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27 February 2017

Automatic Exchange of Information as the new global standard: the end of (offshore tax evasion) history?*

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This Version: 27 February 2017

*Working Paper. Submitted for publication in the following edited Volume: Automatic Exchange of Information and Prospects of Turkish-German Cooperation, Istanbul (ed. Leyla ATEŞ & Joachim ENGLISCH) (forthcoming). Based on a presentation given on 3 March 2016 at the 2nd Turkish-German Biennial on International Tax Law in Istanbul.

Abstract: Automatic exchange of information (AEoI) for tax purposes has become the global standard for international tax cooperation in 2013. As a tool for containing offshore tax evasion, it has encountered opposition in the past and continues to be fraught with challenges. This paper recapitulates the rationale for AEoI, including estimates on the magnitudes of assets held offshore, with a specific focus on Turkish assets held in Germany (chapter 1). Subsequently, chapter 2 summarises the recent history and describes the processes and milestones until breakthrough for global AEoI in 2013. Chapter 3 then discusses three current challenges, including the de facto exclusion of developing countries; how to incentivise recalcitrant jurisdictions to participate, such as the USA; and issues around the implementation of the CRS, including OECD's Global Forum of Transparency and Exchange of Information, the peer reviews and public statistics. Chapter 4 concludes.

Keywords: Offshore Finance, International Cooperation, Money Laundering, Economic Development, Developing Countries, Tax Havens, Secrecy Jurisdictions

JEL: F38, H26, K34, O19, O23, F63, F53, F55, H77

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1. Why Automatic Exchange of Information matters

Increasing economic inequality and concentration of wealth across the globe is becoming widely recognised as a, if not the most important, problem of our time. A wide spectrum of actors and organisations, including the World Economic Forum in Davos (Vanham, Peter 2017), academics such as Piketty (Piketty 2014), charities such as Oxfam (Oxfam 2016), the OECD (2015), the International Monetary Fund (Dabla-Norris et al. 2015) and the United Nations and its Sustainable Development Goals (High Level Panel 2013: 60), have pointed out the risks and harms caused by current levels and dynamics in income and wealth inequality. These range from degrading the environment, reducing economic growth and increasing social exclusion to undermining fair market competition and indeed democratic institutions. Societies with *lower* levels of income inequality suffer less from social problems such as crime, mental diseases, obesity or teenager pregnancies (Wilkinson/Pickett 2010). This suggests that also for the economically better off, more economic equality may be desirable as they also stand to benefit from a safer society with less crime and other social problems.

While there are multiple causes for inequality, one important cause consists in the ability of wealthier segments of societies to escape their tax obligations. By shifting financial assets and income offshore – that is, across borders, beyond the reach of their tax administrations - they can engage in tax evasion, which directly undermines both the progressive nature of income taxation and thus the bedrock of modern societies, and redistribution as one of the four key functions of taxes (Cobham 2007). It also impacts the voluntary compliance of all other taxpayers because “[i]f taxpayers believe tax evasion to be common, tax morale decreases” (Frey/Torgler 2007: 153).

Tax havens – or more usefully, financial secrecy jurisdictions – have commercialised their sovereignty (Palan 2002) to provide a shield of secrecy for those seeking to hide their fortunes. By creating laws that invite financial institutions and service providers to receive, hold and manage the assets of non-residents without providing information to the relevant home authorities, secrecy jurisdictions facilitate and incentivise the nondeclaration of assets, income and capital gains.[2] But the problem is not restricted anymore to notorious Caribbean or Alpine secrecy jurisdictions. Major financial centres such as the United States, the United Kingdom and its empire of overseas satellite jurisdictions as well as Germany all host substantial offshore assets and provide secrecy (Cobham et al. 2015; Meinzer 2016).

Given the widespread principle of worldwide income taxation rights in favour of the jurisdiction where individuals are resident, offshoring assets and income constitute illegal tax evasion as long as these assets and income are not declared in income tax returns to the relevant domestic tax administration. In practice, however, the laws underpinning this principle have hardly been enforced in practice because the risk of being caught for offshore tax evasion is extremely small, absent any third-party reporting obligations that work effectively across borders. Without routine reporting by third parties – e.g. by financial institutions reporting account balances of clients to the tax administrations - compliance with tax laws is likely to fall dramatically. A comprehensive study by the US Treasury's Internal Revenue Service (2012) analysed the tax gap for the United States – the differences of taxes due and the taxes actually paid. It allocated the amounts lost due to misreporting of income into categories of income sorted by the intensity of third party reporting. The results are striking: when income is subject to substantial information reporting (or high visibility or transparency), only between 1% and 8% of the amounts is misreported. However, if the income is subject to little or no information reporting (or little or no transparency), 56% of the income is misreported. This latter case is, of course, the context of international business and taxation. There has not been a functioning system for routine reporting across borders for the last decades.

These findings suggest that tax evasion of cross-border income is the rule, and not the exception, at least as long as no effective information reporting on that income is taking place. Other studies and experiences confirm this. For example, Gaggero (et al. 2007) estimate that 85% of wealth held abroad by

[2] see Tax Justice Network's Financial Secrecy Index for a discussion of the full range of issues involved, e.g. www.financialsecrecyindex.com (Cobham et al. 2015; Meinzer 2016).

Argentineans goes untaxed. A detailed enquiry by the French parliament into the leaked data by HSBC private bank corroborated this finding. Of almost 3000 French clients, only six had properly declared the accounts in their tax return – a ratio of ca. 0.2% (Assemblée Nationale 2013: 19-20).

Important destinations of offshore assets are the United States and Switzerland. With respect to Switzerland, Helvea (2009) estimated that between 80% and 99% of about 2 trillion Swiss Francs invested in Swiss accounts by non-residents are undeclared. And in Liechtenstein, which is in a customs and monetary union with Switzerland, in a sample of accounts held by US clients analysed by US Justice, only 2% were declared properly in the USA.[3] However, the US itself hosts an important offshore asset sector. In a letter to the then U.S.-Secretary of the Treasury Tim Geithner, Florida delegates to the House of Representatives wrote in 2011:

> "For more than 90 years, the United States has recognized the importance of foreign deposits and has refrained from taxing the interest earned by them or requiring their reporting.[…] Because of the privacy laws of the United States, nonresident aliens are estimated to have deposited over $3 trillion in U.S. financial institutions." (Florida Delegates to the House of Representatives 2011: 1).

While the exact amounts at stake are necessarily uncertain given the hidden nature of these activities, there is no doubt that the resulting revenue losses are substantial. The lowest estimate of global financial wealth held 'offshore' is $7.6 trillion in 2013 (Zucman 2014), the highest is $21-$32 trillion in 2010 (Henry 2012). Both studies coincide however that the estimated global tax revenue losses resulting from undeclared offshore assets amount to ca. $190bn annually – most, if not all of which, would be borne by the wealthiest in each society. This amount is greater than the sum of all official development assistance paid to developing countries in 2013 (US$ 135 billion).[4] For Africa alone, the stock of offshore assets that have been accumulated through illegal capital flight between

[3] Liechtensteiner Vaterland, 19.7.2012, S. 25.
[4] http://www.oecd.org/newsroom/aid-to-developing-countries-rebounds-in-2013-to-reach-an-all-time-high.htm; 10.2.2017.

1970 and 2008 is estimated to amount to US$944 billion. If contrasted with the stock of foreign debt of the same African nations of US$177 billion (Ndikumana/Boyce 2011), it becomes apparent that the African continent is a net creditor to the rest of the world.

In the German financial system, the amount of tax exempt interest-bearing assets held by non-residents ranged between €2.5 - 3 trillion as of August 2013. Of this sum, an estimated €7.4 billion of interest bearing investments in the German financial system has a direct origin in Turkey, including bank deposits, corporate and government debt, as well as interest-bearing shares of investment funds.[5] When applying the same methodology with updated data for December 2016, this amount has increased to €10.8 billion (see table 1 below). Of the total interest bearing assets held by all non-residents in Germany, only ca. 1% was subject to information exchange according to the European Savings Tax Directive in 2013 (Meinzer 2015b: 50). Given that interest income stemming from those assets would normally be taxable in Turkey[6] is unlikely to be reported and taxed, the amounts invested in the German financial system by Turkish residents imply a considerable revenue loss to Turkey.

Table 1: Interest bearing assets held in German financial system with direct origin in Turkey

Year/Date	Bank Liabilities only (Mio. €)	Of which non-bank	% of non-bank	Multiplier	Total interest bearing assets (Mio. €, estimation)
Aug-13	2,929	1,339	46%	2.534386	7,423
Sep-15	3,858	2,252	58%	see above	9,778
Dec-16	4,259	2,138	50%	see above	10,794

Sources: Deutsche Bundesbank 2013b, 2015, 2017, 2014b, 2013a, 2014a;Meinzer 2015; own analysis.

[5] Based on Bundesbank data, for methodology see Meinzer 2015: 48-52; www.chbeck.de/fachbuch/zusatzinfos/Anhang2_Steueroase%20Deutschland.pdf; 10.2.2017.

[6] In addition, the assets themselves might be the fruit of domestic tax evasion. Therefore, reporting about the income and assets might trigger further investigations about domestic tax evasion as well.

The findings by the US IRS tax gap study illustrate another important point about automatic information exchange. The main effect expected from automatic exchange of information (AEoI) is a deterrent effect: it is likely to impact the behaviour of offshore investors prior to the information exchanges taking place. Therefore, the direct revenue impact of AEoI is hard to measure by the number of additional cases or revenue raised through enforcement activity directly triggered by AEoI. Rather, investors will adjust their portfolio investment decisions and either repatriate assets, relocate or declare them (Meinzer 2010).

2. How did we get here? Past challenges in tax information exchange

The global financial crisis of 2008 provided the trigger that accelerated a reform process which culminated in the implementation and rolling out of automatic information exchange pursuant to the OECD's Common Reporting Standard (CRS). The recent history leading to these events can be categorised in 6 phases (see table 2, below).

Table 2: Phases in the recent history of global tax information exchange

Period	**Phase**
2002-2008	"Upon request" in Sleeping Beauty
2009-2010	Rolling out of "upon request", brewing conflict around AEoI
2010-2012	Conflict: enter FATCA and Rubik
2012-2013	Breakthrough for AEoI
2013-2014	Details of open AEoI framework are unveiled, the battle for scope
2015-?:	Rolling out, the battle for meta transparency and effective sanctions

The first phase begun with the demise of the OECD's harmful tax competition (1998) project, which was effectively blocked by tax havens and their political allies. As a result, the OECD invited six notorious tax havens which had committed to improve on transparency to participate in shaping a standard for information exchange and transparency. The initial six were Bermuda, Cayman Islands, Cyprus, Malta, Mauritius and San Marino. Soon, this group became the Global Forum Working Group on Effective Exchange of Information, and expanded its membership to include, in addition to OECD and the aforementioned, the following jurisdictions: Aruba, Bahrain, Isle of Man, the Netherlands Antilles, and the Seychelles (OECD 2002: 2). This group developed the 2002 Model agreement for tax information exchange (TIEA), which was restricted to information exchange upon request (ibid.; Meinzer et al. 2009). However, very few TIEAs were signed by notorious tax havens until the global financial crisis hit in 2008 (Misereor 2010: 3).

While automatic information exchange was hardly being discussed at the OECD at that time, public discourse and other organisations went further. In 2003, the European Union (EU) enacted the first multilateral system for automatic information exchange through its Savings Tax Directive (Gilligan 2003). While limited in scope and riddled with exceptions and loopholes, it established an important precedent for the principle of automatically exchanging sensitive bank information across borders. In April 2008, some commentators wrote in the Financial Times: "We need the automatic exchange of tax information between jurisdictions and all developing countries must be included".[7] This call was echoed later by Mexico's Finance Minister Agustin Carstens who said in a letter to U.S. Secretary of the Treasury, Timothy Geithner: "The [automatic] exchange of information on interest paid by banks will certainly provide us with a powerful tool to detect, prevent and combat tax evasion, money laundering, terrorist financing, drug trafficking and organized crime." (Carstens 2009; [own addition]).

In 2008, a series of public media stories increased the pressure for fundamental reform. The United States Justice Department was investigating UBS through the insights offered by whistleblower Bradley Birkenfeld, causing media headlines and a Senate Probe throughout 2008.[8] In February 2008, German tax investigators raided the home of the then CEO of Deutsche Post AG

[7] http://www.ft.com/cms/s/0/63cdb642-ea03-11dc-b3c9-0000779fd2ac.html?siteedition=intl; 3.10.2014.
[8] https://www.wsj.com/articles/SB121624391105859731; 13.2.2017.

because of his tax evasion through a Liechtenstein account. This event marked the (recent) beginning of data purchases by German tax administrations from whistleblowers mainly of Swiss banks. This exerted considerable and ongoing pressure on Swiss banking secrecy. A veritable hole was blown into Swiss banking secrecy in February 2009 by the settlement of Swiss Bank UBS with the US Justice Department by agreeing to pay US$ 780 million and handing over client data of many thousands US account holders.[9]

Only after the OECD published a list of non-cooperating jurisdictions in April 2009 (black-grey-white-list) in the aftermath of the global financial crisis, a race to sign TIEAs ensued (2nd phase; Misereor 2010). Through the requirement to sign 12 TIEAs in order to be removed from the grey list, the OECD placed emphasis on rolling out the upon request information exchange system, labelled "internationally agreed tax standard". In November 2009 at the Global Forum meeting in Mexico, the OECD decided to open Global Forum's membership whilst effectively preserving OECD's influence over the Global Forum, and to undertake peer reviews of jurisdiction's compliance with information exchange upon request (Meinzer 2012b: 7-8). Yet despite mounting criticisms of the insufficiency of the upon request system (Sheppard 2009; Meinzer et al. 2009), the OECD hardened its stance and defended its opposition against automatic information exchange. OECD's public affairs director, wrote in a public letter to the Financial Times on 30 April 2009: "The OECD's high standards on transparency and exchange of information address issues raised on the use of trusts, bearer shares and other opaque structures. While they enjoy universal endorsement, the challenge now lies in their swift and effective implementation. […] Influential non-governmental organisations [...] can help developing countries most by pressuring for delivery, rather than risking an unravelling of what has been achieved through calls to reopen debates"[10].

The third phase of intense political fighting over automatic information exchange began when the Swiss Banker Association published their proposal for

[9] http://europe.newsweek.com/how-far-switzerlands-biggest-bank-did-us-tax-evasion-scam-reach-280154?rm=eu; http://www.nytimes.com/2012/07/21/business/ubss-track-record-of-averting-prosecution-common-sense.html; 13.2.2017.
[10] http://taxjustice.blogspot.de/2009/05/illicit-flows-oecds-swaggering-stance.html; 3.10.2014.

an anonymous “flat rate tax on assets held with banks on a cross-border basis” in December 2009. This proposal – known as the “Rubik”-deals - subsequently became the official Swiss tax policy position as an alternative to automatic information exchange. The project outline was explicit about its purpose: "The flat rate tax means: [...] The issue of automatic exchange of information thus becomes obsolete" (Swiss Bankers Association 2009: 4). Over the next years, Switzerland intensely sought to enter into those bilateral deals to preserve anonymity and secrecy of Swiss banking assets (Tax Justice Network 2011). Negotiations with the UK and Austria were successful[11], and also Germany’s government signed a treaty with Switzerland in April 2012[12].

Meanwhile, the United States enacted in March 2010 the Foreign Account Tax Compliance Act (FATCA), which over the next years required financial institutions across the globe to automatically report detailed information about any US-related financial account to the IRS. This law created an unprecedented revolution in offshore banking because of the detail of the information to be reported, the global scope and the leverage exerted over banks by threatening non-compliant banking groups with a hefty 30% withholding tax on all US source payments. However, FATCA did not entail the principle of reciprocity and therefore allowed the US to continue providing de facto banking secrecy to non-residents investing in the US financial system.[13] In November 2011, it was India’s prime minister Manmohan Singh who took the torch of frontrunner by openly calling for the G20 to embrace automatic information exchange: "The G20 countries should take the lead in agreeing to automatic exchange of tax related information with each other, irrespective of artificial distinctions such as past or present, for tax evasion or tax fraud, in the spirit of our London Summit that 'the era of bank secrecy is over'"[14]. Itai Grinberg, professor of Law at Georgetown University, in January 2012, published a paper in which he asserted: “The international tax system is in the midst of a novel contest between information reporting and anonymous withholding models for ensuring that states have the

[11] http://lexicon.ft.com/Term?term=UK-Swiss-Tax-Agreement; 14.2.2017.
[12] http://www.bbc.com/news/business-17624364; 14.2.2017.
[13] http://taxjustice.blogspot.de/2010/05/fatca-new-automatic-info-exchange-tool.html; 14.2.2017.
[14] http://taxjustice.blogspot.de/2011/11/india-demands-automatic-information.html; 14.2.2017.

ability to tax offshore accounts." (Grinberg 2012: 2). Furthermore, through 2011 and 2012, the OECD's system for information exchange upon request and the associated peer review process came under increasing attack, as is revealed by heated disputes in International Tax Review.[15] At the same time, the signed Rubik agreement between Switzerland and Germany met resistance not least through a broad based campaign against the ratification of the agreement.[16]

Breakthrough (phase 4) came when opposition parties in the upper chamber of the German parliament (Bundesrat) on 23 November 2012 rejected the Rubik agreements.[17] The path for automatic information exchange was cleared as the Swiss strategy to claim equivalence of Rubik agreements and to divide the EU and the OECD had failed. Up to that point, TIEAs and associated peer reviews remained the only pillar of OECD's work to counter tax havens and offshore tax evasion for more than a decade. The first visible sign of the changing tide consisted in the G20 Communiqué issued on 19 April 2013, when the Finance Ministers and Central Bank Governors stated: "We welcome progress made towards automatic exchange of information which is expected to be the standard and urge all jurisdictions to move towards exchanging information automatically with their treaty partners, as appropriate." (G20 2013). Less than a month later, 17 EU members issued a statement for the creation of a pilot multilateral automatic exchange facility: "Automatic information exchange between tax authorities is a powerful tool in tackling and deterring tax evasion. [...] we strongly support the development of a single global standard for

[15] http://www.internationaltaxreview.com/Article/3018232/Battle-lines-drawn-between-OECD-and-Tax-Justice-Network.html; http://www.internationaltaxreview.com/Article/2994829/EXCLUSIVE-Why-tax-justice-campaigners-and-the-OECD-are-not-seeing-eye-to-eye.html; http://www.internationaltaxreview.com/Article/3024581/Why-the-OECD-must-improve-the-model-for-information-exchange.html; http://taxjustice.blogspot.de/2011/11/oecd-should-step-aside-and-let-un.html; http://taxjustice.blogspot.de/2012/02/2012-tax-and-transparency-forum-london.html; http://taxjustice.blogspot.de/2012/11/uk-government-to-wield-big-stick-on.html; http://taxjustice.blogspot.de/2012/05/raising-global-profile-of-tax-justice.html; http://www.internationaltaxreview.com/Article/3012873/Guatemala-Archive/TJN-and-ICC-demand-improvements-to-peer-review-process.html;

[16] http://steuergerechtigkeit.blogspot.de/2012/11/bundnis-begrut-nein-des-bundesrates-zum_23.html; 17.2.2017.

[17] http://www.reuters.com/article/germany-switzerland-tax-idUSB4E8LM00H20121123; 14.2.2017.

automatic exchange of information covering a wide scope of income and entities".[18]

The OECD quickly changed tack and by the G8 summit in Lough Erne in June 2013 it had prepared a 20-page outline for a multilateral system of automatic tax information modelled on FATCA (OECD 2013), yet omitting FATCA's crucial leverage of a withholding tax. Less than a year later, on 13th February 2014, the OECD published the first version of the Common Reporting Standard (OECD 2014b). Intense lobbying by the Swiss Bankers Association and the Swiss government successfully restricted the information exchange on the condition of reciprocity and specific uses of the data solely for tax purposes (preventing data being used for money laundering or corruption investigations).[19] Criticism by civil society and others about the tolerance of bilateralism and the refusal to waive reciprocal requirements for developing countries (Tax Justice Network 2014) was countered by OECD's Pascal Saint-Amans, head of OECD's tax department: "The specific needs of developing countries should not be addressed by lowering standards for them, but rather by helping them to meet the standards [...]. The Global Forum will look into the particular concerns of developing countries which have a right to benefit from transparency".[20] Furthermore, he asserted in May 2014: "Most (developing countries) are not yet ready and most of them don't want it".[21]

Shortly after, in June 2014, TJN published a report which surveyed developing country tax administrations and finance ministries, finding that "Developing countries want automatic information exchange" [22] (Knobel/Meinzer

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[18] https://www.gov.uk/government/publications/statement-on-the-pilot-multilateral-automatic-information-exchange-facility; 14.2.2017.
[19] To realise how absurd the hard condition of reciprocity is, consider how likely it is that rich Nigerians stash their money in Switzerland, and how unlikely it is that any Swiss tax evaders will choose Nigeria to stash theirs. See: http://www.swissbanking.org/en/topics/current-issues/the-automatic-exchange-of-information; 14.2.2017.
[20] http://www.internationaltaxreview.com/Article/3319275/EXCLUSIVE-Pascal-Saint-Amans-defends-OECDs-Common-Reporting-Standard-despite-loopholes-identified-by.html?edit=true; 14.2.2017.
[21] http://news.trust.org//item/20140526065643-2fhq7/; 14.2.2017.
[22] http://www.internationaltaxreview.com/Article/3354926/Corporate-Tax/Developing-countries-want-automatic-information-exchange-Tax-Justice-Network-reveals.html; 14.2.2017.

2014a). The survey found out that the OECD did only consult with developing countries after the major decisions were made, and failed to ask about preferences of developing countries beyond capacity building. The preferences of the surveyed developing countries consistently deviated from the OECD model in the preference of a truly, binding multilateral agreement, the waiving of reciprocity requirements for developing countries, sanctions for non-compliant financial institutions (similar to FATCA), and for the inclusion of other types of assets, such as real estate (ibid.).

The rolling out of the standard proceeded, ignoring these interests of developing countries. On July 21st, 2014, the OECD published its full version of the Standard, including Commentaries[23] (OECD 2014c; Knobel/Meinzer 2014b); in August 2014 a "roadmap for developing country participation" (Global Forum 2014); in October 2014, the Multilateral Competent Authority Agreement (MCAA) to implement the CRS (OECD 2014a; then signed by 51 jurisdictions[24]); and in August 2015, a handbook for the implementation of the CRS (OECD 2015b; Knobel 2015).

Meanwhile, the European deadlock for progress on automatic information exchange was overcome when in March 2014 Luxembourg and Austria lifted their longstanding veto for amending the EU-Savings Tax Directive.[25] In the end, the European Union moved to implement the CRS through an amendment to its directive on administrative assistance in December 2014 (Council of the European Union 2014) and repealed the EU-Savings Tax Directive[26]. The CRS now was established as the new international standard for automatic information exchange.

3. Current Challenges

As of January 2017, more than 100 jurisdictions have committed to join the CRS[27] and more than 85 jurisdictions have signed the Multilateral Competent Authority

[23] http://www.oecd.org/newsroom/oecd-delivers-new-single-global-standard-on-automatic-exchange-of-information.htm; 14.2.2017.
[24] http://www.reuters.com/article/global-tax-idUSL5N0SO44J20141029; 14.2.2017.
[25] https://www.ft.com/content/018d3a86-b0f2-11e3-9f6f-00144feab7de; 3.10.2014.
[26] http://ec.europa.eu/taxation_customs/individuals/personal-taxation/taxation-savings-income/repeal-savings-directive-line-with-international-eu-developments_en; 14.2.2017.
[27] https://www.oecd.org/tax/transparency/AEOI-commitments.pdf; 30.1.2017.

Agreement (MCAA)[28] to implement the CRS. The first exchanges under the CRS are taking place in 2017 and 2018.

In the European Union, the Directive (2014/107/EU amending Directive 2011/16/EU) that is binding on member states for translating the CRS into domestic law requires first information exchanges in 2017 with the exception of Austria, which will begin exchanging in 2018 (Council of the European Union 2014). The European Union has negotiated similar agreements with five European, yet not EU-member states, namely with Andorra, Liechtenstein, San Marino and Switzerland, and initialled the last of these agreements with Monaco on 22 February 2016, with exchanges beginning in 2018.[29] The information exchange among 28 EU members and these 5 territories will be governed by the EU-directive and these agreements, respectively.

The EU-Directive is not entirely identical to the CRS. Notably, less stringent reporting requirements for some trusts[30] are available in the CRS, but this is not allowed in the EU-Directive (Council of the European Union 2014: 20).

In Germany, the law implementing automatic information exchange pursuant to the respective Directive has been discussed in parliament during a public expert hearing on 2 November 2015 (Meinzer 2015a; Henn 2015) and was enacted on 21 December 2015 (Bundestag/Bundesrat 2015).

3.1 De facto exclusion of developing countries

The two major obstacles developing countries face when seeking to access information about their residents' offshore assets consist in the requirement of full reciprocal information exchange, and in the option for a "dating system". The latter allows major financial centres to engage in cherry picking, as they have announced to do. While the first problem could be overcome through capacity

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[28] http://www.oecd.org/ctp/exchange-of-tax-information/MCAA-Signatories.pdf; 30.1.2017.

[29] http://europa.eu/rapid/press-release_IP-16-381_en.htm; 14.2.2017.

[30] The CRS allows a country to treat trusts that are Passive Non-Financial Entities (NFEs) as if they were "reporting-Financial Institution trusts". While the former would have to report all beneficiaries, including discretionary beneficiaries, the latter is allowed not to report discretionary beneficiaries until they receive a distribution (OECD 2015b: 17). In jurisdictions that are applying that option, discretionary beneficiaries will be reported only after receiving a distribution. Given that a "distribution" may be hidden as a loan (or other type of payment never to be repaid), the EU-Commission ruled out that option.

building, including through pilot projects (Knobel 2017a), the other problem continues to act as an effective barrier to prevent developing countries from accessing urgently needed data about their tax residents.

In addition to the domestic legislation, the international legal framework that jurisdictions need for participating in the CRS consists of two elements. First, an international framework treaty or convention, and second, a competent authority agreement (CAA) with the specific jurisdiction in question and with a specific reference to the CRS. A combination of bilateral and multilateral approaches are possible.

Table 3: Combinations of Bi- and Multilateralism for Participating in the CRS

	International Legal Framework Instrument	**Competent Authority Agreement**
Bilateral	(1) DTA or TIEA	(2) Bilateral CAA
Multilateral	(3) Multilateral Convention	(4) Multilateral CAA (MCAA)

Source: adapted from Knobel/Meinzer (forthcoming).

The bilateral international legal framework for AEoI rests either on Art. 26 of the UN and OECD Model Double Tax Agreements (DTAs) or on Tax Information Exchange Agreements (TIEAs) that explicitly allow AEoI. The multilateral approach involves being a party (not merely signing but also ratifying) to the Amended[31] OECD Multilateral Convention on Mutual Administrative Assistance in Tax Matters[32] (the Multilateral Convention). As for the competent authority agreement, the OECD originally published in February of 2014 a model bilateral CAA. In July of 2014, a model multilateral CAA was also published. In October of 2016, however, jurisdictions signed an amended[33] Multilateral Competent Authority Agreement (MCAA).

[31] For example, the U.S. is only party to the original Multilateral Convention which was not open to non-OECD countries (the 2010 amending Protocol opened the Convention to non-OECD countries). Therefore, the U.S. cannot be said to have an agreement with non-OECD countries that are party only to the Amended Convention.
[32] TJN has analysed this convention in greater detail elsewhere (Meinzer 2012a).
[33] The main difference between the original model MCAA and the amended (model) MCAA that was finally signed by countries relates to the way to join (sign) the MCAA. The

An example of a major secrecy jurisdiction combining the Multilateral Convention with bilateral CAAs (3 and 2 in table 3, above) is Singapore.[34] The Bahamas have opted to combine only bilateral treaties with bilateral CAAs (1 and 2 in table 3, above) – the only path which has attracted open criticism by the OECD so far.[35]

Yet even the ideal multilateral scenario (combining 3 and 4 in table 3, above) does not require participating jurisdictions to engage in AEoI with all other co-signatories. The MCAA's Annex E allows jurisdictions to choose with whom they want to engage in AEoI. Like in a dating portal, AEoI will only take place among jurisdictions that chose each other (that were matched together). The OECD published a list of "activated" AEOI relationships.[36] However, it does not publicly reveal the full list of choices of each jurisdiction. Therefore, it is difficult to establish whether "inactive" relationships are a result of a mutual lack of interest or whether one country chose another one but it was not chosen back.

This puts developing countries at a disadvantage, as they are unlikely to be priorities for major financial centres. Switzerland is an example of a major secrecy jurisdiction (it was ranked at No. 1 in the 2015 Financial Secrecy Index[37]) that chose the "best multilateral" option (3 and 4 in table 3, see above), but which as early as 2014 has announced openly that it will only engage in AEoI with jurisdictions "with which there are close economic and political ties and which, if appropriate, provide their taxpayers with sufficient scope for regularisation and which are considered to be important and promising in terms of their market potential for Switzerland's finance industry".[38] These

original model required existing signatories to approve by consensus before any new country could join (sign) the MCAA, assuming that all co-signatories (including new ones) would exchange information with each other. Instead, the amended MCAA is open to any country, but adds the "dating system" which allows each country to pick with whom to engage in AEOI, instead of requiring exchanges with all other signatories.

34 https://www.iras.gov.sg/irashome/News-and-Events/Newsroom/Media-Releases-and-Speeches/Media-Releases/2016/Singapore-and-Australia-to-Share-Data-to-Reduce-Tax-Evasion/; 30.1.2017.

35 http://www.elmundo.es/economia/2016/09/24/57e56aa9468aeb67188b4631.html; http://www.taxjustice.net/2016/09/08/bahamas-tax-haven-emerging-global-menace/; 30.1.2017.

36 http://www.oecd.org/tax/automatic-exchange/international-framework-for-the-crs/exchange-relationships/; 30.1.2017.

37 www.financialsecrecyindex.net; 14.2.2017.

38 http://www.admin.ch/aktuell/00089/index.html?lang=en&msg-id=53050; 9.1.2014.

considerations still reflect the official Swiss negotiation position in 2015/2016.[39] Furthermore, Switzerland requires for some countries additional bilateral agreements or declarations before considering those for inclusion in Annex E.[40]

While the MCAA requires no justification when not choosing another signatory jurisdiction for AEoI, the Global Forum Annual report (2016: 24) suggests that countries should exchange information with all other countries interested in receiving information, as long as confidentiality and safeguards for protection of personal data are in place[41]. However, data protection concerns can be easily abused for denying information exchange to developing countries. Although the Global Forum has conducted confidentiality assessments of each jurisdiction willing to engage in AEoI, the MCAA's Annex C allows jurisdictions to impose extra safeguards for the protection of personal data. Switzerland's focus on consultations on protection of data[42] suggests that Annex C could be used for additional exclusions.

These various options for major secrecy jurisdictions to delay automatic information exchange with developing countries, combined with the insistence on reciprocity and the exclusion of developing countries during the design stages of the CRS, risks exacerbating, rather than moderating, the tax information asymmetries between OECD and developing countries. The OECD system condones secrecy jurisdictions forcing developing countries to spend very scarce

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39
https://www.edoeb.admin.ch/dokumentation/00153/01353/01388/index.html?lang=en; 14.2.2017.

40 For an overview of the jurisdictions with whom Switzerland has entered into AEOI, see those jurisdictions with a date in column 2: https://www.sif.admin.ch/sif/en/home/themen/internationale-steuerpolitik/automatischer-informationsaustausch.html ; for an example of an extra agreement with Argentina, see: https://www.admin.ch/gov/en/start/documentation/media-releases.msg-id-64554.html; for a description of the additional declarations, see: http://blogs.pwc.de/citt/2016/11/29/switzerland-signs-bilateral-agreement-five-countries-automatic-exchange-information-tax-matters/; 21.2.2017.

41 Global Forum 2016, p. 24: "A process is being developed to ensure transparency in relation to whether
jurisdictions have a network of exchange relationships covering all partners interested in receiving data from it".

42
https://www.edoeb.admin.ch/dokumentation/00153/01353/01388/index.html?lang=en; 30.1.2017,

resources and extra time for negotiating and signing bilateral treaties, thus supporting an at least transitional de facto exclusion. Furthermore, the OECD remained silent between 2014-2016 when secrecy jurisdictions such as Switzerland openly imposed the above-mentioned arbitrary conditions which directly impinge on other jurisdiction's sovereign rights to tax their residents' income. Similarly, the OECD has failed to openly discuss the USA's failure to engage in the CRS, and to explore ways of bringing the USA into the CRS.

3.2 How to incentivise recalcitrant jurisdictions to participate

In difference to the US FATCA law, the CRS does not contain any built in provision to incentivise financial institutions and/or jurisdictions to participate, such as a 30% withholding tax for US source payments FATCA is imposing on financial institutions that do not provide data under FATCA. As a result, initially, a number of jurisdictions did not commit to the CRS, such as Bahrain, Lebanon and Panama. In the meantime, however, all major secrecy jurisdictions have committed to the CRS standard except for the United States. In an OECD document listing all commitments, the only footnote states:

> "The United States has indicated that it is undertaking automatic information exchanges pursuant to FATCA from 2015 and has entered into intergovernmental agreements (IGAs) with other jurisdictions to do so. The Model 1A IGAs entered into by the United States acknowledge the need for the United States to achieve equivalent levels of reciprocal automatic information exchange with partner jurisdictions. They also include a political commitment to pursue the adoption of regulations and to advocate and support relevant legislation to achieve such equivalent levels of reciprocal automatic exchange."[43]

The IGA type 1A, which does contain some reciprocity and the political commitment to achieve full reciprocity, is the type of IGA signed by Germany and Turkey to implement AEoI pursuant to FATCA with the USA. The asymmetries in the levels of information exchanges are notable (see table 4, below).[44]

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[43] https://www.oecd.org/tax/transparency/AEOI-commitments.pdf; 15.2.2017.
[44] For a detailed version of this table, see: http://www.taxjustice.net/wp-content/uploads/2013/04/FATCAdifference-between-US-and-Germany.pdf; 15.2.2017.

Table 4: Specific asymmetries in reporting obligations under FATCA IGA 1A (Germany-USA)

Category	German Banks' reporting obligations (about US persons)	US Banks' reporting obligations (about German residents)
Type of Account	All financial accounts (art. 1,1,dd)	(i) Depositary accounts only if held by individuals (art. 1,1,cc); (ii) Other financial accounts only if covered by existing reporting rules under chapter 3 or 61 of subtitle A of US Internal Revenue Code (art. 1.1.cc) – see below "Type of Information".
Look-through of entity account holders to identify controlling persons	Yes: identify controlling person of passive NFE and of Non-US entities (Art. 1,1,dd; Art 2,2,a),1; and Annex I, IV, C)	No. No reference to German controlling persons (neither of passive NFEs nor of Non-German entities)
Type of Information	"All" (art 2,2,a)	"All" except for account balance, gross proceeds from sale or redemption of property and controlling persons' identity; and for non-depository financial accounts, any information only to the extent it is reported under form 1042. That includes U.S.-sourced rents, royalties, interests on U.S. government bonds or corporate bonds and – among other - insurance premiums. However, it excludes capital gains on all those categories.[45]

Source: Analysis by TJN, based on FATCA IGA 1A between Germany and USA (United States of America/Federal Republic of Germany 2013).[46]

[45] https://www.irs.gov/instructions/i1042s/ch01.html#d0e790; 17.2.2017.
[46] For a more comprehensive analysis of the differences, see Knobel 2016: 13-14.

Despite the US commitment present in IGAs 1A (Article 6) to achieve full reciprocity, however, there is no timeframe and U.S. Congress has to approve the changes to achieve full reciprocity, as evidenced in a letter sent by the US Secretary of the Treasury to the Speaker of the House of Representatives on 5 May 2016 (Lew 2016; Knobel 2016: 11). Furthermore, the USA has only signed, but not ratified the Amended Tax Convention.[47]

The failure of the USA to participate in a level playing field for taxing offshore accounts has become the subject of media reporting and debate.[48] In order to incentivise US financial institutions and the US government to participate, and to increase the benefits for developing countries flowing from AEoI, Tax Justice Network (2016) has published a proposal in January 2016. It calls on the European Union to introduce a 30% withholding tax on all EU-sourced payments to any financial institution based in a financial centre that is not sharing sufficient information with the EU, or with any "fit and ready" developing country. This proposal has been presented to the EU-Commission Expert Group on automatic exchange of financial account information on 6 November 2016.[49] Table 5 (below) summarises the key features.

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[47] www.oecd.org/tax/exchange-of-tax-information/Status_of_convention.pdf; 15.2.2017. The USA has only ratified and is only party to the original Multilateral Tax Convention which was not open to non-OECD countries. An amending Protocol in 2010 opened the Convention to non-OECD countries (Meinzer 2012a). Therefore, the USA does not have an agreement with non-OECD countries that are party only to the Amended Convention without a separate treaty with the US.

[48] For instance, the Economist on 20 February 2016, http://www.economist.com/news/international/21693219-having-launched-and-led-battle-against-offshore-tax-evasion-america-now-part; 15.2.2017.

[49] http://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupDetailDoc&id=29724&no=7; 15.2.2017.

Table 5: Options for a 30% withholding tax on EU-sourced payments to financial institutions which do not send full reciprocal information to all EU member states and developing countries

Scenario	Condition for EU WHT: not sharing enough information with . . .	Direct target for WHT	Implementation
1. Ideal	EU and any 'fit' developing country.	Financial institutions located in any recalcitrant financial centre. Option to target also financial institutions located in a non-financial centre that has signed a FATCA IGA	Unilateral (e.g. Directive) for all.
1b. Ideal, but softly-softly on US	As above.	As above.	Unilateral (e.g. Directive), except for the U.S., where IGAs are renegotiated.
2. EU self-interest	EU first (with 'fit' developing countries later)	As above.	As any of the above.
3. US-EU initial focus	EU first (with 'fit' developing countries later)	U.S. financial institutions, until the U.S. provides CRS-equivalent levels of information exchange.	As any of the above.

Source: Tax Justice Network 2016.

3.3 Implementation of the CRS – The Global Forum, Peer Reviews and Public Statistics

Setting aside the various omissions and loopholes present in the CRS (Knobel/Meinzer 2014b), the Implementation Handbook (Knobel 2015) and the

MCAA[50], ensuring compliance with the existing CRS poses serious challenges. Financial institutions, High Net Worth Individuals and their legal and accounting service providers have strong incentives to develop new avoidance techniques (mainly hide behind opaque structures such as companies or trusts that will avoid reporting or at least be exempt from identifying their beneficial owners depending on their account balances and the entity's income structure respectively), and the administrations of many secrecy jurisdictions are unlikely to strictly enforce laws which they may have only grudgingly accepted to abide by in response to international pressure.

Public registries of the beneficial owners of companies and trusts are an indispensable part to ensure compliance with the CRS, either to cross-check information that has to be collected by financial institutions or to provide information that will otherwise remain unknown (when financial institutions do not need to collect this beneficial ownership information). The CRS requires financial institutions to identify and collect information on the beneficial owners (called "controlling persons") only when the account holder is an entity considered a passive non-financial entity (NFE) because most of its income is passive (e.g. interests, dividends, etc.). When such entity is a company, the CRS relies on the definition of beneficial ownership as provided for by the existing anti-money laundering standard of the FATF (Financial Action Task Force 2012), with all its limitations (thresholds of the FATF for defining beneficial ownership are high and they tolerate senior managers to be recorded as beneficial owners in specific circumstances).

In the case of trusts, the CRS definitions go beyond FATF definitions and are more comprehensive. Nevertheless, because there are hardly any registers of trusts anywhere (Knobel/Meinzer 2016b) and very few beneficial ownership registries for companies (e.g. the UK), it is impossible for financial institutions to cross-check for accuracy and truthfulness, the information they collect on beneficial owners. As regards "entity" account holders that are not considered "passive" but "active" (because their income is mostly stemming from business

[50] http://www.taxjustice.net/2016/10/25/oecd-information-exchange-dating-game/; 30.1.2017.

activities such as providing goods or services), financial institutions do not have to collect any beneficial ownership information at all pursuant to the CRS. Without public beneficial ownership registries, it is very difficult to ascertain who the individuals behind those active entities are. In other words, public registries of beneficial owners are a necessary complement in order for the CRS to ensure effective reporting about those high risk structures (Knobel/Meinzer 2016a, 2016b;Knobel 2017b).

The low level of sanctions (e.g. fines) in case even of wilful non-compliance with the due diligence and reporting obligations by staff of financial institutions is another reason why the implementation of the CRS is at peril. For example, in Germany, the maximum sanction even for wilful misreporting has been increased after a public hearing in the Bundestag from initially 5000€ to 50.000€ (§28, in: Bundestag/Bundesrat 2015; Meinzer 2015a; Henn 2015); in Switzerland, the maximum fine for wilful non-compliance is CHF 250.000 (Art. 32, in: Bundesversammlung der Schweizerischen Eidgenossenschaft 2015); in Austria, 200.000€ (§107, in: Nationalrat Österreich 2015). Only the Netherlands has implemented a prison sentence of up to four years in case of intentional non-reporting in addition to monetary fines (Art. 69, General Law on State Taxes[51]; Art. 11, Law on international assistance in the field of taxation[52]).

Without prison sentences, and with fines that are capped at absolute monetary amounts, any client manager of financial institutions can offer non-compliance as a commercial service by easily calculating the maximum cost if s/he is caught for non-compliance, and offer that service to selected high net worth clients with whom the terms for reimbursement of the fines in case of detection would need to be agreed contractually.

Beginning in 2019, OECD's Global Forum of Transparency and Exchange of Information (the Global Forum) will undertake comprehensive peer reviews to assess compliance with the CRS. In 2015 and 2016, the Global Forum has conducted first-stage basic assessments on the domestic legal framework and the confidentiality provisions of jurisdictions participating in the CRS. However, neither

[51] http://wetten.overheid.nl/BWBR0002320/2016-05-01#HoofdstukIX_Afdeling1_Artikel69; 20.2.2017.
[52] http://wetten.overheid.nl/BWBR0003954/2017-01-01#HoofdstukII_Afdeling4b_Artikel11; 20.2.2017.

the details, nor results nor the terms of reference (ToR) of those basic reviews were published, which casts doubt on OECD's and Global Forum's suitability to lead the transition towards a more transparent international tax order in the 21st century.

While the ToR for the full peer reviews have not yet been published, work around the ToR has reportedly[53] started. Already in 2000-2002, the OECD had invited notorious secrecy jurisdictions to join the drafting table of the "upon request" information exchange standard. Figure 1 (below) shows the composition of the group responsible for drafting the current ToR. As is easily discernible, again notorious secrecy jurisdictions – together with the major Anglo-Saxon financial centres - continue to play a disproportional role in the organisation of the peer review processes.

Figure 1: Composition of the Peer Review Group of the Global Forum as of January 2017

Global Forum on Transparency and Exchange of Information for Tax Purposes> About the Global Forum

Peer Review Group

In order to carry out an in-depth monitoring and peer review of the implementation of the standards of transparency and exchange of information for tax purposes, the Global Forum agreed on the setting up of a Peer Review Group (PRG) to develop the methodology and detailed terms of reference for a robust, transparent and accelerated process.

The PRG is chaired by Singapore (Mrs. Huey Min Chia-Tern), assisted by four Vice-Chairs – the Cayman Islands, India, the United Kingdom and the United States.

Peer Review Group Members (last updated: January 2017)

Bahamas, The	Malta
Bermuda	Mexico
Brazil	Norway
British Virgin Islands	Samoa
Cayman Islands (Vice Chair)	Saudi Arabia
China	Seychelles
France	**Singapore (Chair)**
Georgia	South Africa
Germany	Spain
Guernsey	Switzerland
India (Vice-Chair)	Turkey
Indonesia	Uganda
Italy	**United Kingdom (Vice Chair)**
Japan	**United States (Vice Chair)**
Liechtenstein	Uruguay

Source: OECD website.[54]

[53] Telephone communication with OECD on 17.1.2017.
[54] http://www.oecd.org/tax/transparency/about-the-global-forum/peerreviewgroup.htm; 6.2.2017.

In the face of the risk for the new ToR to harbour considerable secrecy, and in the light of past failures in earlier peer review processes to provide the data needed for objective and independent evaluations (Meinzer 2012b: 20), Tax Justice Network has published a report with crucial issues that should be addressed by the future peer reviews for AEoI in order for them to objectively assess and document the CRS' effectiveness (Knobel/Meinzer forthcoming).

Many of the earlier analyses into the multiple loopholes suggest that detailed, public statistics by each jurisdiction are an indispensable part of any meaningful peer review of the implementation of the CRS. Jurisdictions that fail to annually provide comprehensive, comparable, detailed and robust statistics about the implementation of the CRS should automatically be treated as non-participating jurisdictions.

The only way to ensure the enforcement of the CRS is to have robust public statistics on the number and value of accounts that are being reported, and especially those which are excluded from reporting. By doing this, and comparing across jurisdictions, it will be possible to track compliance throughout the years, but also identify and alert on avoidance mechanisms, for example if there is an increase in values held by non-reporting financial institutions or by non-reportable accounts or non-reportable persons. Australia has already moved to require statistics about the CRS to be published.[55]

Detailed public aggregate statistics on the performance of the CRS are essential also for a number of other reasons. First and foremost, as recent revelations in to the scale of cross-border tax abuse like Offshore Leaks, Swiss Leaks and Panama Papers have shown, it is vital to rebuild the public confidence and trust in the rule of law. This entails data showing the degree of compliant reporting by financial institutions and of impartial, efficient processing of data and following up on cases by the tax administration and public prosecutor. Researchers, civil society and journalists need comprehensive and robust public data to track reporting and enforcement over time. Without such public accountability, trust in the functioning of international institutions and the rule of law will continue to erode.

[55] http://www.taxjustice.net/2016/02/24/15031/; 15.2.2017.

For robust and relevant statistics, it is essential for a jurisdiction to choose the wider-wider approach (financial institutions collect and report information on all non-residents, and not only those, whose country of residence is participating in the CRS) and requiring nil returns with information on the values held by exempt reporting FIs, accounts or persons. A detailed proposal for the organisation of the statistics without creating additional costs for financial institutions, and for how to use the statistics for compliance analysis, is available (Knobel/Meinzer forthcoming).

4. Conclusions

The advent of the Common Reporting Standard is a welcome and major breakthrough in the global fight against illicit financial flows and offshore tax evasion. Both exacerbate inequalities within and across nations and threaten the social fabric and the rule of law underpinning democratic societies and fair market competition. However, the CRS does not spell the end of offshore tax evasion and its lasting and transformative impact hinges upon a number of crucial, unresolved issues.

First, the effective bilateralism through voluntary choices of exchange partners under the guise of multilateralism run the risk of extending and shifting the problem of offshore tax evasion from OECD and G20 members to less powerful emerging economies and developing countries. The Global Forum peer reviews have the potential to address this issue by insisting on swiftly entering into CAAs with any interested parties, as long as basic confidentiality and human rights conditions are met.

Second, the USA's refusal to engage in CRS and its very limited reciprocity embedded in FATCA agreement IGA 1A risks undermining the global level playing field and needs urgently to be remedied. The European Union holds the key to bring the USA back into the international community by using its internal financial market and currency as a leverage to incentivise the USA to fully reciprocate and participate in the CRS.

Third, without public registries about the beneficial owners of companies, trusts and foundations, the reporting about the riskiest category of accounts – those held by passive NFEs – is unlikely to be effective. As the UK has shown, it is possible to advance unilaterally on that matter, and the EU is close to agreeing such mandatory central and public registries.

Fourth, the Global Forum has to potential of addressing a number of other crucial issues. Namely, it has to ensure that sanctions for non-compliance with the reporting obligations are not capped and include prison terms for wilful misreporting. And most importantly, it has the power to require detailed, yet aggregate public statistics about the information reporting on a country by country basis. That would enable robust evaluation of the quality of the information reporting, and build the confidence by the public and societies around the world that offshore tax evasion is not condoned any longer.

Bibliography

Assemblée Nationale 2013: Rapport d'Information Relatif au Traitement par l'Administration Fiscale des Informations Contenues Dans la Liste Reçue d'un Ancien Salarié d'une Banque Étrangère (HSBC) (Rapport No. 1235), Paris, in: http://www.assemblee-nationale.fr/14/pdf/rap-info/i1235.pdf; 20.3.2014.

Bundestag/Bundesrat 2015: Gesetz zum automatischen Austausch von Informationen über Finanzkonten in Steuersachen und zur Änderung weiterer Gesetze, in: Bundesgesetzesblatt 2015-I: 55, 2531-2552.

Bundesversammlung der Schweizerischen Eidgenossenschaft 2015: Bundesgesetz über den internationalen automatischen Informationsaustausch in Steuersachen (AIAG), in: https://www.admin.ch/ch/d/ff/2015/9573.pdf; 16.2.2017.

Carstens, Agustin 2009: Letter Requesting Automatic Exchange of Information (9 February 2009), Mexico, in: http://faculty.law.wayne.edu/tad/Documents/Country/mexico-carstens_letter.pdf; 26.5.2010.

Cobham, Alex 2007: The tax consensus has failed! Recommendation to policymakers and donors, researchers and civil society (OCGG Economy), Oxford, in: http://www.oxfordgovernance.org/fileadmin/Publications/ER008.pdf; 12.4.2007.

Cobham, Alex/Janský, Petr/Meinzer, Markus 2015: The Financial Secrecy Index: Shedding New Light on the Geography of Secrecy, in: Economic Geography 91: 3, 281–303.

Council of the European Union 2014: Council Directive 2014/107/EU of 9 December 2014 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation, in: http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L:2014:359:FULL&from=EN; 6.2.2017.

Dabla-Norris, Ms Era/Kochhar, Ms Kalpana/Suphaphiphat, Mrs Nujin/Ricka, Mr Frantisek/Tsounta, Evridiki 2015: Causes and consequences of income inequality: a global perspective (International Monetary Fund - Staff Discussion Notes 15/13), in: https://www.imf.org/external/pubs/ft/sdn/2015/sdn1513.pdf; 7.2.2017.

Deutsche Bundesbank 2013a: Von inländischen Investmentfonds gehaltene Wertpapiere nach Ländergruppen und Ländern Publikums- und Spezialfonds, in: http://www.bundesbank.de/Redaktion/DE/Downloads/Statistiken/Banken_Und_Andere_Finanzielle_In stitute/Investmentgesellschaften/inlaendische_investmentfonds_gehaltene_wertpapiere_nach_laender gruppen.pdf?__blob=publicationFile; 24.9.2013.

Deutsche Bundesbank 2013b: Zahlungsbilanzstatistik September 2013. Statistisches Beiheft 3 zum Monatsbericht, in: https://www.bundesbank.de/Redaktion/DE/Downloads/Veroeffentlichungen/Statistische_Beihefte_3/2013/2013_09_zahlungsbilanzstatistik.pdf?__blob=publicationFile; 10.2.2017.

Deutsche Bundesbank 2014a: Monatsbericht. Januar 2014. 66. Jahrgang. Nr. 1, in: http://www.bundesbank.de/Redaktion/DE/Downloads/Veroeffentlichungen/Monatsberichte/2014/2014_ 01_monatsbericht.pdf?__blob=publicationFile; 18.3.2014.

Deutsche Bundesbank 2014b: Statistik über Wertpapierinvestments, in: http://www.bundesbank.de/Redaktion/DE/Downloads/Statistiken/Geld_Und_Kapitalmaerkte/Wertpapie rbestaende/statistik_ueber_wertpapierinvestments.pdf?__blob=publicationFile; 28.2.2014.

Deutsche Bundesbank 2015: Zahlungsbilanzstatistik September 2015. Statistisches Beiheft 3 zum Monatsbericht, in: https://www.bundesbank.de/Redaktion/DE/Downloads/Veroeffentlichungen/Statistische_Beihefte_3/2015/2015_09_zahlungsbilanzstatistik.pdf?__blob=publicationFile; 2.10.2017.

Deutsche Bundesbank 2017: Zahlungsbilanzstatistik Januar 2017. Statistisches Beiheft 3 zum Monatsbericht, in: https://www.bundesbank.de/Redaktion/DE/Downloads/Veroeffentlichungen/Statistische_Beihefte_3/2017/2017_01_zahlungsbilanzstatistik.pdf?__blob=publicationFile; 2.10.2017.

Financial Action Task Force 2012: International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation - the FATF Recommendations, in: http://www.fatf-gafi.org/topics/fatfrecommendations/documents/internationalstandardsoncombatingmoneylaunderingandthefinancingofterrorismproliferation-thefatfrecommendations.html.

Florida Delegates to the House of Representatives 2011: Letter to The President, in: www.freedomandprosperity.org/FL-Delegation-03-02-2011.pdf; 10.2.2017.

Frey, Bruno S./Torgler, Benno 2007: Tax morale and conditional cooperation, in: Journal of Comparative Economics 35: 1, 136-159.

G20 2013: Communiqué. G20 Meeting of Finance Ministers and Central Bank Governors Washington DC, April 19, 2013, London, in: http://www.g20.utoronto.ca/2013/2013-0419-finance.html; 14.2.2017.

Gaggero, Jorge/Casparrino, Claudio/Libman, Emiliano 2007: La fuga de capitales. Historia, presente y perspectivas. (Documento de Trabajo), Buenos Aires, in: http://www.cefid-ar.org.ar/documentos/DTN14LafugadeCapitales.pdf; 12.4.2007.

Gilligan, George Peter 2003: Whither or Wither the European Union Savings Tax Directive? A Case Study in the Political Economy of Taxation, in: Journal of Financial Crime 11: 1, 56-72.

Global Forum 2014: Automatic Exchange of Information: A Roadmap for Developing Country Participation (final report to the g20 development working group), in: http://www.oecd.org/tax/transparency/global-forum-AEOI-roadmap-for-developing-countries.pdf; 14.2.2017.

Global Forum on Transparency and Exchange of Information for Tax Purposes 2016: Tax Transparency 2016. Report on Progress, in: www.oecd.org/tax/transparency/GF-annual-report-2016.pdf; 14.2.2017.

Grinberg, Itai 2012: Beyond FATCA: An Evolutionary Moment for the International Tax System (Georgetown University Law Center), in: http://papers.ssrn.com/sol3/Delivery.cfm/SSRN_ID2006573_code238438.pdf?abstractid=1996752&mirid=3; 5.2.2012.

Helvea 2009: Swiss Banking Secrecy and Taxation. Paradise Lost?, Geneva.

Henn, Markus 2015: Gemeinsame Stellungnahme von Netzwerk Steuergerechtigkeit Deutschland und WEED – Weltwirtschaft, Ökologie & Entwicklung e.V. (Öffentliche Anhörung zu dem Gesetzentwurf zum automatischen Austausch von Informationen über Finanzkonten in Steuersachen und zur Änderung weiterer Gesetze (Drsn.: 18/5920, 18/2014, 18/6064, 18/6065) Montag, 2. November 2015, 12.00 bis 14.00 Uhr), Berlin, in: https://netzwerksteuergerechtigkeit.files.wordpress.com/2015/11/nwsg_weed_stellungnahme.pdf; 2.9.2016.

Henry, James S. 2012: The Price of Offshore Revisited. New Estimates for Missing Global Private Wealth, Income, Inequality and Lost Taxes (Tax Justice Network), London, in: www.taxjustice.net/cms/upload/pdf/Price_of_Offshore_Revisited_26072012.pdf; 12.11.2012.

High Level Panel 2013: A New Global Partnership: Eradicate poverty and transform economies through sustainable development, The Report of the High-Level Panel of Eminent Persons on the Post-2015 Development Agenda., in: http://www.post2015hlp.org/wp-content/uploads/2013/05/UN-Report.pdf.

Internal Revenue Service - US Treasury 2012: Tax Gap for Tax Year 2006. Overview, Washington, DC, in: http://www.irs.gov/pub/newsroom/overview_tax_gap_2006.pdf; 28.5.2013.

Knobel, Andres 2015: OECD's Handbook for Implementation of the CRS: TJN's preliminary observations, in: www.taxjustice.net/wp-content/uploads/2013/04/OECD-CRS-Implementation-Handbook-FINAL.pdf; 26.4.2016.

Knobel, Andres 2016: The Role of the U.S. as a Tax Haven - Implications for Europe (A study commissioned by the Greens/EFA Group in the European Parliament), Brussels, in: www.greens-efa.eu/fileadmin/dam/Documents/TAXE_committee/The_US_as_a_tax_haven_Implications_for_Europe_11_May_FINAL.pdf; 5.12.2016.

Knobel, Andres 2017a: Findings of the 2nd TJN Survey on Automatic Exchange of Information (AEOI). Sanctions against financial centres, AEOI statistics and the use of information beyond tax purposes, in: https://financialtransparency.org/wp-content/uploads/2017/01/Knobel2017_AEOI-Survey-Report.pdf; 14.2.2017.

Knobel, Andres 2017b: Trusts: Weapons of Mass Injustice?, in: www.taxjustice.net/wp-content/uploads/2017/02/Trusts-Weapons-of-Mass-Injustice-Final-12-FEB-2017.pdf; 15.2.2017.

Knobel, Andres/Meinzer, Markus 2014a: Automatic Exchange of Information: An Opportunity for Developing Countries to Tackle Tax Evasion and Corruption (TJN-Report June 2014), London, in: http://www.taxjustice.net/wp-content/uploads/2013/04/AIE-An-opportunity-for-developing-countries.pdf; 9.10.2015.

Knobel, Andres/Meinzer, Markus 2014b: "The end of bank secrecy"? Bridging the gap to effective automatic information exchange. An Evaluation of OECD's Common Reporting Standard (CRS) and its alternatives (TJN-Report 24 November 2014), London, in: http://www.taxjustice.net/wp-content/uploads/2013/04/TJN-141124-CRS-AIE-End-of-Banking-Secrecy.pdf; 20.3.2015.

Knobel, Andres/Meinzer, Markus 2016a: Drilling down to the real owners – Part 1. "More than 25% of ownership" & "unidentified" Beneficial Ownership: Amendments Needed in FATF's Recommendations and in EU's AML Directive, in: http://www.taxjustice.net/wp-content/uploads/2013/04/TJN2016_BO-EUAMLD-FATF-Part1.pdf; 6.9.2016.

Knobel, Andres/Meinzer, Markus 2016b: Drilling down to the real owners – Part 2. Don't forget the Trust: Amendments Needed in FATF's Recommendations and in EU's AML Directive, London, in: www.taxjustice.net/wp-content/uploads/2016/06/TJN2016_BO-EUAMLD-FATF-Part2-Trusts.pdf; 28.11.2016.

Lew, Jacob J. 2016: Letter by the Secretary of the Treasury to the Speaker of the U.S. House of Representatives, in: https://www.treasury.gov/presscenter/press-releases/Documents/Lew%20to%20Ryan%20on%20CDD.PDF; 15.2.2017.

Knobel, Andres/Meinzer, Markus (forthcoming): Delivering a level playing field for offshore bank accounts. What the new OECD/Global Forum peer reviews on automatic information exchange must not miss, TJN Briefing Paper.

Meinzer, Markus 2010: Policy Paper on Automatic Tax Information Exchange Between Northern and Southern Countries (Tax Justice Briefing), London, in: http://www.taxjustice.net/cms/upload/pdf/AIE_100926_TJN-Briefing-2.pdf; 16.7.2012.

Meinzer, Markus 2012a: Analysis of the CoE/OECD Convention on Administrative Assistance in Tax Matters, as amended in 2010 (Tax Justice Network), London, in: http://www.taxjustice.net/cms/upload/CoE-OECD-Convention-TJN-Briefing.pdf; 10.11.2013.

Meinzer, Markus 2012b: The Creeping Futility of the Global Forum's Peer Reviews (Tax Justice Briefing), London, in: www.taxjustice.net/cms/upload/GlobalForum2012-TJN-Briefing.pdf; 16.7.2012.

Meinzer, Markus 2015a: Dringender Nachbesserungsbedarf beim Gesetzentwurf zum Automatischen Informationsaustausch. Stellungnahme von Tax Justice Network (Öffentliche Anhörung zu dem Gesetzentwurf zum automatischen Austausch von Informationen über Finanzkonten in Steuersachen und zur Änderung weiterer Gesetze (Drsn.: 18/5920, 18/2014, 18/6064, 18/6065) Montag, 2. November 2015, 12.00 bis 14.00 Uhr), Berlin, in: https://www.bundestag.de/blob/393626/6fbc7e93356dc43a2cfb8fe00863413d/09-tjn-data.pdf; 1.12.2016.

Meinzer, Markus 2015b: Steueroase Deutschland. Warum bei uns viele Reiche keine Steuern zahlen, München.

Meinzer, Markus 2016: Towards a Common Yardstick to Identify Tax Havens and to Facilitate Reform, in: *Rixen, Thomas*/*Dietsch, Peter* (Hrsg.): Global Tax Governance – What is Wrong with it, and How to Fix it, Colchester, 255-288.

Meinzer, Markus/*Hearson, Martin*/*Picciotto, Sol*/*Shaxson, Nicholas*/*Spencer, David* 2009: Tax Information Exchange Arrangements (Tax Justice Briefing), London, in: http://www.taxjustice.net/cms/upload/pdf/Tax_Information_Exchange_Arrangements.pdf; 23.10.2009.

Misereor 2010: Double Tax Treaties and Tax Information Exchange Agreements: What Advantages for Developing Countries?, Aachen.

Nationalrat Österreich 2015: Bundesgesetz zur Umsetzung des gemeinsamen Meldestandards für den automatischen Austausch von Informationen über Finanzkonten Gemeinsamer Meldestandard-Gesetz – GMSG), in: https://www.ris.bka.gv.at/Dokumente/BgblAuth/BGBLA_2015_I_116/BGBLA_2015_I_116.pdf; 16.2.2017.

Ndikumana, Léonce/Boyce, James K. 2011: Africa's Odious Debts. How Foreign Loans and Capital Flight Bled a Continent, London.

OECD 1998: Harmful tax competition: an emerging global issue, Paris.

OECD 2002: Agreement on Exchange of Information on Tax Matters (TIEA), Paris, in: http://www.oecd.org/ctp/exchange-of-tax-information/2082215.pdf; 18.7.2014.

OECD 2013: A Step Change In Tax Transparency. Delivering a standardised, secure and cost effective model of bilateral automatic exchange for the multilateral context. OECD Report For The G8 Summit, Lough Erne, in: www.oecd.org/ctp/exchange-of-tax-information/taxtransparency_G8report.pdf; 14.2.2017.

OECD 2014a: Multilateral Competent Authority Agreement On Automatic Exchange Of Financial Account Information, in: http://www.oecd.org/ctp/exchange-of-tax-information/multilateral-competent-authority-agreement.pdf.

OECD 2014b: Standard for Automatic Exchange of Financial Account Information. Common Reporting Standard, Paris, in: http://www.oecd.org/ctp/exchange-of-tax-information/Automatic-Exchange-Financial-Account-Information-Common-Reporting-Standard.pdf; 3.11.2014.

OECD 2014c: Standard for Automatic Exchange of Financial Account Information in Tax Matters. Including Commentaries., in: http://www.keepeek.com/Digital-Asset-Management/oecd/taxation/standard-for-automatic-exchange-of-financial-account-information-for-tax-matters_9789264216525-en; 14.2.2017.

OECD 2015a: In It Together: Why Less Inequality Benefits All, in: http://www.oecd-ilibrary.org/employment/in-it-together-why-less-inequality-benefits-all_9789264235120-en; 7.2.2017.

OECD 2015b: Standard for Automatic Exchange of Financial Information in Tax Matters. The CRS Implementation Handbook, in: https://www.oecd.org/tax/exchange-of-tax-information/implementation-handbook-standard-for-automatic-exchange-of-financial-information-in-tax-matters.pdf; 14.2.2017.

Oxfam 2016: An Economy For the 1%. How privilege and power in the economy drive extreme inequality and how this can be stopped (Oxfam Briefing Paper), in:

https://www.oxfam.org/sites/www.oxfam.org/files/file_attachments/bp210-economy-one-percent-tax-havens-180116-en_0.pdf; 7.2.2017.

Palan, Ronen 2002: Tax Havens and the Commercialization of State Sovereignty, in: International Organization 56: 1, 151-176.

Piketty, Thomas 2014: Capital in the Twenty-First Century, Cambridge, MA.

Sheppard, Lee 2009: Don't Ask, Don't Tell, Part 4: Ineffectual Information Sharing, in: Tax Notes: 1411-1418.

Swiss Bankers Association 2009: Project - Flate Rate Tax. Flat rate tax on assets held with banks on a cross-border basis, in: shop.sba.ch/999957_e.pdf; 14.2.2017.

Tax Justice Network 2011: The UK-Swiss tax agreement: doomed to fail. Why the deal will raise little, and may be revenue-negative for the UK, in: www.taxjustice.net/cms/upload/pdf/TJN_1110_UK-Swiss_master.pdf; 17.2.2017.

Tax Justice Network 2014: OECD's Automatic Information Exchange Standard: A watershed moment for fighting offshore tax evasion? (TJN-Report 12 March 2014), London, in: www.internationaltaxreview.com/pdfs/TJN2014_OECD-AIE-Report.pdf; 9.10.2015.

Tax Justice Network 2016: Why Europe should impose withholding taxes on payments, to crack open secretive tax havens, London, in: www.taxjustice.net/wp-content/uploads/2013/04/TJN2016_WithholdingTax.pdf; 11.9.2016.

United States of America, STATUTORY/Federal Republic of Germany 2013: Agreement Between the United States of America and the Federal Republic of Germany to Improve International Tax Compliance and with respect to the United States Information and Reporting Provisions Commonly Known as the Foreign Account Tax Compliance Act (FATCA) (IGA 1A), in: http://www.treasury.gov/resource-center/tax-policy/treaties/Documents/FATCA-Agreement-Germany-5-31-2013.pdf; 17.2.2017.

Vanham, Peter 2017: Davos leaders agree: share more wealth, or face the consequences, World Economic Forum, in: https://www.weforum.org/agenda/2017/01/davos-leaders-agree-we-should-share-more-of-the-worlds-wealth-or-face-the-populist-consequences/; 7.2.2017.

Wilkinson, Richard/Pickett, Kate 2010: The Spirit Level. Why Equality is Better for Everyone., London.

Zucman, Gabriel 2014: Taxing across borders: Tracking personal wealth and corporate profits, in: Journal of Economic Perspectives 28: 4, 121–48.