

# NARRATIVE REPORT ON ROMANIA



## PART 1: NARRATIVE REPORT

Romania is ranked 56<sup>th</sup> in the 2020 Financial Secrecy Index, based on a scale weighting of 0.08 per cent combined with a secrecy score of 63.

### Overview

Romania is a sovereign state located in South-Eastern Europe, which has a population of approximately 19.7 million inhabitants. Since 1<sup>st</sup> of January 2007, Romania has been a member state of the European Union.

After the abolition of the communist regime in 1989, Romania pursued a gradual transition to a market economy, implementing market-oriented reforms. The process of privatisation, the liberalisation of prices, exchange rates or trade, as well as tax reform, were launched gradually.

### Taxation in Romania

As of 2018, the standard corporate tax rate is 16 per cent. One per cent tax rate is applied to micro-enterprises if they have at least one employee, or three per cent if they have no employees.<sup>1</sup>

In 2016, the general withholding tax rate was reduced from 16 per cent to five per cent and is applied to dividends paid to Romanian legal entities and individuals, as well as to non-residents. A zero per cent rate applies to dividends paid by a Romanian legal entity to a legal entity resident in Romania or in another EU member state if they hold more than 10 per cent of the shares in a company for an uninterrupted period of at least one year.<sup>2</sup>

The standard VAT rate was reduced in 2016 from 24 per cent to 20 per cent, and further reduced to 19 per cent as of 2017. There are also reduced VAT rates of 9 per cent and 5 per cent for certain categories of goods and services.<sup>3</sup>

### Transfer pricing rules

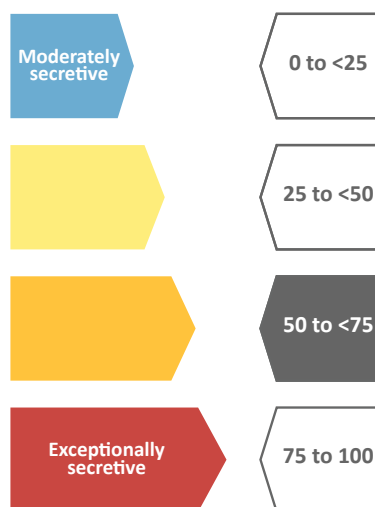
One of the main objectives of the tax authorities in Romania is to prevent the erosion of the tax base through transfer pricing. In order to ensure that the transactions of Romanian companies with foreign affiliates are done at market values, taxpayers are required to prepare a transfer pricing documentation file. According to the law,<sup>4</sup> the taxpayer must provide any other additional information demonstrating compliance with the market value principle, at the written request of the tax authority, otherwise the tax authorities will adjust the amount of the practiced transfer prices. The adjustment will be applied to those transactions with affiliates for which the taxpayer has not provided evidence that the established price was set according to the market value principle.

The National Agency for Tax Administration (ANAF) encourages voluntary compliance of businesses by concluding advance pricing agreements. An advance pricing agreement is a voluntary programme that allows companies to fix their internal prices without the risk of challenge from the tax authority for a period of at least five years. By means of

Rank: 56 of 133

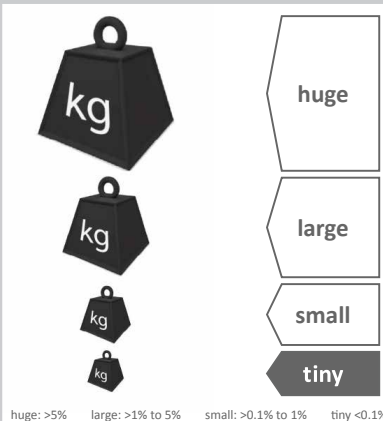
How Secretive?

63



How big?

0.08%



Romania accounts for 0.08 per cent of the global market for offshore financial services. This makes it a tiny player compared to other secrecy jurisdictions.

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

Full data is available here: <http://www.financialsecrecyindex.com/database>.

To find out more about the Financial Secrecy Index, please visit

<http://www.financialsecrecyindex.com>.

The FSI project has received funding from the European Union's Horizon 2020 research and innovation programme under grant agreement No 727145.

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exception, the validity may be longer in case of long-term agreements. The advance price agreement is opposable and binding on the tax authorities as long as its terms and conditions are fully observed by the taxpayer.<sup>5</sup> Companies which enter into such agreements are not obliged to prepare and present a transfer pricing documentation.

## Financial secrecy

A less often encountered type of business vehicle in Romania, that ensures the anonymity of its shareholders, are bearer share corporations. Bearer share corporations have been permitted in Romania since 1990. Until 2019,<sup>6</sup> companies could issue bearer shares following the shareholders' vote.

The establishment of bearer share corporations was not a widely-used practice in Romania, compared with some offshore jurisdictions. According to the National Trade Register Office, there were 383 such companies in Romania in 2017.<sup>7</sup> A highly controversial issue, debated a lot in the media in recent years, was the contraction of bearer shares companies to operate public works and allegations according to which some high state officials or their families were using these companies to hide their identity.<sup>8</sup> Their lack of transparency regarding the identity of the real owners has led to a high pressure from civil society and non-governmental organizations.<sup>9</sup> In order to increase transparency, some political parties have proposed to ban companies with bearer shares from engaging in public contracts<sup>10</sup>, while others have gone ahead and have submitted to Parliament proposals to dissolve them if they do not convert bearer shares into nominal, registered shares.<sup>11</sup> In March 2018, the government introduced a draft bill in order to force companies to abandon bearer shares. The draft legislation was prepared by the Ministry of Justice and was part of the government efforts to join the OECD.<sup>12</sup>

In 2019, Romania has finally the Law 129/2019 on the prevention and combating of money laundering and terrorist financing, amending and supplementing certain legal acts which prohibited the issue of new bearer shares and obliged the conversion of pre-existing bearer shares to nominal shares by January 2021, otherwise they will be cancelled. The cancellation of the shares will lead to the reduction of the company's share capital according to their value. In addition, companies that will not fulfil the obligation to convert shares until the deadline provided by law, will be dissolved.

## Nominees

A classic scheme used to hide the identities of shareholders in Romania was by holding companies through foreign firms, often registered in tax havens, which in turn are owned by a succession of other firms registered in other countries or territories. In fact, tax havens have a significant impact on the Romanian economy. According to the National Trade Register Office, at the end of 2018, there were 221,334 companies registered with foreign shareholders.<sup>13</sup> Of these, approximately 10 per cent have shareholders in tax havens, which hold about 42 per cent of the share capital of all companies with foreign shareholders.

Another method that was used in Romania to hide the identity of real shareholders was the establishment of companies on behalf of homeless people, who were persuaded to have their names used in the place of the real owners, without having any connection with the company.<sup>14</sup> Also, over time, there have been cases of companies set up on behalf of people who were suffering from mental illness.<sup>15</sup>

## Bank secrecy law

According to the article 111(1) of Government Emergency Ordinance no. 99 of 2006 on Credit Institutions and Capital Adequacy, (hereinafter: "Government Emergency Ordinance")<sup>16</sup> credit institutions are obliged to keep confidential all facts, data and information regarding their activity, as well as on any facts, data or information at their disposal, which relate to the person, property, activities, business, personal or business relationships of clients, or information regarding clients' accounts - balances, turnover, operations, services rendered or contracts with clients, respectively. Article 112(1) of Government Emergency Ordinance states that any person who performs administration and/or management duties or who participates in a credit institution is required to maintain the confidentiality of any fact, data or information specified in article 111, that is aware of it during the exercise of its responsibilities in relation to the credit institutions. Also, these persons shall not have the right to use or disclose, either during or after their activity, facts or data which, if made public, would harm the interests or the prestige of a credit institution or its client.

However, such confidentiality obligation cannot prevent the authorities from obtaining the data; according to article 114 of Government Emergency Ordinance, credit institutions are required to provide the information following the commencement of criminal proceedings against a client, at the written request of the prosecutor or the court or the criminal investigation authorities. Furthermore, according

to the article 113, the obligation of professional banking secrecy cannot stand in the way of a competent authority in exercising its supervisory duties at the individual level or, where appropriate, at consolidated or subcontracted level.<sup>17</sup>

## Disclosure of information regarding companies in public registers

There are two main sources to obtain official financial information about companies registered in Romania: the website of the Ministry of Finance from which the information can be accessed free of charge and the website of the National Trade Registry Office, from which the information is obtained against payment.

The free information that can be obtained from the Romanian Ministry of Finance website includes tax information as well as a series of financial indicators about public institutions, firms, insurance companies, brokers and NGOs.<sup>18</sup>

The National Trade Registry Office website<sup>19</sup> provides extensive company information that can be downloaded (by paying a fee of approximately 4,2 EUR per company) such as: registered office, operating period, main activity, equity, names of directors and shareholders, the branches/subunits/secondary offices and , censors/auditors and information extracted from the annual financial statements (turnover, profit before taxes, profit after taxes, average number of employees).

## International agreements

Preventing and combating cross-border tax evasion is a major concern for the tax authorities in Romania. An important measure in tackling tax evasion is cooperation with other states via the automatic exchange of financial information. At the European level, the automatic exchange of information in the field of taxation is regulated by Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation, which repeals Directive 77/799/EEC.<sup>20</sup>

The list of legal instruments concluded by Romania, on the basis of which information is exchanged with other states, includes 88 conventions for avoidance of double taxation and the prevention of tax evasion regarding taxes on income and capital<sup>21</sup> and agreements on the exchange of information in the field of taxation.

In 2017, Romania has started collaborating with 23 countries and territories on the basis of the

Multilateral Agreement of Competent Authorities for the Automatic Exchange of Financial Information at the level agreed by the OECD. Among these, there are jurisdictions such as: Bermuda, Gibraltar, Guernsey, Cayman Islands, Isle of Man, Turks and Caicos Islands, British Virgin Islands, Jersey, Liechtenstein, San Marino and the Seychelles. Through Order no. 2309/2017 of August 1 2017,<sup>22</sup> During 2017, the National Agency for Tax Administration has updated several times the list of jurisdictions with which Romania will automatically exchange financial information, adding 44 jurisdictions including Andorra, Argentina, Australia, Belize, Brazil, Chile, China, Colombia, Cook Islands, Costa Rica, Curacao, Faroe Islands, Gibraltar, Greenland, Guernsey, Iceland, India, Indonesia, Isle of Man, Israel, Japan, Jersey, Lebanon, Liechtenstein, Malaysia, Mauritius, Mexico, Monaco, Montserrat, New Zealand, Norway, Pakistan, Russia, Samoa, San Marino, Saudi Arabia, Seychelles, Singapore, South Africa, South Korea, St. Lucia, St. Vincent and the Grenadines, Switzerland, Uruguay.

The list was last updated through the Order no. 2851/2018 of November 19, 2018, being extended by 6 new agreements that came into force in 2019 (with Azerbaijan, Bonaire, Sint Eustatius and Saba, Canada, Grenada, Macao, Panama) and an agreement with Hong Kong that came into force in 2020.<sup>23</sup>

In order to combat tax evasion and ensure the exchange of information between countries, the Romanian government issued in June 2017 an emergency ordinance through which “country by country reporting” was implemented.<sup>24</sup> The obligation to make these reports belongs to the ultimate Romanian parent companies that controls a multinational group whose consolidated income is more than 750 million euros. Reporting should be submitted starting with the fiscal year 2016. Implementation of country by country reporting follows the recommendations of the OECD BEPS project, which Romania was a participant in.

## Conclusions

Despite some political instability between 2018-2020, Romania has made efforts to combat profit shifting by multinational companies and has implemented EU Directive 2016/1164 into the national legislation. A particular focus of the last governments has been to try to collect more efficiently taxes on profits from banks and multinational companies.<sup>25</sup> One of the former Ministers of Public Finance has stated in 2019: “I am telling multinational companies, who try to

avoid paying taxes and duties, that they will have to respect Romania and pay these taxes as well as in the other countries".<sup>26</sup>

Significant efforts have been made in order to increase financial transparency, and to combat cross-border tax evasion and money laundering. The National Office for the Prevention and Combating of Money Laundering plays a significant role in this effort and cooperates with authorities from other states in order to exchange financial information. Through the information exchange networks to which the Office is connected (Egmont Secure Web, FIU.net), it has the capacity to exchange operational information with over 150 financial information units. According to the organisation's activity report, in 2017 it received 241 requests for information, 80 spontaneous information, 113 reports of cross-border transactions and 49 reports of suspicious transactions. In order to address the requests for the information received, some steps were taken to verify 1,624 individual and legal persons. In 2017, the Office transmitted a total of 277 requests for information to Financial Intelligent Units abroad and 26 spontaneous information. Some of these were sent to countries such as: Bahamas, Belize, Cyprus, Curacao, Switzerland, United Arab Emirates, Gibraltar, Hong Kong, Isle of Man, British Virgin Islands, Ireland, Latvia, Lebanon, Luxembourg, Malta, Monaco, Panama, Seychelles, Singapore.<sup>27</sup>

However, probably the most important legislative change made in Romania in 2019 is the prohibition of bearer shares after almost 20 years, as explained above. As a result, the establishment of a company can be done only with nominative shares.

*With thanks to Assistant professor Ph.D. Mihai-Bogdan Afrăsinei, Faculty of Economics and Business Administration, Alexandru Ioan Cuza University of Iasi, Romania.*

## Endnotes

- 1 Night bar, nightclub, disco and casino operators are either subject to a 5 per cent rate of the revenue obtained from such activities or a 16 per cent rate of the taxable profit, depending on which is higher. Law no. 227/2015 regarding the Fiscal Code, updated by Law no. 185/2019 of 17 October 2019, art. 17, art. 18, art. 51, available at: [https://static.anaf.ro/static/10/Anaf/legislatie/Cod\\_fiscal\\_norme\\_12062019.htm](https://static.anaf.ro/static/10/Anaf/legislatie/Cod_fiscal_norme_12062019.htm); 17.11.2019. In Romania taxation does not apply at group level.
- 2 Law no. 227/2015 regarding the Fiscal Code, updated by Law no. 185/2019 of 17 October 2019, art. 23, available at: [https://static.anaf.ro/static/10/Anaf/legislatie/Cod\\_fiscal\\_norme\\_12062019.htm](https://static.anaf.ro/static/10/Anaf/legislatie/Cod_fiscal_norme_12062019.htm); 17.11.2019.
- 3 Law no. 227/2015 regarding the Fiscal Code, updated by Law no. 185/2019 of 17 October 2019, art. 291, available at: [https://static.anaf.ro/static/10/Anaf/legislatie/Cod\\_fiscal\\_norme\\_12062019.htm](https://static.anaf.ro/static/10/Anaf/legislatie/Cod_fiscal_norme_12062019.htm); 17.11.2019.
- 4 Ordinance no. 442/2016 of 22<sup>nd</sup> of January 2016, concerning the amount of transactions, the preparation terms, the content and conditions for requesting the transfer price file and the adjustment/estimation procedure of transfer prices.
- 5 Romania Transfer Pricing Country Profile, available at: [https://static.anaf.ro/static/10/Anaf/Prezentare\\_R/PrezentareTP\\_EN\\_11042018.pdf](https://static.anaf.ro/static/10/Anaf/Prezentare_R/PrezentareTP_EN_11042018.pdf); 17.11.2019.
- 6 <https://www.romania-insider.com/companies-convert-bearer-shares>; 17.11.2019.
- 7 <http://www.romaniacurata.ro/exclusiv-analiza-romania-curata-actiunile-la-purtator-protejeaza-mai-bine-decat-offshore-ul-vezi-lista-celor-384-de-asemenea-companii-din-romania/>; 17.11.2019.
- 8 [http://adevarul.ro/economie/stiri-economice/biris-despre-actiunile-purtator-tel-drum-banii-vorbesc-vada-fiscul-primut-dividende-facut-ele-1\\_5965bd6e5ab6550cb8051b7e/index.html](http://adevarul.ro/economie/stiri-economice/biris-despre-actiunile-purtator-tel-drum-banii-vorbesc-vada-fiscul-primut-dividende-facut-ele-1_5965bd6e5ab6550cb8051b7e/index.html); 17.11.2019.
- 9 [https://adevarul.ro/economie/stiri-economice/roaction-actiunile-lapurtator-zilele-numarate-campanie-strangere-semnaturi-pentruinterzicere-totala-1\\_5a004b475ab6550cb8de8087/index.html](https://adevarul.ro/economie/stiri-economice/roaction-actiunile-lapurtator-zilele-numarate-campanie-strangere-semnaturi-pentruinterzicere-totala-1_5a004b475ab6550cb8de8087/index.html); 17.11.2019.

10 <https://www.digi24.ro/stiri/actualitate/politica/usr-propune-interzicerea-accesului-firme-lor-cu-actiuni-la-purtator-la-contracte-publice-pre-gatim-falimentul-lui-dragnea-772842>; 17.11.2019.

11 <http://www.startupcafe.ro/taxe/eliminarea-actiuni-purtator-firme.htm>; 17.11.2019.

12 <http://business-review.eu/news/romania-makes-first-step-toward-becoming-an-oe-cd-member-bearer-shares-will-be-eliminated-159629>; 17.11.2019.

13 <https://www.onrc.ro/index.php/ro/statistici?id=254>; 17.11.2019.

14 [http://adevarul.ro/locale/iasi/om-strazii-patron-fictiv-afaceri-milioane-lei-intrat-florin-panica-intr-o-filiera-internationala-construita-ingropa-firme-1\\_5339246d0d133766a85f12c9/index.html](http://adevarul.ro/locale/iasi/om-strazii-patron-fictiv-afaceri-milioane-lei-intrat-florin-panica-intr-o-filiera-internationala-construita-ingropa-firme-1_5339246d0d133766a85f12c9/index.html); 17.11.2019; and <http://romanalibera.ro/index.php/actualitate/proiecte-locale/oameni-ai-strazii-facuti-pesto-noapte-patroni-de-firme--46183>; 17.11.2019.

15 [http://www.hotnews.ro/stiri-presa-regionala\\_arhiva-1728656-bolnav-psihic-mario-neta-pentru-frauda-pesto-120-miliarde-lei.htm](http://www.hotnews.ro/stiri-presa-regionala_arhiva-1728656-bolnav-psihic-mario-neta-pentru-frauda-pesto-120-miliarde-lei.htm); 17.11.2019.

16 Emergency Ordinance No. 99 of 6 December 2006 on Credit Institutions and Capital Adequacy, Published in Monitorul Oficial al României, Part One, No. 1027 of 27 December 2006, available at: [http://www.bnr.ro/files/d/Legislatie/EN/E\\_OUG99\\_2006.pdf](http://www.bnr.ro/files/d/Legislatie/EN/E_OUG99_2006.pdf); 17.11.2019.

17 Article 113, Government Emergency Ordinance. Among the documents that each credit institution draws up and maintains at its registered office or branches, article 121 of this law highlights the following: a copy of the contractual documents, the internal documentation of the underlying transactions, a daily register of the records for each client with the characteristics of the transactions carried out and the balance owed to the client or the credit institution and any information regarding its business relations with clients and other persons that the National Bank of Romania may provide for them through regulations.

18 <http://www.mfinante.ro/pjuridice.html?pagina=domenii>; 17.11.2019. The query in the database can be done by the unique identification code or the name of the economic agent and the county in which it is registered. General information about the economic agent

that can be obtained includes: address, county, registration number of the Trade Registry, postcode, telephone, company status (active/inactive and the date of registration), whether it is liable to pay corporation tax or not (micro enterprises are subject to an income tax of three per cent or one per cent), if they are payers of excise tax, if they are involved in the gambling industry, etc. Within the financial information that can be accessed we may identify following the indicators extracted from the balance sheet and from the profit and loss account: fixed assets - total, current assets - total, stocks, receivables, cash and cash equivalents, advance payments, debts, incomes in prepayments, capital, total, subscribed capital, equity, net turnover, total income, total expenses, gross profit or loss, net profit or loss of the financial year. In addition, for each economic agent, the object of activity and the average number of employees are record.

19 <https://portal.onrc.ro/ONRCPortalWeb/ONRCPortal.portal>; 7.11.2019.

20 Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC, available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32011L0016&from=RO>; 17.11.2019.

21 [https://static.anaf.ro/static/10/Anaf/AsistentaContribuabili\\_r/Conventii/Conventii.htm](https://static.anaf.ro/static/10/Anaf/AsistentaContribuabili_r/Conventii/Conventii.htm); 17.11.2019.

22 Ordinance No. 2309/2017 of August 1, 2017, available at: [https://static.anaf.ro/static/10/Anaf/legislatie/OPANAF\\_2309\\_2017.pdf](https://static.anaf.ro/static/10/Anaf/legislatie/OPANAF_2309_2017.pdf); 17.11.2019.

23 Ordinance no. 2851/2018 of 19 November 2018, available at: [https://static.anaf.ro/static/10/Anaf/legislatie/OPANAF\\_2851\\_2018.pdf](https://static.anaf.ro/static/10/Anaf/legislatie/OPANAF_2851_2018.pdf); 17.11.2019.

24 Emergency Ordinance No. 42/2017 of 9 June 2017, available at: [https://static.anaf.ro/static/10/Anaf/legislatie/OUG\\_42\\_2017.pdf](https://static.anaf.ro/static/10/Anaf/legislatie/OUG_42_2017.pdf); 17.11.2019.

25 <https://stirileprotv.ro/stiri/financiar/revolutia-fiscala-s-a-transformat-in-miercurea-neagra-guvernul-nu-cedeaza-desi-e-amenintat-cu-greva-general.html>; 17.11.2019.

26 <http://stirileprotv.ro/stiri/financiar/ministrul-misa-multinationalele-vor-trebui-sa-plateasca-impozite-si-taxe-in-romania-la-fel-ca-in-celelaltari.html>; 17.11.2019.

27 National Office for Preventing and Combating Money Laundering, Activity Synthesis for 2017, available at: <http://www.onpcsb.ro/pdf/raport%20final%202017.pdf>; 17.11.2019.

## PART 2: SECRECY SCORE

### OWNERSHIP REGISTRATION

- 47 1. Banking Secrecy
- 38 2. Trust and Foundations Register
- 75 3. Recorded Company Ownership
- 100 4. Other Wealth Ownership
- 100 5. Limited Partnership Transparency

### LEGAL ENTITY TRANSPARENCY

- 100 6. Public Company Ownership
- 100 7. Public Company Accounts
- 50 8. Country-by-Country Reporting
- 100 9. Corporate Tax Disclosure
- 75 10. Legal Entity Identifier

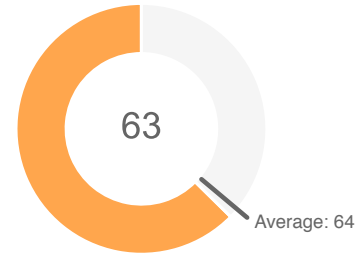
### INTEGRITY OF TAX AND FINANCIAL REGULATION

- 50 11. Tax Administration Capacity
- 75 12. Consistent Personal Income Tax
- 100 13. Avoids Promoting Tax Evasion
- 100 14. Tax Court Secrecy
- 25 15. Harmful Structures
- 50 16. Public Statistics

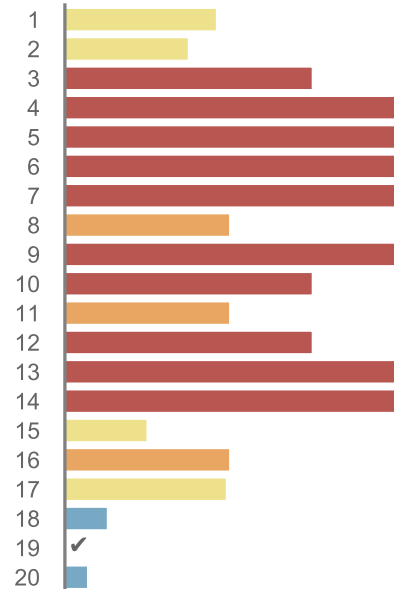
### INTERNATIONAL STANDARDS AND COOPERATION

- 49 17. Anti-Money Laundering
- 13 18. Automatic Information Exchange
- 0 19. Bilateral Treaties
- 7 20. International Legal Cooperation

## Secrecy Score



## Key Financial Secrecy Indicators



## Notes and Sources

The FSI ranking is based on a combination of a country's secrecy score and global scale weighting (click [here](#) to see our full methodology).

The secrecy score is calculated as an arithmetic average of the 20 Key Financial Secrecy Indicators (KFSI), listed on the right. Each indicator is explained in more detail in the links accessible by clicking on the name of the KFSI.

A grey tick in the chart above indicates full compliance with the relevant indicator, meaning least secrecy; red indicates non-compliance (most secrecy); colours in between partial compliance.

This report draws on data sources that include regulatory reports, legislation, regulation and news available as of 30 September 2019 (or later in some cases).

Full data is available here: <http://www.financialsecrityindex.com/database>.

To find out more about the Financial Secrecy Index, please visit <http://www.financialsecrityindex.com>.