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The Promises and Limits of Transparency: Anti-Tax Evasion and Anti-Money Laundering Efforts in Financial Centres

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Introduction

Over the last decades, the transfer of assets across borders – in particular to financial centres – has become increasingly common. While many uses of financial centres are legal and legitimate, the international financial system has also led to capital outflows from developing countries, deprived governments of funds for public services, increased inequality within and between countries and facilitated tax avoidance and evasion as well as money laundering, kleptocracy and corruption. The United Nations (UN) Financial Accountability, Transparency and Integrity (FACTI) Panel in its 2020 report estimated that USD 7 trillion in private wealth are hidden in so-called haven countries and that 10% of global GDP might be held in offshore financial assets (FACTI Panel, 2020).

The opacity of the international financial system has been identified as a key enabling factor for tax evasion and financial crime, and the push for transparency of asset ownership and control is a direct response to this. In particular the 2008 financial crisis and data leaks such as the Panama, Paradise and Pandora Papers contributed to more awareness among the general population about tax avoidance and evasion and to increasing pressure for the international community to act (Christensen & Hearson, 2019). The Organisation for Economic Co-operation and Development (OECD), the Financial Action Task Force (FATF) and the European Union (EU) have led efforts to bring more transparency to various aspects of the international financial system.

Two vehicles that have legitimate uses but can also be used to evade taxes or launder proceeds from crime are (1) financial accounts held abroad and (2) anonymous companies. Two policy approaches that address these respectively are (1) the exchange of financial account information and (2) beneficial ownership transparency. The exchange of financial account information concerns tax authorities sharing information about accounts held by non-residents with those individuals' countries of residence, while beneficial ownership transparency ensures that companies must declare their ultimate beneficial owners so that these cannot hide their identity. Exchange of information (EOI) and beneficial ownership transparency are two of the three pillars of the Tax Justice Network's 'ABC of tax justice', key transparency reforms that tackle important aspects of financial secrecy (Tax Justice Network, n.d.). Of course, the two policy approaches are linked, as for example the availability of beneficial ownership information on bank accounts, legal entities and legal arrangements is an important part of effective exchange of information (OECD, 2024).

This working paper summarises the policy-relevant results of a research project focused on how Switzerland and the United Kingdom as the two largest wealth management centres in the world (Deloitte, 2024) have engaged with tax and financial transparency regulation. The research examines the political struggles around exchange of information and beneficial ownership transparency regulation. It employs an in-depth qualitative content analysis of submissions to 37 public consultations (27 in Switzerland and 10 in the UK) between 2003 and 2023. The analysis focused on submissions by the most active interest groups, namely those responding to at least half of the consultations in a policy area (21 interest groups in Switzerland and 44 in the UK). This resulted in 255 submissions for Switzerland (187 on EOI and 68 on beneficial ownership transparency) and 127 for the UK (57 on EOI and 70 on beneficial ownership transparency). The interest groups are predominantly firms, professional and business associations from the banking, wealth management and legal industries and the wider financial and professional services sector, as well as a few civil society organisations.

Supplementing these data are parliamentary debates and semi-structured anonymised interviews with 39 experts and professionals from the banking, tax advisory, audit, legal, wealth management, non-financial, civil society and political sectors in Switzerland and the UK.

In the following, I first provide the background to how financial centres have moved towards more transparency, with a focus on Switzerland and the United Kingdom. I then elaborate on the limits of transparency through the four key debates that emerged from the research:

1) What should be made transparent and what should be exempt from the transparency mandate?
2) How should the accuracy of information be verified?
3) How should transparency be balanced against privacy, data protection and confidentiality?
4) How should the data be used and to what extent should there be enforcement?

Financial Centres' Journeys towards Tax and Financial Transparency

In comparison to other vehicles of potential secrecy, financial accounts have experienced stronger and earlier pressures of transparency in the form of exchange of information for tax purposes (in short, EOI). This measure aims to prevent and detect tax evasion by individuals who hold financial accounts in countries other than their country of residence. It means that financial institutions such as banks, investment companies or insurance companies need to provide information on non-resident financial account holders to their tax authority which then shares this information with the individual's home tax authority. EOI initially mainly took place 'upon request', based on bilateral tax treaties or tax information exchange agreements between two countries. Upon request means that Country A can request information from another Country

B if there is evidence for tax evasion by a resident of Country A (Ahrens, Hakelberg, et al., 2020; Beer et al., 2019). Later, the international community also developed automatic exchange of information (AEOI) instruments which provide for exchange of information on a regular basis without need for a request or evidence of wrongdoing. The currently two most important instruments for automatic exchange of information are the 2010 US Foreign Account Tax Compliance Act (FATCA) and the OECD's 2014 Common Reporting Standard (CRS) (Ahrens, Hakelberg, et al., 2020). FATCA grew out of international tax evasion scandals around the time of the financial crisis (Grinberg, 2012). The provisions target undeclared foreign financial accounts of US citizens and residents by requiring foreign financial institutions to identify and report financial account information to the US Internal Revenue Service (IRS) (Crasnic & Hakelberg, 2021).

Inspired by FATCA, the OECD's CRS originated in the G8 summit at Lough Erne in 2013 and the following G20 meeting in Russia where political leaders established a commitment to automatic exchange of information (Baker, 2013; Beer et al., 2019). The CRS and the corresponding Multilateral Competent Authority Agreement (MCAA) were published in 2014 and first automatic information exchanges took place in 2017. The CRS is unique due to its multilateral character and broad coverage of countries, regulated accounts and institutions (Bühler, 2017; Casi et al., 2018). Exchange of information (including automatic exchange) is widely adopted and applied, with the OECD Global Forum on Transparency and Exchange of Information for Tax Purposes counting over 170 members as of June 2024, having expanded beyond the organisation's core membership.

The UK has generally taken a proactive approach to EOI. In September 2012, the country became the first to sign an Intergovernmental Agreement with the US to implement the reporting required under FATCA legislation (Saint-Amans, 2023). In 2013, the UK established AEOI agreements with certain Crown Dependencies and Overseas Territories (CDOTs) – according to then-Prime Minister David Cameron so that the UK could not be accused of hypocrisy, given the secrecy that those jurisdictions' economies are said to be built on (Cameron, 2019). The UK then worked closely with the OECD and the G20 on the development of the CRS which has since replaced the CDOT agreements.

In Switzerland, EOI developments have been received with more open scepticism. The well-established banking secrecy was one of the reasons for initial resistance against AEOI in particular (Eggenberger & Emmenegger, 2015). After the 2008 financial crisis, international pressure led Switzerland to increasingly adopt tax transparency reforms. This research project has identified a diagnostic struggle about what is better for the country and its financial sector's competitiveness. The debate hinged on adjudicating between giving in to international pressures to prevent reputational damage and fend off sanction threats versus regulating less or at least not more than international competitors and maintaining a level playing field with other financial centres. Transparency has increasingly dominated this battle, with Switzerland now participating in all international exchange of information efforts.

The second policy area this research focuses on is beneficial ownership transparency. The concept of beneficial ownership originates in the regime of dual ownership, allowing a distinction between legal and beneficial owners of an entity. Though it can used for legitimate and economic purposes, this dual ownership structure has been abused for financial crime (Bagheri & Zhou, 2021), leading to a range of regulatory efforts. These usually revolve around making the ultimate beneficial owners transparent, so individuals cannot hide behind corporate structures. Beneficial ownership transparency as a strategy against financial crime became more popular in the early 2010s, mainly driven by the Financial Action Task Force (FATF), the G8, the G20 and the EU. The Panama and Paradise Paper leaks highlighted the need for transparency of beneficial owners which pushed the policy agenda further (van der Merwe, 2020). FATF uses the following definition for beneficial owners: "the natural person who ultimately owns or controls a customer and / or the natural person on whose behalf a transaction is being conducted. It also includes those persons who exercise ultimate control over a legal person or arrangement" (Martini, 2015, p. 4). Having transparency over this information means that law enforcement agencies can find out who is behind financial dealings and companies can do their due diligence on clients or counterparties more easily.

Countries have implemented varying degrees of beneficial ownership transparency. Sometimes, there is a requirement that intermediaries have to check who the beneficial owners of their client companies are. This is, for example, the case in Switzerland. In other countries, there are closed central registers of beneficial owners which government agencies and potentially other authorised parties can access. Switzerland has consulted on the possibility of establishing such a register and discussions are under way in parliament as to the details of the so-called transparency register. The most transparent version are public registers, such as the UK's People with Significant Control (PSC) register launched in 2016 and applicable to UK companies, or the country's Register of Overseas Entities (ROE), in which overseas entities that buy, sell or transfer property or land in the UK have to record their beneficial owners. Such public registers can be accessed by anyone, therefore giving, for example, civil society organisations (CSOs) the opportunity to hold companies to account (Gilmour, 2020).

The Limits of Transparency

The processes leading to increased transparency of financial accounts and beneficial ownership are far from being uncontested. Both in the UK and Switzerland, political struggles took and are still taking place about the pace and scope of transparency reforms. These struggles revolve around four main debates:

1) What should be made transparent and what should be exempt from the transparency mandate?
2) How should the accuracy of information be verified?
3) How should transparency be balanced against privacy, data protection and confidentiality?
4) How should the data be used and to what extent should there be enforcement?

Three of these areas, which emerged inductively from the research, correspond to findings from the OECD Global Forum's 2023 Annual Report on peer reviews of member states' implementation of exchange of information standards. The largest number of recommendations for improvement were about domestic exemptions of financial institutions and accounts that do not comply with the global standards. In second place were recommendations regarding insufficient enforcement of the requirements, such as due diligence duties, reporting and record keeping tasks and imposition of sanctions, which also relate to verification issues (Global Forum on Transparency and Exchange of Information for Tax Purposes, 2023).

In line with these findings, this research project found that what is at stake in these debates is also what makes up some of the main limitations of transparency efforts:

1) transparency is necessarily incomplete and always involves decisions about what is subject to and exempt from disclosure rules;
2) the value of transparency of information that is not accurate will be doubted;
3) transparency needs to be balanced against concerns around privacy and data protection; and
4) transparency without effective use of the information and without enforcement is sometimes seen as ineffective.

This paper will in turn discuss these different debates and limitations.

1. The Politics of Exclusion

One of the key debates related to transparency standards and laws concerns what should and should not be made transparent in the first place. As transparency can never be complete, standard setters and policy-makers must decide what falls under transparency requirements and what is exempt. This could be certain financial institutions or accounts that are exempt from EOI standards and laws or certain legal persons that are exempt from beneficial ownership disclosure. I call this struggle the *politics of exclusion* because it revolves mainly around the question of what should be exempt from the transparency mandate. Demands for exemptions from transparency regulation in the UK and Switzerland were often justified or legitimised with reference to the alleged low risk that the respective institution, account or entity pose for being abused for tax evasion or other financial crimes. Including them in regulation would present an undue compliance burden and cost. Actors further argued that a valid reason for exemption from the public disclosure of beneficial ownership information would be that the disclosure would put the affected individual at risk, therefore making reference to privacy protections.

A paradox with regard to the discussion around low-risk accounts and entities is that by the very fact of being excluded, they could become high risk. Some actors, in particular civil society organisations, caution that certain exemptions can become loopholes that negatively affect the effectiveness of a law because they provide ways to circumvent legal obligations. Exemptions – and therefore the politics of exclusion – are hence subject to a diagnostic struggle: namely, the struggle about whether exemptions are justified or harmful. Justified exemptions, for example, can arise from the low-risk character of certain accounts or institutions which means subjecting them to transparency would be a disproportionate burden. Harmful exemptions, however, create loopholes that allow stakeholders to get around the rules.

Overall, the demand for exemptions was more prominent in the UK than in Switzerland, at least during the public consultations. Interest groups in the UK rarely expressed outright rejection of the laws – as opposed to interest groups in Switzerland – but they more frequently asked for exemptions. For exchange of information laws, this includes either declaring certain financial institutions as Non-Reporting Financial Institutions (NRFIs) – exempt from identifying, collecting and reporting information – or demanding that certain accounts of Reporting Financial Institutions are defined as 'excluded accounts'. For beneficial ownership transparency, demands for exemptions included asking for certain legal entities being relieved of the reporting requirements altogether, or for their information to be withheld from the public. In the case of the PSC register, for example, interest groups debated whether some beneficial owners should feature on the register without their information being made public – for example for protection purposes.

Two entities or arrangements stood out in terms of the extent to which their exclusion from transparency requirements was defended: foundations in Switzerland and trusts in the UK. In light of OECD proposals to consider foundations as Reporting Financial Institutions, interest groups in Switzerland demanded that the exemption of charitable foundations from automatic exchange of information requirements be anchored in the Swiss AEOI Act and Regulation. The argument behind the exemption was that the wealth of a Swiss foundation cannot be transferred back to the donor or the board of the foundation. The foundation therefore has no beneficial owners and a low or non-existent risk to be used for tax evasion. In 2019, the Swiss government launched a consultation on revising the AEOI Regulation and eliminating the exemption of foundations, following peer review and recommendations by the Global Forum. The proposal was met with strong resistance from foundations and other interest groups. This consultation had the highest rate of rejection out of all the consultations analysed for this research. Interest groups pointed to the existing exemption of foundations in the Swiss FATCA Agreement and warned about the costs and administrative burden that an inclusion into the CRS would signify. Further, donors and council members might be less interested in such mandates as they could risk having to report personal information. Ultimately, the Swiss government followed the strong rejection from interest groups and successfully defended the exemption at the OECD.

In the UK, several debates around exemptions focused on the legal arrangement of the trust. Interest groups spoke out early on in favour of trusts being exempt from AEOI regulation. They noted a lack of understanding among other countries about what UK trusts are and described the disproportionate compliance burdens that transparency requirements would signify for them. Some interest groups advocated for trust beneficiaries not to be listed on beneficial ownership registers, at least not publicly. They justified this position by pointing to the low risk of trusts being abused for illegal activity, the potential vulnerability of beneficiaries and the bureaucracy of the reporting duties. In response to international expectations, the UK put in place a Trust Registration Service (TRS). However, this is not accessible to the public – as opposed to the ROE and the PSC register. Swiss interest groups on the other hand interestingly considered the special treatment of trusts as a potential competitive disadvantage for the Swiss financial centre, as trusts tend to be more common in competitor financial centres like the UK.

2. The Politics of Verification

Deciding what data to make transparent does not solve the question how the accuracy of that data will be ensured – a struggle which I call the *politics of verification*. The question of data verification was mainly discussed prior to the adoption of beneficial ownership registers. However, concerns about data quality pertain both to exchange of information and beneficial ownership transparency. There seems to be a consensus about the limited usefulness of transparency if the information cannot be trusted. There is, however, disagreement about how data should be verified and by whom, how much of the data should be made public (in the case of beneficial ownership transparency) and what penalties and sanctions are useful and appropriate measures to ensure data accuracy.

The UK saw a sizeable debate about who should verify the data on the PSC register and the Register of Overseas Entities. Some stakeholders advocated for the registrar – Companies House – to play a role in data verification and due diligence at the point the data is submitted. Civil society organisations highlighted the opportunities that technology can provide for ensuring data accuracy. This could be done through automatically ensuring all fields are completed, cross-checking the information with other government data and open databases, and providing drop-down lists instead of free text fields for certain answers. Some private sector interest groups on the other hand questioned Companies House's suitability for detecting and correcting information errors. Some interest groups promoted company service providers, banks and other anti-money laundering (AML)-covered entities as the most suitable actors to conduct due diligence, verify information and report suspicious activity and discrepancies in data. In recent developments, the UK has put more resources into Companies House for data verification, given the registrar more powers to challenge information and remove inaccurate information, and introduced ID checks and identifying numbers for individuals listed on the register.

Part of the new developments are penalties and sanctions when a company fails to respond to a formal request for additional information. The debate about the role of sanctions and penalties in ensuring data accuracy took place with regard to both the exchange of information and beneficial ownership transparency. Private sector interest groups in both Switzerland and the UK showed scepticism about strict sanctions and penalties and advocated for transitional periods and the possibility to voluntarily disclose errors and omissions in exchange for a reduction in penalties. Civil society organisations on the other hand advocated for certain sanctions for non-compliance, both of companies themselves and of service providers.

The most controversial option to increase the chances of high-quality and accurate data is making beneficial ownership register data publicly available. During the public consultations on the UK PSC register and the ROE, CSOs highlighted that even if other verification processes were in place, the registers should be public because it increases the chance that errors are found. Publication of the information can also increase the pressure to provide quality data in the first place. Private sector interest groups questioned the idea that public availability necessarily leads to more accurate data. And indeed, despite the public character of both the PSC register and the ROE, there has been a lot of criticism of the registers' data quality. The UK government has taken steps to tackle these issues, as outlined above.

Similarly, a review of exchange of information in the EU by the European Court of Auditors (2020, p. 5) found that the financial account information collected under EOI can lack "in quality, completeness and accuracy." Furthermore, the Court criticised the absence of audits of financial institutions to make sure that the data is correct and complete before it is passed on to other member states. The EU Tax Observatory has emphasised that the effectiveness of the CRS is partially dependent on the quality of the data, such as correct spelling and formatting of names and IDs and avoiding "double or incomplete observations" (EU Tax Observatory, 2024, p. 31). These factors vary substantially between countries.

3. Transparency and its Counter Values: Privacy, Data Protection and Confidentiality

One reason that transparency is a dominant approach for fighting against financial crime is that secrecy – often conceived as the opposite of transparency (Florini, 1998) – has been placed at the core of the tax evasion and money laundering problematic. The problems, according to this view, are secret bank accounts, secret company ownership and secret trusts in secretive locations. Secrecy in this discourse typically has a negative connotation: it is hiding and obscuring something nefarious, and secret acts are "framed as instances of undemocratic power abuse by economic, social or political elites" (Cronin, 2020, p. 220). Cronin (2020) points out that secrecy in itself does not have to be something negative. More positive aspects of secrecy are associated with privacy, data protection, and confidentiality. The boundary between the positively framed "privacy" and the suspiciously framed "secrecy" is blurred. According to Knobel (2024, p. 8), "[s]ecrecy involves to intentionally keep things from others, things which may be very important to or even inherent to others. Privacy is a right to keep that which is inherently separate from others that way."

While there has been a trend towards increasing transparency, with new technological advances and concerns around big data and surveillance, privacy and data protection rights are increasingly in the limelight (Holzner & Holzner, 2002). As Ball (2009, p. 303) describes, "transparency brings about greater concerns for privacy and secrecy." Authors have conceptualised privacy as a counter-doctrine or counter-value to transparency which transparency must be weighed against (Heald, 2006; Holzner & Holzner, 2002; Hood, 2006a, 2006b). Ultimately, transparency is always in a necessary tension with privacy. This tension has been acknowledged by the General Reporter for the European Association of Tax Law Professors – a tension between the right of a state to collect the information necessary to protect its tax base and the right of taxpayers to privacy (Debelva & Mosquera, 2017). The level and form of access to someone's information is defined through laws, social practices, technology and norms. Violations of privacy norms can lead to backlash and resistance, which is why "achieving social order requires managing privacy in a way that allows for an optimal balance between revealing and concealing" (Anthony et al., 2017, p. 252). How privacy is protected in light of transparency efforts links closely to the politics of exclusion, because one way of balancing the two is by imposing certain restrictions on transparency standards and laws.

Global standards and national laws on tax and financial transparency acknowledge the important balance between transparency and the rights to privacy and data protection and have put protective measures in place. The defence of privacy rights has been particularly pronounced in Switzerland where there were concerns, for example, that automatic exchange of information efforts would harm the country's well-established banking secrecy. In the UK, concerns around privacy and data protection mainly pertain to the safety of beneficial owners in light of public company registers.

Swiss banking secrecy was anchored in law in 1934 through the Swiss Banking Act. Article 47 shifted the violation of banking secrecy to criminal law (Guex, 2002). A key part of the protection of bank clients and taxpayers was the distinction between tax evasion and tax fraud. Tax evasion, the non-reporting of income, was only punishable by fines and Switzerland would not provide legal or administrative assistance to other countries in cases of tax evasion. Assistance would only be provided if the other country could prove a case of tax fraud, which involves the intentional deceit of the tax administration and actions such as the falsification of documents. Only tax fraud cases therefore could enable a loosening of banking secrecy (Brassel-Moser, 2012; Gurtner, 2010; Tagblatt, 2009). Due to its commitment to privacy and banking secrecy, in the early 2010s, Switzerland concluded the Rubik Agreements with a range of partner countries. Under these agreements, Swiss banking clients could maintain their anonymity in light of AEOI developments. Switzerland would collect the owed taxes and give them to each corresponding country, instead of disclosing the identity of those with accounts in Switzerland (Gurtner, 2010). The Rubik Agreements did not survive for long. A first blow came when German parliament rejected the proposed agreement in December 2012 (Oberson, 2013). The final stroke was the CRS which spread AEOI across the world.

Privacy and data protection concerns were the predominant cross-cutting theme among Swiss interest groups in the public consultations analysed for this research. In the 2010s, a rift developed between the actors who started to value international compliance out of a concern for sanctions and reputational repercussions and those actors who fervently defended the right to privacy of banking clients. While some of them had initially rejected AEOI altogether, interest groups demanded that partner countries have similar data protection standards as Switzerland before they can receive information through AEOI. Interest groups also rejected specific AEOI agreements based on supposedly insufficient data protection standards in the respective countries.

Concerns around data protection have accordingly been integrated into the global standards. The Global Forum also checks countries' compliance with data protection expectations as a key aspect of the country assessments before and after information exchange takes place (Global Forum on Transparency and Exchange of Information for Tax Purposes, 2023). This is important to maintain a trusted relationship between tax authorities and taxpayers, and it is important for the legitimacy of international tax transparency standards (Debelva & Mosquera, 2017).

Ultimately, banking secrecy has effectively been removed for foreign taxpayers whose country of tax residence has an AEOI agreement with Switzerland. Less known, however, is that it remains intact for Swiss taxpayers. That means authorities have no access to the bank account information of Swiss tax residents except in cases of tax fraud. At the same time, the Swiss government implemented in 2015 the Federal Law on the Extension of the Criminality of the Violation of Professional Secrecy (*Bundesgesetz über die Ausweitung der Strafbarkeit der Verletzung des Berufsgeheimnisses*). The law originated in a parliamentary initiative from 2010 which demanded stricter penalties for those who seek to obtain or actually obtain a pecuniary benefit from violating professional secrecy (Nationalrat, 2010). This effectively improves the protection of banking data as it prevents the stealing of data. The Swiss government and the interest groups examined for this research also strongly defended the so-called speciality principle in the global exchange of information regime. The principle posits that the information that is exchanged can only be used for tax purposes (and not, for example, for corruption or money laundering investigations). It can therefore not be passed on by tax authorities to law enforcement and other government agencies. This provides another layer of privacy protection in light of increasing transparency.

In the UK, privacy concerns were much more pronounced in the context of beneficial ownership transparency and few stakeholders expressed such concerns with regard to the exchange of information. The concerns about privacy vis-à-vis beneficial ownership transparency were framed predominantly under the theme of safety and protection of those whose information is made available on public registers. According to Gillis (2019), making beneficial ownership information public can lead to an imbalance between an abstract public interest in transparency and an individual's right to privacy. Interest groups warned about the risks of data misappropriation, misuse for criminal or competition purposes and identity theft. Some actors were generally against public access to the register, but from a protection and safety perspective, there was a broader discussion about whether information could be excluded from public disclosure on a case-by-case basis if there were grounds for the protection of the individual. These decisions are governed by the protection regime. The PSC register and the ROE have protection regimes which allow for a case-by-case exemption from the publication mandate. According to the application website, a director, LLP member or PSC can apply to protect their personal details if they, or someone living with them, "are at serious risk of violence or intimidation because of [their] company or LLP's activities" (Companies House, 2020). All three categories of individuals can apply to protect their home address from being published, while PSCs can ask for protection of all their information (Companies House, 2020).

During the consultations on the PSC register, interest groups criticised suggestions for a narrow protection regime and suggested that it should be stronger. Some interest groups, for example, suggested that the protection regime should not only apply to physical harm, but also to competitive, reputational or economic harm. The UK government referred to its protection regime when deciding to keep the PSC register and the ROE public in light of a European Court of Justice ruling from November 2022 that stated that access by the general public to beneficial ownership information could amount to a violation of privacy rights. According to the UK government, the protection regime provides sufficient safeguards.

4. Data Use and Enforcement

An additional debate that exposes the potential limits of transparency policies concerns what actually happens with the information that is made available. It does not necessarily follow that publishing data or transmitting it to government authorities means that it is used to detect illegal activity, follow up on such activity or impose any enforcement action. Technically, the data could just sit on public or private servers without ever being employed by authorities for enforcement purposes, by companies for due diligence, or by civil society for uncovering crimes. This question of data use and enforcement was much less thematised in the political processes examined here, but it emerged in the research as a key question when thinking about the limits of transparency efforts.

In particular, the UK has been criticised for its weak enforcement in anti-financial crime matters and under-resourcing of relevant agencies, which stands in contrast to its strong commitment to transparency efforts (Bullough, 2022; Rutter Pooley, 2022; Wintour 2021). Of course, the question of how information is used links to the politics of verification, as unreliable data is less likely to be employed. Concretely, a 2019 UK government review of the PSC register found that "some Law Enforcement Organisations and Financial Institutions did not think that the introduction of the PSC register had had a positive effect on their work. This is because, due to concerns about the quality of information held on the PSC register, these organisations did not consider it a reliable source of information about beneficial ownership" (Department for Business, Energy & Industrial Strategy, 2019, p. 6).

With regard to EOI, a key question is whether the data needs to be actively used by tax authorities to create a preventative effect and reduce tax evasion or whether merely collecting it is a sufficient deterrent. There is scepticism about the effectiveness of EOI in creating more tax income because according to some, it ultimately comes down to what authorities are really doing with the data they receive. The fact that data is exchanged between tax authorities does not necessarily mean that it is used to follow up on potential cases of tax evasion. The European Court of Auditors (2020) found that EU member states underuse the information that they receive through AEOI. The question of whether and how the data is and must be used relates to debates about the capacity and resources of authorities to use the information in the first place. The Tax Justice Network has stated that some EU members do not even open the data they receive through EOI. Though reasons may be several, this can be due to under-resourcing of their tax authorities (Knobel, 2019). Others would argue that the threat of being detected is enough to create a certain preventative effect. Saint-Amans (2023) highlights that AEOI has led to self-reporting and regularisation of more than half a million taxpayers, which points towards its preventative effect. Until the end of 2022, EUR 114 billion of tax income had been collected through these self-reports.

Conclusion

Transparency standards and laws have become a widely used measure to tackle financial crime such as tax evasion and money laundering. Those crimes often rely on opacity and vehicles such as financial accounts abroad and obscure company ownership structures. By exchanging information about financial accounts and establishing duties around the transparency of beneficial owners, countries around the world, including those with financial centres, have made great strides towards tackling offshore tax evasion and other financial crime. Indeed, the EU Tax Observatory estimates "that offshore tax evasion has declined by a factor of about three over the last 10 years" (EU Tax Observatory, 2024, p. 6). Exchange of information efforts played an important role in this decrease. Beneficial ownership transparency has risen from being a part of a company's due diligence process to being a major part of countries' anti-financial crime policies, with centralised – and sometimes public – registers now on the rise.

This paper demonstrates the important progress that has been made in Switzerland and the UK when it comes to implementing these transparency measures. It examines the main political struggles related to EOI and beneficial ownership transparency in the two countries to expose some of the main potential limitations of transparency as a regulatory tool. Significantly, these limitations extend beyond the two country cases and the policy case studies investigated here. The paper does not deny the important role that transparency plays in anti-financial crime efforts. However, it stresses that the limits of such efforts need to be kept in mind when designing and implementing transparency measures, as otherwise they can undermine the effectiveness or acceptability of policies. On the flipside, if the limits are adequately considered and addressed, transparency measures can potentially become more effective.

As such, it is essential to follow the steps below when designing transparency policies.

1. Transparency is necessarily incomplete and the decision of what to subject to the transparency mandate and what to exempt from it needs to be well-thought through. Doing so requires a balance between different views and interests and consideration of potential loopholes that could be created through exemptions. At the same time, the right exemptions can enhance efficiency, prevent unnecessary burdens and bureaucracy, and increase the legitimacy of transparency regulation.
2. Information needs to be trustworthy in order to play a role in anti-financial crime efforts. A robust approach to data verification and validation is needed, with clear responsibilities and a sanctions and penalties system if required.
3. The disrespect of privacy and data protection rights can lead to greater scepticism towards transparency measures and hamper the trust between individuals, legal entities and governments. Therefore, the balance between transparency and privacy needs to be carefully calibrated. In doing so, it is important to prevent privacy protections from becoming loopholes, while recognising that they are valid and necessary for certain individuals and entities.

4. Transparency and the publication or transmission of information can have a preventative effect. However, transparency initiatives should be set up with a clear idea concerning how the data that is produced can be used and how it links to enforcement. This can also make the collection of data more efficient and lead to more adequate exemptions and privacy protections since unnecessary data is not included in scope. Promoting data use must further include capacity building of relevant stakeholders.

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