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TITLE

**The Definition and Identification of the Offshore Financial Centers and Their
Legal Status in Armenia**

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List of Abbreviations

AEOI Standard	Automatic Exchange of Information Standard
BIS	Bank for International Settlements
CBA	Central Bank of Armenia
CBR	Central Bank of Russia
EC	European Commission
EU	European Union
EU MS	EU Member States
FSF	Financial Stability Forum
FT	Financing of Terrorism
IMF	International Monetary Fund
ML	Money Laundering
NBER	National Bureau of Economic Research
OFC	Offshore Financial Center
OECD	Organization for Economic and Cooperative Development
OECD GF	OECD Global Forum
RA	Republic of Armenia
RF	Russian Federation
TJN	Tax Justice Network
TJN FSI	Tax Justice Network's Financial Secrecy Index

Introduction

The offshore financial centers (OFCs) have developed after the Second World War as a result of growing number of transactions conducted through international banks located in offshore areas.¹ The term “offshore” itself means anywhere outside the place of where your live or reside. However, nowadays, the OFCs are regarded as tax havens or secrecy jurisdictions despite the fact that these are three different concepts. There has been noticed also the tendency of applying the term ‘offshore tax havens’ when referring to OFCs.

The OFCs have gained a wide-spread notoriety² for facilitating the international financial crime. Particularly, they are perceived to have greatly contributed to the global financial crisis of 2007-08 by fostering tax evasion.³ On the other hand, the OFCs play an important role in money laundering, by providing strong protection of confidentiality of the origin of money entered into the banking system.⁴ Thus, for the monitoring and prevention of financial crime the countries comprise a list of OFCs and pay specific attention to the transactions that happen in the jurisdictions included thereunder.

The Republic of Armenia (RA), itself, is not included in any list provided by both international bodies and countries but it also provides lists of offshore jurisdictions. Specifically, two bodies - the Board of the Central Bank of Armenia (CBA) and the Cabinet, have issued lists of OFCs.

The decision to research the question concerning whether there should be made changes in the abovementioned legal acts is based on the reasons and principles listed below.

Firstly, the issuance of the lists is of great importance as those serve as indicators as to which countries are viewed as uncooperative and require specific attention from both the CBA for the supervision of the suspicious deals from the point of view of money laundering (ML), and

¹ Daniela Haranguș, *Money Laundering in The Offshore Financial Centers*, Volumul XIX/2013, “Aurel Vlaicu” University of Arad, Romania, 340, available at http://fse.tibiscus.ro/anale/Lucrari2013/Lucrari_vol_XIX_2013_056.pdf (last visited 17 April 2016)

² “The Panama Papers have exposed how some of the world’s most powerful people may have used offshore bank accounts and shell companies to conceal their wealth or avoid taxes.” New York Times, *The Panama Papers: Here’s What We Know*, (2016), available at http://www.nytimes.com/2016/04/05/world/panama-papers-explainer.html?_r=0 (last visited 17 April 2016)

³ Blomeyer & Sanz, European Parliament, Directorate General for Internal Policies, *IP/D/CONT/IC/2012-071, PE 490.673, European Initiatives on Eliminating Tax Havens and Offshore Financial Transactions and the Impact of These Constructions on the Union’s Own Resources and Budget*, Study, 9 (2013), available at [http://www.europarl.europa.eu/RegData/etudes/etudes/join/2013/490673/IPOL-JOIN_ET\(2013\)490673_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/etudes/join/2013/490673/IPOL-JOIN_ET(2013)490673_EN.pdf) (last visited 17 April 2016)

⁴ *Supra* at 340, available at http://fse.tibiscus.ro/anale/Lucrari2013/Lucrari_vol_XIX_2013_056.pdf

the Cabinet for the prevention of another international crime – the tax evasion (TE). Although there are several points at which tax evasion and money laundering share techniques and can be mutually supporting, it is important to understand that operationally they are quite distinct processes.⁵ While TE involves taking legally earned income and either hiding its very existence or disguising its nature by making it appear to fall into a non-taxable category, ML does the opposite: it takes illegally earned income and gives it the appearance of being legally earned. In either event the TE turns legal income into illegal; meanwhile, once the money is laundered it becomes at least recorded and taxed, albeit with its precise nature disguised.

Secondly, back in July of 2009, the CBA decided to affirm the list of OFCs arising out of the necessity to comply with the requirements of the Laws. Particularly, in deciding the list the CBA relied on Article 18, part 5 of the RA “Law on Banks and Banking,”⁶ and Article 54, part 11 of the “Law of the Republic of Armenia on Securities Market.”⁷ In issuing the list, the Board took into consideration the OECD reports. A question, however, arises as to the legal basis for the consideration of the OECD for the creation of the list as Armenia is not an OECD Member State. Instead, it is a member of another international body, like the IMF, which also provided a list of OFCs in 2007.

Thirdly, the list provided by the RA Ministry of Finance, as assigned by the RA Cabinet, lacks in presenting the principles based on which the 70 jurisdictions were included. Not a single international body is mentioned that the Cabinet considered for the creation of its list. Whereas, that is an important factor for identifying whether the jurisdictions included were chosen based on objective criteria or not.

Thus, the given paper *aims* to investigate whether there need to be changes in the RA legal acts by identifying the main principles and criteria of creating OFC lists. In order to answer the research question whether the RA legal acts need changes/amendments, the international practice concerning the criteria of establishing OFC lists will be studied.

It should be noted that the contrastive and comparative study of legislations is *significant* nowadays since it helps to reveal the similarities and differences in the legal world pictures. For the study different lists by international bodies such as the OECD, the IMF, the FSF, the BIS and

⁵ United Nations, Global Programme against Money Laundering, *Financial Havens, Banking Secrecy and Money Laundering*, 1998, p. 11, available at <http://www.cardiff.ac.uk/socsi/resources/levi-laundering.pdf> (last visited 17 April 2016)

⁶ See the “RA Law on Banks and Banking” from 30.06.1996, N ՅՕ-68

⁷ See the “Law of the Republic of Armenia on Securities Market” from 11.10.2007, N ՅՕ-195-Ն

many others have been observed. Lists issued by the USA, Russia, several EU member states have also been subject to investigation in this research.

The only limitation of this study is the relative lack of Armenian literature regarding criteria of identifying the OFCs and their definitions. The OFCs are not in any way defined in either Armenian books or legislation. However, if there were extensive literature concerning the question of whether we need to make changes in the lists based on specific criteria, then there would not have been a knowledge gap, which we intend to fill.

The literature, which was used in the paper mostly, consists of OECD Progress Reports which provided the lists of tax haven jurisdictions, the IMF Working Paper that specifically addressed the definitions of OFCs, the EU 2015 blacklist of uncooperative jurisdictions that brought about contradictions with the lists of OECD, the Tax Justice Network's⁸ (TJN) relevant work on identifying the secrecy jurisdictions, as well as, several lists issued by different countries.

The immense work done by the European Parliament (EP) has greatly contributed to the writing of this paper. The EP in its “European initiatives on eliminating tax havens and offshore financial transactions and the impact of these constructions on the Union's own resources and budget” addresses the main issues that OFCs bring about by specifically mentioning how they have contributed the 2007-08 global financial crisis. The above-mentioned works provided the basis for writing the Chapters 1 and 2. As to the Chapter 3, the RA Laws have been investigated, specifically, particular articles from the “Law on Securities Market”, the “Law on Banks and Banking”, the “Law on the Central Bank of Armenia”, and the “Law on the Legal Acts”. Apart from the investigated Laws, we needed to contact the Head of the Tax Administration Methodology Department of the Ministry of Finance in order to find out the main principles that had been used to issue the list of OFCs.

This paper consists of Introduction, three Chapters, Conclusion, and eight Appendices.

In *Introduction* the purpose and significance of the study in addition to a brief description of the structure of the work are presented.

⁸ “The Tax Justice Network is an independent international network launched in 2003. It is dedicated to high-level research, analysis and advocacy in the area of international tax and the international aspects of financial regulation. It explains the role of tax and the harmful impacts of tax evasion, tax avoidance, tax competition and tax havens. The world of offshore tax havens is a particular focus of their work.” Tax Justice Network, *Who We Are*, available at <http://www.taxjustice.net/about/who-we-are/> (last visited 17 April 2016)

In this paper the research question whether there is a need to make changes in the lists provided by the Board of the CBA and the Cabinet, will be fully examined and answered. The *conclusion* will be that in fact there is a need to make changes or at least updates and give recommendations concerning them. In order to reach this conclusion, the Masters paper will be divided into three chapters

Chapter 1 will study both the conceptual and operational definitions of the OFCs. It will give general understanding of the nature of OFCs by comparing them with tax havens, as the latter are usually confused with the OFCs. We will also provide a new definition for the OFCs considering the main characteristic features offered by scholars and practitioners. The global standards presented by the OECD Global Forum (GF), to which almost all countries, including the Republic of Armenia (RA), comply with, will also be investigated.

Chapter 2 will study the principles and criteria used by different international bodies and countries in compiling their lists of OFCs. It compares those practices with the ones used in the RA by giving a general overview of how the OFCs are treated in the RA.

Chapter 3 specifically addresses the gaps in the RA legal acts. It analyzes the lists issued by the RA CBA and the Cabinet, the purposes of issuing them, the principles/criteria used, as well as, it discusses the possible changes by presenting recommendations for the issuance of new lists. A new list, based on the overall analysis of the, more or less, objective criteria, will be provided.

It is in my opinion that such structured analysis will ultimately provide a comprehensive answer to the study and will be useful for the future legislative changes.

Chapter 1

The Definition of Offshore Financial Centers: Historical Perspective

1. *The Distinction between the Definitions of Offshore Financial Centers and Tax Havens: Historical Perspective*

Much effort has been made by different scholars, practitioners and international bodies to try to identify and give the definition of Offshore Financial Centers (OFCs). Although very often the list of OFCs overlaps with the one of Tax Havens⁹, there is a difference between these two concepts. For the purpose of making the distinction much more comprehensible, the paper will, firstly, discuss the notion of tax havens and later it will present the definition of OFCs. As well as information about their legal status in Armenia will be provided.

1.1 *The perception of 'tax havens' and 'harmful preferential tax regimes'*

Although tax havens and OFCs are closely related, not every jurisdiction falls into both categories and it is difficult to find a jurisdiction that would be considered either a 'pure' tax haven or an OFC. Different international bodies such as the OECD, IMF, FSF and others, have provided lists of OFCs and tax havens. However, only the OECD has provided lists explicitly including lists meeting the tax haven criteria. In its 1998 the OECD presented the four key factors for the identification of tax havens. These are 1) no or nominal tax on the relevant income; 2) lack of effective exchange of information; 3) lack of transparency; 4) no substantial activities.^{10,11}

In June 2000, the OECD identified 40 jurisdictions meeting the tax haven criteria.¹² Meanwhile, in its 1998 report the OECD also identified the jurisdictions with *harmful preferential tax regimes*. For the identification and assessment of such jurisdictions the OECD proposed four key factors: 1) no or low effective tax rate, 2) "ring fencing" of regimes, 3) lack of transparency, and 4) lack of effective exchange of information.¹³

⁹ Tax Justice Network, *Identifying Tax Havens and Offshore Financial Centers*, Briefing Paper, 1 (2007), available at http://www.taxjustice.net/cms/upload/pdf/Identifying_Tax_Havens_Jul_07.pdf (last visited 17 April 2016)

¹⁰ OECD, *Countering offshore tax evasion, Some questions and answers to the project*, 11 (2009), available at <http://www.oecd.org/ctp/harmful/42469606.pdf> (last visited 17 April 2016)

¹¹ The fourth criterion, however, was rejected by the US administration and later in the OECD's 2002 progress Report it was officially removed. It was thought to be suggesting that a jurisdiction may be attempting to attract investment and transactions that are purely tax driven (transactions may be booked there without the requirement of adding value so that there is little real activity, i.e. these jurisdictions are essentially "booking centres"). OECD, *Harmful Tax competition: An Emerging Global Issue*, 22 (1998), available at <http://www.oecd.org/tax/transparency/44430243.pdf> (last visited 17 April 2016)

¹² The table of the jurisdictions having been considered as tax havens by 2000 can be seen in the Appendix 1 attached to this paper.

¹³ OECD, *Countering offshore tax evasion, Some questions and answers to the project*, 11 (2009), available at <http://www.oecd.org/ctp/harmful/42469606.pdf> (last visited 17 April 2016)

It can be seen from the comparison of the applied criteria for differentiating these two concepts that the main feature turning the tax haven into a harmful preferential tax regime is the “ring fencing” of regimes.¹⁴ This criterion implies that some preferential tax regimes are partly or fully insulated from the domestic markets of the country providing the regime.¹⁵ Thus, one can assume that whenever the country feels the need to create ring-fencing in order to insulate its domestic economy from the regime, this indicates that the regime has a potential to create harmful spillover effects.

1.1.1 The Internationally Agreed Standard on Transparency and Exchange of Information

The 1998 OECD Report condemned both tax havens and preferential regimes as “harmful tax competition.” In 2000 the OECD published its second report¹⁶ where it discussed particularly how the bank secrecy laws in many tax havens hindered their cooperation with foreign tax information requests. Thus, the Report stated that all OECD countries should “permit tax authorities to have access to bank information, directly or indirectly, for all tax purposes so that tax authorities can fully discharge their revenue raising responsibilities and engage in effective exchange of information.”¹⁷

It is important to note that the Report mentions “all OECD countries” and not “all OECD member countries.” The reason behind this is that OECD does not limit its functions only to its member countries. With the goal to help governments to foster prosperity and fight poverty through economic growth and financial stability,¹⁸ the OECD has broadened its focus to include extensive contacts with non-Members and it now maintains co-operative relations with a large number of them, including Armenia. Helping improve public governance and management in European Union Candidate Countries, Potential Candidates, and European Neighborhood Policy

¹⁴ “As described in the OECD’s 1998 Report, the ring-fencing may take a number of forms such as explicitly or implicitly excluding the resident taxpayers from taking advantage of the benefits that the jurisdiction provides to non-residents and explicitly or implicitly prohibiting the enterprises that could well benefit from the regime from operating in the domestic market.” OECD, *Harmful Tax competition: An emerging global Issue*, 27, Box 2 (1998), available at <http://www.oecd.org/tax/transparency/44430243.pdf> (last visited 17 April 2016)

¹⁵ *Ibid.*

¹⁶ OECD, *Improving Access to Bank Information for Tax Purposes* (2000), available at <http://www.oecd.org/tax/exchange-of-tax-information/2497487.pdf> (last visited 17 April 2016)

¹⁷ Avi-Yonah, Reuven S., *The OECD Harmful Tax Competition Report: A Tenth Anniversary Retrospective*, Brook. J. Int'l L. 34, no. 3 (2009): 784, <http://repository.law.umich.edu/cgi/viewcontent.cgi?article=1037&context=articles> (last visited 17 April 2016)

¹⁸ OECD, *What do We Do and How*, available at <http://www.oecd.org/about/whatwedoandhow/> (last visited 17 April 2016)

partners is the mission of a joint OECD-EU initiative, the Support for Improvement in Governance and Management (SIGMA) programme¹⁹. Particularly, Armenia became a partner of the European Neighborhood Policy (ENP) in 2004 and a Member of Eastern Partnership (EP) in 2009.²⁰ Armenia's inclusion in the ENP was for the further development and strengthening of its cooperation with the EU. Thus, it can be seen that this way OECD monitors the economic development and financial stability of Armenia.

In 2000s, the OECD and the GF²¹ have developed the internationally agreed tax standard on transparency and effective exchange of information which have been endorsed by the UN, and G20.²² This standard strikes a balance between the privacy and the need for jurisdictions to enforce their tax laws.²³ The main requirements of the standard are:

- a) The exchange of information on request where it is “foreseeably relevant” to the administration and enforcement of the domestic laws of the treaty partner,
- b) No restrictions on exchange caused by bank secrecy or domestic tax interest requirements,
- c) Availability of reliable information and powers to obtain it,
- d) Respect for taxpayers’ rights,
- e) Strict confidentiality of information exchanged.

At first glance the last three requirements may seem to contradict one another, i.e. whether the taxpayers' rights are respected if the country seeks to obtain confidential information about his/her offshore account, and if the information is actually confidential if it becomes available. The standard, however, may be viewed as suggesting that the information exchange on request is available only when the information is relevant to the assessment of taxes. Thus, the

¹⁹ OECD, Members and Partners, Global Relations, available at <http://www.oecd.org/about/membersandpartners/> (last visited 17 April 2016)

²⁰ “Through its European Neighbourhood Policy (ENP), the EU works with its southern and eastern neighbours to achieve the closest possible political association and the greatest possible degree of economic integration.” European Union External Action, *European Neighborhood Policy*, available at http://eeas.europa.eu/enp/index_en.htm (last visited 17 April 2016)

²¹ “The Global Forum is the continuation of a forum which was created in the early 2000s in the context of the OECD’s work to address the risks to tax compliance posed by non-cooperative jurisdictions.” Global Forum on Transparency and Exchange of Information for Tax Purposes, available at <http://www.oecd.org/tax/transparency/> (last visited 17 April 2016)

²² The standards are primarily contained in the Article 26 of the OECD and Model UN Tax Convention and the 2002 Model Agreement on Exchange of Information on Tax Matters.

²³ OECD, *The Global Forum on Transparency and Exchange of Information for Tax Purposes*, Annex I (2003), available at http://www.oecd.org/tax/transparency/global_forum_background%20brief.pdf (last visited 17 April 2016)

countries may obtain information only with that purpose and in case all possible means of obtaining the information in the home jurisdictions were exhausted.

As discussed in the OECD's 2001 Progress Report the three main elements/principles of the standard are the *availability of information*, the *access to information*, and the *exchanging of information*.²⁴ In other words, the information must be available, the tax authorities must have access to the information, and there must be a legal basis for exchange. The latter means that the jurisdictions cannot exchange information unless they have a certain mechanism for doing so. The legal authority to exchange information may be derived from bilateral or multilateral mechanisms (e.g. double tax conventions, tax information exchange agreements, the Joint Council of Europe/OECD Convention on Mutual Administrative Assistance in Tax Matters developed in 2010) or arise from domestic law.²⁵ If any of these elements are missing, the information exchange will not be effective.

The standard required all jurisdictions to make commitments until 2002 in order to not to appear in the list differentiating between those jurisdictions that have made commitments and those that have not. From the initially compiled list of 47 tax havens 6 were found not to qualify. In the 2000 Progress Report, the OECD defined a "tax haven" as a country with

- (a) no or nominal taxation; and
- (b) one or both of the following: ineffective tax information exchange with other countries, and/or a lack of transparency in its tax or regulatory regime, including excessive bank or beneficial ownership secrecy.

Then, the OECD identified 41 tax havens, 6 out of which made commitments to cooperate to improve transparency and to establish effective exchange of information. Thus, by 2007 already 33 out of 84 jurisdictions as surveyed by the Global Forum, have committed to implement the standard.²⁶

²⁴ OECD, *The OECD's Project on Harmful Tax Practices*, Progress Report, 11, (2001), available at <http://www.oecd.org/ctp/harmful/2664450.pdf> (last visited 17 April 2016)

²⁵ OECD Global Forum, *Terms of Reference to Monitor and Review Progress Towards Transparency and Exchange of Information on Request for Tax Purposes*, 7 (2016), available at <http://www.oecd.org/tax/transparency/about-the-global-forum/publications/terms-of-reference.pdf> (last visited 17 April 2016)

²⁶ OECD, *Overview of the OECD's Work on Countering International Tax Evasion*, 5 (2009), available at https://www.ecovis.com/fileadmin/user_upload/international/news/global/oecd-releases-overview.pdf (last visited 17 April 2016)

At the same time, the OECD and the EU have also provided the list of countries having the harmful preferential tax regimes. Particularly, the EU applied the criteria of identifying the harmful tax regimes as stated in the EU Code of Conduct on Business Taxation. The code specifies that the tax measure should be regarded as potentially harmful if they provide for a significantly lower effective level of taxation, including zero taxation, than those levels which generally apply in the Member State in question.²⁷ Then the Code states the relevant criteria for considering the tax measures as harmful including ‘ring-fencing’ from the domestic market, advantages accorded only to nonresidents, etc.²⁸

The list of the tax havens and *potentially harmful preferential tax regimes in OECD member countries* included in the 2000 Progress Report is attached in the *Appendix I* of this Paper.²⁹ It should be noted that the EU states involved were the same as those in the OECD list.

Since 2011, new standards have been developed by the OECD and the GF regarding the information exchange. Particularly, according to the global standard, the exchange of information is provided *on request* where it is foreseeably relevant to the administration. It also requires that jurisdictions ensure that the information is available, it can be obtained by the tax authorities and there are mechanisms allowing for the exchange of information.³⁰ Recently, the new Standard of Automatic Exchange of Information (AEOI) has been developed, the implementation of which may become an important step for the development of a global level playing field. More than 90 jurisdictions have announced their commitments to implement the new standard, 56 will have their first information exchanges by September 2017, and 38 jurisdictions will follow in 2018.³¹

Since its membership to the GF in October 2015, Armenia has also committed to the standard of AEOI. The GF provides multiple benefits to its members and Armenia will also

²⁷ Official Journal of the European Communities, *EU Code of Conduct for Business Taxation*, C 2/3 (1997), available at http://ec.europa.eu/taxation_customs/resources/documents/coc_en.pdf (last visited 17 April 2016)

²⁸ *Ibid.* Criteria for the identification of harmful tax measures.

²⁹ See the list of tax havens on page 17, and the list of potentially harmful preferential tax regimes on page 14. OECD, *Towards Global Tax co-operation, Progress in Identifying and Eliminating Harmful Tax practices*, Report to the Ministerial Council Meeting and Recommendations by the Committee on Fiscal Affairs (2000), available at <http://www.oecd.org/ctp/harmful/2090192.pdf> (last visited 17 April 2016)

³⁰ OECD Global Forum, *Exchange of Information on Request, Peer Review Process*, available at <http://www.oecd.org/tax/transparency/exchange-of-information-on-request/peer-review/> (last visited 17 April 2016)

³¹ Global Forum on Transparency and Exchange of Information for Tax Purposes, *Implementation of the New Standard*, available at <http://www.oecd.org/tax/transparency/automatic-exchange-of-information/implementation/> (last visited 17 April 2016)

benefit from its membership.³² Firstly, the participation in the forum will enable it to negotiate information exchange agreements with different financial centers. Secondly, the peer review process launched by the GF, i.e. when the peers make assessments on a country's legal framework, will reflect the current situation and the gaps, thus, enabling the country to make improvements. Thirdly, the successful implementation of the AEOI will help to recover tax revenue lost to non-compliant taxpayers, and further will strengthen international efforts to increase transparency, cooperation, and accountability among financial institutions and tax administrations.³³ Armenia's membership to the GF may also provide the country with international visibility: the country may be viewed as a reliable location to do business as the GF assists its members in fight against corruption and money laundering as well.³⁴

However, Armenia has not yet signed the Convention on Mutual Administrative Assistance in Tax Matters³⁵ for the AEOI which is a prerequisite for the implementation of the Standard, thus she will not participate in the peer-review process and present results in 2017-18 and unless she becomes a Party to the Convention.

Thus, one can see that there is a clear distinction between the two concepts of 'tax havens' and 'harmful preferential tax regimes', i.e. the criterion of *ring-fencing of regimes* which indicates that the country or the jurisdiction is endangered to be affected by the regime. The internationally agreed standard on transparency and exchange of information may be seen to have a positive impact on the *improvement of oversight* by helping the OECD to create the list of cooperative 'tax havens' and, hence, reducing the number of non-cooperative 'harmful preferential tax regimes'. The numbers of jurisdictions agreeing to implement the AEOI standard shows that day-by-day less territories want to appear in the blacklists provided for by both different countries and international bodies.

1.2 The Definition of Offshore Financial Centers

³² Global Forum on Transparency and Exchange of Information for Tax Purposes, *About the Global Forum: Membership*, available at <http://www.oecd.org/tax/transparency/abouttheglobalforum.htm> (last visited 17 April 2016)

³³ *Ibid.*

³⁴ *Ibid.*

³⁵ The Convention was developed in 1988 and amended by Protocol in 2010. OECD & Council of Europe, Convention on Mutual Administrative Assistance in Tax Matters, available at <http://www.oecd.org/ctp/exchange-of-tax-information/ENG-Amended-Convention.pdf> (last visited 17 April 2016)

In recent years, there has been an increasing tendency towards understanding of the activities the OFCs perform. These centers have captured great attention in the financial world pictures. For this reason, many scholars and practitioners attempted to give the definition of the OFCs. Although there is not a precise definition of the latter', the scholars³⁶ strived to distinguish the key characteristic features that differentiate the OFCs from tax havens.

In June of 2000 the International Monetary Fund (IMF) prepared a paper where it attempted to define the OFCs. Particularly, it is mentioned that, at its broadest, an OFC is any financial center where offshore activity takes place.³⁷ Then the paper continues by giving a more practical definition, in particular, the OFCs, firstly, are considered to be jurisdictions that have relatively large numbers of financial institutions engaged primarily in business with non-residents, secondly, these are financial systems with external assets and liabilities out of proportion to domestic financial intermediation designed to finance domestic economies, and thirdly, these are centers which provide some or all of the following services: low or zero taxation; moderate or light financial regulation; banking secrecy and anonymity.

Later in 2007, the IMF published a Working Paper - "Concept of Offshore Financial Centers: In Search of an Operational Definition"- by Ahmed Zoromé.³⁸ Firstly, the author separates the definitions for OFCs into two groups- conceptual and operational. The definitions in the first group are mainly offered by academics, while the definition in the second group is mostly proposed by the IMF and shows a more practical approach towards defining the OFCs. These two groups of definitions are analyzed below.

1.2.1 Conceptual Group of Definitions

Many scholars³⁹ such as Ian McCarthy, Luca Errico, Alberto Musalem, and Johnston R. Barry who are researchers at IMF, Yoon Park- a professor of International Finance at George Washington University, Dufey and Giddy - scholars and researchers at IMF have tried to define

³⁶ Ian McCarthy, Luca Errico, Alberto Musalem, and Johnston R. Barry, Yoon Park, and Dufey and Giddy.

³⁷ "This definition would include all major financial centers in the world such as London, New York, and Tokyo that could more usefully be described as "International Financial Centers" (IFCs)." International Monetary Fund, *Offshore Financial Centers*, Background Paper, (2000), available at <https://www.imf.org/external/np/mae/oshore/2000/eng/back.htm#box1> (last visited 17 April 2016)

³⁸ The IMF has resident representatives in different countries. Mr. Ahmed Zoromé is the representative of Niger and a researcher at IMF.

³⁹ Ian McCarthy, Luca Errico, Alberto Musalem, and Johnston R. Barry are researchers at IMF. Yoon Park is a professor of International Finance at George Washington University. Dufey and Giddy are scholars and researchers at IMF. Social Science Research Network, available at <http://www.ssrn.com/en/> (last visited 18 April 2016)

the OFCs.⁴⁰ The review of the definitions suggested by the abovementioned scholars shows that all the definitions are, more or less, alike each other, although, each of them attaches one more characteristic feature to an OFC that the previous one does not. For instance, the definition proposed Ian McCarthy attaches the feature of *consciousness* to the characteristics of OFC, implying there is intent in attracting offshore banking business. This can be affirmed also by the fact that these territories offer flexible attitude towards, and even absence of, intrusive and expensive official regulation and taxation. Luca Errico and Alberto Musalem, are supporters of the theory of exemption from the regulations and taxation. Meanwhile, Yoon Park and Johnston R. Barry concentrate on the feature of the foreign currency with which the transactions in the international financial centers take place. Thus, there are many characteristic features that different scholars have attached to them, the most distinguishable and important ones being the intent in attracting the offshore business, the exemption from expensive regulations, the low or no taxation system and the foreign currency used in making the transactions.

1.2.2 *The Operational Definition*

The second group of definitions includes the definition by the author of the same IMF paper⁴¹ himself. Mr. Zoromé argues that the definitions suggested by the scholars do not adequately capture the ‘intrinsic’ feature of the OFC phenomenon and suggests a new, more practical definition of the OFCs:

*An OFC is a country or jurisdiction that provides **financial services** to nonresidents on a scale that is incommensurate with the size and the financing of its domestic economy.*⁴²

This definition clearly stresses the feature of ‘financial services’ to nonresidents, particularly, exports of financial services, which is the *raison d’être*⁴³ of OFCs. Even though one may argue that almost all countries provide financial services, the peculiarity of OFCs is that they provide financial services on a scale far exceeding the needs and the size of their economies.⁴⁴ The author claims that the setting up of an OFC usually results from a conscious

⁴⁰ See Appendix 6 for the Definitions presented by the abovementioned scholars and practitioners.

⁴¹ Ahmed Zoromé, *Concept of Offshore Financial Centers: In Search of an Operational Definition*, IMF Working Paper, 7 (2007) available at <https://www.imf.org/external/pubs/ft/wp/2007/wp0787.pdf> (last visited 18 April 2016)

⁴² *Ibid.*

⁴³ ‘raison d’être’ (French), means the most important reason or purpose for something’s existence.

⁴⁴ Ahmed Zoromé, *Concept of Offshore Financial Centers: In Search of an Operational Definition*, IMF Working Paper, 7 (2007) available at <https://www.imf.org/external/pubs/ft/wp/2007/wp0787.pdf> (last visited 18 April 2016)

effort to specialize the economy in the export of financial services with the intention of generating revenues constituting a critical proportion of the national income.

Usually the receipts of these exports consist of:

- a) financial services billed to nonresidents by entities domiciled offshore⁴⁵, and
- b) registration/renewal fees for licensed entities (offshore banks, insurance companies, collective investment vehicles, international business companies, trusts and estates, etc.).⁴⁶

For the identification of the OFCs, the paper then suggests a methodology based on *economic statistics*, rather than regulatory characteristics. The author considers the ratio of net financial services exports to Gross Domestic Product (GDP) as an indicator of the OFC status of a country or jurisdiction, i.e. the relation of the country's level of its net exports of financial services to a measure of its national income. However, the availability of data, in particular, the data in the balance of payments statistics reported by many countries, created some difficulties; many jurisdictions, particularly the OFCs, neither collect nor disseminate information regarding their balance of payment statistics. Thus, this led the author to conclude that whenever the current account data on payments for net exports of financial services are unavailable, data on portfolio investment assets in the capital accounts should be used as a proxy.⁴⁷

Mr. Zoromé explains: "*OFCs are characterized by a proportionally high level of portfolio investment assets because they are home (legal domicile) to a large number of primarily custodian entities, which hold and manage securities on behalf of clients residing outside the OFC.*"⁴⁸

The purposed methodology of identifying the OFCs through taking the ratio of net exports of financial services to GDP is thought to show whether the financial services provision

⁴⁵ *Ibid.* "The intermediary service fees, like those related to lines of credit, financial leasing, and foreign exchange or commissions on funds administration, and on securities transactions, including brokerage, placements of issues, underwritings, arrangement of swaps, options, and other hedging instruments; services related to asset management; and security custody services, etc."

⁴⁶ *Ibid.* In addition, OFCs also deliver nonfinancial services, including ship and aircraft registrations, trademarks, patents and copyright registrations, and economic citizenship programs.

⁴⁷ Tax Justice Network, *Identifying Tax Havens and Offshore Financial Centers*, Briefing Paper, 5 (2007), available at http://www.taxjustice.net/cms/upload/pdf/Identifying_Tax_Havens_Jul_07.pdf (last visited 19 April 2016)

⁴⁸ Ahmed Zoromé, *Concept of Offshore Financial Centers: In Search of an Operational Definition*, IMF Working Paper, 9 (2007), available at <https://www.imf.org/external/pubs/ft/wp/2007/wp0787.pdf> (last visited 19 April 2016)

to non-residents is incommensurate with the domestic economy.⁴⁹ This methodology has been viewed by the Tax Justice Network⁵⁰ to have its consequences; as a result, countries with harmful preferential tax regimes or several financial centers within larger countries, cannot be classified as OFCs as the weight of the rest of the economy in the indicator is much larger.⁵¹ On the other hand, several tax havens specialize in the corporate and trust formation and management instead of financial services; hence, applying the provision of ‘financial services’ will overlook those jurisdictions which are great facilitators of money laundering and tax evasion.

From the point of view of IMF, which is concerned with the financial stability, the list of OFCs based on financial services is suitable for its purposes. However, the TJN does not agree with it in whole by mentioning that the indicator proposed by Mr. Zoromé is not enough for the identification of OFCs. Thus, even though Mr. Zoromé’s paper overlooks offshore management of corporate structures, it largely concentrates on offshore management of personal wealth. Hence, in case of the inclusion of the activities of corporate structures, the indicator of the net financial services exports would not be enough, i.e. additional indicators would be required.⁵²

When comparing the tax havens and OFCs, it can be seen that from the objective point of view, as mentioned in Mr. Zoromé’s paper, when the economic statistics are used to identify the OFCs, the one and only difference between them is the provision of *financial services*. That means there are countries and/or jurisdictions which suggest low or no taxation schemes, but they do not offer financial services. For instance, Liberia has a shipping and corporate registry which in reality is operated by a company located in the U.S.A. As a result, the ‘flagging out’ of ships and the tax avoidance are facilitated.⁵³ For the reason that Liberia does not provide financial services, the OECD included it in the list of tax havens. On the other hand, the OFCs also offer tax advantages. Nonetheless, not all the OFCs are included in the OECD list of tax havens mainly because the latter examined and listed only small tax haven jurisdictions.

Summing up the abovementioned analysis, one may come to the conclusion that OFCs do not have a specific, clear and unambiguous definition which could ideally describe all their

⁴⁹ Tax Justice Network, *Identifying Tax Havens and Offshore Financial Centers*, Briefing Paper, 5 (2007), available at http://www.taxjustice.net/cms/upload/pdf/Identifying_Tax_Havens_Jul_07.pdf (last visited 19 April 2016)

⁵⁰ *Ibid.*

⁵¹ The ‘indicator’ in the context is the net financial services exports.

⁵² See Appendix 1 for the list of OFCs produced as a result of the study.

⁵³ Tax Justice Network, *Identifying Tax Havens and Offshore Financial Centers*, Briefing Paper, 6 (2007), available at http://www.taxjustice.net/cms/upload/pdf/Identifying_Tax_Havens_Jul_07.pdf (last visited 19 April 2016)

characteristic features and peculiarities. Instead, the definitions suggested by many scholars and practitioners taken altogether can give a general understanding of the nature of OFCs.

It may be seen from the analysis that the provision of ‘financial services’ is a good one as it identifies the OFCs relying on objective criterion of economic statistics. However, it concentrates solely on one principle – the existence of financial services exports, which is not enough for the identification in case of the inclusion of other activities. Thus, although Mr. Zoromé’s definition helped greatly to identify the OFCs, and based on this criterion the IMF provided its list, new approaches are still needed.

Probably a new definition of OFCs that might capture the features so characteristic to OFCs may be the one presented by this paper.

The OFCs are jurisdictions which have made a conscious effort in attracting financial activities separated from domestic financial markets by offering financial services, low taxes or zero taxation, dealing in external currencies (not the currency of the country where a center is located), used primarily but not exclusively by nonresident clients, and where the financial institutions are exempt from a wide range of regulations normally imposed on them when operating onshore.

This definition explicitly distinguishes between the OFCs, tax havens and harmful preferential tax regimes: the *financial services* provided by OFCs, no or low taxes *not* limited to nonresidents.

One of the main similarities between the OFCs and tax havens relies in that they both have strong bank secrecy and secrecy of legal entities.⁵⁴ The recent developments in the global standards of transparency and exchange of information have fairly improved the overall stability and reduced the number of uncooperative tax havens. Another similarity is that they both offer low or zero taxation to the non-residents.

As to the differences of OFCs and tax havens, there is a clear distinction when considered from the economic point of view. That is the feature of *financial services* offered by the OFCs. However, many have argued that this provision is not enough for the identification of the OFCs.

⁵⁴ *Ibid.* 1. The strong bank secrecy implies that the information cannot (or not easily) be obtained from banks and other financial institutions for official purposes such as tax collection (including other countries’ taxes). As to the secrecy of legal entities, it provides that the information is not available or obtainable about companies, corporations, trusts, foundations, or other legal entities, such as the beneficial owners (e.g. shareholders of a company, or beneficiaries of a trust), details of persons with power to determine the use of assets, or financial account.

Thus, although many have tried to define the OFCs and propose criteria for their identification, there are still loopholes that need to be covered, for instance, the analysis of the OFCs based on other criteria apart from the economic statistics.

CHAPTER 2

The Principles of Identifying the OFCs Based on the International Best Practices

Recently, there has been noticed the tendency of classifying the OFCs, tax havens and secrecy jurisdictions under one single concept of “tax havens”.⁵⁵ This happens because all these

⁵⁵ Blomeyer & Sanz, European Parliament, Directorate General for Internal Policies, *IP/D/CONT/IC/2012-071, PE 490.673, European Initiatives on Eliminating Tax Havens and Offshore Financial Transactions and the Impact of These Constructions on the Union's Own Resources and Budget*, Study, 37 (2013), available at

territories offer favorable tax rates, lax regulatory policies⁵⁶, and banking and business secrecy to foreign investors. Besides, there are no universally agreed definitions for the OFCs, tax havens and secrecy jurisdictions. This resulted in the fact that these concepts are used interchangeably.

The OFC lists produced by different countries are mostly based on the lists presented by various international bodies. The inclusion on, and the exclusion from, the OFC/“tax haven” lists mainly depends on the country’s political considerations as well.

Before looking at the practices applied by different countries with the purpose of identifying those jurisdictions that fall within the ambit of “tax havens” (collectively including OFCs, tax havens and secrecy jurisdictions), it is better to start with the observation of the lists provided by the international bodies. Thus, firstly, the lists by the OECD, the IMF, the Financial Stability Forum (FSF), the Bank for International Settlements (BIS) and several other international bodies will be investigated, and further the paper will discuss particular lists by various jurisdictions, including the USA, Russia, EU Member States (EU MS) such as Germany, Greece, and post-Soviet countries- Latvia and Lithuania.

2.1.Detailed Analysis on and Lists of “Tax Havens” by the International Bodies

Many international bodies have strived to give the definitions of OFCs. Based on those definitions they have issued their lists of “tax havens”. To what extent there is agreement between these bodies as to which jurisdictions fit into the category of “tax havens”, as well as which countries/jurisdictions that do not fall under this category are considered to have harmful tax practices are discussed below.⁵⁷

2.1.1. Organization for Economic Cooperation and Development (OECD)

The OECD “Report to the 2000 Ministerial Council Meeting and Recommendations by the Committee on Fiscal Affairs” identified a number of countries having harmful preferential tax regimes. The same Report also identified 35 jurisdictions that met the criteria of tax havens as discussed in 1998 Report.⁵⁸ The jurisdictions that had made commitments to eliminate their

[http://www.europarl.europa.eu/RegData/etudes/etudes/join/2013/490673/IPOL-JOIN_ET\(2013\)490673_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/etudes/join/2013/490673/IPOL-JOIN_ET(2013)490673_EN.pdf)
(last visited 19 April 2016)

⁵⁶ Hines, James R., Jr. "Treasure Islands." J. Econ. Persp. 24, no. 4 (2010): 103-25, available at <http://repository.law.umich.edu/cgi/viewcontent.cgi?article=1716&context=articles> (last visited 19 April 2016)

⁵⁷ See Appendix 1 for the diagram.

⁵⁸ See Chapter 1, § 1.1, “tax haven” criteria, p. 6

harmful tax practices, thus, were not included in this list. Hence, these 35 jurisdictions comprising the list were classified as ‘uncooperative tax havens’. After the standard on transparency and effective exchange of information was promoted by the OECD in 2000s, all these uncooperative jurisdictions were removed from the list on the ground of formal commitments to implement the standard.⁵⁹

In the *2009 OECD Progress Report* two groups of jurisdictions were identified. In the list with the heading “Jurisdictions that have committed to the internationally agreed tax standard, but have not yet substantially implemented it,” the OECD categorized separately “tax havens” including 27 jurisdictions, and “other financial centers” including 8 jurisdictions. Jurisdictions identified as having not committed to the internationally agreed tax standard were: Costa Rica; Malaysia; Philippines; Uruguay.⁶⁰

In the *2011 OECD Progress Report* 87 jurisdictions have been identified as having implemented the tax standard. Five jurisdictions have been identified as having committed to it, but have not yet substantially implemented it. Among these, three tax havens- Montserrat, Niue, and Nauru- and two ‘other financial centers’- Guatemala and Uruguay- were distinguished.⁶¹

The *2012 Progress Report* identified 89 jurisdictions having substantially implemented the internationally agreed tax standard on transparency and effective exchange of information. Only two of the jurisdictions- Niue and Nauru, identified as ‘tax havens’, and one ‘other financial center’- Guatemala, retained its status of commitment to the standard, but not the substantial implementation of it in practice.⁶²

The Board of the CBA in issuing its lists has considered these Progress Reports, thus presenting 5 jurisdictions in the 2012 listing.⁶³

2.1.2. OECD Global Forum

⁵⁹ Later the *2007 OECD Report* identified 3 jurisdictions not meeting the tax haven criteria- Barbados, the Maldives and Tonga.

⁶⁰ OECD, *A Progress Report on the Jurisdictions Surveyed by the OECD Global Forum in Implementing the Internationally Agreed Tax Standard, Progress made as at 2nd April 2009*, available at <http://www.oecd.org/ctp/42497950.pdf> (last visited 20 April 2016)

⁶¹ OECD, *The Global Forum on Transparency and Exchange of Information for Tax Purposes, 27 (2011)*, available at http://www.taxjustice.net/cms/upload/pdf/OECD_Global_Forum_Sep_12_Peer_Reviews.pdf (last visited 20 April 2016)

⁶² OECD, *A Progress Report on the Jurisdictions Surveyed by the OECD Global Forum in Implementing the Internationally Agreed Tax Standard, Progress made as at 18 May, 2012*, available at <http://offshore.infinity-group.ru/doc/g20.pdf> (last visited 20 April 2016)

⁶³ The list issued by the Board of the CBA is thoroughly analyzed in Chapter 3.

In 2010 the *OECD Global Forum* has launched a peer review process aimed at identifying the deficiencies that hinder the implementation of the internationally agreed tax standard. The peer review process comprised of two phases. Phase 1 was designed to assess the quality of a jurisdiction's legal and regulatory framework for the effective exchange of information. Meanwhile, Phase 2 reviewed the application of the standards in practice. In particular, it looked at whether the implementation of the standard in practice was effective. In contrast to Phase 1, it was designed to provide overall ratings on jurisdictions' compliance with the standards.⁶⁴ In a number of cases the deficiencies were considered to be so significant as to delay a jurisdiction from passing to a Phase 2 review until they had been addressed.⁶⁵

On October 2015, Armenia joined the Global Forum thus showing its intent in committing to the implementation of the Automatic Exchange of Information standard. Up until the RA signs the Convention on Mutual Administrative Assistance in Tax Matters for the AEOI, it will not participate in the peer-review process.

2.1.3. International Monetary Fund (IMF)

In 2000 the *IMF* has purposed its list of OFCs consisting of 63 jurisdictions. It was based on more or less broad characteristics of OFCs described in 1.2. However, in 2007 using a modified methodology of defining the OFCs from an economic standpoint- based on the nature of their trade, and by developing a statistical method to distinguish between the OFCs and non-OFCs, the IMF suggested an alternative definition of the OFCs and issued a new list comprising of 22 jurisdictions. The comparison of these two lists shows that, firstly, the majority of the OFCs in the study sample also appear in the *a priori* list of OFCs which constitutes the ex-post confirmation of the empirical list. Secondly, it differentiates the OFCs based on objective macroeconomic statistics rather than on other subjective presumptions. Thirdly, it also included two more jurisdictions to the list- United Kingdom and Latvia, which do have offshore financial

⁶⁴ Global Forum on Transparency and Exchange of Information for Tax Purposes, *Progress Report to the G20*, 4 (2012), available at http://www.oecd.org/g20/summits/los-cabos/G20_Progress_Report_June_2012.pdf (last visited 20 April 2016)

⁶⁵ [http://www.europarl.europa.eu/RegData/etudes/etudes/join/2013/490673/IPOL-JOIN_ET\(2013\)490673_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/etudes/join/2013/490673/IPOL-JOIN_ET(2013)490673_EN.pdf)

entities present in these countries.⁶⁶ This study, overall has greatly promoted the steps towards both the identification of the OFCs and creation of a list based on objective grounds.

In issuing its list, the Armenian Finance Ministry has considered both 2000 and 2007 lists of IMF.⁶⁷

2.1.4. Financial Stability Forum (FSF)

In 2007 the FSF has also provided a list of OFCs. The FSF that was established to promote international financial stability and consists of financial ministries, central bankers, and international financial bodies of the G20 countries⁶⁸, suggested its own list of OFCs consisting of 42 jurisdictions. It has grouped them in 3 categories. Group 1 includes 8 jurisdictions which are generally viewed as cooperative, with a high quality of supervision, and which largely adhere to international standards. Group 2 includes 9 jurisdictions generally seen as having procedures for supervision and co-operation in place, but where actual performance falls below international standards, and there is substantial room for improvement. Group 3 includes 25 jurisdictions generally seen as having a low quality of supervision, and/or being non-co-operative with onshore supervisors, and with little or no attempt being made to adhere to international standards.⁶⁹

2.1.5. Bank for International Settlements (BIS)

The BIS established in 1930, and comprised of 60 member central banks (the RA CBA is not a member), representing countries from around the world, is the world's oldest financial organization. Having the mission to serve the central banks in their pursuit of monetary and financial stability, to foster the international cooperation in those areas, and to act as a bank for central banks, it does its own research and analysis regarding the financial stability issues. It

⁶⁶ The 2007 IMF Study identified 22 jurisdictions as Offshore Financial Centers. Ahmed Zoromé, *Concept of Offshore Financial Centers: In Search of an Operational Definition*, Working Paper, 19 (2007), available at <https://www.imf.org/external/pubs/ft/wp/2007/wp0787.pdf> (last visited 20 April 2016)

⁶⁷ This point will be thoroughly discussed in Chapter 3.

⁶⁸ Bank for International Settlements, *Financial Stability Forum Decides to Broaden its Membership*, Press release (2009), available at <http://www.bis.org/press/p090312c.htm> (last visited 20 April 2016)

⁶⁹ International Monetary Fund, *Offshore Financial Centers*, Background Paper, (2000), available at <http://www.imf.org/external/np/mae/oshore/2000/eng/back.htm> (last visited 20 April 2016)

mentions the monetary and financial stability is a precondition for sustained economic growth and prosperity.⁷⁰

In its 2013 Guidelines for Reporting the BIS international banking statistics, the BIS defines the offshore centers as “...countries with banking sectors dealing primarily with non-residents and/or in foreign currency on a scale out of proportion to the size of the host economy.”⁷¹ This view stating the feature of ‘foreign currency’ has been suggested still in 1982 by Johnston, a scholar. Based on this definition, the BIS identified 21 jurisdictions.⁷²

2.1.6. Tax Justice Network’s Financial Secrecy Index (TJN FSI)⁷³

The *TJN FSI* uses a measure, the FSI value, to identify the OFCs. For getting the FSI value, a special methodology⁷⁴ is used by the TJN: combining a qualitative measure with a quantitative measure, i.e. the secrecy score of the jurisdiction with the financial size and importance of it to give a sense of how large the offshore financial center is.⁷⁵ Thus, based on this methodology 60 jurisdictions were identified in 2009.⁷⁶ The list was expanded to include 73 in 2011, 83 in 2013 and, eventually, the 2015 FSI Results reported about 92 jurisdictions. The FSI also provides special narrative reports on the majority of jurisdictions.⁷⁷

⁷⁰ Bank for International Settlements, *About BIS*, available at <https://www.bis.org/about/index.htm> (last visited 20 April 2016)

⁷¹ Bank for International Settlements, Monetary and Economic Department, *Guidelines to the international banking statistics*, 59 (2013), available at <http://www.bis.org/statistics/locbankstatsguide.pdf> (last visited 02 March 2016)

⁷² Blomeyer & Sanz, European Parliament, Directorate General for Internal Policies, *IP/D/CONT/IC/2012-071, PE 490.673, European Initiatives on Eliminating Tax Havens and Offshore Financial Transactions and the Impact of These Constructions on the Union's Own Resources and Budget*, Study, 122, Tables 19 and 20 (2013), available at [http://www.europarl.europa.eu/RegData/etudes/etudes/join/2013/490673/IPOL-JOIN_ET\(2013\)490673_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/etudes/join/2013/490673/IPOL-JOIN_ET(2013)490673_EN.pdf) (last visited 20 April 2016)

⁷³ See footnote 7 for the functions of the TJN. “The *Financial Secrecy Index* ranks jurisdictions according to their secrecy and the scale of their offshore financial activities. A politically neutral ranking, it is a tool for understanding global financial secrecy, tax havens or secrecy jurisdictions, and illicit financial flows or capital flight.” Tax Justice Network, *Introducing the FSI*, available at <http://www.financialsecrecyindex.com/introduction/introducing-the-fsi> (last visited 20 April 2016)

⁷⁴ See the 15 indicators considered by the TJN in deciding the secrecy scores of the jurisdictions at <http://www.financialsecrecyindex.com/methodology> (last visited 20 April 2016)

⁷⁵ Tax Justice Network, *Financial Secrecy Index: Secrecy Indicators*, available at <http://www.financialsecrecyindex.com/methodology> (last visited 20 April 2016)

⁷⁶ Tax Justice Network, *Financial Secrecy Index: Which jurisdictions are included in the FSI? How did we choose these jurisdictions?*, available at <http://www.financialsecrecyindex.com/faq/who-is-included-why> (last visited 20 April 2016)

⁷⁷ Tax Justice Network, *Financial Secrecy Index: 2015 Results*, available at <http://www.financialsecrecyindex.com/introduction/fsi-2015-results> (last visited 20 April 2016)

2.1.7. EU Blacklist

As of June 18, 2015 the EU presented its blacklist of 30 uncooperative tax haven jurisdictions based on their appearance in the lists of more than 10 EU MS.⁷⁸

However, this EU blacklist brings about controversies. Firstly, the appearance of a jurisdiction in 10 lists provided by EU MS does not seem to be a firm basis for its assessment of jurisdictions as a ‘tax havens’. Secondly, as disputed by the OECD, apart from the criterion that the jurisdictions put on the list are being identified based on the fact that they appear in at least 10 blacklists of the EU countries as being non-compliant, these jurisdictions are members of the OECD Global Forum; they are rated as largely compliant and have committed to the AEOI. Meanwhile, in view of the EU, the inclusion of those jurisdictions in the list will put an end to external threats to their tax basis. It is obvious that there is a controversy; the jurisdictions included in the EU blacklist are considered largely compliant in the OECD’s list of tax havens. For this reason, it is important to look at the factors based on which the 10 separate countries had included them in their separate blacklists. However, we think that it is impossible to determine those factors as they can include “harmful preferential tax regimes” and other criteria. This view has been also endorsed by the director of the OECD Centre for Tax Policy, and Administration and the head of the Global Forum Secretariat, as well.

The comparison of these 7 lists has revealed the following results. Out of the 113 jurisdictions 10 appear in one list, 40 jurisdictions in two lists, 12 jurisdictions in three lists, 26 in four lists, another 5 in five lists, another 7 in six lists and eventually, 2 jurisdictions appear in seven lists. Thus, the remaining 10 jurisdictions were once included in the list presented by the IMF 2000 study, but were removed in the 2007 list. Besides, due to the fact that the majority of jurisdictions has committed to the internationally agreed tax standard on transparency and effective exchange of information, excluded are the ones that before have been included in the IMF 2000 list.

2.2. The Identification of OFCs and the Creation of OFC Lists Based on International Best Practices

⁷⁸ EU Economic Affairs Commissioner Pierre Moscovici told in a news conference: "We are today publishing the top 30 non-cooperative jurisdictions consisting of those countries or territories that feature on at least 10 member states' blacklists." See Appendix 1 for the list.

EU releases world tax haven blacklist, available at <http://www.eubusiness.com/news-eu/economy-politics.120n> (last visited 20 April 2016)

2.2.1. The USA

The U.S. has carried out extensive work towards the creation of the OFC lists both from the perspective of a) money laundering and b) tax evasion.

a) Back in March 2004, the Bureau of International Narcotics and Law Enforcement Affairs in its International Narcotics Control Strategy Report referred to the OFCs concentrating on the offshore financial services provision. It has presented a table⁷⁹ of jurisdictions which offer different financial services, such as offshore banking, formation of trust and management companies, insurance and re-insurance company formation, internet gaming, etc.⁸⁰ This can be viewed as objective table as specific numbers regarding the amount of services provided by those jurisdictions are included as a result of thorough investigation.

The Report provides that in 2000 FATF identified 23 jurisdictions as Non-Cooperative Countries and Territories (NCCT). Sixteen of the NCCTs have either been OFCs or jurisdictions that offer services commonly associated with OFCs.⁸¹ As of 2003, only three of the remaining 9 jurisdictions offered offshore financial services: Cook Islands, Guatemala and Nauru. All of them have made significant progress towards the implementation of FATF anti-money laundering standards. In particular, the Cook Islands established a financial intelligence unit, Guatemala strengthened its licensing, registration and regulatory procedures for its offshore banks; and, Nauru reportedly canceled the licenses of its nearly 400 shell banks.⁸²

The USA PATRIOT Act⁸³ has greatly contributed to the cancelation of licenses of Nauru's shell banks. Specifically, Section 313 "Prohibition on U.S. Correspondent Accounts with Foreign Shell Banks" is designed to prevent the foreign shell banks from having access to the U.S. financial system as they are generally not subject to regulation and are thought to present

⁷⁹ The lists of the offshore jurisdictions provided by the USA can be found in Appendix 2.

⁸⁰ "Although public information about OFCs was difficult to obtain, industry publications, discussions with regulators of the OFCs, foreign government finance officials, embassy reports, analyses from United States Government (USG) agencies, international organizations, and secondary sources provided the data for the table." Bureau of International Narcotics and Law Enforcement Affairs, *International Narcotics Control Strategy Report, Offshore Financial Centers, (2004)*, available at <http://www.state.gov/j/inl/rls/nrcrpt/2003/vol2/html/29918.htm> (last visited 20 April 2016)

⁸¹ *Ibid.*

⁸² *Ibid.*

⁸³ Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT ACT), H.R. 3162, 107th Congress. §313 (2001), available at <https://www.gpo.gov/fdsys/pkg/BILLS-107hr3162enr/pdf/BILLS-107hr3162enr.pdf> (last visited 20 April 2016)

unreasonable risk of involvement in ML/FT. Thus, the banks and broker-dealers are prohibited from having correspondent accounts for any foreign bank that does not have a physical presence in any country.⁸⁴

Although the USA PATRIOT Act has had a great influence on the reduction of the number of shell banks globally, the lack of transparency that is the most characteristic feature of OFCs still remains and makes OFCs attractive places for those who want to conceal the movement of their funds.

b) In 2008 the U.S. Government Accountability Office published a report⁸⁵ with the objectives to determine the number of the 100 largest publicly traded U.S. corporations in terms of revenue having subsidiaries in jurisdictions listed as tax havens or financial privacy jurisdictions, and to determine the number of the 100 largest publicly traded U.S. federal contractors in terms of contract obligations having subsidiaries in jurisdictions listed as tax havens or financial privacy jurisdictions.⁸⁶

To address both objectives, the identification of jurisdictions having been listed as tax havens or financial privacy jurisdictions by different bodies was required. Thus, this Paper presented the list of tax havens based on OECD's list of committed jurisdictions and uncooperative tax havens, the NBER's working paper⁸⁷, and a U.S. District Court order granting leave for IRS to serve a "John Doe" summons, which included a list of jurisdictions that are recognized as offshore tax haven or financial privacy jurisdictions by industry analysts.⁸⁸

The NBER's 2006 working paper "Which Countries Become Tax Havens?"- analyzing the factors influencing the countries in turning into tax havens, uses the lists composed of 41

⁸⁴ United States Department of Treasury, Financial Crimes Enforcement Network, *USA PATRIOT ACT*, available at https://www.fincen.gov/statutes_regs/patriot/ (last visited 20 April 2016)

⁸⁵ United States Government Accountability Office, *Large U.S. Corporations and Federal Contractors with Subsidiaries in Jurisdictions Listed as Tax Havens or Financial Privacy Jurisdictions*, GAO-09-157, (2008), available at <http://www.gao.gov/assets/290/284522.pdf> (last visited 20 April 2016)

⁸⁶ *Ibid.* 9

⁸⁷ Dhammika Dharmapala & James R. Hines, Jr., National Bureau of Economic Research, *Which Countries Become Tax Havens?* (2006), available at <http://www.nber.org/papers/w12802.pdf> (last visited 20 April 2016)

⁸⁸ United States Government Accountability Office, *Large U.S. Corporations and Federal Contractors with Subsidiaries in Jurisdictions Listed as Tax Havens or Financial Privacy Jurisdictions*, 11 (2008) available at <http://www.gao.gov/assets/290/284522.pdf> (last visited 20 April 2016)

jurisdictions provided by both Hines and Rice in 2004,⁸⁹ and Diamond and Diamond.⁹⁰ Thus, the authors of the paper considered the appearance of countries in both lists as an indicator variable as to whether the jurisdiction is a tax haven or not. The paper then compares the lists provided by Hines and Rice and the OECD 2000 and brings about the results.⁹¹

In 2006 the U.S. District Court granted leave for IRS to serve a “John Doe” summons⁹² which included a list of 34 jurisdictions that were recognized as offshore tax haven or financial privacy jurisdictions by industry analysts and were actively promoted as such by promoters of offshore schemes.⁹³ The summons was for information on U.S. taxpayers who, during the years ended December 31, 1999, through December 31, 2004, had signature authority over bank accounts at banks or other financial institutions in those 34 jurisdictions.⁹⁴

Thus, the above-mentioned report⁹⁵ has revealed the following results: the jurisdictions were combined in three lists as there was no basis for excluding any of them. Overall 60 jurisdictions were identified as tax havens or financial privacy jurisdictions of which 24 appeared to be on all three lists, 14 on two lists, and 12 are on one list.

When analyzing, it can be seen that the USA has conducted a thorough research towards the identification of OFCs. Its findings are mainly based, on the one hand, on the IMF study

⁸⁹ The authors have used the same list that they had offered yet in 1990.

James R. Hines Jr. and Eric M. Rice, National Bureau of Economic Research, *Fiscal Paradise: Foreign Tax Havens and American Business*, Working Paper No. 3477, Appendix, Table A, 62 (1990), available at <http://www.nber.org/papers/w3477.pdf> (last visited 20 April 2016)

⁹⁰ The list of 41 tax havens can be found in Appendix 2.

⁹¹ Data Appendix provides under a separate heading *Tax haven Status* that 39 of the 41 countries and territories on the Hines and Rice list (i.e. all apart from “UK Caribbean islands” and St. Martin), can be matched with current jurisdictions for which data on the other variables is available. The alternative (OECD) measure of tax haven status is based on the list of 35 countries and territories in OECD 2000 Report. However, with the purpose of forming a combined list of 41 jurisdictions that are tax havens according to the OECD definition, the Paper also includes the 6 jurisdictions which even though are not considered to be tax havens, have been mentioned by the OECD to have made commitments to the elimination of potentially harmful tax practices.

⁹² Under IRC 7609 (c)(3) and 7609 (f), a John Doe summons is a third-party summons that does not identify the person with respect to whose tax liability the summons is issued and may be served only after the approval of the Federal court.

IRS, 25.5.7. Special procedures for John Doe Summonses, available at https://www.irs.gov/irm/part25/irm_25-005-007.html (last visited 20 April 2016)

⁹³ United States Government Accountability Office, *Large U.S. Corporations and Federal Contractors with Subsidiaries in Jurisdictions Listed as Tax Havens or Financial Privacy Jurisdictions*, 11 (2008) available at <http://www.gao.gov/assets/290/284522.pdf> (last visited 20 April 2016)

⁹⁴ See the list of 34 jurisdictions in Appendix 2.

⁹⁵ United States Government Accountability Office, *Large U.S. Corporations and Federal Contractors with Subsidiaries in Jurisdictions Listed as Tax Havens or Financial Privacy Jurisdictions*, (2008) available at <http://www.gao.gov/assets/290/284522.pdf> (last visited 21 April 2016)

which considers the provision of financial services offered by the jurisdictions as a main indicator of OFCs, and the criterion of identifying the tax havens or financial privacy jurisdictions appearing in the three lists presented by the OECD 2000, NBER's listing and the list of jurisdictions included in the "John Doe" summons, on the other hand. The results revealed that 24 out of 60 jurisdictions included in all the lists investigated by the USA appear in all 4 lists. This brings to the conclusion that these are the most typical offshore jurisdictions.

2.2.2. Russia

Like in Armenia, there are two lists of the offshore zones issued in the Russian Federation (RF): one by the Central Bank of Russia (CBR) issued in 2003 and the other by the Ministry of Finance (RF MF) issued in 2007.

The first list of offshore zones is contained in the Annex 1 to the August 7, 2003 Bank of Russia Order № 1317-U "On the procedure for the authorized banks to establish correspondent relations with non-resident banks registered in the countries or territories offering preferential tax regimes and/or not requiring the disclosure and exchange of information on financial operations (on offshore zones)."⁹⁶ However, it applies only to the field of banks and banking regulation. The CBR list divides the offshore zones into three groups which provide different procedures for the Russian banks to establish correspondent relations with the respective countries. For instance, the first group (11) includes the most prestigious jurisdictions; the second one (36) comprises a large number of "classic" jurisdictions; and the third one (7) includes the least reliable (in terms of the CBR) offshore jurisdictions.⁹⁷

Nowadays, the main list of offshore zones is contained in the Order № 108n of the Russian Ministry of Finance dated 13 November 2007 "On approval of the list of countries and territories that provide preferential tax regimes and/or not providing for disclosure and exchange of information on financial transactions (offshore zone)."⁹⁸ As there are no criteria mentioned as

⁹⁶ The "Bank of Russia Order on the procedure for the authorized banks to establish correspondent relations with non-resident banks registered in the countries or territories offering preferential tax regimes and/or not requiring the disclosure and exchange of information on financial operations (on offshore zones)" from 07.08.2003, № 1317-U, available at <http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=LAW;n=162498>. The text may be sent via e-mail. (last visited 24 April 2016)

⁹⁷ See Appendix III for the list.

⁹⁸ The "Order of the Russian Ministry of Finance on approval of the list of countries and territories that provide preferential tax regimes and/or not providing for disclosure and exchange of information on financial transactions

to how these lists were compiled, this paper compares the list by the RF MF with the OECD 2000 list.⁹⁹ The results revealed that the majority of jurisdictions included in the RF list- over 31 out of 41 jurisdictions- appear in the OECD list. Thus, one can conclude that in deciding the RF list, the OECD 2000 report has been taken into consideration as well. However, it comprises also 9 jurisdictions, 4 out of which appear later in 2009 OECD progress report. Those are Brunei Darussalam, Malaysia (Labuan), Cayman Islands, and San Marino.¹⁰⁰

2.2.3. EU Member States

On December 6, 2012, The European Commission presented to the European Parliament and Council the Commission Recommendation regarding measures intended to encourage third countries to apply minimum standards of good governance in tax matters¹⁰¹ which provided criteria making it possible for the MS to identify third countries which did not meet minimum standards of good governance in tax matters. Thus, the countries used the following criteria for establishing their lists:

Criteria provided for by the Recommendation

- Compliance with transparency and exchange of information standards¹⁰²: the Commission Recommendation explains that “3. A third country only complies with minimum standards of good governance in tax matters where: (a) it has adopted legal, regulatory and administrative measures intended to comply with the standards of transparency and exchange of information, and effectively applies those measures.”¹⁰³

(offshore zone)” from 13.11.2007, № 108n, available at <http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=LAW;n=171378> (last visited 24 April 2016)

⁹⁹ See Appendix III for the comparison of the lists.

¹⁰⁰ The United Arab Emirates does not appear in either OECD lists: it is just noted to have committed to the implementation of the international tax standard.

¹⁰¹ European Commission, *Commission Recommendation of 6.12.2012 regarding measures intended to encourage third countries to apply minimum standards of good governance in tax matters*, C(2012) 8805 final, Brussels, 4 (2012)

http://ec.europa.eu/taxation_customs/resources/documents/taxation/tax_fraud_evasion/c_2012_8805_en.pdf

¹⁰² European Commission, Directorate-General Taxation and Customs Union, *Platform for Good Tax Governance, Discussion paper on criteria applied by EU Member States to establish lists of non-cooperative jurisdictions*, 2 (2014) http://ec.europa.eu/taxation_customs/resources/documents/taxation/gen_info/good_governance_matters/platform/meeting_20141219/discussion_paper_criteria_lists.pdf (last visited 21 April 2016)

¹⁰³ *Supra* point 3a.

▪ Absence of harmful tax measures: (b) it does not operate harmful tax measures in the area of business taxation.¹⁰⁴

Additional Criteria

- Using the tax level for blacklisting purposes;
- Other criteria: existence of a double tax convention, an exchange of information agreement or a convention on mutual assistance, automatic exchange of information and least developed countries. These criteria are used for blacklisting or for other purposes.

For the purposes of the paper the following lists of EU MS are investigated: Germany, Greece and post-Soviet countries such as Latvia and Lithuania. The lists have been updated by the EU Commission to reflect the situation on 31 December 2015.¹⁰⁵

2.2.3.1. Latvia¹⁰⁶

Latvia, in establishing its list of non-cooperative jurisdictions, relied on all abovementioned criteria. Moreover, in creating its blacklist she combines the third criterion with the two criteria provided by the Recommendation. Overall it identified 45 jurisdictions.

2.2.3.2. Lithuania

Lithuania uses the two criteria provided by the Recommendation and the third criterion of the level of taxation. She identifies 58 jurisdictions.

2.2.3.3. Germany

The list of OFCs issued by Germany is an interesting subject area for the purposes of this paper as Germany is a country also with the civil law system and it is a member of OECD. Although the list of OFCs was difficult to obtain¹⁰⁷, the Deutsche Bundesbank published the

¹⁰⁴ *Ibid.* point 3b, "Tax measures which provide for a significantly lower effective level of taxation, including zero taxation, than those levels which generally apply in the third country in question are to be regarded as potentially harmful. Such a level of taxation may operate by virtue of the nominal tax rate, the tax base or any other relevant factor."

¹⁰⁵ European Commission, *Tax Good Governance in the World as Seen by EU Countries*, available at http://ec.europa.eu/taxation_customs/taxation/gen_info/good_governance_matters/lists_of_countries/index_en.htm?wtdebug=true (last visited 21 April 2016)

¹⁰⁶ The official lists by the Member Countries are difficult to find, even though the latter provided the lists to the European Commission. As the EC is an authoritative source, the lists included in its website are used for the research. See Appendix 4 for the lists.

¹⁰⁷ No information could be found about the agencies that issue the lists of OFCs in Germany.

“Statistics on the structure and activity of foreign affiliates of German investors (Outward FATS)” dated to November, 2015, which presented the number of affiliates abroad, their employees and the annual turnover of those affiliates through 2010-2013. The Statistic data also included the affiliates in the OFCs. The list included 40 jurisdictions which appear to be in OECD’s 2009 list (including 42 jurisdictions in total).¹⁰⁸ On the other hand, the EC mentions that DE is the only jurisdiction applying only one criterion in establishing its list- compliance with transparency and exchange of information standards.

2.2.3.4. Greece

Like Latvia, Greece also uses all 4 criteria for the identification of uncooperative jurisdictions. In particular, the Recommendation provides that Member States that have adopted national blacklists should include in such lists third countries not complying with minimum standards set out in point 3¹⁰⁹. The fourth criterion, which Greece uses, implies that if it concluded a double taxation convention with a third country¹¹⁰ not complying with minimum standards as set out in point 3 should, as most appropriate with a view to improve compliance by that third country with these standards, either seek to renegotiate the convention, suspend or terminate the convention. Thus, Greece identified 55 jurisdictions.

When compared the lists reveal the following results. 22 jurisdictions appear to be in all 4 lists of the EU analyzed MS including Andorra, Antigua and Barbuda, the Bahamas, Barbados, Bahrain, Cook Islands, Grenada, Hong Kong, Lebanon, Liberia, Liechtenstein, Nauru, Niue, Panama and many others. These are also those jurisdictions that appear in OECD, IMF and other lists provided by international bodies. Hence, we suggest a new term for them as “*classic offshore secrecy havens.*”

¹⁰⁸ Deutsche Bundesbank, *Statistics on the Structure and Activity of Foreign Affiliates of German Investors (Outward FATS)*, 28 (2015), available at [https://www.bundesbank.de/Redaktion/EN/Downloads/Statistics/External_Sector/Foreign_Affiliates_FATS/2015_1_1_statistics_structure_and_activity_foreign_affiliates_german_investors_outward_fats.pdf? blob=publicationFile](https://www.bundesbank.de/Redaktion/EN/Downloads/Statistics/External_Sector/Foreign_Affiliates_FATS/2015_1_1_statistics_structure_and_activity_foreign_affiliates_german_investors_outward_fats.pdf?blob=publicationFile) (last visited 21 April 2016)

¹⁰⁹ European Commission, *Commission Recommendation of 6.12.2012 regarding measures intended to encourage third countries to apply minimum standards of good governance in tax matters*, C(2012) 8805 final, Brussels, 5 (2012) http://ec.europa.eu/taxation_customs/resources/documents/taxation/tax_fraud_evasion/c_2012_8805_en.pdf (last visited 21 April 2016)

¹¹⁰ *Ibid.* 4. “Third country means any jurisdiction that is not a Member State.”

Later, on January 28, 2016, the European Commission presented a Communication on an External Strategy for Effective Taxation as part of its Anti-Tax Avoidance Package which presented the overview of those third country jurisdictions that were listed by the EU MS for tax purposes. It has added a few criteria¹¹¹ considering the recent developments in tax good governance: increased tax transparency- the progress made towards the implementation of the new global AEOI standard, and fairer tax competition.¹¹²

The results of the application of the new criteria based on the recent developments in the implementation of the new global standard will be revealed in the upcoming years. Thus, it is still earlier to draw conclusions on this part.

The abovementioned analysis of the lists and the criteria used by different international bodies and countries such as the USA, Russia, and the EU MS for the identification of the offshore centers or ‘financial secrecy havens’, come to suggest that there are several jurisdictions which may be included in the list of the ‘classic offshore centers’.¹¹³

The main criteria used were either the criteria provided by international bodies like the OECD and the IMF which are binding for their member countries or the criteria provided by the Commission Recommendation, binding for the EU MS. For combating ML, FT and tax evasion, it is necessary to look at the criteria and separate the ones, by using which, a country will conform to international standards and regulations. Depending on this, the possible accurate list of OFCs may be created. Chapter 3 will, hence, discuss the lists of OFCs presented by the Republic of Armenia and will analyze the criteria of identifying the OFCs. At the same time, it will provide recommendations about the possible changes needed to be made in the RA legal acts based on the international best practices.

¹¹¹ See the criteria in the Appendix 7.

¹¹² European Commission, *Communication From the Commission to the European Parliament and the Council on an External Strategy for Effective Taxation*, COM(2016) 24 final, Brussels, point 2 (2016), available at <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52016DC0024&from=EN> (last visited 21 April 2016)

¹¹³ These are Andorra, the Bahamas, Bahrain, Barbados, Niue, Nauru, Marshall Islands, Panama and a few others which also occur in the lists provided by international bodies.

Chapter 3

The Present Legal Status of OFCs in Armenia: Recommendations on the Possible Amendments in the Lists

Many countries provide lists of OFCs consisting of different jurisdictions. Armenia does not appear in any list but it provides two different lists of OFCs. The Board of the CBA and the Cabinet issue the lists. The issuance of the lists has different purposes as discussed below. The

present Chapter will analyze the lists, the purposes of issuing them, the principles/criteria used, as well as, it will discuss whether there need to be changes in the latter.

1. The List of OFCs by the CBA

Back in July of 2009, the Board of the CBA decided to affirm the list of OFCs. In deciding the list, the CBA relied on Article 18, part 5 of the “RA Law on Banks and Banking”, and Article 54, part 11 of the “Law of the Republic of Armenia on Securities Market”. The creation of the list arises out of the necessity to comply with the requirements of the abovementioned articles. Particularly, the Article 18(5)¹¹⁴ of the RA “Law on Banks and Banking” states that the individuals having a permanent residence or operating in an offshore territory, as well as, legal entities or persons not having a legal status, created and registered in offshore territories, or entities affiliated with the abovementioned ones, as a result of one or more transactions can obtain a significant equity interest in the bank’s statutory fund only with the prior consent of the CBA.” The “RA Law on Securities Market” also provides a similar provision under the Article 54(11), at this time concerning the acquisition of a significant participation in the charter capital of the investment firm again with the prior consent of the CBA¹¹⁵. Both Articles specify that the Board of the CBA has the authority to prescribe the list of offshore zones.

¹¹⁴ See the “RA Law on Banks and Banking” from 30.06.1996, N ՅՕ-68, Article 18(5)

“The natural persons that have a permanent place of residence or operate in offshore areas, as well as legal persons founded and registered in such zones, individuals without legal status or affiliated persons to the ones stipulated by this Paragraph may obtain participation in the statutory capital of the bank due to one or several transactions (irrespective of the proportion of the participation) according to procedure exclusively set by this Article with the preliminary consent of CBA. The list of offshore zones is set by the Board of CBA.

The legal entities created by the participation of the persons or affiliated to them persons set by this paragraph may obtain participation in the statutory capital of the bank (irrespective of the proportion of the participation) exclusively in the manner defined by this Article with the preliminary consent of CBA.”

¹¹⁵ See the “Law of the Republic of Armenia on Securities Market” from 11.10.2007, N ՅՕ-195-Ն, Article 54(11)

“Physical entities that have permanent residence or operate in off-shore territories, as well as legal entities, entities without status of legal entity or entities related to the entities specified in this Point may acquire participation (regardless of the size of participation) in the investment firm’s charter capital due to one or several transactions exclusively in procedures set forth by this Chapter, upon preliminary consent of the Central Bank. The list of the off-shore territories shall be established by the Central Bank Board.

Legal entities created through participation of entities or entities related to them which are specified by this Point may acquire participation (regardless of its size) in the charter capital of the investment firm solely in procedures specified in this Point, upon preliminary consent of the Central Bank.”

The purpose behind the articles is the establishment of supervision by the CBA. Specifically, Article 36(2) of the “RA Law on Central Bank of Armenia” provides: “...Banking supervision is the exclusive prerogative of the Central Bank.”¹¹⁶

Article 36(4) of the same Law provides: “The sole authority to claim and receive reports from banks, credit organizations and other entities licensed and supervised by the Central Bank belongs to the Central Bank.”

Thus, it may be seen that by demanding from the physical or legal entities to receive the preliminary consent from the CBA before they acquire significant equity interest in the bank's statutory fund or the investment firm's charter capital, it receives information about the customers of banks for its supervisory duties. The answer to the question, whether the CBA has the authority to acquire information if it represents banking secrets, is enunciated in the Article 14(2) of the “RA Law on Bank Secrecy”. As stated: “the Central Bank, while executing its supervisory duties, shall be empowered to obtain and study information referring to the bank customers, even if it represents a banking secrecy.”¹¹⁷

Another question for discussion is whether there is a ‘threat’ to the account holder registered in one of those jurisdictions included in the list. Article 18(1) of the “RA Law on Banks and Banking”¹¹⁸ provides that the person seeking the acquisition of the significant participation in the bank’s statutory fund shall submit to the Central Bank sufficient and complete grounds of legality of the sources of funds to be invested. A similar provision is stipulated in the Article 54(5) of the “Law of the Republic of Armenia on Securities Market” regarding the acquisition of significant participation in the investment firm.¹¹⁹ However, the CBA

¹¹⁶ See the “RA Law on Central Bank of Armenia”, from 30.06.1996, N ՅՕ-69, Article 36(2)

“The Central Bank shall be empowered by law to license banking activities, supervise banks operating in the territory of the Republic of Armenia, and define reporting formats, timeframes and forms of banks to the Central Bank. Banking supervision shall be the exclusive authority of the Central Bank. The Central Bank may, if required by law, enforce penalties and sanctions against banks.”

¹¹⁷ See the “RA Law on Bank Secrecy,” from 07.10.1996, N ՅՕ-80, Article 14(2)

“The Central Bank, while executing its supervisory duties, shall be empowered to obtain and study information referring to the bank customers, even if it represents bank secrecy. “

¹¹⁸ See the “RA Law on Banks and Banking” from 30.06.1996, N ՅՕ-68, Article 18(1)

“To receive the Central Bank’s consent for acquisition of the significant participation in the bank’s statutory fund the person through the request of the bank shall submit to the Central Bank also sufficient and complete grounds of legality of the sources of funds to be invested (documents, data, etc.), as well as shall submit data in the form specified by the Central Bank about those legal entities (including name, location, financial statements, data about the managers, data about parties holding the significant participation) in statutory fund of which the person, who is acquiring significant participation in the statutory fund of the bank, holds the significant participation.”

¹¹⁹ See the “Law of the Republic of Armenia on Securities Market” from 11.10.2007, N ՅՕ-195-Ն, Article 54(5)

waives the request if false or unconvincing data are included in the submitted documents or information.¹²⁰ Acquisition of the significant participation in the bank's statutory capital without the preliminary consent of the Central Bank shall be null and void.¹²¹

The first list of OFCs, consisting of 44 jurisdictions and issued in 2009,¹²² was created by taking into consideration the OECD progress report¹²³ which published both the cooperative and uncooperative tax haven jurisdictions. Later in 2011, the OECD presented its second progress report¹²⁴ where it identified the jurisdictions having implemented the tax standard and presented the list of those jurisdictions that have committed to the standard, but have not yet substantially implemented it.¹²⁵ Thus, the 2009 list was amended in 2012, and since then it included the jurisdictions mentioned in the progress report.

A question, however, arises as to the legal basis for the consideration of the OECD as a prerequisite. It is notable that OECD does not limit its functions to its Member-countries. It has established extensive contacts with non-Member states and it maintains co-operative relations with a large number of them.¹²⁶ The OECD works closely with EU Candidate Countries, Potential Candidates and the Eastern Neighborhood Policy (ENP) partners, Armenia being one of the six partners of the latter.

"In order to get the preliminary consent for acquisition of significant participation, the entity, through mediation of the investment firm, shall also submit to the Central bank substantial and comprehensive grounds (documents, information, etc.) disclosing legitimate origin of resources used for the acquisition of significant participation."

¹²⁰ See the "RA Law on Bank Secrecy," from 07.10.1996, N ՐՕ-80, Article 18(2)(h):

"The Central bank shall waive the request and inform the requesting person within a ten-day period if: the documents have been submitted in infringement of the form and rules prescribed by the Central Bank, or false or unconvincing data is included in the submitted documents or information."

See the "Law of the Republic of Armenia on Securities Market" from 11.10.2007, N ՐՕ-195-Ն, Article 55(1)(2):

"1. The Central Bank Board may refuse to give consent to acquire significant participation in the investment firm, if: 2. the documents and information submitted to the Central Bank do not meet the requirements set forth by this Law and regulations, or prove to be false, confusing or incomplete."

¹²¹ See the "RA Law on Bank Secrecy," from 07.10.1996, N ՐՕ-80, Article 18(2)

¹²² See the "Decision of the Board of the Central Bank of Armenia to Affirm the List of Offshore Territories" from 28.07.2009, N 224-Ն. The list of those jurisdictions is provided in Appendix 8.

¹²³ OECD, *A Progress Report on the Jurisdictions Surveyed by the OECD Global Forum in Implementing the Internationally Agreed Tax Standard, Progress made as at 2nd April 2009*, available at <https://www.oecd.org/ctp/42497950.pdf> (last visited 21 April 2016)

¹²⁴ OECD, *The Global Forum on Transparency and Exchange of Information for Tax Purposes*, 27 (2011), available at http://www.taxjustice.net/cms/upload/pdf/OECD_Global_Forum_Sep_12_Peer_Reviews.pdf (last visited 20 April 2016)

¹²⁵ Those were Montserrat, Nauru, Niue, Guatemala, and Uruguay.

¹²⁶ OECD, *About the OECD: Members and Partners: Global Relations*, available at <http://www.oecd.org/about/membersandpartners/> (last visited 21 April 2016)

Besides, at the time of issuing the first list of offshore zones, in 2009, the OECD report presented the most recent updated list. Even though Armenia was a member of IMF, the CBA considered the OECD for the issuance of its list. According to the information owned and provided by the Financial Monitoring Center of the CBA, the IMF was not going to launch a new list of offshore zones. The CBA also considered this point when choosing the OECD as a supervising body for this question.

2. *The list of the OFCs by the RA Cabinet*

In July 2012, the RA Cabinet decided to determine the list of the OFCs¹²⁷ considering the amendments made in the third paragraph of the first part of Article 57 of the “RA Law on Profit Tax.”¹²⁸

The Head of the Tax Administration Methodology Department of the Armenian MF has commented on the article by saying that the failure to receive the products in return of the prepayments made to the companies also registered offshore signals about the potential risk of ML. Thus, this acts as a basis for taxing the taxpayers on profits.

He also claimed that the mentioned changes in the Law were aimed at limiting the cases of tax evasion. In 2013, the European Parliament has published a study¹²⁹ which condemned the OFCs and tax havens to be one of the greatest reasons of the 2007-08 financial crisis. The study mentions that the taxpayers that use these centers for tax evasion (illegal), transfer pricing or other tax avoidance strategies (legal), have the purpose to benefit from public services, facilities, and infrastructure in the countries where they operate/live.¹³⁰ Although these taxpayers benefit from the options offered by the OFCs and tax havens, they enhance the burden on the compliant taxpayers, which, as a result, make a disproportionately large contribution towards the maintenance of the economic stability of the country.

¹²⁷ See the “Decision by the RA Cabinet to Determine the List of Offshore Zones” from 04.07.2012, N 915-Ն.

¹²⁸ See the “RA Law on Profit Tax” from 30.09.1997, N ՅՕ-155, Article 57(1)

“When the companies registered offshore by the taxpayers send prepayments to the other companies also registered offshore for the acquisition of products and fixed assets, but the products are not being obtained within one year since the following day of the prepayment, the profit tax for the prepayments made is calculated in the rate of 20%.”

¹²⁹ Blomeyer & Sanz, European Parliament, Directorate General for Internal Policies, *IP/D/CONT/IC/2012-071, PE 490.673, European Initiatives on Eliminating Tax Havens and Offshore Financial Transactions and the Impact of These Constructions on the Union's Own Resources and Budget*, Study, 9 (2013), available at [http://www.europarl.europa.eu/RegData/etudes/etudes/join/2013/490673/IPOL-JOIN_ET\(2013\)490673_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/etudes/join/2013/490673/IPOL-JOIN_ET(2013)490673_EN.pdf) (last visited 17 April 2016)

¹³⁰ *Ibid.*

Apart from the taxpayers evading taxation and by this way contributing to the financial crisis, the financial institutions operating offshore have also had a significant impact on the crisis. The holding of vast funds in secretive offshore centers enables the financial institutions to hide important information from governments, regulators, and, of course, the public. In other words, they escape proper regulation and public scrutiny.¹³¹ Because of the lack of transparency, the financial institutions take greater risks and do not allow the governments, rating agencies, regulators, and investors to make substantiated decisions. This, in its turn, leads to falling businesses, unemployment, falling home prices, etc. Thus, the 2007-08 financial crisis was, besides other factors stimulating it, the consequence of the non-compliance of the taxpayers and the strong secrecy of offshore financial institutions.

The strong bank secrecy offered by the OFCs and tax havens facilitate crime such as the ML, including the laundering of proceeds of political corruption, Terrorism Financing, fraud, embezzlement, the global illegal drug trade, trafficking, and other transnational crime. The United Nations Development Programme's 1999 Human Development Report estimated that organized crime grossed \$1.5 trillion per year.¹³² Nowadays, the United Nations Office on Drugs and Crime (UNODC) states that, although the level of money laundering is difficult to estimate, the approximate estimated amount of money laundered globally per year amounts to between \$800 billion and \$2 trillion in current US dollars.¹³³

Thus, the RA Cabinet, aimed at reducing the cases of tax evasion, made the additions in the "RA Law on Profit Tax" and issued the list of offshore jurisdictions that may facilitate tax evasion. However, there arises another question as to whether two government agencies can issue lists. The two bodies- the RA Cabinet and the Board of the CBA, have different aims when issuing the lists. The "RA Law on Legal Acts" regulates whether two bodies can issue lists on the same issue. Specifically, Article 6 of the Law provides:

"1. The competence to adopt regulatory legal acts in the Republic of Armenia is vested in:

¹³¹ *Ibid.*

¹³² United Nations Development Programme, *Human Development Report 1999*, Oxford University Press, 5(1999), available at http://hdr.undp.org/sites/default/files/reports/260/hdr_1999_en_nostats.pdf (last visited 21 April 2016)

¹³³ United Nations Office on Drugs and Crime, Money Laundering and Globalization, available at <https://www.unodc.org/unodc/en/money-laundering/globalization.html> (last visited 21 April 2016)

(2) the President of the Republic of Armenia, the National Assembly of the Republic of Armenia, the Chairperson of the National Assembly of the Republic of Armenia, the *Government of the Republic of Armenia*, the Prime Minister of the Republic of Armenia, the *Board of the Central Bank of the Republic of Armenia...*”

Article 24 of the same law prescribing the hierarchy of the legal acts, provides:

*“1. Legal acts of the Republic of Armenia shall operate on the basis of the principle of supremacy of acts of higher legal effect, as provided for by the Constitution of the Republic of Armenia and this Law.”*¹³⁴

*“4. If there arises a contradiction between regulatory or individual legal acts of equal legal effect adopted by different bodies, that legal act shall be operative which is adopted by the body that is granted the power to adopt such a legal act under a legal act of higher legal effect.”*¹³⁵

Thus, firstly, one should analyze whether there is a contradiction between these two regulatory legal acts as both are prescribed by Laws: the “RA Law on Profit Tax” and the “RA Law on Banks and Banking”, the “RA Law on Securities Market.” It seems that there is no contradiction as the purposes for the creation of the lists are different. They even supplement each other. In case there was a contradiction, the list issued by the RA Cabinet would be operative as the latter stands higher in the hierarchy of the legal acts.¹³⁶ Hence, the lists are in compliance with the Law on Legal Acts.

The RA Cabinet issued the list, consisting of 70 jurisdictions, based on the lists provided by different international bodies.¹³⁷ Particularly, it used the lists of OECD, IMF, FSF, etc. The comparison of the lists of the RA MF and the international bodies has revealed the following results: out of 97 countries and territories 86 (total 70 countries including 16 jurisdictions/territories) appear to be in the RA Cabinet list. Out of these 86 jurisdictions, 51 appear to be in the lists of international bodies. The inclusion of the remaining 35 jurisdictions presents a question, as to the sources considered. However, a thorough look on those

¹³⁴ See the “RA Law on Legal Acts” from 03.04.2002, N ՌՕ-320, Article 24(1)

¹³⁵ *Ibid.* Article 24(4)

¹³⁶ *Ibid.* Article 16(3)

“The decisions of the Board of the Central Bank of the Republic of Armenia shall not contradict the Constitution of the Republic of Armenia, laws of the Republic of Armenia, decisions of the Constitutional Court of the Republic of Armenia, decisions of the National Assembly of the Republic of Armenia, decrees and executive orders of the President of the Republic of Armenia, decisions of the Government of the Republic of Armenia...”

¹³⁷ The RA MF Head of the Tax Administration Methodology Department has provided the information.

jurisdictions has revealed that these are the ones which were once included in the IMF 2000 list but were removed in 2007.

Another issue, however, arises regarding the criteria the RA MF considers when compiling the list. The Decision by the RA Cabinet simply states the need of issuing the list relying on the Article 57 of the “RA Law on Profit Tax”. However, it mentions neither the criteria nor the consideration of the international bodies for the creation of its list.

3. *Possible Changes in the RA Legal Acts and Recommendations*

There seem to be gaps in our national regulation that need to be covered. Particularly, one needs to answer the following questions:

- Should there be changes made in the lists? Do they need updates?
- If yes, based on what principles should the amendments be done?
- Does the country need one or two lists of offshore zones?

As mentioned above, the CBA issued its list in 2009, and later amended in 2012 considering the OECD standards on transparency and effective exchange of information on request. Considering the new AEOI standard to which Armenia has also stated its intent to implement by joining the OECD GF in October 2015, the list is subject to updates. However, the OECD, with the expectation date of 2017-2018, has not yet published the results. Hence, in case the CBA decides to consider the OECD reports for the establishment of the list, it will need to make updates in a few years.

On the other hand, there is another international body, the TJN FSI¹³⁸, which in 2015 published a list of 92 OFCs relying on the financial secrecy index. It has helped to identify the largeness of the OFCs, i.e. it ranked the jurisdictions according to their secrecy and the scale of their offshore financial activities. Being a politically neutral ranking, it is a tool for understanding global financial secrecy, tax havens or secrecy jurisdictions, and illicit financial flows or capital flight.¹³⁹ This seems to be an objective ground for the identification of the OFCs. Thus, the application of this criterion on deciding the list may be a good criterion.

Therefore, the purposed recommendations for the CBA list would be:

¹³⁸ See Chapter 2, part 2.1.6.

¹³⁹ Tax Justice Network, *Financial Secrecy index: Introduction*, available at <http://www.financialsecrecyindex.com/introduction/introducing-the-fsi> (last visited 23 April 2016)

- In case of considering only the OECD as a basis for the list, to make updates to the list after the latter publishes its new report revealing the 2017-2018 results of the implementation of the AEOI standard; or
- Apart from the OECD updated list, to consider the list of TJN FSI¹⁴⁰ that takes into account the secrecy of jurisdictions when deciding the degree of the secrecy of an OFC.

The list issued by the Cabinet also requires amendments. Specific recommendations for it might be:

- to state the principles that were used for the creation of the list;
- to mention those international bodies whose lists acted as a basis for issuing the lists;
- to consider the criteria provided for by the European Commission Recommendation¹⁴¹. Although the latter is not binding for Armenia inasmuch as it refers to the EU Member-States, it seems to be a good guide for the identification of OFCs.

Despite the fact that the lists issued by the CBA and the Cabinet do not formally contradict one another, it still seems to be normal to have one list of OFCs issued by one body. Especially because the same jurisdictions included in the CBA list appear in the list of Cabinet. The reason may be the fact that OFCs or, more precisely, offshore tax havens/offshore financial secrecy jurisdictions are treated the same way, in one case or another. Both lists are aimed at the monitoring and prevention of international crime.

Thus, for a more grounded list it would be better to combine the lists provided by the OECD, the TJN FSI the lists of EU MS and to add the jurisdictions that frequently appear in the lists of different international bodies. In that case, the approximate list will consist of those jurisdictions for the assessment of which relatively new and objective criteria are considered, taking into account the secrecy that hinders the exchange of information necessary for both the supervision by the CBA and for the tax purposes regulated by the RA MF. The suggested list for the CBA and the Cabinet, after the investigation of the abovementioned lists, would include 38 jurisdictions.¹⁴² Twenty-two jurisdictions of the surveyed EU MS coincide with the TJN FSI 2015/ OECD 2012 lists. Guatemala and Montserrat can also be included provided by the OECD. The list may include another 12 jurisdictions that have high secrecy scores as provided by the TJN FSI. As a result, the list will include not only those jurisdictions that frequently appear in

¹⁴⁰ *Ibid.*

¹⁴¹ See Chapter 2, part 2.2.3.

¹⁴² See the suggested list in the Appendix 5.

many lists, but also the ones, which the majority of countries mark to present significant problems.

The results have revealed that there is a need to make changes in our legal acts by adjusting them to the international requirements/standards. However, that is a matter of time considering the ongoing changes in the global standards. Meanwhile, the lists may need a temporary update to include the “classic offshore tax havens” appearing in almost all lists of both countries and international bodies.

Conclusion

Given what has been outlined in the present paper regarding the principles and criteria used for the identification of OFCs, it should be highlighted that there is a need to make amendments or temporary updates to the lists considering the global developments. Apparently, the lists of OFCs issued by both the international bodies and different countries are being updated from time to time, thus, making the changes necessary.

The results revealed that despite the lack in our laws and literature in defining the OFCs, or providing criteria for their assessment, there are certain principles that can be used by the RA Cabinet in assessing whether a certain jurisdiction falls within the concept of OFCs or not. These are the criteria established by the European Commission Recommendation, and the ones provided for by the TJN FSI, which we view as being based on objective grounds. Thus, if the relevant authorities decide to amend the lists, those principles may be considered.

The research have also shown that considering the OECD list for assessments does have a legal basis. Despite the direct membership agreement between Armenia and the OECD, the latter's functions are not limited to only its member states, thus enabling its monitoring over Armenia. Particularly, as the OECD works closely with the ENP to which Armenia is a partner, it has an authority to supervise the latter's development, definitely, if Armenia's authorities agree on this.

It is also worth noticing that Armenia's membership to the OECD Global Forum, through which it stated its intent to commit to the implementation of the AEOI standard, has facilitated the process of OECD supervision. At some time in future, when the RA signs the Convention¹⁴³, it will also be included in the peer review process, thus better results on country's financial situation will be provided.

Another important point whether two bodies can issue legal acts having equal legal effect was seen to be in compliance with laws inasmuch as they do not contradict each other. The study revealed that these two lists not only did not contradict but also supplemented each other.

As a concluding point, we have offered a new list of OFCs¹⁴⁴ consisting of 38 jurisdictions that might as well be used both by the RA Cabinet and the RA CBA. Relatively new

¹⁴³ OECD & Council of Europe, Convention on Mutual Administrative Assistance in Tax Matters, available at <http://www.oecd.org/ctp/exchange-of-tax-information/ENG-Amended-Convention.pdf> (last visited 17 April 2016)

¹⁴⁴ See Appendix 5.

and objective criteria have been used for the creation of the lists: the OECD 2012 list, the TJN FSI list that considered the secrecy score of the jurisdiction, the lists by the EU MS based on the application of criteria suggested by the European Commission Recommendation and the jurisdictions frequently appearing in the lists of different international bodies.

APPENDIX 1

The Lists of Offshore Zones and Tax Havens According to Different International Bodies

	Jurisdictions	OECD 2011/ 2012 ¹⁴⁵ */**	OECD GF 2012	IMF OFC list 2000 ¹⁴⁶ / 2007 ¹⁴⁷ •/□	FSF 2007 ¹⁴⁸ 8	BIS 2012	TJN FSI 2011/2015 •/□	EU 2015 Blacklist
1.	Andorra	°		•	•		□	•
2.	Anguilla	°		•	•		□	•
3.	Antigua and Barbuda	°		•	•		□	•
4.	Aruba	°		•	•	•	□	
5.	Australia	°					□	
6.	Austria	°					•/□	
7.	The Bahamas	°		•/□	•	•	□	•
8.	Bahrain	°		•/□	•	•	•/□	
9.	Barbados	°		•/□	•	•	□	•
10.	Belgium	°					•/□	
11.	Belize	°		•	•		□	•
12.	Bermuda	°		•/□	•	•	□	•
13.	Botswana		◇ ¹⁴⁹				□	
14.	Brazil	°					□	

¹⁴⁵ In the OECD 2012 Progress Report 92 jurisdictions/countries were identified as having implemented the internationally agreed tax standard. Those are indicated with a “°” Five out of them, the asterisked ones, have committed to the standard, but have not yet substantially implemented it in practice as of 2011. The ones that retained the status in 2012 are indicated with a “***”. Available at <http://offshore.infinity-group.ru/doc/g20.pdf> (last visited 2 May 2016)

¹⁴⁶ The IMF analysis in 2000 identified 63 jurisdictions as offshore financial centers. Available at <http://www.imf.org/external/np/mae/oshore/2000/eng/back.htm> (last visited 2 May 2016)

¹⁴⁷ The 2007 IMF Study identified 22 jurisdictions as Offshore Financial Centers. Ahmed Zoromé, *Concept of Offshore Financial Centers: In Search of an Operational Definition*, IMF Working Paper, 19 (2007), available at <https://www.imf.org/external/pubs/ft/wp/2007/wp0787.pdf> (last visited 2 May 2016)

¹⁴⁸ The FSF identified 42 jurisdictions meeting the OFC criteria. Ibid., 23

¹⁴⁹ The OECD Global Forum does not publish lists of tax havens, but it identifies the potentially problematic jurisdictions. Those are indicated with a “◇”. Three of these were identified by the OECD 2000 Report as tax havens.

15.	British Virgin Islands	°		•	•		□	•
16.	Brunei (Brunei Darussalam)	°	◇				□	•
17.	Campione			•				
18.	Canada	°					□	
19.	Cayman Islands	°		•/□	•	•	• ¹⁵⁰ /□	•
20.	China	°					□	
21.	Chile	°					□ ¹⁵¹	
22.	Cook Islands	°		•	•		□	•
23.	Costa Rica	°	◇	•	•		□	
24.	Curacao	°				•	□	
25.	Cyprus	°		•/□	•		•/□	
26.	Czech Republic	°					□	
27.	Denmark	°					•/□	
28.	Djibouti			•				
29.	Dominica	°		•			□	
30.	Estonia	°					□	
31.	Finland	°					□	
32.	France	°					□	
33.	Germany	°					•/□	
34.	Ghana						□	
35.	Gibraltar	°		•	•	•	□	
36.	Greece						□	
37.	Grenada	°		•			□	•
38.	Guam			•				
39.	Guatemala	*/**	◇				□	
40.	Guernsey /Sark/ Alderney	°		•/□	•	•	□	•

¹⁵⁰ The Tax Justice Network's Financial Secrecy Index (FSI) (2011) ranks jurisdictions using a measure, the FSI value, which takes into account both the secrecy of the jurisdiction and financial size and importance of the jurisdiction. The Top 10 secrecy jurisdictions according to the Tax Justice Network Financial Secrecy index 2011 are indicated with a "•". Available at [http://www.europarl.europa.eu/RegData/etudes/etudes/join/2013/490673/IPOL-JOIN_ET\(2013\)490673_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/etudes/join/2013/490673/IPOL-JOIN_ET(2013)490673_EN.pdf) (last visited 2 May 2016)

¹⁵¹Financial Secrecy Index 2015 Results- 92 Secrecy Jurisdictions are identified. Those are marked with a "□". Available at <http://www.financialsecrecyindex.com/introduction/fsi-2015-results> (last visited 2 May 2016)

41.	Hong Kong, China	°		•/□	•	•	•/□	•
42.	Hungary	°					•/□	
43.	Iceland	°					□	
44.	India	°					□	
45.	Indonesia	°						
46.	Ireland	°		•/□	•		•/□	
47.	Israel	°		•			□	
48.	Italy	°					•/□	
49.	Isle of Man	°		•/□	•	•	□	
50.	Japan	°		•			•/□	
51.	Jersey	°		•/□	•	•	•/□	
52.	Democratic People's Republic of Korea	°					□	
53.	Latvia			□			•/□	
54.	Lebanon	°	◇	•	•	•	□	
55.	Liberia	°	◇	•			□	•
56.	Liechtenstein	°		•	•		□	•
57.	London, UK			•				
58.	Luxemburg	°		•/□	•		•/□	
59.	Macao (Macau), China	°		•	•	•	•	
60.	Macedonia						□	
61.	Malaysia	°		•	•		□(Labuan)	
62.	Maldives ¹⁵²	°						•
63.	Malta	°		•/□	•		•/□	
64.	Marianas			•				
65.	Marshall Islands	°		•	•		□	•
66.	Mauritius	°		•/□	•	•	□	•
67.	Mexico	°					□	
68.	Micronesia			•				
69.	Monaco	°		•	•		□	•
70.	Montserrat	* / °		•			□	•
71.	Nauru	* / **		•	•			•

¹⁵² The Maldives and Tonga after the 2000 Report were identified as not meeting the criteria for tax havens.

72.	The Netherlands			•			□	
73.	Netherlands Antilles	°		•/□	•			
74.	New Zealand	°					□	
75.	Niue	*/**		•	•			•
76.	Norway	°					□	
77.	Panama	°	◇	•/□	•	•	□	•
78.	Philippines	°		•			□	
79.	Poland	°					□	
80.	Portugal	°		• (Madeira)			□ (Madeira)	
81.	Puerto Rico			•				
82.	Qatar	°						
83.	Russian Federation	°					□	
84.	Samoa	°			•	•	□	
85.	San Marino	°					□	
86.	Saudi Arabia						□	
87.	Seychelles	°		•	•		□	•
88.	Singapore	°		•/□	•	•	•/□	
89.	Sint Maarten	°				• ¹⁵³		
90.	Slovak Republic	°					□	
91.	Slovenia	°					□	
92.	South Africa	°					□	
93.	Spain	°					•/□	
94.	Sweden	°					□	
95.	Switzerland	°		•/□	•		•/□	
96.	St. Lucia	°		•	•		□	
97.	St. Kitts & Nevis	°		•	•		□	•
98.	St. Vincent and the Grenadines	°		•	•		□	•
99.	Tangier			•				
100.	Tahiti			•				

¹⁵³ Bank for International Settlements, list of OFCs, Annex 1, Table 20, 122 (2013), available at [http://www.europarl.europa.eu/RegData/etudes/etudes/join/2013/490673/IPOL-JOIN_ET\(2013\)490673_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/etudes/join/2013/490673/IPOL-JOIN_ET(2013)490673_EN.pdf) (last visited 2 May 2016)

101.	Thailand			•				
102.	Tonga	°						
103.	Trinidad & Tobago	°	◇					
104.	Turkey	°					□	
105.	Turks & Caicos Islands	°		•	•		□	•
106.	United Arab Emirates	°	◇				□ (Dubai)	
107.	United Kingdom	°		□			•/□	
108.	United States	°		•			•/□	
109.	Uruguay	* / °	◇	•/□			□	
110.	US Virgin Islands	°					□	•
111.	Vanuatu	°	◇	•/□	•	•	□	•
112.	Western Samoa			•				
113.	West Indies, UK			•		•		

APPENDIX 2

U.S. Listing: Jurisdictions Listed as Tax Havens or Financial Privacy Jurisdictions and the Sources of Those Jurisdictions

Jurisdictions	OECD 2000	NBER (Hines & Rice and Diamond &Diamond)	U.S. District Court order granting leave for IRS to serve a “John Doe” summons	Offshore Financial Services Table ¹⁵⁴
1. Alderney				X
2. Andorra	X	X		X
3. Anguilla	X	X	X	X
4. Antigua and Barbuda	X	X	X	X
5. Aruba	X		X	X
6. Bahamas	X	X	X	X
7. Bahrain	X	X		X
8. Barbados		X	X	X
9. Belize	X	X	X	X
10. Bermuda	X	X	X	X
11. Botswana				X
12. British Virgin Islands	X	X	X	X

¹⁵⁴ Excluded are jurisdictions that provide low or no taxes to individuals but offer no other services or products normally associated with the offshore financial service sector. Also excluded are jurisdictions that have established OFCs but for which the USG has little or no information regarding the operations of the OFC. BUREAU OF INTERNATIONAL NARCOTICS AND LAW ENFORCEMENT AFFAIRS, *International Narcotics Control Strategy Report, Offshore Financial Centers*, March 2004, provides the list of jurisdictions that offer offshore financial services and provides explanations for all categories. Available at <http://www.state.gov/j/inl/rls/nrcrpt/2003/vol2/html/29918.htm> (last visited 2 May 2016)

13. Brunei				X
14. Cayman Islands	X	X	X	X
15. Cook Islands	X	X	X	X
16. Costa Rica			X	X
17. Cyprus	X	X	X	X
18. Dominica	X	X	X	X
19. Gibraltar	X	X	X	X
20. Grenada	X	X	X	X
21. Guatemala				X
22. Guernsey	X	X	X	X
23. Hong Kong		X	X	X
24. Hungary				X
25. Ireland		X		X
26. Isle of Man	X	X	X	X
27. Jersey	X	X	X	X
28. Jordan		X		
29. Labuan				X
30. Latvia			X	X
31. Lebanon		X		
32. Liberia	X	X		X
33. Liechtenstein	X	X	X	X
34. Luxembourg		X	X	X
35. Macao		X		X
36. Madeira				X
37. Maldives		X		
38. Malta	X	X	X	X
39. Marshall Islands	X	X		X
40. Mauritius	X			X
41. Monaco	X	X		X
42. Montserrat	X	X		X
43. Nauru	X		X	X
44. Netherlands Antilles	X	X	X	X
45. Niue	X			X
46. Panama	X	X	X	X
47. Samoa	X		X	X
48. San Marino	X			
49. Sark				X
50. Seychelles	X			X
51. Singapore		X	X	X
52. St. Kitts and Nevis	X	X	X	X
53. St. Lucia	X	X	X	X

54. St. Vincent and the Grenadines	X	X	X	X
55. Switzerland		X	X	X
56. Tunisia				X
57. Turks and Caicos Islands	X	X	X	X
58. Uruguay				X
59. U.S. Virgin Islands	X			
60. Vanuatu	X	X	X	X

APPENDIX 3

The Lists of Offshore Zones by the Russian Federation

Jurisdictions	The Russian Federation 2007 list by the Ministry of Finance/OECD 2000	The list of the offshore zones by the Bank of Russia 2003		
		G1	G2	G3
1. Andorra	•/•			•
2. Anguilla	•/•		•	
3. Antigua and Barbuda	•/•		•	
4. Aruba	•/•			•
5. The Bahamas	•/•		•	
6. Bahrain	•/•		•	
7. Barbados			•	
8. Belize	•/•		•	
9. Bermuda	•		•	
10. British Virgin Islands	•/•		•	
11. Brunei Darussalam	•		•	
12. Cayman Islands	•		•	
13. Cook Islands	•/•		•	
14. Costa Rica			•	
15. Crna Gora		• 2010		
16. Cyprus ¹⁵⁵	•			
17. Democratic Social Republic of Sri Lanka			•	
18. Djibouti			•	
19. Dominica	•/•		•	
20. Federal Islamic Republic of Comoros				•
21. Gibraltar	•/•		•	
22. Grenada	•/•		•	
23. Guernsey/Sark/Alderney	•/•	•		
24. Hong Kong	•	•		
25. Ireland (Dublin, Shannon)		•		
26. Isle of Man	•/•	•		

¹⁵⁵ By the 21.08.2012 order N 115H of the Ministry Finance of the Russian Federation, this point lost force since 01.01.2013.

27. Jersey	•/•	•		
28. Kingdom of Tonga			•	
29. Lebanese Republic			•	
30. Liberia	•/•			•
31. Liechtenstein	•/•	• 2014		
32. Macao (Macau), China	•		•	
33. Malaysia (Labuan)	•		•	
34. Maldives	•/•		•	
35. Malta	• ¹⁵⁶	•		
36. Marshall Islands	•/•			•
37. Mauritius	•		•	
38. Monaco	•/•		•	
39. Montserrat	•/•		•	
40. Nauru	•/•			•
41. Netherlands Antilles	• ¹⁵⁷ /•		•	
42. Niue	•/•		•	
43. Panama	•/•			
44. Portugal (Madeira)			•	
45. Republic of Palau			•	
46. Samoa	•/•		•	
47. San Marino	•			
48. Seychelles¹⁵⁸	• 2009		•	
49. St. Kitts & Nevis	•/•		•	
50. St. Lucia	•/•		•	
51. St. Vincent & Grenadines	•/•		•	
52. Switzerland		•		
53. Singapore		•		
54. Turks & Caicos Islands	•/•	•		
55. United Arab Emirates	•		• (Dubai)	
56. USA (U.S. Virgin Islands, Commonwealth of Puerto Rico, Wyoming, Delaware)			•	
57. Vanuatu	•/•			•

¹⁵⁶ By the 02.10.2014 order N 111H of the Ministry Finance of the Russian Federation, this point lost force since 01.01.2015.

¹⁵⁷ By the 02.10.2014 order N 111H of the Ministry Finance of the Russian Federation, “Netherland Antilles” should, henceforth, be read “Curaçao and Sint Maarten (Dutch part).”

¹⁵⁸ By the 02.02.2009 order N 10H of the Ministry Finance of the Russian Federation, Seychelles were added to the list.

APPENDIX 4

The List of Offshore Territories as provided by several EU MS

Jurisdictions	Latvia (LV) 31 December 2015 ¹⁵⁹	Lithuania (LT) 31 December 2015	Germany (DE)/OECD 2009 •/◇/□ ¹⁶⁰	Greece (EL) 31 December 2015
1. Albania				•
2. Andorra	•	•	•	•
3. Anguilla		•	•	•
4. Antigua and Barbuda	•	•	•	•
5. Ascension, St. Helena & Tristan da Cunha	•	•		
6. Austria			□	
7. Aruba¹⁶¹		•	•(2011)	
8. The Bahamas	•	•	•	•
9. Bahrain	•	•	•	•
10. Barbados	•	•	•	•
11. Belize		•	•	•
12. Bermuda		•	•	•
13. Bonaire, Saint Eustatius & Saba				•
14. Bosnia and Herzegovina				•
15. British Virgin Islands		•	•	•
16. Brunei	•	•	□	•
17. Cayman Islands		•	•	•
18. Chile			□	

¹⁵⁹ European Commission, Taxation and Customs Union, *Tax Good Governance in the World as Seen by the EU Countries*, http://ec.europa.eu/taxation_customs/taxation/gen_info/good_governance_matters/lists_of_countries/index_en.htm?wtdebug=true

¹⁶⁰ The jurisdictions included in both the German list and the OECD list are marked with a “•”. The ones appearing in only German list are marked with a “◇”. The ones included only in OECD list are marked with a “□”.

¹⁶¹ Curaçao and Sint Maarten were added since 2010, and Aruba, Mauritius and Seychelles were added since 2011.

19. Cook Islands	•	•	•	•
20. Costa Rica		•	□	
21. Curacao		•	◇(2010)	
22. Djibouti	•	•		
23. Dominica	•	•	•	•
24. Ecuador	•	•		
25. French Polynesia	•(Tahiti only)	•(Tahiti only)		
26. Gibraltar		•	•	•
27. Grenada	•	•	•	•
28. Guam	•			
29. Guatemala		•	□	•
30. Guernsey		•	•	•
31. Hong Kong	•	•	◇	•
32. Isle of Man		•	•	•
33. Jamaica	•	•		
34. Jersey		•	•	•
35. Jordan	•			•
36. Kenya	•	•		
37. Kuwait		•		
38. Lebanon¹⁶²	•	•	◇	•
39. Liberia	•	•	•	•
40. Liechtenstein	•	•	•	•
41. Luxemburg			□	
42. Macao(Macau)	•	•		•
43. Macedonia				•
44. Malaysia	•(Labuan only)		□	•
45. Maldives	•	•		•
46. Marshall Islands	•	•	•	•
47. Mauritius		•	◇(2011)	•
48. Moldova				•

¹⁶² Lebanon is not included in OECD 2009 list, but the OECD Global Forum considered it to be a potentially problematic jurisdiction.

49. Monaco	•	•	□	•
50. Montenegro				•
51. Montserrat		•	•	•
52. Nauru	•	•	•	•
53. Netherlands Antilles			□	
54. New Caledonia	•	•		
55. Niue	•	•	•	•
56. Oman				•
57. Panama	•	•	•	•
58. Paraguay				•
59. Philippines			•	•
60. Qatar	•			
61. Sao Tome and Principe	•			
62. Samoa	•	•	•	•
63. San Marino	•	•	□	•
64. Sark		•		
65. Saudi Arabia				•
66. Seychelles	•	•	•(2011)	•
67. Singapore			•	•
68. Sint Maarten		•	◇(2010)	
69. Switzerland			□	
70. St. Lucia	•		•	•
71. St. Kitts & Nevis	•	•	•	•
72. St. Pierre & Miquelon	•	•		
73. St. Vincent & the Grenadines	•	•	•	•
74. Tanzania	•(Zanzibar archipelago only)			
75. Tonga	•	•		
76. Turks & Caicos Islands		•	•	•
77. United Arab Emirates		•		
78. Uruguay	•	•	□	•

79. US Virgin Islands	•	•	•	•
80. Vanuatu	•	•	•	•
81. Venezuela	•	•		

APPENDIX 5

The Suggested List of Offshore Territories

Jurisdictions	TJN FSI 2015/OECD 2012	EU Member States
1. Andorra	•	•
2. Antigua and Barbuda	•	•
3. The Bahamas* ¹⁶³	•	•
4. Bahrain	•	•
5. Barbados*	•	•
6. Bermuda*		
7. Cayman Islands*		
8. Cook Islands	•	•
9. Dominica	•	•
10. Grenada	•	•
11. Hong Kong*	•	•
12. Lebanon	•	•
13. Liberia	•	•
14. Liechtenstein	•	•
15. Marshall Islands	•	•
16. Nauru	-/-	•
17. Niue	-/-	•
18. Panama*	•	•
19. Samoa	•	•
20. Seychelles	•	•
21. St. Kitts & Nevis	•	•
22. St. Vincent & Grenadines	•	•
23. US Virgin Islands	•	•
24. Vanuatu*	•	•
Other jurisdictions included in the OECD list		
1. Guatemala	•	
2. Montserrat	•	
TJN FSI -other jurisdictions having a high secrecy score		
1. Guernsey/Sark/Alderney*	•	
2. British Virgin Islands	•	
3. Switzerland	•	
4. Singapore	•	
5. Cayman Islands	•	
6. Malaysia (Labuan)	•	
7. Mauritius*	•	
8. Turks & Caicos	•	

¹⁶³ The asterisked jurisdictions indicate the ones that appear in all 6 and/or 7 lists provided for by international bodies.

9. Monaco	•	
10. St. Lucia	•	
11. Brunei Darussalam	•	
12. Uruguay	•	

APPEENDIX 6. Conceptual Definitions¹⁶⁴

¹⁶⁴ Ahmed Zoromé, *Concept of Offshore Financial Centers: In Search of an Operational Definition*, IMF Working Paper, Appendix II, 26 (2007) available at <https://www.imf.org/external/pubs/ft/wp/2007/wp0787.pdf> (last visited 18 April 2016)

Dufey G. and Giddy I. define the OFCs in the following way: “Offshore banking is financial intermediation performed (primarily) for nonresident borrowers and depositors. The principal attraction of an offshore banking center (for banks as well as participants) is simply the absence of intrusive and expensive official regulation, including taxation and controls over the portfolio decisions of the banking community.”

McCarthy I. S. gives the following definition: “Offshore centers are defined as cities, areas or countries which have made a *conscious* effort to attract offshore banking business, i.e., nonresident foreign currency denominated business, by allowing relatively free entry and by adopting a flexible attitude where taxes, levies and regulation are concerned.”

Park Y. S. mentions the three characteristics of OFCs: “International financial centers are distinguished from their domestic counterparts by three important characteristics. First, international financial centers deal in external currencies, which are *not* the currency of the country where a center is located. [...] Second, offshore centers are generally free of the taxes and exchange controls that are imposed on domestic financial markets. [...] Third, offshore financial centers are primarily but not exclusively for nonresident clients.”

Johnston R. B. defines: “An offshore banking centre may be defined as being typically a small territory in which the conduct of international banking business is facilitated by favorable and/or flexibly administered tax, exchange control and banking laws, and in which the volume of banking business is totally unrelated to the size and needs of the domestic market. Offshore banking activity is essentially *entrepôt* business with *foreign currency funds* being deposited in a given centre from one foreign source and then on-lent to another foreign borrower.”

Hampton M. explains: “An OFC [is] a centre that hosts financial activities that are separated from major regulating units (states) by geography and/or by legislation. This may be a physical separation, as in an island territory, or within a city such as London or the New York International Banking Facilities (IBFs).

Finally, Errico L., Musalem A. define the OFCs as jurisdictions where offshore banks are exempt from a wide range of regulations which are normally imposed on onshore institutions.

Appendix 7. New Criteria provided by the European Commission

In view of these fundamental changes and the need for the MS to conduct coherent assessments of the third countries, the Commission has updated the criteria and invited the Council to endorse it. The updated standards for the assessment of third countries include:

- At EU level, the assessment of third countries' compliance with the transparency and exchange of information on request standards will take into account the compliance ratings published by the Global Forum, as a result of the peer reviews it conducts;
- For the EU, the assessment of third countries' compliance with the AEOI standard will take into account the compliance ratings published by the Global Forum as a result of its peer reviews;
- When assessing whether tax measures are harmful, account should be taken of the criteria as provided for in the Code of Conduct on Business Taxation endorsed by the Council, as well as practice and guidance agreed by the Code of Council working group;
- In assessing standards of fair tax competition, account should be taken of the outcome of the framework to be put in place by the OECD/G20 early 2016 to monitor the implementation of the OECD's Base Erosion and Profit Shifting (BEPS) by OECD/G20 countries and other interested jurisdictions but also jurisdictions of relevance whose participation is essential to ensure a level playing field;
- Relevant good governance standards for tax purposes also include Financial Action Task Force (FATF) international standards on Combating Money Laundering and the Financing of Terrorism and Proliferation. The assessment of this standard will take into account the jurisdictions with deficiencies identified by the FATF's International Co-operation Review Group (ICRG).¹⁶⁵

¹⁶⁵More about the International Co-operation Review Group (ICRG), available at [http://www.fatf-gafi.org/publications/high-riskandnon-cooperativejurisdictions/more/moreabouttheinternationalco-operationreviewgroupicrg.html?hf=10&b=0&s=desc\(fatf_releasedate\)](http://www.fatf-gafi.org/publications/high-riskandnon-cooperativejurisdictions/more/moreabouttheinternationalco-operationreviewgroupicrg.html?hf=10&b=0&s=desc(fatf_releasedate)) (last visited 18 April 2016)

APPENDIX 8

The Lists of Offshore Zones/Territories Provided by the Republic of Armenia

Jurisdictions	CBA list of OFCs 2009/2012 •/□	RA Cabinet Decision No 915-Ն	OECD 2009/2011	IMF 2007 OFC list	FSF 2007 list	TJN FSI 2011
1. Andorra	•	•	•		•	
2. Anguilla¹⁶⁶	•	•	•		•	
3. Antigua and Barbuda	• (only Antigua)	•	•		•	
4. Aruba	•	•	•		•	
5. Austria	•	≠	* ¹⁶⁷			•
6. The Bahamas	•	•	•	•	•	
7. Bahrain	•	•	•	•	•	•
8. Barbados	•	•	-	•	•	
9. Belgium	•	≠	*			•
10. Belize	•	•	•		•	
11. Bermuda	•	•	•	•	•	
12. British Virgin Islands	•	•	•		•	
13. Brunei Darussalam	•	•	*			
14. Campione		•				
15. Canary Islands		•				
16. Cayman Islands	•	•	•	•	•	•

¹⁶⁶ Anguilla, Bermuda, British Virgin Islands, Turks and Caicos, Cayman Islands, South Georgia and South Sandwich Islands, Montserrat, Chagos Archipelago, Gibraltar are British Overseas Territories.

¹⁶⁷ The asterisk “*” indicates those jurisdictions that fell under the category of “other financial centers” in the OECD 2009 Progress Report.

17. Chagos Archipelago		•				
18. Chile	•	≠	*			
19. Cook Islands	•	•	•		•	
20. Costa Rica	•	•	X ¹⁶⁸		•	
21. Cyprus		•		•	•	•
22. Delaware (US territory)		•				
23. Djibouti		•				
24. Commonwealth of Dominica	•	•	•			
25. Dominican Republic		•				
26. France		≠				
27. Fiji Islands		•				
28. French Polynesia		•				
29. Ghana		≠				
30. Gibraltar	•	•	•		•	
31. Grenada	•	•	•			
32. Guadelupe (France)		•				
33. Guam (US territory)		•				
34. Guatemala	•/□	•	*			
35. Guernsey/Sark/Alderney		•	•	•	•	
36. Cooperative Republic of Guyana		•				

¹⁶⁸The “X” indicates those jurisdictions as having not committed to the internationally agreed tax standard.

37. Guiana (French Guiana)		•				
38. Hong Kong, China		•		•	•	•
39. Iran		≠				
40. Ireland		• (Dublin, Shannon)		•	•	•
41. Isle of Man	•	•	•	•	•	
42. Jamaica		•				
43. Jersey		•	•	•	•	•
44. Kerguelen Islands		•				
45. Lebanon		•			•	
46. Liberia	•	•	•			
47. Liechtenstein	•	•	•		•	
48. Luxemburg	•	•	*	•	•	•
49. Macao(Macau), China		•			•	•
50. Madeira		•				
51. Malaysia (Labuan)	•	•	X		•	
52. Maldives¹⁶⁹		•	-			
53. Malta		•		•	•	•
54. Mariana Islands		•				
55. Marshall Islands	•	•	•		•	
56. Republic of Mauritius		•		•	•	
57. The Islamic Republic of Mauritania		•				
58. Micronesia		•				

¹⁶⁹ The Maldives and Tonga after the 2000 Report were identified as not meeting the criteria for tax havens.

59. Monaco	•	•	•		•	
60. Montenegro		•				
61. Montserrat	•/□	•	•			
62. Myanmar		•				
63. Nauru	•/□	•	•		•	
64. Netherlands Antilles	•	•	•	•	•	
65. New Zealand		≠				
66. Nigeria		•				
67. Niue	•/□	•	•		•	
68. Oregon (US State)		•				
69. Republic of Palau		•				
70. Panama	•	•	•	•	•	
71. Philippines	•	•	X			
72. Puerto Rico (US Territory)		•				
73. Qatar		≠				
74. Samoa		•	•		•	
75. San Marino	•	•	•			
76. Saudi Arabia		≠				
77. Seychelles		•	•		•	
78. South Georgia and South Sandwich Islands		•				
79. Singapore	•	•	*	•	•	•
80. Sri Lanka		•				
81. St. Kitts and Nevis	•	•	•		•	
82. St. Lucia	•	•	•		•	
83. St. Vincent and the Grenadines	•	•	•		•	
84. Suriname		•				
85. Switzerland	•	•	*	•	•	•

86. Tangier		•				
87. Tanzania		•				
88. Tonga		•	-			
89. Trinidad & Tobago		•				
90. Turks and Caicos Islands	•	•	•		•	
91. United Arab Emirates		• (only Dubai)				
92. Union of Comoros		•				
93. Uruguay	•/□	≠	X	•		
94. US Virgin Islands		•	•			
95. Vanuatu	•	•	•	•	•	
96. Western Samoa	•	≠				
97. Wyoming (US State)		•				

BIBLIOGRAPHY

1. Council of Europe/OECD Convention on Mutual Administrative Assistance in Tax Matters, 1988, <http://www.oecd.org/ctp/exchange-of-tax-information/ENG-Amended-Convention.pdf>
2. EU-Armenia Partnership and Cooperation Agreement, Sep. 09, 1999, [http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:21999A0909\(01\)&from=EN](http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:21999A0909(01)&from=EN)
3. Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT ACT), H.R. 3162, 107th Congress. §313 (2001), available at <https://www.gpo.gov/fdsys/pkg/BILLS-107hr3162enr/pdf/BILLS-107hr3162enr.pdf> (last visited 20 April 2016)
4. The “RA Law on Banks and Banking” from 30.06.1996, N 20-68.
5. The “Law of the Republic of Armenia on Securities Market” from 11.10.2007, N 20-195-Ն.
6. The “RA Law on Central Bank of Armenia”, from 30.06.1996, N 20-69.
7. The “RA Law on Legal Acts” from 03.04.2002, N 20-320.
8. The “Decision by the RA Cabinet to Determine the List of Offshore Zones” from 04.07.2012, N 915-Ն.
9. The “Order of the Russian Ministry of Finance on approval of the list of countries and territories that provide preferential tax regimes and/or not providing for disclosure and exchange of information on financial transactions (offshore zone)” from 13.11.2007, № 108n.
10. The “Decision of the Board of the Central Bank of Armenia to Affirm the List of Offshore Territories” from 28.07.2009, N 224-Ն.
11. The “Bank of Russia Order on the procedure for the authorized banks to establish correspondent relations with non-resident banks registered in the countries or territories offering preferential tax regimes and/or not requiring the disclosure and exchange of information on financial operations (on offshore zones)” from 07.08.2003, № 1317-U.
12. Ahmed Zoromé, *Concept of Offshore Financial Centers: In Search of an Operational Definition*, IMF Working Paper, (2007) available at <https://www.imf.org/external/pubs/ft/wp/2007/wp0787.pdf> (last visited 18 April 2016)

13. Bank for International Settlements, Monetary and Economic Department, *Guidelines to the international banking statistics*, (2013), available at <http://www.bis.org/statistics/locbankstatsguide.pdf> (last visited 02 March 2016)
14. Blomeyer & Sanz, European Parliament, Directorate General for Internal Policies, *IP/D/CONT/IC/2012-071, PE 490.673, European Initiatives on Eliminating Tax Havens and Offshore Financial Transactions and the Impact of These Constructions on the Union's Own Resources and Budget*, Study, (2013), available at [http://www.europarl.europa.eu/RegData/etudes/etudes/join/2013/490673/IPOL-JOIN_ET\(2013\)490673_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/etudes/join/2013/490673/IPOL-JOIN_ET(2013)490673_EN.pdf) (last visited 17 April 2016)
15. Bureau of International Narcotics and Law Enforcement Affairs, *International Narcotics Control Strategy Report, Offshore Financial Centers*, (2004), available at <http://www.state.gov/j/inl/rls/nrcrpt/2003/vol2/html/29918.htm> (last visited 20 April 2016)
16. European Commission, Directorate-General Taxation and Customs Union, *Platform for Good Tax Governance, Discussion paper on criteria applied by EU Member States to establish lists of non-cooperative jurisdictions*, (2014), available at http://ec.europa.eu/taxation_customs/resources/documents/taxation/gen_info/good_governance_matters/platform/meeting_20141219/discussion_paper_criteria_lists.pdf (last visited 21 April 2016)
17. European Commission, *Communication From the Commission to the European Parliament and the Council on an External Strategy for Effective Taxation*, COM(2016) 24 final, Brussels, (2016), available at <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52016DC0024&from=EN> (last visited 21 April 2016)
18. Hines, James R., Jr. "Treasure Islands." *J. Econ. Persp.* 24, no. 4 (2010): 103-25, available at <http://repository.law.umich.edu/cgi/viewcontent.cgi?article=1716&context=articles> (last visited 19 April 2016)
19. James R. Hines Jr. and Eric M. Rice, National Bureau of Economic Research, *Fiscal Paradise: Foreign Tax Havens and American Business*, Working Paper No. 3477, (1990), available at <http://www.nber.org/papers/w3477.pdf> (last visited 20 April 2016)
20. OECD, *Harmful Tax competition: An Emerging Global Issue*, (1998), available at <http://www.oecd.org/tax/transparency/44430243.pdf> (last visited 17 April 2016)

21. OECD, *Overview of the OECD's Work on Countering International Tax Evasion*, (2009), available at https://www.ecovis.com/fileadmin/user_upload/international/news/global/oecd-releases-overview.pdf (last visited 17 April 2016)
22. OECD, *Towards Global Tax co-operation, Progress in Identifying and Eliminating Harmful Tax practices*, Report to the Ministerial Council Meeting and Recommendations by the Committee on Fiscal Affairs (2000), available at <http://www.oecd.org/ctp/harmful/2090192.pdf> (last visited 17 April 2016)
23. OECD, *A Progress Report on the Jurisdictions Surveyed by the OECD Global Forum in Implementing the Internationally Agreed Tax Standard, Progress made as at 2nd April 2009*, available at <http://www.oecd.org/ctp/42497950.pdf> (last visited 20 April 2016)
24. OECD, *A Progress Report on the Jurisdictions Surveyed by the OECD Global Forum in Implementing the Internationally Agreed Tax Standard, Progress made as at 18 May, 2012*, available at <http://offshore.infinity-group.ru/doc/g20.pdf> (last visited 20 April 2016)
25. OECD, *Global Forum on Transparency and Exchange of Information for Tax Purposes, About the Global Forum: Membership*, available at <http://www.oecd.org/tax/transparency/abouttheglobalforum.htm> (last visited 17 April 2016)
26. Official Journal of the European Communities, *EU Code of Conduct for Business Taxation*, (1997), available at http://ec.europa.eu/taxation_customs/resources/documents/coc_en.pdf (last visited 17 April 2016)
27. Tax Justice Network, *Identifying Tax Havens and Offshore Financial Centers*, Briefing Paper, (2007), available at http://www.taxjustice.net/cms/upload/pdf/Identifying_Tax_Havens_Jul_07.pdf (last visited 17 April 2016)
28. United Nations, *Global Programme against Money Laundering, Financial Havens, Banking Secrecy and Money Laundering*, (1998), available at <http://www.cardiff.ac.uk/socsi/resources/levi-laundering.pdf> (last visited 17 April 2016)
29. United States Government Accountability Office, *Large U.S. Corporations and Federal Contractors with Subsidiaries in Jurisdictions Listed as Tax Havens or Financial Privacy Jurisdictions*, GAO-09-157, (2008), available at <http://www.gao.gov/assets/290/284522.pdf> (last visited 20 April 2016)

Interviews

1. Telephone Interview with Ori Alaverdyan, Head of the Tax Administration Methodology Department in the RA Ministry of Finance. (Feb. 16, 2016)