

# NARRATIVE REPORT ON AUSTRALIA



## PART 1: NARRATIVE REPORT

Australia, not traditionally regarded as a secrecy jurisdiction, is ranked at 48<sup>th</sup> position in the 2020 Financial Secrecy Index, four places down from its 2018 position, 44. 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 a secrecy score of 50 out of a potential 100, which places it in the lower mid-range of the secrecy scale.

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.

### Telling the story: Australia as a secrecy jurisdiction

Despite its relatively low ranking on the Financial Secrecy Index, a number of cases demonstrate that Australia undoubtedly hosts significant quantities of illicit funds from outside the country.

In June 2015, Global Witness worked with a number of media outlets to expose evidence of how Australian lawyers have allegedly been involved in facilitating bribery and money laundering of funds out of Papua New Guinea (PNG).<sup>1</sup>

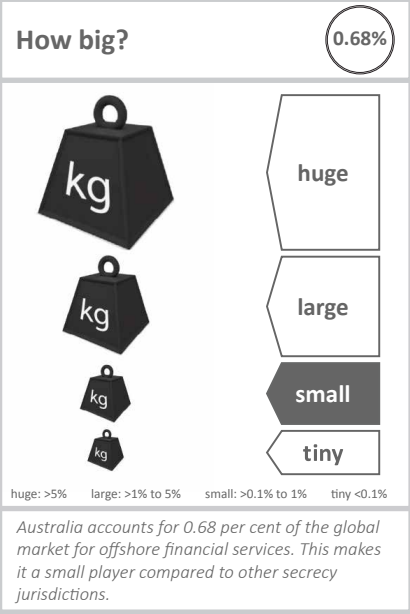
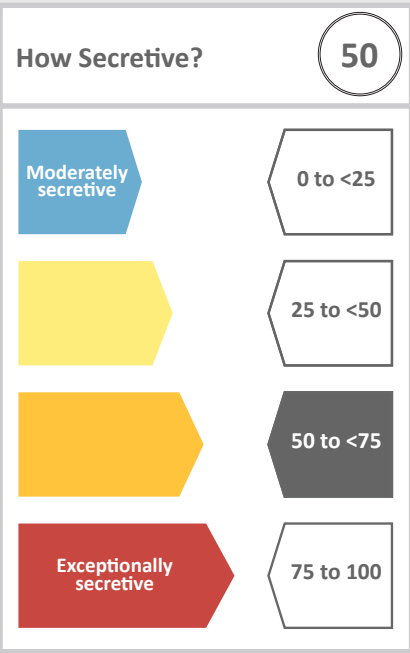
Also in June 2015, the media reported on allegations of senior Malaysian Government officials and businessmen involved in bribery laundering money through the purchase of Australian property.<sup>2</sup> The purchase of Australian properties was conducted via shell companies in the British Virgin Islands and Singapore.

In September 2016 it was revealed that the son of General James Hoth Mai Nguoth, who served as the Sudan People’s Liberation Army’s (SPLA) chief of staff from May 2009 until being dismissed and replaced by General Paul Malong Awan in April 2014, [bought a property in Melbourne worth AUS \\$1.5 million](#). Even as a senior official in the SPLA, General Hoth Mai’s salary was never more than about US \$45,000 per year.<sup>3</sup>

Yeo Jiawei, who was convicted in Singapore of money laundering and obstructing justice as part of the 1Malaysia Development Berhad (1MDB) scandal, used a Seychelles-based company for a series of purchases in Australia.<sup>4</sup> In 2017 [it was reported that](#) Yeo’s court case in Singapore uncovered substantial purchases of property in Australia worth AUS \$6 million<sup>5</sup>

In June 2019, the [Australian Federal Police seized AUS \\$4.2 million in property](#) from an unnamed Chinese national. The property had been placed under a restraining order in 22 November 2018 as part of a proceeds of crime investigation into offshore funds allegedly being laundered in Australia by Chinese nationals. This was the first forfeiture action under the terms of the Joint Agency Agreement on economic crime cooperation between the Australian Federal Police and the People’s Republic of China, Ministry of Public Security. The Chinese national himself escaped Australia and the Australian Federal Police

Rank: 48 of 133



The ranking is based on a combination of its secrecy score and scale weighting.  
 Full data is available here: <http://www.financialsecrecyindex.com/database>.  
 To find out more about the Financial Secrecy Index, please visit <http://www.financialsecrecyindex.com>.  
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believed he had relocated to the Caribbean.<sup>6</sup>

One reason for the failure to stop illicit funds finding a safe haven in Australia is 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. But this legislation was never implemented.

The [Government consulted on](#) including these additional professionals and businesses in its anti-money laundering regime again at the start of 2017.<sup>7</sup> Despite strong support for the measures from bodies concerned about money laundering and tax evasion, and little opposition from the businesses themselves, no public progress has been made on the issue at the time of writing.

In November 2018, Financial Action Task Force (FATF) released its latest mutual evaluation report of Australia's anti-money laundering and counter-terrorist financing system.<sup>8</sup> FATF assessed what progress the Australian Government had made on implementing its recommendations from the 2015 mutual evaluation. The Australian Government's compliance was [upgraded on seven of the 40](#) FATF anti-money laundering and counter-terrorist financing recommendations.<sup>9</sup> FATF rated the Australian Government non-compliant or partially compliant with 14 of the 40 recommendations.<sup>10</sup> On this basis FATF stated that the Australian Government will remain in the enhanced follow-up process.

In May 2019, the Implementation Review Group of the UN Convention Against Corruption released the executive summary of their assessment of the Australian Government's implementation of Chapters II and V of the Convention.<sup>11</sup> [The Implementation Review Group recommended](#) that the Australian Government:<sup>12</sup>

- Continue its measures to enhance transparency of beneficial ownership of companies and director identification;
- Amend the anti-money laundering law to ensure that real estate agents, accountants and lawyers are subject to anti-money laundering and counter-terrorist financing obligations in line with FATF standards; and
- Ensure that information on the beneficial owners of legal persons and legal arrangements

is maintained and accessible to competent authorities in a timely manner.

Money laundering legislation permits information about suspicious financial transactions collected by Australia's financial intelligence unit, [Australian Transaction Reports and Analysis Centre \(AUSTRAC\)](#), to be passed to a foreign government, provided that the government receiving the information gives appropriate undertakings in relation to confidentiality.<sup>13</sup>

AUSTRAC will generally only share information with overseas Financial Intelligence Units (FIUs) where a formal exchange agreement exists. At the moment there are [95 such agreements in place](#), including with Argentina, Bangladesh, Brazil, Cambodia, Chile, Colombia, Fiji, Ghana, Guatemala, India, Indonesia, Malaysia, Mexico, Papua New Guinea, Peru, the Philippines, South Africa, Sri Lanka, Thailand, Vanuatu and Venezuela.<sup>14</sup>

The Australian Treasury [conducted a consultation on a beneficial ownership register](#) for companies in Australia in 2017. The focus appeared to lean towards the register being only accessible to law enforcement agencies. There has been no public movement on the register, with the Government continuing to say it is under consideration.<sup>15</sup>

### Australia's losses to secrecy jurisdictions

When seeking to tackle illicit outflows from Australia, including the protection of tax revenue (and other) losses to secrecy jurisdictions, Australia has taken an innovative and highly proactive approach.

In February 2006, the Australian government established [Project Wickenby](#), a multi-agency taskforce aimed at preventing people from promoting and using overseas secrecy jurisdictions for tax avoidance and tax evasion. Project Wickenby ended on 30 June 2015. It raised AUS \$2.3 billion in tax liabilities of which AUS \$986 million was recovered. Its work saw 77 people charged and 46 convicted.<sup>16</sup> It is seen as a model for other countries to follow in curbing tax evasion and tax avoidance.

Project Wickenby was replaced in 2015 by the Serious Financial Crime Taskforce, to fight serious and organised financial crime.<sup>17</sup> The new taskforce conducts investigations and prosecutions into superannuation and investment fraud, identity crime and tax evasion.

The Serious Financial Crime Taskforce includes the Australian Taxation Office, Australian Crime

Commission, Australian Federal Police, Attorney-General's Department, Australian Transaction Reports and Analysis Centre, Australian Securities and Investments Commission, Commonwealth Director of Public Prosecutions and Australian Customs and Border Protection Services.

In 2018, the Australian Government announced AUS \$182 million in funding over four years for the Australian Taxation Office work through the Serious Financial Crime Taskforce. As of 30 June 2019, the work of the Taskforce had seen five people convicted, AUS \$836 million in liabilities raised and AUS \$306 million recovered.<sup>18</sup>

In December 2014, the then Treasurer, Joe Hockey, said that the Australian Government was being short-changed by the cross-border profit shifting activities of multinational enterprises (MNEs) to the tune of AUS \$1 billion to AUS \$3 billion a year.<sup>19</sup> Independent research put the Australian losses from cross-border tax avoidance in 2013 at US \$6.05 billion.<sup>20</sup>

To stem these losses, legislation was passed that require MNEs with more than AUS \$1 billion of revenue globally, but which operate in Australia, to provide their financial details on a country by country basis to the Australian Taxation Office. None of the information is made publicly available, which is a major shortcoming given that civil society plays an important part in scrutinising corporate tax behaviour. The Government has attempted to ensure compliance with the country-by-country reporting requirements by introducing penalties of up to AUS \$525,000 for failing to file the report within 16 weeks of it being due.<sup>21</sup>

The Government has implemented the OECD Common Reporting Standard for the automatic exchange of financial account information, with the first exchange of information in 2018.<sup>22</sup> De-identified data has been made available to developing countries so that they are able to estimate the size of assets being held by their nationals in Australia.

In June 2013, the Australian Parliament passed legislation to allow the tax payable by companies with revenue greater than AUS \$100 million to be published by the Australian Taxation Office, a small step towards greater tax transparency. However, for 700 Australian resident privately owned companies, where the company is at least 50% Australian-owned, the disclosure threshold is AUS \$200 million.<sup>23</sup>

The Australian Parliament passed the [Multilateral](#)

[Anti-Avoidance Law](#) which came into effect on 11 December 2015. It applies to certain schemes on or after 1 January 2016, irrespective of when the scheme commenced. The law allows the Australian Taxation Office (ATO) to tax profits made from Australian residents by multi-national enterprises even if the company has not set up a permanent establishment in Australia.<sup>24</sup> This is particularly important with the provision of digital services. The law only applies to companies with global revenues of more than \$1 billion.

The Australian Government introduced a Diverted Profits Tax that came into effect on 1 July 2017 that imposes a 40 per cent corporate income tax rate on MNEs with over \$1 billion in revenue that attempt to avoid paying tax on profits made in Australia.<sup>25</sup>

The Australian Government has been an active participant in the OECD BEPS Action Plan working groups.

The Parliament passed legislation on 19 February 2019 to provide protection and compensation for whistleblowers in the private sector that expose tax evasion and tax avoidance.<sup>26</sup>

The Government has announced the introduction of a Director Identification Number, which will help revealing people who are acting as fronts for shell companies on a professional basis and help combat 'phoenixing' activities by companies.<sup>27</sup> A Bill was placed into the Parliament to implement this measure before the 2019 federal election, but lapsed once the election was called and has not been brought back to the Parliament yet.

The Australian Government [ratified the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting \(MLI\)](#) in August 2018.<sup>28</sup> There are some disappointing exemptions which the Australian Government has adopted in the MLI.

The Government consulted on requiring tax advisers to have to [report to the Australian Taxation Office if they are marketing aggressive tax schemes](#).<sup>29</sup> However, after heavy lobbying by those who provide tax advice to corporations there have been no public signs of progress that such a measure will be implemented.

The Australian Accounting Standards Board has been moving to eliminate Australia's unique loophole that has allowed corporations to self assess the level of financial disclosure they need to provide.<sup>30</sup> Corporations could then choose to use a reporting

category of Special Purpose Financial Statements to avoid providing meaningful public financial disclosure.

In 2018, the Australian Taxation Office released its analysis comparing what companies with greater than AUS \$250 million in revenue should have paid in tax in the 2015-2016 financial year and what they actually paid. Their analysis is that the tax gap was only AUS \$1.8 billion, or 4.4 per cent of the corporate income tax collected by the Australian Taxation Office. They [stated that](#) the majority of the tax not paid was due to “differences in the interpretation of complex areas of tax law.”<sup>31</sup>

*With thanks to Mark Zirnsak, [TJN Australia](#)*

## Endnotes

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## PART 2: SECRECY SCORE

### OWNERSHIP REGISTRATION

- 20 1. Banking Secrecy
- 50 2. Trust and Foundations Register
- 100 3. Recorded Company Ownership
- 50 4. Other Wealth Ownership
- 100 5. Limited Partnership Transparency

### LEGAL ENTITY TRANSPARENCY

- 100 6. Public Company Ownership
- 100 7. Public Company Accounts
- 100 8. Country-by-Country Reporting
- 94 9. Corporate Tax Disclosure
- 100 10. Legal Entity Identifier

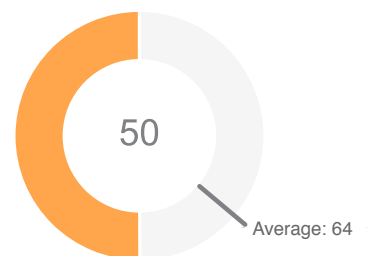
### INTEGRITY OF TAX AND FINANCIAL REGULATION

- 40 11. Tax Administration Capacity
- 0 12. Consistent Personal Income Tax
- 30 13. Avoids Promoting Tax Evasion
- 25 14. Tax Court Secrecy
- 25 15. Harmful Structures
- 30 16. Public Statistics

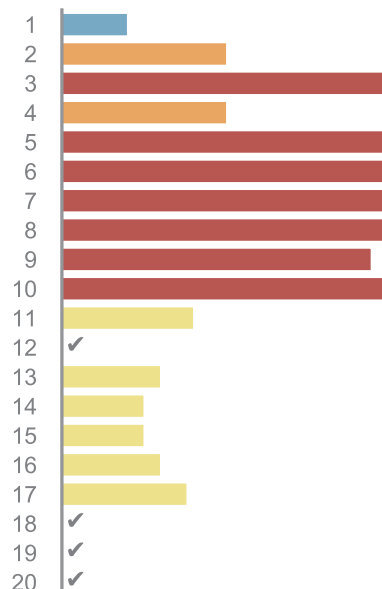
### INTERNATIONAL STANDARDS AND COOPERATION

- 38 17. Anti-Money Laundering
- 0 18. Automatic Information Exchange
- 0 19. Bilateral Treaties
- 0 20. International Legal Cooperation

### Secrecy Score



### Key Financial Secrecy Indicators



### Notes and Sources

The FSI ranking is based on a combination of a country's secrecy score and global scale weighting (click [here](#) to see our full methodology).

The secrecy score is calculated as an arithmetic average of the 20 Key Financial Secrecy Indicators (KFSI), listed on the right. Each indicator is explained in more detail in the links accessible by clicking on the name of the KFSI.

A grey tick in the chart above indicates full compliance with the relevant indicator, meaning least secrecy; red indicates non-compliance (most secrecy); colours in between partial compliance.

This report draws on data sources that include regulatory reports, legislation, regulation and news available as of 30 September 2019 (or later in some cases).

Full data is available here: <http://www.financialsecrityindex.com/database>.

To find out more about the Financial Secrecy Index, please visit <http://www.financialsecrityindex.com>.