

Relations with Switzerland in Tax Matters and the Fight against Money Laundering



TAX 3 Committee (Special Committee on
Financial Crimes, Tax Evasion and Tax
avoidance) of the European Parliament

Public Hearing on 1 October 2018

Is The Tail Wagging The Dog?



- *Landlocked Switzerland's economy depends on the EU*
- *EU-Swiss relations are governed by more than 100 bilateral agreements*
- *An institutional framework agreement intended to ensure that agreements on market access are applied is negotiated since 2014*
- *EU-Swiss relation turned sour after Swiss voters approved an initiative calling for quotas on immigration in 2014*
- *On Friday October 30, 2018 the Swiss-EU negotiations hit a brick wall in the Swiss parliament*
- *If at all, negotiations will not wrap up before UK's scheduled Brexit on March 29, 2019*

Beggar Thy Neighbours Ongoing



- *EU member states lose up to € 70 billion annually to corporate tax avoidance*
- *OECD criticized Switzerland's "harmful" tax system for offering lower tax rates for foreign companies than for domestic ones*
- *In 2014 the EU and Switzerland agreed to bring an end to the harmful tax practices.*
- *The EU has given Switzerland until end of 2018 to abolish tax privileges.*
- *On 28 September 2018 the Swiss Parliament approved a proposal that secures and enhances Switzerland's overall attractiveness as a business location.*
- *Certain parties in Switzerland have already announced their intention to hold a referendum.*
- *The deadlines for the end to the harmful tax practices as well as the framework agreement will not be met.*

Have The Cake And Eat It Too



Switzerland has a history of reneging on promises and agreements.

For example:

- *In the wake of the UBS DPA and the US efforts to break the Swiss bank secrecy the Swiss government (Bundesrat) reaffirmed the so-called "White Money Policy" (Weissgeldpolitik) in February 2012. On November 2013 the Bundesrat announced that the White Money Policy is put on hold due to the resistance of the Swiss financial sector.*
- *Switzerland's commitments to implement FATCA and OECD's AEOI were touted as the end to the Swiss bank secrecy.*
- ❖ *Evidence shows that FATCA and AEOI are undermined by special clauses in the agreements and foremost by the identity laundering of Swiss accounts' beneficial owners. The ID-laundering is facilitated by the use of offshore structures* and also by selling citizen-ships.*

- **April 2017 advisory statement to the finance committee of the German Bundestag.*

World Champion In Harmful Secrecy



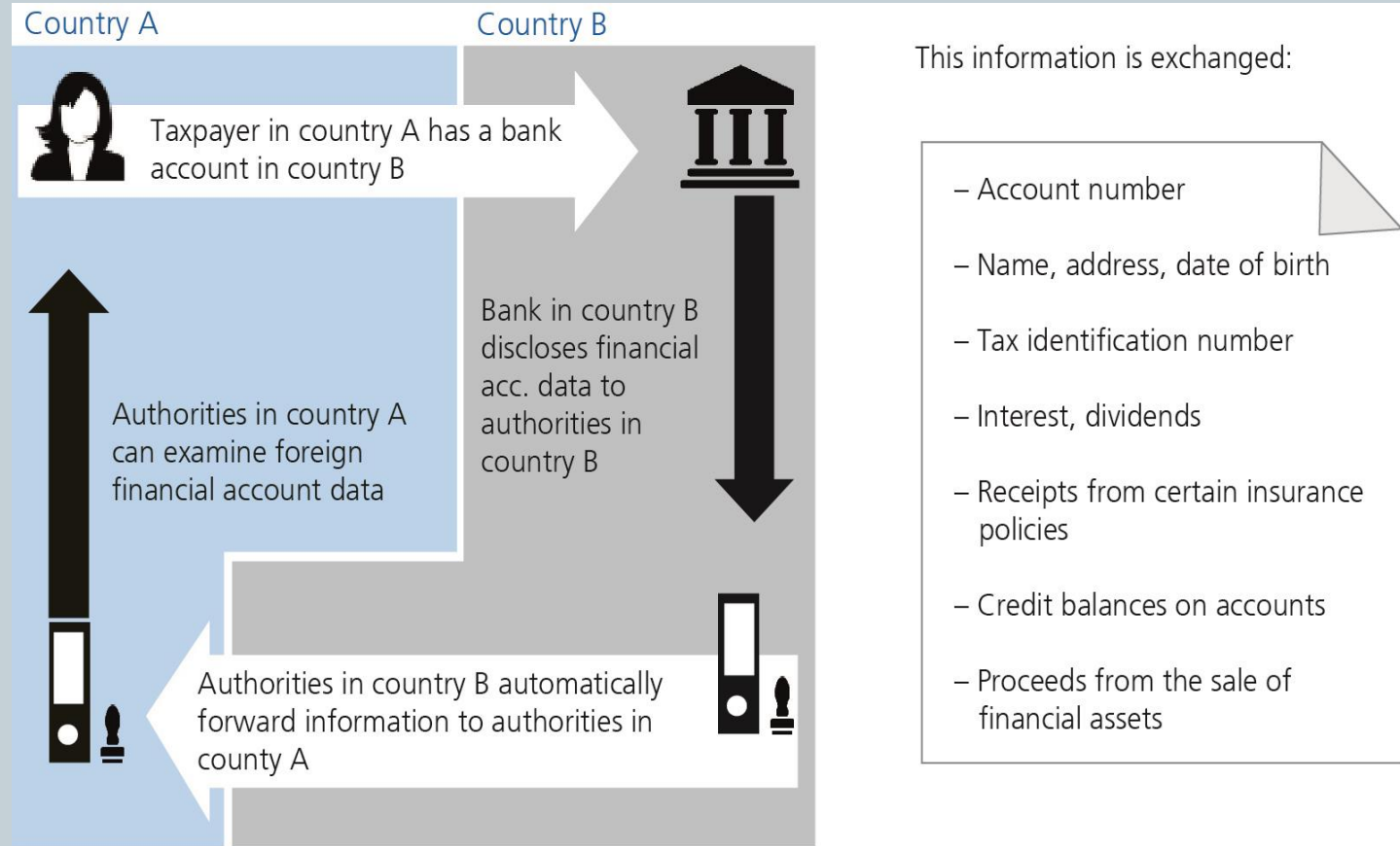
- *Financial secrecy is a key facilitator of financial crime, and illicit financial flows including money laundering, corruption and tax evasion.*
- *Switzerland is still the world's biggest contributors to financial secrecy, according to the 2018 edition of the Tax Justice Network's Financial Secrecy Index (TJN).*
- *Switzerland, with more than US\$ 2.0 trillion managed by the world's largest center for overseas wealth, retains the worst ranking in harmful secrecy.*
- *Switzerland remains the mother of all tax havens, off-shore structures and harmful secrecy systems.*

OECD's Phase 4 Report On Switzerland



- *Switzerland must urgently do more to protect whistleblowers and stop money laundering and bribery*
- *Lawyers and trustees operating in Switzerland must face tougher penalties for perpetrating or facilitating bribery taking place abroad*
- *Lawyers and other professional advisors that help individuals set up anonymous companies and trusts are only liable to prosecution under anti-money laundering rules if they actually execute a transaction*
- *Whistleblowers expose themselves to criminal prosecution or retaliatory measures if they make a report, as case law has consistently demonstrated in cases involving reported suspicions of financial offences.*
- *Almost universal mistrust of whistleblowers stemming from extremely entrenched opinions on this matter that point to strong, deep-rooted cultural resistance to people who support suspicions of wrongdoing.*

OECD's AEOI



Kill The Messenger



The suppression of criticism about harmful secrecy and the associated crimes was introduced by the Swiss legislator and executed by the executive and judicial branches.

- *The Swiss intelligence agency law approved in 2016 empowers the secret services to protect the Swiss financial market by going after critics of the "harmful secrecy system" in a world-wide operation. The law was approved by 65.5% of the Swiss voters.*
- *The Swiss libel laws are used to silence critics of Switzerland's crime enabling industry world wide. Swiss libel law reverses the burden of proof which is extremely difficult to provide. The Swiss libel law allows not only to scare off journalists and whistleblowers but also reporting entities or obliged person by the BO registers. The Swiss libel laws are infringing with EU laws like the Anti-Money Laundering Directive.*
- ❖ *Typically, the EU member states would enforce the ruling by the Swiss courts. To protect its citizens and law the EU should no longer recognize Swiss rulings in libel cases (Rachel Ehrenfeld).*

To obscure crimes, prevent supervision



So-called self-regulatory organizations (SROs) act as competent AML authorities for reporting entities (trustees, asset managers, lawyers, bitcoin exchanges and others).

These SROs are constituted within federations (Vereine). Their first priority is to protect their members by all means.

Confidential information given to the SRO is shared with their members and can lead to criminal complaints for libel and slander against the informer.

The non-existent to very weak supervision attracted decentralized crypto currency companies to the canton of Zug which prides itself as the World's Virtual Currency Valley.

Don Fort, chief criminal investigator of the US IRS termed decentralized cryptocurrencies as the most serious problem for the IRS. "Cybercurrencies are a threat to financial integrity and transparency." Whenever there is a possibility to use harmful secrecy Switzerland is at the forefront.

Summary



- *Considering the missing progress in respect to harmful tax practices the EU finance ministers should move Switzerland from the grey watch list to the black list of non-cooperative tax jurisdictions.*
- *Considering the described AML deficits Switzerland should be on the list of third-country jurisdictions which have strategic deficiencies in their anti-money laundering and countering the financing of terrorism regimes that pose significant threats to the financial system of the Union.*

EU LISTS: "NON-COOPERATING" TAX JURISDICTIONS

(December 2017 - March 2018)

Initial Blacklist 12/5/17	FSI 2018 Rank		Final Blacklist 3/13/18	FSI 2018 Rank	Mkt %	Final Greylist 3/13/18	FSI 2018 Rank	Mkt %
Amer Samoa	na	→	Amer Samoa	na	na			
						Anguilla	105	0.01%
						Antigua	98	0.00%
Bahrain	17	→	→	→	→	Bahrain	17	0.11%
Barbados	48	→	→	→	→	Barbados	48	0.02%
						Barbuda	na	NR
						BVI	16	0.38%
						Dominica	96	0.00%
						Grenada	101	0.00%
Grenada	101	→	→	→	→			
Guam	na	→	Guam	na	na			
Macao	22	→	→	→	→	Macao	22	0.24%
Marshall I.	39	→	→	→	→	Marshall I.	39	0.04%
Mongolia	NR	→	→	→	→	Mongolia	na	NR
Namibia	na	→	Namibia	na	na			
Palau	na	→	Palau	na	na			
Panama	12	→	→	→	→	Panama	12	0.27%
S Korea	33	→	→	→	→	S Korea	33	0.36%
Samoa	82	→	Samoa	82	0.00%			
			St. Kitts	63	0.00%			
St Lucia	110	→	→	→	→	St Lucia	110	0.00%
			Bahamas	19	0.04%			
Trinidad	107	→	Trinidad	107	0.00%			
Tunisia	na	→	→	→	→	Tunisia	na	NR
UAE	9	→	→	→	→	UAE	9	0.14%
			US Virgin I.	83	0.00%			
#	Median Rank		#	Median Rank	Group Mkt %	#	Median Rank	Group Mkt %
17	39		9	73	0.04%	16	39	1.56%

Source: OECD, TJN FSI 2018, my analysis

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Thank you for your attention



Any questions ?



ICIJ Bahamas Leaks

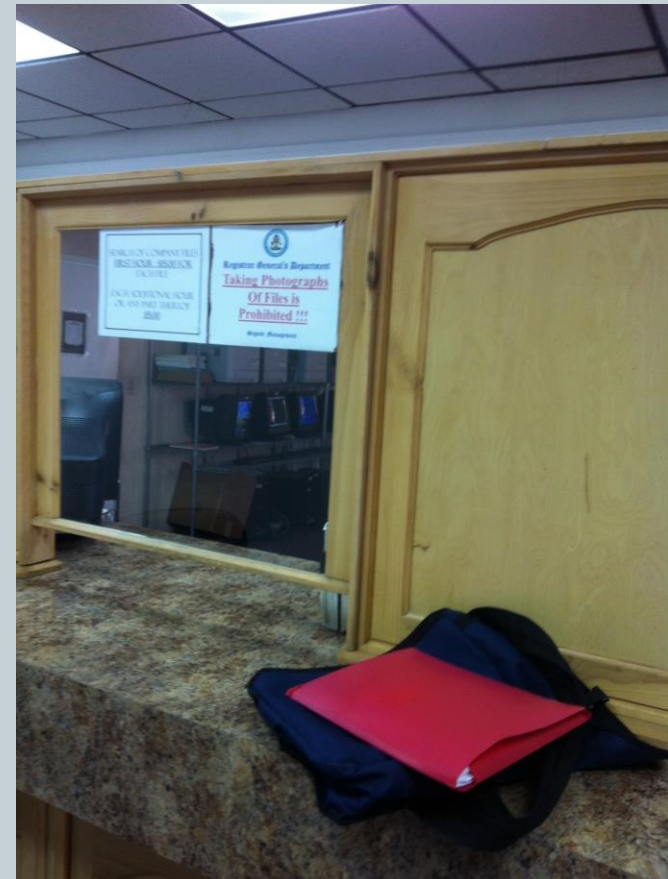


Bahamas IBCs:

- Minimum capital \$ 100
- Government fee \$ 350 per year
- No office
- No local employees
- No telefon
- No letter box
- No book keeping
- No annual statement
- No audit
- All documents can be manipulated by the company register
- Shareholders/UBOs are only known to the registered agent
- **No business in Bahamas**

State-run company register:

- Communication only with the registered agent not with the IBC
- Accepts documents unchecked from the registered agent



Registrar General's Department Bahamas

Pictet Bank & Trust Bahamas



**Offshore Leaks
Database**
Tax haven secrecy
revealed

INTERMEDIARY

PICTET BANK & TRUST

Connected to **629 entities**

Connected to **1 address**

📍 Linked countries: [Bahamas](#)

📄 Data from: [Bahamas Leaks](#)

🕒 The Bahamas Leaks data is current through early 2016.

INTERMEDIARY

RHÔNE TRUSTEES (BAHAMAS) LTD.

Connected to **434 entities**

Connected to **1 address**

📍 Linked countries: [Bahamas](#)

📄 Data from: [Bahamas Leaks](#)

🕒 The Bahamas Leaks data is current through early 2016.

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EXECUTIVE PARK**



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