Narrative Report on USA

PART 1: TELLING THE STORY

The United States as a secrecy jurisdiction

Introduction and Background

The United States is ranked third in the 2015 Financial Secrecy Index, after Switzerland. Its high ranking is the result of a moderate secrecy score of 60 combined with the largest global scale weight in our index: the U.S.A. accounts for one fifth of the global market for offshore financial services.

The U.S. provides a wide array of secrecy and tax-free facilities for non-residents, both at a Federal level and at the level of individual states. Many of the main Federal-level facilities were originally crafted with official tolerance or approval, in some cases to help with the U.S. balance of payments difficulties during the Vietnam War;[1] however some facilities – such as tolerance by states like Delaware or Nevada of highly secretive anonymous shell companies – are more the fruit of a race to the bottom between individual states on standards of disclosure and transparency.
While the United States has pioneered powerful ways to defend itself against foreign tax havens, it has not seriously addressed its own role in attracting illicit financial flows and supporting tax evasion. It is currently a jurisdiction of extreme concern for global transparency initiatives: instead of agreeing to join and comply with the emerging global standard of multilateral information exchange, the OECD Common Reporting Standards (CRS), it has stuck with its own FATCA model (see below), which does not appear to mesh with the CRS despite technical similarities. Washington's independent-minded approach risks tearing a giant hole in international efforts to crack down on tax evasion, money laundering and financial crime.[2]

The U.S. has the largest share of the global market for offshore financial services; its main rival is the City of London. However, unlike the City, which built its strength on overseas empire and has historically been an outward-focused (hence heavily offshore) financial centre, the financial markets of the United States were always rather more domestically focused, and the financial centre is diluted in a relatively much larger economy.

Financial secrecy provided by the U.S. has caused untold harm to the ordinary citizens of foreign countries, whose elites have used the United States as a bolt-hole for looted wealth.

History: how the U.S. became a secrecy jurisdiction

Early beginnings: the Federal level

The United States has long been a secrecy jurisdiction or tax haven at the Federal U.S.-wide level. The 1921 Revenue Act

Rank: 3

Chart 1 - How Secretive? 60 Secrecy Score

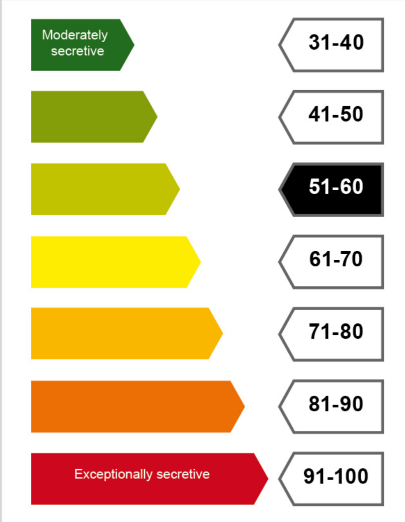
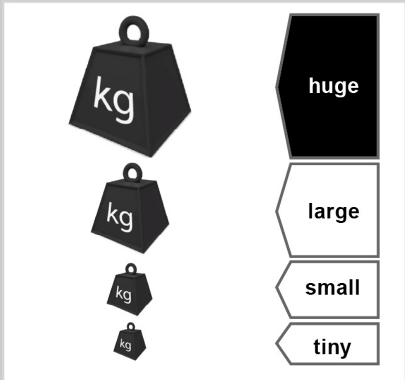


Chart 2 - How Big?



USA accounts for slightly over 19.6 per cent of the global market for offshore financial services, making it a huge player compared with other secrecy juridictions.

The ranking is based on a combination of its secrecy score and scale weighting.

Read more
→ Full data
→ USA on TJN Blog
→ Full Methodology

If you have any feedback or comments on this report, please contact us at info@taxjustice.net exempted interest income on bank deposits owned by non-US residents, and this was explicitly justified at the time as a measure to attract (tax-evading) foreign capital to the U.S.: a clear statement of tax haven intent. As the U.S.A. House Ways & Means Committee put it, this *"would encourage non-resident alien individuals and foreign corporations to transact financial business through institutions located in the United States."*

Information-sharing arrangements with other countries were rudimentary in the early decades of the last Century. After the Second World War John Maynard Keynes and Harry Dexter White, the main architects of the Bretton Woods agreements that brought into being the IMF and World Bank, sought to boost cross-border transparency by requiring the U.S. to inform European governments about the assets and income of their respective citizens, to help those war-ravaged countries raise sufficient tax revenues to rebuild. These proposals, driven by concerns that economic crisis could deliver European countries into Soviet hands, were eviscerated by the American Bankers' Association (p74-76): in the IMF's Articles of Association, co-operation on capital flight would no longer be 'required' as Keynes and White wanted, but merely 'permitted.' A significant portion of the world's wealth subsequently flowed through this loophole, beyond the reach of law enforcement. Tax evaders could park money in the U.S. and earn income on their deposits, tax-free and in secret.

In 1966 the tax-exemption stance was officially reconsidered but no action was taken on the grounds that it might, as one Senate report put it: *"have a substantial adverse effect on our balance of payments."* A memo passed by a former State Department operative to a Chase Manhattan bank staffer that year highlighted that powerful interests were keen to go far further. It said (pp33-34 and p126):

> *"The US is probably the second major flight money center in the world, but with little probability of rivalling Switzerland for the foreseeable future. Like Switzerland, flight money probably flows to the US from every country in the world. . . however this is insignificant relative to the total potentially available. . . US-based and US-controlled entities are badly penalized in competing for flight money with the Swiss or other foreign flight money centers over the long run."*

The memo went on to outline a list of reasons why the U.S. was being 'penalised', including

> *"the ability of the US Treasury, Justice Department, CIA and FBI to subpoena client records, attach client accounts, and force testimony from US officers of US-controlled entities . . . restrictive US investment and brokerage regulations and policies, which limit the flexibility and secrecy of investment activity . . the US estate tax and US withholding tax on foreign investments"*

From then on, over the succeeding decades, the political power of the financial sector grew and many these defences would be partly or wholly rolled back.

Another factor influencing policy makers in the 1960s and 1970s was the Vietnam War, which opened up growing external balance of payments deficits – after a long history of surpluses. The U.S. increasingly needed foreign loans to finance these deficits and it did so, in significant part, by attracting tax-evading and other illicit foreign money. Foreigners invested in the U.S. for many reasons, not least the fact of the U.S. dollar being the global reserve currency - but secrecy and tax-free treatment were also key attractions.

The tax haven principle of using secrecy and tax exemptions to attract capital was re-affirmed in the Tax Reform Act of 1976: in the preceding debates a Florida Senator, Dick Stone, stated, in defence of the exemption, that in Miami around a third of all bank deposits came from Latin Americans. *Tax Notes International* summarised the reiteration of the U.S.' desire to be a tax haven:

"The 1976 Senate hearings clearly indicated that many senators felt that the imposition of tax on such bank deposit interest could result in a substantial outflow of funds away from U.S. banks to foreign competitors."

With no cross-border sharing of information to speak of, this continued to mean that foreigners' ability to evade their home-country taxes via U.S. banks was almost fool proof.

From the Reagan era onwards, ever larger amounts of money flowed in. Advances in communications technology – initially the telex, then the fax, then email - accelerated cross-border financial flows, and these flows, alongside changing ideologies, began to undermine New Deal regulations which had kept financial interests in check following the Great Depression and had delivered unprecedented prosperity. Meanwhile, foreign tax havens increasingly began to serve as unregulated and secretive conduits for financial inflows into and out of Wall Street, further boosting its power and reach.

In 1981 the U.S. introduced a new mechanism in the field of financial regulation: the International Banking Facility. This allowed banks in the U.S.A., which had previously needed to go offshore (particularly to London) to get around domestic financial regulations, to keep a separate set of books that effectively allowed them to obtain these exemptions while remaining at home. This attracted still more funds out of foreign tax havens and marked a further step offshore for the United States.

In ongoing efforts to fill the deficits Washington started to expand U.S. borrowers' access to the Eurobond markets by exempting foreigners who bought U.S. corporate and government bonds from the normal 30 percent withholding taxes on the bond interest payments. Initially this was achieved by grudgingly tolerating a convoluted loophole involving the Netherlands Antilles, but this messy mechanism was replaced in 1984 with a more direct tax haven offering: the so-called Portfolio Interest Exemption, under which non-residents could invest directly in U.S. bonds and receive interest payments tax-free, and nearly always in secrecy. *Time Magazine,* catching on a little late, summed up this move: *"Suddenly America has become the largest and possibly the most alluring tax haven in the world."*

The 1986 Tax Reform Act solidified the rule for interest on bank deposits held by non-resident foreigners (or "aliens" as they call it): previously, this income had been exempted from tax by treating it as foreign-source income; the 1986 Act treated it as US-sourced income but with an explicit tax exemption.

During the 1990s the Clinton administration became increasingly concerned about offshore tax leakage to foreign tax havens, but did relatively little to curb the U.S. role as a tax haven. In January 2001, in the administration's last days, federal-level regulations were introduced that would have required banks in the U.S. to inform the U.S. Internal Revenue Service (IRS) about all bank interest paid to non-resident individuals: reporting that was already required for residents of the U.S. and Canada. Had this become law, these minimal transparency requirements would still have been pretty narrow: the regulations did not require the U.S. to share the information with other foreign countries, merely to have it available themselves. Furthermore, the regulations only involved bank interest paid to individuals; other forms of investment income were excluded.

Under the George W. Bush administration, even these limited measures were swamped in a new anti-tax hysteria, encapsulated in the words of Treasury Secretary Paul O'Neill – who, when asked to respond to estimates that fewer than 6,000 of over 1.1 million offshore accounts and businesses were properly disclosed, responded: "I find it amusing." The Bush Treasury withdrew the narrow Clinton-era proposed regulations and replaced them with narrower ones that only required this information to be reported for residents of 16 mostly European countries[4] which had indicated a willingness to exchange information reciprocally with the U.S. Even these were never implemented, though a reporting requirement for Canadian depositors was introduced.

Defending against foreign tax havens, while being a tax haven for foreigners

While mostly content to allow foreigners to use the United States as a tax haven, the U.S. authorities were growing increasingly concerned that U.S. taxpayers might evade taxes by *pretending* to be foreigners – disguising their identities through offshore tax havens or otherwise – and thus evade U.S. taxes. Plenty of evidence was turning up that this was happening. So in 2001 the United States enacted the so-called Qualified Intermediary (QI) programme. This was a devious piece of secrecy legislation, which worked as follows:

The basic idea was to help the U.S. government ferret out U.S. tax cheats, while preserving the U.S. as a secrecy jurisdiction for foreigners.

If they had simply asked foreign financial institutions to report on all income originating in the U.S., then it would have received a lot of information not only about potential U.S. tax cheats, but also about foreign tax cheats. Once the administration had access to such information it might have found itself obliged by existing treaty arrangements to share the information with some foreign governments, which would make the U.S. far less attractive as a tax haven to stash money.

So instead it *outsourced* the collection of information to banks and other financial institutions: in theory, the banks would collect the information (not just bank interest this time, but a wider range of income-generating assets;) and pass *only* the information about U.S. residents to the U.S. authorities, while screening out all the information on foreigners. This way the U.S. would not receive information it might be required to share with others, and preserve its reputation as a secrecy jurisdiction welcoming the world's dirty money. This was classic, deliberate, carefully crafted tax haven behaviour. David Rosenbloom, a top tax lawyer with inside knowledge of the drafting of this legislation, explained his view of (p136) the original intent:

> *'It's not clear to me that the QI program is well adapted to the objective of ferreting out Americans – that is not how it started at all. The program was not aimed at identifying Americans. The program was aimed at protecting the identity of foreigners while allowing them to invest in the US,' he said. 'Making sure that Americans weren't in the picture was part of it, but the real focus was on this competitive aspect abroad.'*

The programme functioned poorly even on its own terms, for the simple reason that financial institutions could not be trusted: subsequent criminal probes into UBS and other Swiss banks in the 2000s revealed that banks were simply deceiving the I.R.S. and hiding their tax-evading U.S. customers.

The global financial crisis shakes things up

After the global financial crisis, it became politically possible to talk about new approaches in many countries, including the U.S.A. By 2012, one analyst, Itai Grinberg of Georgetown University, was talking of an *"evolutionary moment in cross-border tax cooperation."*

Most significantly, the QI program was overtaken by the so-called Foreign Account Tax Compliance Act (FATCA, see here), enacted into law in March 2010 and which came into force on July 1, 2014. This was originally designed as a tightened-up version of the QI programme, preserving the essential tax haven structure described above, while expanding its scope and giving the I.R.S. stronger teeth in the effort to ferret out U.S. tax cheats. Over time, the idea was that the U.S. would sign up to bilateral Intergovernmental Agreements (IGAs) to provide some measure of reciprocity to other countries under FATCA.

When FATCA was introduced it was, while still originally designed as a unilateral self-protection mechanism, a major step forwards for international transparency efforts: at the time the 'internationally recognised global standard' of cross-border information exchange was the OECD's bilateral "on request" system:

you had to know the information you were looking for before you requested the tax haven (or other jurisdiction) for confirmation of that information, on a case by case basis. This was only slightly better than useless.

A far stronger principle was *automatic* information exchange, where countries share this information across borders as a matter of routine. The European Union already had such a scheme up and running for 42 European and affiliated territories, but it was riddled with loopholes and narrow definitions, and it was collecting little.

FATCA was much stronger, technically speaking. It requires foreign financial institutions (FFIs) to be the ones to ferret out the required information, and it subjects FFIs and other foreign entities investing their funds or clients' funds in the U.S. to a 30 percent withholding tax on U.S.-source income, unless they agreed to disclose to the U.S. Government information about U.S. persons' foreign financial accounts. This is a version of automatic exchange of information - not between governments, but between FFIs and entities and the U.S. Government. It also covered a far wider scope of income than just bank interest. As a result of its greater strength, it has encountered enormous opposition from foreign governments and tax havens and Wall Street, but also from many U.S. citizens resident abroad for whom it represents a large compliance burden. Senator Carl Levin said in July 2011 that foreign banks were engaging in a "massive lobbying effort" to dilute it.

FATCA also has clashed in some cases with foreign laws (such as banking secrecy laws), which has required Washington to adopt a more co-operative bilateral approach. As a result the original version of FATCA has been modified in several ways, particularly with its Intergovernmental Agreement (IGA, see box).

Box 1: FATCA, foreign governments and the IGAs.

Two FATCA Intergovernmental Agreements (IGAs) were developed to help FATCA fit with international laws. Under **Model 1 IGA**, foreign financial institutions (FFIs) report relevant information to their home authorities, which then passes this on to the U.S. IRS. (Model 1 has two versions: 1A, the commonest, which is reciprocal; and 1B, which is non-reciprocal.) Under the **Model II** IGA, by contrast, FFIs report not to their home government but directly to the IRS. By September 3 2015, 66 jurisdictions had signed Model 1 IGAa (nearly all reciprocal) and 24 had agreed to sign them, while seven had signed Model 2s and 6 had agreed to sign them. But as the section below explains, the reciprocity is highly unbalanced, with the U.S. getting far more information from overseas than foreign governments or institutions will provide to the U.S.

New legislation introduced in September 2013 under Senator Levin's Stop Tax Haven Abuse Act, was aimed at further tightening up FATCA by, among other things, establishing legal presumptions to overcome secrecy barriers, closing loopholes, allowing a range of sanctions against non-cooperative jurisdictions; introducing country-by-country reporting requirements for transnational corporations; strengthening penalties against promoters of abusive schemes; and creating a tougher environment for those doing business with foreign banks that reject FATCA. Crucially, the Act would have allowed the U.S. Treasury to take action against financial institutions by extending anti money laundering tools into the tax area. Sadly, this failed to gain traction.

FATCA and the CRS: gaping holes in international transparency initiatives

While the U.S. has been rolling out FATCA, the OECD, a club of rich countries which dominates international rule-making in this area, was developing its own programme, the Common Reporting Standards (CRS). From a technical perspective the CRS was modelled on the FATCA Model 1 IGA, though with some differences: it is adapted to a multilateral context (FATCA relies on an array of bilateral agreements;) it relies on residency rather than nationality; but it lacks FATCA's powerful 30 percent withholding tax to spur financial institutions to act.[4]

But a rather large fly has appeared in this ointment. Whereas the European Union was (at time of writing) in the process of incorporating the OECD technical standards into EU law, in cut-and-paste fashion, the U.S. government has taken the position that since FATCA is technically similar to the CRS it does not need to join the CRS. Reciprocity with the rest of the world, it argues, comes via its IGAs.

And this is where the problems emerge. Most importantly, the U.S. is a long way away – for reasons of politics, lobbying, complexity and history – from being able to provide the information required under reciprocal information exchange. It is currently unable to reciprocate because under its domestic law its banks are not required to collect the necessary beneficial ownership information.

This long article explores a Financial Crimes Enforcement (FINCEN) document examining proposals to tighten up on "due diligence" information that U.S. financial institutions are required to collect about their customers. The state of play is, to summarise at the time of writing (Sept 2015), a disaster. A whole host of financial institutions are exempting from current weak reporting rules, and the all-important question of trusts is dodged, because it "would not be practical" to determine the beneficial owners for most trusts. Everything in the past would be ignored by these proposals: only future activity would be covered. What is more, a close study of the FATCA IGAs shows that reciprocity is heavily unbalanced, as this table shows.

Worse, the legislation required to tackle all these different issues is all over the place, in different legislative nooks and crannies, and these proposals to strengthen the rules face the combined lobbying power of Big Four accounting firms and Wall Street Banks, the likes of U.S. libertarian Senator Rand Paul, and many other vested interests, some of whom are challenging some of FATCA's core requirements on grounds of illegality.

In short, the U.S. FATCA programme is, for all intents and purposes, a strong unilateral mechanism that will, unless things change, do little to dent the U.S.' role as a global tax haven. Without reciprocity, this poses a serious threat to the entire global project.

State-level facilities: shell corporations and more

Alongside this history of U.S. Federal-level secrecy, individual U.S. states have been hosting the formation of secretive shell companies: a particularly sleazy add-on to the Federal-Level facilities.

Measures relating to forming companies in the U.S. are governed by state, rather than federal law, and as a result several states have engaged in a race to the bottom to outbid one other in offering ever more egregious secrecy facilities. There is no exact time or date when this shell company business started: by and large it has simply been the result of omission: a permanent, prolonged failure to enact legislation that would require transparency, and the exploitation of these gaps by private operators. A few states such as Delaware, Wyoming and Nevada took an early lead in offshore secret incorporations, and remain leaders today.

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)	All financial accounts, but Depositary accounts only if held by individuals (art. 1,1,cc)
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. Moreover, "interest" paid (not if credited) only to depositary accounts. (Art. 2,2,b)

Here is how it works. A wealthy Ukrainian, say, sets up a Delaware shell company using a local company formation agent. That Delaware agent will provide nominee officers and directors (typically lawyers) to serve as fronts for the real owners, and their details and photocopies of their passports can be made public but that gets you no closer to who the genuine Ukrainian owner of that company is: the nominees are bound by attorney-client privilege not to reveal the information (if they even have it: the owner of that shell company may be another secretive shell company or trust somewhere else). The company can run millions through its bank account but nobody – whether domestic or foreign law enforcement – can crack through that form of secrecy. In the words of Dennis Lormel, the first chief of the FBI's Terrorist Financing Operations Section and a retired 28-year Bureau veteran, *"Terrorists, organized crime groups, and pariah states need access to the international banking system. Shell firms are how they get it."*

From the states' perspectives, the end game is to raise revenue for the state by creaming off fees from large numbers of companies incorporating there – and the consequences for everyone else be damned: a typical offshore attitude. As the Financial Action Task Force notes about Nevada:

> *"In discussions with the state authorities, it was clear that there was a realization of the threats posed by the current "light-touch" incorporation procedures. . . However, the states primarily see this activity as a revenue raising enterprise to substitute in part for their partial tax-free environment, and the company formation agents represent a powerful lobby to protect the status quo."*

The lobbying and the revenue-raising potential, and the lack of strong democratic counterweights in small states, mean that these places can be fairly described as "captured states."

Box 2: Delaware, Nevada and captured states.

Three U.S. states – Delaware, Nevada, and Wyoming -- are routinely named as the most aggressive in this area, and in each case they did so by displaying clear characteristics of financially 'captured states,' where decisions about relevant legislation are taken between lawmakers and financial services interests behind closed doors, ring-fenced from complex democratic processes (see the "Ratchet" chapter of Treasure Islands for a history of how this 'capture' happened in Delaware.)

Political capture is much easier in small states than in large ones, as the *New York Times* reported on the rise of such secrecy facilities in some states, but not in larger states:

> *" 'Surprisingly,' notes one legal study, ''much of the difficulty of these large states appears to be . . . because of their legislatures.'' The large states persist in viewing corporation laws as complex moral and political problems rather than - as in happy Delaware - a way of making everybody rich."*

This 'captured state' dynamic has seen individual states offering other facilities with an 'offshore' flavour. Vermont, for instance, has been setting itself up as an offshore captive insurance jurisdiction in an attempt to compete directly with the likes of Bermuda or the Cayman Islands. A New York Times story about it notes that Vermont is:

> *"offering a refuge from other states' insurance rules. . . . this has given rise to concern that a shadow insurance industry is emerging, with less regulation and more potential debt than policyholders know . . critics say this is much like the shadow banking system that contributed to the financial crisis."*

This race to the bottom on standards in the world's insurance industry could not only pose immense risks for financial stability, but also contribute to the fact, well known in the industry, that insurance schemes can serve as classic tax evasion vehicles.

State officials, notably from Delaware, began seriously marketing corporate secrecy facilities internationally from the period of globalisation in the 1970s and 1980s (see here for an example of Delaware's proselytising for secrecy in Asia in 1986, with slogans such as "we protect you from politics",) and it was this era when U.S. shell company business began contributing properly to Tax Haven USA. John Cassara, a U.S. Treasury financial crimes investigator who has been involved in many cross-border collaborations explained:

> *"I observed many formal requests for assistance having to do with companies associated with Delaware, Nevada or Wyoming. These states have a tawdry image: they have become nearly synonymous with underground financing, tax evasion and other bad deeds facilitated by anonymous shell companies — or by companies lacking information on their "beneficial owners," the person or entity that actually controls the company, not the (often meaningless) name under which the company is registered."*

Almost two million corporations and limited liability companies (LLCs) are formed in U.S. states each year, many by foreigners, without the states ever asking for the identity of the ultimate beneficial owners. Some serve legitimate purposes but many, in the words of Senator Carl Levin, *"function as conduits for organised crime, money laundering, securities fraud, tax evasion, and other misconduct."* A Department of Justice report revealed, for example, that anonymously-held shell companies in Pennsylvania and Delaware were used to unlawfully divert millions in international aid intended to upgrade the safety of former Soviet nuclear plants. The Financial Action Task Force observed:

> *"In many respects, registered agents in Delaware are in competition for business with Trust and Company Service Providers operating in traditional offshore financial centers (OFCs). The style of advertising by many tends to portray an image that the standards of secrecy offered are greater than those in most OFCs."*

Company formation businesses boast of being able to set up anonymous companies in hours, sometimes for as little as $100, with no meaningful review. One widely referenced 2012 study estimated that Delaware was the world's second easiest place to set up a shell company, after Kenya.

The range of abusive facilities can be stunning. States offer artificially aged "shelf companies" – which you can buy off the shelf with a supposedly long-established history and impeccable credit record, providing a aura of respectability. Company agents offer local telephone listings and live receptionists, to give a veneer of probity and solidity. U.S. Republican Senator Norm Coleman summarises:

> *"These formation and support services rival those offered in some of the most notorious offshore tax and financial secrecy havens."*

Limited progress has been made in tackling these arrangements. Bearer shares were outlawed in the last two U.S. states (Nevada and Wyoming) only in February 2007, following concerns about terrorist financing. Bipartisan bills proposing to crack down on anonymous U.S. shell companies have repeatedly failed to pass.

Nevada and Wyoming, two of the biggest offenders in this area, indicated in late 2011 that they intended to crack down on secrecy business run out of their states. No concrete actions have yet been seen, however. Delaware had also promised some reforms – and indeed it seems that there have been some Delaware legislators becoming concerned about crimes and abuses involving companies registered in their state - but the reforms in Delaware so far have been dismissed as "window dressing" by observers.

Bills have been introduced at a Federal level to reform shell company legislation

– such as Senators Chuck Grassley's and Carl Levin's Incorporation Transparency and Law Enforcement Assistance Act which would, if enacted, have required U. S. states to obtain appropriate and updated beneficial ownership information about companies formed under state laws, and provide it under a subpoena or summons.

Yet so far, these legislative efforts have failed to gain traction. Tax Haven USA remains wide open, at both the Federal and the state levels.

Read More

- Full data for USA
- USA on TJN Blog
- Full Methodology
- Loophole USA: the vortex-shaped hole in global financial transparency, Jan 2015, highlights problems with FATCA and its failure to engage seriously with international transparency schemes.
- Setting Up a Bogus Shell Corporation Is Really Easy, Ken Silverstein, Vice Magazine, Dec 2014

See **Treasure Islands**, particularly pp124-146 of the UK edition, and pp107-128 of the U.S. edition, for more detailed information about how the United States became a secrecy jurisdiction. The chapter "Ratchet" looking at Delaware (and Jersey) a<<lso explores the wide range of different 'offshore' aspects that some U.S. states have deliberately created.
Any number of stories exist about the U.S. being used as a secrecy jurisdiction by foreigners. For example, the case of U.S. bank Wachovia in helping Mexican drugs gangs launder hundreds of billions of dollars: read about it here and here. See Ken Silverstein's 2013 article in The Nation, outlining Miami's role in attracting dirty money; and the New York Times' Feb 2015 investigation into how U.S. real estate is being used as a tax haven facility for foreign wealth. **Reuters** has provided some useful case studies of state-level secrecy arrangements in its Shell Games series: see their stories on Chinese Reverse Mergers, on Medicare fraud (Georgia and Florida,) on Wyoming, on Arizona, and on Nevada.

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[1] For a description of how these facilities emerged, see chapter entitled "The Fall of America" in Nicholas Shaxson's book, Treasure Islands.

[2] The U.S.' secrecy score has worsened since our last index was produced. Although the two indices are not directly comparable, since our methodology has evolved slightly, some elements have worsened, particularly with respect to slippage in implementing hoped-for elements in the Dodd-Frank reform bill. Notably Section 1504 of the Dodd Frank Act, concerning country-by-country reporting, requires the US Securities and Exchange Commission (SEC) to issue rules mandating the disclosure of payments. The rules issued by the SEC were successfully challenged by the American Petroleum Institute at the U.S. District Court that finally vacated the rules. For a description of the many problems, see Loophole USA: the vortex-shaped hole in global financial transparency, TJN, Jan 2015

[3] Australia, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Netherlands, New Zealand, Norway, Portugal, Spain, Sweden and the UK.

[4] For an exploration of the technical details of the CRS and FATCA, see "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 Andres Knobel, Markus Meinzer, Tax Justice Network, November 24th, 2014

PART 2: USA'S SECRECY SCORE

TRANSPARENCY OF BENEFICIAL OWNERSHIP – USA

1 *Banking Secrecy: Does the jurisdiction have banking secrecy?*
USA partly curtails banking secrecy

2 *Trust and Foundations Register: Is there a public register of trusts/foundations, or are trusts/ foundations prevented?*
USA partly discloses or prevents trusts and private foundations

3 *Recorded Company Ownership: Does the relevant authority obtain and keep updated details of the beneficial ownership of companies?*
USA does not maintain company ownership details in official records

KEY ASPECTS OF CORPORATE TRANSPARENCY REGULATION – USA

4 *Public Company Ownership: Does the relevant authority make details of ownership of companies available on public record online for free, or for less than US$10/€10?*
USA does not require that company ownership details are publicly available online

5 *Public Company Accounts: Does the relevant authority require that company accounts are made available for inspection by anyone for free, or for less than US$10/€10?*
USA does not require that company accounts be available on public record

6 *Country-by-Country Reporting: Are all companies required to publish country-by-country financial reports?*
USA does not require public country-by-country financial reporting by companies

EFFICIENCY OF TAX AND FINANCIAL REGULATION – USA

7 *Fit for Information Exchange: Are resident paying agents required to report to the domestic tax administration information on payments to non-residents?*
USA does not require resident paying agents to tell the domestic tax authorities about payments to non-residents

8 *Efficiency of Tax Administration: Does the tax administration use taxpayer identifiers for analysing information efficiently, and is there a large taxpayer unit?*
USA uses appropriate tools for efficiently analysing tax related information

9 *Avoids Promoting Tax Evasion: Does the jurisdiction grant unilateral tax credits for foreign tax payments?*
USA partly avoids promoting tax evasion via a tax credit system

10 *Harmful Legal Vehicles: Does the jurisdiction allow cell companies and trusts with flee clauses?*
USA does allow harmful legal vehicles

INTERNATIONAL STANDARDS AND COOPERATION – USA

11 *Anti-Money Laundering: Does the jurisdiction comply with the FATF recommendations?*
USA partly complies with international anti-money laundering standards

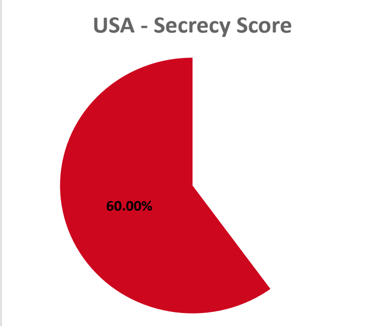
12 *Automatic Information Exchange: Does the jurisdiction participate fully in multilateral Automatic Information Exchange via the Common Reporting Standard?*
USA does not participate in Automatic Information Exchange

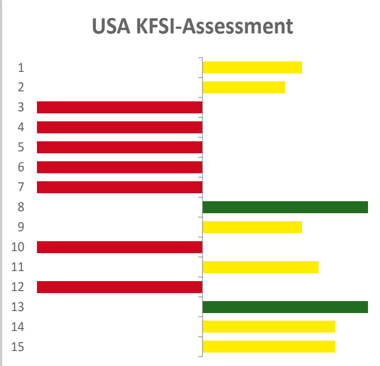
13 *Bilateral Treaties: Does the jurisdiction have at least 53 bilateral treaties providing for information exchange upon request, or is it part of the European Council/OECD convention?*
As of 31 May, 2015, USA had at least 53 bilateral tax information sharing agreements complying with basic OECD requirements

14 *International Transparency Commitments: Has the jurisdiction ratified the five most relevant international treaties relating to financial transparency?*
USA has ratified less than five of the most relevant international treaties relating to financial transparency

15 *International Judicial Cooperation: Does the jurisdiction cooperate with other states on money laundering and other criminal issues?*
USA partly cooperates with other states on money laundering and other criminal issues

Secrecy Score





Notes and Sources

The ranking is based on a combination of its secrecy score and scale weighting (click here to see our full methodology).

The secrecy score of 60 per cent for USA has been computed by assessing its performance on 15 Key Financial Secrecy Indicators (KFSI), listed on the left. Each KFSI is explained in more detail, here.

Green indicates full compliance on the relevant indicator, meaning least secrecy; red indicates non-compliance (most secrecy); and yellow indicates partial compliance.

This paper draws on data sources including regulatory reports, legislation, regulation and news available as of 31.12.2014 (with the exception of KFSI 13 for which the cut-off date is 31.05.2015).

Full data on USA is available here: http://www.financialsecrecyindex.com/database/menu.xml

All background data for all countries can be found on the Financial Secrecy Index website: http://www.financialsecrecyindex.com