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G8 Research Group  
at the Munk School of Global Affairs at Trinity College in the University of Toronto  
presents the

## **2013 Lough Erne G8 Summit Final Compliance Report**

18 June 2013 to 15 May 2014

Prepared by  
Enko Koceku, Laura Correa Ochoa, Guillaume Kishibe and Sarah Danruo Wang,  
with Caroline Bracht  
G8 Research Group, University of Toronto,  
and  
Mark Rakhmangulov, Andrey Shelepov and Andrei Sakharov  
National Research University Higher School of Economics International Organisations  
Research Institute (Moscow)

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[www.g8.utoronto.ca](http://www.g8.utoronto.ca) • [www.g8live.org](http://www.g8live.org)  
[g8@utoronto.ca](mailto:g8@utoronto.ca)

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## 7. Transparency: Corporate Transparency [87]

“[We will make a concerted and collective effort to] improve the transparency of companies.”

*2013 G8 Lough Erne Communiqué*

### Assessment:

Country	Lack of Compliance	Work in Progress	Full Compliance
Canada		0	
France			+1
Germany			+1
Italy			+1
Japan		0	
Russia			+1
United Kingdom			+1
United States			+1
European Union			+1
Average Score	+0.78		

### Background:

G7 members first addressed their international concerns regarding money laundering at the 1989 Paris Economic Summit. The summit addressed the need to produce economic growth and remove inefficiencies within the economy.<sup>436</sup> This included the recognition of new techniques used in worldwide financial activities, such as insider trading, which G7 members claimed, “could hamper the credibility of financial markets.”<sup>437</sup> Members further recognized that the regulations surrounding these activities varied greatly between the countries and addressed the need to strengthen these regulations.<sup>438</sup>

In order to target these inefficiencies and discourage black money, G7 delegates declared the need to: “Convene a financial action task force from Summit Participants and other countries interested in these problems.”<sup>439</sup> The mandate of the task force included assessing the results of international cooperation to prevent the utilization of the banking system and financial institutions for the purpose of money laundering.<sup>440</sup> It also called for additional preventive efforts, including the establishment of legal regulatory systems to enhance multilateral judicial assistance.<sup>441</sup>

This founded the Financial Action Task Force on Money Laundering (FATF), which was given the responsibility of: “examining money laundering techniques and trends, reviewing the action which had already been taken at a national or international level, and setting out the measures that still

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<sup>436</sup> Economic Declaration, G8 Information Centre (Toronto) 16 July 1989. Access Date: 03 December 2013. <http://www.g8.utoronto.ca/summit/1989paris/communique/index.html>.

<sup>437</sup> Economic Declaration, G8 Information Centre (Toronto) 16 July 1989. Access Date: 03 December 2013. <http://www.g8.utoronto.ca/summit/1989paris/communique/index.html>.

<sup>438</sup> Economic Declaration, G8 Information Centre (Toronto) 16 July 1989. Access Date: 03 December 2013. <http://www.g8.utoronto.ca/summit/1989paris/communique/index.html>.

<sup>439</sup> Economic Declaration, G8 Information Centre (Toronto) 16 July 1989. Access Date: 03 December 2013. <http://www.g8.utoronto.ca/summit/1989paris/communique/index.html>.

<sup>440</sup> Economic Declaration, G8 Information Centre (Toronto) 16 July 1989. Access Date: 03 December 2013. <http://www.g8.utoronto.ca/summit/1989paris/communique/index.html>.

<sup>441</sup> Economic Declaration, G8 Information Centre (Toronto) 16 July 1989. Access Date: 03 December 2013. <http://www.g8.utoronto.ca/summit/1989paris/communique/index.html>.

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needed to be taken to combat money laundering.”<sup>442</sup> The FATF currently produces annual reports and recommendations to increase the transparency of the financial system, in order to more easily detect criminal activity, and to provide countries with the capacity to take successful action against money launderers and terrorist financiers.<sup>443</sup>

This issue was addressed again at the 1994 G7 Summit, where “cooperation against transnational crime and money-laundering” was an explicit pillar in the communiqué. The communiqué stated: “We are alarmed by the growth of organized transnational crime, including money laundering, and by the use of illicit proceeds to take control of legitimate business. This is a world-wide problem with countries in transition increasingly targeted by criminal organisations. We are determined to strengthen international cooperation to address this situation.”<sup>444</sup> G7 members also recognized the achievements of the FATF and reaffirmed their support for the organization.<sup>445</sup>

### **Commitment Features:**

The commitment recognizes that “a lack of knowledge about who ultimately controls, owns and profits from companies and legal arrangements, including trusts, not only assists those who seek to evade tax, but also those who seek to launder the proceeds of crime, often across borders.”<sup>446</sup> It directly addresses the use of shell companies in facilitating illicit financial flows, through corruption, tax evasion and money laundering.<sup>447</sup> As such, the commitment forwards a “concerted and collective effort” to address these issues and to improve the transparency of companies and legal arrangements.<sup>448</sup>

Through these means, the commitment aims to: “improve the investment climate; ease the security of doing business and tackle corruption and bribery.”<sup>449</sup> It is noted in the communiqué that compliance with this commitment will support law enforcement efforts to: “pursue criminal networks, enforce sanctions, and identify and recover stolen assets.”<sup>450</sup>

The commitment also includes an agreement to publish national Action Plans based on common principles to prevent the misuse of companies and legal arrangements.<sup>451</sup> This requires companies “to obtain and hold information on their beneficial ownership, and to ensure that this information is

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<sup>442</sup> History of the FATF, Financial Action Task Force (Paris) 2013. Access Date: 03 December 2013. <http://www.fatf-gafi.org/pages/aboutus/historyofthefatf/>.

<sup>443</sup> An introduction to the FATF and its work, Financial Action Task Force (Paris) 2010. Access Date: 03 December 2013. <http://www.fatf-gafi.org/media/fatf/documents/brochuresannualreports/Introduction%20to%20the%20FATF.pdf>.

<sup>444</sup> Summit Communiqué, G8 Information Centre (Toronto) 10 July 1994. Access Date: 03 December 2013. <http://www.g8.utoronto.ca/summit/1994naples/communique/crime.html>.

<sup>445</sup> Summit Communiqué, G8 Information Centre (Toronto) 10 July 1994. Access Date: 03 December 2013. <http://www.g8.utoronto.ca/summit/1994naples/communique/crime.html>.

<sup>446</sup> G8 Lough Erne Leaders Communiqué, G8 Information Centre (Toronto) 18 June 2013. Access Date: 03 December 2013. <http://www.g8.utoronto.ca/summit/2013lougherne/lough-erne-communique.html>.

<sup>447</sup> G8 Lough Erne Leaders Communiqué, G8 Information Centre (Toronto) 18 June 2013. Access Date: 03 December 2013. <http://www.g8.utoronto.ca/summit/2013lougherne/lough-erne-communique.html>.

<sup>448</sup> G8 Lough Erne Leaders Communiqué, G8 Information Centre (Toronto) 18 June 2013. Access Date: 03 December 2013. <http://www.g8.utoronto.ca/summit/2013lougherne/lough-erne-communique.html>.

<sup>449</sup> G8 Lough Erne Leaders Communiqué, G8 Information Centre (Toronto) 18 June 2013. Access Date: 03 December 2013. <http://www.g8.utoronto.ca/summit/2013lougherne/lough-erne-communique.html>.

<sup>450</sup> G8 Lough Erne Leaders Communiqué, G8 Information Centre (Toronto) 18 June 2013. Access Date: 03 December 2013. <http://www.g8.utoronto.ca/summit/2013lougherne/lough-erne-communique.html>.

<sup>451</sup> Annex 1: G8 Action Plan Principles to prevent the misuse of companies and legal arrangements. G8 Lough Erne Leaders Communiqué, G8 Information Centre (Toronto) 18 June 2013. Access Date: 03 December 2013. <http://www.g8.utoronto.ca/summit/2013lougherne/lough-erne-communique.html>.

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available in a timely fashion to law enforcement, tax collection agencies and other relevant authorities as appropriate, including financial intelligence units.”<sup>452</sup>

**Scoring Guidelines:**

-1	Member does not establish an Action Plan to ensure that companies’ information is available to relevant authorities as appropriate.
0	Member establishes an Action Plan to ensure that companies’ information is available to relevant authorities as appropriate BUT does not start to implement it.
+1	Member establishes an Action Plan to ensure that companies’ information is available to relevant authorities as appropriate and begin implementation in earnest.

*Lead Analyst: Sarah Burton*

**Canada: 0**

Canada has partially complied with its commitment to improve corporate transparency, enforcement thereof, and to work alongside the Financial Action Task Force (FATF).

On 12 June 2013, in advance of the summit, Prime Minister Stephen Harper announced the adoption of new mandatory standards for reporting payments made to foreign and domestic governments by energy and mining corporations.<sup>453</sup> The Government of Canada further announced that in the subsequent months it “will consult closely with provincial and territorial counterparts, First Nations and Aboriginal groups, industry and civil society organizations on how to establish the most effective regime.”<sup>454</sup>

Accordingly, on 18 June 2013, Prime Minister Steven Harper announced Canada’s G8 Action Plan on Transparency of Corporations and Trusts, which builds on existing regulations. The plan identified three key areas: (1) Improve money laundering and terrorist finance risk assessment approach; (2) implement amendments to the “Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations” that will come into force in early 2014, and; (3) consulting publicly on the issue of corporate transparency with a focus on bearer shares and the ability of competent authorities to access information on beneficial ownership.<sup>455</sup>

At the opening address at the Money Laundering in Canada Conference, held on 30 September 2013, the Director of the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC), Gérald Cossette notes that that the Centre has provided financial intelligence to assist with money laundering investigations “terrorist activity financing, and threats to the security of Canada.” Cossette also emphasized that the FINTRAC continues to work in conjunction with the “Canadian

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<sup>452</sup> G8 Lough Erne Leaders Communiqué, G8 Research Group 18 June 2013. Access Date: 03 December 2013. <http://www.g8.utoronto.ca/summit/2013lougherne/lough-erne-communique.html>.

<sup>453</sup> Harper Announces New Transparency Rules for Energy, Mining, CBC News, 12 June 2013. Access Date: 28 December 2013. <http://www.cbc.ca/news/politics/harper-announces-new-transparency-rules-for-energy-mining-1.1305236>.

<sup>454</sup> Canada Commits to Enhancing Transparency in the Extractive Sector, Office of the Prime Minister (Ottawa), 12 June 2013. Access Date: 8 January 2014. <http://pm.gc.ca/eng/news/2013/06/12/canada-commits-enhancing-transparency-extractive-sector>

<sup>455</sup> PM Releases Canada’s G-8 Action Plan on Transparency of Corporations and Trusts, Office of the Prime Minister (Ottawa) 18 June 2013. Access Date: 28 December 2013. <http://pm.gc.ca/eng/news/2013/06/18/pm-releases-canadas-g-8-action-plan-transparency-corporations-and-trusts>.

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Association of Chiefs of Police and its committees dealing with organized crime and national security, as well as the Canadian Integrated Response to Organized Crime committee.”<sup>456</sup>

Moreover, at the Money Laundering Conference in Vancouver FINTRAC announced “new criteria for the public naming of entities that receive administrative monetary penalties for non-compliance with Canada’s Proceed of Crime (Money Laundering) and Terrorist Financing Act (PCMLTFA).”<sup>457</sup> The aim of these changes is to ensure that “businesses meet their legal obligations and provide the data we need to assist our regime partners in protecting Canada and Canadians.”<sup>458</sup> Going forward business will only be named when (1) a “person or entity has committed a serious violation”; (2) the base penalty amount is equal to, or greater than CAN250,000; and/or (3) when “we find repeat significant non-compliance on the part of the person or entity.”<sup>459</sup>

Furthermore, on 4 November 2013 reaffirmed its support of FATF “efforts to combat money laundering and terrorist financing.” In particular, FINTRAC reiterated “to all reporting entities subject to the requirements of the Proceeds of Crime (Money Laundering) and Terrorist Financing Act the risks of doing business with individuals and entities based in, or connected to, Iran and the Democratic People’s Republic of Korea.” It also advised that special attention and reporting should be given to transactions related to Algeria, Burma (Myanmar), Ecuador, Ethiopia, Indonesia, Kenya, Pakistan, Syria, Tanzania, Turkey, and Yemen.<sup>460</sup>

In addition, on 12 December 2013 the Canadian Government “launched a review of the Corporate Social Responsibility (CSR) Strategy for the Extractive Sector with a round-table session in Ottawa with civil society organizations.” These consultations are part of a five-year project that will help the Canadian Government “develop a plan to better assist Canadian extractive companies operating abroad with their responsible business practices.” Canadians can submit comments on the strategy through the CSR website. The objective of the review includes creating job opportunities and enhances “Canada’s strong reputation as a global leader in mining.”<sup>461</sup>

On 3 March 2014, Natural Resources Minister, Joe Oliver, announced Canada is upholding its commitment to “to ensure mining companies disclose payments made to governments both at home and abroad.” Under this initiative Canadian extractive companies are to report payments over CAN100,000 made domestically and internationally. The reports are to be posted in company

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<sup>456</sup> Opening Address by Director Gérald Cossette Financial Transactions and Reports Analysis Centre of Canada at the Money Laundering in Canada Conference, Financial Transactions and Reports Analysis Centre of Canada (Ottawa) 30 September 2013. Access Date: 8 January 2014. <http://www.fintrac-canafe.gc.ca/new-neuf/ps-pa/2013-09-30-eng.asp>

<sup>457</sup> FINTRAC Announces Changes to its Administrative Monetary Penalties Program, Financial Transactions and Reports Analysis Centre of Canada (Ottawa) 30 September 2013. Access Date: 8 January 2014. <http://www.fintrac-canafe.gc.ca/new-neuf/nr/2013-09-30a-eng.asp>

<sup>458</sup> Opening Address by Director Gérald Cossette Financial Transactions and Reports Analysis Centre of Canada at the Money Laundering in Canada Conference, Financial Transactions and Reports Analysis Centre of Canada (Ottawa) 30 September 2013. Access Date: 8 January 2014. <http://www.fintrac-canafe.gc.ca/new-neuf/ps-pa/2013-09-30-eng.asp>

<sup>459</sup> FINTRAC Announces Changes to its Administrative Monetary Penalties Program, Financial Transactions and Reports Analysis Centre of Canada (Ottawa) 30 September 2013. Access Date: 8 January 2014. <http://www.fintrac-canafe.gc.ca/new-neuf/nr/2013-09-30a-eng.asp>

<sup>460</sup> FINTRAC Advisory, Financial Transactions Related to Countries Identified by the Financial Action Task Force (FATF), Financial Transactions and Reports Analysis Centre of Canada (Ottawa) 4 November 2013. Access Date: 8 January 2014. <http://www.fintrac-canafe.gc.ca/new-neuf/avs/2013-11-04-eng.asp>

<sup>461</sup> Harper Government Launches Consultations to Review Corporate Social Responsibility Strategy for Extractive Sector, Foreign Affairs, Trade and Development Canada (Ottawa) 12 December 2013. Access Date 8 January 2014. <http://www.international.gc.ca/media/comm/news-communiqués/2013/12/12c.aspx?lang=eng>

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websites rather than in a central database.<sup>462</sup> According to Joe Oliver, “These new standards will help maintain Canada’s leadership in responsible resource development.”<sup>463</sup> Critics have however noted that a central database will promote more transparency since all the reports would be found in a single repository, making it easier for the public to track.<sup>464</sup>

Although Canada has created an Action Plan to promote corporate transparency, continues to support law enforcement bodies and has reiterated its support for FATF initiatives, some of the Plan’s most concrete components have yet to be implemented. Therefore, Canada has been awarded a partial score of 0.

*Analyst: Laura Correa Ochoa and Colin Campbell*

## **France: +1**

France is in full compliance with its commitment to increase transparency. It has begun to offer protection for whistle blowers,<sup>465</sup> release action plans,<sup>466</sup> and open-source government documents.<sup>467</sup>

Since the June 2013 Lough Erne G8 Summit, France released an Action Plan to increase transparency in government spending.<sup>468</sup> This plan establishes context for the Open Government Data policy, identifies future challenges, and marks priorities for further development.<sup>469</sup> The plan especially stresses openness as a means of encouraging innovation and combatting corruption in France, and was concurrent with the release of France’s new “Open Data Plan.”<sup>470</sup> The Open Data Plan outlined the context and importance of the new Open Government Data policy, listed prominent challenges to open data implementation, and highlighted future priorities.<sup>471</sup>

In October of 2013, France created OpenDataFrance, an organization run by government organization Etalab with goals including: greater access to knowledge; transparency of public action; development of new services to make non-accessible data accessible; and improvement of the public

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<sup>462</sup> Joe Oliver wants miners to disclose foreign payments, CBC News (Ottawa) 3 March 2014. Access Date: 14 May 2014. <http://www.cbc.ca/news/politics/joe-oliver-wants-miners-to-disclose-foreign-payments-1.2557564>

<sup>463</sup> Mining transparency in order, The Toronto Star (Toronto) 7 March 2014. Access Date: 14 May 2014. [http://www.thestar.com/opinion/letters\\_to\\_the\\_editors/2014/03/07/mining\\_transparency\\_in\\_order.html](http://www.thestar.com/opinion/letters_to_the_editors/2014/03/07/mining_transparency_in_order.html)

<sup>464</sup> Canada falls short on transparency in mining industry, The Toronto Star (Toronto) 5 March 2014. Access Date: 14 May 2014. [http://www.thestar.com/opinion/commentary/2014/03/05/canada\\_falls\\_short\\_on\\_transparency\\_in\\_mining\\_industry.html](http://www.thestar.com/opinion/commentary/2014/03/05/canada_falls_short_on_transparency_in_mining_industry.html)

<sup>465</sup> Encadrement du Lobbying, Transparency International France (Paris) 2013. Access Date: 18 December 2013. [http://www.transparency-france.org/ewb\\_pages/div/Encadrement\\_du\\_lobbying.php](http://www.transparency-france.org/ewb_pages/div/Encadrement_du_lobbying.php)

<sup>466</sup> Plan d’action G8 sur l’ouverture des données publiques, Office of the Prime Minister (Paris) 11 July 2013. Access Date: 18 December 2013. <http://www.gouvernement.fr/gouvernement/plan-d-action-g8-sur-l-ouverture-des-donnees-publiques>

<sup>467</sup> Plan d’action G8 sur l’ouverture des données publiques, Office of the Prime Minister (Paris) 11 July 2013. Access Date: 18 December 2013. <http://www.gouvernement.fr/gouvernement/plan-d-action-g8-sur-l-ouverture-des-donnees-publiques>

<sup>468</sup> Plan d’action G8 sur l’ouverture des données publiques, Office of the Prime Minister (Paris) 11 July 2013. Access Date: 18 December 2013. <http://www.gouvernement.fr/gouvernement/plan-d-action-g8-sur-l-ouverture-des-donnees-publiques>

<sup>469</sup> Action Plan for France, Office of the Prime Minister (Paris) 11 July 2013. Access Date: 18 December 2013. [http://www.gouvernement.fr/sites/default/files/fichiers\\_joints/plan\\_dactions\\_-\\_version\\_anglaise.pdf](http://www.gouvernement.fr/sites/default/files/fichiers_joints/plan_dactions_-_version_anglaise.pdf)

<sup>470</sup> Plan d’action G8 sur l’ouverture des données publiques, Office of the Prime Minister (Paris) 11 July 2013. Access Date: 18 December 2013. <http://www.gouvernement.fr/gouvernement/plan-d-action-g8-sur-l-ouverture-des-donnees-publiques>

<sup>471</sup> Plan d’action G8 sur l’ouverture des données publiques, Office of the Prime Minister (Paris) 11 July 2013. Access Date: 18 December 2013. <http://www.gouvernement.fr/gouvernement/plan-d-action-g8-sur-l-ouverture-des-donnees-publiques>

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domain.<sup>472</sup> The website was updated on 18 December 2013 in order to increase public input and collaboration, and make the database easier to navigate and search.<sup>473</sup>

Also on 18 December 2013, the government announced the release of data from organizations including the Directorate of Legal and Administrative Information (DILA), the Commission of Access to Administrative Documents (CADA), and the financial records of local authorities.<sup>474</sup>

On 26 February 2014, following a senate discussion, France released an assessment of OpenDataFrance in the context of France's commitment to transparency.<sup>475</sup> The assessment provided a detailed account of OpenDataFrance's goals and contributions to transparency, pointed out still-standing transparency issues, and outlined possible changes to the organization to increase transparency.<sup>476</sup>

Thus, France is awarded a score +1 for creating an Action Plan to promote transparency and beginning implementation.

*Analyst: Annie Rose Webb*

### **Germany: +1**

Germany is in full compliance with its commitment to improve the transparency of companies. It created an action plan following FATF standards and supported efforts to increase transparency internally and externally.

Germany set up an Action Plan to prevent misuse of legal persons and legal arrangements following the Lough Erne G8 Summit. The plan focused on transparency regarding the beneficial ownership and control of legal persons and arrangements. The efforts aimed at contributing to an effective anti-money laundering and counter-terrorist financing (AML/CFT) system, as well as to fight against corruption and tax evasion in addition to improving USD recovery.<sup>477</sup>

The Action Plan consisted of several items, including: (1) having companies know their beneficial owners, "companies will be able to deliver on request adequate, accurate and current information on their beneficial owners"<sup>478</sup>; (2) the ensuring of timely access to beneficial ownership information; (3) the carrying out of national risk assessment, such as being able to, "identify, assess and understand

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<sup>472</sup> FAQ, Opendata France (Paris) 2013. Access Date: 9 April 2014. <http://wiki.data.gouv.fr/wiki/FAQ>.

<sup>473</sup> Nouvelle version de data.gouv.fr et libération de la DILA : un nouveau souffle pour l'OpenData gouvernemental?, Regards Citoyens (Toulouse) 18 December 2013. Access Date: 16 April 2014. <http://www.regardscitoyens.org/nouvelle-version-de-data-gouv-fr-et-liberation-de-la-dila-un-nouveau-souffle-pour-lopendata-gouvernemental/>.

<sup>474</sup> Nouvelle version de data.gouv.fr et libération de la DILA : un nouveau souffle pour l'OpenData gouvernemental?, Regards Citoyens (Toulouse) 18 December 2013. Access Date: 16 April 2014. <http://www.regardscitoyens.org/nouvelle-version-de-data-gouv-fr-et-liberation-de-la-dila-un-nouveau-souffle-pour-lopendata-gouvernemental/>.

<sup>475</sup> Audition Opendata Sénat (13 mars 2014), Opendata France (Paris) 27 March 2014. <http://opendatafrance.net/audition-opendata-senat-13-mars-2014/>.

<sup>476</sup> A l'attention de l'association Opendata France, French Republic (Paris) 26 February 2014. Access Date: 9 April 2014. [http://opendatafrance.net/wp-content/uploads/2014/03/2014\\_44-questionnaire-OPENDATAFRANCE.pdf](http://opendatafrance.net/wp-content/uploads/2014/03/2014_44-questionnaire-OPENDATAFRANCE.pdf).

<sup>477</sup> Germany's Action Plan to prevent the misuse of legal persons and legal arrangements, German Federal Government (Berlin) June 2013. Access Date: 31 December 2013. [http://www.bundesregierung.de/Content/DE/StatischeSeiten/Breg/G8G20/Anlagen/g8-lough-erne-deutscher-aktionsplan.pdf?\\_\\_blob=publicationFile&v=2](http://www.bundesregierung.de/Content/DE/StatischeSeiten/Breg/G8G20/Anlagen/g8-lough-erne-deutscher-aktionsplan.pdf?__blob=publicationFile&v=2).

<sup>478</sup> Germany's Action Plan to prevent the misuse of legal persons and legal arrangements, German Federal Government (Berlin) June 2013. Access Date: 31 December 2013. [http://www.bundesregierung.de/Content/DE/StatischeSeiten/Breg/G8G20/Anlagen/g8-lough-erne-deutscher-aktionsplan.pdf?\\_\\_blob=publicationFile&v=2](http://www.bundesregierung.de/Content/DE/StatischeSeiten/Breg/G8G20/Anlagen/g8-lough-erne-deutscher-aktionsplan.pdf?__blob=publicationFile&v=2).

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the money laundering and terrorist financing risk it faces”<sup>479</sup>; (4) the prevention of misuse of legal arrangements; (5) the adequate supervision of obliged entities for compliance with their AML/CFT requirements on beneficial ownership; (6) the application of effective, proportionate, and dissuasive sanctions; and (7) the provision of international cooperation.<sup>480</sup>

Included in the Action Plan is a survey on the extent of money laundering within Germany and on the risks of money laundering in individual business sectors, expected to be finalized by the end of 2014.<sup>481</sup> Germany also called for a stronger involvement of the European Commission and better coordination among member states regarding the appropriate risk-management policies based on supranational and national risk assessments. This effort aims to suppress cross-border terrorist financing through money laundering networks.<sup>482</sup> As reported by Chancellor Angela Merkel during the G8 Summit, “The communiqué of the G8 states will make it quite clear that there is to be extensive data and information sharing on the basis of the Foreign Account Tax Compliance Act (FATCA) in an effort to tackle tax evasion.”<sup>483</sup>

Moreover, on 27 November 2013, Colombia, Greece, Iceland, Liechtenstein, Luxembourg, and Malta joined the initiative proposed by Germany, France, Italy, Spain, and the UK, to share tax information automatically. In a joint statement, the finance ministers of the member countries stated that this new global standard will “mark a step change in our ability to clamp down on tax evasion.”<sup>484</sup> Furthermore, the joining countries, “have recognised that those jurisdictions which will prosper in the future will be those which embrace tax transparency and work cooperatively to tackle tax evasion.”<sup>485</sup>

On 10 April 2014, during his speech on “Boosting tax revenue, maintaining competitiveness,” Algirdas Šemeta, European Commissioner responsible for Taxation and Customs union, Statistics, Audit, and Anti-fraud, emphasized France and Germany’s joint effort in the coordination of their respective corporate tax regimes: “If well framed in a European approach, this could speed up the

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<sup>479</sup> Germany’s Action Plan to prevent the misuse of legal persons and legal arrangements, German Federal Government (Berlin) June 2013. Access Date: 31 December 2013.

[http://www.bundesregierung.de/Content/DE/StatischeSeiten/Breg/G8G20/Anlagen/g8-lough-erne-deutscher-aktionsplan.pdf?\\_\\_blob=publicationFile&v=2](http://www.bundesregierung.de/Content/DE/StatischeSeiten/Breg/G8G20/Anlagen/g8-lough-erne-deutscher-aktionsplan.pdf?__blob=publicationFile&v=2).

<sup>480</sup> Germany’s Action Plan to prevent the misuse of legal persons and legal arrangements, German Federal Government (Berlin) June 2013. Access Date: 31 December 2013.

[http://www.bundesregierung.de/Content/DE/StatischeSeiten/Breg/G8G20/Anlagen/g8-lough-erne-deutscher-aktionsplan.pdf?\\_\\_blob=publicationFile&v=2](http://www.bundesregierung.de/Content/DE/StatischeSeiten/Breg/G8G20/Anlagen/g8-lough-erne-deutscher-aktionsplan.pdf?__blob=publicationFile&v=2).

<sup>481</sup> Germany’s Action Plan to prevent the misuse of legal persons and legal arrangements, German Federal Government (Berlin) June 2013. Access Date: 31 December 2013.

[http://www.bundesregierung.de/Content/DE/StatischeSeiten/Breg/G8G20/Anlagen/g8-lough-erne-deutscher-aktionsplan.pdf?\\_\\_blob=publicationFile&v=2](http://www.bundesregierung.de/Content/DE/StatischeSeiten/Breg/G8G20/Anlagen/g8-lough-erne-deutscher-aktionsplan.pdf?__blob=publicationFile&v=2).

<sup>482</sup> Germany’s Action Plan to prevent the misuse of legal persons and legal arrangements, German Federal Government (Berlin) June 2013. Access Date: 31 December 2013.

[http://www.bundesregierung.de/Content/DE/StatischeSeiten/Breg/G8G20/Anlagen/g8-lough-erne-deutscher-aktionsplan.pdf?\\_\\_blob=publicationFile&v=2](http://www.bundesregierung.de/Content/DE/StatischeSeiten/Breg/G8G20/Anlagen/g8-lough-erne-deutscher-aktionsplan.pdf?__blob=publicationFile&v=2).

<sup>483</sup> Pulling together to clamp down on tax evasion, German Federal Government (Berlin) 18 June 2013. Access Date: 31 December 2013. <http://www.bundesregierung.de/ContentArchiv/EN/Archiv17/Reiseberichte/2013/2013-06-17-g8-lough-erne.html>.

<sup>484</sup> Sharing tax information: Joint statement by the finance ministers of France, Germany, Italy, Spain and the UK, German Federal Ministry of Finance (Berlin) 28 November 2013. Access Date: 31 December 2013.

<http://www.bundesfinanzministerium.de/Content/EN/Pressemitteilungen/2013/2013-11-28-joint-statement-g5.html>.

<sup>485</sup> Sharing tax information: Joint statement by the finance ministers of France, Germany, Italy, Spain and the UK, German Federal Ministry of Finance (Berlin) 28 November 2013. Access Date: 31 December 2013. <http://www.bundesfinanzministerium.de/Content/EN/Pressemitteilungen/2013/2013-11-28-joint-statement-g5.html>.

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progress towards an agreement on the EU directive.”<sup>486</sup> According to him, these measures, along with G20’s backing of a new standard of automatic exchange of information, will bring “unprecedented transparency to taxation worldwide.”<sup>487</sup>

Therefore Germany has received a score of +1 for its effort to ensure transparency of companies and for the creation of an action plan following FATF standards and recommendations.

*Analyst: Artur Pereira*

### **Italy: +1**

Italy is in full compliance with its commitment to make a concerted and collective effort to improve the transparency of companies.

On 16 July 2013, the Italian government announced their commitment to combat tax evasion and promote transparency in the ownership of companies and trusts.<sup>488</sup> The proposed actions follow the Action Plan established at the G8 Summit during June 2013. The Action Plan is in accordance with the FATF standards. The reforms are aimed at ensuring that the information regarding the ownership and control of companies, other legal entities, and trusts is available and fully transparent.<sup>489</sup>

The actions include: (1) the creation of Italy’s National Risk Assessment on Money Laundering and Terrorist Financing, in accordance with FATF Recommendation,<sup>490</sup> by the end of 2014; (2) the adoption of “legislative measures to ensure that companies know who owns and controls them and their beneficial ownership”<sup>491</sup>; (3) the adoption of “legislation to ensure that the trustees of trusts identify the beneficiaries of their trusts and disclose this information to competent authorities and obliged entities”<sup>492</sup>; (4) the establishment of sanctions under the Legislative Decree n.231/01, enacted in 2001 in compliance with EU legislation principles on the prevention of corporate crimes and

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<sup>486</sup> “Boosting tax revenue, maintaining competitiveness”, European Union - Press Release (Paris) 10 April 2014. Access Date: 17 April 2014. [http://europa.eu/rapid/press-release\\_SPEECH-14-322\\_en.htm](http://europa.eu/rapid/press-release_SPEECH-14-322_en.htm).

<sup>487</sup> “Boosting tax revenue, maintaining competitiveness”, European Union - Press Release (Paris) 10 April 2014. Access Date: 17 April 2014. [http://europa.eu/rapid/press-release\\_SPEECH-14-322\\_en.htm](http://europa.eu/rapid/press-release_SPEECH-14-322_en.htm).

<sup>488</sup> Italy’s Action Plan to enhance transparency and prevent the misuse of companies and trusts, Ministero dell’Economia e delle Finanze (Rome) 16 July 2013. Access Date: 13 December 2013. [http://www.mef.gov.it/ufficio-stampa/comunicati/2013/documenti/Italyxs\\_Action\\_Plan\\_to\\_enhance\\_transparency\\_and\\_prevent\\_the\\_misuse\\_of\\_companies\\_and\\_trusts\\_-\\_Allegato\\_al\\_comunicato\\_nx\\_97.pdf](http://www.mef.gov.it/ufficio-stampa/comunicati/2013/documenti/Italyxs_Action_Plan_to_enhance_transparency_and_prevent_the_misuse_of_companies_and_trusts_-_Allegato_al_comunicato_nx_97.pdf).

<sup>489</sup> Italy’s Action Plan to enhance transparency and prevent the misuse of companies and trusts, Ministero dell’Economia e delle Finanze (Rome) 16 July 2013. Access Date: 13 December 2013. [http://www.mef.gov.it/ufficio-stampa/comunicati/2013/documenti/Italyxs\\_Action\\_Plan\\_to\\_enhance\\_transparency\\_and\\_prevent\\_the\\_misuse\\_of\\_companies\\_and\\_trusts\\_-\\_Allegato\\_al\\_comunicato\\_nx\\_97.pdf](http://www.mef.gov.it/ufficio-stampa/comunicati/2013/documenti/Italyxs_Action_Plan_to_enhance_transparency_and_prevent_the_misuse_of_companies_and_trusts_-_Allegato_al_comunicato_nx_97.pdf).

<sup>490</sup> Italy’s Action Plan to enhance transparency and prevent the misuse of companies and trusts, Ministero dell’Economia e delle Finanze (Rome) 16 July 2013. Access Date: 13 December 2013. [http://www.mef.gov.it/ufficio-stampa/comunicati/2013/documenti/Italyxs\\_Action\\_Plan\\_to\\_enhance\\_transparency\\_and\\_prevent\\_the\\_misuse\\_of\\_companies\\_and\\_trusts\\_-\\_Allegato\\_al\\_comunicato\\_nx\\_97.pdf](http://www.mef.gov.it/ufficio-stampa/comunicati/2013/documenti/Italyxs_Action_Plan_to_enhance_transparency_and_prevent_the_misuse_of_companies_and_trusts_-_Allegato_al_comunicato_nx_97.pdf).

<sup>491</sup> Italy’s Action Plan to enhance transparency and prevent the misuse of companies and trusts, Ministero dell’Economia e delle Finanze (Rome) 16 July 2013. Access Date: 13 December 2013. [http://www.mef.gov.it/ufficio-stampa/comunicati/2013/documenti/Italyxs\\_Action\\_Plan\\_to\\_enhance\\_transparency\\_and\\_prevent\\_the\\_misuse\\_of\\_companies\\_and\\_trusts\\_-\\_Allegato\\_al\\_comunicato\\_nx\\_97.pdf](http://www.mef.gov.it/ufficio-stampa/comunicati/2013/documenti/Italyxs_Action_Plan_to_enhance_transparency_and_prevent_the_misuse_of_companies_and_trusts_-_Allegato_al_comunicato_nx_97.pdf).

<sup>492</sup> Italy’s Action Plan to enhance transparency and prevent the misuse of companies and trusts, Ministero dell’Economia e delle Finanze (Rome) 16 July 2013. Access Date: 13 December 2013. [http://www.mef.gov.it/ufficio-stampa/comunicati/2013/documenti/Italyxs\\_Action\\_Plan\\_to\\_enhance\\_transparency\\_and\\_prevent\\_the\\_misuse\\_of\\_companies\\_and\\_trusts\\_-\\_Allegato\\_al\\_comunicato\\_nx\\_97.pdf](http://www.mef.gov.it/ufficio-stampa/comunicati/2013/documenti/Italyxs_Action_Plan_to_enhance_transparency_and_prevent_the_misuse_of_companies_and_trusts_-_Allegato_al_comunicato_nx_97.pdf).

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assessment of companies' liability,<sup>493</sup> to companies and trustees that are not compliant with the new transparency obligations; (5) the strengthening of authorities' oversight<sup>494</sup>; and (6) the promotion of "international cooperation on exchange for basic and beneficial ownership information on companies, trustees, and other legal entities."<sup>495</sup>

Furthermore, on 12 July 2013, Italian police arrested seven people suspected of rigging lucrative contracts for a multi-billion euro project.<sup>496</sup> The effort was aimed at dismantling tax evasion schemes and illegal company favouring.

During July 2013, the Italian police dismantled a EUR 1 billion tax evasion ring. The system involved approximately 1,500 clients and is estimated to have been operating since 2000.<sup>497</sup>

In the continued effort to pursue these illegal networks, Apple was investigated in Italy for allegedly hiding EUR 1 billion from local tax authorities, EUR 206 million in 2010 and EUR 853 million in 2011. In June, fashion designers Domenico Dolce and Stefano Gabbana were sentenced with a fine and a 20-month suspended prison sentence for hiding hundreds of millions of euros in unpaid taxes.<sup>498</sup>

On 3 October 2013, Italy's Financial Police seized EUR 15 million from Bank of America Merrill Lynch in Milan. This action was part of a probe into alleged fraud, using derivative contracts, against the city council of Verona.<sup>499</sup> Additionally, on 27 November 2013, Silvio Berlusconi, former Italian prime minister, was expelled by the Italian Senate over his tax fraud conviction.<sup>500</sup>

On 30 January 2014, Italian Economy Minister Fabrizio Saccomanni met with Finance Minister Eveline Widmer-Schlumpf in an attempt of "reaching a satisfactory solution for both sides"<sup>501</sup> regarding disclosing Italian savers' secret holdings.<sup>502</sup> In 2013, Italy's finance police discovered more

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<sup>493</sup> Brief Summary of Italian Legislative Decree n. 231/2001, Tenova Group (Milan). Access Date: 27 December 2013. [http://www.tenovagroup.com/pdf/corporate\\_governance/brief\\_summary\\_italian\\_legislative\\_decree\\_231.pdf](http://www.tenovagroup.com/pdf/corporate_governance/brief_summary_italian_legislative_decree_231.pdf).

<sup>494</sup> Italy's Action Plan to enhance transparency and prevent the misuse of companies and trusts, Ministero dell'Economia e delle Finanze (Rome) 16 July 2013. Access Date: 13 December 2013. [http://www.mef.gov.it/ufficio-stampa/comunicati/2013/documenti/Italyxs\\_Action\\_Plan\\_to\\_enhance\\_transparency\\_and\\_prevent\\_the\\_misuse\\_of\\_companies\\_and\\_trusts\\_-\\_Allegato\\_al\\_comunicato\\_nx\\_97.pdf](http://www.mef.gov.it/ufficio-stampa/comunicati/2013/documenti/Italyxs_Action_Plan_to_enhance_transparency_and_prevent_the_misuse_of_companies_and_trusts_-_Allegato_al_comunicato_nx_97.pdf).

<sup>495</sup> Italy's Action Plan to enhance transparency and prevent the misuse of companies and trusts, Ministero dell'Economia e delle Finanze (Rome) 16 July 2013. Access Date: 13 December 2013. [http://www.mef.gov.it/ufficio-stampa/comunicati/2013/documenti/Italyxs\\_Action\\_Plan\\_to\\_enhance\\_transparency\\_and\\_prevent\\_the\\_misuse\\_of\\_companies\\_and\\_trusts\\_-\\_Allegato\\_al\\_comunicato\\_nx\\_97.pdf](http://www.mef.gov.it/ufficio-stampa/comunicati/2013/documenti/Italyxs_Action_Plan_to_enhance_transparency_and_prevent_the_misuse_of_companies_and_trusts_-_Allegato_al_comunicato_nx_97.pdf).

<sup>496</sup> Venice flood barrier executives arrested in massive fraud swoop, Reuters UK Edition (Rome) 12 July 2013. Access Date: 13 December 2013 <http://uk.reuters.com/article/2013/07/12/uk-italy-venice-fraud-idUKBRE96B0E220130712>.

<sup>497</sup> Italian police crack billion euro tax evasion ring, Reuters UK Edition (Rome) 23 July 2013. Access Date: 13 December 2013 <http://uk.reuters.com/article/2013/07/23/uk-italy-tax-idUKBRE96M0ML20130723>.

<sup>498</sup> Italy investigates Apple for alleged tax fraud — sources, Reuters UK Edition (Milan) 14 November 2013. Access Date: 13 December 2013 <http://uk.reuters.com/article/2013/11/14/uk-apple-italy-tax-idUKBRE9AC0S920131114>.

<sup>499</sup> Italian police seize \$20 million at Merrill Lynch in fraud probe, Reuters UK Edition (Rome/Milan) 3 October 2013. Access Date: 13 December 2013. <http://uk.reuters.com/article/2013/10/03/uk-italy-merrilllynch-idUKBRE9920AO20131003>.

<sup>500</sup> Berlusconi expelled from Italian parliament over tax fraud, Reuters UK Edition (Rome) 27 November 2013. Access Date: 13 December 2013 <http://uk.reuters.com/article/2013/11/27/us-italy-berlusconi-idUKBRE9AQ0P220131127>.

<sup>501</sup> Saccomanni hopes for Italy-Swiss tax deal by May, Reuters US Edition (Bern) 30 January 2014. Access Date: 17 April 2014 <http://www.reuters.com/article/2014/01/30/italy-switzerland-tax-idUSL5NOL43PF20140130>.

<sup>502</sup> Saccomanni hopes for Italy-Swiss tax deal by May, Reuters US Edition (Bern) 30 January 2014. Access Date: 17 April 2014 <http://www.reuters.com/article/2014/01/30/italy-switzerland-tax-idUSL5NOL43PF20140130>.

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than 8,000 Italian businesses that had not declared any income but held an estimated EUR 16 billion in taxable revenue, with more than EUR 15 billion hidden in tax havens outside the country.<sup>503</sup>

On March 2014, the Italian treasury sent a letter to Eni, Enel, Finmeccanica, and other state-owned groups, asking that shareholders “toughen up their corporate governance requirements in the company laws at the upcoming shareholder meetings.”<sup>504</sup> The letter proposed that the state-controlled companies remove from their board of directors any members charged with crimes against the public administration or financial crimes. Another proposal included capping salaries of top managers in these companies.<sup>505</sup> This letter is part of an effort that Italian government has put forth in an attempt to push through reforms aimed at improving corporate transparency.<sup>506</sup>

Furthermore, on 14 April 2014, following his continued effort to improve transparency in state-controlled groups, Prime Minister Matteo Renzi named new chief executives for Eni, Enel, and Finmeccanica.<sup>507</sup> After the nominations he stated, “here is a team of professionals of great quality ... who will surely work to reach ambitious strategic targets of companies that represent fundamental assets for the country.”<sup>508</sup>

Therefore, Italy is given a score of +1 for full compliance since its Action Plan is allied to the standards and recommendations proposed by the FATF. This combined effort led to greater transparency of companies, trusts, and other legal entities, including the enforcement of punishments and sanctions in relevant cases.

*Analyst: Artur Pereira*

## **Japan: 0**

Japan is in partial compliance with its commitment to establish an Action Plan which requires companies to obtain and hold information on their beneficial ownership and work alongside the Financial Action Task Force (FATF) to implement FATF standards and access FATF recommendations.

Japan recognizes the importance of implementing measures in accordance with FATF standards. In November 2013 the Ministry of Finance published a motion paper for “Japan’s Action Plan,” its primary objective to “prevent the misuse of companies and legal arrangement.”<sup>509</sup> The Plan sought to conduct a National risk assessment on money laundering and terrorist financing at the end of 2014 to support the Japan Financial Intelligence Centre’s annual report design.<sup>510</sup> It will design a

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<sup>503</sup> Saccomanni hopes for Italy-Swiss tax deal by May, Reuters US Edition (Bern) 30 January 2014. Access Date: 17 April 2014 <http://www.reuters.com/article/2014/01/30/italy-switzerland-tax-idUSL5NOL43PF20140130>.

<sup>504</sup> Italy seeks to clean up boards of state-controlled companies, Reuters US Edition (Milan) 27 March 2014. Access Date: 17 April 2014 <http://www.reuters.com/article/2014/03/27/italy-companies-reform-idUSL5N0MO3M220140327>.

<sup>505</sup> Italy seeks to clean up boards of state-controlled companies, Reuters US Edition (Milan) 27 March 2014. Access Date: 17 April 2014 <http://www.reuters.com/article/2014/03/27/italy-companies-reform-idUSL5N0MO3M220140327>.

<sup>506</sup> Italy seeks to clean up boards of state-controlled companies, Reuters US Edition (Milan) 27 March 2014. Access Date: 17 April 2014 <http://www.reuters.com/article/2014/03/27/italy-companies-reform-idUSL5N0MO3M220140327>.

<sup>507</sup> Italian Premier Renzi Names State-Controlled Company Bosses, The Wall Street Journal (Rome) 14 April 2014. Access Date: 17 April 2014 <http://online.wsj.com/news/articles/SB10001424052702303887804579501842112975178>.

<sup>508</sup> Italian Premier Renzi Names State-Controlled Company Bosses, The Wall Street Journal (Rome) 14 April 2014. Access Date: 17 April 2014 <http://online.wsj.com/news/articles/SB10001424052702303887804579501842112975178>.

<sup>509</sup> Japan Action Plan to prevent the misuse of companies and legal arrangement, Ministry of Foreign Affairs of Japan (Tokyo) 18 June 2013. Access Date: 16 December 2013. <http://www.mofa.go.jp/files/000006562.pdf>.

<sup>510</sup> Japan Action Plan to prevent the misuse of companies and legal arrangement, Ministry of Foreign Affairs of Japan (Tokyo) 18 June 2013. Access Date: 16 December 2013 <http://www.mofa.go.jp/files/000006562.pdf>.

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“mechanism,” based on the national risk assessment to provide relevant information to use and create more transparency between foreign and domestic authorities.<sup>511</sup>

On 7 October 2013, Transparency International published the ninth annual progress report on foreign bribery enforcement. The report classified Japan as having “little or no enforcement” on enforcing the Organisation for Economic Co-operation and Development (OECD) Convention on enforcing bribery.<sup>512</sup> It states that Japan has not ratified the United Nations Convention against Corruption, that its enforcement system insufficiently maintains and lacks cohesion between prosecution and investigative groups, and that its sanctions available against foreign bribery are ineffective.<sup>513</sup> However, the report also states that Japan has “taken some steps” to improve enforcement. Transparency International Secretariat published a press release stating that Japan has adequately held companies and businesses accountable for bribing foreign governments.<sup>514</sup> On 18 March 2013 Japan’s Ministry of Economy, Trade and Finance published an online report on foreign bribery and USD leaflets to businesses to raise awareness on this issues.<sup>515</sup>

Moreover, on 24 October 2013, the Aid Transparency Index published its annual Index report which focuses on Donor agencies’ commitments towards aid transparency. The Donors representing Japan are Japan International Cooperation Agency (JICA) and the Ministry of Foreign Affairs (MOFA).<sup>516</sup> The agencies received a score of 23.51 per cent and 17.17 per cent respectively, which are substantially lower than the average of 32.63 per cent.<sup>517</sup>

On November 2013, international NGO, Global Witness, published an annual report on Company ownership. Japan is graded “red,” meaning that it either lacks jurisdiction on public registry of

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<sup>511</sup> Japan Action Plan to prevent the misuse of companies and legal arrangement, Ministry of Foreign Affairs of Japan (Tokyo) 18 June 2013. Access Date: 19 December 2013. <http://www.mofa.go.jp/files/000006562.pdf>.

<sup>512</sup> Exporting Corruption: Progress report 2013: assessing enforcement of the OECD Convention on combating bribery, Transparency International (Berlin) 7 October 2013. Access Date: 17 December 2013. [http://www.transparency.org/whatwedo/pub/exporting\\_corruption\\_progress\\_report\\_2013\\_assessing\\_enforcement\\_of\\_the\\_oecd](http://www.transparency.org/whatwedo/pub/exporting_corruption_progress_report_2013_assessing_enforcement_of_the_oecd).

<sup>513</sup> Exporting Corruption Progress report 2013, assessing enforcement of the OECD Convention on combating bribery, Transparency International (Berlin) 7 October 2013. Access Date: 18 December 2013. [http://www.transparency.org/whatwedo/pub/exporting\\_corruption\\_progress\\_report\\_2013\\_assessing\\_enforcement\\_of\\_the\\_oecd](http://www.transparency.org/whatwedo/pub/exporting_corruption_progress_report_2013_assessing_enforcement_of_the_oecd).

<sup>514</sup> Many Exporting Nations still turn a blind eye to bribing foreign officials, Transparency International Secretariat (Berlin) 8 October 2013. Access Date: 20 December 2013. [http://www.transparency.org/news/pressrelease/many\\_exporting\\_nations\\_still\\_turn\\_a\\_blind\\_eye\\_to\\_bribing\\_foreign\\_officials](http://www.transparency.org/news/pressrelease/many_exporting_nations_still_turn_a_blind_eye_to_bribing_foreign_officials).

<sup>515</sup> Exporting Corruption Progress report 2013, assessing enforcement of the OECD Convention on combating bribery, Transparency International (Berlin) 7 October 2013. Access Date: 16 December 2013. [http://www.transparency.org/whatwedo/pub/exporting\\_corruption\\_progress\\_report\\_2013\\_assessing\\_enforcement\\_of\\_the\\_oecd](http://www.transparency.org/whatwedo/pub/exporting_corruption_progress_report_2013_assessing_enforcement_of_the_oecd).

<sup>516</sup> Japan Donor scoring in Aid Transparency Index 2013, Publish What you Fund (London) October 2013. Access Date: 16 December 2013. <http://ati.publishwhatyoufund.org/major-donor/japan/>.

<sup>517</sup> Japan Donor scoring in Aid Transparency Index 2013, Publish What you Fund (London) October 2013. Access Date: 18 December 2013. <http://ati.publishwhatyoufund.org/major-donor/japan/>.

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beneficial ownership or that it lacks any plans to implement enforcement.<sup>518</sup> The report states that: “the Japanese government is not considering creating a registry of beneficial ownership.”<sup>519</sup>

Furthermore, Japan implemented several commitments on transparency and cooperation regarding the issue of asset recovery. Guides on information about main agencies that are related to asset recovery cases are available and Japan regularly participates in preparatory meetings to launch an asset recovery network in the Asia Pacific Region.<sup>520</sup> Japan also adopted mechanisms for enforcement of foreign orders of confiscation and provides assistance for the purpose of identifying assets concerned and ensures that domestic legal frameworks and mutual legal assistance are granted.<sup>521</sup>

On 6 December 2013, the Japanese government passed the “States Secrecy Bill.”<sup>522</sup> The Law aims to protect classified information provided by both foreign and domestic authorities on articles such as defence, diplomacy, counterterrorism and counterintelligence.<sup>523</sup> According to Jeff Kingston, Director of Asian studies at Temple University, the term “special secrets” as defined by the bill, is “vague and has loose guidelines which allows for government officials to “abuse the system.”<sup>524</sup> On 22 November 2013 United Nations Special Rapporteur Frank La Rue stated that the draft bill establishes “very broad and vague grounds for secrecy” which could pose a threat to transparency.<sup>525</sup> Prime Minister Shinzo Abe stated that “a highly independent body” would be formed to prevent the government from over-classifying information to protect transparency.<sup>526</sup> He further added that since the bill is intended to protect the public, therefore the government would introduce “clear operating standards” and a “robust third party system” to ensure transparency in handling the secrets.<sup>527</sup>

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<sup>518</sup> Company ownership: which places are the most and least transparent?, Global Witness and Christian Aid (London) November 2013. Access Date: 17 December 2013

[http://www.globalwitness.org/sites/default/files/library/GW\\_CA\\_Company%20Ownership%20Paper\\_download.pdf](http://www.globalwitness.org/sites/default/files/library/GW_CA_Company%20Ownership%20Paper_download.pdf).

<sup>519</sup> Company ownership: which places are the most and least transparent?, Global Witness and Christian Aid (London) November 2013. Access Date: 17 December 2013

[http://www.globalwitness.org/sites/default/files/library/GW\\_CA\\_Company%20Ownership%20Paper\\_download.pdf](http://www.globalwitness.org/sites/default/files/library/GW_CA_Company%20Ownership%20Paper_download.pdf).

<sup>520</sup> Japan Asset Recovery Action Plan Implementation Road Map 2013, Stolen Asset Recovery Initiative (Washington D.C) November 2013. Access Date: 21 December 2013. [http://star.worldbank.org/star/sites/star/files/japans\\_asset\\_recovery\\_roadmap\\_2013-final.pdf](http://star.worldbank.org/star/sites/star/files/japans_asset_recovery_roadmap_2013-final.pdf).

<sup>521</sup> Japan Asset Recovery Action Plan Implementation Road Map 2013, Stolen Asset Recovery Initiative (Washington D.C) November 2013. Access Date: 21 December 2013. [http://star.worldbank.org/star/sites/star/files/japans\\_asset\\_recovery\\_roadmap\\_2013-final.pdf](http://star.worldbank.org/star/sites/star/files/japans_asset_recovery_roadmap_2013-final.pdf).

<sup>522</sup> A Blow to Transparency; Japan Passes Secrecy Bill, freedominfo.org (Washington D.C) 9 December 2013. Access Date: 20 December 2013. <http://www.freedominfo.org/2013/12/blow-transparency-japan-passes-secrecy-bill/>.

<sup>523</sup> Abe promotes secrecy sidelining transparency and open government, Japan Times News Edition (Tokyo) 5 October 2013. Access Date: 21 December 2013. <http://www.japantimes.co.jp/opinion/2013/10/05/commentary/abe-promotes-secrecy-sidelining-transparency-and-open-government/#.UrpOGPQW1yy>.

<sup>524</sup> Abe promotes secrecy sidelining transparency and open government, Japan Times News Edition (Tokyo) 5 October 2013. Access Date: 20 December 2013. <http://www.japantimes.co.jp/opinion/2013/10/05/commentary/abe-promotes-secrecy-sidelining-transparency-and-open-government/#.UrpOGPQW1yy>.

<sup>525</sup> Japan: “Special Secrets Bill threatens transparency” — UN independent experts, Office of the High Commissioner for Human Rights (Geneva) 22 November 2013. Access Date: 18 December 2013. <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14017>.

<sup>526</sup> Government to promulgate new Secrets Law quickly, Japan Times News Edition (Tokyo) 12 December 2013. Access Date: 17 December 2013. [http://www.japantimes.co.jp/news/2013/12/12/national/government-to-promulgate-new-secrets-law-quickly/#.UrpOM\\_QW1yy](http://www.japantimes.co.jp/news/2013/12/12/national/government-to-promulgate-new-secrets-law-quickly/#.UrpOM_QW1yy).

<sup>527</sup> Council for the Protection of Information, Prime Minister of Japan and his Cabinet (Tokyo) 17 January 2014. Access Date: 17 April 2014. [http://japan.kantei.go.jp/96\\_abe/actions/201401/17johohozen\\_e.html](http://japan.kantei.go.jp/96_abe/actions/201401/17johohozen_e.html).

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However, these bodies would be operated by the Cabinet Office, which invited criticism that the government wants to keep total internal control.<sup>528</sup>

Moreover, on 22 January 2014, the Financial Services Agency implemented a measure to call on banks and their holding companies to appoint “outside board members” to improve management transparency. Enforced in February, the Tokyo Stock Exchange would urge firms to appoint “highly independent” outside board members. However, there will be no penalties for companies that did not comply to the requests.<sup>529</sup>

On 28 March 2014, Deputy Chief Cabinet Secretary Kato stated that cabinet meetings would be recorded and released on the website of the Prime Minister’s office within three hours each week. The summaries would contain issues discussed and the names of speakers, as well as the date and location where the meetings are held.<sup>530</sup> Prime Minister Shinzo Abe proposes that this will increase transparency of cabinet meeting business and “provide accountability” to the public.<sup>531</sup>

Although there is evidence of funding towards progress to improve transparency through the FATF program, Japan has failed to implement any significant measures or actions to further improve it. Thus, Japan is awarded a score of 0.

*Analyst: Arnold Yung*

#### **Russia: +1**

Russia has fully complied with the commitment to improve the transparency of companies.

On 28 June 2013, Russian President Vladimir Putin signed Federal Law on Amendments to Certain Legislative Acts of the Russian Federation regarding Prevention of Illegal Financial Operations.<sup>532</sup> The law aims to ensure transparency of the beneficial ownership of companies and legal arrangements, and to prevent tax evasion using offshore jurisdictions.<sup>533</sup>

In September 2013, the Russian Federal Financial Monitoring Service published an Action Plan to enhance transparency and prevent misuse of companies and other legal entities. The action plan provides for taking legislative action to support implementation of Federal Law on Amendments to Certain Legislative Acts of the Russian Federation regarding Prevention of Illegal Financial Operations. The Federal Financial Monitoring Service mentioned that the Action Plan was adopted

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<sup>528</sup> Government to promulgate new Secrets Law quickly, Japan Times News Edition (Tokyo) 12 December 2013. Access Date: 17 December 2013. [http://www.japantimes.co.jp/news/2013/12/12/national/government-to-promulgate-new-secrets-law-quickly/#.UrpOM\\_QW1yy](http://www.japantimes.co.jp/news/2013/12/12/national/government-to-promulgate-new-secrets-law-quickly/#.UrpOM_QW1yy).

<sup>529</sup> FSA to urge banks to appoint outside board members for better transparency, Japan Times News Edition (Tokyo) 22 January 2014. Access Date: 18 April 2014 <http://www.japantimes.co.jp/news/2014/01/22/business/fsa-to-urge-banks-to-appoint-outside-board-members-for-better-transparency/#.U1HdmvQW21R>

<sup>530</sup> Press Conference by the Chief Cabinet Secretary (Excerpt), Prime Minister of Japan and his Cabinet (Tokyo) 28 March 2014. Access Date: 18 April 2013 [http://japan.kantei.go.jp/tyoukanpress/201403/28\\_a.html](http://japan.kantei.go.jp/tyoukanpress/201403/28_a.html)

<sup>531</sup> Abe’s transparency move falls short, Japan Times News Edition (Tokyo) 24 March 2014. Access Date 17 April 2013 <http://www.japantimes.co.jp/opinion/2014/03/24/editorials/abes-transparency-move-falls-short/#.U1IkwPQW21S>.

<sup>532</sup> Introduction of amendments to certain legislation in order to prevent illegal financial operations, President of Russia 30 June 2013. Access Date: 13 January 2014. <http://kremlin.ru/news/18424>.

<sup>533</sup> Amendments to several laws in order to prevent illegal financial operations, President of Russia 30 June 2013. Access Date: 31 December 2013. <http://eng.kremlin.ru/news/5662>.

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in accordance with the FATF Standards and the commitment made by the Russian Federation at the G8 Leaders summit.<sup>534</sup>

Russia has started to implement the Action Plan. In particular, on 19 September 2013, the Russian Central Bank issued the guidelines on informing the regulator about measures to freeze (block) assets and about the results of identifying clients whose assets should be frozen (blocked) by commercial banks.<sup>535</sup>

Russia has established an Action Plan to ensure that companies' information is available to relevant authorities as appropriate and started to implement it. Thus, it receives a score of +1.

*Analyst: Andrey Shelepov*

### **United Kingdom: +1**

The United Kingdom is in full compliance with its commitment to increase the transparency of companies by creating an Action Plan to hold information on the beneficial ownership of companies, enforcing efforts to pursue criminal networks, and working alongside the Financial Action Task Force (FATF) to implement FATF standards.

The United Kingdom recognizes that seven of the ten world's fastest growing economies are located in Africa, which exposes these growing African economies to the increased threat of illicit financial activity.<sup>536</sup> As such, a joint venture between the HM Treasury and the U.S. Department of the Treasury launched, "the inaugural Sub-Saharan Africa Public-Private Sector Dialogue (PPSD) to help support the development and implementation of robust anti-money laundering and combating the financing of terrorism (AML/CFT) regimes in Eastern and Southern Africa."<sup>537</sup> The PPSD was presented at the 2013 Lough Erne G8 Summit where leaders committed to it. The Dialogue was launched in Swakopmund, Namibia on 6 September 2013. This was attended by Mark Simmonds—the UK Minister for Africa, the Namibian Finance Minister, and the President of the FATF.<sup>538</sup>

On 7 September 2013, Marianne Young, British High Commissioner to Namibia, delivered a speech at the inaugural PPSD on anti-money laundering and combatting the financing of terrorism.<sup>539</sup> She claimed that the dialogue offered: "a chance for discussion between the public and private sectors, amongst G8 and Sub-Saharan Africa, a chance to raise the political profile of anti-money laundering

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<sup>534</sup> Action Plan to enhance transparency and prevent misuse of companies and other legal entities, Federal Financial Monitoring Service September 2013. Access Date: 13 January 2014. [http://www.fedsfm.ru/en/international-cooperation/action\\_plan](http://www.fedsfm.ru/en/international-cooperation/action_plan).

<sup>535</sup> Bank of Russia Bulletin No. 62 (1458), Bank of Russia 14 November 2013. Access Date: 13 January 2014. <http://cbr.ru/publ/vestnik/ves131114062.pdf>.

<sup>536</sup> G8 Public-Private Sector Dialogue on Anti-Money Laundering and Countering Terrorist Finance, Foreign & Commonwealth Office and Cabinet Office (London) 6 September 2013. Access Date: 07 January 2014. <https://www.gov.uk/government/news/g8-public-private-sector-dialogue-on-anti-money-laundering-and-countering-terrorist-finance>.

<sup>537</sup> G8 Public-Private Sector Dialogue on Anti-Money Laundering and Countering Terrorist Finance, Foreign & Commonwealth Office and Cabinet Office (London) 6 September 2013. Access Date: 07 January 2014. <https://www.gov.uk/government/news/g8-public-private-sector-dialogue-on-anti-money-laundering-and-countering-terrorist-finance>.

<sup>538</sup> G8 Public-Private Sector Dialogue on Anti-Money Laundering and Countering Terrorist Finance, Foreign & Commonwealth Office and Cabinet Office (London) 6 September 2013. Access Date: 07 January 2014. <https://www.gov.uk/government/news/g8-public-private-sector-dialogue-on-anti-money-laundering-and-countering-terrorist-finance>.

<sup>539</sup> G8 PPSD opening remarks by British High Commissioner to Namibia, Foreign & Commonwealth Office (Namibia) 7 September 2013. Access Date: 7 January 2014. <https://www.gov.uk/government/speeches/g8-ppsd-opening-remarks-by-british-high-commissioner-to-namibia>.

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and combatting the financing of terrorism. And [sic] a chance to exchange technical knowledge on policy development and practical implementation.”<sup>540</sup>

According to the High Commissioner, the UK is committed to lead the front on the implementation of the FATF standards.<sup>541</sup> Moreover, the UK will conduct the UK National Risk Assessment of money laundering and terrorist financing, which will take place over the course of 2014.<sup>542</sup> Young also claims that the UK, “will improve the supervision and enforcement of review of trust and company service providers.”<sup>543</sup> She states: “We are undertaking a review of corporate transparency, including through bearer shares and nominee directors ... we are committed to leading from the front on implementing the standards on beneficial ownership transparency.”<sup>544</sup>

Young further noted that the UK Department for Business used a discussion paper detailing the UK’s plans to achieve transparency, including: (1) Requiring companies to obtain and hold information on their beneficial owners; (2) Holding this information in a central registry for tax authorities and law enforcement to access; and (3) Consulting on whether that registry will be made publicly available.<sup>545</sup> The UK is committed to, “implementing these measures in the year ahead.”<sup>546</sup>

On 28 November 2013, the HM Treasury published the, “Anti-money laundering and counter terrorist finance supervision report 2012-13.”<sup>547</sup> The report monitors the anti-money laundering and counter terrorist finance sector.<sup>548</sup> The report is a result of the collaborative effort of the HM Treasury with supervisors to develop an annual report on anti-money laundering and counter terrorist finance supervision.<sup>549</sup> According to the Executive Summary, this most recent report,

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<sup>540</sup> G8 PPSD opening remarks by British High Commissioner to Namibia, Foreign & Commonwealth Office (Namibia) 7 September 2013. Access Date: 7 January 2014. <https://www.gov.uk/government/speeches/g8-ppsd-opening-remarks-by-british-high-commissioner-to-namibia>.

<sup>541</sup> G8 PPSD opening remarks by British High Commissioner to Namibia, Foreign & Commonwealth Office (Namibia) 7 September 2013. Access Date: 7 January 2014. <https://www.gov.uk/government/speeches/g8-ppsd-opening-remarks-by-british-high-commissioner-to-namibia>.

<sup>542</sup> G8 PPSD opening remarks by British High Commissioner to Namibia, Foreign & Commonwealth Office (Namibia) 7 September 2013. Access Date: 7 January 2014. <https://www.gov.uk/government/speeches/g8-ppsd-opening-remarks-by-british-high-commissioner-to-namibia>.

<sup>543</sup> G8 PPSD opening remarks by British High Commissioner to Namibia, Foreign & Commonwealth Office (Namibia) 7 September 2013. Access Date: 7 January 2014. <https://www.gov.uk/government/speeches/g8-ppsd-opening-remarks-by-british-high-commissioner-to-namibia>.

<sup>544</sup> G8 PPSD opening remarks by British High Commissioner to Namibia, Foreign & Commonwealth Office (Namibia) 7 September 2013. Access Date: 7 January 2014. <https://www.gov.uk/government/speeches/g8-ppsd-opening-remarks-by-british-high-commissioner-to-namibia>.

<sup>545</sup> G8 PPSD opening remarks by British High Commissioner to Namibia, Foreign & Commonwealth Office (Namibia) 7 September 2013. Access Date: 7 January 2014. <https://www.gov.uk/government/speeches/g8-ppsd-opening-remarks-by-british-high-commissioner-to-namibia>.

<sup>546</sup> G8 PPSD opening remarks by British High Commissioner to Namibia, Foreign & Commonwealth Office (Namibia) 7 September 2013. Access Date: 7 January 2014. <https://www.gov.uk/government/speeches/g8-ppsd-opening-remarks-by-british-high-commissioner-to-namibia>.

<sup>547</sup> Anti-money laundering and counter terrorist finance supervision report 2012-13, HM Treasury (London) 28 November 2013. Access Date: 7 January 2014. <https://www.gov.uk/government/publications/anti-money-laundering-and-counter-terrorist-finance-supervision-reports/anti-money-laundering-and-counter-terrorist-finance-supervision-report-2012-13>.

<sup>548</sup> Anti-money laundering and counter terrorist finance supervision reports, HM Treasury (London) 28 November 2013. Access Date: 7 January 2013. <https://www.gov.uk/government/publications/anti-money-laundering-and-counter-terrorist-finance-supervision-reports>.

<sup>549</sup> Anti-money laundering and counter terrorist finance supervision reports, HM Treasury (London) 28 November 2013. Access Date: 7 January 2013. <https://www.gov.uk/government/publications/anti-money-laundering-and-counter-terrorist-finance-supervision-reports>.

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“contains more quantitative and qualitative information than in previous years, as supervisors rise to the challenges set by the FATF to focus their efforts more on demonstrating that they supervise in accordance with a risk-based approach and that this supervision is effective.”<sup>550</sup>

According to British Ambassador Nicholas Cannon, “The British government committed itself to put in place mechanisms that would enable the real beneficial owners of British companies to be identified.”<sup>551</sup> At the Open Government Partnership Summit, David Cameron announced that, “Details of who really owns and controls UK companies will be made publicly accessible.”<sup>552</sup> The central registry of company beneficial ownership will contain: “information on individuals with an interest in more than 25 per cent of a company’s shares or voting rights, or who otherwise control the way it is run.”<sup>553</sup> Companies are expected to: “hold information on the names and addresses of their beneficial owners and details of their interest in the company. Moreover, Companies House will hold and make publicly accessible the names of the beneficial owners and details of their interest in the company.”<sup>554</sup> The Department for Business, Innovation & Skills (BIS) will set out further detail in the discussion paper, which will be published in early 2014.<sup>555</sup>

Moreover, BIS will also set out its plans from the ‘Transparency and Trust’ discussion paper including: (1) abolishing bearer shares, whose ownership is completely opaque; (2) tackling the use of corporate directors, which refers to one company acting as a director for another, and; (3) addressing situations where a front director is registered but the control is concealed elsewhere.<sup>556</sup>

The UK government also created and enforced the Bribery Act, which sets out a modern scheme of bribery offences in the UK and overseas.<sup>557</sup> This is already giving rise to convictions.<sup>558</sup>

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<sup>550</sup> Anti-money laundering and counter terrorist finance supervision report 2012-13, HM Treasury (London) 28 November 2013. Access Date: 7 January 2014. <https://www.gov.uk/government/publications/anti-money-laundering-and-counter-terrorist-finance-supervision-reports/anti-money-laundering-and-counter-terrorist-finance-supervision-report-2012-13>.

<sup>551</sup> British Ambassador Nicholas Cannon speech at the Open Government Partnership conference in Tirana, Foreign & Commonwealth Office (Albania) 5 December 2013. Access Date: 8 January 2014. <https://www.gov.uk/government/speeches/open-government-partnership>.

<sup>552</sup> The Prime Minister announced that details of who really owns and controls UK companies will be made publicly accessible, Department for Business, Innovation & Skills and Prime Minister’s Office (London) 31 October 2013. Access Date: 8 January 2014. <https://www.gov.uk/government/news/public-register-to-boost-company-transparency>.

<sup>553</sup> The Prime Minister announced that details of who really owns and controls UK companies will be made publicly accessible, Department for Business, Innovation & Skills and Prime Minister’s Office (London) 31 October 2013. Access Date: 8 January 2014. <https://www.gov.uk/government/news/public-register-to-boost-company-transparency>.

<sup>554</sup> The Prime Minister announced that details of who really owns and controls UK companies will be made publicly accessible, Department for Business, Innovation & Skills and Prime Minister’s Office (London) 31 October 2013. Access Date: 8 January 2014. <https://www.gov.uk/government/news/public-register-to-boost-company-transparency>.

<sup>555</sup> The Prime Minister announced that details of who really owns and controls UK companies will be made publicly accessible, Department for Business, Innovation & Skills and Prime Minister’s Office (London) 31 October 2013. Access Date: 8 January 2014. <https://www.gov.uk/government/news/public-register-to-boost-company-transparency>.

<sup>556</sup> The Prime Minister announced that details of who really owns and controls UK companies will be made publicly accessible, Department for Business, Innovation & Skills and Prime Minister’s Office (London) 31 October 2013. Access Date: 8 January 2014. <https://www.gov.uk/government/news/public-register-to-boost-company-transparency>.

<sup>557</sup> Reducing corruption and increasing transparency are vital for global stability and prosperity, British Embassy Hanoi (Vietnam) 9 December 2013. Access Date: 8 January 2013. <https://www.gov.uk/government/world-location-news/reducing-corruption-and-increasing-transparency-are-vital-for-global-stability-and-prosperity>.

<sup>558</sup> Reducing corruption and increasing transparency are vital for global stability and prosperity, British Embassy Hanoi (Vietnam) 9 December 2013. Access Date: 8 January 2013. <https://www.gov.uk/government/world-location-news/reducing-corruption-and-increasing-transparency-are-vital-for-global-stability-and-prosperity>.

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According to James Brokenshire, financial gain is often the fundamental motive for serious and organized crime. He claims that: “Criminal assets are ... being moved overseas beyond the easy reach of law enforcement agencies in the UK. Some countries are willing safe havens for criminal property.”<sup>559</sup> As such, the UK government is working towards strengthening the legislation by closing loopholes that allow criminals to exploit the current framework.<sup>560</sup> Moreover, the government will strengthen prison sentence for failure to pay confiscation orders.<sup>561</sup> Brokenshire further contends that “we will also reduce the time that criminals have to pay those orders.”<sup>562</sup>

The U.K. is working towards increased collaboration with overseas partners in order to encourage them to enforce their orders and approaches to financial laundering. The government wants to: “work with the banking, legal, accountancy and other professions, and their regulators, to expose and bring to justice those who are complicit in facilitating organised [sic] crime and laundering money.”<sup>563</sup> The U.K. emphasizes that it is not just about recovering the money, as it is about disrupting criminal activity.<sup>564</sup> As such, financial investigations will be used to disrupt serious and organized crime.<sup>565</sup> The National Crime Agency (NCA) will be spearheading this crackdown.<sup>566</sup> According to Brokenshire, “The NCA, in particular its Economic Crime Command, will bring a single national focus to cutting economic crime, working closely with other law enforcement bodies, the public, private and voluntary sectors. While the [National Fraud Authority] has been successful in raising awareness of fraud, the focus now has to be on investigating and cutting economic crime.”<sup>567</sup>

Furthermore, in July 2013, the UK government published a plan to approach the issue of company ownership, entitled: “Company ownership: transparency and trust discussion paper.”<sup>568</sup> This outlined a plan to proceeding with the following policies: (1) “Establish a publicly accessible central registry of

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<sup>559</sup> James Brokenshire speech on cutting organised and serious crime, Home Office (London) 3 December 2013. Access Date: 8 January 2014. <https://www.gov.uk/government/speeches/james-brokenshire-speech-on-cutting-organised-and-serious-crime>.

<sup>560</sup> James Brokenshire speech on cutting organised and serious crime, Home Office (London) 3 December 2013. Access Date: 8 January 2014. <https://www.gov.uk/government/speeches/james-brokenshire-speech-on-cutting-organised-and-serious-crime>.

<sup>561</sup> James Brokenshire speech on cutting organised and serious crime, Home Office (London) 3 December 2013. Access Date: 8 January 2014. <https://www.gov.uk/government/speeches/james-brokenshire-speech-on-cutting-organised-and-serious-crime>.

<sup>562</sup> James Brokenshire speech on cutting organised and serious crime, Home Office (London) 3 December 2013. Access Date: 8 January 2014. <https://www.gov.uk/government/speeches/james-brokenshire-speech-on-cutting-organised-and-serious-crime>.

<sup>563</sup> James Brokenshire speech on cutting organised and serious crime, Home Office (London) 3 December 2013. Access Date: 8 January 2014. <https://www.gov.uk/government/speeches/james-brokenshire-speech-on-cutting-organised-and-serious-crime>.

<sup>564</sup> James Brokenshire speech on cutting organised and serious crime, Home Office (London) 3 December 2013. Access Date: 8 January 2014. <https://www.gov.uk/government/speeches/james-brokenshire-speech-on-cutting-organised-and-serious-crime>.

<sup>565</sup> James Brokenshire speech on cutting organised and serious crime, Home Office (London) 3 December 2013. Access Date: 8 January 2014. <https://www.gov.uk/government/speeches/james-brokenshire-speech-on-cutting-organised-and-serious-crime>.

<sup>566</sup> James Brokenshire speech on cutting organised and serious crime, Home Office (London) 3 December 2013. Access Date: 8 January 2014. <https://www.gov.uk/government/speeches/james-brokenshire-speech-on-cutting-organised-and-serious-crime>.

<sup>567</sup> James Brokenshire speech on cutting organised and serious crime, Home Office (London) 3 December 2013. Access Date: 8 January 2014. <https://www.gov.uk/government/speeches/james-brokenshire-speech-on-cutting-organised-and-serious-crime>.

<sup>568</sup> Company ownership: transparency and trust discussion paper, Department for Business, Innovation & Skills (London) 15 July 2013. Access Date: 3 May 2014. <https://www.gov.uk/government/publications/company-ownership-transparency-and-trust-impact-assessments>.

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UK company beneficial ownership information”<sup>569</sup>; (2) “Improve transparency of company ownership and control, including: abolishing bearer shares, prohibiting the use of corporate directors (with exceptions), [and] increasing the accountability of those who control company directors”<sup>570</sup>; (3) “Improve trust in the UK regime for disqualifying company directors”<sup>571</sup>; and (4) “Increase the likelihood of creditors being compensated where they have suffered loss from director misconduct.”<sup>572</sup>

On 24 April 2014, the UK published a follow up to these proposals, with an impact assessment on company ownership and transparency, entitled: “Impact Assessments to Part B of the Transparency and Trust proposals.”<sup>573</sup> This assessed: (1) “Matters to be taken into account by the court when determining that a person is unfit to act as a director”<sup>574</sup>; (2) “Widening the scope of material that can be used in director disqualification proceedings”<sup>575</sup>; and (3) Extending the time limit for director disqualification proceedings under the Company Directors Disqualification Act 1986.”<sup>576</sup>

Moreover, on 15 April 2014, the UK government adopted measures from the European Parliament which aim improve the transparency of companies’ non-financial reporting.<sup>577</sup> This new framework amends the “Accounting Directive,” and will affect approximately 500 large public companies in the UK.<sup>578</sup> According to a government press release: “As a result, businesses’ annual reports will need to include information on environmental, social and employee matters and any issues relating to human rights and bribery. These disclosures are crucial for investors and of interest to customers as they

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<sup>569</sup> Company ownership: transparency and trust discussion paper, Department for Business, Innovation & Skills (London) 15 July 2013. Access Date: 3 May 2014. <https://www.gov.uk/government/publications/company-ownership-transparency-and-trust-impact-assessments>.

<sup>570</sup> Company ownership: transparency and trust discussion paper, Department for Business, Innovation & Skills (London) 15 July 2013. Access Date: 3 May 2014. <https://www.gov.uk/government/publications/company-ownership-transparency-and-trust-impact-assessments>.

<sup>571</sup> Company ownership: transparency and trust discussion paper, Department for Business, Innovation & Skills (London) 15 July 2013. Access Date: 3 May 2014. <https://www.gov.uk/government/publications/company-ownership-transparency-and-trust-impact-assessments>.

<sup>572</sup> Company ownership: transparency and trust discussion paper, Department for Business, Innovation & Skills (London) 15 July 2013. Access Date: 3 May 2014. <https://www.gov.uk/government/publications/company-ownership-transparency-and-trust-impact-assessments>.

<sup>573</sup> Company ownership: transparency and trust - impact assessments, Department for Business, Innovation & Skills (London) 24 April 2014. Access Date: 3 May 2014. <https://www.gov.uk/government/publications/company-ownership-transparency-and-trust-impact-assessments>.

<sup>574</sup> Company ownership: transparency and trust - impact assessments, Department for Business, Innovation & Skills (London) 24 April 2014. Access Date: 3 May 2014. <https://www.gov.uk/government/publications/company-ownership-transparency-and-trust-impact-assessments>.

<sup>575</sup> Company ownership: transparency and trust - impact assessments, Department for Business, Innovation & Skills (London) 24 April 2014. Access Date: 3 May 2014. <https://www.gov.uk/government/publications/company-ownership-transparency-and-trust-impact-assessments>.

<sup>576</sup> Company ownership: transparency and trust - impact assessments, Department for Business, Innovation & Skills (London) 24 April 2014. Access Date: 3 May 2014. <https://www.gov.uk/government/publications/company-ownership-transparency-and-trust-impact-assessments>.

<sup>577</sup> European agreement improves company transparency, Department for Business, Innovation & Skills (London) 15 April 2014. Access Date: 3 May 2014. <https://www.gov.uk/government/news/european-agreement-improves-company-transparency>.

<sup>578</sup> European agreement improves company transparency, Department for Business, Innovation & Skills (London) 15 April 2014. Access Date: 3 May 2014. <https://www.gov.uk/government/news/european-agreement-improves-company-transparency>.

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help explain a company's developments in the past financial year and its strategy for the future.”<sup>579</sup> The UK government aims to bring these into force by 2016, after they have been formally adopted by Council of Ministers.<sup>580</sup>

Therefore, the United Kingdom is in full compliance with its commitment to improve the transparency of companies.

*Analyst: Sarah Burton*

### **United States: +1**

The United States is in full compliance with its commitment to improve the transparency of companies with the creation of an action plan. It is also making a concerted effort to dismantle tax evading networks.

On 18 June 2013, the United States presented the “Action Plan for Transparency of Company Ownership and Control.” This was a response to the G8 commitment for member countries to publish national action plans on transparency of company ownership and control, established in the Lough Erne G8 Summit.<sup>581</sup>

The United States committed to the following actions: (1) the updating of its national risk assessment, comprising of a document that assesses major money laundering conduits and methods, specifically addressing the abuse of legal entities; (2) the continuation of advocating legislation to require identification and verification of beneficial ownership information at the time a company is formed; (3) The clarification and strengthening of customer due diligence standards for U.S. financial institutions; and (4) the assessment of “the effectiveness of existing means for complying with requests for mutual legal assistance and other forms of international cooperation related to beneficial ownership of companies.”<sup>582</sup>

Among the continuation of the comprehensive legislation for identification and verification of beneficial ownership information at the time of a company's formation, the following actions were also set forth: (1) the definition of beneficial owners; (2) the collection and verification of documentation; (3) the regulation of company formation agents; (4) the ensuring of accessibility of information; (5) the request for information update within 60 days of changes in beneficial owners, and; (6) the implementation of civil and criminal penalties for companies that knowingly provide false information or documentation to a state or formation agent.<sup>583</sup>

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<sup>579</sup> European agreement improves company transparency, Department for Business, Innovation & Skills (London) 15 April 2014. Access Date: 3 May 2014. <https://www.gov.uk/government/news/european-agreement-improves-company-transparency>.

<sup>580</sup> European agreement improves company transparency, Department for Business, Innovation & Skills (London) 15 April 2014. Access Date: 3 May 2014. <https://www.gov.uk/government/news/european-agreement-improves-company-transparency>.

<sup>581</sup> United States G-8 Action Plan for Transparency of Company Ownership and Control, The White House Office of the Press Secretary (Washington) 18 June 2013. Access Date: 31 December 2013. <http://www.whitehouse.gov/the-press-office/2013/06/18/united-states-g-8-action-plan-transparency-company-ownership-and-control>.

<sup>582</sup> United States G-8 Action Plan for Transparency of Company Ownership and Control, The White House Office of the Press Secretary (Washington) 18 June 2013. Access Date: 31 December 2013. <http://www.whitehouse.gov/the-press-office/2013/06/18/united-states-g-8-action-plan-transparency-company-ownership-and-control>.

<sup>583</sup> United States G-8 Action Plan for Transparency of Company Ownership and Control, The White House Office of the Press Secretary (Washington) 18 June 2013. Access Date: 31 December 2013. <http://www.whitehouse.gov/the-press-office/2013/06/18/united-states-g-8-action-plan-transparency-company-ownership-and-control>.

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On 9 July 2013, the U.S. Department of the Treasury announced 31 individuals and entities located in Colombia, Panama, and Israel, as Specially Designated Narcotics Traffickers (SDNTs). Together, the individuals and entities formed a money laundering network responsible for laundering USD millions in drug money connected to drug trafficking organizations.<sup>584</sup>

Moreover, on 14 November 2013 the Department of Treasury announced the intergovernmental agreement signed between the United States and France to implement the Foreign Account Tax Compliance Act (FATCA). France was among the first countries to support the goals proposed by the FATCA and its intergovernmental approach in 2012.<sup>585</sup> The agreement was signed by U.S. Ambassador to France Charles H. Rivkin and French Finance Minister Pierre Moscovici. Ambassador Rivkin claims that the signing of the agreement represented, “an important step forward in the collaboration between the United States and France to combat tax evasion.”<sup>586</sup>

On 29 November 2013, the Department of Treasury announced the signing of intergovernmental agreements with the Cayman Islands and Costa Rica to implement the FATCA, which the Deputy Assistant Secretary for International Tax Affairs Robert B. Stack claimed, “[marked] a milestone in the effort to promote global tax transparency.”<sup>587</sup>

In addition, on 19 December 2013 the U.S. Department of Treasury announced that the United States had, in the previous week, signed bilateral agreements with six additional jurisdictions to “implement the information reporting and withholding tax provisions commonly known as the Foreign Account Tax Compliance Act.”<sup>588</sup> The aim of these agreements was to improve tax compliance and to combat international tax evasion.<sup>589</sup>

On 19 December 2013 the U.S. Department of Treasury took action against four senior members of the Yamaguchi-gumi, the largest and most prominent Japanese Yakuza syndicate. The efforts were designed to protect United States’ financial system from the influence of the transnational criminal organization. Under Secretary for Terrorism and Financial Intelligence David S. Cohen pointed towards the effort “to undermine the financial stability of the Yakuza and disrupt their transnational drug-trafficking and money laundering efforts.”<sup>590</sup>

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<sup>584</sup> Treasury Targets Major Money Laundering Network Operating Out of Colombia, U.S. Department of the Treasury (Washington) 9 July 2013. Access Date: 31 December 2013. <http://www.treasury.gov/press-center/press-releases/Pages/jl2002.aspx>.

<sup>585</sup> U.S. And France Agree To Combat Offshore Tax Evasion, U.S. Department of the Treasury (Washington) 14 November 2013. Access Date: 31 December 2013. <http://www.treasury.gov/press-center/press-releases/Pages/jl2217.aspx>.

<sup>586</sup> U.S. And France Agree To Combat Offshore Tax Evasion, U.S. Department of the Treasury (Washington) 14 November 2013. Access Date: 31 December 2013. <http://www.treasury.gov/press-center/press-releases/Pages/jl2217.aspx>.

<sup>587</sup> U.S. Signs Historic Agreements With Cayman Islands, Costa Rica To Fight Offshore Tax Evasion, U.S. Department of the Treasury (Washington) 29 November 2013. Access Date: 31 December 2013. <http://www.treasury.gov/press-center/press-releases/Pages/jl2226.aspx>.

<sup>588</sup> United States Signs Six More Bilateral Agreements To Improve Tax Compliance, Combat International Tax Evasion, And Implement FATCA, U.S. Department of the Treasury (Washington) 19 December 2013. Access Date: 31 December 2013. <http://www.treasury.gov/press-center/press-releases/Pages/jl2251.aspx>.

<sup>589</sup> United States Signs Six More Bilateral Agreements To Improve Tax Compliance, Combat International Tax Evasion, And Implement FATCA, U.S. Department of the Treasury (Washington) 19 December 2013. Access Date: 31 December 2013. <http://www.treasury.gov/press-center/press-releases/Pages/jl2251.aspx>.

<sup>590</sup> Treasury Sanctions Members of Japanese Criminal Organization, U.S. Department of the Treasury (Washington) 19 December 2013. Access Date: 31 December 2013. <http://www.treasury.gov/press-center/press-releases/Pages/jl2250.aspx>.

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Additionally, on 24 December 2013, the United States urged China to take steps to implement the planned reforms to open its economy. The Office of the U.S. Trade Representative (USTR), in a report to U.S. lawmakers, stated that United States shared the reforms' goal of "reducing Chinese government intervention in the economy, accelerating China's opening up to foreign goods and services, reforming China's state-owned enterprises and improving transparency and the rule of law to allow fair competition in China's market."<sup>591</sup> The effort is meant to improve transparency in the country considered "among the least transparent and predictable of the world's major markets for agricultural products."<sup>592</sup>

On 5 February 2014, the U.S. Department of the Treasury announced that the United States had signed intergovernmental agreements (IGAs) with both Canada and Hungary that week in order to implement the Foreign Account Tax Compliance Act (FATCA).<sup>593</sup> Deputy Assistant Secretary for International Tax Affairs Robert Stack stated, "FATCA implementation is critical to combatting international tax evasion and promoting transparency. The agreements announced today clearly demonstrate the considerable international support behind FATCA and we are proud to lead the global charge on this pressing issue."<sup>594</sup> The compliance act aims at obtaining information on accounts held by U.S. taxpayers in other countries as well as providing reciprocal tax information to these governments.<sup>595</sup>

Furthermore, on 20 February 2014, the U.S. Department of the Treasury and the Internal Revenue Service (IRS) released the last substantial package of regulations necessary to implement the FATCA, in a statement by Secretary Jacob Lew he said, "there is significant momentum to implement FATCA across the globe, and we will continue to work closely with our international partners to combat these illicit activities and raise global tax standards."<sup>596</sup>

Therefore the United States receives a score of +1 for its effort to ensure transparency of companies at home and abroad and for the creation of an action plan following FATF standards and recommendations.

*Analyst: Artur Pereira*

### **European Union: +1**

The European Union is in full compliance with its commitment to improve the transparency of companies.

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<sup>591</sup> U.S. urges China to implement planned economic reforms, Reuters U.S Edition (Washington) 24 December 2013. Access Date: 31 December 2013. <http://www.reuters.com/article/2013/12/24/us-usa-china-trade-idUSBRE9BN0N520131224>.

<sup>592</sup> U.S. urges China to implement planned economic reforms, Reuters U.S Edition (Washington) 24 December 2013. Access Date: 31 December 2013. <http://www.reuters.com/article/2013/12/24/us-usa-china-trade-idUSBRE9BN0N520131224>.

<sup>593</sup> U.S. Announces Agreement With Canada To Halt Offshore Tax Evasion, U.S. Department of the Treasury (Washington) 5 February 2014. Access Date: 17 February 2014. <http://www.treasury.gov/press-center/press-releases/Pages/jl2285.aspx>.

<sup>594</sup> U.S. Announces Agreement With Canada To Halt Offshore Tax Evasion, U.S. Department of the Treasury (Washington) 5 February 2014. Access Date: 17 February 2014. <http://www.treasury.gov/press-center/press-releases/Pages/jl2285.aspx>.

<sup>595</sup> U.S. Announces Agreement With Canada To Halt Offshore Tax Evasion, U.S. Department of the Treasury (Washington) 5 February 2014. Access Date: 17 February 2014. <http://www.treasury.gov/press-center/press-releases/Pages/jl2285.aspx>.

<sup>596</sup> Treasury Releases Last Substantial Rules Package to Combat Offshore Tax Evasion, U.S. Department of the Treasury (Washington) 20 February 2014. Access Date: 17 February 2014. <http://www.treasury.gov/press-center/press-releases/Pages/jl2296.aspx>.

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On 16 February 2012, the Financial Action Task Force on Money Laundering (FATF) revised its international standards on money laundering and financing to, “further protect the integrity of the financial system by providing governments with stronger tools to take action against financial crime.”<sup>597</sup> Internal Market and Services Commissioner, Michel Barnier, welcomed the revised standards, and promised to take appropriate steps, “to ensure that these revised standards are rapidly incorporated.”<sup>598</sup> On 5 February 2013, the European Commission adopted two proposals to “fully take into account the latest recommendations of the FATF.”<sup>599</sup> The new Directive: (1) improves clarity across EU Member states; (2) provides a mechanism for identification of owners; (3) improves rules on customer due diligence; (4) expands provisions on politically exposed persons; (5) requires those dealing with payments of EUR 7500 or more to comply with regulations; and (6) strengthens cooperation between financial intelligence units to share data on suspicious financing.<sup>600</sup> Both the European Central Bank and the European Economic and Social Committee welcomed the proposals in May 2013.<sup>601,602</sup>

Furthermore, on 11 November 2013, a draft incorporating the Commissions’ proposals into the Fourth Anti-Money Laundering Directive was presented to the European Parliament.<sup>603</sup> This draft proposed to: (1) increase vigilance regarding politically exposed persons; (2) hold companies to a public central register within their territory; (3) require companies the transferral of current information to the register on them and their ownership; (4) connect company registers by means of the European platform; (5) increase pressure on tax havens to improve cooperation; and (6) create an assessment on the money laundering and terrorist financing risks affecting the market every six months.<sup>604</sup> On 15 November 2013, the Anti Money Laundering (AML) Directive was debated in the Council of the European Union.<sup>605</sup>

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<sup>597</sup> International Standards on Combatting Money Laundering and the Financing of Terrorism & Proliferation, Financial Action Task Force (Paris) 16 February 2012. Access Date: 17 December 2013. <http://www.fatf-gafi.org/topics/fatfrecommendations/documents/internationalstandardsoncombatingmoneylaunderingandthefinancingofterrorismproliferation-thefatfrecommendations.html>.

<sup>598</sup> Statement by Commissioner Michel Barnier, European Commission (Brussels) 16 February 2012. Access Date: 17 December 2013. [http://europa.eu/rapid/press-release\\_MEMO-12-113\\_en.htm?locale=en](http://europa.eu/rapid/press-release_MEMO-12-113_en.htm?locale=en).

<sup>599</sup> Anti-Money Laundering: Stronger Rules to Respond to New Threats, European Commission (Brussels) 5 February 2013. Access Date: 17 December 2013. [http://europa.eu/rapid/press-release\\_IP-13-87\\_en.htm?locale=en](http://europa.eu/rapid/press-release_IP-13-87_en.htm?locale=en).

<sup>600</sup> Anti-Money Laundering: Stronger Rules to Respond to New Threats, European Commission (Brussels) 5 February 2013. Access Date: 17 December 2013. [http://europa.eu/rapid/press-release\\_IP-13-87\\_en.htm?locale=en](http://europa.eu/rapid/press-release_IP-13-87_en.htm?locale=en).

<sup>601</sup> Opinion of the European Central Bank on a proposal for a directive on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing and on a proposal for a regulation on information accompanying transfers of funds, European Central Bank (Frankfurt) 17 May 2013. Access Date: 17 December 2013. <http://www.europarl.europa.eu/oeil/popups/summary.do?id=1286051&t=d&l=en>.

<sup>602</sup> Opinion of the European Economic and Social Committee on the Proposal for a Directive of the European Parliament and of the Council on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing, European Economic and Social Committee (Brussels) 23 May 2013. <http://eescopinions.eesc.europa.eu/eescopiniondocument.aspx?language=EN&docnr=1767&year=2013>.

<sup>603</sup> Draft Report: Prevention of the Use of the Financial System for the Purpose of Money Laundering and Terrorist Financing, European Parliament (Brussels) 11 November 2013. Access Date: 17 December 2013. <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-%2f%2fEP%2f%2fNONGML%2bCOMPARL%2bPE-523.003%2b01%2bDOC%2bPDF%2bVO%2f%2fEN>.

<sup>604</sup> 11/03/2014 Text adopted by Parliament, 1st reading/single reading (Brussels) 3 March 2014. Access Date: 18 April 2014. <http://www.europarl.europa.eu/oeil/popups/summary.do?id=1341875&t=e&l=en>.

<sup>605</sup> Economic and Financial Affairs, Council of the European Union (Brussels) 15 November 2013. Access Date: 17 December 2013. [http://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/en/ecofin/139626.pdf](http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ecofin/139626.pdf).

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The draft was approved by the Committee on Economic and Monetary Affairs and the Committee on Civil Liberties, Justice and Home Affairs on 28 February 2014.<sup>606</sup> The statute was formally debated on in Parliament and adopted on 11 March 2014.<sup>607</sup>

The European Union has worked alongside the FATF to implement FATF standards and recommendations. Thus, the EU is awarded a score of +1 for full compliance.

*Analyst: Anthony Marchese*

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<sup>606</sup> 28/02/2014 Committee report tabled for plenary, 1st reading/single reading (Brussels) 28 February 2014. Access Date: 18 April 2014. <http://www.europarl.europa.eu/oeil/popups/summary.do?id=1340126&t=e&l=en>.

<sup>607</sup> 11/03/2014 Text adopted by Parliament, 1st reading/single reading (Brussels) 3 March 2014. Access Date: 18 April 2014. <http://www.europarl.europa.eu/oeil/popups/summary.do?id=1341875&t=e&l=en>.