Report on Switzerland

Switzerland is ranked at first position on the 2011 Financial Secrecy Index. This ranking is based on a combination of its secrecy score and a scale weighting based on its share of the global market for offshore financial services.

Switzerland has been assessed with 78 secrecy points out of a potential 100, which places it towards the top of the secrecy scale (see chart 1 below).

Switzerland accounts for a little over 6 per cent of the global market for offshore financial services, making it a large player compared with other secrecy jurisdictions (see chart 2 below), though not on the same scale as huge players such as Luxembourg, UK and the USA.

Chart 1 - How Secretive?

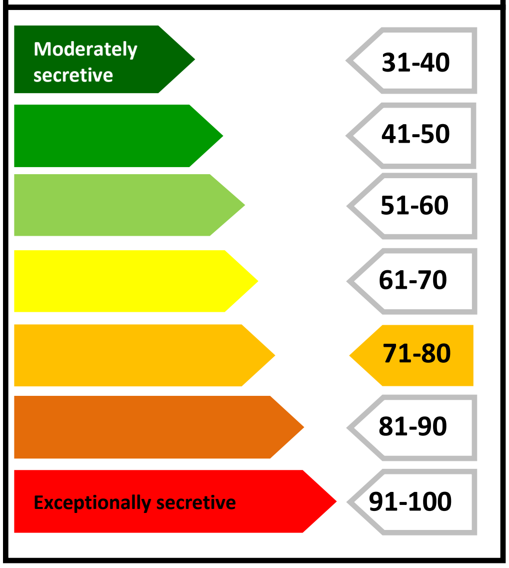
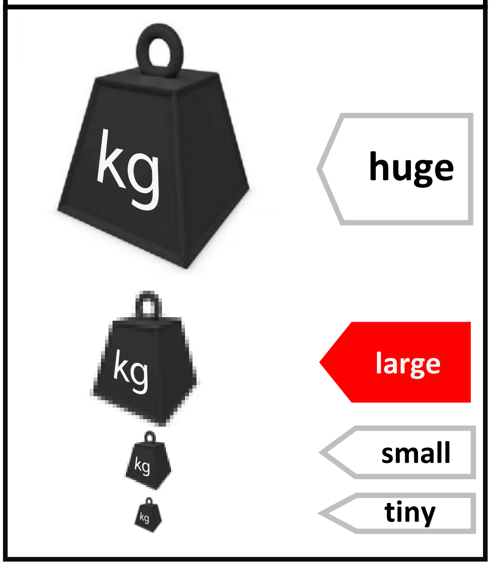


Chart 2 - How Big?



Part 1: Telling the story

Overview: under fire, Swiss bankers circle the wagons

Switzerland is the grandfather of the world's tax havens, one of the world's biggest financial centres, and one of the world's biggest secrecy jurisdictions or tax havens. About a third of the world's cross-border invested private wealth is managed in Switzerland, amounting to around US$ 2 trillion, according to the Swiss Bankers' Association. Swiss banking is historically based on two main foundations: secrecy, and political stability.

With total banking assets recently estimated at 820 percent of Swiss GDP (compared to 'just' 460 percent in the UK), banking looms larger in Switzerland as a share of the economy than in almost any other country. Given this dominance, with UBS and Credit Suisse accounting for about half of all Swiss banking assets, it is hardly surprising that the Swiss state is significantly 'captured' by the financial sector. However, although the Swiss state generally defends the interests of Swiss banks and bank secrecy, many Swiss – though probably a minority – oppose it.

In the face of tremendous international pressure in the past six or seven years to relax its strict bank secrecy laws, Switzerland has adopted a 'circle the wagons' mentality, making incremental concessions here and there (often in exchange for reciprocal concessions) but generally fighting at every step. For decades Switzerland has adopted clever divide-and rule (and other) strategies to successfully fox its international foes and advocates of transparency. In general terms, Switzerland has recently made some (limited) concessions to near neighbours in Europe and to powerful countries like the United States, while largely rebuffing efforts for greater transparency by weaker, smaller and developing countries. This strategy of 'white' money for neighbours, and 'black money' for others, is what Swiss campaigner Andreas Missbach calls the "Zebra" strategy.

Along with secret Swiss banking comes a stridently anti-tax and anti-government world view, quite prevalent in Swiss banking circles, which sees criminal tax evasion as a 'legitimate' way of rejecting and thwarting democratic government and society itself, in the name of individual freedom. Konrad Hummler, then head of the Swiss private bankers' association, encapsulated this in 2009 when he lashed out against France, Germany and Italy as 'illegitimate states' and defended criminal tax evasion by their wealthiest citizens as a 'legitimate' defence against 'excessive' tax.

Despite some limited penetration of its fabled bank secrecy in recent years, and widespread fanfare about how 'transparent' Switzerland has become, this is mostly window-dressing. Swiss bank secrecy remains largely intact and secret Swiss banking remains in robust health. While Switzerland boasts of having identified and blocked in early 2011 huge sums originating from Egypt, Libya and Tunisia, the truth is that the money has gotten there without questions being asked. In addition, at this stage there is no way of knowing if the wealth that has been blocked so far represents, a quarter, a tenth, a thousandth, of the total assets stolen from these countries over the last 40 years.

Secrecy, the cornerstone of Swiss private banking for decades, even centuries, is complemented by a wide array of other services provided by the Swiss financial centre: investment banking, wealth management, insurance and reinsurance, corporate tax avoidance structures, and plenty more. KPMG calls it the 'perfect headquarter location for international companies' because of its tax laws, political stability, quality of life, educated workforce, extensive network of tax treaties, and strategic position in Europe. Its corporate tax laws, which saw over 250 mostly European and U.S. companies shift headquarters to Switzerland in 2003-9, have also generated considerable antagonism overseas.

History

Swiss banking secrecy has very old roots. French kings, among the earliest known clients of Geneva banks, insisted on secrecy partly because they did not want to be seen to be dealing with 'heretical' Protestant bankers. In 1713 the Great Council of Geneva adopted banking regulations that prohibited bankers from revealing details about their clients.

Swiss banking has gone hand in hand Switzerland's tradition of political neutrality, and in a sense it can trace its roots back to Switzerland's own political and linguistic structure. Centuries of conflict in Europe saw wealthy European élites seeking a stable, unconflicted, unthreatening and neutral place to put their money – and that was Switzerland. Swiss neutrality was formalised at the Congress of Vienna in 1815, and its close neighbour and fellow secrecy purveyor, Liechtenstein, followed in 1868.

This neutrality, a bedrock of Swiss banking, was itself rooted in Switzerland's geographical and political constitution. Neutrality was partly a matter of self-preservation. Divided between its French, German and Italian (and a small number of Romansh) speakers, and with further religious and other cross-cutting divisions, any taking of sides in a European war would have risked civil war in Switzerland. The potential for internal conflict also saw the nation develop a complex and intricate form of direct democracy, based on a large degree of autonomy for local units, and this served as a highly effective mechanism for resolving and dissolving conflict until today. As the historian Jonathan Steinberg put it, Swiss communities

> "are in a curious sense bottom-heavy, rather like those dolls which spring up no matter how often the child pushes them over. The weight is at the base. The communities have a deep equilibrium, to which, as the point of rest, the social and political order tends to return.'

In addition, the Swiss Private Bankers Association, involving a large section of the Swiss banking community (but excluding the likes of UBS and Crédit Suisse), requires that one or several partners face unlimited liability – that is, they are unprotected from bank losses and lose their shirts if the bank collapses. This involves extra caution when making investment decisions.

This stability based on neutrality and stable politics continues to underpin Switzerland's 'safe haven' status, as evidenced just recently when severe global financial stresses in August 2011 saw massive and sudden financial inflows into the Swiss Franc.

During the colonial era Swiss élites, jealously watching other European countries building colonial empires, began to see their alternative: a secret financial empire, reaching across Europe and beyond, dealing with the continent's wealthiest and most powerful citizens as equals. As time went on, Swiss bankers increasingly pushed their wares downmarket, spreading out beyond the very top aristocracies. The Swiss scholar Sébastien Guex describes a major Swiss bank openly advertising its 'utmost discretion' in France in 1910; soon afterwards a Swiss economy minister had to press Swiss banks to tone down their messages overseas, for fear of retaliation by angry tax authorities.

Successive European wars over the centuries boosted Swiss banking, rooted in this island of stability in a turbulent region. Commercial interests in belligerent countries frequently used it as a turntable where they could keep doing business with the enemy, in secret. In the First

World War, as governments hiked taxes to pay for their respective war efforts, many wealthy Europeans put personal wealth before patriotism and took their money to Switzerland: the French preferring Geneva, the Germans Zürich and Basel, and the Italians the southern Ticino, in an age-old pattern that endures today. Many others, of course, came too, and money poured in. Switzerland's role as a top financial centre was further underpinned by a decision to site the headquarters of the Bank for International Settlements in Basel in 1930.

Switzerland enacted its famous banking secrecy laws in 1934, entrenching de facto banking secrecy by making it a criminal offence to divulge information. A widespread and false myth (see box) has emerged that this was done to protect German Jewish money from the Nazis; in fact, Swiss bankers enacted the law for very different reasons.

Box: The myth of 1934

Many defenders of Swiss bank secrecy assert that it was put in place in 1934 as a way to protect German Jewish money against the Nazis. This is utterly false: the story first emerged in the 1960s and is believed to have first appeared in the November 1966 Bulletin of the Schweizerische Kreditanstalt (which became today's Credit Suisse). The main reason bank secrecy was strengthened in 1934 was a scandal when police in Paris in October 1932 caught the Basler Handelsbank red-handed facilitating tax evasion by members of French high society, among them two bishops, several generals, and the owners of Le Figaro and Le Matin newspapers. Before that, there was professional secrecy (such as exists between doctors and their patients), and violation was a civil offence, not a criminal one as it is today. For more on the 1934 law see Sébastien Guex, The Origins of the Swiss Banking Secrecy Law, 2000.

In the Second World War, despite widespread antipathy among the wider Swiss population towards Nazi Germany, Swiss bankers collaborated widely and deeply with the Nazis. The Swiss supplied Nazi Germany with electricity and supplies – not to mention financial credit – and facilitated the delivery of strategic equipment. They stashed the proceeds of Nazi loot without question, including gold ingots made from the dental fillings of murdered Jews, and even helped fleeing Nazis hide their loot after the end of the War. Wealthy people from many other countries banked in Switzerland too, for the same old historical reasons, and the War marked another step-change in growth for Swiss banking.

Since the Second World War, foreign countries have made numerous attempts to get Switzerland to relax its banking secrecy. In general, Switzerland has played divide and rule tactics, and adopted delaying tactics, often pressing to sign tax treaties or deals with countries when they are in a a position of weakness. Immediately after the war, amid negotiations with the Allies over war reparations and the identification of secret Nazi loot, Switzerland granted large loans to war-shattered UK and France: the Swiss ambassador in London described the purpose of the British loan as being to "ensure the indulgence of the English (sic) government" in the negotiations. The loans appear to have had considerable success in blunting the Allies' demands. This divide-and-rule approach is still employed today, as Switzerland signs deals with countries facing large fiscal deficits amid the global financial crisis. Bilateral tax deals initialed with Germany and the UK in mid-2011, which would see Switzerland attempt to extract some tax revenue from British and German tax evaders' accounts, in exchange for an agreement to protect the account holders' anonymity and protect Swiss bank secrecy, reflect financial crisis-hit British and German governments' weakness and short-term desperation to get hold of tax revenue from any source. These particular deals are also explicitly Swiss efforts to play a divide-and-rule game to head off wider European efforts on automatic information exchange inside the EU.

Often European governing classes themselves have themselves been directly implicated in criminal tax evasion via Switzerland, so some have effectively served as powerful Swiss allies in hampering crackdowns. (It is a problem that afflicts rich and poor countries today, as they struggle with the problem of financial secrecy.)

Switzerland only started making real concessions in 2008, most notably when the United States began actively to investigate and prosecute Swiss bankers, with high-profile criminal cases against UBS and other banks (see pp14-15 here). Caught *in flagrante* helping wealthy Americans evade tax, and under tremendous pressure from the global financial crisis, UBS eventually reached a Deferred Prosecution Agreement with the U.S. Department of Justice in February 2009 – but it had to persuade the Swiss government to undergo strange legal contortions to allow it to infringe banking secrecy and hand over data under the deal. This was followed with an August 2009 agreement whereby Switzerland agreed to hand over data on over 4,000 UBS clients. One lesson from this deal is that countries seeking to change Swiss behaviour generally have more success when they target Swiss banks, rather than targeting the country itself. The Swiss cultivate a self-image of being a plucky Alpine nation standing up proudly to big bullies, and attacks on Switzerland itself tend to cause the Swiss to close ranks in support of the banking sector, even among those who would normally oppose banking secrecy.

Elsewhere, Switzerland has recently agreed to information-sharing arrangements with some other jurisdictions, though only under massive international pressure, and only under a woefully inadequate OECD-inspired 'on request' model that effectively requires countries to know the information it needs before it requests it (see more on that here). Usually, developing countries have been left out of such deals and in the very rare cases where Switzerland has agreed to strike a deal on exchange of information, they have extracted major concessions in return (see pp1-2 here for more details.) Switzerland has agreed to levy taxes as a participating country in the EU Savings Tax Directive, but this initiative is currently full of holes and has raised relatively little money to date: just CHF324m paid to EU countries in 2010.

Read more

- For a longer history of the emergence of Swiss banking secrecy, and see the chapter on Switzerland (Chapter 2) in the UK Edition of Treasure Islands.
- For more details on Swiss bankers in the Second World War, see Tom Bower's book Blood Money and reports from Switzerland's Independent Commission of Experts.
- For a fairly recent overview of Swiss tax and secrecy controversies and more, see this edition of Tax Justice Focus.

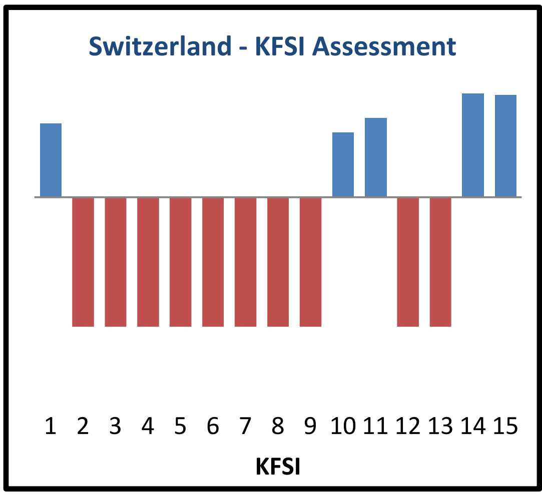
More details on the Swiss financial centre, tax system and more can be found in Sections 30 and 44, in the database report here[1].

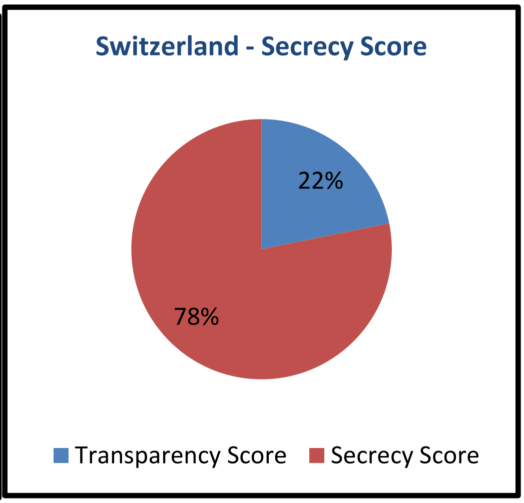
Next steps for Switzerland

Switzerland's 78 per cent secrecy score shows that it must still make major progress in offering satisfactory financial transparency[1]. If it wishes to play a full part in the modern financial community and to impede and deter illicit financial flows, including flows originating from tax evasion, aggressive tax avoidance practices, corrupt practices and criminal activities, it should take action on the points noted where it falls short of acceptable international standards. See part 2 below for details of Switzerland's shortcomings on transparency. See this link http://www.secrecyjurisdictions.com/kfsi for an overview of how each of these shortcomings can be fixed.

Part 2: Secrecy Scores

The secrecy score of 78 per cent for the Switzerland has been computed by assessing the jurisdiction's performance on the 15 Key Financial Secrecy Indicators, listed below.





[1] http://www.secrecyjurisdictions.com/sj_database/Switzerland.xml.

The numbers on the horizontal axis of the bar chart on the left refer to the Key Financial Secrecy Indicators (KFSI). The presence of a blue bar indicates a positive answer, as does blue text in the KFSI list below. The presence of a red bar indicates a negative answer as does red text in the KFSI list. Where the jurisdiction's performance partly, but not fully complies with a Key Financial Secrecy Indicator, the text is coloured violet in the list below (combination of red and blue).

This paper draws on key data collected on the Switzerland. Our data sources include regulatory reports, legislation, regulation and news available at 31.12.2010[2]. The full data set is available here[3]. Our assessment is based on the 15 Key Financial Secrecy Indicators (KFSIs, below), reflecting the legal and financial arrangements of the Switzerland. Details of these indicators are noted in the following table and all background data can be found on the Mapping Financial Secrecy web site[4]. This data is the basis on which the Financial Secrecy Index[5] is compiled.

The Key Financial Secrecy Indicators and the performance of the Switzerland are:

TRANSPARENCY OF BENEFICIAL OWNERSHIP – Switzerland	
1.	Banking secrecy: Does the jurisdiction have banking secrecy? **Switzerland does not adequately curtail banking secrecy**
2.	Trust and Foundations Register: Is there a public register of Trusts and Foundations? **Switzerland does not put details of trusts on public record**
3.	Recorded Company Ownership: Does the relevant authority obtain and keep updated details of the beneficial ownership of companies? **Switzerland does not maintain company ownership details in official records**
KEY ASPECTS OF CORPORATE TRANSPARENCY REGULATION – Switzerland	
4.	Public Company Ownership: Does the relevant authority make details of ownership of companies available on public record online for less than US$10? **Switzerland does not require that ownership of companies is put on public record**
5.	Public Company Accounts: Does the relevant authority require that company accounts are made available for inspection by anyone for a fee of less than US$10? **Switzerland does not require that company accounts be available on public record**
6.	Country-by-Country Reporting: Are companies listed on a national stock exchange required to comply with country-by-country financial reporting?

	Switzerland does not require country-by-country financial reporting by companies
EFFICIENCY OF TAX AND FINANCIAL REGULATION – Switzerland	
7.	Fit for Information Exchange: Are resident paying agents required to report to the domestic tax administration information on payments to non-residents? **Switzerland 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 effectively, and is there a large taxpayer unit? **Switzerland does not use appropriate tools for effectively analysing tax related information**
9.	Avoids Promoting Tax Evasion: Does the jurisdiction grant unilateral tax credits for foreign tax payments? **Switzerland does not avoid promoting tax evasion via a tax credit system**
10.	Harmful Legal Vehicles: Does the jurisdiction allow cell companies and trusts with flee clauses? **Switzerland partly allows harmful legal vehicles**
INTERNATIONAL STANDARDS AND COOPERATION – Switzerland	
11.	Anti-Money Laundering: Does the jurisdiction comply with the FATF recommendations? **Switzerland partly complies with international anti-money laundering standards**
12.	Automatic Information Exchange: Does the jurisdiction participate fully in Automatic Information Exchange such as the European Savings Tax Directive? **Switzerland does not participate fully in Automatic Information Exchange**
13.	Bilateral Treaties: Does the jurisdiction have at least 60 bilateral treaties providing for broad information exchange, covering all tax matters, or is it part of the European Council/OECD convention? **As of June 30, 2010, Switzerland had no 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? **Switzerland has partly ratified 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? **Switzerland partly cooperates with other states on money laundering and other criminal issues**

[1] Our definition of financial transparency can be found here: http://www.secrecyjurisdictions.com/PDF/FinancialTransparency.pdf.

[2] With the exception of KFSI 13 for which the cut-off date is 30.6.2010. For more details, look at the endnote number 2 in the corresponding KFSI-paper here: http://www.secrecyjurisdictions.com/PDF/13-Bilateral-Treaties.pdf.

[3] That data is available here: http://www.secrecyjurisdictions.com/sj_database/menu.xml.

[4] http://www.secrecyjurisdictions.com.

[5] http://www.financialsecrecyindex.com/.

