Narrative Report on Vanuatu

PART 1: NARRATIVE REPORT

Vanuatu is ranked 106th on the 2020 Financial Secrecy Index, based on a relatively high secrecy score of 76 combined with a tiny scale weighting of 0.0008 per cent of the global market in offshore financial services.

Overview[1]

Vanuatu creates a congenial environment for an offshore financial secrecy centre. It makes significant contributions to its small local economy. Its subculture plays an important role in the country's domestic politics. It contains few domestic interest groups which are inclined to oppose tax haven development.

Although Vanuatu has a relatively small tax haven or offshore financial centre (OFC),[2] it can still have a major impact. Two recent examples illustrate Vanuatu's significance. In July 2017, a Vanuatu-registered company IGOFX was reported to be at the centre of a 30 billion yuan ($4.4 billion)[3] ponzi swindle (with its appealing slogan for investors 'Lie to make money.') It allegedly victimised more than 400,000 Chinese and Chinese Malaysians of modest means—leading to desperation and even suicide when they could not get their money back.[4] In July 2019 six people from China (four having purchased Vanuatu citizenship and the two others applying to buy it) were arrested in Vanuatu and flown back to the PRC. They were charged with operating Plus Token in Vanuatu and China—allegedly a ponzi scheme and the world's largest cryptocurrency fraud up to the present day. Participants (almost exclusively from mainland China) allegedly lost at least $2.9 billion.[5]

The size of the offshore sector

Prominent politicians in Vanuatu see the OFC as creating opportunities and having synergies with telecommunications, up-market tourism, and other favoured industries. In addition, the historic presence of the OFC has enriched a small elite in Vanuatu, which helps bolster political support. Revenues from offshore services have contributed substantially to Vanuatu's economy in the past, but the OFC is now in relative decline, the sector also is changing significantly, with offshore banking in severe decline, but registrations of offshore companies expanding in recent years.

In each year between 1984 to the present Vanuatu's Finance Centre contributed significantly to central government revenues—from a high of 7 per cent in 1991, when offshore bank registrations were high and flag of convenience registrations were growing rapidly, to a low 2.5 per cent in 2010, after a great decline in the number of offshore banks and companies. The offshore banks that remain are relatively small, often with a relatively limited base of customers closely linked to one another or to the banks' directors or owners. The assets of the offshore banking sector have fallen from $700 million in June 2009 to as low as $45 million in June 2013, with $98 million in September 2018. Many of the deregistered banks were merely shells, without physical presence in Vanuatu — 'vanity' projects for businesses or wealthy people, performing treasury functions that could be easily continued through entities such as international companies.

Rank: 106 of 133

How Secretive? 76

Moderately secretive	0 to <25
	25 to <50
	50 to <75
Exceptionally secretive	75 to 100

How big? <0.01%

huge | large | small | tiny

huge: >5% large: >1% to 5% small: >0.1% to 1% tiny <0.1%

Vanuatu accounts for 0.0008 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.

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In 2015 the number of registered international companies had almost quadrupled since 2010 and reached an all-time high (of 6,316, more than three times the number of local companies). By December 2016 some of this gain was reversed—with the number declining to 4,625. Global pricing pressures restrained the Finance Centre's contribution, which in 2016 was about 2.6% of government revenues (apart from foreign aid receipts). In June 2018 the number of registered international companies had declined to 3,559**,** as new laws (passed in 2017) required much greater disclosure. International company numbers in Vanuatu, however, are not directly comparable to those in such better known OFCs as Panama and the British Virgin Islands, since the principal activity in Vanuatu's offshore tax haven has long been management, not just registration, of international companies. Vanuatu's OFC plays a more active role in organising the companies' strategies toward taxation and regulation.[6] The OFC provides relatively high paying (mostly clerical) jobs for indigenous people in a poor country, but it confers great benefits on the political leaders who facilitate it and on the rich expatriates who manage it. Offshore centre revenues have been extremely concentrated in the capital of Port Vila, where local elites live.

Vanuatu, like other microstates, tends to rely on a small number of foreign-owned industries which are granted special privileges and operate in enclaves largely exempt from local control.[7] Its OFC appears to bring a boost to the small nation's economy, but it also represents a form of dependency and a threat of adversity if, for any reason, the OFC declines or falls. Vanuatu's offshore promoters have been committed and organised to influence the country's government to support its OFC.[8]

The finance curse in Vanuatu

Like other offshore centres, government and politics has been captured by the interests of offshore services.

Vanuatu's offshore interests participate in politics, public service and community affairs. The long-established Finance Centre Association (FCA) in Vanuatu is at the heart of the country's tax haven subculture. The FCA forms a powerful peer network and lobbying organisation, a relatively unified face to the outside world and an internal marketplace for offshore services, transactions, referrals, and deals to satisfy the needs of members within the country. A feature of this style of institutional organisation is the provision of a large and integrated range of offshore sovereignty services (such as providing and managing companies, trusts, banks, and flags of convenience), coordinated by the subculture. Although there may be competition and enmity within the offshore sector, relatively few of their leaders leave it—and Vanuatu has a relatively large proportion of leading offshore personnel who have been in the OFC for many years. Vanuatu's offshore finance sector is relatively stable.

It is relatively easy for financial capital to capture and use Vanuatu's small legislature. Lawmakers do not comprehend offshore finance and often defer to offshore promoters, who are sometimes allowed to serve as regulators of the OFC operations from which they are profiting. An example of this is when Thomas Bayer, the leader of the offshore subculture and most powerful member of the FCA, joined the board of the Reserve Bank of Vanuatu in 2012.[10] Bayer interests were allowed to acquire Vanuatu's lucrative flag of convenience monopoly on Christmas 1992, when Willy Jimmy, a close friend and former employee, was Minister of Finance.[11]

Isolation from Opposition

Vanuatu's offshore sector has few organised domestic groups to oppose it. Foreign actors which protest against the impacts of Vanuatu's secrecy jurisdiction (such as tax offices, organised labour, environmentalists, developing countries, public interest groups, foreign gambling addicts, or court plaintiffs) usually have little political traction.

The media, universities and organised anti-corruption bodies are often weak. Where they are more developed (as in Port Vila, the capital), media frequently avoid or sanitise local offshore activities, especially when important media are owned by leading OFC promoters. For example, the prominent agenda-setting newspaper, the Vanuatu Independent, was owned by Bayer interests for many years. The Vila Times newspaper is owned by the FTF Company, a prominent tax haven promoter.

Since sovereignty (emphasised by the offshore sector) tends to be an important value in Vanuatu, perceived opposition to offshore financial activities may be seen as insiders' disloyalty or outsiders' unjustified meddling. In contrast, large states contain powerful interests opposing tax haven and related offshore development.

In practice this means that even when elites are found guilty of criminal activity, there is little accountability. Leading members of the offshore financial services industry who have been caught engaging in corrupt and criminal practices have continued to wield a considerable influence on the government of Vanuatu.

In December 2002 Thomas Bayer and Robert Murray Bohn, another prominent leader of Vanuatu's offshore sector, were indicted for their alleged involvement in laundering at least $22.4 million through a Vanuatu bank called "the European Bank", where Bohn was President and CEO.[12] This was part of over $100 million lost during the 1990s by victims (mostly elderly Americans) in the IDM international lottery fraud, based in Barbados. Bayer successfully resisted extradition and remained on the FBI fugitive list, but Bohn, also a US-born Vanuatu citizen, was in America on business and was promptly arrested. Port Vila's offshore sector generally defended Bayer and Bohn (both of whom have chaired Vanuatu's Finance Centre Association), but others who could not gain entry into this subcultural club publicly attacked them and asked why Vanuatu's political leaders were vying with each other to help them. Bohn was convicted in America of money laundering, racketeering, mail fraud and conspiracy in October 2005[13], but was allowed to return to Vanuatu in March 2007 amid reports that Bayer had spent at least $1 million defending him.

In December 2007 Bohn resumed his position as President and CEO of Bayer's Vanuatu Maritime Services, which operates the country's flag of convenience ship registry[14]. In 2006 Bayer and Bohn were harshly criticised in American congressional hearings and questions were raised about US aid going to Vanuatu, whose 'government repeatedly thumbs its nose at American courts and regulators'.[15] In November 2012 Bohn, who had changed his name to Robert Bohn Sikol, was elected to Vanuatu's parliament as the Member from Epi. He was the first naturalised citizen to be elected to Vanuatu's legislature.[16] Bohn lost his seat, but he was nominated by the Green Confederation Party as a parliamentary candidate for the 2020 election.[17]

More recently Bayer escaped punishment in the most serious bribery and corruption case in Vanuatu's history. Bayer was accused of using PITCO (Pacific International Trust Company)[18] bank accounts in late October 2014 to move $500,000 to buy support of parliamentarians for a successful 'no confidence' vote deposing Prime Minister Joe Natuman. Long-time Bayer allies, Sato Kilman became Prime Minister and Moana Carcasses Kalosil (who was a conspirator) became Deputy Prime Minister. Fourteen members of parliament were accused of giving or receiving corrupt payments.[19] On 9 October 2015 Vanuatu's Supreme Court ruled that thirteen of them were guilty and on 22 October 2015 sentenced each of them to three to four years in jail. Half of Sato Kilman's ruling government became convicted criminals. Their appeal was dismissed on 20 November 2015. The earlier attempt by Parliament Speaker Marcellino Pipite to use his position as Acting President (while President Baldwin Lonsdale was overseas) to pardon himself and thirteen other MPs. This was ruled unconstitutional by the Court of Appeal—leading in August 2016 to the conviction of Pipite, ten other MPs, and one of their lawyers for conspiracy to defeat the course of justice (the convictions were quashed on appeal in April 2017, before prosecutors began to try them all again on the same charges). Four former MPs put in guilty pleas and in June 2018 the Supreme Court convicted Pipite, four other MPs, and a lawyer. In November 2018 the six who appealed against their convictions lost their cases, but all ten won their appeals to reduce their sentences. In November 2017 Moana Carcasses Kalosil was released from prison on parole. He made a public apology, but he remained active in politics and became president of the Green Confederation Party in October 2019.[20] Only one of the accused (Bayer's associate MP Robert Bohn) was acquitted and in November 2015 became Minister of Justice—a promotion which Bohn admitted that he found ironic. MP Willy Jimmy, another long-time Bayer ally, pleaded guilty before the trial and was given a twenty month suspended sentence. On 25 April 2017 Bayer, who had a separate trial, was found not guilty of charges of complicity to corruption and bribery by the Vanuatu Supreme Court.[21]

Recent efforts to end Vanuatu's tax haven status

Soon after the government of Prime Minister Charlot Salwai was elected in February 2016, it contended that income taxation would be necessary to provide sustainable revenues for the government. Salwai was also in the unusual position of having a large majority in the country's parliament—although this strength might be more apparent than real, due to the individualism and opportunism of most of Vanuatu's politicians. Salwai's argument has been that many aid donors are no longer willing to forgive debts, and Vanuatu is supposed to lose its Least Developed Country Status in December 2020,[22] when trade advantages would be lost and grants would begin falling to 1.5% of GDP, from 4% in 2010-2014.[23] The International Monetary Fund, which supported the proposed income taxation, estimated that income taxes might generate government revenues equal to 3%-4% of GDP.[24]

Salwai contended that raising indirect taxes would be unfair to low-income households and would not provide enough revenue to cover anticipated revenue short-falls.[25] He claimed that selling public assets has not worked in the past and is unlikely to the raise necessary, substantial, sustainable revenues.[26] Supporters say the proposed income taxes would be low by international standards, fair in targeting high income people, reducing consumer prices through lowering import duties and VAT (paid by everyone), and socially beneficial in building necessary infrastructure and increasing transparency about economic activities.[27] According to the revised proposal, there would be a flat 17% company income tax, with a personal income tax of 0% for the first 750,000 vatu ($6,900) of income, 10% for the next 2,799,999 vatu ($25,300), and 17% for all income above 3,500,000 vatu ($32,200).[28]

The offshore sector has fiercely opposed the proposals. And organisations as Washington's Cato Foundation have been drafted into help oppose the policy. In December 2016, Daniel J. Mitchell from Cato appeared in Port Vila to give a well-attended speech, meet with political agenda-setters, and give long media interviews.[29] The Vanuatu Chamber of Commerce, with Beyer as President commissioned an 'independent' report by a company called 'Strategy Labs'.[30] Strategy Labs is a division of the Lithuania-based Lewben Group, which owns the Pacific Private Bank in Vanuatu's OFC.[31]

The OFC's arguments seemed to be working, creating uncertainty about whether income taxation would appear in Vanuatu in the near future or at all. In December 2016 the Finance Minister Gaetan Pikioune seemed to reverse his position by being quoted as saying that the government had not decided whether income taxation would be introduced. By January 2017 strong opposition to income taxation was expressed by all the parliamentary opposition and even two members of cabinet and all the Leaders Party's seven members of Salwai's coalition government. Never before in Vanuatu's political history had a ruling coalition partner publicly refused to support a government policy. There were reports later in the month that the government faced another serious backbench revolt over income taxation, which it barely succeeded in containing.[32] Although opposition parliamentarians allied to the OFC warned Bayer and others in May 2017 that the Salwai government was still pushing to introduce income taxation at the end of the year, some observers were not so sure—noting that the initial speed toward income taxation had abruptly slowed as the government moved toward extended consultations.[33] In early June 2017 Vanuatu's Parliament withdrew all five bills that had been proposed to reform the tax system in a way that might lead to personal and corporate income taxation (bills for Tax Administration, Value Added Tax, Business Licences, Import Duties, and Stamp Duties were removed from the agenda). However, in December 2018 the Tax Administration bill was revived and passed (to take effect in June 2019). Most crucially, it created the necessary (but not sufficient) conditions for income taxation, especially the creation of a Tax Identification Number which every taxpayers is required to have.[34]

In counterpoint, the government's passport-selling Economic Citizenship Programs have been retarding the introduction of income taxation in two ways. First, passport purchasers are attracted to the programs by publicity emphasising that Vanuatu is a tax haven or a 'tax heaven', as the FPF Company's promotional material proclaims to prospective clients.[35] Secondly, revenues from the programs have been so large that they strengthen opponents' arguments that income taxation is unnecessary. Government revenues from passport sales have risen from $33.3 million in 2016 to $43.9 million in 2017 and $91.7 million in 2018—13.6%, 14.3%, and 27.8% of total government revenues and 4.2%, 5.0% and 9.9% of GDP, respectively. Passport revenues generated a large budget surplus (of 4.8% of GDP) in 2018. During the first half of 2019, revenues from passport sales were 16.4% higher than in the first half of 2018.[36]

In 2019 the Salwai government considered passport income to be a temporary windfall. It continued to view income taxation as a desirable way to produce a steady, dependable revenue stream that is necessary to fund public expenditure and debt repayment over the longer term. Income taxation has been emerging as a central issue in campaigns for the parliamentary elections scheduled for early 2020.

Money laundering, bribery and corruption

In 2015 the Asia/Pacific Group on Money Laundering (APG), the FATF's regional unit, reported that there was lucrative, high-level political corruption in Vanuatu, notably in sales of passports and citizenship.[37] It cited rough estimates in 2014 that the domestic proceeds of crime that were laundered in the country were between $16.6 million and $41.7 million, while laundered foreign proceeds of crime were more definitely estimated to be $14.2 million. Regardless of whether these figures (greatly) underestimate or very accurately reflect the scales of the problems, they help to make sense of other problems emphasised by the APG in the 2015 report—the country's slowness and patchiness in legislating and acting against money laundering and the parliament's unwillingness to create a dedicated anti-corruption agency, protect whistleblowers and witnesses in corruption cases, and legislate against illicit enrichment. The APG criticised the government and private sector for showing almost no comprehension or concern in relation to the risks of money laundering and terrorism financing confronting Vanuatu—and for failing to answer written requests, supply written information, and attend scheduled meetings when the APG team was in the country in 2015.

Vanuatu's chronic political instability slowed and a devastating cyclone in March 2015 halted the passage of financial legislation, so the country made little progress between 2006 and 2015 in rectifying what the FATF viewed as strategic deficiencies in combating money laundering and the financing of terrorism. In 2015 the APG noted little legislative action, meagre resources and very few on-site inspections for compliance, and deficient coordination and financial information exchange domestically and internationally. The APG identified Vanuatu as facilitating foreign tax evasion and the smuggling, trafficking or transhipping of arms, illicit drugs, and precursor chemicals. Vanuatu's flag of convenience registry was implicated in illegal foreign fishing and the international movement of prohibited goods. Table 1 illustrates that the APG saw little progress, showing the APG's evaluation of Vanuatu's level of compliance with the FATF's 49 recommendations in 2006 and 40 recommendations in 2015.[38]

This poor evaluation of Vanuatu by the APG (leading to the country being placed on the FATF's greylist in February 2016) made doing banking business from Vanuatu directly with the US almost impossible, diverting international financial transactions through Hong Kong and Europe. Even this tactic was problematical — for example, Germany's Commerzbank terminated its correspondent banking relationship with the National Bank of Vanuatu in March 2016. The increased isolation of Vanuatu's financial system as a result of the FATF's greylisting not only damaged the country's reputation but it also threatened to limit the use of credit cards and hurt tourism — creating considerable disquiet in the local business community, which had, as early as December 2015, offered to fund 50% of the costs of altering the country's money laundering and terrorism financing legislation.[39] The International Monetary Fund[40] contended that the country's deficiencies in addressing the problems of money laundering and terrorism financing had resulted in a steady increase in the cost of sending funds to Vanuatu, which had become much greater than to other Pacific Islands, with potential problems emerging for trade finance, cross-border payments, and remittances unless the problems were dealt with successfully.

On 14 June 2017 Vanuatu's parliament passed thirteen bills designed to placate the FATF. They came into force on 16 June 2017, five days before the FATF's plenary meeting of member countries considered greylisted countries such as Vanuatu. Vanuatu's new legislation was intended to rectify a number of the deficiencies identified by the APG and was explicitly designed to comply with FATF recommendations.[41] On 23 June 2017, at the conclusion of its plenary, the FATF noted Vanuatu's progress, but kept it on the greylist of 'jurisdictions with strategic deficiencies'—the others being Bosnia and Herzegovina, Ethiopia, Iraq, Syria, Uganda, and Yemen—ranked higher than the blacklisted 'high-risk and non-cooperative jurisdictions' of Iran and North Korea.[42]

On 29 June 2018 the FATF removed Vanuatu from its greylist, which Salwai's supporters attributed to his government's stability and legislative reform agenda as well as enhanced intra-governmental cooperation and the initiative of the local Financial Intelligence Unit.[43] Table 1 indicates the FATF's view that by 2018 there was immense improvement in Vanuatu's technical compliance, but it does not show what was frequently ignored in Vanuatu amidst the celebration of getting off the greylist. The FATF still gave Vanuatu the lowest ratings in eleven areas assessing the effective outcomes of its money laundering laws and regulations. The FATF would not re-evaluate their effectiveness until 2020. Poor effectiveness ratings could still restrict the country's access to global financial markets.[44]

At the same time there has been pressure on Vanuatu from the OECD. The OECD was asked to present a list of countries that were not complying with international tax transparency standards to the G20 summit on 7-8 July 2017. In 2016 the G20 had requested that the OECD identify jurisdictions that were making insufficient progress toward implementing international standards on tax transparency and tax information exchange. In 2016 the OECD identified Vanuatu as one of fifteen jurisdictions that had a less than satisfactory peer review rating in relation to the exchange of information on request.[45] On 30 July 2019 the OECD rated Vanuatu 'Partially Compliant', citing especially the absence of effective supervision to ensure that legally required accounting records are maintained and available.[46]

Vanuatu

In March 2019 the European Union moved Vanuatu from its greylist to its blacklist, labelling it a harmful and non-cooperative tax jurisdiction. The Vanuatu government protested against the EU's obscurity about its own rules, how its assessments were undertaken, and its lack of consultation or even relevant communication. It deplored the EU blacklisting's adverse effect on investor confidence and the country's reputation. Vanuatu's private sector was less guarded. Many accused the EU of neo-colonial harassment, bullying and hypocrisy—with the EU ignoring its own major tax havens such as Ireland and Luxembourg. Martin St.-Hillaire, chairman of Vanuatu's Finance Centre Association, accused the EU of 'financial racism'.[47]

Vanuatu's reductions of financial secrecy have been primarily reactions to foreign pressures and consequently have had less practical effect than if they came from popular initiatives within the country. Vanuatu's political leaders have not generally seen the OECD's and FATF's agendas to be helpful in solving national problems. Most do not feel threatened by foreign tax evasion, money laundering, terrorism financing, or intellectual property violations. Most see elaborate identification of clients, record-keeping, financial information exchange and monitoring of financial transactions as a poor or wasteful allocation of scarce resources and expertise. There has been very little domestic support for the FATF/OECD/EU agendas.[48] These agendas, to the degree that they have been formally accepted, have been seen as foreign impositions, transplants rubber stamped by the Vanuatu parliament, under duress in relation to sanctions—for the benefit of foreign governments. A common view is that Vanuatu authorities are unlikely go any farther in reducing de facto financial secrecy (and the attractiveness of their offshore tax haven) than doing what they see as necessary to get their country off lists of non-compliant jurisdictions.[49]

Conclusion

Vanuatu provides a venue for the world's (often sensational) secret business and secret politics. Its offshore financial centre allows wealthy and powerful clients to escape from metropolitan taxation and regulation. It is part of a process in which competitive advantage has been moving from the bounded, regulated economies of scale within the borders of large metropolitan states to smaller political units oriented toward liberalised global markets.[50] Vanuatu has played a role in this contemporary world-historical transformation by providing a territorially defined, sovereign jurisdiction for forum-shopping by transnational capitalists. Vanuatu remains an offshore tax haven offering considerable financial secrecy.

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Endnotes

1 This November 2019 report for the Tax Justice Network extends Anthony van Fossen 'Law and Political Economy in Vanuatu's Tax Haven' The Comparative Law Journal of the Pacific/Journal de Droit Comparé du Pacific, Special Issue 18: (Tax Issues in the South Pacific, edited by Xavier Cabannes): 157-178 (2015).

2 Vanuatu is a 'pure tax haven' that levies no income, capital gains, wealth, withholding, or inheritance taxes for individuals, trusts, or companies; instead indirect taxes such as value added taxes, excise and import duties are levied. A tax haven is a jurisdiction which allows residents or foreigners to minimise their tax payments. An offshore financial centre is a tax haven jurisdiction which has at least one significant institution primarily oriented toward accepting deposits and investment funds, and where intentional government policy is oriented toward attracting the business of foreigners by creating legal entities and structures, or facilitating immigration, naturalisation, residence, or the acquisition of passports to allow foreigners to minimise taxes, regulation, loss of assets, unwanted financial disclosure and forced disposition of property. All offshore financial centres are sovereignty businesses and all are tax havens. Not all tax havens are offshore financial centres (for example, Pitcairn Island is a tax haven, but not an offshore financial centre).

3 All dollar figures in this article are in United States dollars, unless otherwise indicated.

4 Global Times, 7/7/17:4.

5 Cointelegraph, 16,25/8/19; South China Morning Post, 10/7/19; Vanuatu Daily Post, 17/7/19.

6 Asia/Pacific Group on Money Laundering, Vanuatu—Anti-Money Laundering and Counter-Terrorism Financing Measures: Mutual Evaluation Report (APG, Bangkok, 2015); Reserve Bank of Vanuatu Quarterly Economic Review 1984-2018; Sol Picciotto, 'Vanuatu as a Tax Haven and Offshore Finance Centre', Report for the Tax Justice Network (2008), pp. 10, 12.

7 Godfrey Baldacchino, Island Enclaves (McGill-Queen's University Press, Montréal and Kingston, 2010).

8 Anthony van Fossen, Tax Havens and Sovereignty in the Pacific Islands (St. Lucia, University of Queensland Press, 2012).

9 Ibid, on the OFC subcultures of Vanuatu, the Cook Islands, and Samoa, as well as other types of OFC organisation—the isolate (such as in Nauru, Tonga and the Northern Marianas) and the foreign professional monopoly agency (such as in the Marshall Islands).

10 In June 2012 Bayer was appointed to the Board of Vanuatu's Reserve Bank, removed in March 2013, and reinstated in August 2013—amidst political controversy about his role there (Vanuatu Daily Post 12,18/6/12; 22,25/3/13; 21,28/10/13).

11 Clayton (Cy) B. Wentworth, a former California insurance executive who founded Investors' Trust, a general OFC services company in the New Hebrides-Vanuatu, was the country's flag of convenience's central promoter from its origins in 1981 to 24 December 1992, when Bayer displaced him as the monopoly operator of the flag of convenience ship register.

12 https://www.rnz.co.nz/international/pacific-news/139067/vanuatu-businessman-to-stand-trial-in-us-on-moneylaundering-charges; 04.02.2020.

13 https://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=10352838; 04.02.2020.

14 United States v. Bohn, US 6th Circuit 6/6/08; United States Attorney's Office, Memphis, Press Release 27/10/05; Vanuatu Daily Post 17/11/05, 12,15,24/6/06, 7/10/06, 1/11/06, 13,17/12/07; Vanuatu Independent 9/4/06, 18/2/07, 18/3/07, 13/12/07.

15 The statement was by Robb Evans, whose firm was receiver for $8 million of stolen funds which were transferred to European Bank in Port Vila. US House of Representatives, Offshore Banking, Corruption and the War on Terrorism (USGPO, Washington, DC, 2006), pp. 71,[68,70].

16 Republic of Vanuatu Official Gazette 6/11/12; Vanuatu Daily Post 29/12/12.

17 Vanuatu Daily Post, 4/9/19.

18 Bayer interests own PITCO.

19 https://www.bbc.com/news/world-asia-34600561; 04.02.2020.

20 Vanuatu Daily Post, 20,21/10/17, 29/10/19.

21 Australian Broadcasting Corporation News, 12/11/15; Australian, 5/9/15; Islands Business, 11/15; Kalosil v. Republic of Vanuatu, Vanuatu Court of Appeal, 20/11/15, 22/7/16, 7/4/17; PACNEWS, 14/10/15, 22/10/15, 22/11/15, 27/4/17; Pipite v. Public Prosecutor, Vanuatu Court of Appeal, 7/4/17, 16/11/18; Public Prosecutor v. Bayer, Vanuatu Supreme Court, 25/4/17 (where the $500,000 figure is cited); Public Prosecutor v. Kalosil, Vanuatu Supreme Court, 27/8/15, 2/9/15, 9/10/15, 7/12/15; Public Prosecutor v. Pipite, Vanuatu Supreme Court, 29/9/16, 13/6/18; Radio New Zealand International, 14/4/17; Vanuatu Daily Post 28/4/17; Vanuatu Independent, 29/4/17.

22 Vanuatu Daily Post, 3/22/13, 9/4/16, 13/9/16, , 1/10/16. 19/3/19; Vanuatu Independent, 3/12/16.

23 Justinas Šukys, Gytis Radzevičius, and Grigorij Bataščiuk, 'Identifying Optimal Tax Strategy for Vanuatu'. Summary Report. June. (Strategy Labs, Vilnius, Lithuania, 2016), p. 11.

24 International Monetary Fund, Vanuatu (IMF, Washington, DC, 2013), pp. 10-11. Six years later, in 2019, the IMF revised the figure down to 2.5%. International Monetary Fund, Vanuatu (IMF, Washington, DC, 2019), p. 14.

25 Vanuatu Daily Post, 23/6/16, 17/8/16, 24/9/16.

26 Vanuatu Daily Post, 3/8/16.

27 Vanuatu Daily Post, 14/10/16.

28 Vanuatu Daily Post, 24/9/16.

29 Vanuatu Independent, 10/12/16.

30 Šukys et al., above, n. 20.

31 Šukys et al., above, n. 20, Vanuatu Daily Post, 4/6/16, 26/10/16.

32 Vanuatu Independent, 17/12/16.

33 Vanuatu Daily Post, 27/5/17. In 2019 the Leaders Party MPs (who had crossed the floor to join the parliamentary opposition in November 2018) reiterated their strong antagonism to the introduction of income taxation. Vanuatu Daily Post, 3/5/19.

34 The Tax Administration Act No. 37 of 2018 requires issuing a unique Tax Identification Number to every taxpayer. It provides for third party reporting. It supports effective exchanges of information within the government and with foreign jurisdictions and tax administrations.

35 Vanuatu Daily Post, 6/1/18.

36 International Monetary Fund, Vanuatu (IMF, Washington DC, 2019), pp. 25-26; Vanuatu Ministry of Finance and Economic Management, Half-Year Economic and Fiscal Update, 31st July 2019, p. 14.

37 Asia/Pacific Group on Money Laundering, Vanuatu--Anti-Money Laundering and Counter-Terrorism Financing Measures: Mutual Evaluation Report (APG, Bangkok, 2015). For Vanuatu's passport and citizenship sales schemes, see Anthony van Fossen 'Citizenship for Sale: Passports of Convenience from Pacific Island Tax Havens' (2007) 45(2) Commonwealth and Comparative Politics 138-163 and Anthony van Fossen 'Passport Sales: How Island Microstates Use Strategic Management to Organise the New Economic Citizenship Industry' (2017) 13(1) Island Studies Journal 285-300.

38 The Asia/Pacific Group on Money Laundering details and criticises this lack of domestic support for its agenda., above n. 6.

39 Vanuatu Independent, 12/12/15, 26/11/16.

40 International Monetary Fund, Vanuatu (IMF, Washington DC, 2016), p. 18.

41 With the stated aim of enhancing international cooperation, The International Companies (Amendment) Act No. 14 repeals the section 125 secrecy provision, which prohibited disclosing beneficial ownership, identity of management and business and financial affairs of any international company. It imposes new obligations on international companies and their registered agents to acquire and maintain current information on the beneficial owners, nominators of nominee directors and nominee shareholders, members, proof of incorporation, and constitution--and threatens them with being eliminated from the register if they do not comply. It requires all bearer shares and bearer share warrants to be converted into registered shares and registered share warrants, respectively. The Company and Trust Services Providers (Amendment) Act No. 8 imposes new obligations on company and trust service providers to acquire and maintain current information on companies and on the beneficial owners, trustees and beneficiaries of trusts. A service provider must also reveal to finan-

cial and other institutions if it is acting as a trustee. New point of entry and ongoing requirements for fit and proper behaviour are imposed on company and trust service providers, with greater powers to cancel their licenses. The amendment gives the Vanuatu Financial Services Commission enhanced powers to gather and disclose a broader range of information, both domestically and internationally.

The International Banking (Amendment) Act No. 12 expands similar powers of the Reserve Bank of Vanuatu in relation to international banks registered in Vanuatu.

The Casino Control (Amendment) Act No. 13 drastically reduces the power of the Minister of Finance and Economic Management, making the Director of Customs the decision maker about casino licences, from applications to ongoing fit and proper tests—increasing penalties for non-compliance.

The Proceeds of Crime (Amendment) Act No. 9 alters the definition of money laundering and includes a foreign tax evasion offence as a predicate crime for money laundering prosecution in Vanuatu. It also allows the Police Commissioner to freeze accounts to prevent money movements before a restraining order can be obtained.

The Penal Control (Amendment) Act No. 10 allows prosecution in Vanuatu for laundering the proceeds of foreign tax evasion in Vanuatu. It criminalises fraudulent evasion of taxes, illicit arms trafficking (as does The Firearms (Amendment Act No. 18), and piracy of products (as does The Copyright and Related Rights (Amendment) Act No. 17) as predicate offences for money laundering prosecution.

The Dealers in Securities (Licensing) (Amendment) Act No. 11 creates new offences of insider trading and securities market manipulation. (Note: Vanuatu's Financial Intelligence Unit stated in early 2017 that it had received a greatly increased number of applications for securities dealership registrations, Vanuatu Daily Post, 11/1/17).

The United Nations Financial Sanctions Act No. 6 and The Counter Terrorism and Transnational Organised Crime (Amendment) Act No. 15 criminalise terrorist financing and targets financial sanctions against terrorism to be consistent with United Nations resolutions. They require Vanuatu to implement sanctions imposed by the United Nations in relation to terrorism, the financing of terrorism, the proliferation of weapons of mass destruction, the financing of this proliferation, and other issues of UN concern.

The Government (Amendment) Act No. 7 establishes the National Security Advisory Committee, bringing together a number of ministries and agencies to assist the Prime Minister on national security, particularly the implementation of The United Nations Financial Sanctions Act No. 6.

The Anti-Money Laundering and Counter-Terrorism Financing (Amendment) Act No. 16 increases penalties for all criminal money laundering and terrorism offences and attempts to make the penalties consistent with the crimes. It empowers the Vanuatu Financial Intelligence Unit to acquire and maintain current information on the owners, beneficial owners, controllers, managers and directors and conduct ongoing fit and proper checks for all reporting entities—with increased penalties for criminal offences. It expands the National Coordinating Committee on Anti-Money Laundering and Counter-Terrorism Financing and clarifies the Vanuatu Financial Intelligence Unit's supervisory functions for the purpose of increasing flows of financial information to domestic and foreign agencies.

42 FATF, 'Public Statement', Media Release, 23/6/17.

43 Vanuatu Daily Post, 22/12/17, 3/7/18, 6/8/18.

44 Asia/Pacific Group on Money Laundering, Mutual Evaluation of Vanuatu: 3rd Follow-Up Report (APG, Bangkok, 2018); Vanuatu Daily Post, 29/9/18.

45 Business News Americas, 28/6/17.

46 Global Forum on Transparency and Exchange of Information for Tax Purposes, Vanuatu (OECD, Paris, 2019).

47 Vanuatu Daily Post, 16, 21/3/19.

48 Asia/Pacific Group on Money Laundering, above, n. 6.

49 Economist Intelligence Unit—Views Wire, 16/5/16, p. 2.

50 Alberto Alesina and Enrico Spolaore, The Size of Nations (MIT Press, Cambridge, Massachusetts, 2003).

Vanuatu

PART 2: SECRECY SCORE

OWNERSHIP REGISTRATION

- 34 — 1. Banking Secrecy
- 100 — 2. Trust and Foundations Register
- 100 — 3. Recorded Company Ownership
- 50 — 4. Other Wealth Ownership
- 100 — 5. Limited Partnership Transparency

LEGAL ENTITY TRANSPARENCY

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

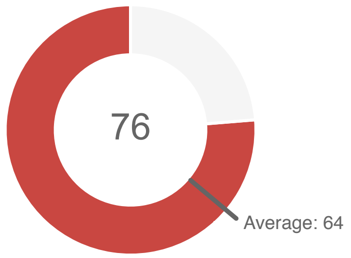
INTEGRITY OF TAX AND FINANCIAL REGULATION

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

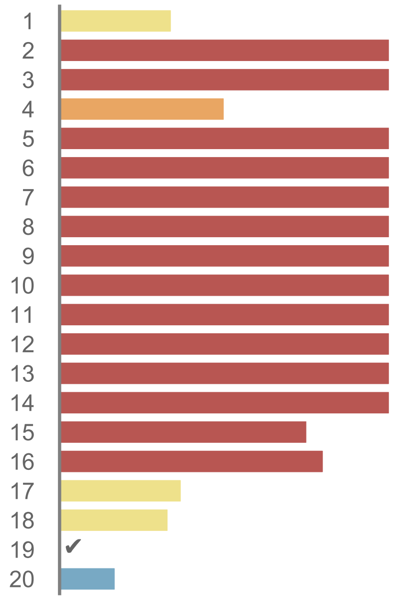
INTERNATIONAL STANDARDS AND COOPERATION

- 37 — 17. Anti-Money Laundering
- 33 — 18. Automatic Information Exchange
- 0 — 19. Bilateral Treaties
- 17 — 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.financialsecrecyindex.com/database.

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