

## KEY FINANCIAL SECRECY INDICATORS

### Key Financial Secrecy Indicator 8: Country-by-Country Reporting

#### What is measured?

This indicator measures whether the companies listed on the stock exchanges or incorporated in a given jurisdiction are required to publish publicly worldwide financial reporting data on a country-by-country reporting basis. A zero secrecy score can be achieved when public [country-by-country reporting](#)<sup>1</sup> (CBCR) is required by all companies (which is not yet the case in any jurisdiction). If a jurisdiction requires no public CBCR reporting for any corporation in any sector, the secrecy score is 100%. A slight reduction of 10% is available for jurisdictions requiring some narrow, one-off public CBCR for corporations active in the extractive industries. And larger, partial reductions of the secrecy score can be achieved by requiring some annual public CBCR for corporations active in the extractive industries and/or banking sector (25% reduction for each sector). For a full overview of all data fields included in various CBCR standards, please refer to Annex 1 below.

The secrecy scoring matrix is shown in Table 1, with full details of the assessment logic given in Table 5 below.

**Table 1: Secrecy Scoring Matrix KFSI 8**

Regulation	Secrecy Score [100% = full secrecy; 0% = full transparency]
<u>No reporting</u> : No public country-by-country reporting required for any corporations in any sector.	100%
<u>One-off reporting</u> : Some one-off public country-by-country reporting required for corporations active in the extractive industries (EITI equivalent, at least for those listed).	-10%
<u>Some annual reporting</u> : Some annual public country-by-country reporting required for corporations active in the extractive industries or banking.	-25% (for each sector covered)
<u>Full reporting</u> : Full annual public country-by-country reporting required for corporations of all sectors (at least for those listed or for all above EUR 750 million turnover).	0%

In principle, any jurisdiction could require all companies incorporated and operating under its laws (including subsidiaries, branches and holding companies) to publish in their accounts financial information on their global activity on a country-by-country basis. Appropriate reporting requirements can be implemented either through regulations issued by the stock exchange or by a legal or regulatory provision enacted by the competent regulatory or legislative body.

The key difference between the kind of country by country reporting monitored in this indicator and Action 13<sup>2</sup> of the OECD Base Erosion and Profit Shifting Action Plan, which introduced filing of CBCR reports of large multinational companies, is that the latter does not require this information to be made public. Instead information is only disclosed to the tax authorities in the headquarter jurisdiction of a multinational company. Tax authorities in jurisdictions where the company has subsidiaries can request information through a series of different mechanisms. This limited access has been shown to exacerbate global inequalities in taxing rights<sup>3</sup>. It is discussed in further detail in [KFSI 9](#).<sup>4</sup>

Public CBCR for financial institutions was introduced by EU member states in 2014-2015 ([Capital Requirements Directive IV](#))<sup>5</sup>. These EU CBCR rules for banks include annual disclosure of turnover, number of employees, profit or loss before tax, tax on profit or loss, and public subsidies received. On these grounds, a secrecy score reduction of 25% has been awarded to all EU member states that have fully transposed the measures<sup>6</sup>. There are infringement procedures related to transposition against Belgium, Croatia, Poland and Spain. Belgium has, nevertheless, implemented provisions on CBCR,<sup>7</sup> while the other three jurisdictions are not awarded a reduced secrecy score for lack of transposition.<sup>8</sup>

Another set of (far narrower) CBCR rules for the extractives industries has become law in the EU, Canada and Norway. These complement the voluntary, nationally-implemented [Extractive Industries Transparency Initiative \(EITI\)](#)<sup>9</sup>, which prescribes the annual publishing of all “material payments” to government made by companies active in the extractive sector of that particular EITI implementing country; the threshold for the materiality of payments, which companies and government must comply with for a reporting year, is determined by a national multi-stakeholder group for each reporting cycle.

Compared to full CBCR and to the European Directive on CBCR in the banking sector, the EITI Standard (2016) is also far narrower in geographical scope because it requires disclosure of payments only with respect to countries where the corporation actually has extractive operations and only for the countries that are part of EITI. Payments to other country governments, for example where holding, financing or intellectual property management subsidiaries of the same multinational group are located, are not required to be reported. This limits the data’s usefulness for tackling corporate profit shifting. The standard’s value for resource rich (developing) countries, however, is substantial. Yet in our assessment, it is not sufficient for a country merely to oblige or allow extractive companies operating within their territory to publish payments to this country’s government agencies.


Instead, for a reduction of the secrecy score by 25% for CBCR in the extractives, a country must require either all companies incorporated in its territory or those listed on a stock exchange to disclose payments made worldwide in countries with extractive operations (including by its subsidiaries) and not merely in the same country. This is achieved, at present, in only Canada and EU countries.<sup>10</sup>

- **European Union:** The European Parliament and Council passed a new Accounting and Transparency Directive in 2013 ([Directive 2013/34/EU](#)<sup>11</sup>), obliging mining, oil and gas, and logging companies over a defined size to report payments to government. 26 member states have transposed this directive,<sup>12</sup> while Cyprus<sup>13</sup> and Ireland<sup>14</sup> face infringement procedures and are not awarded a reduced secrecy score.
- **Norway:** The scope of Norway's regulated CBCR for enterprises in the extractive industry and in logging of non-planted forestry<sup>15</sup>, effective as of 1 January 2014, is broader than similar rules in the EU. Norway's rules additionally [require](#) the disclosure of sales income, production volume, costs, and number of employees in every subsidiary<sup>16</sup>. However, Norwegian companies are only required to report data for countries "where there is a physical withdrawal of natural resources"<sup>17</sup> and do not have report data for their activities in countries where payments to authorities exceeds NOK 800,000, which is usually not required in third countries, which the Norwegian Ministry of Finance calls "supportive functions"<sup>18</sup>; the result is that companies in practice do not need to report key information on their activities in tax havens<sup>19</sup>. While as of 21 June 2015, the Norwegian parliament has decided the government should review the current CBCR regulations<sup>20</sup>, no implementation date has been set for the Parliament's decision, and therefore we consider the current exemption for "supportive functions" to be too material to award Norway a reduced secrecy score.
- **Canada:** On 16 December 2014, Canada legislated the Extractive Sector Transparency Measures Act (ESTMA),<sup>21</sup> which entered into force on 1 June 2015. According to ESTMA, extractive companies that engage in the commercial development of oil, gas or minerals are required to report – on a project basis – on payments including taxes, royalties and fees to all levels of government in Canada and abroad. The reports are [available](#) to the public, with the first reports submitted in November 2016<sup>22</sup>. Canada is therefore awarded a reduced secrecy score.
- **USA:** The USA's Securities Exchange Council (SEC) resource extraction disclosure rule Section 13q to implement Section 1504 of the Dodd-Frank Wall Street Reform and Consumer Protection Act was affected in September 2016<sup>23</sup>. However, the rule [was repealed](#) by Congress in February 2017, at which point no company had yet been required to make disclosures under the rule, as the deadline for compliance was for years ending on or after 30 September 2018.<sup>24</sup> Section 1504 of Dodd-Frank remains intact but can only be implemented through a SEC rule. As a result, a reduced secrecy score remains out of reach for the USA.
- **Hong Kong:** An even weaker requirement applies in Hong Kong. The [requirement](#) to disclose details about "payments made to host country governments in respect of tax, royalties and other significant payments on a country by country basis"<sup>25</sup> is only triggered either at the time of the extractive company's initial listing on the stock exchange or on the occasion of the company issuing fresh shares. Because one-off disclosure is better than no disclosure, but nonetheless unlikely to deter bribery or tax evasion, we only reduce Hong Kong's secrecy score by 10%.

A comparison of data included in the various CBCR standards is provided in Annex 1.<sup>26</sup>

The main data sources we used for this indicator were original sources from the EU, Canada, Norway, USA and Hong Kong, and interviews and/or email-exchanges with various experts from,

among others, [www.resourcegovernance.org](http://www.resourcegovernance.org), [www.eiti.org](http://www.eiti.org), [www.publishwhatyoupay.org](http://www.publishwhatyoupay.org), [www.oxfam.org.hk](http://www.oxfam.org.hk) and [www.foei.org/en](http://www.foei.org/en).

All underlying data can be accessed freely in the [FSI database](#) . To see the sources we are using for particular jurisdictions please consult the assessment logic in Table 5 at the end of this document and search for the corresponding info ID (**ID 318**) in the database report of the respective jurisdiction.

## Why is this important?

CBCR helps to remove the veil of secrecy from the operations of multinational companies. Current reporting requirements are so opaque that it is almost impossible to find even basic information, such as the countries where a corporation is operating. It is even more difficult to discover *what* multinational companies are doing in particular countries and how much they are effectively paying in tax in any given country. This opacity helps corporations minimise their global tax rates without being successfully challenged anywhere.<sup>27</sup> Large-scale shifting of profits to low tax jurisdictions and of costs to high tax countries ensues from this lack of transparency. A [recent re-estimation](#)<sup>28</sup> of revenue loss from tax avoidance puts the annual figure at around USD 500 billion. Losses have the greatest impact in terms of proportion of GDP for low and lower middle-income countries, as the graph below shows.<sup>29</sup> On average, for a comparable volume of economic activity, low income countries lose five times the amount of public revenue that high income OECD countries lose due to global tax avoidance. A revenue that could be used to fund local infrastructures and social programs, thereby reducing reliance on foreign aid.

**Graph 1: Average losses/GDP per region and income**



Note: Means of IIMF and IIGRD refer to mean values of revenue loss estimates using IMF and GRD data, respectively.

Source: Cobham & Janský (2017) calculations based on data from Crivelli et al. (2016) and the GRD.

The means used for profit shifting are primarily based on transfer mispricing, internal debt financing (thin capitalisation) or reinsurance operations, or artificial relocation and licensing of intellectual property rights. These transactions take place within a multinational corporation, i.e. between different parts of a related group of companies. Today's financial reporting standards allow such intra-group transactions to be consolidated with normal third-party trade in the annual financial statements. Therefore, a corporation's international tax and financing affairs are effectively hidden from view.

Investors, trading partners, tax authorities, financial regulators, civil society organisations, and consumers would be able to make better informed decisions if information was made available on public record. Civil society does not have access to reliable information about a company's tax compliance record in a given country in order to question a company's policies on tax and corporate social responsibility and to make enlightened consumer choices. When the development charity Oxfam [reviewed](#) in 2017 the data published under banking CBCR rules in the EU, the extent of the use of tax havens by the 20 biggest European banks was revealed: one in four euros of their profits was registered in tax havens (approx. EUR 25 billion) and tax havens accounted for 26% of total profits, while the level of real economic activity was far lower, accounting for just 12% of banks' total turnover and 7% of employees.<sup>30</sup>

If public CBCR information was available, investors could better evaluate if a given corporation is exposed to reputational tax risks by relying on complex networks of subsidiaries in secrecy jurisdictions, or whether it is heavily engaged in conflict-ridden countries. Tax authorities and supreme audit institutions would be better able to make risk assessments of particular sectors or companies to guide their audit activity by comparing profit levels or tax payments to sales, assets and labour employed.

At present, even tax authorities often hardly know where to start looking for suspicious activity because the corporate tax returns provided to them show only a [part view of the full corporate group picture](#).<sup>31</sup> The cases of LuxLeaks<sup>32</sup> has shown that it may not be enough for tax administrations to have access to such data, since tax administrations may be entering into special and tailored tax arrangements with corporations. Instead, public scrutiny of CBCR, such as through cross-country collaboration and investigation, will ensure a deterrent effect as it can reveal the extent of profit shifting and potential associated political interference in tax administrations. For example, in 2016, the European Commissioner for Competition ruled that Apple had to pay up to EUR 13 billion in taxes plus interest to Ireland after it found that two tax rulings issued by Irish tax authorities on the tax treatment of Apple's corporate profits constitute illegal state aid under EU law.<sup>33</sup> The European Commission's findings on another 'sweetheart tax deal' are similar; Amazon is required to pay about EUR 250 million in back taxes in Luxembourg on grounds it benefited from illegal state aid.<sup>34</sup>

TJN's proposal for public [CBCR](#)<sup>35</sup> would ensure comprehensive information on multinational corporate activities is in the public domain for different stakeholders. This proposal goes beyond all CBCR rules currently in existence. It requires multinational corporations of all sectors, listed and non-listed, to disclose key information in their annual financial statements for each country in which they operate. This information would comprise its financial performance, including:

- a) Sales, split by intra-group and third party

- b) Purchases, split the same way
- c) Financing costs, split the same way
- d) Pre-tax profit
- e) Labour costs and number of employees.

In addition, the cost and net book value of its physical fixed assets, the gross and net assets, the tax charge, actual tax payments, tax liabilities and deferred tax liabilities would be published on a country-by-country basis. It is worth noting that small- and medium-sized enterprises that operate in only one country are required by the nature of their business activity to report information in their annual financial statements that is proposed for MNCs. The present rules of the game therefore disadvantage smaller enterprises.

TJN along with partners in the movement for [Open Data in Tax Justice](#)<sup>36</sup> is working towards a [public database](#) to bring together all information disclosed under CBCR<sup>37</sup>, ultimately to capture the full extent of profit misalignment. This database would provide an opportunity for companies to unilaterally publish their own disclosures and to resolve data consistency and quality issues in CBCR. Data would cover four main areas: 1) identity of a multinational group, 2) activity (scale of sales, assets, employment for each jurisdiction of operations, 3) intra-group transactions (sales, purchases, royalties and interest), and 4) key financial data (declared pre-tax profit or loss and tax accrued and paid). In comparison, OECD reporting rules include some significant variances: payroll costs and intragroup transactions for purchases, royalties and interest are omitted and a financial capital approximation is included instead of tangible asset investment.

In contrast to our CBCR proposal, variations that have been put forth by the EU and OECD as well as the extractives related rules are less comprehensive and often not public. Under the Base Erosion and Profit Shifting project, all OECD and G20 countries committed to implement CBCR for fiscal periods commencing 1 January 2016; many countries have implemented this.<sup>38</sup> This OECD CBCR “requires multinational enterprises (MNEs) to report annually and for each tax jurisdiction in which they do business the amount of revenue, profit before income tax and income tax paid and accrued. It also requires MNEs to report their total employment, capital, retained earnings and tangible assets in each tax jurisdiction” ([Action 13: 2014 Deliverable](#)).<sup>39</sup> However, these requirements do not entail publication of any data and they are only applicable for multinational companies with an annual consolidated group revenue of at least 750 million Euro.<sup>40</sup> Furthermore, most developing countries, especially low-income countries, would be left out and existing inequalities in taxing rights are likely to be exacerbated, to the detriment of low income countries.

The EU continues to take steps towards full public CBCR. In July 2017, the EU parliament adopted its draft report on public CBCR for MNEs ([amending Directive 2013/34/EU](#)).<sup>41</sup> Although it significantly improves on the initial proposal made by EU Commission in April 2016, it still contains a significant loophole.<sup>42</sup> A provision allows MNEs to avoid reporting “commercially sensitive information”.<sup>43</sup> This proposal is expected to be negotiated over the course of 2018 and perhaps beyond during the so-called Trialogue negotiations between the EU Council, the EU-Commission and the EU-Parliament. Importantly, the proposal made by the EU Commission in 2016 was already a watered down version of a much more ambitious public CBCR provision that had been

included as an amendment to the Shareholders' Rights Directive ([Directive 2007/36/EC](#))<sup>44</sup> by the EU-Parliament in 2015. These provisions had been voted in plenary on 8 July 2015, where these provisions were favoured by 404 members of parliament, whilst 127 voted against.<sup>45</sup> However, the new incoming EU-Commission soon stopped this legislative proposal by issuing its own (much watered down) proposal in April 2016. The intense lobbying by business sectors and the German government during these (and earlier) negotiations around public CBCR have been explored in a TJN-Briefing Paper ([in German, here](#))<sup>46</sup>.

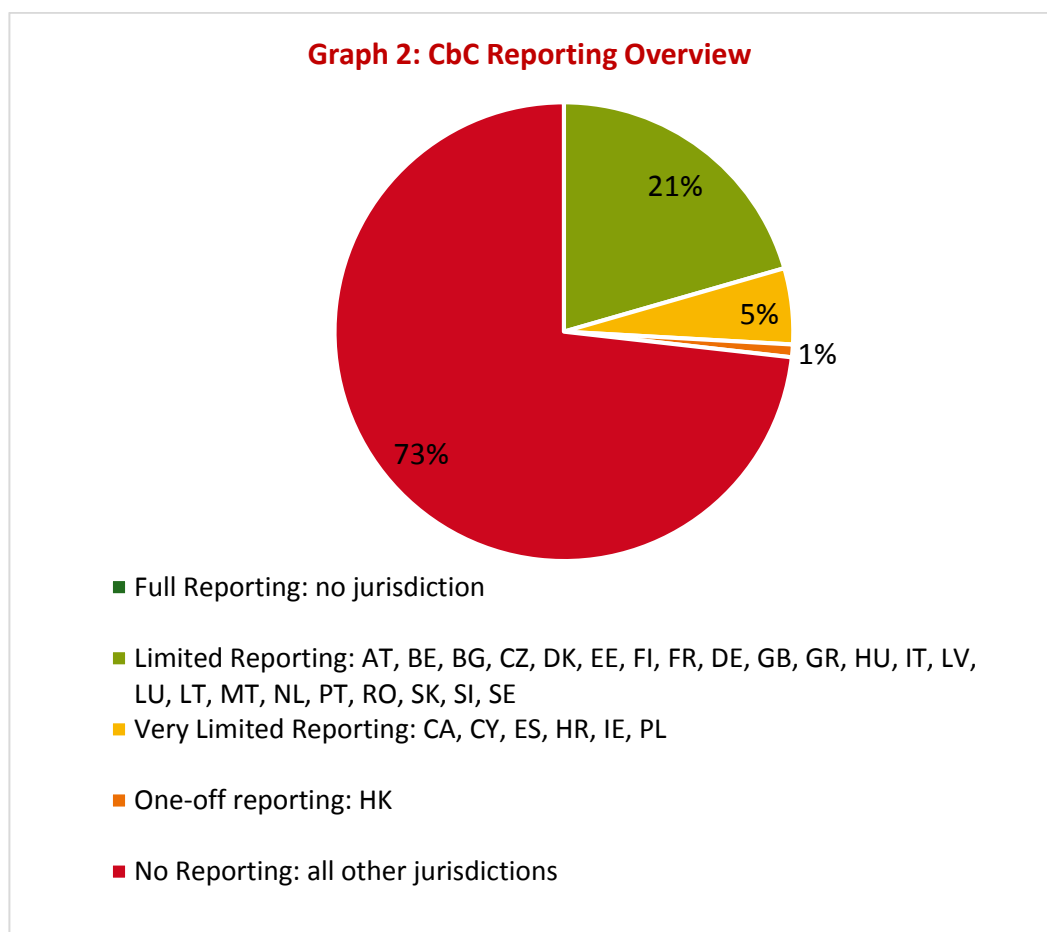
While much narrower in scope than our proposal, the [Extractive Industries Transparency Initiative \(EITI\)](#)<sup>47</sup> has succeeded in raising awareness about the importance of transparency of payments made by companies to governments. If a country voluntarily commits to the EITI, it is required after a transitional period to annually publish details on the activities of extractive companies active in the country at the project level. For a reporting period, among other data collected, government entities submit records of payments received from extractive industry companies and companies submit records of payments made to government to an 'independent administrator', typically an audit firm. In the process of producing an EITI report, the independent administrator reconciles and investigates discrepancies between reported government receipts and company payments. The multi-stakeholder group, made up of government, industry and civil society, that governs the process is 'required to take steps to act upon lessons learned; to identify, investigate and address the causes of any discrepancies'.<sup>48</sup> Mismatches can be, but are not necessarily, indicative of illicit activity such as bribery or embezzlement.

The information provided under the EITI requirements is of special interest because it may reveal for the first time in a given country information on tax payments made by companies to the respective government. It may help trigger further questions which could result in greater transparency, such as full country-by-country reporting. Without such information, electorates, civil society and consumers cannot make informed choices and bribe paying and transfer mispricing remains largely unchallenged, to the detriment of the most vulnerable people in societies.

**All underlying data can be accessed freely in the [FSI database](#)  (ID 318).**

## Results Overview

	Number of Jurisdictions
<b>No reporting:</b> No public country-by-country reporting required for any corporations in any sector.	82
<b>One-off reporting:</b> Some one-off public country-by-country reporting required for corporations active in the extractive industries (EITI equivalent, at least for those listed).	1
<b>Very limited reporting:</b> Annual public country-by-country reporting is required only for corporations active in one of the two following sectors: reporting required <b>either</b> in the extractive industries <b>or</b> banking.	6
<b>Limited reporting:</b> Annual public country-by-country reporting is required for corporations active in the extractive industries or in banking ( <b>both</b> sectors require reporting).	23
<b>Full reporting:</b> Full annual public country-by-country reporting required for corporations of all sectors (at least for those listed or for all above EUR 750 million turnover).	0





**Table 3: C-b-C Reporting – Details by Sector for reporting jurisdictions**

Country	ISO	Financial Institutions	Extractive Industries
Austria	AT	X	X
Belgium	BE	X	X
Bulgaria	BG	X	X
Canada	CA	○	X
Croatia	HR	○	X
Cyprus	CY	○	X
Czech Republic	CZ	X	X
Denmark	DK	X	X
Estonia	EE	X	X
Finland	FI	X	X
France	FR	X	X
Germany	DE	X	X
Greece	GR	X	X
Hungary	HU	X	X
Ireland	IE	○	X
Italy	IT	X	X
Latvia	LV	X	X
Lithuania	LT	X	X
Luxembourg	LU	X	X
Malta	MT	X	X
Netherlands	NL	X	X
Poland	PL	○	X
Portugal (Madeira)	PT	X	X
Romania	RO	X	X
Slovakia	SK	X	X
Slovenia	SI	X	X
Spain	ES	○	X
Sweden	SE	X	X
United Kingdom	GB	X	X

**Table 4: Country-by-Country Reporting Secrecy Scores**

Country Name	Score	ISO	Country Name	Score	ISO
Andorra	1	AD	Lebanon	1	LB
Anguilla	1	AI	Liberia	1	LR
Antigua & Barbuda	1	AG	Liechtenstein	1	LI
Aruba	1	AW	Lithuania	0,5	LT
Australia	1	AU	Luxembourg	0,5	LU
Austria	0,5	AT	Macao	1	MO
Bahamas	1	BS	Macedonia	1	MK
Bahrain	1	BH	Malaysia (Labuan)	1	MY
Barbados	1	BB	Maldives	1	MV
Belgium	0,5	BE	Malta	0,5	MT
Belize	1	BZ	Marshall Islands	1	MH
Bermuda	1	BM	Mauritius	1	MU
Bolivia	1	BO	Mexico	1	MX
Botswana	1	BW	Monaco	1	MC
Brazil	1	BR	Montenegro	1	ME
British Virgin Islands	1	VG	Montserrat	1	MS
Brunei	1	BN	Nauru	1	NR
Bulgaria	0,5	BG	Netherlands	0,5	NL
Canada	0,75	CA	New Zealand	1	NZ
Cayman Islands	1	KY	Norway	1	NO
Chile	1	CL	Panama	1	PA
China	1	CN	Paraguay	1	PY
Cook Islands	1	CK	Philippines	1	PH
Costa Rica	1	CR	Poland	0,75	PL
Croatia	0,75	HR	Portugal (Madeira)	0,5	PT
Curacao	1	CW	Puerto Rico	1	PR
Cyprus	0,75	CY	Romania	0,5	RO
Czech Republic	0,5	CZ	Russia	1	RU
Denmark	0,5	DK	Samoa	1	WS
Dominica	1	DM	San Marino	1	SM
Dominican Republic	1	DO	Saudi Arabia	1	SA
Estonia	0,5	EE	Seychelles	1	SC
Finland	0,5	FI	Singapore	1	SG
France	0,5	FR	Slovakia	0,5	SK
Gambia	1	GM	Slovenia	0,5	SI
Germany	0,5	DE	South Africa	1	ZA
Ghana	1	GH	Spain	0,75	ES
Gibraltar	1	GI	St Kitts and Nevis	1	KN
Greece	0,5	GR	St Lucia	1	LC
Grenada	1	GD	St Vincent & Grenadines	1	VC
Guatemala	1	GT	Sweden	0,5	SE
Guernsey	1	GG	Switzerland	1	CH
Hong Kong	0,9	HK	Taiwan	1	TW
Hungary	0,5	HU	Tanzania	1	TZ
Iceland	1	IS	Thailand	1	TH
India	1	IN	Trinidad & Tobago	1	TT
Indonesia	1	ID	Turkey	1	TR
Ireland	0,75	IE	Turks & Caicos Islands	1	TC
Isle of Man	1	IM	Ukraine	1	UA
Israel	1	IL	United Arab Emirates (Dubai)	1	AE
Italy	0,5	IT	United Kingdom	0,5	GB
Japan	1	JP	Uruguay	1	UY
Jersey	1	JE	US Virgin Islands	1	VI
Kenya	1	KE	USA	1	US
Korea	1	KR	Vanuatu	1	VU
Latvia	0,5	LV	Venezuela	1	VE

Moderately Secretive 0 – 0,40	Secrecy Score 0,41 – 0,50	Secrecy Score 0,51 – 0,60	Secrecy Score 0,61 – 0,70	Secrecy Score 0,71 – 0,80	Secrecy Score 0,81 – 0,90	Extremely Secretive 0,91 – 1
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**Table 5: Assessment Logic**

Info_ID	Text_Info_ID	Answers (Codes applicable for all questions: -2: Unknown; -3: Not Applicable)	Valuation % Secrecy
318	<b>CBCR:</b> Are companies listed on the national stock exchange or incorporated in the jurisdiction required to comply with a worldwide country-by-country reporting standard?	0: No public country-by-country reporting at all; 1: No, except one-off EITI-style disclosure for new listed companies; 2: No, except for partial disclosure in either extractives or banking sector; 3: Yes, partial disclosure for both extractives and banking sector; 4: Yes, full public country-by-country reporting for all sectors.	0: 100%; 1: 90%; 2: 75%; 3: 50%; 4: 0%.

# KFSI 8: COUNTRY BY COUNTRY REPORTING

## Annex 1: Comparison of data fields in CBCR standards<sup>49</sup>

	Civil Society Proposal	OECD CBCR	CRD IV	Dodd Frank	Canada	EITI	EU
<b>Identity</b>	Group name	Group name	Group name	Group name	Payee name	Payee name	Group name
	Countries	Countries	Countries	Countries	Countries	Legal and institutional framework	Countries
	Nature of activities	Nature of activities	Nature of activities	Projects (as in: by contract)	Same data required per project as well as per country	Allocation of contracts and licenses	Projects (as in: by contract)
<b>Activity</b>	Names of constituent companies	Names of constituent companies		Receiving body in government	Subsidiaries if qualifying reporting entities	Exploration and production	
	Third party sales	Third party sales				Social and economic spending	
	Turnover	By the process of addition	Turnover				
	Number of employees FTE	Number of employees FTE	Number of employees				
	Total employee pay						
	ASSETS??						
<b>Intra-group transactions</b>	Intra-group sales	Intra-group sales					
	Intra-group purchases						
	Intra-group royalties rec'd						
	Intra-group royalties paid						
	Intra-group interest rec'd						
	Intra-group interest paid						
<b>Key financials</b>	Profit or loss before tax	Profit or loss before tax	Profit or loss before tax				
<b>Payments to/from governments</b>	Tax accrued	Tax accrued					
	Tax paid	Tax paid	Tax paid	Income taxes paid	Tax paid	Profits taxes	taxes levied on the income, production or profits of companies
	Any public subsidies received		Any public subsidies received				

<sup>1</sup> <http://www.taxresearch.org.uk/Documents/CBC2012.pdf>; 16.10.2017.

<sup>2</sup> <https://www.oecd.org/tax/beps/country-by-country-reporting.htm>; 19.10.2017.

<sup>3</sup> Knobel, Andres, and Cobham Alex 2016: Country-by-country-reporting: how restricted access exacerbates global inequalities in taxing rights, in: [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2943978](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2943978); 19.10.2017

<sup>4</sup> <http://www.financialsecrecyindex.com/PDF/9-Corporate-Tax-Disclosure.pdf>; 19.10.2017.

<sup>5</sup> The EU Capital Requirements Directive IV (CRD IV) required disclosure according to Article 89, here: <http://eur-lex.europa.eu/legal-content/EN/NIM/?uri=CELEX:32013L0034>; 5.10.2017. The only main item missing for full CBCR is capital assets. According to Article 89(1), the European Commission had to carry out an impact assessment of the envisaged publication of the data, and the Commission was empowered to defer or modify the disclosure through a so-called “delegated act” in case it identified “significant negative

effects” consequences (Art. 89 (3)). In October 2014, the EU-commission adopted a report containing this assessment of the economic consequences of CBCR by banks and investment firms under CRD IV. The European Commission adopted the report’s conclusion according to which: “the reporting obligation under CRD IV are not expected to have a significant negative economic impact, including on competitiveness, investment, credit availability or the stability of the financial system”. For the press release, see: [http://europa.eu/rapid/press-release\\_IP-14-1229\\_en.htm](http://europa.eu/rapid/press-release_IP-14-1229_en.htm); 16.10.2017.

<sup>6</sup> EU member states were required to transpose the EU CRD IV by 31 December 2013. For transposition status, see: [https://ec.europa.eu/info/publications/capital-requirements-directive-crd-iv-transposition-status\\_en](https://ec.europa.eu/info/publications/capital-requirements-directive-crd-iv-transposition-status_en); 5.10.2017.

<sup>7</sup> Email communication with Inti Ghysels, 30.10.2017. See also:

[http://www.ejustice.just.fgov.be/cgi\\_loi/change\\_lg.pl?language=nl&la=N&table\\_name=wet&cn=2014112701](http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=nl&la=N&table_name=wet&cn=2014112701) and

[http://www.ejustice.just.fgov.be/cgi\\_loi/change\\_lg.pl?language=nl&la=N&cn=1992092331&table\\_name=wet](http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=nl&la=N&cn=1992092331&table_name=wet); 8.11.2017.

<sup>8</sup> For information on Croatia, see [http://ec.europa.eu/atwork/applying-eu-law/infringements-proceedings/infringement\\_decisions/index.cfm?lang\\_code=EN&r\\_dossier=&noncom=0&decision\\_date\\_from=&decision\\_date\\_to=&active\\_only=0&EM=HR&title=2013%2F36&submit=Search](http://ec.europa.eu/atwork/applying-eu-law/infringements-proceedings/infringement_decisions/index.cfm?lang_code=EN&r_dossier=&noncom=0&decision_date_from=&decision_date_to=&active_only=0&EM=HR&title=2013%2F36&submit=Search), on Poland, see [http://ec.europa.eu/atwork/applying-eu-law/infringements-proceedings/infringement\\_decisions/index.cfm?lang\\_code=EN&r\\_dossier=&noncom=0&decision\\_date\\_from=&decision\\_date\\_to=&active\\_only=0&EM=PL&title=2013%2F36&submit=Search](http://ec.europa.eu/atwork/applying-eu-law/infringements-proceedings/infringement_decisions/index.cfm?lang_code=EN&r_dossier=&noncom=0&decision_date_from=&decision_date_to=&active_only=0&EM=PL&title=2013%2F36&submit=Search) and [http://europa.eu/rapid/press-release\\_MEMO-14-589\\_EN.htm](http://europa.eu/rapid/press-release_MEMO-14-589_EN.htm), and Spain, see [http://ec.europa.eu/atwork/applying-eu-law/infringements-proceedings/infringement\\_decisions/index.cfm?lang\\_code=EN&r\\_dossier=&noncom=0&decision\\_date\\_from=&decision\\_date\\_to=&active\\_only=0&EM=ES&title=2013%2F36&submit=Search](http://ec.europa.eu/atwork/applying-eu-law/infringements-proceedings/infringement_decisions/index.cfm?lang_code=EN&r_dossier=&noncom=0&decision_date_from=&decision_date_to=&active_only=0&EM=ES&title=2013%2F36&submit=Search); 07.11.2017.

<sup>9</sup> The EITI Standard (2016) Requirement 4, requires “a comprehensive reconciliation of company payments and government revenues from the extractive industries. The EITI requirements related to revenue collection include: (4.1) comprehensive disclosure of taxes and revenues; (4.2) sale of the state’s share of production or other revenues collected in-kind; (4.3) Infrastructure provisions and barter arrangements; (4.4) transportation revenues; (4.5) SOE [State-Owned Enterprise] transactions; (4.6) subnational payments; (4.7) level of disaggregation; (4.8) data timeliness; and (4.9) data quality”. Revenue streams include the host government’s production entitlement (e.g. profit oil), national SOE production entitlement, profit taxes, royalties, dividends, bonuses, licence and associated concession fees, and any other significant payments/material benefit to government.

[https://eiti.org/sites/default/files/migrated\\_files/english\\_eiti\\_standard\\_0.pdf](https://eiti.org/sites/default/files/migrated_files/english_eiti_standard_0.pdf); 5.10.2017

<sup>10</sup> Cobham, Alex, Gray, Jonathan, Murphy, Richard 2017: What Do They Pay?: Towards a public database to account for the economic activities and tax contributions of multinational corporations (CITYPERC Working Paper Series 2017/01), London, in:

[www.city.ac.uk/\\_data/assets/pdf\\_file/0004/345469/CITYPERC-WPS-201701.pdf](http://www.city.ac.uk/_data/assets/pdf_file/0004/345469/CITYPERC-WPS-201701.pdf); 19.10.2017.

<sup>11</sup> For the full text of the Directive, see: <http://eur-lex.europa.eu/legal-content/EN/NIM/?uri=CELEX:32013L0034>; 5.10.2017.

<sup>12</sup> For Accounting Directive (2013/24/EU) transposition status, see:

[https://ec.europa.eu/info/publications/accounting-directive-transposition-status\\_en](https://ec.europa.eu/info/publications/accounting-directive-transposition-status_en); 5.10.2017.

<sup>13</sup> For further information, see [http://ec.europa.eu/atwork/applying-eu-law/infringements-proceedings/infringement\\_decisions/index.cfm?lang\\_code=EN&r\\_dossier=&noncom=0&decision\\_date\\_from=&decision\\_date\\_to=&active\\_only=0&EM=CY&title=2013%2F34&submit=Search](http://ec.europa.eu/atwork/applying-eu-law/infringements-proceedings/infringement_decisions/index.cfm?lang_code=EN&r_dossier=&noncom=0&decision_date_from=&decision_date_to=&active_only=0&EM=CY&title=2013%2F34&submit=Search) and [http://europa.eu/rapid/press-release\\_MEMO-17-1577\\_EN.htm](http://europa.eu/rapid/press-release_MEMO-17-1577_EN.htm); 7.11.2017.

<sup>14</sup> The EU has taken Ireland to the Court of Justice in relation to these infringement procedures. See

[http://ec.europa.eu/atwork/applying-eu-law/infringements-proceedings/infringement\\_decisions/index.cfm?lang\\_code=EN&r\\_dossier=&noncom=0&decision\\_date\\_fr](http://ec.europa.eu/atwork/applying-eu-law/infringements-proceedings/infringement_decisions/index.cfm?lang_code=EN&r_dossier=&noncom=0&decision_date_fr)

[om=&decision\\_date\\_to=&active\\_only=0&EM=IE&title=2013%2F34&submit=Search](#) and [http://europa.eu/rapid/press-release\\_IP-17-1050\\_EN.htm](http://europa.eu/rapid/press-release_IP-17-1050_EN.htm); 7.11.2017.

<sup>15</sup> The regulations can be viewed here: <https://www.regjeringen.no/nb/dokumenter/forskrift-om-land-for-land-rapportering/id748525/>; <https://www.regjeringen.no/no/dokumenter/prop-1-ls-20132014/id740943/?q=land-for-land&ch=3>; 21.6.2015. The announcement of the Norwegian Ministry of Finance can be view here: <https://www.regjeringen.no/nb/aktuelt/forskrift-om-land-for-land-rapportering/id748537/>; 21.6.2015.

<sup>16</sup> Publish What You Pay (PWYP) Norway, 2014, Briefing: [http://www.publishwhatyoupay.no/sites/all/files/PWYP\\_PolicyBriefing\\_Eng\\_Web\\_0.pdf](http://www.publishwhatyoupay.no/sites/all/files/PWYP_PolicyBriefing_Eng_Web_0.pdf); 5.10.2017

<sup>17</sup> For an analysis of Norway's CBCR reporting, see PWYP Norway, 2016, Briefing: What Statoil reported and what Statoil should have reported: [http://www.publishwhatyoupay.no/sites/all/files/PWYP\\_Briefing\\_As\\_Is\\_vs\\_Should\\_Have\\_Eng\\_Web.pdf](http://www.publishwhatyoupay.no/sites/all/files/PWYP_Briefing_As_Is_vs_Should_Have_Eng_Web.pdf); 5.10.2017.

<sup>18</sup> While the definition for the term 'Supportive functions' is missing in the Norwegian regulations, it is explained in the remarks for the Finance Committee's proposal, available here: <https://www.stortinget.no/nn/Saker-og-publikasjoner/Publikasjoner/Innstillingar/Stortinget/2013-2014/inns-201314-004/30/#a1>; 17.10.2017.

<sup>19</sup> PWYP Norway: <http://www.publishwhatyoupay.no/en/node/17140>; 24.10.2017.

<sup>20</sup> <https://www.stortinget.no/no/Saker-og-publikasjoner/Saker/Lose-forslag/?p=61783>; 17.10.2017.

<sup>21</sup> See Government of Canada's FAQs on ESTMA: <http://www.nrcan.gc.ca/mining-materials/estma/18802>; 5.10.2017.

<sup>22</sup> All reports submitted under ESTMA are available online: <https://www.nrcan.gc.ca/mining-materials/estma/18198>; 5.10.2017.

<sup>23</sup> See Securities and Exchange Commission for final rule 13q applying to the disclosure of payments by resource extraction issuers, <https://www.sec.gov/rules/final/2016/34-78167.pdf>; 5.10.2017.

<sup>24</sup> Lynn, D.M. and Lesmes, S. 6 March 2017. United States: Repeal of resource extraction disclosure rule. Mondaq. <http://www.mondaq.com/unitedstates/x/573904/Corporate+Governance/Repeal+Of+Resource+Extraction+Disclosure+Rule>; 5.10.2017.

<sup>25</sup> See chapter 18.05(6)(c), in: [http://www.hkex.com.hk/eng/rulesreg/listrules/mbrules/documents/chapter\\_18.pdf](http://www.hkex.com.hk/eng/rulesreg/listrules/mbrules/documents/chapter_18.pdf); 16.10.2017. Neither the "Continuing Obligations" section in the same chapter (applicable to extractive companies) nor other HKSE regulations require disclosure of such payments (e.g. general disclosure regulations of financial information for all listed companies): [http://www.hkex.com.hk/eng/rulesreg/listrules/mbrules/documents/appendix\\_16.pdf](http://www.hkex.com.hk/eng/rulesreg/listrules/mbrules/documents/appendix_16.pdf); 17.10.2017.

<sup>26</sup> Cobham, Alex, Gray, Jonathan, Murphy, Richard 2017: What Do They Pay?: Towards a public database to account for the economic activities and tax contributions of multinational corporations (CITYPERC Working Paper Series 2017/01), London, in: [http://www.city.ac.uk/\\_data/assets/pdf\\_file/0004/345469/CITYPERC-WPS-201701.pdf](http://www.city.ac.uk/_data/assets/pdf_file/0004/345469/CITYPERC-WPS-201701.pdf); 19.10.2017.

<sup>27</sup> For instance: <http://www.reuters.com/article/2012/10/15/us-britain-starbucks-tax-idUSBRE89E0EX20121015>; 17.10.2017 and <http://www.reuters.com/article/2012/12/06/us-tax-amazon-idUSBRE8B50AR20121206>; 17.10.2017 and <http://www.bloomberg.com/news/2010-10-21/google-2-4-rate-shows-how-60-billion-u-s-revenue-lost-to-tax-loopholes.html>; 17.10.2017.

<sup>28</sup> Cobham, Alex/Janský, Petr 2017: Global distribution of revenue loss from tax avoidance. Re-estimation and country results (WIDER Working Paper 2017/55), in: <https://www.wider.unu.edu/sites/default/files/wp2017-55.pdf>; 19.10.2017

<sup>29</sup> Graph from page 19, Cobham, Alex/Janský, Petr 2017: Global distribution of revenue loss from tax avoidance. Re-estimation and country results (WIDER Working Paper 2017/55), in:

<https://www.wider.unu.edu/sites/default/files/wp2017-55.pdf>; 19.10.2017. GRD is the ICTD-WIDER Government Revenue Database.

<sup>30</sup> Aubry, Manon and Dauphin, Thomas, March 2017: Opening the vaults: the use of tax havens by Europe's biggest banks. <https://www.oxfam.org/sites/www.oxfam.org/files/bp-opening-vaults-banks-tax-havens-270317-en.pdf>; 23.10.2017.

<sup>31</sup> For an explanation of why this is very likely to remain the case even after introduction of OECD's non-public country-by-country reporting at least for most developing countries, please read: Knobel, Andres/Cobham, Alex 2016: Country-By-Country Reporting: How Restricted Access Exacerbates Global Inequalities in Taxing Rights, in: <https://www.taxjustice.net/wp-content/uploads/2016/12/Access-to-CbCR-Dec16-1.pdf>; 9.2.2017.

<sup>32</sup> The relevant articles are available at: <http://www.icij.org/project/luxembourg-leaks>; 17.10.2017. See also: <https://www.taxjustice.net/2017/03/15/luxleaks-appeal-verdict-tax-justice-heroes-convicted/>; 17.10.2017.

<sup>33</sup> <http://www.taxjustice.net/2016/08/30/apple/>; 31.10.2017.

<sup>34</sup> <https://www.ft.com/content/69ee1da6-a8ed-11e7-93c5-648314d2c72c>; 31.10.2017.

<sup>35</sup> <http://www.taxresearch.org.uk/Documents/CBC2012.pdf>; 16.10.2017.

<sup>36</sup> <http://datafortaxjustice.net/>; 19.10.2017

<sup>37</sup> Cobham, Alex, Gray, Jonathan, Murphy, Richard 2017: What Do They Pay?: Towards a public database to account for the economic activities and tax contributions of multinational corporations (CITYPERC Working Paper Series 2017/01), London, in: [www.city.ac.uk/\\_data/assets/pdf\\_file/0004/345469/CITYPERC-WPS-201701.pdf](http://www.city.ac.uk/_data/assets/pdf_file/0004/345469/CITYPERC-WPS-201701.pdf); 19.10.2017.

<sup>38</sup> For CBCR implementation status, see: <https://www.oecd.org/tax/automatic-exchange/country-specific-information-on-country-by-country-reporting-implementation.htm>; 17.10.2017.

<sup>39</sup> See page 9: [www.oecd-ilibrary.org/guidance-on-transfer-pricing-documentation-and-country-by-country-reporting\\_5jz122nl1vxw.pdf;jsessionid=andfh9d0ag7gb.x-oecd-live-03?contentType=%2fns%2foeCDBook%2c%2fns%2fBook&itemId=%2fcontent%2fbook%2f9789264219236-en&mimeType=application%2fpdf&containerItemId=%2fcontent%2fserial%2f23132612&accessItemIds=](http://www.oecd-ilibrary.org/guidance-on-transfer-pricing-documentation-and-country-by-country-reporting_5jz122nl1vxw.pdf;jsessionid=andfh9d0ag7gb.x-oecd-live-03?contentType=%2fns%2foeCDBook%2c%2fns%2fBook&itemId=%2fcontent%2fbook%2f9789264219236-en&mimeType=application%2fpdf&containerItemId=%2fcontent%2fserial%2f23132612&accessItemIds=); 17.10.2017. For more information see also: <http://www.taxresearch.org.uk/Blog/2014/09/16/the-era-of-country-by-country-reporting-is-arriving/>; 17.10.2017.

<sup>40</sup> According to the OECD, the threshold of EUR 750 million 'will exclude approximately 85 to 90 percent of MNE groups from the requirement to file the CbC [Country-by-Country] Report, but that the CbC Report will nevertheless be filed by MEN groups controlling 90 percent of corporate revenues', page 4: <https://www.oecd.org/ctp/beps-action-13-guidance-implementation-tp-documentation-cbc-reporting.pdf>; 17.10.2017. <https://www.oecd.org/tax/guidance-on-the-implementation-of-country-by-country-reporting-beps-action-13.pdf>; 17.10.2017

<sup>41</sup> For the Directive text, see: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2017-0284+0+DOC+XML+V0//EN>; 17.10.2017.

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<http://www.epsu.org/sites/default/files/article/files/Joint%20Paper%20on%20CBCR%20post%20EP%20final.pdf>; 17.10.2017.

<sup>43</sup> See amendments 82 and 83: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2017-0284+0+DOC+XML+V0//EN>; 17.10.2017.

<sup>44</sup> For the Directive text, see: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2007:184:0017:0024:EN:PDF>; 23/10/2017.

<sup>45</sup> Email by Koen Roovers/FTC of 8 July 2015 and <https://financialtransparency.org/european-parliament-sets-the-stage-for-europe-to-embrace-more-corporate-fiscal-transparency/>; 23.10.2017. For a version of the proposal as of 10<sup>th</sup> June 2015 see: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-%2f%2fEP%2f%2fTEXT%2bREPORT%2bA8-2015-0158%2b0%2bDOC%2bXML%2bV0%2f%2fEN&language=EN>; 23.10.2017. For a more extended

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explanation on the planned revision, see: [http://ec.europa.eu/justice/civil/company-law/corporate-governance/index\\_en.htm](http://ec.europa.eu/justice/civil/company-law/corporate-governance/index_en.htm); 23.10.2017.

<sup>46</sup> Meinzer, Markus/Trautvetter, Christoph 2017: Lobbyismus in der Steuerpolitik. Der lange und steinige Weg der länderbezogenen Berichterstattung (TJN-Briefing Paper), in: <http://www.taxjustice.net/wp-content/uploads/2017/11/MeinzerTrautvetter2017-TJN-CBCR-Lobbyismus.pdf>; 13.11.2017.

<sup>47</sup> For the current EITI Standard (2016) governing EITI implementation, see: <https://eiti.org/document/standard>; 17.10.2017.

<sup>48</sup> See EITI Standard Requirement 7.3 'Discrepancies and recommendations from EITI Reports': <https://eiti.org/document/standard#r7-3>; 17.10.2017.

<sup>49</sup> From page 23: Cobham, Alex, Gray, Jonathan, Murphy, Richard 2017: What Do They Pay?: Towards a public database to account for the economic activities and tax contributions of multinational corporations (CITYPERC Working Paper Series 2017/01), London, in: [www.city.ac.uk/\\_data/assets/pdf\\_file/0004/345469/CITYPERC-WPS-201701.pdf](http://www.city.ac.uk/_data/assets/pdf_file/0004/345469/CITYPERC-WPS-201701.pdf); 19.10.2017.