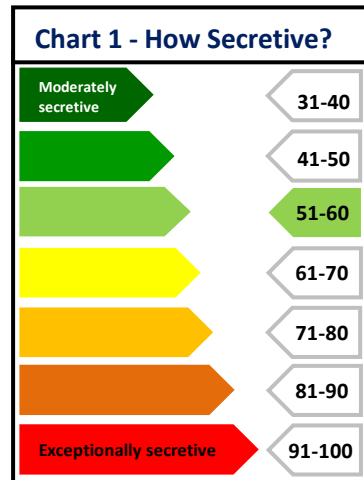


Narrative Report on Germany

Germany is ranked at eighth position on 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.

Germany has been assessed with 59 secrecy points out of a potential 100, which places it in the lower mid-range of the secrecy scale, roughly equivalent to the United States (see chart 1). Germany accounts for over 4 per cent of the global market for offshore financial services, making it a large player in the market, but far smaller than the top players Luxembourg, the UK and the USA.



Part 1: Telling the story¹

Germany's offshore financial centre

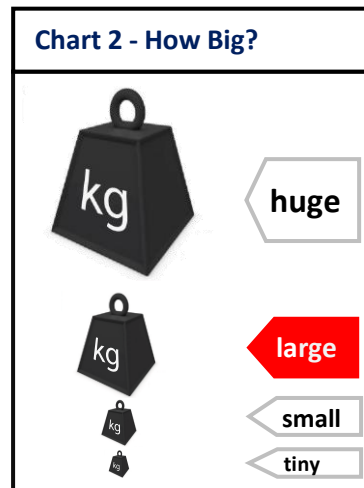
Overview

As in 2011, Germany ranks in the top ten of the financial secrecy index 2013, though on a [ranking purely based on secrecy](#), it ranks in 58th place out of 82. While there has been some progress with its anti-money laundering framework, following harsh FATF criticism in 2010, there are still major loopholes and many implementation deficits, resulting in major use of Germany's financial centre by organized crime.

Germany offers a worrisome set of secrecy facilities and instruments. Like many other OECD countries, Germany does not sufficiently exchange tax-related information, automatically or otherwise, with a multitude of other jurisdictions. Many foreign-owned assets in Germany are held secretly through elaborate structures spanning secrecy jurisdictions such as Luxembourg and Switzerland.

Germany's high ranking stems largely from the fact that its financial centre is so large: Frankfurt is the largest financial centre in continental Europe. Research by Washington-based Global Financial Integrity from 2010 identified Germany ([p1](#)) as the world's fifth largest holder of private, non-resident deposits – a key marker of offshore activity.

This combination of medium-level secrecy and a huge financial centre makes Germany an important player in the secrecy world. It is still obviously the home for large volumes of tax-



evading and other illicit flows and assets from around the globe. This is confirmed by, among others, Italian officials who repeatedly stressed Germany's role as a safe haven for criminal proceeds.

History

Surviving records from the 13th Century show that Frankfurt, Germany's modern financial powerhouse, was the most economically powerful city in the German Empire. Its pre-eminence waxed and waned over ensuing centuries but received a major boost in the late 16th Century when Spanish soldiers plundered Antwerp, prompting many merchants to flee to Frankfurt, and launching its first real financial boom from 1585 ([p308](#)). Further inflows of French Huguenots a century later helped cement the city's financial role.

Frankfurt suffered in the first half of the 20th Century, and even in the early 1950s it was probably eclipsed by Düsseldorf which was closer to Germany's industrial heartland, the Ruhr. It only regained prominence from 1957, when Germany's central bank was set up with its headquarters in Frankfurt. The same year Dresdner Bank and Deutsche Bank also elected to set up their headquarters there, marking the financial centre's rebirth.

However, faced with quite strong domestic regulations German banks shifted substantial operations overseas in the 1960s and 1970s, particularly to the offshore 'Euromarkets' dominated by the City of London. Their London offices, where they became heavily involved in the recycling of Petrodollars, helped them grow into global financial powerhouses, spreading their activities worldwide and, eventually, returning home to lobby powerfully for financial liberalisation. By the mid 1980s, amid financial liberalisation worldwide, 40 of the world's top 50 banks had a presence in Frankfurt and four fifths of foreign banks in Germany had chosen Frankfurt as their base ([p178 of *European Banks and the American Challenge*](#)).

According to the [latest report](#) by the Financial Action Task Force (FATF) in 2010, Germany hosted over US\$1.8 trillion in deposits by non-residents and boasted 3,400 financial institutions of various kinds, mainly commercial banks, savings banks and co-operative banks.

Germany provides several tax exemptions for non-residents, notably on bank deposit interest and on German government bonds. These factors – combined with the fact that there are still countries that Germany has not signed effective tax information-exchange agreements with – have attracted large (and often illicit) financial inflows, putting Germany alongside with states like the U.S. or the UK. There are large money laundering flows by criminal organisations from countries such as Italy. But there are also large illicit capital flows from developing countries. For example, Germany had frozen billions of assets from the 'Arab spring' countries such as [Libya](#), Tunisia or Egypt.

Also abroad, Germany does play a questionable role. Until 1999, Germany [allowed](#) bribe payments to be tax-deductible, becoming one of the world's last major economies to outlaw

this practice later on. With intensified investigations, some large-scale corruption cases involving companies such as Siemens were brought to light. Also German banks have a worrisome record of support for tax evasion and money laundering activities abroad. One of the most striking examples in the last years has been the management of large-scale and probably [illicit Turkmen funds](#).

Germany: a country of lax anti-money laundering enforcement

Although Germany does not practice banking secrecy like neighbouring Switzerland, criticism [by the](#) FATF highlights concern about the use of entities such as trusts, foundations and Treuhand (a German speciality that can provide strong secrecy.) Information about beneficial ownership of such structures, the FATF notes, is very patchy and constitutes a major secrecy loophole. While Germany addressed some of the FATF's concerns after 2010, problems remain.

Crucially, even tax evasion in particularly serious cases (“Steuerhinterziehung in besonders schweren Fällen”) is not a predicate crime for money laundering purposes in Germany. This implies that banks may easily accept money stemming from tax evasion, both if committed abroad and domestically.

The FATF in 2010 also noted particular concerns with Germany's relatively low level of reporting of suspicious transactions: “For an economy the size of Germany's, with a highly-developed financial services sector which provides near-universal access to such services for its resident population, the level of suspicious transaction reporting appears to be unusually low.” Reporting increased by more than 10% every year in 2011 and 2012, but the figures remain very low by international comparisons.

Germany suffers various other problems. There are no comprehensive public statistics about the number of money laundering convictions in Germany. The financial regulator BaFin overwhelmingly outsources supervision of the implementation of money laundering rules to private auditing firms, which raises serious questions about conflicts of interest. The relatively low fines and low number of convictions relating to failures to prevent money laundering by banks and other institutions point to effective weaknesses in the policing of anti-money laundering rules. Despite criticism by FATF, supervision is still highly fragmented among more than 100 different agencies, which often lack the required capabilities effectively to enforce AML rules.

The German tax authorities have also been [criticised](#) for their fragmented, low-tech and under-resourced approach to collecting tax, especially from wealthy people, and for having inadequate means to deal with large taxpayers. German limited companies are not sufficiently transparent, even though the extent of transparency varies across the different legal forms. In 2013, Germany has also played a surprising [blocking role](#) in European efforts to require transparency of beneficial ownership of companies across Europe, not to mention signing a widely criticised tax deal with Switzerland to allow tax evaders and other criminals

to preserve their anonymity – though at least the deal was eventually overturned in the Bundesrat (upper house). Bearer shares are a widely used instrument in Germany even though they obscure legal and beneficial ownership.

For more background on the role played by Germany in money laundering and tax evasion, please read the recent TJN study [here](#)².

Sources and further reading

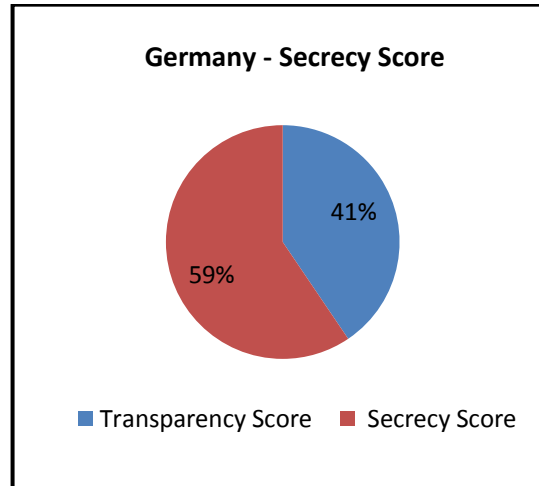
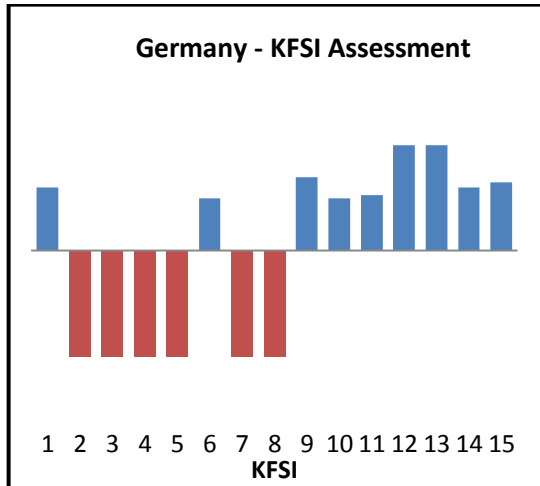
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Next steps for Germany

Germany's 59 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 Germany's shortcomings on transparency. See this link <http://www.financialsecrecyindex.com/kfsi> for an overview of how each of these shortcomings can be fixed.

Part 2: Secrecy Scores

The secrecy score of 59 per cent for Germany 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 Germany. Our data sources include regulatory reports, legislation, regulation and news available at 31.12.2012³. The full data set is available [here](#)⁴. Our assessment is based on the 15 Key Financial Secrecy Indicators (KFSIs, below), reflecting the legal and financial arrangements of Germany. Details of these indicators are noted in the following table and all background data can be found on the [Financial Secrecy Index website](#)⁵.

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

TRANSPARENCY OF BENEFICIAL OWNERSHIP – Germany	
1.	Banking Secrecy: Does the jurisdiction have banking secrecy? Germany does not adequately curtail banking secrecy
2.	Trust and Foundations Register: Is there a public register of trusts/foundations, or are trusts/foundations prevented? Germany does not disclose or prevent trusts and private foundations

3.	Recorded Company Ownership: Does the relevant authority obtain and keep updated details of the beneficial ownership of companies? Germany does not maintain company ownership details in official records
KEY ASPECTS OF CORPORATE TRANSPARENCY REGULATION – Germany	
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? Germany does not require 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? Germany 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? Germany partly requires country-by-country financial reporting by some companies
EFFICIENCY OF TAX AND FINANCIAL REGULATION – Germany	
7.	Fit for Information Exchange: Are resident paying agents required to report to the domestic tax administration information on payments to non-residents? Germany 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 efficiently, and is there a large taxpayer unit? Germany does not use appropriate tools for efficiently analysing tax related information
9.	Avoids Promoting Tax Evasion: Does the jurisdiction grant unilateral tax credits for foreign tax payments? Germany partly avoids promoting tax evasion via a tax credit system
10.	Harmful Legal Vehicles: Does the jurisdiction allow cell companies and trusts with flee clauses? Germany partly allows harmful legal vehicles

INTERNATIONAL STANDARDS AND COOPERATION – Germany	
11.	<p>Anti-Money Laundering: Does the jurisdiction comply with the FATF recommendations?</p> <p>Germany 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>Germany participates 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, Germany 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>Germany has partly 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>Germany partly cooperates with other states on money laundering and other criminal issues</p>

¹ This narrative report is based on information up to date at October 2011, however all references to FSI scores or ratings reflect the 2013 results.

² http://www2.weed-online.org/uploads/schattenfinanzzentrum_deutschland.pdf.

³ 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>.

⁴ That data is available here: <http://www.financialsecrecyindex.com/database/menu.xml>.

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