

## Narrative Report on Switzerland

Switzerland is ranked at first 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.

Switzerland has been assessed with 78 secrecy points out of a potential 100, which places it towards the top end of the secrecy scale (see chart 1).

Switzerland accounts for slightly under 5 per cent of the global market for offshore financial services, making it a large player compared with other secrecy jurisdictions (see chart 2), though not on the same scale as huge players such as Luxembourg, UK and the USA.

### Part 1: Telling the story<sup>1</sup>

#### Overview: under fire, Swiss bankers circle the wagons

Switzerland is the grandfather of the world's tax havens, one of the world's biggest financial centres, and one of the world's biggest secrecy jurisdictions or tax havens. In 2012 approximately \$2.8 trillion in assets were under management in Switzerland, or about a quarter of the world's total, [according to](#) the Swiss Bankers' Association.

Swiss banking is historically based on three main foundations: first, Switzerland's famed tradition of banking secrecy; second, its political stability -- which in turn is underpinned by Switzerland's tradition of neutrality and its unique system of direct democracy -- and, third, a strongly rooted 'financial consensus' in Swiss society which has generally militated against any major political challenges to the offshore financial services centre.

The Swiss financial centres in Geneva, Zurich, Lugano, St. Gallen and elsewhere, offer a wide range of banking and offshore facilities. The fabled and secrecy-steeped Swiss wealth management industry, which directly employs some 30,000 people, is complemented by investment banking, insurance and reinsurance, hedge funds and [private equity](#), corporate tax avoidance structures, offshore companies, and much more. Most are significantly attracted by tax loopholes, among other things. KPMG [calls it](#) the 'perfect headquarter location for international companies' because of its tax laws, political stability, quality of life, educated workforce, extensive network of tax treaties, and strategic position in Europe<sup>2</sup>. Its

Chart 1 - How Secretive?

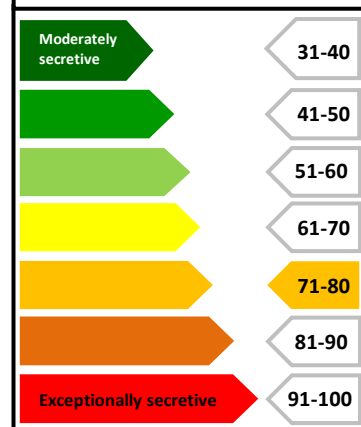


Chart 2 - How Big?



corporate tax laws, which saw over 250 mostly European and U.S. companies shift headquarters to Switzerland in 2003-9, have, like its secrecy facilities, also generated considerable antagonism overseas.

With total banking assets [estimated](#) in 2011 at 820 percent of Swiss GDP (compared to ‘just’ 460 percent in the UK at the time), banking looms especially large in the Swiss economy: more so than in almost any other major country. Given this dominance, with UBS and Credit Suisse accounting for about half of all Swiss banking assets, it is hardly surprising to find a strong ‘financial consensus’ that curbs domestic criticism of the financial centre: Switzerland is similar in this respect to many offshore financial centres.

Nevertheless, offshore finance has generated some tensions and conflicts locally.

In Swiss banking circles, and in some sections of government and society, there exists a stridently anti-tax and anti-government world view, which has seen the facilitation of criminal tax evasion as a ‘legitimate’ way of rejecting and thwarting foreign governments and society itself, in the name of individual freedom. Konrad Hummler, then head of the Swiss private bankers’ association, encapsulated this in 2009 when he lashed out against France, Germany and Italy as ‘[illegitimate states](#)’ and defended criminal tax evasion by their wealthiest citizens as a ‘legitimate’ defence against ‘excessive’ tax.

However, Swiss society also has quite strong social democratic and egalitarian traditions, so the offshore financial sector’s longstanding ‘capture’ of media, society and government, is contested by a significant though minority section of the voting population.

Switzerland has come under tremendous international pressure in the past few years to relax its strict bank secrecy laws, particularly from the United States, whose Justice Department has been doggedly pursuing criminal activity by Swiss bankers inside the United States and elsewhere, wresting hitherto unheard-of concessions from Switzerland on banking secrecy. This muscular approach stands in contrast to the position taken by the European Union, where efforts to tackle Swiss secrecy have been severely undermined by spoiling tactics by Luxembourg, the Eurozone’s biggest secrecy jurisdiction, in partnership with its ally [Austria](#) (and, to a lesser extent the [United Kingdom](#).) European efforts to tackle Swiss secrecy have therefore been far more limited.

In recent years, in line with a shrinking international tolerance for financial secrecy, Switzerland has made a few not insignificant concessions on secrecy, agreeing to exchange information on a limited basis with selected other jurisdictions, while largely rebuffing efforts for greater transparency towards other countries, particularly weaker and more vulnerable developing countries. This strategy of ‘white’ money for powerful countries, and ‘black money’ for others, is what Swiss campaigner Andreas Missbach calls the “Zebra” strategy. It has been a ‘[circle the wagons](#)’ approach, with concessions only made under pressure – and usually only when this pressure has been directed against Swiss banks, rather than against Switzerland itself.

To summarise, Swiss banking secrecy remains firmly intact for most countries, though it is not as iron-clad as it once was.

### History

Swiss banking secrecy has deep roots. In 1713 the Great Council of Geneva [adopted](#) regulations prohibiting bankers from revealing details about their clients. Catholic French kings, among the earliest known clients of Geneva banks, enjoyed these banks' traditions of secrecy partly because they did not want to be seen to be dealing with 'heretical' Protestant bankers.

Centuries of conflict in Europe saw wealthy European élites seeking a stable, neutral, unthreatened and unthreatening place to put their money: Switzerland<sup>3</sup>. This reputation was bolstered when Swiss neutrality was formalised at the [Congress of Vienna](#) in 1815. Liechtenstein, its tiny immediate neighbour, followed in 1868, and has since become a close appendage of Switzerland in terms of the mechanics of secrecy structures.

Swiss neutrality was itself rooted in Switzerland's geographical and political constitution.

Neutrality was significantly a matter of self-preservation. Divided between its French, German and Italian (and a small number of Romansh) speakers, and with further religious and other cross-cutting divisions, any taking of sides in a European war would have risked civil war in Switzerland. This potential for internal conflict led the Swiss to develop a complex, intricate form of direct democracy, based on a large degree of autonomy for local units, which serves as a highly effective mechanism for resolving and dissolving conflict. As the historian [Jonathan Steinberg](#) put it, Swiss communities are

“bottom-heavy, rather like those dolls which spring up no matter how often the child pushes them over. The weight is at the base. The communities have a deep equilibrium, to which, as the point of rest, the social and political order tends to return.’

This stability based on neutrality and stable politics continues to underpin Switzerland's 'safe haven' status, as demonstrated by the severe global financial stresses from August 2011 which saw massive financial inflows into the Swiss Franc, prompting large-scale state intervention to prevent the currency from excessive appreciation.

In the words of Swiss scholar Sébastien Guex, Swiss élites during the 19<sup>th</sup> Century jealously watched other European countries building empires, and without even a corridor to the sea to allow them to even contemplate such foreign adventures, began to see an alternative in creating a secret financial empire, reaching across Europe and beyond, dealing with the continent's wealthiest and most powerful citizens as equals<sup>4</sup>. As time went by, Swiss bankers increasingly pushed their wares downmarket, spreading beyond Europe's aristocracies. Guex describes a major Swiss bank openly advertising its 'utmost discretion' in France in 1910;

soon afterwards a Swiss economy minister had to press Swiss banks to tone down their messages overseas for fear of retaliation by angry tax authorities.

Successive European and other wars over the decades and centuries have long boosted Swiss banking, rooted in this bedrock of stability in a turbulent region. Commercial interests in belligerent countries have frequently used Switzerland as a turntable where they could keep doing business with the enemy, in secret. In the First World War, as governments hiked taxes to pay for their respective war efforts, many wealthy Europeans put personal wealth before patriotism and took their money to Switzerland: the French preferring French-speaking Geneva, the Germans went to German-speaking Zürich and Basel, and the Italians Lugano in the southern Italian-speaking Swiss canton of Ticino. This age-old pattern endures today. Many others, of course, came too, from around world. Switzerland's role as a top financial centre was further underpinned by a decision to site the headquarters of the Bank for International Settlements in Basel in 1930.

Switzerland enacted its famous banking secrecy laws in 1934, entrenching *de facto* banking secrecy by making it a criminal offence to divulge information. A widespread and false myth (see box) has emerged that this was done to protect German Jewish money from the Nazis; in fact, Swiss politicians enacted the law for far less altruistic reasons.

**Box: The myth of 1934**

Many defenders of Swiss bank secrecy assert that it was put in place in 1934 as a way to protect German Jewish money from the Nazis. This is false: the story appears to have originated from the November 1966 *Bulletin of the Schweizerische Kreditanstalt* (which became today's Credit Suisse), and has since been widely propagated by Swiss bankers and their apologists. The main reason bank secrecy was strengthened in 1934 was the scandal which erupted when police in Paris in October 1932 caught the Basler Handelsbank red-handed facilitating tax evasion by members of French high society, among them two bishops, several generals, and the owners of *Le Figaro* and *Le Matin* newspapers. Before that, there was professional confidentiality (such as exists between doctors and their patients), and violation was a civil offence, not a criminal one as it is today. (For more on the 1934 law see Sébastien Guex, [The Origins of the Swiss Banking Secrecy Law](#), 2000.)

In the Second World War, despite widespread antipathy among the wider Swiss population towards Nazi Germany, Swiss bankers collaborated extensively with the Nazis. Switzerland supplied Nazi Germany with electricity and supplies – not to mention financial credit – and facilitated the delivery of strategic equipment. Swiss bankers stashed the proceeds of Nazi loot without question, including gold ingots made from the dental fillings of murdered Jews, and even helped fleeing Nazis hide their loot *after* the end of the War.

The conflict in Europe also drove wealthy people from many European countries to send their money and assets to the neutral Swiss haven, and the War therefore marked another step-change in growth for Swiss banking. More recent conflicts in places such as Syria and Egypt have led to mini-surges in secretly held (and often looted) assets.

### Switzerland circles the wagons to defend secrecy

Since the Second World War foreign countries have made several attempts to penetrate Swiss banking secrecy. Typically, Switzerland's response has been to play divide and rule, and to delay and wait for periods of maximum leverage before signing long-term treaties or deals that involve making as few concessions as possible. Immediately after the War, for example, amid negotiations with the Allies over Swiss reparations and the identification of secret Nazi loot, Switzerland granted large loans to war-shattered UK and France. The Swiss ambassador in London [described](#) the purpose of the British loan as being to "ensure the indulgence of the English (sic) government" in the negotiations. The loans [appear to have](#) significantly blunted the Allies' demands. More recently, Swiss [bilateral tax deals](#) with Germany and the United Kingdom, signed in 2011 amid strong economic stresses during the global financial and economic crisis, were designed above all to sap Germany's commitment to support a strong current push for new European legislation that would have curtailed Swiss financial secrecy. The legislation in question – Amendments to the European Savings Tax Directive - remains blocked at the time of writing.<sup>5</sup>

Switzerland only started making real concessions on banking secrecy in 2008, notably when the United States began actively to investigate and prosecute Swiss bankers, with high-profile criminal cases against UBS and other banks (see pp14-15 [here](#)). Caught *in flagrante* helping wealthy Americans evade tax, and under tremendous pressure from the global financial crisis, UBS eventually reached a Deferred Prosecution Agreement with the U.S. Department of Justice in February 2009 – but it had to persuade the Swiss government to undergo unusual domestic legal contortions to allow it to infringe banking secrecy and hand over data under the deal: it was only pressure from the banks facing prosecution that forced this through. In August 2009 Switzerland agreed to hand over data on more than 4,000 UBS clients, an unprecedented leak. By August 2013, following four years of continued pressure by the U.S. Justice Department (which, among other things, led to the collapse of long-established and high-profile Wegelin Bank), Switzerland [agreed to](#) unprecedented further concessions from the U.S., in which eligible banks will pay penalties worth up to 50 percent of the hidden U.S. assets, and disclose account information about U.S. customers, to avoid prosecution. [Fourteen Swiss banks](#) including Credit Suisse were excluded because they were already under criminal investigation. Switzerland in February 2013 also [signed](#) a [FATCA agreement](#) with the U.S. that requires Swiss financial institutions to disclose information on U.S. accounts to the U.S. IRS on an ongoing, automatic basis, from July 2014.

It should be stressed again that this penetration of Swiss banking secrecy benefits *only* the United States directly, leaving many other countries vulnerable to Swiss secret banking.

A key lesson from the U.S. pressure, highlighting a much older pattern, is that external pressure on Swiss secrecy has generally succeeded only when it is targeted against Swiss *banks*, rather than against Switzerland itself. The Swiss population cultivate a self-image of being a plucky Alpine nation standing up proudly to big external bullies, and attacks on the Swiss nation have tended to cause the Swiss to close ranks in support of the banking sector, even among those who would normally oppose banking secrecy.

Switzerland has also recently agreed to limited information-sharing arrangements with some other jurisdictions, though only under pressure and via a woefully inadequate OECD-inspired ‘[on request](#)’ model that effectively requires a requesting country to know the information it needs before it requests it (see more on that [here](#) and in Switzerland’s database report for the FSI). Developing countries have been largely left out of such deals and in the rare cases where Switzerland has agreed to strike a deal on exchange of information, they have extracted major concessions in return (see pp1-2 [here](#) for more details.)

Switzerland has also rejected the ‘automatic information exchange’ option under the EU Savings Tax Directive, instead opting to levy withholding taxes while keeping account holders anonymous. Long-standing blocking tactics by Luxembourg and Austria in particular have blunted European efforts, and the directive remains full of holes and has not raised spectacular revenues to date: just CHF461m paid to EU countries [in 2012](#). Switzerland has so far refused to sign the OECD / Council of Europe Multilateral Agreement on Administrative Assistance in Tax Matters, a key transparency tool.

Switzerland remains a key jurisdiction facilitating criminal financial activity. The U.S.’ official narcotics body INCSR [reported](#) in 2010 that “criminals attempt to launder illegal proceeds in Switzerland from a wide range of criminal activities conducted worldwide. These illegal activities include, but are not limited to, financial crimes, narcotics trafficking, arms trafficking, organized crime, terrorist financing and corruption.”<sup>6</sup>

Nevertheless public opinion in Switzerland is swinging away from past tolerance of banking criminality. As Mark Herkenrath of Alliance Sud in Switzerland comments: “pro-active measures to provide transparency in tax matters are still missing, even though a growing number of citizens and parliamentarians are calling for such measures.”

#### Read more

- For a longer history of the emergence of Swiss banking secrecy, and see the chapter on Switzerland (Chapter 2) in the UK Edition of [Treasure Islands](#).
- For more details on Swiss bankers in the Second World War, see Tom Bower’s book [Blood Money](#) and reports from Switzerland’s [Independent Commission of Experts](#).
- For a fairly recent overview of Swiss tax and secrecy controversies and more, see this edition of [Tax Justice Focus](#).
- For a detailed analysis of the Swiss “Rubik” bilateral deals with the UK and Austria, see [here](#).

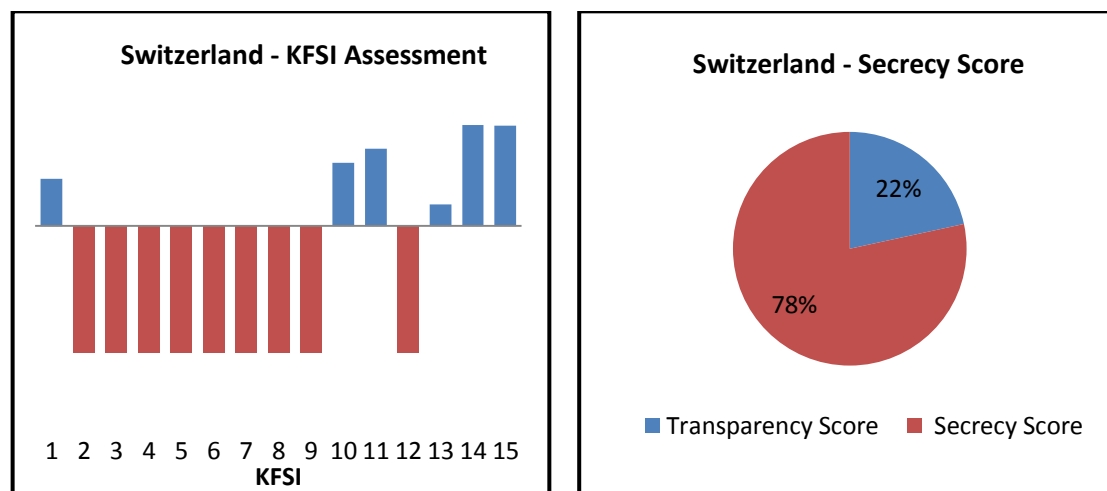
More details on the Swiss financial centre, tax system and more can be found in Sections 30 and 44, [in the database report here](#)<sup>7</sup>.

### Next steps for Switzerland

Switzerland's 78 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 Switzerland'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 78 per cent for the Switzerland 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 the Switzerland. Our data sources include regulatory reports, legislation, regulation and news available at 31.12.2012<sup>8</sup>. The full data set is available [here](#)<sup>9</sup>. Our assessment is based on the 15 Key Financial Secrecy Indicators (KFSIs,

below), reflecting the legal and financial arrangements of the Switzerland. Details of these indicators are noted in the following table and all background data can be found on the [Financial Secrecy Index website](#)<sup>10</sup>.

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

<b>TRANSPARENCY OF BENEFICIAL OWNERSHIP – Switzerland</b>	
1.	Banking Secrecy: Does the jurisdiction have banking secrecy?  <b>Switzerland does not adequately curtail banking secrecy</b>
2.	Trust and Foundations Register: Is there a public register of trusts/foundations, or are trusts/foundations prevented?  <b>Switzerland does not disclose or prevent trusts and private foundations</b>
3.	Recorded Company Ownership: Does the relevant authority obtain and keep updated details of the beneficial ownership of companies?  <b>Switzerland does not maintain company ownership details in official records</b>
<b>KEY ASPECTS OF CORPORATE TRANSPARENCY REGULATION – Switzerland</b>	
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?  <b>Switzerland does not require that company ownership details are publicly available online</b>
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?  <b>Switzerland does not require that company accounts be available on public record</b>
6.	Country-by-Country Reporting: Are all companies required to comply with country-by-country financial reporting?  <b>Switzerland does not require country-by-country financial reporting by all companies</b>



<b>EFFICIENCY OF TAX AND FINANCIAL REGULATION – Switzerland</b>	
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><b>Switzerland does not require resident paying agents to tell the domestic tax authorities about payments to non-residents</b></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><b>Switzerland does not use appropriate tools for efficiently analysing tax related information</b></p>
9.	<p>Avoids Promoting Tax Evasion: Does the jurisdiction grant unilateral tax credits for foreign tax payments?</p> <p><b>Switzerland does not avoid promoting tax evasion via a tax credit system</b></p>
10.	<p>Harmful Legal Vehicles: Does the jurisdiction allow cell companies and trusts with flee clauses?</p> <p><b>Switzerland partly allows harmful legal vehicles</b></p>
<b>INTERNATIONAL STANDARDS AND COOPERATION – Switzerland</b>	
11.	<p>Anti-Money Laundering: Does the jurisdiction comply with the FATF recommendations?</p> <p><b>Switzerland partly complies with international anti-money laundering standards</b></p>
12.	<p>Automatic Information Exchange: Does the jurisdiction participate fully in Automatic Information Exchange such as the European Savings Tax Directive?</p> <p><b>Switzerland does not participate fully in Automatic Information Exchange</b></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><b>As of 31 May, 2012, Switzerland had less than 46 tax information sharing agreements complying with basic OECD requirements</b></p>

14.	<p>International Transparency Commitments: Has the jurisdiction ratified the five most relevant international treaties relating to financial transparency?</p> <p><b>Switzerland has partly ratified relevant international treaties relating to financial transparency</b></p>
15.	<p>International Judicial Cooperation: Does the jurisdiction cooperate with other states on money laundering and other criminal issues?</p> <p><b>Switzerland partly cooperates with other states on money laundering and other criminal issues</b></p>

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

<sup>2</sup> As KPMG notes, the attractions for corporations are “Low effective corporate and individual income tax rates; Extensive tax planning opportunities for holding, headquarter, management, trading, IP and finance companies; Cooperative and business minded tax authorities which issue binding rulings within weeks; Dividend income and capital gains on participations are generally tax exempt; No controlled foreign companies (CFC) rules; No withholding tax on interest and royalties; Extensive treaty networks and agreements with the EU; Flexible reorganization rules.” See our database report for more details. For a good example and description of how developing countries’ tax systems are undermined by Swiss tax facilities, see p25 of Action Aid’s report [Calling Time](#), looking at SABMiller’s tax practices in Africa.

<sup>3</sup> More recently, large sections of the Swiss banking community (though excluding such giants as UBS and Cr dit Suisse) require that one or several partners [face unlimited liability](#) – that is, they are unprotected from bank losses and lose their shirts if the bank collapses. This involves extra caution when making investment decisions, which has bolstered Swiss bankers’ reputation for safety.

<sup>4</sup> See the Switzerland chapter in the UK edition of *Treasure Islands*, for a full description of these episodes.

<sup>5</sup> The European Savings Tax Directive provides for a system of automatic information exchange designed to promote transparency within 43 European and other participating jurisdictions. Its original version, which came into force in 2005, was full of loopholes and failed to raise very significant revenues directly; so powerful Amendments were prepared to close the major loopholes. Under the Swiss bilateral tax deals, by contrast, British and German tax evaders using Swiss banks would get to pay a one-off lump sum to take account of past taxes evaded, plus ongoing payments to cover current taxes due, while preserving their anonymity. Switzerland would transfer the sums to the UK and Germany (and, subsequently, Austria, which signed up later.) Although Germany’s Upper House of parliament rejected the bilateral deal, citing [major loopholes](#) and an unwillingness to sanction financial secrecy, [predictions](#) by TJN that the deals would raise only a fraction of the revenue promised to the UK [turned out to be true](#). Nevertheless, by then the delaying tactics appear to have worked, and at the time of writing the Amendments remained blocked.

<sup>6</sup> Daniel Thelesklaf, Executive Director of the Basel Institute on Governance, explains some of the many loopholes in Swiss money launderings on p12 of the [Switzerland edition of Tax Justice Focus](#).

<sup>7</sup> <http://www.financialsecrecyindex.com/database/Switzerland.xml>.

<sup>8</sup> 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>.

<sup>9</sup> That data is available here: <http://www.financialsecrecyindex.com/database/menu.xml>.

<sup>10</sup> <http://www.financialsecrecyindex.com>.