. International organisations, especially publicly owned banks, pose similar AML risk to other financial institutions. An independent regulator should monitor their compliance.

Collection and publication of statistics

Make detailed and disaggregated official data on money laundering publicly available. Authorities should keep and publicise disaggregated records on SARs received, noting how many related to inter alia: fiscal crimes; corruption; organised crime; and terrorist financing. The same should apply to confiscated proceeds, including confiscated proceeds returned to other jurisdictions. Foreign and domestic crimes should be tagged to allow further disaggregation.

Make detailed and disaggregated official data cross border flows and stocks publically available. At the macro level, countries and International Financial Institutions (IFIs) should record and publish more information on cross-border flows and bank and non-bank deposits.

Banks should describe their AML compliance measures in their annual reports and provide some detailed indicators including number of SARs filed, number of Politically Exposed Person clients, and amount of assets frozen (disaggregated for type of predicate offence).

The full report is available at http://tinyurl.com/bjzefx6

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