

# NARRATIVE REPORT ON ECUADOR



## PART 1: NARRATIVE REPORT

Ecuador is ranked 120th on the 2020 Financial Secrecy Index, based on a relatively low secrecy score of 47 combined with a tiny scale weighting due to the fact that the Ecuador accounts for 0.01 per cent of the global market in offshore financial services.

### Ecuador: a dollarized country, victim of secrecy jurisdictions

Ecuador is not a secrecy jurisdiction. In fact, Ecuador has been quite the opposite: a **protagonist** in the fight against them<sup>1</sup>. Remarkably, Ecuador’s former president, Rafael Correa, in the wake of revelations that a former oil minister manager had offshore companies in Panama,<sup>2</sup> **called for a referendum** on whether politicians and public employees should be able to hold assets in secrecy jurisdictions.<sup>3</sup> This referendum passed and became **law**.<sup>4</sup> Ecuador has been a victim of secrecy jurisdictions because of its **residents’ use** of offshore structures, including for round-trip ‘foreign’ investment.<sup>5</sup>

Ecuador is a small country, geographically placed between Colombia and Peru, the two largest coca exporters in the world. Ecuador is an officially dollarized country, and its domestic legal tender is the US dollar. Its main exports are petroleum, bananas and seafood — all sectors with prevailing trade misinvoicing, which is a technique to commit fraud and which results in illicit financial flows. Its balance of payments also heavily depends on remittances sent by migrants abroad, mainly from the US, Spain and Italy. Its financial system is relatively small in terms of GDP but large in terms of the number of licensed institutions: 24 **banks**,<sup>6</sup> 618 **cooperatives**<sup>7</sup> and hundreds of **money transmitters**.<sup>8</sup> This makes its financial system particularly vulnerable to cash-based money laundering activities from drug money. In fact, between **2010** and **2015**, Ecuador was on the Financial Action Task Force’s ‘grey list’, mainly because it didn’t properly criminalize terrorist financing.<sup>9</sup>

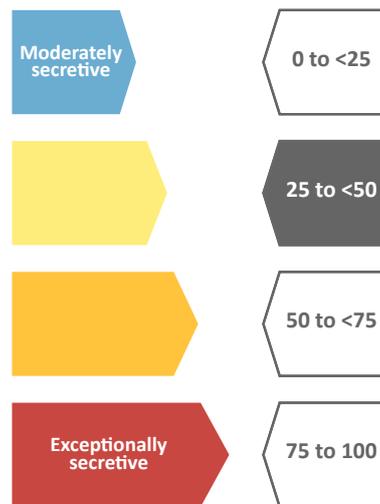
In a recent **report**, the IMF stated that there exists “[a]n under- or over-estimation of US dollars in circulation.<sup>10</sup> The BCE uses the flow of physical banknotes between the central bank and the rest of the financial system as the basis for its estimations of currency in circulation (Vera, 2007). However, some sources of currency flows might not pass through the financial system and are therefore more difficult to track, such as those arising from remittances, tourism and illicit activities.”

As an oil exporter, petrodollar-related elites have tended to stash their money abroad. Ecuador has profound financial and trade links to Miami and Panama, **the two main destinations for capital flight**.<sup>11</sup> In fact, domestic financial elites own six offshore banks in Panama and three in Miami and actively promote capital flight from Ecuador.<sup>12</sup> Many prominent political candidates own offshore firms, and banker **Guillermo Lasso**, a two-time runner-up for the presidency, owns an **offshore bank** in Panama while some of his other offshore assets were **featured in the Paradise Papers**, the huge leak of data of files from the offshore firm Appleby to the International Consortium of Investigative Journalists.<sup>13 14</sup> Another prominent political figure, three-time runner-up for the presidency, banana tycoon Alvaro Noboa, was **featured**

Rank: 120 of 133

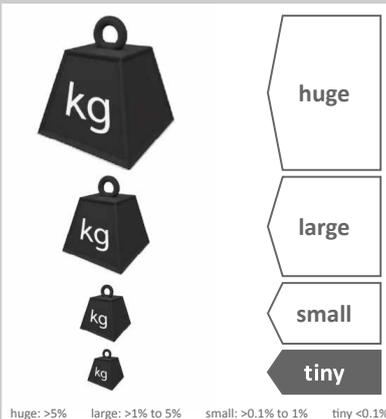
How Secretive?

47



How big?

0.01%



Ecuador accounts for 0.1 per cent of the global market for offshore financial services. This makes it a tiny player compared to other secrecy jurisdictions.

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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in ICIJ's Swiss Leaks,<sup>15</sup> having stashed more than US \$92 million in deposits at the Swiss branch of HSBC's private bank. Noboa's banana exporting company was found [guilty](#) of price transfer abuse.<sup>16 17</sup>

Most recently, Jaime Nebot, one-time runner up for the Presidency and a leading prospect for the 2021 elections, was also [revealed to own offshore assets](#) in Panama and a non-resident LLC in the United States.<sup>18</sup> Current president Lenin Moreno is under investigation for the so-called INA Papers scandal in three jurisdictions, triggered by an opposition lawmaker who alleges the Moreno family had ties to an offshore shell company meant to conceal bribes from Chinese contractors.<sup>19</sup> Likewise, the current (unelected) vice-president Otto Sonnenholzner resigned from a Panamanian offshore company, Galley Enterprises Inc., one day before his designation as vice president.<sup>20</sup>

ICIJ's Panama Papers leak showed that Ecuador was one of the Latin American countries with the largest number of offshore users. The domestic Internal Revenue Service, the Servicio de Rentas Internas, [published a list](#) of 376 intermediaries, 1,737 beneficiaries and 2,113 total offshore companies.<sup>21</sup> In an initial analysis of Panama Papers data, the SRI [published a list](#) of at least 80 offshore firms that had not been reported by Ecuador's largest holdings.<sup>22</sup>

## Significant reforms against financial secrecy

Ecuador suffered a major banking and economic crisis in the late 1990s that led it to adopt the US dollar as its official currency. The [underlying cause](#) of the crisis was financial deregulation, including deregulation of cross-border financial flows.<sup>23</sup> Ecuadorean elites created a myriad of offshore banks and trusts abroad that served as [vehicles for financial fraud](#) during that crisis.<sup>24</sup> A healthy skepticism of the banking sector and of the offshore world has since prevailed among Ecuadoreans and their government authorities. This led Ecuador's government to enact [very strong regulations](#) of banks and a series of penalties and disincentives for offshore dealings.<sup>25</sup> It also motivated an [audit](#) and voluntary default of Ecuador's foreign commercial debt in 2008. Among other irregularities, it cited the fact that government officials that were negotiating the debt on behalf of Ecuador [were at the same time bondholders](#) via offshore structures.<sup>26</sup> In 2009, after it was revealed that Correa's brother was a government contractor [hiding behind offshore](#) shell

companies, Correa issued a decree forbidding all government procurement from firms with offshore stockholders.<sup>27</sup>

Ecuador's companies supervisor agency allows for full online transparency of beneficial owners. The names and holdings of all stockholders are [publicly available](#) online and updated continuously.<sup>28</sup> If a stockholder is a foreign entity, management must present a detailed holding of its stockholders, successively, until a physical person is reached. Beneficiary information is also available for [trusts](#), which have to be publicly registered.<sup>29</sup> There are two exceptions: if any of the foreign entities is listed on any stock exchange or if the Ecuadorean company is a subsidiary of a foreign company. The stockholder database is searchable by [name](#), including names of the first foreign entity.<sup>30</sup>

Not only are beneficial owner data publicly and freely available, but so are [all corporate filings](#) for all companies, from around 80 years ago, in PDF format.<sup>31</sup> Corporate filings include changes in owners and managers. They also include all financial statements, third-party audit reports including notes and managerial reports for stockholders of all companies that operate in Ecuador. These documents, however, are not text-searchable. Civil society organizations have scraped these documents and made them [available](#) in a user-friendlier interface.<sup>32</sup>

Ecuador's tax authority, SRI, [publishes how much](#) income tax and how much outflow tax companies or people have paid in each of the last twenty years.<sup>33</sup> It also publishes whether taxpayers have appealed tax audits and whether they have paid their taxes [on time](#).<sup>34</sup> SRI also publishes the [amounts owed](#) or the amounts which are in the midst of a judicial process, whereby corporations and people contest the tax position taken by the government, including a [ranking](#).<sup>35</sup> SRI has specifically eliminated confidentiality for the [largest financial holdings'](#) financial [data](#) and for any relationship between Ecuadorean corporations and [tax havens](#).<sup>36</sup> That information is likewise [ranked](#) and published online.<sup>37</sup>

Ecuador's real estate registration is decentralized in favor of municipalities. Practices are not homogeneous. Quito, the capital city, has a [transparent](#) land register. Its data and [municipal valuation](#) is freely available for [consultation](#) online by land registry number.<sup>38</sup> Tax owed and paid on real state is also freely [available](#) by name or land registry number. Beneficial owner data, however, is not available. Guayaquil, Ecuador's second largest

city and its main port does not have a transparent land registry: it has a fee and it requires physical presence.<sup>39</sup> However, tax owed and paid on real estate can be [consulted online](#) but only with the land registry number.<sup>40</sup>

Ecuador's judicial system, including tax-related disputes, is fully transparent. The [electronic system](#) is open and free and is searchable by the name or ID number of those implicated. Once identified, all filings are visible<sup>41</sup>, though the electronic system is not fully searchable in terms of the content of the judicial filings. There is, however, no transparency for commercial arbitration and certain tax-related disputes that are still resolved in arbitration tribunals run by local chapters of the chambers of commerce. Arbitrations are confidential, but when they are challenged in court, some content from the arbitration can be accessed.

In what amounts to a transparency paradox, Ecuador's official gazette (Registro Oficial) run by the constitutional court, is [neither free nor publicly available](#). Even though no citizen can claim ignorance of the law, the electronic version [costs](#) US \$280 per year.<sup>42</sup> This contrasts with the corporate supervisor (Superintendencia de Compañías, Valores y Seguros) and the tax authority (SRI) which make their respective gazettes and all of their resolutions publicly available online.<sup>43</sup>

Ecuador's anti-money-laundering legislation has been reformed several times since 2011. The 2016 law included many types of [reporting entities](#).<sup>44</sup> One of the most significant omissions is mandatory reporting by domestic law firms. A 2017 bill proposed that law firms report the creation of special purpose vehicles, but lawyer groups claimed attorney-[client privilege](#) and successfully lobbied against this initiative.<sup>45</sup> Ecuador's financial intelligence unit, in alliance with the tax authority, has increased its capacity. SRI, meanwhile, has unlimited real-time access to domestic banks' transaction data.

Ecuador has 19 double [taxation agreements](#), and most of them are with developed countries.<sup>46</sup> Most recently, it [renegotiated](#) its tax agreement with Switzerland to include the possibility of information exchange and to curb tax-avoidance practices. Ecuador also has signed 30 [bilateral investment protection treaties](#), of which only three are in force but a dozen are in grandfathering mode, a provision that extends their effects after termination.<sup>47</sup> Although Ecuador unilaterally notified partners of the termination of all of its

bilateral investment treaties in May 2017, Ecuador has faced more than 20 [investor-state arbitrations](#) by foreign multinational corporations.<sup>48</sup> Almost all have to do with tax and royalty policy measures in the extractive and energy industries.<sup>49</sup>

Ecuador [adhered](#) to the Convention on Mutual Administrative Assistance in Tax Matters in 2019 after a process that involved joining the OECD Global Forum on Transparency and Exchange of Information for Tax Purposes in 2016 and successive steps involving ratification of the convention.<sup>50</sup> Ecuador has [committed](#) to exchange Common Reporting Standard information by 2020.<sup>51</sup>

Ecuador's local tax authority had issued a [regulation](#) that mandates residents (high net worth elites and domestic firms) to [report](#) —once a year, and for the last three years — any monetary assets abroad above US \$100,000, along with underlying SWIFT data.<sup>52</sup> This regulation was [unsuccessfully challenged in](#) court by the local chamber of commerce.<sup>53</sup> But a few days after the president of the chamber of commerce was [appointed](#) Minister of Economy and Finance, the tax authority [undid the regulation](#) and walked back from requesting this information.<sup>54</sup> The [excuse](#) was 'paperwork reduction' and that this information would be provided by the Common Reporting Standard as part of the Global Forum, which is false.<sup>55</sup> But in the case of dollarized Ecuador, it is [estimated](#) that 80 per cent of assets are held in the US, which is not a party to this convention. Finally, the US [has not negotiated](#) a reciprocal FATCA-related agreement with Ecuador.<sup>56</sup>

Because 2020 will be the first year that Ecuador requests information in the Common Reporting Standard, it is currently unknown how many countries it has information-exchange agreements with.

Ecuador has a very limited free-trade-zone regime, called economic development special zones (ZEDE, in Spanish) and only for industrial projects. They have abundant incentives, including no income tax and a lax import regime, but are heavily regulated by the government. Starting from early 2019, firms have [broad incentives](#), including no income tax for more than a decade, for broader sectors of the economy.

### Continued efforts in process

Ecuador has recently signed an [agreement](#) with the IMF, which mentions joining the Extractive

Industries Transparency Initiative, but there are no tangible results so far. “To further institutionalize transparency in the oil sector, the authorities will seek technical assistance during the period of the [Extended Fund Facility] to pursue membership of the Extractive Industries Transparency Initiative (EITI).”

Very recently, the Ecuadorean government has [proposed](#) a consumer tax on digital services. To ensure compliance, local card-processing companies would withhold the corresponding tax.

### **Recent measures are doing away with financial transparency**

Ecuador’s tax policy has changed dramatically since the end of 2018. As mentioned, the undoing of the monetary-assets-abroad regulation was also a harsh attack on tax justice and financial transparency. A law passed in August 2018 eliminated many of the penalties and disincentives for tax havens; it was expressly designed to benefit round-tripping.<sup>57</sup>

That same August 2018 act [forgave](#) debts owed by large corporations, mainly [transnational oil firms](#), that had disputes with the tax authorities in local courts. The debts (interest, arrears and penalties) were forgiven if the corporations agreed to pay the amount determined by SRI. However, the [law](#)<sup>58</sup> conceded firms not to admit to evasion or fraud, which had a severe impact on the financial statements of the firms, as they were allowed not to include these tax payments in their accounts. Unregistered profits amount to at least 6 per cent of GDP.<sup>59</sup>

The most recent bill proposed by the current president that promoted tax evasion and financial deregulation was voted down by Ecuador’s parliament. There were reiterative mentions of confidentiality, reserve and secrecy when referring to tax data and banking data. It also proposed deregulation of cross-border financial flows, including cutting the outflow tax on banks’ liquid assets by half. It proposed bank concentration, full liberalization of banks’ financial flows and reinstated the possibility of banks owning subsidiaries in tax havens.

Finally, the most recent bill proposed a ‘one-off regularization tax’ where elites could repatriate their offshore holdings and legally guarantees impunity from tax audits and tax-related criminal convictions. The ‘penalty’ for regularizing hidden wealth originated from tax evasion would have

been between 1 to 8 per cent. If the assets were repatriated immediately, owners would have paid 1 per cent. If they took longer, up to 4 per cent. If they were declared but not repatriated, the tax would have been 8 per cent. However, they could have transferred their assets abroad as soon as 12 months later and would not have to pay the 5 per cent outflow tax on the way out. This means that the government was going to actually pay elites owners between 1 to 4 per cent for their impunity. Even though this proposed bill was voted down, President Lenin Moreno has announced he will re-send the bill with some modifications. At the time of publishing, it is uncertain whether the bill will pass.

*With thanks to Andres Arauz, Doctoral Fellow,  
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University of Mexico.*

## Endnotes

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## PART 2: SECRECY SCORE

### OWNERSHIP REGISTRATION

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

### LEGAL ENTITY TRANSPARENCY

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

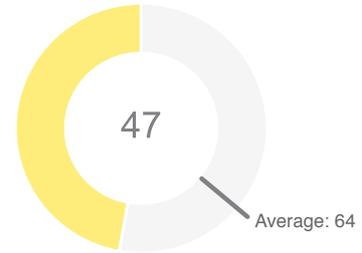
### INTEGRITY OF TAX AND FINANCIAL REGULATION

- 50 11. Tax Administration Capacity
- 38 12. Consistent Personal Income Tax
- 100 13. Avoids Promoting Tax Evasion
- 25 14. Tax Court Secrecy
- 25 15. Harmful Structures
- 70 16. Public Statistics

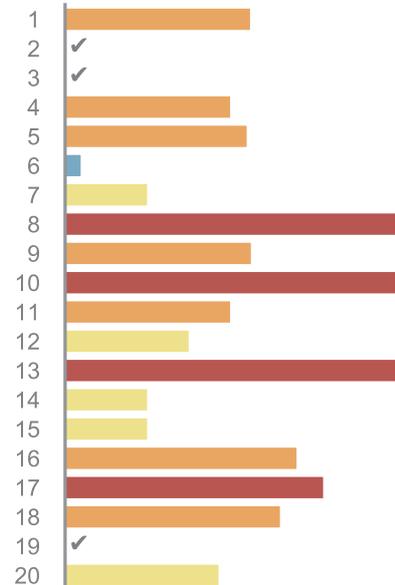
### INTERNATIONAL STANDARDS AND COOPERATION

- 78 17. Anti-Money Laundering
- 65 18. Automatic Information Exchange
- 0 19. Bilateral Treaties
- 47 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>.