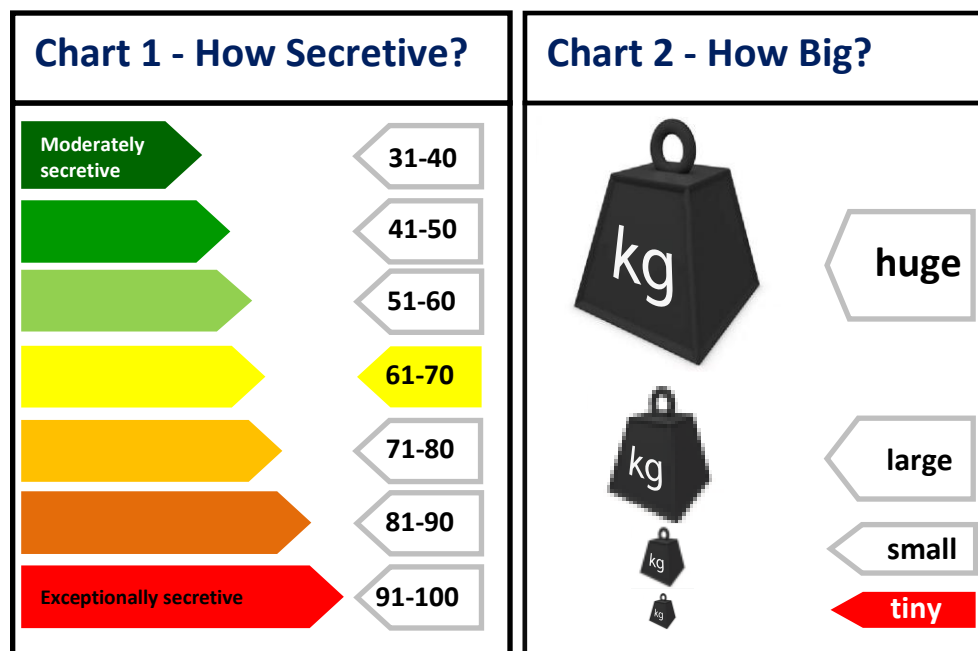


Report on Austria

Austria is ranked at 17th position on the 2011 Financial Secrecy Index. This ranking is based on a combination of its secrecy score and a scale weighting based on its share of the global market for offshore financial services.

Austria has been assessed with 66 secrecy points out of a potential 100, which places it in the mid range of the secrecy scale (see chart 1 below).

Austria accounts for under 1 per cent of the global market for offshore financial services, making it a tiny player compared with other secrecy jurisdictions (see chart 2 below).



Part 1: Telling the story

Austria's importance as a secrecy jurisdiction stems from its bank secrecy system. As INCSR confirmed in 2011 on Austria's financial market: "Money laundering occurs within the Austrian banking system as well as in non-bank financial institutions and businesses. Money laundered by organized crime groups derives primarily from serious fraud, smuggling, corruption, narcotics trafficking, and trafficking in persons." (INCSR 2011: 35). In 2008, INCSR commented: "The percentage of undetected organized crime may be enormous, with much of it reportedly coming from the former Soviet Union." (INCSR 2008: 98). In addition, the Global Forum found some of Austria's recent updates of the bilateral exchange of information treaties not to be in line with the OECD-requirements (GF 2011: 7).

Austria's attraction as a secrecy jurisdiction and tax haven for non-residents arises from the absence of inheritance tax (IBFD 2011) in combination with secretive private foundations and Treuhand. Non-residents are exempt from paying the 2,5% tax on the value of property

donated to a private foundation (Kalss/Eiselsberg/Zollner 2009: 14). Private foundations can be created without the beneficiaries being disclosed. Only selected information about foundations is on public record because it is possible to create an additional protocol to the foundation deed that can be withheld from public record (Kalss 2004: 18-19 or Kalss/Eiselsberg/Zollner 2009: 21).

A major shortcoming relating to the possibility to conceal the beneficiaries of a private foundation from tax authorities has been amended in 2010 and 2011: "As a result of the requirements of the Corporate Income Tax Act 2010, foundations should disclose any appendix to the foundation deed to the tax authorities, together with a copy of any Treuhand used by the founder. If these documents are altered, the changes must be notified to the tax authority. In addition, since April 2011, the identity of any beneficiaries not named in the deed must be disclosed to the revenue authorities as provided for in section 5 of the PSG. For foundations set up before 1 April 2011, the name of all such beneficiaries must be disclosed to the revenue authorities on or before 30 June 2011." (GF 2011: 34-35). If Austria was to agree automatic information exchange on the model of the European Union Savings Tax Directive and subject to the directive to being amended to include trusts, foundations and similar arrangements, this information would become available for sharing within the European Union.

Another way in which Austria legal entities can be abused consists in the fact that tax liability is not exclusively connected with incorporation. The Global Forum reports: "All legal entities organised under private law (e.g. joint stock companies, limited liability companies, foundations, and co-operatives) as well as public entities carrying on commercial activity are subject to corporation tax. When these entities are resident in Austria for tax purposes, i.e. when they have their seat or place of effective management in Austria, they are liable to tax on their worldwide income while when the entities are not tax resident in Austria their Austrian tax liability is limited to income from Austrian source." (GF 2011: 12). This opens the possibility for non-residents to use Austrian legal entities to avoid tax by engaging only in non-resident business.

Generally, a "hidden Treuhand" is a potential feature for enhancing secrecy: "The Treuhand is a civil contract which is not regulated in law, but is based on the general principle of the autonomy of the contracting parties (i.e. the ability of any person to enter into any contract with whomsoever they chose) and delimited by jurisprudence and doctrine. A Treuhand does not have any legal status. It is created when a person, the Treuhänder, is authorised to exercise rights over property in his or her own name, on the basis of and in accordance with a binding agreement with another person, the Treugeber." (GF 2011: 29).

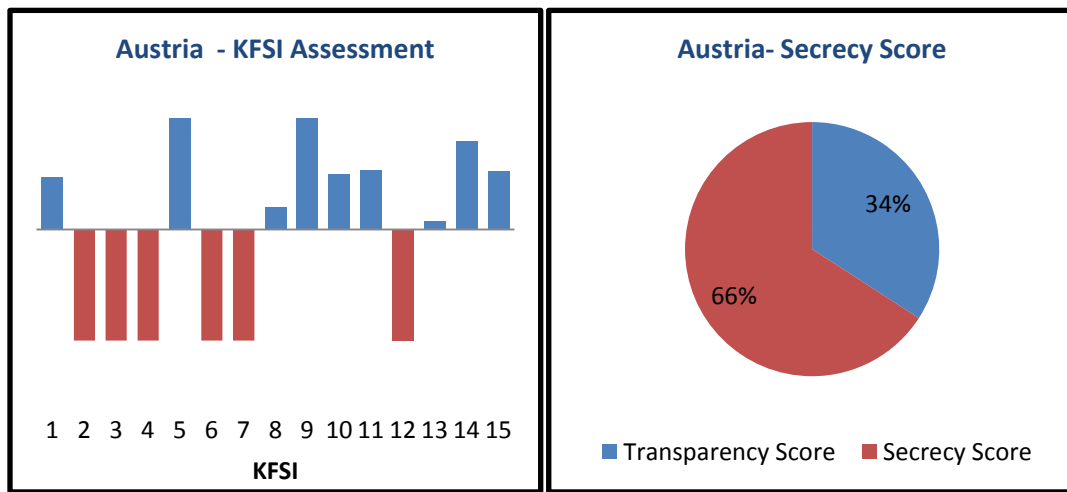
Next steps for Austria

Austria's 66 per cent secrecy score shows that it must still make major progress in offering satisfactory financial transparency¹. If it wishes to play a full part in the modern financial community and to impede and deter illicit financial flows, including flows originating from

tax evasion, aggressive tax avoidance practices, corrupt practices and criminal activities, it should take action on the points noted where it falls short of acceptable international standards. See part 2 below for details of Austria’s shortcomings on transparency. See this link <http://www.secrecyjurisdictions.com/kfsi> for an overview of how each of these shortcomings can be fixed.

Part 2: Secrecy Scores

The secrecy score of 66 per cent for Austria has been computed by assessing the jurisdiction’s performance on the 15 Key Financial Secrecy Indicators, listed below.



The numbers on the horizontal axis of the bar chart on the left refer to the Key Financial Secrecy Indicators (KFSI). The presence of a blue bar indicates a positive answer, as does blue text in the KFSI list below. The presence of a red bar indicates a negative answer as does red text in the KFSI list. Where the jurisdiction’s performance partly, but not fully complies with a Key Financial Secrecy Indicator, the text is coloured violet (combination of red and blue).

This paper draws on key data collected on Austria. Our data sources include regulatory reports, legislation, regulation and news available at 31.12.2010². The full data set is available [here](#)³. Our assessment is based on the 15 Key Financial Secrecy Indicators (KFSIs, below), reflecting the legal and financial arrangements of Austria. Details of these indicators are noted in the following table and all background data can be found on the [Mapping Financial Secrecy web site](#)⁴. This data is the basis on which the [Financial Secrecy Index](#)⁵ is compiled.

The Key Financial Secrecy Indicators and the performance of Austria are:

TRANSPARENCY OF BENEFICIAL OWNERSHIP – Austria	
1.	Banking secrecy: Does the jurisdiction have banking secrecy?

	Austria does not adequately curtail banking secrecy
2.	Trust and Foundations Register: Is there a public register of Trusts and Foundations? Austria does not put details of trusts on public record
3.	Recorded Company Ownership: Does the relevant authority obtain and keep updated details of the beneficial ownership of companies? Austria does not maintain company ownership details in official records
KEY ASPECTS OF CORPORATE TRANSPARENCY REGULATION – Austria	
4.	Public Company Ownership: Does the relevant authority make details of ownership of companies available on public record online for less than US\$10? Austria does not require that ownership of companies is put on public record
5.	Public Company Accounts: Does the relevant authority require that company accounts are made available for inspection by anyone for a fee of less than US\$10? Austria requires that company accounts be available on public record
6.	Country-by-Country Reporting: Are companies listed on a national stock exchange required to comply with country-by-country financial reporting? Austria does not require country-by-country financial reporting by companies
EFFICIENCY OF TAX AND FINANCIAL REGULATION – Austria	
7.	Fit for Information Exchange: Are resident paying agents required to report to the domestic tax administration information on payments to non-residents? Austria does not require resident paying agents to tell the domestic tax authorities about payments to non-residents
8.	Efficiency of Tax Administration: Does the tax administration use taxpayer identifiers for analysing information effectively, and is there a large taxpayer unit? Austria partly uses appropriate tools for effectively analysing tax related information
9.	Avoids Promoting Tax Evasion: Does the jurisdiction grant unilateral tax credits for foreign tax payments? Austria avoids promoting tax evasion via a tax credit system
10.	Harmful Legal Vehicles: Does the jurisdiction allow cell companies and trusts with flee clauses?

	Austria partly allows harmful legal vehicles
INTERNATIONAL STANDARDS AND COOPERATION – Austria	
11.	Anti-Money Laundering: Does the jurisdiction comply with the FATF recommendations? Austria partly complies with international anti-money laundering standards
12.	Automatic Information Exchange: Does the jurisdiction participate fully in Automatic Information Exchange such as the European Savings Tax Directive? Austria does not participate fully in Automatic Information Exchange
13.	Bilateral Treaties: Does the jurisdiction have at least 60 bilateral treaties providing for broad information exchange, covering all tax matters, or is it part of the European Council/OECD convention? As of June 30, 2010, Austria had few tax information sharing agreements complying with basic OECD requirements
14.	International Transparency Commitments: Has the jurisdiction ratified the five most relevant international treaties relating to financial transparency? Austria has partly ratified relevant international treaties relating to financial transparency
15.	International Judicial Cooperation: Does the jurisdiction cooperate with other states on money laundering and other criminal issues? Austria partly cooperates with other states on money laundering and other criminal issues

¹ Our definition of financial transparency can be found here:

<http://www.secrecyjurisdictions.com/PDF/FinancialTransparency.pdf>.

² With the exception of KFSI 13 for which the cut-off date is 30.6.2010. For more details, look at the endnote number 2 in the corresponding KFSI-paper here:

<http://www.secrecyjurisdictions.com/PDF/13-Bilateral-Treaties.pdf>.

³ That data is available here: http://www.secrecyjurisdictions.com/sj_database/menu.xml.

⁴ <http://www.secrecyjurisdictions.com>.

⁵ <http://www.financialsecrecyindex.com/>.