

Narrative Report on Australia

Australia, not traditionally regarded as a secrecy jurisdiction, is ranked at 44th position in the 2013 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.

Australia has been assessed with 47 secrecy points out of a potential 100, which places it in the lower mid-range of the secrecy scale (see chart 1).

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

Australia has taken significant steps to address tax evasion and tax avoidance, especially as it relates to revenue loss from Australia. However, its record of helping other countries combat tax evasion and money laundering is somewhat mixed.

Part 1: Telling the Story

14 October 2013

Telling the story: Australia as a secrecy jurisdiction

Australia has undoubtedly hosted significant quantities of illicit funds from other jurisdictions. Comprehensive data is not available, though anecdotal evidence appears plentiful.

One jurisdiction that has been a victim of Australia's role as a host for illicit finance is Papua New Guinea (PNG), which lies just north of Cape York, Australia's northern-most tip.

Sam Koim, the head of PNG's anti-corruption body "Task Force Sweep", has accused Australia of being the "Cayman Islands in relation to laundering and housing the proceeds of corruption from Papua New Guinea."¹ He stated that Australia has never repatriated any proceeds of corruption to PNG,² and alleged:³

They [corrupt officials from PNG] have bought property and other assets, put money in bank accounts and gambled heavily in your casinos and have never been troubled by having their ill-gotten gains taken off them. Unless the money can be prevented

Chart 1 - How Secretive?

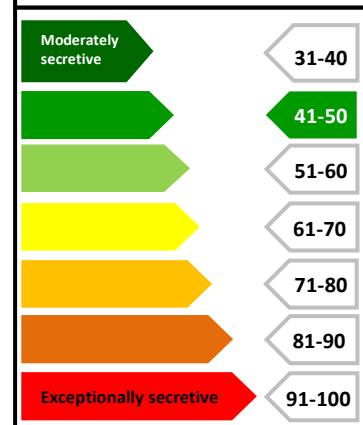
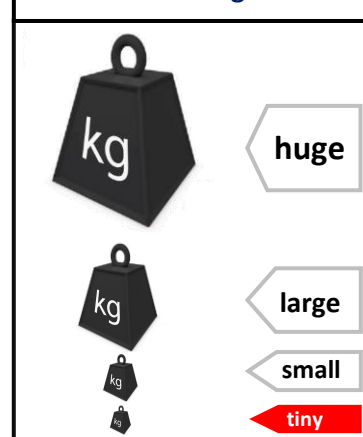


Chart 2 - How Big?



from leaving our country or prevented from entering Australia, the bad guys win and the rest of Papua New Guinea suffers.

He added:⁴

These people have chosen Australia as their preferred place to launder and house the proceeds of their crimes because it is easy. Cairns is only a short flight and property can be bought off the plan without permission. The financial system is stable and, it has been, up until now, extremely easy to get money into your system....

Our Prime Minister . . . has become increasingly unhappy as our Taskforce has progressed, with the fact that the Australian financial system is being used to systematically launder tens of millions and possibly hundreds of millions of kina that should be used to provide healthcare, education and infrastructure for our people.

It seems that PNG politicians and public officials can purchase real estate and deposit funds into bank accounts in Australia well beyond what their salary would suggest is possible, without any public evidence of Australian authorities doing anything to question these transfers and take action where the source of the wealth cannot be explained. Transparency International Papua New Guinea has been lobbying neighbouring countries to help uncover suspicious real-estate investments.⁵ an issue that has become increasingly pertinent as PNG investments in Australia have recently reached over \$1 billion.⁶

The Government has indicated that Australian police only assist PNG police in corruption investigations where the PNG police make an explicit request for assistance: if they were to become aware of corruptly or criminally obtained funds entering Australia, they would not automatically share that information with PNG. AUSTRAC, Australia's Anti Money laundering regulator and financial intelligence unit, along with the AFP (Australian Federal Police) and the ACC (Australian Crime Commission) did not disseminate any financial intelligence data to PNG authorities regarding any politically exposed person in the 2011-2012 financial year⁷ (although AUSTRAC provided some information to some other foreign authorities⁸.)

In November 2012 PNG's Prime Minister stated that the Australian Government had informed him that Australia would no longer issue visas to PNG citizens alleged to have bought properties or invested in Australia using money gained through corrupt means.⁹ However, there does not appear to be any public evidence that the Australian Government has followed through on this commitment.

One reason for the failures appears to be weaknesses in Australia's anti-money laundering laws. In 2007 the Federal Government released draft legislation to extend anti-money laundering provisions to real estate agents in relation to the buying and selling of property, dealers in precious metals and stones, lawyers, accountants, notaries and company service

providers. Yet this legislation was never implemented. Money laundering legislation permits information about suspicious financial transactions collected by AUSTRAC to be passed to a foreign government, provided appropriate undertakings in relation to protecting the confidentiality of the information and controlling its use have been provided¹⁰.

A 2013 assessment of AUSTRAC by the Australian Auditor General concluded that while its financial intelligence is “highly valued both domestically and internationally,” its effectiveness in countering money laundering and serious and organised crime is “not readily quantifiable.”¹¹ Furthermore, AUSTRAC will generally only share information with overseas FIUs where a formal exchange agreement exists. At the moment there are only 65 such agreements in place, including with Argentina, Brazil, Chile, Colombia, Fiji, Guatemala, India, Indonesia, Malaysia, Mexico, the Philippines, South Africa, Sri Lanka, Thailand and Venezuela.¹²

A 2010 investigation into alternative remittance services by the Australian Institute of Criminology found that some of these services were willing to handle transactions suspected to be involved in tax and customs evasion and illicit drug trafficking, in exchange for a higher rate of commission.¹³

Australia’s losses to secrecy jurisdictions

Australia has taken an innovative and highly proactive role in seeking to tackle its own tax revenue (and other) losses to secrecy jurisdictions.

Most notably, the multi-agency taskforce, [Project Wickenby](#), has focused on tax evasion activities by Australians and Australian companies through secrecy jurisdictions. Indeed, it is seen as a model for other countries to follow in curbing tax evasion and tax avoidance.

Project Wickenby was established in February 2006 to prevent people from promoting and participating in the abusive use of overseas secrecy jurisdictions for tax avoidance and tax evasion. By June 2011, it had resulted in 23 criminal investigations, with 62 people charged and 18 convicted of serious offences. Furthermore, it had raised over \$1 billion in tax liabilities and collected over \$563 million. At the same time fund flows from Australia to Liechtenstein decreased by 80%, to Vanuatu by 50% and to Switzerland by 22%.¹⁴ Overall fund flows from Australia to 13 secrecy jurisdictions decreased by 22% between the 2007-2008 and 2010-2011 financial years, from \$55 billion to \$43 billion.¹⁵

Australia has also lost significant revenue to tax evasion and avoidance by transnational companies. Calculations commissioned by Christian Aid found that Australia lost €1.1 billion in tax revenue through profits shifting on trade to the EU in the period 2005 – 2007 and US\$1.5 billion in tax revenue through profits shifting on trade to the US in the same period.¹⁶

To stem these losses, Australia has adopted a General Anti-Avoidance Rule, updated as recently as June 2013 to ensure its effectiveness, and like most developed countries it has controlled foreign company (CFC) measures to curb tax dodging by transnational enterprises, though these rules are inevitably leaky. In June the Australian Parliament passed legislation to allow the tax payable by transnational companies with revenue greater than \$100 million to be published by the Australian Taxation Office, a small step towards greater tax transparency by transnational companies.

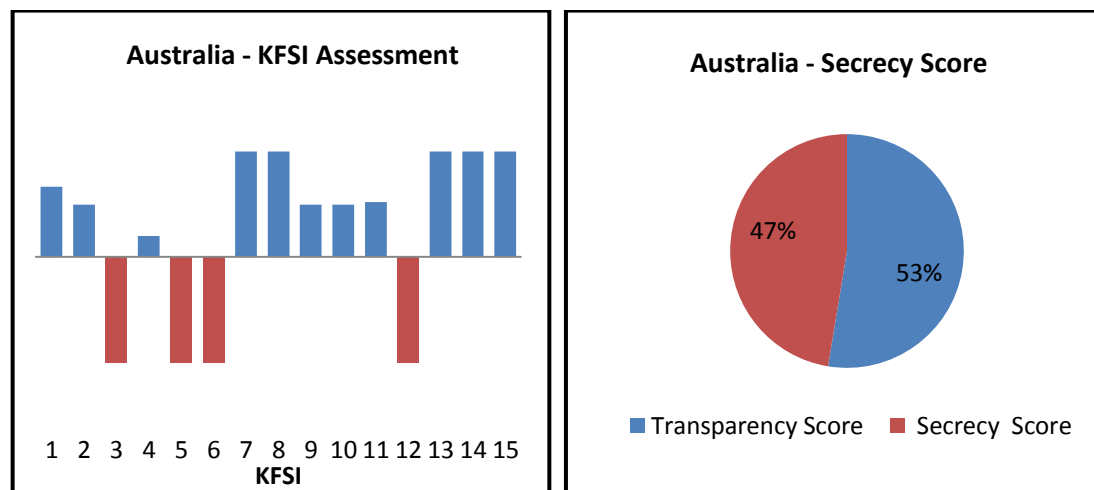
Source: Mark Zirnsak, Tax Justice Network Australia

Next steps for Australia

Australia's 47 per cent secrecy score shows that it must still make major progress in offering satisfactory financial transparency. If it wishes to play a full part in the modern financial community and to impede and deter illicit financial flows, including flows originating from tax evasion, aggressive tax avoidance practices, corrupt practices and criminal activities, it should take action on the points noted where it falls short of acceptable international standards. See part 2 below for details of Australia's shortcomings on transparency. For an overview of how each of these shortcomings can be fixed see this link <http://www.financialsecrecyindex.com/kfsi>.

Part 2: Secrecy Scores

The secrecy score of 47 per cent for Australia 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** in the list below (combination of red and blue).

This paper draws on key data collected on Australia. Our data sources include regulatory reports, legislation, regulation and news available at 31.12.2012¹⁷. The full data set is available [here](#)¹⁸. Our assessment is based on the 15 Key Financial Secrecy Indicators (KFSIs, below), reflecting the legal and financial arrangements of Australia. Details of these indicators are noted in the following table and all background data can be found on the [Financial Secrecy Index website](#)¹⁹.

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

TRANSPARENCY OF BENEFICIAL OWNERSHIP – Australia	
1.	Banking Secrecy: Does the jurisdiction have banking secrecy? Australia does not adequately curtail banking secrecy
2.	Trust and Foundations Register: Is there a public register of trusts/foundations, or are trusts/foundations prevented? Australia partly discloses or prevents trusts and private foundations
3.	Recorded Company Ownership: Does the relevant authority obtain and keep updated details of the beneficial ownership of companies? Australia does not maintain company ownership details in official records
KEY ASPECTS OF CORPORATE TRANSPARENCY REGULATION – Australia	
4.	Public Company Ownership: Does the relevant authority make details of ownership of companies available on public record online for less than US\$10/€10? Australia partly requires that company ownership details are publicly available online
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/€10? Australia does not require that company accounts be available on public record
6.	Country-by-Country Reporting: Are all companies required to comply with country-by-country financial reporting? Australia does not require country-by-country financial reporting by all companies

EFFICIENCY OF TAX AND FINANCIAL REGULATION – Australia	
7.	<p>Fit for Information Exchange: Are resident paying agents required to report to the domestic tax administration information on payments to non-residents?</p> <p>Australia requires resident paying agents to tell the domestic tax authorities about payments to non-residents</p>
8.	<p>Efficiency of Tax Administration: Does the tax administration use taxpayer identifiers for analysing information efficiently, and is there a large taxpayer unit?</p> <p>Australia uses appropriate tools for efficiently analysing tax related information</p>
9.	<p>Avoids Promoting Tax Evasion: Does the jurisdiction grant unilateral tax credits for foreign tax payments?</p> <p>Australia partly avoids promoting tax evasion via a tax credit system</p>
10.	<p>Harmful Legal Vehicles: Does the jurisdiction allow cell companies and trusts with flee clauses?</p> <p>Australia partly allows harmful legal vehicles</p>
INTERNATIONAL STANDARDS AND COOPERATION – Australia	
11.	<p>Anti-Money Laundering: Does the jurisdiction comply with the FATF recommendations?</p> <p>Australia partly complies with international anti-money laundering standards</p>
12.	<p>Automatic Information Exchange: Does the jurisdiction participate fully in Automatic Information Exchange such as the European Savings Tax Directive?</p> <p>Australia does not participate fully in Automatic Information Exchange</p>
13.	<p>Bilateral Treaties: Does the jurisdiction have at least 46 bilateral treaties providing for information exchange upon request, or is it part of the European Council/OECD convention?</p> <p>As of 31 May, 2012, Australia had at least 46 bilateral tax information sharing agreements complying with basic OECD requirements</p>
14.	<p>International Transparency Commitments: Has the jurisdiction ratified the five most relevant international treaties relating to financial transparency?</p> <p>Australia has ratified relevant international treaties relating to financial transparency</p>
15.	<p>International Judicial Cooperation: Does the jurisdiction cooperate with other states on money laundering and other criminal issues?</p> <p>Australia cooperates with other states on money laundering and other criminal issues</p>

¹ Sam Koim, AUSTRAC Major Reporters Meeting, Sydney, 4 October 2012, p.1.

² Sam Koim, AUSTRAC Major Reporters Meeting, Sydney, 4 October 2012, p.1.

³ Sam Koim, AUSTRAC Major Reporters Meeting, Sydney, 4 October 2012, p.1.

⁴ Sam Koim, AUSTRAC Major Reporters Meeting, Sydney, 4 October 2012, p.4.

⁵ Eoin Blackwell, 'Report dodgy PNG investments: Transparency', October 10, 2012.

⁶ Sam Koim, Speech, 'AUSTRAC Major Reporters Meeting', Sydney, October 4, 2012.

⁷ The information can be provided directly by AUSTRAC under subsection 132(1) or by the Australian Federal Police (AFP) under subsections 132(3) and 132(4) or the Australian Crime Commission (ACC) under subsections 132(6) and (7). The government stated: "AUSTRAC does not exchange information with its counterpart financial intelligence unit (FIU) in PNG. In order to meet the 'appropriate undertakings' requirement of subsection 132(1) of the AML/CTF Act, AUSTRAC only exchanges information with foreign FIUs where an exchange agreement between AUSTRAC and the foreign FIU is in place. . . . AUSTRAC does not have an exchange agreement in place with the PNG FIU. It is most unlikely that such an agreement would be entered into until such time as the PNG FIU becomes a member of the Egmont Group of Financial Intelligence Units, which provides an international platform for information exchange, training and sharing of expertise. The AFP and ACC can provide AUSTRAC information to PNG, provided appropriate undertakings under subsections (3) and (6) respectively have been entered into." Senator Scott Ludlam, Senate Question Number 2391, 19 October 2012.

⁸ **International intelligence exchanges involving AUSTRAC in the 2011 – 2012 financial year:**

Type of information change	Number of requests or transfers
Requests from overseas FIUs with an exchange agreement	97
Requests to overseas FIUs	49
Unrequested information provided from overseas FIU	47
Unrequested information provided to overseas FIU	39
Requests from FIUs without an exchange agreement with AUSTRAC	22

Source: The Auditor-General, "AUSTRAC's Administration of its Financial Intelligence Function", Australian National Audit Office, Audit Report No 47 2012-23, June 2013, p. 70.

⁹ 'Australia to restrict visas to PNG citizens alleged to be corrupt' Radio Australia, 3 November 2012.

¹⁰ Section 132 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*

¹¹ The audit also found that agreed processing times were not being met for suspicious matter reports and suspicious transaction reports. In the 2011-2012 financial year financial intelligence provided by AUSTRAC was used by the Australian Taxation Office (ATO) in 3,745 cases, resulting in an additional \$252 million in revenue from tax assessments. The Suspicious Report Analysis team is supposed to process 90% of reports within five days. From July 2011 to January 2013, the team was only able to process, on average, 57.7% of received reports within the agreed timeframes. The audit found that in the backlog of suspicious matter reports and suspect transaction reports from July 2011 to February 2013 there were 6,384 un-assessed records that had a significance rating of 'very high/high', suggesting that AUSTRAC needs greater resources to be able to properly carry out its functions. Since the audit, the Australian Government provided an additional \$16.1 million spread over four years to AUSTRAC. AUSTRAC's overall expenses were \$65.88 million in the 2011-2012 financial year, of which 55% (\$36.33 million) were for its FIU functions. From The Auditor-General, "AUSTRAC's

Administration of its Financial Intelligence Function”, Australian National Audit Office, Audit Report No 47 2012-23, June 2013, pp. 15, 17, 20, 24, 67, 71.

¹² The Auditor-General, “AUSTRAC’s Administration of its Financial Intelligence Function”, Australian National Audit Office, Audit Report No 47 2012-23, June 2013, pp. 69, 107.

¹³ David Rees, ‘Money laundering and terrorism financing risks posed by alternative remittance in Australia’, AIC Research and Public Policy Series, Report 106, 2010, pp. xii – xiii.

¹⁴ Australian Taxation Office, ‘Compliance Program 2011-12’, June 2011, p. 25.

¹⁵ The Auditor-General, “AUSTRAC’s Administration of its Financial Intelligence Function”, Australian National Audit Office, Audit Report No 47 2012-23, June 2013, p. 79.

¹⁶ David McNair and Andrew Hogg, ‘False profits: robbing the poor to keep the rich tax-free’, Christian Aid, March 2009. pp.20, 27. Separately, a report by tax expert Bruce Quigley concluded that international dealings between different parts of the same multinational company, where one part is in Australia, amount to around \$270 billion annually. Trade within transnational companies now makes up around 45% of total Australian cross-border trade in goods and services. It grew 44% in the period 2004 to 2009. Bruce Quigley, ‘Tax administration in a global environment’, ICAA Conference, <http://www.ato.gov.au>, 22 November 2012.

¹⁷ With the exception of KFSI 13 for which the cut-off date is 31.05.2013. For more details, look at the endnote number 2 in the corresponding KFSI-paper here:

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

¹⁸ That data is available here: <http://www.financialsecrecyindex.com/database/menu.xml>.

¹⁹ <http://www.financialsecrecyindex.com>.