The London School of Economics and Political Science

The Politics of Transparency in Financial Centres

Anti-Tax Evasion and Anti-Money Laundering Efforts in the United Kingdom and Switzerland

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Declaration

I certify that the thesis I have presented for examination for the PhD degree of the London School of Economics and Political Science is solely my own work other than where I have clearly indicated that it is the work of others (in which case the extent of any work carried out jointly by me and any other person is clearly identified in it).

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Abstract

This thesis explores how financial centres engage with international tax and financial transparency standards. In light of increasing awareness of and global action against tax evasion and money laundering since the 2008 financial crisis, there is a need for understanding how to ensure financial centres and their financial and professional services industries comply with global transparency norms.

The main objective of this research is to provide a better understanding of the main political struggles, promises and limits of two areas of the anti-tax evasion and anti-money laundering transnational legal orders: exchange of information between tax authorities and beneficial ownership transparency. It explores the recursive processes between global transparency norms and domestic lawmaking and interest group politics in the world's two largest wealth management centres: Switzerland and the United Kingdom. The study is based on an analysis of almost 400 submissions to public consultations, parliamentary debates, and 39 qualitative interviews with experts and professionals from politics, private sector and civil society.

The research shows that despite different approaches to global transparency developments – with the UK assuming a leadership role and Switzerland reacting mainly to international pressure – in both countries commercial considerations and the competitiveness of their financial industries prevail. Moral arguments are mainly mobilised to push back against transparency, with reference to the counter-values of privacy, data protection and confidentiality. Apart from the defence of privacy, the main political struggles about transparency occur across two axes: the politics of exclusion and the question what should be made transparent and what should not, and the politics of verification and the debate how to ensure data accuracy. Concerns around loopholes, unreliable data and weak enforcement demonstrate the persisting limits of transparency as a regulatory tool. The research contributes to literature on transnational legal orders and the recursivity of law and structural power theories.

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Chapter Overview

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Glossary

ABI	Association of British Insurers
ACRA	Association of Company Registration Agents
AEOI	Automatic exchange of information
AFME	Association for Financial Markets in Europe
AIC	Association of Investment Companies
AIMA	Alternative Investment Management Association
AML	Anti-Money Laundering
ARIF	Association Romande des Intermédiaires Financiers
BBA	British Bankers Association
BEIS	Department for Business, Energy & Industrial Strategy
BIAC	Business and Industry Advisory Committee
BIPA	Business Information Providers Association
BIS	Department for Business, Innovation & Skills
BOT	Beneficial ownership transparency
BPF	British Property Federation
BSA	Building Societies Association
BVCA	British Private Equity and Venture Capital Association
CAFOD	Catholic Agency For Overseas Development
CDOTs	Crown Dependencies and Overseas Territories
CDs	Crown Dependencies
CFA	Committee on Fiscal Affairs
CFP	Center for Freedom and Prosperity
CLLS	City of London Law Society
CRS	Common Reporting Standard
CSO	Civil society organisation

DAC	Directive on Administrative Cooperation
DTA	Double tax agreement
EC	European Commission
ECJ	European Court of Justice
EITI	Extractive Industry Transparency Initiative
EOI	Exchange of information
ESPs	Eligible Scottish partnerships
EU	European Union
EUSTD	EU Savings Tax Directive
FATCA	Foreign Account Tax Compliance Act
FATF	Financial Action Task Force
FCA	Financial Conduct Authority
FER	Fédération des Entreprises Romandes
FOI	Freedom of Information
FTT	Financial transaction tax
G5	Group of Five
G7	Group of Seven
G8	Group of Eight
G20	Group of 20
GAT	Guernsey Association of Trustees
GDP	Gross Domestic Product
GDPR	General Data Protection Regulation
HMRC	HM Revenue & Customs
HNWIs	High-net-worth individuals
HTC	Harmful Tax Competition
ICAEW	Institute of Chartered Accountants in England and Wales

ICO	Information Commissioner's Office
ICSA	Institute of Chartered Secretaries and Administrators Registrars Group
IFC Forum	International Financial Centres Forum
IFDS	International Financial Data Services (UK) Limited
IGA	Intergovernmental Agreement
ILAG	Investment & Life Assurance Group
IMA	Investment Management Association
IRS	Internal Revenue Service
JFA	Jersey Funds Association
JFL	Jersey Finance Limited
KYC	Know-your-customer
LLC	Limited Liability Company
LLPs	Limited Liability Partnerships
MCAA	Multilateral Competent Authority Agreement
MP	Member of Parliament
MROS	Money Laundering Reporting Office
NACE	Nomenclature of Economic Activities
NGO	Non-governmental organisation
NRFI	Non-Reporting Financial Institution
OADFCT	Organismo di Autodisciplina dei Fiduciari del Cantone Ticino
OECD	Organisation for Economic Co-operation and Development
OTs	Overseas Territories
PRA	Prudential Regulation Authority
PSC	People with significant control
PWYP	Publish What You Pay
QCA	The Quoted Companies Alliance

QTA	Quantitative text analysis
ROE	Register of Overseas Entities
RUSI	Royal United Services Institute
SAMLA	Sanctions and Anti-Money Laundering Act
SAV	Swiss Bar Association
SBA	Swiss Bankers Association
SECO	State Secretariat for Economic Affairs
SEs	Societates Europaeae
SGB	Swiss Trade Union Association
sgv	Swiss Trade Association
SIC	Standard Industrial Classification
SMEs	Small and medium-sized enterprises
SNV	Swiss Notaries Association
SRO SAV SNV	Self-regulatory Organisation of the Swiss Bar Association and the Swiss Notaries Association
STEP	Society of Trust and Estate Practitioners
SVIG	Swiss Association of Investment Companies
TI	Transparency International
TIEA	Model Agreement of Tax Information Exchange
TLO	Transnational legal order
TRS	Trust Registration Service
UAE	United Arab Emirates
UK	United Kingdom
UN	United Nations
US	United States of America
VAV	Association of Swiss Asset and Wealth Management Banks
VCT	Venture capital trust

VQF	Financial Services Standards Association
VSKB	Association of Swiss Cantonal Banks
VSPB	Association of Swiss Private Banks
VSV	Swiss Association of Wealth Managers

Chapter 1: Introduction

1. Secrecy and transparency in financial centres

In the turmoil of the 2008 financial crisis, Swiss Finance Minister Hans-Rudolf Merz had a clear message for those who were threatening to come for the country's historical banking secrecy: "*An diesem Bankgeheimnis werdet Ihr euch die Zähne ausbeißen*" (Der Spiegel, 2008), which in literal translation means something like '*banking secrecy is a nut too hard to crack'*. A warning that did not stand the test of time. Just a year later, Switzerland's largest bank UBS entered into a deferred-prosecution agreement with the United States (US), handing over more than 4,000 client names and paying a USD 780 million fine. The bank, together with others, had been accused of facilitating tax evasion of US taxpayers. Switzerland's oldest private bank, Wegelin & Co, announced its permanent closure in 2013 following indictment by the US (Raymond & Browning, 2013).

At the same time, close to another financial centre – the City of London – British Prime Minister David Cameron hosted the G8 summit in 2013 and made big commitments on tax and financial transparency, including automatic exchange of financial account information between countries and public registers of company ownership. He declared in his closing speech: "We agreed a Lough Erne declaration that has the potential to rewrite the rules on tax and transparency for the benefit of countries right across the world, including the poorest countries of the world" (Cabinet Office et al., 2013). The United Kingdom (UK) proceeded to spearhead many of the transparency reforms that would define the next decade of international cooperation on anti-financial crime.

As two of the largest international financial and wealth management centres in the world, Switzerland's and the UK's reactions to what were immense pressures at the time for governments to do something about the fallouts of the financial crisis could not have been more different. Today countries across the world are increasingly aligned on their approach to tax and financial transparency regulation, but the journeys of how they got there can differ significantly. This thesis asks how financial centres engage with global transparency norms and standards as a means to combat tax evasion and money laundering.

In the past decades in the context of globalisation and increased mobility of capital, high-net-worth individuals (HNWIs) have increasingly transferred their wealth and income abroad, often to international financial centres.[1] Financial centres have also been misused by kleptocrats

[1] Other terms commonly used are offshore financial centres, tax havens or secrecy jurisdictions. This thesis uses the terms financial centre or wealth management centre instead as they are more encompassing and acknowledge also the legal and legitimate uses of financial centres. The term offshore can further be misleading because it makes one think of overseas, non-Western locations.

and organised crime groups to disguise their stolen funds. The international financial system has led to capital outflows in particular from developing countries, deprived governments of funds for public services, increased inequality within and between countries and facilitated tax avoidance and evasion as well as money laundering, kleptocracy and corruption. The United Nations (UN) Financial Accountability, Transparency and Integrity (FACTI) Panel in its 2020 interim report estimated that USD 7 trillion in private wealth are hidden in so-called haven countries and that 10% of global GDP might be held in offshore financial assets (Financial Accountability, Transparency & Integrity Panel, 2020). In 2013, Zucman (2013) estimated that at least 8% of global household financial wealth is held offshore, amounting to USD 7.6 trillion.

The secrecy and opacity of the international financial system has been identified as a key enabling factor for tax and financial crime, and the push for transparency of asset ownership and control is a direct response to this. In particular the 2008 financial crisis and data leaks such as the Panama, Paradise and Pandora Papers contributed to increasing pressure for the international community to act. The Organisation for Economic Co-operation and Development (OECD), the Financial Action Task Force (FATF) and the European Union (EU) have led efforts to bring more transparency to various aspects of the international financial system. The financial crisis has led to less tolerance among the general population for tax evasion and avoidance of the wealthy and to more willingness of governments to act (Christensen & Hearson, 2019). There has also been a move towards more multilateralism in the international tax field (Cubillos et al., 2021). Impressive progress has been made in various transparency initiatives, with Kudrle (2016) speaking of a 'transparency wave'. This thesis shines more light on what happened in two of the world's foremost financial centres when tax and financial transparency standards spread across the globe: Switzerland and the UK.

Two common vehicles used to evade taxes or launder proceeds from crime are secret financial accounts held abroad and anonymous companies. The policy approaches examined in this thesis tackle these two aspects of the international financial system: exchange of financial account information is about tax authorities sharing information about accounts held by non-residents with those individuals' countries of residence; while beneficial ownership transparency ensures that companies must declare their ultimate beneficial owners so that these cannot hide their identity.

Exchange of information (EOI) and beneficial ownership transparency are two of the three pillars of the Tax Justice Network's 'ABC of tax justice', key transparency reforms that tackle important aspects of financial secrecy (Tax Justice Network, n.d.).[2] The focus of this thesis on

[2] With the third being country-by-country reporting by multinational corporations (as a tool against tax avoidance), which does not fit with this thesis' focus on individual tax evasion and money laundering offences.

two aspects of secrecy – secret financial accounts and anonymous companies – reflects Emmenegger's (2017) insistence that if only one of these aspects is tackled, illicit financial flows can simply be redirected to financial centres specialised in another mechanism. Information about beneficial owners of corporate entities is further a prerequisite for the effectiveness of exchange of information (Konovalova et al., 2022). Zucman (2015) warned that financial accounts can be held through opaque legal entities or arrangements and therefore avoid scrutiny and transparency. The OECD Global Forum has introduced requirements about beneficial ownership data collection and exchange into the exchange of information standards (Crasnic & Hakelberg, 2021; OECD, 2024). They are further two policy areas where impressive progress has been made at the international and domestic levels. At the same time, the actual effectiveness of international tax and anti-financial crime efforts is often called into question (Avi-Yonah & Xu, 2013; Devereux & Vella, 2014; Eccleston, 2012; Fung, 2017; Rixen, 2010; Woodward, 2018).

2. Exchange of financial account information

In comparison to other vehicles of secrecy, financial accounts have experienced stronger and earlier pressures of transparency, in the form of so-called exchange of financial account information between tax authorities. This measure aims to prevent and detect tax evasion by individuals who hold financial accounts in countries other than their country of residence. It means that financial institutions such as banks, investment companies or insurance companies need to provide information on non-resident financial account holders to their tax authority which then shares this information with the individual's home tax authority.

One of the first forms of EOI took place under bilateral tax treaties which included provisions for EOI upon request, usually modelled on Article 26 of the OECD or UN Model Tax Conventions (Baker, 2013). A country A could request information from another country B if there was evidence for tax evasion by a resident of country A and if the requested information was available (Ahrens, Hakelberg, et al., 2020; Beer et al., 2019). In 2002, the OECD Global Forum Working Group on Effective Exchange of Information developed the Model Agreement of Tax Information Exchange (TIEA), so countries that do not have a bilateral tax treaty have a basis for EOI upon request (Baker, 2013).

At the 2008 G20 leaders' meeting in London, the group threatened with sanction measures and blacklists against countries that do not participate in EOI efforts which led to a surge in bilateral agreements (Ahrens, Hakelberg, et al., 2020; Baker, 2013; Rixen, 2010). The financial crisis increased the pressure to extend information exchange beyond Western countries to the rest of the world. In April 2009, the G20 called for a multilateral approach to information exchange. This was taken up by the OECD through its Global Forum on Transparency and Exchange of

Information for Tax Purposes (short, Global Forum), updating the 1988 OECD Multilateral Convention on Mutual Administrative Assistance in Tax Matters, strengthening its requirements and extending its reach to all countries (Smiley, 2013). In 2009, the Global Forum was restructured and expanded to become a self-standing body to carry out in-depth peer reviews, assessing countries' compliance with international standards on tax transparency and exchange of information. Exchange of information upon request had its shortcomings. Requesting tax authorities traditionally needed to know the taxpayer's name, the financial institution and "have a credible suspicion of tax evasion" (Grinberg, 2012, p. 316). While the EU advocated for global automatic exchange of information (AEOI) (Mosquera Valderrama, 2010), meaning the exchange of information on a regular basis without need for a request or any prior evidence of wrongdoing, the OECD around the time of the financial crisis was still against it (Meinzer, 2017). This changed drastically over the following years.

AEOI existed in a limited scope already before the crisis. In 1989, Nordic countries agreed to "automatically inform each other of wage, dividend and interest payments to their respective residents" (Ahrens, Bothner, et al., 2020, p. 6). In 2000, the US started the Qualified Intermediary programme under which foreign banks had to report US clients who received payments from the US (Ahrens, Bothner, et al., 2020). Between 2003 and 2005, the EU introduced AEOI on a multilateral basis, through the Council Directive 2003/48/EC on taxation of savings income in the form of interest payments (EU Savings Tax Directive or EUSTD) (Ahrens, Hakelberg, et al., 2020; Beer et al., 2019). The currently two most important instruments for automatic exchange of information are the 2010 US Foreign Account Tax Compliance Act (FATCA) and the OECD's 2014 Common Reporting Standard (CRS) (Ahrens, Hakelberg, et al., 2020). FATCA grew out of international tax evasion scandals around the time of the financial crisis, in particular related to Swiss banks UBS and Credit Suisse and LGT bank in Liechtenstein (Grinberg, 2012). The provisions target undeclared foreign financial accounts of US citizens and residents by requiring foreign financial institutions to identify and report financial account information to the US Internal Revenue Service (IRS). France, Germany, Italy, Spain and the UK subsequently elaborated a template for intergovernmental FATCA agreements (Crasnic & Hakelberg, 2021).

Inspired by FATCA, the OECD's CRS originated in the G8 summit at Lough Erne and the following G20 meeting in Russia where political leaders established a commitment to automatic exchange of information (Baker, 2013; Beer et al., 2019). The CRS and the corresponding Multilateral Competent Authority Agreement (MCAA) were published in 2014 and first automatic information exchanges took place in 2017. The CRS is unique due to its multilateral character and broad coverage of countries as well as regulated accounts and institutions (Bühler, 2017; Casi et al., 2020). Within the European Union, the Savings Tax Directive was replaced in 2014 by the second Directive on Administrative Cooperation (Directive 2014/107/EU or DAC)

which transposes the CRS into EU law (Ahrens, Hakelberg, et al., 2020; Beer et al., 2019). Exchange of information (including automatic) is widely adopted and applied, with the OECD Global Forum counting 171 members as of June 2024, having expanded beyond the organisation's core membership.

Previous literature on exchange of information as a tax transparency measure has focused on how countries have adopted the international standards and how effective the regulations have been. Crasnic's (2020) comparative study about the Bahamas and Barbados shows how the governments' relationships to the financial sector and to the OECD played a role in which strategy they adopted to deal with OECD pressure. She found that the policymakers' efforts to defend domestic interests depended on their own stakes in the financial industry and that being better able to influence the international debate led to more hidden forms of resistance (Crasnic, 2020). Other authors found that US and international pressure on Switzerland played a determining role in pushing the country towards more tax transparency (Eggenberger & Emmenegger, 2015; Emmenegger, 2017; Hakelberg, 2016). There has been no study on the developments of exchange of information regulation in the UK, which is a clear gap given the country's importance as a financial centre and key role in the development of the international standards.

Whereas Eggenberger, Emmenegger and Crasnic explore policy processes around exchange of information, other authors have focused on the standards' effectiveness. Beer et al (2019) find that automatic exchange of information has been effective in reducing the number and amount of deposits in offshore jurisdictions. This seems to be particularly true for the EUSTD and the CRS but less so for FATCA. Ahrens and Bothner (2020) report that FATCA and the CRS led to decreasing amounts of household assets being placed in so-called tax havens. Casi et al (2020) draw similar conclusions for the CRS, namely that there is a decrease in cross-border deposits in offshore countries after CRS implementation. Ahrens et al (2020) test whether taxpayers have made use of possible workarounds to avoid being subject to the CRS but find little evidence for that. They, however, find that such regulatory arbitrage increases over time.

3. Beneficial ownership transparency

The second transparency policy this thesis focuses on is beneficial ownership transparency (and what I more broadly call financial transparency, as complementary to tax transparency). The concept of beneficial ownership originates in the regime of dual ownership, allowing a distinction between legal and beneficial owners of an entity. While also being used for legitimate and economic purposes, this dual ownership structure has been abused for financial crime (Bagheri & Zhou, 2021), leading to a range of regulatory efforts. They usually revolve around making the ultimate beneficial owners transparent, so people cannot hide behind corporate structures.

Beneficial ownership transparency as a strategy against financial crime became more popular in the early 2010s, mainly among the Financial Action Task Force (FATF), the G8, the G20 and the EU. The Panama and Paradise Paper leaks highlighted the need for transparency of beneficial owners which pushed the policy agenda further (Van der Merwe, 2020).

FATF uses the following definition for beneficial owners: "the natural person who ultimately owns or controls a customer and / or the natural person on whose behalf a transaction is being conducted. It also includes those persons who exercise ultimate control over a legal person or arrangement" (Martini, 2015, p. 4). Having transparency over this means that law enforcement agencies can find out who is behind financial dealings and companies can do their due diligence on clients or counterparties more easily.

Countries have implemented varying degrees of beneficial ownership transparency. Sometimes there is a mere requirement that intermediaries have to check who the beneficial owners of their client companies are. This is for example the case in Switzerland. In other countries, there are closed registers of beneficial owners which government agencies can access. The most transparent version are public registers, such as the UK's People with significant control (PSC) register launched in 2016. They can be accessed by anyone, therefore giving for example civil society organisations (CSOs) the opportunity to hold companies to account (Gilmour, 2020).

There are various international standards on beneficial ownership transparency. One of the most important ones is the FATF Recommendations (2012), the foremost global standard on anti-financial crime (Gilmour, 2020). After the UK-hosted G8 summit in 2013, all G8 leaders committed to establish registers of beneficial ownership. The G20 in 2014 devised the High-Level Principles on Beneficial Ownership Transparency (Bagheri & Zhou, 2021). The EU anchored beneficial ownership transparency in its 4th Anti-Money Laundering (AML) Directive (2015), requiring all EU member states to establish central registers of beneficial ownership. These registers did not have to be publicly accessible, but access should be granted to those with a 'legitimate interest'. This changed with the 2018 5th AML Directive, which asked member states to make the beneficial ownership registers of companies publicly accessible (Gilmour, 2020). In a recent development, this approach has been judged invalid by the European Court of Justice (ECJ). In a ruling in November 2022, the Court stated that privacy concerns and public access have to be better balanced and that public access in all cases was invalid (Open Ownership, 2022).

It is remarkable that there is little academic research on beneficial ownership transparency. The little there is is mostly policy-oriented (e.g. Advani et al., 2023) and complements a wider array of analysis and writing done by non-governmental organisations and think tanks (see for example Bajpai & Myers, 2020; Ezeigbo et al., 2021; Global Witness & Open Ownership, 2017; Knobel, 2018, 2019a; Knobel et al., 2018; Longchamp et al., 2015). An example of a policy-

oriented academic study is Bagheri and Zhou's (2021) evaluation of the implementation of the G20 High-Level Principles on Beneficial Ownership Transparency. The authors argue that as the Principles were developed by a small group of developed economies, they are not easily applicable to the rest of the world – given that many developing countries which are put under pressure to adopt the new rules do not see beneficial ownership transparency as a priority. This leads to merely superficial legal reforms.

A rare empirical study of beneficial ownership transparency regulation has been conducted by Konovalova and co-authors (2022). The research looks at the impact of international beneficial ownership transparency standards on professionals and regulations in the financial centre of the Seychelles. The authors found that practitioners affected by the regulation ended up focusing more on the form of information submission in a predefined and rigid register rather than the quality and therefore veracity of the information. The responsibility to report non-compliance was shifted to self-reporting and the practitioners themselves, away from government regulators. Concerns were raised about the lack of guidance from the government, the cost and burden of compliance, and the protection of privacy. The authors do not explore how the Seychelles – government and private sector – responded politically to the international developments. In contrast, Meehan (2024) placed the focus on why certain industry actors support beneficial ownership transparency reforms and finds that it is because they are subject to stricter AML information collection duties, meaning that beneficial ownership transparency benefits them. These actors then formed coalitions with civil society actors and successfully lobbied governments to adopt corporate transparency laws, even against the resistance of others.

4. The political struggles about transparency in financial centres

While there is a more substantive body of literature on exchange of information, both policy areas lack in-depth studies on why and how countries react to and implement the international transparency standards. In particular financial centres are important case studies for this type of research because they and their professional and financial services industries would be most affected by the transparency requirements. Their compliance also matters most for the success of the policy regime as they are typically the suppliers of secrecy and anonymity that allow tax evasion and money laundering to happen and go undetected. Therefore, this thesis puts the focus on the two largest wealth management centres in the world who – surprisingly – have gone on two seemingly very different transparency journeys. The UK has been a global leader in both policy areas while Switzerland has attempted to resist transparency efforts until international pressures became too strong. Given the depth and complexity of the information that had to be collected for this thesis in its attempt to capture policy processes over a span of 15

years or more, a small-n study seemed most appropriate. A comparative approach was favoured over a single case study as it allows to draw broader conclusions on the phenomena studied (Della Porta, 2008; Gerring, 2007).

The two country cases belong to the wider universe of financial centres that are affected by international transparency standards. A case-oriented or contextual comparison seems to be more suitable for the universe of cases composed of a very diverse set of financial centres (see Palan, 1998; Picciotto, 1999). This will allow a focus on thick description and contextual understanding of a small number of cases, selecting paradigmatic cases without aiming at simplified generalisation (Della Porta, 2008; Della Porta & Keating, 2008; Locke & Thelen, 1995). The two countries are at the core of the 'two principal geo-political poles' of financial centres: first, jurisdictions with close links to the City of London, namely British Crown Dependencies[3] (CDs) and Overseas Territories[4] (OTs) and independent British Imperial colonies like Hong Kong and Singapore; and second, European jurisdictions like Switzerland, Ireland, the Netherlands and Luxembourg (Palan, 2009). The focus has traditionally been on the more obvious offshore 'tax havens' like the Cayman Islands or the British Virgin Islands. Also the political focus has been on them, sometimes leading to biased situations where these smaller non-Western jurisdictions get blacklisted while countries like Switzerland do not (Dean & Waris, 2021). According to Eccleston (2012, p. 6) we have a less good understanding of countries such as Switzerland or Luxembourg, developed countries with important financial sectors that need to raise revenue for their large public sectors and at the same time aim to attract foreign capital. Further, both the UK and Switzerland are members of the OECD and hence have decision-making power at the international level which makes an exploration of the international – domestic dynamics particularly fruitful. Importantly, from the perspective of this thesis' focus on transparency, the UK, many of its dependencies and Switzerland all score high on the Tax Justice Network's Financial Secrecy Index, which measures jurisdictions' secrecy and the scale of their offshore financial activities (Tax Justice Network, 2022).

Switzerland was further chosen as a case due to its importance as a financial centre in monetary terms, its historic importance as one of the first international wealth management centres in the world, and its known reluctance to adopt international standards. It was the first country in the world to have "developed a cross-border wealth management industry, in the 1920s" (Alstadsæter et al., 2017, p. 2) and the first to have enshrined banking secrecy into national law (Palan, 1998). It ranks first on Deloitte's Wealth Management Centre ranking (Deloitte, 2021), with Swiss banks being estimated to manage up to one third of global offshore wealth (Emmenegger, 2017). Geneva and Zurich also feature prominently in the most recent Global

[3] Jersey, Guernsey and the Isle of Man.
[4] Such as the Cayman Islands, Bermuda, British Virgin Islands, Turks and Caicos and Gibraltar.

Financial Centres Index, Geneva ranking seventh, ahead of Frankfurt, Luxembourg and Beijing (Wardle & Mainelli, 2024). In 2022, Swiss banks had a 25% market share of global cross-border wealth management services. They had almost CHF 8,000 billion of assets under management, with around half of that coming from abroad. Forty percent of banks' turnover in 2022 was generated by UBS and Credit Suisse which have merged in 2023 after UBS acquired the struggling Credit Suisse. The rest of the turnover was created by 24 cantonal banks, private banks, saving banks, Raiffeisen banks, international banks, regional banks, and stock exchange banks. Switzerland also has an important insurance sector, with Swiss insurance companies in 2021 generating CHF 225 billion in insurance premiums. Over three quarters of that came from outside of Switzerland (Federal Department of Foreign Affairs, 2023).

The UK ranks second behind Switzerland on Deloitte's Wealth Management Centre ranking in terms of size (Deloitte, 2021). London also ranks second in the Global Financial Centres Index, behind only New York (Wardle & Mainelli, 2024). The City of London – which enjoys special rights and privileges in the UK (Shaxson, 2012) – sits at the core of a network of Crown Dependencies and Overseas Territories (CDOTs), many of which function as international financial centres and as a whole constitute the most important financial centre in the world (Tax Justice Network, 2020b). Looking at the network as a whole is important as the British government has played a crucial role in establishing these jurisdictions as financial centres after decolonisation (Ogle, 2020; Picciotto, 1999) and still yields political power over them (Tax Justice Network, 2020b, 2020c). The UK's financial and professional services industry accounts for 12% (GBP 278 billion) of the UK's GDP. The country is the largest net exporter of financial services globally and the world's third-largest insurance market. The UK is also the second-largest centre for asset management globally, accounting for 13% of global assets under management. It further has 15% of the global market share of cross-border banking (The City of London Corporation, 2024).

Studying both countries in themselves and in comparison can yield interesting findings as, while they have a lot in common in terms of their importance for global wealth management and as financial centres, they also differ in significant ways. First, Switzerland will be studied as a country in itself while the UK (City of London) will additionally be studied as the core of a wider network of international financial centres. Second, Switzerland is particularly known for its private banking services, while in the UK trusts and companies as well as real estate play an important role for the country's status as a financial and wealth management hub (Cooley, Heathershaw, and Sharman 2018; Tax Justice Network 2020a). And third, while Switzerland showed strong resistance against exchange of information and still does not have a beneficial ownership register, the UK – perhaps surprisingly – was one of the first countries to establish a public register of beneficial ownership and participated early on in information exchange efforts.

The thesis asks how financial centres engage with the anti-tax evasion and anti-money laundering transnational legal orders (TLOs). It specifically focuses on two related questions in this regard:

> Why has the UK adopted a leadership approach on tax and financial transparency? (chapter 4)
>
> Why has Switzerland given in to increasing tax and financial transparency reforms despite its initial strong resistance? (chapter 5)

The thesis thereby draws on literature that explores the question why countries lead on or comply with international regimes. It understands exchange of information and beneficial ownership transparency as parts of the international taxation and anti-money laundering TLOs. In combination with a focus on the recursivity of law, this framework allows us to focus on how global norms are shaped, contested, appropriated and adapted by state and non-state domestic actors. Given that the transparency regulation affects a wide range of firms and professionals, it is important to understand their perspective on and role in the policy processes – which is why this thesis puts a particular focus on interest groups. According to the recursivity perspective, legal processes and laws are characterised by diagnostic struggles, mismatches between actors, contradictions and indeterminacies and therefore gaps and inconsistencies, aspects that this research pays particular attention to in order to not take countries' apparent leadership or laggard roles for granted. This study constitutes the first in-depth exploration of interest group politics across the two policy domains in the UK and Switzerland. It helps to untangle some of the contextual factors and underlying reasons for the successes and shortcomings of the transparency efforts, which can inform future policy developments.

Neither of the policy areas, or other aspects of tax and financial transparency for that matter, has been studied much with a focus on transparency as a core concept. This thesis argues that a perspective putting transparency at the centre is fruitful because the value of transparency is often taken for granted. By focusing on the political struggles around transparency and how transparency is in constant tension with its counter-values around privacy, this thesis shines light on the paradoxes, limitations and pitfalls of transparency. It therefore allows a more critical look at the achievements and boundaries of tax and financial transparency regulation. The thesis asks how the struggles around transparency and privacy play out and result in specific policy outcomes. It thereby focuses on the following two questions:

> What are the main political struggles about transparency as a regulatory tool against tax evasion and money laundering? (chapter 6)
>
> How are privacy, confidentiality and data protection mobilised as counter-values to transparency regulation and how do financial centres negotiate the

tension between the transparency mandate and privacy protections? (chapter 7)

Based on an analysis of previously unexplored interest group submissions to public consultations, parliamentary debates and original semi-structured key informant and expert interviews, the thesis makes contributions to literature on transparency as a governance norm, the interaction between global norm making and domestic lawmaking, and the role of non-state domestic actors and theories of business power.

5. Chapter outline

Chapter 2 will present the theoretical framework of the thesis. It will explore the concept of transparency as a governance norm, examine its promises and pitfalls, and the tension with its counter-values privacy, confidentiality and data protection. The chapter then explains how tax and financial transparency are fruitful policy areas to explore these dynamics around transparency. It continues to position financial account and beneficial ownership transparency within the transnational legal orders of international taxation and anti-money laundering, before exploring how a recursivity of law perspective can serve to understand the political struggles, contradictions and indeterminacies of the policy processes at hand.

Chapter 3 outlines the methodological approach that underlies this thesis. That includes information on the data sources, data collection and analysis processes, and research ethics. The chapter provides an overview of the interest group fields in the two countries.

Chapter 4 asks why a country would lead in a transnational legal order, in particular if that seems to contradict structural power theories. Specifically it explores why the UK assumed a leadership role on EOI and beneficial ownership transparency. The chapter demonstrates how UK governments have pursued this proactive approach even in light of concerns and resistance from parts of industry and the Crown Dependencies and Overseas Territories. The chapter then explores two partial but insufficient explanations for the leadership role, before suggesting that the UK's approach can be described as 'leadership as distraction.' This manifests in the country leading on certain aspects of the reform and being vocal about this leadership to distract from other, less desirable, policy changes and from questions of enforcement.

Chapter 5 asks a related question, namely why a country decides to comply with a transnational legal order if that is against its interests. It turns to the Swiss case and asks why Switzerland has shifted towards adopting most of the transparency standards when the country had heavily resisted them not too long ago. It explores the diagnostic struggle around what I call the 'competitiveness tension' – the question what is better for the country's competitiveness: international compliance or regulating less than other countries and in particular financial centres. The chapter finds that the recursivity between global norms and domestic lawmaking can change

structural power calculations and that the balance has shifted towards international compliance due to increasing international pressures.

In *Chapter 6*, the focus shifts towards the political struggles and acts of resistance that occur in the recursive process between global transparency norms and domestic lawmaking. These struggles of what I call the politics of transparency play out across two main axes: the politics of exclusion are about what is made transparent and what gets exempted, while the politics of verification are about how to ensure data accuracy. The chapter explores these struggles across the two countries and policies and draws conclusions about what that means for transparency as a regulatory tool.

Chapter 7 examines the most overt resistance strategy in the recursive process of implementing global transparency norms domestically, namely the struggles to limit transparency efforts using arguments around privacy, data protection and confidentiality. It focuses on how these counter-values are mobilised in three specific case studies where the tension was particularly evident: (1) the adoption of automatic exchange of information in Switzerland and what that meant for banking secrecy; (2) arguments around the protection and safety of beneficial owners in the UK; and (3) the defence of the so-called 'lawyers' secrecy' in light of AML reforms in Switzerland.

Chapter 8 concludes the thesis. It first summarises the main findings and goes into more detail about the headline findings and main contributions of this thesis, under three main categories: 1) the politics of tax and financial transparency; 2) the interaction between global norm making and domestic lawmaking; and 3) the role of non-state domestic actors. It then examines whether Switzerland and the UK are just two different manifestations of the same phenomena and reflects on limitations and future research directions. The conclusion ends with a reflection on policy implications.

Chapter 2: Literature Review and Theoretical Framework

1. Transparency: regulation by revelation or an infringement of privacy rights?

1.1. The rise of transparency as a governance norm

Transparency has become a catchword in the realm of governance, institutions and organisations since the 1980s. In its current governance-related meaning, the English word transparency was allegedly used first by philosopher Jeremy Bentham in the late 18th century. He promoted this value as fundamental for public management and the government, relating it for example to public accounts and expenditure (Hood, 2006). The term has earlier roots in "the Reformation, the Enlightenment, the Democratic Revolutions, and thus [links] to the evolution of the ideas of freedom, of human rights and […] of the right to know" (Holzner & Holzner, 2002, p. 155). Hood (2006b, p. 19) highlights the "quasi-religious" character of transparency "as a contemporary doctrine of governance," by which he means that "transparency is more often preached than practised, more often invoked than defined, and indeed might ironically be said to be mystic in essence" (Hood, 2006b, p. 3).

Transparency has mainly been studied in relation to governments, international organisations and corporate governance. Great Britain had corporate disclosure requirements as early as the mid-1800s and also in the US investors pushed for disclosure standards in the early 1900s. The US Freedom of Information Act dates back to 1966 and civil society organisations demanded transparency from international organisations such as the World Bank in the 1980s. These developments were pushed forward in the 1990s due to the promotion of democratic norms, global economic integration and civil society pressure. In 1993 the term became representative of the anti-corruption movement with the establishment of CSO Transparency International. Shocks such as the 1990s Asian crisis – linked by many to excessive secrecy by the private sector and government – and the collapse of US giant Enron due to fraudulent accounting practices and hidden trading losses, contributed to a push towards more transparent government and corporations (Florini, 1998, 2007).

The more recent trend towards transparency is linked to trends in technological advances, democracy and globalisation. The spread of democracy as the dominant form of government led to the belief that leaders in government and private sector should be held accountable for their actions, which is impossible without information about said actions. Informed consent as a key element of a democratic system only works with information being available. As the world has become more interdependent and actions in one place affect outcomes in another, transparency

has become a dominant norm in issue areas as diverse as security, environmental governance and trade (Florini, 1998).

Transparency norms have led to the adoption of freedom of information laws and open data initiatives in many countries, to international organisations establishing their own disclosure and public information rules, and multinational enterprises sharing information relevant to investors and to society at large – not limited to financial information but extending to their social and environmental impacts (Blanton, 2007; Calland, 2007; Florini, 2007; Grigorescu, 2003; Hood, 2006b; Moore, 2018). The UK Nolan Committee in 1995 named transparency "one of the basic standards for conduct in public life" (O'neill, 2006, p. 75) and transparency has become a key part of corporate governance standards (O'neill, 2006).

1.2. The ambitions and limits of transparency

According to the Merriam-Webster dictionary, transparency is "the quality or state of being transparent" (Merriam-Webster, n.d.-a). Transparent in turn has the meanings "having the property of transmitting light without appreciable scattering", "fine or sheer enough to be seen through", "free from pretense or deceit", "easily detected or seen through", "readily understood" and "characterized by visibility or accessibility of information" (Merriam-Webster, n.d.-b). What unites this myriad of meanings is the idea that transparency reveals. In her book *The Right to Know*, Florini uses a broad definition of the concept: "the degree to which information is available to outsiders that enables them to have informed voice in decisions and/or to assess the decisions made by insiders" (Florini, 2007, p. 5).

Transparency is aimed at a number of interlinked goals: it is meant to increase trustworthiness and hence trust as well as accountability, prevent corruption and improve performance. This can apply to public or private actors alike (Florini, 2007; O'neill, 2006). Florini (1998) posits transparency as a means of governance and enforcement against means such as surveillance and coercion. She calls it "regulation by revelation" (Florini, 1998, p. 53). This is where transparency becomes more than just a means to increase trust and enhance performance, and where it becomes a regulatory tool in itself. Etzioni (2010, p. 398) calls transparency a "relatively light form of regulation."

We have so far mainly considered the supply side of transparency – the provider of the information, be it governments, corporations or multilateral organisations. High-quality transparency is a matter of both supply and demand and these two need to match. Citizens, civil society, journalists and other interested stakeholders must monitor transparency efforts and process and use the information provided (Etzioni, 2010; Neuman & Calland, 2007). Holzner and Holzner (2002) therefore add the demand side to their definition of transparency. With reference to the sociology of knowledge, they posit that we need to consider the recipients of

information as they can question "the relevance, accuracy, and indeed veracity of the truth claims made" (Holzner & Holzner, 2002, p. 156). The authors therefore suggest that transparency "is a system of interaction between supply and demand for the disclosure of credible information from centers of power to interested actors and publics. What is accepted as credible depends on culturally established epistemic criteria for judging truth claims" (Holzner & Holzner, 2002, p. 156). The information provided by so-called centres of power is hence not taken for granted, and the mere publication of this information is not sufficient to achieve a state of transparency. This because the public – or other recipients of the information – can question the statements made.

Much of the literature acknowledges the limits of transparency. O'neill (2006) adds the important concept of communication, without which transparency is pure disclosure and dissemination. Information being disclosed does not mean that it is "seen, read, or understood" (O'neill, 2006, p. 81) and that it has an audience. To achieve this, information needs to be communicated. Heald (2006b), in line with the above, highlights the importance of how the information is received. He distinguishes openness as an organisational characteristic from transparency which "also requires external receptors capable of processing the information made available" (Heald, 2006b, p. 26), as well as digesting and using it. Whether these receptors exist defines whether transparency is purely nominal or actually effective – the gap between which the author calls the "transparency illusion" (Heald, 2006b, p. 34). Also Moore (2018) speaks to this when cautioning that most transparency initiatives do not concern themselves with questions of accessibility, comprehension and assessment as well as the ability of those at the receiving end to act on the information. Things that can prevent effective transparency are a lack of political will or awareness, a culture of secrecy, a lack of capacity (Neuman & Calland, 2007), information overload (Moore, 2018), unrealistic deadlines, the evasion of rules through loopholes (Heald, 2006b) or exemptions (Neuman & Calland, 2007), the high costs of implementing transparency (Florini, 2007), or if information is unintelligible, irrelevant, inaccurate or even dishonest (O'neill, 2006).

Hood (2006a) categorises critical views of transparency into the three perspectives of futility, jeopardy, and perversity. From a futility point of view, transparency becomes futile when enforcement does not happen or when institutions find ways around the disclosure rules. Those behind the jeopardy argument would state that transparency – while promoting certain goals – can undermine others. The perversity argument, as the most cynical view of the three, warns that policy efforts such as transparency can end up leading to the opposite outcome than what was intended. This can happen for example when too much data is made available and therefore its quality and intelligibility reduce (Hood, 2006a). In every day and political life, the fact that transparency fulfils certain so-called epistemic and ethical standards is mostly taken for granted. But as O'neill (2006, p. 84) states: "It follows that transparency by itself is a very

incomplete remedy for corruption, untrustworthiness, or poor performance in public and corporate life. It can achieve rather little unless the material disseminated is made accessible to and assessable by relevant audiences, and actually reaches those audiences." If it does not achieve this standard, transparency can in fact make matters worse by "spreading confusion, uncertainty, false beliefs, and poor information" (O'neill, 2006, p. 85).

Also as a regulatory tool (in the sense of 'regulation by revelation') transparency does not simply work automatically. "Success depends on what information is provided, in what form, to what audience, and on what options that audience has to induce the discloser to behave differently" (Florini, 2007, p. 341). The transparency norm can also support explicitly anti-regulatory initiatives. This happens when promoters of transparency argue that it makes government controls and regulations futile (Cronin, 2020; Etzioni, 2010)

A related question is what is being obscured and not shown in the process of transparency. Moore (2018, p. 424) cautions that the very term transparency can preclude "any discussion of institutional openness as necessarily contingent and partial." The blind faith in transparency ignores the fact that there are – at least sometimes – (active) decisions about what gets shown and what doesn't, and that there are mediating processes at play. Transparency can conceal at the same time as reveal, by actors choosing what is relevant to be shown (Roberts, 2009). O'neill (2006) puts forward a slightly more sinister view of this active process of disclosure, in particular where disclosure is used to avoid or pass on liability: corporations' "real aim [with] certain practices of disclosure is *not to communicate*" (O'neill, 2006, p. 88).

This thesis follows these cautions and criticisms of the transparency concept and aims at understanding how transparency is constructed and enacted as well as what is shown and what isn't as a result of the transparency efforts, and how transparency interacts with other regulatory tools.

1.3. Transparency and its counter-values: privacy, confidentiality and data protection

Transparency has so far been presented as a value that might have its limits in application and effectiveness, but that is seen as inherently positive. There is an important debate around how transparency should be balanced against other values such as privacy, confidentiality and data protection.

Transparency is sometimes defined as the "opposite of secrecy" (Florini, 1998, p. 50) or "a counter-value to secrecy" (Holzner & Holzner, 2002, p. 152), that which hides and conceals information. Transparency and secrecy can be seen as "two ends of a continuum" (Florini, 1998, p. 50). Holzner and Holzner (2002, p. 158) define the 'transparency syndrome' as a

"constellation of values", namely, "transparency, secrecy, privacy, accountability, fiduciary responsibility, the rights of persons both natural and juridical, and property." These values are linked and often conflict with each other, and this conflict plays out in different ways depending on context. The controversial boundaries between these different values translate into questions around which information should even be available.

The most important counter-values for the purposes of this thesis are privacy, data protection and confidentiality. In contrast to secrecy, which often has negative connotations, privacy is widely valued and defended as a right. Secret acts are "framed as instances of undemocratic power abuse by economic, social or political elites" (Cronin, 2020, p. 220; see also Simmel, 1906). In contrast, privacy – which has a similar concealing effect as secrecy – has a neutral or even positive moral connotation. One of the differences in how the two concepts are valued morally is the belief that privacy does not affect others while secrecy hides something that should be public property (Warren & Laslett, 1977).

Privacy and data protection concerns have recently become more pertinent in a time of big data, social media and surveillance technology (Holzner & Holzner, 2002). Privacy can be considered a counter-doctrine to transparency (Hood, 2006b). Also Heald (2006a) posits transparency against other values that might at times have synergies with transparency but at times conflict with it. Among those other values are confidentiality, privacy, and anonymity. These are interlinked (Heald, 2006a). Confidentiality is about not disclosing someone else's information and can for example relate to professional confidentiality duties of doctors or lawyers, while privacy is about the right of an individual to keep certain information private. Confidentiality is often considered an important professional duty while privacy is a human right (Florini, 1998).

Heald (2006a) therefore argues against considering transparency an intrinsic value. Instead, he argues, claims to transparency must be tested and weighed up against its counter-values. As Hood (2006a) highlights, this trade-off and the factors that define good from bad transparency are far from clear. It is indeed a balancing act (Holzner & Holzner, 2002). Hood suggested in 2006 that laws protecting individual privacy rights and data had signified a decline in transparency (Hood, 2006a). This has perhaps become even more true in light of recent developments in the EU with the General Data Protection Regulation (GDPR). The trends towards transparency and privacy seem to occur at the same time and therefore must be questioned in terms of their trajectories and effectiveness. Where are these trends heading? How are they balancing one another? What is the legitimate boundary between transparency and values such as privacy, confidentiality and data protection? How are transparency and privacy discourses instrumentalised for specific goals? This thesis will explore some of these questions through specific case studies, in particular in chapter 7.

What has become apparent from this literature review is that transparency has its place in the promotion of good governance, integrity and accountability. However, to use Roberts' (2009, p. 968) words, "[t]ransparency becomes problematic […] when we believe in its perfection; when we believe or act as if all there is to accountability is transparency; that transparency is adequate and sufficient as a form of accountability." Moore (2018) also laments the lack of questioning of the meaning, purpose and effectiveness of transparency. She quotes Gupta (2008, p. 1) when saying that transparency is "an overused but under-analysed concept", one whose value seems self-evident (Moore, 2018, p. 417). This thesis will contribute to critical approaches to transparency, not taking its value for granted.

1.4. The field of tax and financial transparency

Brindusa Albu and Ringel (2018) demonstrate that transparency takes on different forms and meanings depending on the context. Organisations develop interpretations of transparency depending on historical context, the target audiences and organisational structures. The authors call for more studies on the implications of transparency efforts, as well as how actors negotiate the balance between secrecy and transparency. This thesis responds to this call. It focuses on a very specific field of transparency, one which promises particularly interesting insights because transparency here aims to tackle practices that operate and indeed flourish in conditions of secrecy. Secrecy and opacity are at the very core of tax evasion and money laundering. Transparency in this field is not something which is simply about making uncontroversial data available, but it is about disclosing things which are purposefully being hidden.

Indeed, transparency has been at the heart of the fight against tax evasion, tax avoidance and financial crime for a long time. Transparency is seen as an antidote to so-called 'secrecy jurisdictions' and practices whose very purpose is to hide from the view of law enforcement, tax authorities and other government agencies. The Tax Justice Network, one of the main civil society organisations in this field, has defined the *ABCs of tax justice* as priority areas to tackle tax evasion, tax avoidance and corrupt practices. All three are focused on transparency and the first two are the policy case studies of this thesis: **a**utomatic exchange of information on financial accounts held abroad, **b**eneficial ownership transparency to identify the ultimate beneficiaries of companies and other legal vehicles, and public **c**ountry by country reporting of multinational enterprises' financial accounts (Tax Justice Network, n.d.).

The research on these tax and financial transparency efforts has not often made links with the broader transparency literature. One exception is Brooke Harrington (2021) who applies the classical sociological work of Simmel on the secret to the field of wealth management and trusts. Secrecy according to this approach is a "characteristic of elites" as well as "a practical means of protecting material assets and interests from scrutiny or seizure" (Harrington, 2021,

p. 144). By keeping wealth and the wealthy shielded from public scrutiny, economic inequality can persist, and redistributive demands avoided. According to Harrington, secrecy is just as important nowadays to maintain wealth and elite status, notably by avoiding accountability. The wealthy use the offshore world and the institution of the trust to maintain their "*noblesse* without the *oblige*" (Harrington, 2021, p. 145).

The fact that most of the other literature on international taxation or anti-financial crime does not refer much to the broader transparency literature means that the concept 'transparency' as such is rarely closely examined or questioned – risking as mentioned above that it is seen as an intrinsic value. There is also little written about the tension and balance between transparency and privacy and confidentiality in the field of tax and financial crime, with the exception of mainly legal scholars (e.g. Cockfield, 2010; Debelva & Mosquera, 2017).

On the flipside, as explained above, the literature that has transparency at its core has predominantly focused on corporate transparency from an accounting perspective, on the transparency of government affairs and freedom of information laws, and the transparency of multilateral institutions. Very little of the literature concerns the transparency of individual financial affairs, despite the fact that this is the area where we would expect the tension with privacy and confidentiality concerns to be most pronounced, given that human rights are the rights of individuals.

Another difference between this thesis and the broader transparency literature is that transparency in individual tax and financial affairs is not always something that is *publicly* disclosed – at times precisely because of the aforementioned privacy concerns. Transparency operates on a scale and can mean disclosure vis-à-vis service providers such as lawyers and bankers, disclosure towards the government or disclosure towards the public. This means that discussions about the scope of transparency and its balance with counter-values are even more pronounced.

2. Tax and Financial Transparency as Transnational Legal Orders

This thesis combines the literature on transparency with literature on transnational legal orders and the recursivity of law. Exchange of financial account information and beneficial ownership transparency are policies that need to be enacted at the state level but that originate from international standards. Exchange of information has an explicit cooperative aspect as its very purpose is cross-border collaboration. Beneficial ownership transparency is more domestically focused, but the standards are set by, in particular, FATF. This begs the question why countries would participate in the development of these standards and/or comply with them. In particular for international financial centres or wealth management centres this is a pertinent

question. From a structural power perspective, assuming that governments don't want to harm important industries with regulation because they fear those industries will leave or stop investing (Culpepper, 2015; Fairfield, 2015b), it would make sense that financial and wealth management centres approach transparency standards with hesitation. As chapter 5 will explore, this was in fact the case in Switzerland but even there, transparency rules have gained ground. The UK has taken a notably different and more puzzling approach, one of proactive leadership, which will be examined in chapter 4.

2.1. Transnational legal orders

This thesis is concerned with how financial centres as states and their financial and professional services industries respond to and engage with ever-stricter international efforts against tax evasion and money laundering. It argues that financial centres are particularly interesting sites to observe and analyse these processes as they have to negotiate differing demands and pressures – on the one hand to comply with ever-stricter international norms (unless they want to suffer reputational or economic sanctions), on the other hand, to protect the competitiveness of their financial industries. Logically we would assume that all financial centres and their financial and professional services industries would be hesitant to adopt international standards which put a higher burden on the private sector and might harm the country's attractiveness for clients. In reality the reactions have been varied. This thesis aims to contribute to understanding why and how financial centres respond to international policy developments in different ways. The research thereby focuses in particular on country-level adoption and implementation but relates this to the international norms and institutions that shape national processes. It also takes a particular lens by looking at the perspective and role of the private sector – in particular the financial intermediaries and advisers affected by the legislation.

The socio-legal and sociological theoretical approaches of transnational legal orders (TLOs) and the recursivity of law lend themselves to studying these processes from a multi-level and multi-actor perspective. International tax law and international AML efforts can be understood as so-called TLOs (Genschel & Rixen, 2015; Halliday et al., 2019), defined here "as *a collection of formalized legal norms and associated organizations and actors that authoritatively order the understanding and practice of law across national jurisdictions*" (Halliday & Shaffer, 2015b, p. 5). According to Shaffer (2012, p. 7), the "concept of *transnational legal ordering* is used to assess the construction, flow, and impact of transnational legal norms." A transnational legal order in more literal terms "1) seeks to produce order in an issue area that relevant actors construe as a "problem"; 2) is legal , insofar as it adopts legal forms to address the problem, its norms are produced or conveyed in connection with a transnational body or network, and it directly or indirectly engages national legal bodies; and 3) is transnational, insofar as it transcends and permeates state boundaries in one way or another" (Halliday & Shaffer, 2015a, p. 476). The framework allows a closer look

at how global norms are framed and promoted by international and national actors (Aaronson & Shaffer, 2021), and how those norms shape how certain problems are defined and what solutions are proposed (Shaffer, 2012). As a dynamic and process-oriented framework, the focus also lies on how these definitions and approaches are contested, adapted, appropriated or resisted, in particular by domestic actors – state and non-state (Aaronson & Shaffer, 2021).

Understanding the AML system and international tax law as TLOs allows us to focus equally on transnational developments as well as domestic processes and actors. As financial crime is enabled partially by individuals being able to pick the most favourable laws for them in a globalised world (Pistor, 2019), a transnational approach to tackling it is inevitable. According to Halliday et al (2019, p. 7), the AML regime is a TLO because "its architects have created a certain kind of normative order that seeks to solve a "problem" in predictable ways through legal means." The norms are developed at the global level and translated into domestic laws and regulations, as well as adopted and internalised by local actors such as bankers or other professionals (Halliday et al., 2019). The overall aim of the AML order is to change individual criminal behaviour by ensuring that individuals cannot enjoy the proceeds of their crimes. The norms of the AML order are directed at individuals, corporations and states and backed by an enforcement system composed of sentences and fines for individuals and corporations and sanctions for states (Rocha Machado, 2012).

The order has three main pillars: "(1) the criminalization of the offence of money laundering; (2) the obligation of certain economic sectors to identify customers, maintain records, and report transactions considered to be suspicious; and (3) the creation of a national FIU" (Financial Intelligence Unit) (Rocha Machado, 2012, p. 62). This thesis focuses on the second pillar as it is mainly concerned with the duties of the financial and professional services sector, taking a particular interest in the role of private sector actors in these TLOs. What makes the AML order a particularly interesting TLO to study is its simultaneous strong institutionalisation and weak effectiveness. Halliday et al (2019) highlight this contradiction and ask under what conditions a transnational legal order persists despite its obvious failings in achieving its objectives. While AML norms are well established across jurisdictions and in state and non-state institutions, there is little evidence that the system has actually led to a decrease in the behaviours it claims to combat (Halliday et al., 2019). For Sharman (2011), AML is the best area to study the enforcement of global rules through soft measures such as ratings, blacklisting, socialisation and rankings. This thesis contributes to this literature through the exploration of one particular aspect of the AML order: beneficial ownership transparency.

Genschel and Rixen (2015) provide a comprehensive overview of the international taxation TLO or rather TLOs. The two main international tax concerns at the beginning of the 20th century were double taxation and tax competition. States and international organisations placed

their focus on preventing double taxation, leading to an apparatus of model agreements and bilateral agreements. This TLO consolidated from the 1920s to the 1960s, dominated by a small number of experts. Its depoliticised and professionalised character aided its consolidation. As the TLO ignored other issues, it contributed to increased tax competition – the other international tax issue of concern. This in the end led to efforts to create a TLO on tax competition.

Growing concerns in the 1990s about fiscal deficits, harmful tax competition and the increased use of so-called tax havens led to the OECD Council mandating the OECD to develop measures against harmful tax competition. Special sessions on tax competition chaired by France and Japan led to the report on Harmful Tax Competition adopted by the Committee on Fiscal Affairs (CFA) in January 1998 and approved by the OECD Council in April 1998. The Council subsequently made recommendations about domestic legislation and asked the CFA to organise a forum on the topic and to engage with non-members (Ring, 2010; Webb, 2004). The efforts aimed initially at two practices that were considered harmful. First, international financial centres were asked to change their laws in such a way that it would be impossible for companies to register economic activity in the jurisdiction without any real activity actually taking place. Second, high-tax countries were asked to abolish preferential tax regimes, which treat foreign investors better than domestic ones (Rixen, 2010).

The OECD's business representative body, the Business and Industry Advisory Committee (BIAC) reacted strongly to the 1998 report (Ring, 2010). BIAC criticised businesses' exclusion from consultation. They argued that corporations would move investments to low-tax foreign jurisdictions and said they would be disadvantaged in comparison with foreign investors, therefore employing structural power arguments. The business community also deployed normative arguments such as that the project went against liberal economic ideology. Also low-tax jurisdictions took issue with the report. They argued that the measures favoured OECD member states and that they were hypocritical because non-member states were asked to comply while members like Switzerland and Luxembourg were left off the hook. They found an ally in the financial services sector and in right-leaning think tanks such as the Center for Freedom and Prosperity (CFP) which lobbied the US government to oppose the harmful tax competition project (Eccleston, 2012; Webb, 2004).

The result of this resistance was that the harmful tax competition agenda was reduced in scope and ambition. It basically turned into a "commitment to enhance tax transparency" (Eccleston, 2012, p. 72) namely exchange of information – the aspect of the international tax TLO that this thesis focuses on, and according to Cubillos et al (2021) the main part of the tax evasion regime. This was an important retreat from the initial goals of the project (Ring, 2010). The OECD's focus shifted from transnational corporations to tax evasion and avoidance strategies

of wealthy individuals (Eccleston, 2012). Eccleston (2012) doubts the subsequent effectiveness of the project in terms of tackling international tax evasion.

2.2. The recursivity of law: valuing the domestic level and non-state actors

The transnational legal orders approach uses the idea of the 'recursivity of law' (Halliday & Carruthers, 2007). The recursivity perspective is particularly valuable for several reasons: 1) it acknowledges the interlinks between global, national and local processes; 2) it distinguishes between law in the books and law in practice and the cycles between them, thereby being sensitive towards issues such as resistance, creative compliance or loopholes; 3) it focuses on the variety of actors involved in lawmaking, including state actors, corporations, professionals, civil society, international organisations and international associations; and 4) it simultaneously considers recursive cycles of national lawmaking, global norm making and the interaction between the two (Halliday & Carruthers, 2007; Liu & Halliday, 2009). The theoretical perspective is pertinent for the cases of tax and financial transparency because as in Halliday and Carruther's case of bankruptcy law, there is a global TLO and therefore global convergence, but implementation varies significantly between nation states (see also Moschella & Tsingou, 2013).

Halliday and Carruthers (2007, p. 1136) pose three main questions: "What explains cycles of national lawmaking in a globalizing field of law? Where do the global norms originate and, more precisely, how does a single global standard emerge? And how does national lawmaking engage global norms and institutions and vice versa?" As its focus lies on the role of financial centres and the non-state actors therein, this thesis will mainly focus on issues related to questions one and three – namely those to do with domestic and local actors and the intersections between national and global developments. This is an important approach as "[i]nternational obligations depend for their effectiveness on government's legislative implementation" (Gillis, 2019, p. 395). Question 2 will be discussed in parallel to looking at national developments. There, the anti-tax evasion and AML TLOs reflect the idea in the recursivity of law perspective that reform cycles often originate in crisis or scandals (Halliday & Carruthers, 2007).

While certain theories that focus on international law or global institutions have sidelined the importance of the state, states remain a central focus of TLO theories as well as theories of the recursivity of law. This focus is particularly relevant in the domain of taxation as the right to collect taxes is traditionally considered a sovereign right of the state. National reforms are understood as being part of a wider global context and order, and in conversation, alignment, resistance and contradiction with those norms. International institutions can influence national lawmaking through normative influence, persuasion, modelling, capacity building and coercive pressure (Halliday & Carruthers, 2007; Liu & Halliday, 2009). States and actors within them can also resist this influence, through a variety of mechanisms (Halliday & Shaffer, 2015a;

Shaffer & Halliday, 2021). This can mean that legal reform stalls or remains symbolic. When the transnational processes lead to actual domestic legal reforms, "they do so in context-specific ways involving the intermediation of transnational legal processes with domestic institutions, political struggles, and cultural norms" (Shaffer, 2012, p. 214).

Another advantage of the TLO and recursivity perspectives is the acknowledgement of the important role of non-state actors. Domestic politics are not only driven by government officials and politicians, but also by firms, professionals, civil society representatives and others. These actors can be both supporters and opponents of global norms and proposed legal reforms (Halliday & Shaffer, 2015a; Shaffer & Halliday, 2021). This acknowledgement of the role of private sector actors is particularly pertinent for the TLOs this thesis focuses on, as the tax and financial transparency laws target firms and professionals in the wider financial sector. Rocha Machado (2012) highlighted this in his article on AML in Brazil and Argentina. Private sector actors were the main targets of AML norms and therefore also key participants in transnational and domestic decision-making processes. Latulippe (2018) has studied the positions of the Big Four accounting firms, which together with other tax professionals are 'the gatekeepers of tax compliance.' This, coupled with their expert status, gives them a powerful voice in tax policy processes (see also Harrington, 2016).

In order to understand how non-state domestic actors, or interest groups – the term used here, play a role in the policy processes at hand, this thesis also draws on theories of business power. Instrumentalist accounts focus on the exercise of business power through direct action such as lobbying or political campaign financing. Fairfield distinguishes between different sources of instrumental power, namely relationships with policymakers which can take the form of partisan linkages, institutionalised consultations, recruitment into government, election to public office or informal ties; and resources such as cohesion, expertise, media access and money. Different types of economic elites have access to different power sources and the sources also depend on time and country (Fairfield, 2015a).

Structuralist accounts, on the other hand, see business power as being exercised indirectly and automatically through businesses' economic importance and the wish of politicians to attract or retain investment (Hacker & Pierson, 2002). For structural power, Fairfield differentiates the exit threat (of removing capital) from the withholding threat (of cancelling or postponing investment). She states that also structural power depends a lot on the country and the state of the economy (Fairfield, 2015a). Fairfield (2015b) observes that structural power is stronger when the respective industry contributes importantly to the country's GDP, generates a lot of employment and is linked to other industries; and also emphasises the importance of policymakers' perceptions of the divestment threat. According to her, the financial sector has

particularly strong structural power because of its important links to productive sectors of the economy.

Fairfield (2015b) suggests combining instrumentalist and structuralist approaches. She thereby goes further than Hacker and Pierson (2002) who call for a clear distinction between structural and instrumental influence and say that if structural power is strong, instrumental power is less important, and vice versa. Fairfield's main argument is that both strong structural and instrumental power lead to businesses influencing policies, but that business influence is particularly strong when structural and instrumental power reinforce each other (Fairfield, 2015b).

An important contextual condition which impacts instrumental and structural power is political salience. The higher the political salience and therefore the interest of the public in an issue, the lower the power of business. This also has to do with the fact that as political salience grows, politicians and journalists have more incentives to develop their own expertise in a policy area, which reduces their dependence on business organisations (Culpepper, 2011). Fairfield (2015b) supports this view, stating that as the salience of an issue increases, politicians become more concerned about public opinion and their voters and might act against business preferences. Also Woll (2013) uses what she calls the salience perspective, which states that as citizens consider a political issue to be more important, politicians will follow their voters' preferences more, which negatively impacts business lobbyists' influence. Increased salience also affects lobbying as interest groups need to shift their approach from quiet politics and a focus on technical expertise to shaping public opinion. This happened after the financial crisis when financial regulation entered the public sphere, whereas it was previously considered a quiet politics issue (Culpepper, 2011; Woll, 2013).

The three concepts of instrumental power, structural power and salience play an important role in the analysis of this thesis and complement the TLO and recursivity perspectives.

2.3. The four mechanisms of recursivity

The perspective on the recursivity of law includes a particular focus on four mechanisms which Halliday and Carruthers (2007) call 'the indeterminacy of law', 'contradictions', 'diagnostic struggles', and 'actor mismatch'. The indeterminacy of law points to the ambiguous, incomplete and vague character of most laws which can lead to inconsistent implementation and creative compliance. The weaknesses of the laws that are thereby exposed lead to renewed reforms (Halliday & Carruthers, 2007). Laws can also contain contradictions, for example when different ideologies clash. These contradictions can lead to partial or temporary reforms, ambiguities and inconsistencies in the laws (Halliday & Carruthers, 2007; Liu & Halliday, 2009).

The third mechanism is diagnostic struggles. These are the struggles about how a problem is defined, classified and interpreted. This has impacts on what actors see as the most adequate

solutions to the problem. Diagnostic struggles take place at the transnational level as well as domestically (Halliday & Carruthers, 2007). At the transnational level different actors and institutions compete with each other over defining norms and solutions (Shaffer, 2012). In the AML and international tax fields these are for example the OECD, the EU, the UN and powerful states such as the US (on the US, see Rocha Machado, 2012). The indeterminacy of law can lead to diagnostic struggles and these struggles can in turn enhance contradictions and indeterminacy (Liu & Halliday, 2009), as well as the perceived legitimacy of the TLO (Shaffer, 2012).

Last but not least, the recursivity of law is characterised by so-called actor mismatch. This is the mismatch between those actors that frame norms at the global level, actors that are involved in national lawmaking and those that implement them nationally and locally (Aaronson & Shaffer, 2021). These actors are not always the same, even though often those involved in implementation are also involved in lawmaking. Mismatches between actors can lead to mismatches between the law in the books and law in practice. In particular when actors perceive a norm and law as illegitimate or ill-equipped to address the problem at hand, they might resist said legal reform through avoidance, creative compliance and other means. The risk of this is higher when certain actors are not involved in diagnosis or lawmaking. Creative compliance or non-compliance in turn will impact further legal reform cycles (Halliday & Carruthers, 2007). As this overview has shown, the four mechanisms behind recursive legal processes influence each other (Aaronson & Shaffer, 2021).

2.4. Recursivity in the tax and financial transparency transnational legal orders

Understanding tax and financial transparency standards as transnational legal orders and their development and implementation as recursive processes helps us to answer the question of why and how financial centres react differently to international transparency standards. The thesis seeks to answer the question: how do financial centres engage with global transparency norms and standards as a means to combat tax evasion and money laundering?

Not many researchers have approached tax and financial transparency through this theoretical lens. This thesis thereby contributes to the wider literature on socio-legal processes of transnational nature, theories of legal recursivity and transnational legal ordering. It does so in a topic area which is particularly interesting in this regard because of the importance of sovereignty in tax lawmaking (and hence an inherent tension with the global) and the focus of the laws on private sector actors and specific states (notably, financial centres). The approach can help us better understand processes of resistance, alignment and adaptation, and the inconsistencies and weaknesses of reform outcomes.

Chapters 4 and 5 will explore the different approaches of the UK and Switzerland to automatic exchange of information and beneficial ownership transparency. The chapters will exemplify different recursive processes taking place in Switzerland and the United Kingdom, and outline how the two countries, namely the state and non-state actors within them, have adopted, resisted and shaped global transparency norms. They will focus on the diagnostic struggles, contradictions and indeterminacies to understand how governments and non-state actors construct the problem and the solution to tax evasion and money laundering in response to transnational norms.

Chapter 6 will delve more deeply into the main political struggles around transparency, namely what I call the politics of exclusion and the politics of verification. This goes to the heart of acts of resistance and the indeterminacies of transparency regulations and shows how there are active struggles about what should be made transparent and what should not, and about how information should be verified. Chapter 7 then takes the focus of the political struggles to a core tension in the promotion of transparency – the tension with transparency's counter-values privacy, confidentiality and data protection. This chapter therefore focuses on key acts of resistance against the AML and anti-tax evasion TLOs.

Chapter 3: Methodological Approach

This chapter presents the methodological approach of the thesis. It will in turn detail the different data sources and analysis methods: public consultations, interviews, parliamentary debates and motions, and industry events. The chapter also presents the landscape of interest groups studied in this research and ends with a statement on research ethics.

1. Public consultations

Governments often carry out public consultations on law proposals where they invite any member of the public but in particular interested firms, business and professional associations and civil society organisations to take position on the proposed reforms. This in order to get an idea whether there are any major opposition or concerns, to aid the cost-benefit analysis and gather technical input from experts. Their key points are usually synthesised in a summary report prepared by the responsible government department and can inform policymaking going forward. To what extent consultation submissions are taken into account cannot be answered definitely and depends on the country and the specific policy issue. Written consultation procedures are also not the only way that interest groups make their voices heard, which is why trying to assume presence or absence of influence based just on the extent of alignment of the consultation submissions and the policy outcome would be reductive. For example, governments often carry out in-person consultations, parliamentarians or ministers might hold in-person meetings and, as confirmed by many interviewees, a lot of conversations happen informally. These parts of the policy process are, however, extremely difficult, if not impossible, to access.

Further, many other factors can influence a policy outcome and all of these factors will interact. This thesis therefore does not approach consultation submissions as an authoritative source to analyse the entirety of opinions on a given political issue or as the only path for interest group influence. Written submissions to public consultations are instead understood to "lay out the interest groups' positions, arguments and frames on a specific issue" (Boräng et al., 2014, p. 191) and as a "useful indicator of interest group mobilization" (Pagliari & Young, 2016, p. 315). While submissions do not necessarily capture the complete picture of what interest groups think, they are important because they are used by interest groups to signal their stance towards the government and their members and at times also the public. My thesis thereby constitutes the first systematic analysis of interest group views on these policy developments in financial centres.

Public consultations play a different role in different countries. In Switzerland they are a compulsory part of the pre-parliamentary policy process and taken very seriously. Consultation processes in Switzerland are usually initiated by the Federal Council and carried out by the

department responsible for the issue at hand. A wide range of stakeholders are on the list of permanent consultation participants who are invited to participate: cantonal governments, the political parties represented in parliament, the associations representing cities, towns and mountain areas, as well as economic associations and other interested parties. Anyone else not on the list can also submit their response. The extensive pre-parliamentary consultation processes stem from the law introducing the referendum in 1874. The optional referendum allows citizens to challenge passed legislation if they collect enough signatures (under current rules 50,000) (Serdült, 2014). Consultations serve to assess the risk of a referendum being initiated against a law, and to ensure that laws are acceptable before they even go to parliament. The Swiss process has been criticised for taking power away from parliament and for the fact that power between interest groups before the parliamentary process is very unequal. Also the sheer number of consultations has been regarded with concern because low-resourced associations and organisations struggle to participate in all of them (Senti & Schläpfer, 2004).

In the UK, consultations are more ad hoc and at the discretion of the respective government department. They are used by government agencies when they feel stakeholder engagement is appropriate and helpful. Apparently, there is a duty to consult where an expectation of consultation has been established by prior communication or practice (Pinsent Masons, 2024). Consultation processes are governed by the Consultation Principles from 2012, which are, however, voluntary. The principles are relatively vague and do not prescribe when and how precisely a consultation should be carried out (UK Government, n.d.). From the UK consultation documents analysed, it also becomes apparent that written submissions are not the only part of consultation processes in the country. Town Hall meetings with interested groups as well as bilateral meetings also occur and represent another form of non-state actor participation in the policy process. Nonetheless, we can learn important insights about interest groups' primary concerns through the written submissions.

1.1. Identifying consultations and obtaining the submissions

In a first step, I had to identify the relevant consultations and obtain the interest group submissions. Perhaps reflecting the slightly more institutionalised nature of consultations in Switzerland, almost all of the submissions were available freely on the government website. For the few consultations where submissions were not online, a simple email to the respective government department was enough to obtain them. To identify the relevant consultations regarding exchange of information I undertook a keyword search in German for 'exchange of information in tax matters' and 'tax' on the government's website which lists consultations since 1992. For beneficial ownership transparency, I searched for the keywords 'beneficial owner', 'economic beneficiary', 'money laundering law', 'money laundering', 'money laundering regulation' and 'FATF', in German and in French. I identified 21 consultations on exchange of

information, spanning from 2010 until 2019, with 83 participating non-state interest groups. I obtained 365 submissions. For beneficial ownership there were six relevant consultations between 2005 and 2023, with 141 participating interest groups. My dataset contains 219 submissions. With the exception of the 2023 consultation, they were more general consultations on anti-money laundering, but my analysis focused on the aspects relevant to this thesis.

The following tables (1-4) list the consultations and submissions that form the dataset. For the full list of interest groups and consultations, see Annex 3.

Note: Some documents were not provided (see below on the UK case) or not available on the webpage while other times several actors made a joint submission, or they may have had in-person meetings instead (in the case of the UK). Hence the number of participating actors and documents does not always match up. This is why I distinguish between the number of participants and the documents available for this research in column 4.

Table 1: Swiss consultations on exchange of information

Consultation title	**Issuing authority**	**Consultation period**	**Number of participating interest groups (and documents available, if different)**
Anhörungsverfahren zur Verordnung für den Vollzug der Amtshilfe nach Doppelbesteuerungsabkommen und dem zugehörigen erläuternden Bericht *Consultation procedure on the Regulation about the implementation of administrative assistance according to double tax agreements and the associated explanatory report*	Eidgenössisches Finanzdepartement *Federal Department of Finance*	20 January 2010 – 30 April 2010	13
Erlass eines Steueramtshilfegesetzes *Adoption of a Tax Administrative Assistance Act*	Eidgenössisches Finanzdepartement *Federal Department of Finance*	13 January 2011 – 13 April 2011	24 (available: 10)
Ausdehnung der Rechtshilfe bei Fiskaldelikten *Expansion of legal assistance for fiscal crime*	Eidgenössisches Justiz- und Polizeidepartement	18 June 2012 – 8 October 2012	16

Table 1: Swiss consultations on exchange of information			
Consultation title	**Issuing authority**	**Consultation period**	**Number of participating interest groups (and documents available, if different)**
	Federal Department of Justice and Police		
Vernehmlassungsverfahren zum FATCA-Abkommen und zum Entwurf des geplanten Bundesgesetzes betreffend die Umsetzung des FATCA-Abkommens (Umsetzungsgesetz) *Consultation procedure on the FATCA agreement and on the draft of the planned federal law concerning the implementation of the FATCA agreement*	Eidgenössisches Finanzdepartement *Federal Department of Finance*	14 February 2013 – 15 March 2013	23
Änderung des Steueramtshilfegesetzes *Amendment of the Tax Administrative Assistance Act*	Eidgenössisches Finanzdepartement *Federal Department of Finance*	14 August 2013 – 18 September 2013	26 (available: 25)
Bundesgesetzes über die einseitige Anwendung des OECD-Standards zum Informationsaustausch (GASI) *Federal Act on the Unilateral Application of the OECD Standard on Exchange of Information (GASI)*	Eidgenössisches Finanzdepartement *Federal Department of Finance*	22 October 2014 - 5 February 2015	26 (available: 22)
Genehmigung der multilateralen Vereinbarung der zuständigen Behörden über den automatischen Informationsaustausch über Finanzkonten und zu einem Bundesgesetz über den internationalen automatischen Informationsaustausch in Steuersachen	Eidgenössisches Finanzdepartement *Federal Department of Finance*	14 January 2015 – 21 April 2015	35 (available: 32)

Table 1: Swiss consultations on exchange of information			
Consultation title	**Issuing authority**	**Consultation period**	**Number of participating interest groups (and documents available, if different)**
Approval of the multilateral competent authority agreement on the automatic exchange of information on financial accounts and on a federal law about the international automatic exchange of information in tax matters			
Genehmigung und Umsetzung des Übereinkommens des Europarats und der OECD über die gegenseitige Amtshilfe in Steuersachen *Approval and implementation of the agreement of the European Council and the OECD on mutual administrative assistance in tax matters*	Eidgenössisches Finanzdepartement *Federal Department of Finance*	14 January 2015 – 21 April 2015	27
Genehmigung des Bundesbeschlusses über die Einführung des automatischen Informationsaustauschs über Finanzkonten mit Australien *Approval of the federal decision about the introduction of automatic exchange of information on financial accounts with Australia*	Eidgenössisches Finanzdepartement *Federal Department of Finance*	29 April 2015 - 19 August 2015	17
Genehmigung eines Protokolls zur Änderung des Zinsbesteuerungsabkommens zwischen der Schweiz und der EU *Approval of a protocol for the amendment of the Savings Tax Agreement between Switzerland and the EU*	Eidgenössisches Finanzdepartement & Eidgenössisches Departement für auswärtige Angelegenheiten *Federal Department of Finance & Federal Department of Foreign Affairs*	27 May 2015 – 17 September 2015	18

Table 1: Swiss consultations on exchange of information			
Consultation title	**Issuing authority**	**Consultation period**	**Number of participating interest groups (and documents available, if different)**
Änderung des Steueramtshilfegesetzes (gestohlene Daten) *Amendment of the Tax Administrative Assistance Act (stolen data)*	Eidgenössisches Finanzdepartement *Federal Department of Finance*	2 September 2015 - 2 December 2015	15
Einführung des automatischen Informationsaustausch über Finanzkonten mit Guernsey, Jersey, der Insel Man, Island und Norwegen *Introduction of automatic exchange of information on financial accounts with Guernsey, Jersey, the Isle of Man, Iceland and Norway*	Eidgenössisches Finanzdepartement *Federal Department of Finance*	20 January 2016 – 20 April 2016	10
Einführung des automatischen Informationsaustausch über Finanzkonten mit Japan *Introduction of automatic exchange of information on financial accounts with Japan*	Eidgenössisches Finanzdepartement *Federal Department of Finance*	29 January 2016 – 29 April 2016	11
Einführung des automatischen Informationsaustausch über Finanzkonten mit Kanada *Introduction of automatic exchange of information on financial accounts with Canada*	Eidgenössisches Finanzdepartement *Federal Department of Finance*	5 February 2016 – 29 April 2016	12 (available: 9)
Einführung des automatischen Informationsaustausch über Finanzkonten mit der Republik Korea	Eidgenössisches Finanzdepartement	19 February 2016 – 6 May 2016	11 (available: 10)

Table 1: Swiss consultations on exchange of information			
Consultation title	**Issuing authority**	**Consultation period**	**Number of participating interest groups (and documents available, if different)**
Introduction of automatic exchange of information on financial accounts with the Republic of Korea	*Federal Department of Finance*		
Verordnung über den internationalen automatischen Informationsaustausch in Steuersachen (AIAV) *Regulation on the international automatic exchange of information in tax matters (AIAV)*	Eidgenössisches Finanzdepartement *Federal Department of Finance*	18 May 2016 - 9 September 2016	21
Volksinitiative «Ja zum Schutz der Privatsphäre.» *Popular initiative* «*Yes to the protection of privacy.*»	Nationalrat, Kommission für Wirtschaft und Abgaben *National Council, Committee for Economic Affairs and Taxation*	6 June 2016 – 5 September 2016	15
Einführung des automatischen Informationsaustauschs über Finanzkonten mit 41 Partnerstaaten ab 2018/2019 *Introduction of automatic exchange of information on financial accounts with 41 partner countries from 2018/ 2019*	Eidgenössisches Finanzdepartement *Federal Department of Finance*	1 December 2016 – 15 March 2017; 2 February 2017 – 13 April 2017	23
Einführung des automatischen Informationsaustausch über Finanzkonten mit Singapur und Hongkong	Eidgenössisches Finanzdepartement *Federal Department of Finance*	13 October 2017 - 27 January 2018	11

Table 1: Swiss consultations on exchange of information			
Consultation title	**Issuing authority**	**Consultation period**	**Number of participating interest groups (and documents available, if different)**
Introduction of automatic exchange of information on financial accounts with Singapore and Hong Kong			
Einführung des automatischen Informationsaustauschs über Finanzkonten mit weiteren Partnerstaaten ab 2020/2021 *Introduction of automatic exchange of information on financial accounts with other partner countries from 2020/2021*	Eidgenössisches Finanzdepartement *Federal Department of Finance*	7 December 2018 – 20 March 2019	13
Änderung des Bundesgesetzes und der Verordnung über den internationalen automatischen Informationsaustausch in Steuersachen *Amendment of the Federal Act and the Regulation on the international automatic exchange of information in tax matters*	Eidgenössisches Finanzdepartement *Federal Department of Finance*	27 February 2019 – 12 June 2019	24

Table 2: Swiss consultations on beneficial ownership transparency			
Consultation title	**Issuing authority**	**Consultation period**	**Number of participating interest groups (and documents available, if different)**
Umsetzung der revidierten Empfehlungen der Groupe d'action financière sur la lutte contre le blanchiment de capitaux *Implementation of the revised Recommendations of the Financial Action Task Force*	Eidgenössisches Finanzdepartement *Federal Department of Finance*	12 January 2005 – 15 April 2005	46 (available: 42)
Öffentliche Anhörung zur Totalrevision der Geldwäschereiverordnung-FINMA *Public consultation about the complete revision of the FINMA Anti-Money Laundering Regulation*	Eidgenössische Finanzmarktaufsicht *Swiss Financial Markets Supervisory Authority*	11 February 2015 – 7 April 2015	45 (available: 39)
Anhörung zur Geldwäschereiverordnung *Consultation about the Anti-Money Laundering Regulation*	Eidgenössisches Finanzdepartement *Federal Department of Finance*	9 July 2015 – 9 September 2015	24 (available 20)
Umsetzung der Empfehlungen des Global Forum über die Transparenz juristischer Personen und den Informationsaustausch im Bericht zur Phase 2 der Schweiz *Implementation of recommendations from the Global Forum on the transparency of legal persons and exchange of information in the report about phase 2 of Switzerland*	Eidgenössisches Finanzdepartement *Federal Department of Finance*	17 January 2018 – 24 April 2018	44 (available: 40)

Table 2: Swiss consultations on beneficial ownership transparency			
Consultation title	**Issuing authority**	**Consultation period**	**Number of participating interest groups (and documents available, if different)**
Änderung des Bundesgesetzes über die Bekämpfung der Geldwäscherei und der Terrorismusfinanzierung *Amendment of the Federal Law on the Fight against Money Laundering and Financing of Terrorism*	Staatssekretariat für internationale Finanzfragen *State Secretariat for International Financial Matters*	1 June 2018 – 21 September 2018	17
Bundesgesetz über die Transparenz von juristischen Personen *Federal Law on the transparency of legal persons*	Eidgenössisches Finanzdepartement *Federal Department of Finance*	30 August 2023 – 29 November 2023	62 (available: 61)

For the UK, I undertook a keyword search on the Policy Papers and Consultation website as well as in the UK Government Web Archives on the webpage of the UK National Archives, going as far back as the year 2000. For exchange of information, the search terms were 'Savings Tax Directive', 'Administrative Cooperation', 'Common Reporting Standard', 'Exchange of Information', 'Foreign Account Tax Compliance Act', and 'Overseas Territories Agreements Exchange of Information'. For beneficial ownership the keywords were 'Beneficial ownership', 'FATF' and 'People with Significant Control'. In contrast to Switzerland, none of the consultation submissions seemed to be available online. Instead, I had to submit Freedom of Information (FOI) requests to tax authority HM Revenue & Customs (HMRC) for the consultations on exchange of information and to the Department of Business, Energy and Industrial Strategy (BEIS) for consultations on beneficial ownership transparency. For HMRC, given the large number of texts, the process took almost two months. HMRC had only a few documents for the 2003 consultation on the European Savings Tax Directive left, the rest allegedly having been destroyed or lost. All personal information was omitted before I received the documents. HMRC further declined to provide minutes and attendee lists from meetings that formed part of the consultation due to data privacy concerns. But getting the submissions was relatively easy in the case of exchange of information consultations.

This was very different from my experience with FOI requests on beneficial ownership transparency. I first submitted my request to obtain submissions to the consultations in November 2021. For one of the consultations, it turned out that submissions were already publicly available. For the others, BEIS argued that collating the documents would exceed their time and budget constraints. I therefore had to request a selected number of submissions based on the list of consultation participants. Due to repeated ignoring of my reduced request and reminders for months, I ended up having to report the Department to the Information Commissioner's Office (ICO). BEIS reacted to the ICO's warning and over a year after my first request I finally received the requested documents. I also submitted an FOI request to HM Treasury for consultations on anti-money laundering reforms, but these were rejected. For exchange of information, I obtained 159 submissions to five consultations between 2003 and 2018. In total 105 interest groups participated in these consultations. For beneficial ownership transparency, the final dataset contains 174 submissions to five consultations, with a total of 170 participating interest groups. See Annex 3 for a complete overview of consultation submissions.

Table 3: UK consultations on exchange of information			
Consultation title	**Issuing authority**	**Consultation period**	**Number of participating interest groups (and documents available, if different)**
Consultation on the European Savings Tax Directive	Inland Revenue	2003	Unknown (available: 5)
Implementing the UK-US FATCA Agreement	HM Revenue & Customs	18 September 2012 – 23 November 2012	65 (available: 63)
Implementing the UK-US FATCA Agreement	HM Revenue & Customs	extension until 28 February 2013	44
Implementing agreements under the Global Standard on Automatic Exchange of Information to improve international tax compliance	HM Revenue & Customs	31 July 2014 – 22 October 2014	31 (available: 29)
Amending HMRC's civil information powers	HM Revenue & Customs	10 July 2018 – 02 October 2018	27 (available: 18)

Table 4: UK consultations on beneficial ownership transparency			
Consultation title	**Issuing authority**	**Consultation period**	**Number of participating interest groups (and documents available, if different)**
Transparency & Trust: Enhancing the transparency of UK company ownership and increasing trust in UK business	Department for Business, Innovation & Skills (BIS)	July 2013 – 16 September 2013	44 (available: 11)
The Register of People with Significant Control (PSC Register): Understanding the new requirements, recording control on the PSC register and protecting people at serious risk of harm	Department for Business, Innovation & Skills (BIS)	28 October 2014 – 9 December 2014	103 (available: 98)
The Register of People with Significant Control: Scope, nature and extent of control, fees, the protection regime and warning and restrictions notices	Department for Business, Innovation & Skills (BIS)	19 June 2015 – 17 July 2015	41 (available: 14)
Beneficial Ownership Transparency: Enhancing transparency of beneficial ownership information of foreign companies undertaking certain economic activities in the UK	Department for Business, Innovation & Skills (BIS)	March 2016 – 4 April 2016	24 (available: 9)
A Register of Beneficial Owners of Overseas Companies and other Legal Entities: Call for evidence on a register showing who owns and controls overseas legal entities that own UK property or participate in UK government procurement	Department for Business, Energy & Industrial Strategy (BEIS)	5 April 2017 – 15 May 2017	45 (available: 42)

In order to create a dataset of all submissions and actors in Excel, I checked the government summary reports for a list of all interest groups that made submissions to the respective consultations. I then compared that against the PDF documents that I had obtained either online or via email or FOI request. There are several reasons for the slight discrepancies between the submissions I have and the ones that the government has allegedly received. In the case of the UK, of course, they partially have to do with the FOI request and the fact that for beneficial ownership transparency I had to select a reduced number of submissions. Further, some interest groups might have opted for their submission not being public, and some submissions were simply not available on the Swiss government website. There were other cases where interest groups collaborated on a submission. In that case I listed them all as participants as I wanted to have an accurate depiction of who participated in each consultation but I took account of that when calculating how many actual submissions I am analysing. Annex 3 lists all the consultations and participating interest groups.

1.2. Qualitative content analysis

Based on the final dataset of consultation submissions, I selected the documents for qualitative content analysis. Selecting the most active interest groups makes most sense for this analysis as I am mostly interested in issues that go beyond specific consultations and concern the policy area as a whole. Looking at interest groups that are just active on one or two of the consultations could skew the results towards issues specific to that particular sector or consultation. The basic rule for inclusion in the selection of interest groups was that they have participated in more than 50% of the consultations on a given policy area. This was applied to both of the Swiss consultation submission datasets and to the consultations in the UK on exchange of information. For the topic of lawyers' secrecy in Switzerland, discussed in chapter 7, I analysed additional submissions from law firms. For the UK consultations on beneficial ownership transparency, I added a few interest groups despite their participation in less than 50% of consultations. First, three civil society organisations (CSOs) – because of their important role in promoting beneficial ownership transparency; second, the British Property Federation (BPF) – because of the impact of the Register of Overseas Entities (ROE) on the real estate industry; and three associations representing firms from Jersey and Guernsey – because of the pressure that was created on the Crown Dependencies and Overseas Territories (CDOTs) with regard to beneficial ownership transparency. In total, I analysed 187 documents on EOI for Switzerland and 57 for the UK, as well as 68 documents for Switzerland and 70 for the UK on beneficial ownership transparency. Tables 5 and 6 list the interest groups that were selected for qualitative analysis in the respective country and policy area (EOI standing for exchange of information and BOT for beneficial ownership transparency). If there was no obvious English name for Swiss interest groups, the original name was retained and a translation provided in

the table. I kept the original abbreviations, which can be based on either the German, French or Italian name.

Table 5: Selection of interest groups for Switzerland				
Interest group	**Sector**	**Description**	**EOI**	**BOT**
Alliance Sud	Civil society	Alliance of seven Swiss civil society organisations, working on international cooperation and development policy	x	
Association of Swiss Private Banks (VSPB)	Banking	Business association for private banks in Switzerland, active mainly in private and institutional asset management	x	
Association Romande des Intermédiaires Financiers (ARIF) *The Romand Association of Financial Intermediaries*	Financial and professional services	Self-regulatory organisation for non-banking financial intermediaries		x
Centre Patronal	Industry	Membership association and service provider for businesses for legal advice, association management, policy consulting and training, represents the political interest of the private sector	x	x
economiesuisse	Industry	Large Swiss industry association, cross-sectoral, representing 100 industry associations, 20 cantonal chambers of commerce, and individual companies	x	x
EXPERT Suisse	Accounting	Industry association representing 10,000 individuals and over 800 companies from accounting, auditing, business consultancy and tax consultancy	x	x
Fédération des Entreprises Romandes (FER) *Federation of Romand Companies*	Industry	Association representing six interprofessional employer associations in the Romandie part of Switzerland		x

Table 5: Selection of interest groups for Switzerland				
Interest group	**Sector**	**Description**	**EOI**	**BOT**
Forum SRO	Financial and professional services	Interest group of Swiss self-regulatory organisations in the non-banking sector	x	x
Organismo di Autodisciplina dei Fiduciari del Cantone Ticino (OADFCT) *Self-regulatory Organisation of Fiduciaries in Canton Ticino*	Wealth management	Self-regulatory organisation for fiduciaries in canton of Ticino		x
Swiss Bar Association (SAV)	Legal	Professional organisation of independent and autonomous attorneys of Switzerland		x
Swiss Bankers Association (SBA)	Banking	Largest business association of the finance sector, representing 270 member institutions and 12,300 individual members (big banks, cantonal banks, regional banks, foreign banks, asset and wealth management banks, private banks, securities firms, financial market infrastructures, auditing companies of banks, of securities firms and of financial market infrastructures)	x	x
Swiss Trade Union Association (SGB)	Trade unions	Association of 20 trade unions, largest employee organisation of Switzerland	x	
Swiss Trade Association (sgv)	Industry	Largest industry association of Switzerland, representing small- and medium sized enterprises (SMEs) (more than 230 associations and over 600,000 SMEs), cross-sectoral	x	x
Swiss Holdings	Industry	Industry association representing 65 multinational corporations from the industrial and service sector (excluding finance and insurance)	x	
Swiss Notaries Association (SNV)	Legal	Professional association representing notaries in Switzerland		x

Table 5: Selection of interest groups for Switzerland				
Interest group	**Sector**	**Description**	**EOI**	**BOT**
Self-regulatory Organisation of the Swiss Bar Association and the Swiss Notaries Association (SRO SAV SNV)	Legal	Self-regulatory organisation of the SAV and SNV		x
Swiss Association of Investment Companies (SVIG)	Fund management	Industry association for investment companies		x
Financial Services Standards Association (VQF)	Financial and professional services	Self-regulatory organisation and service provider for non-banking financial intermediaries		x
Association of Swiss Cantonal Banks (VSKB)	Banking	Industry association of the 24 cantonal banks	x	
Swiss Association of Wealth Managers (VSV)	Wealth management	Professional association for 2,500 independent wealth and portfolio managers	x	x
Association of Swiss Asset and Wealth Management Banks (VAV)	Banking	Industry association representing 23 banks providing asset and wealth management for private and institutional clients	x	

Table 6: Selection of interest groups for the UK				
Interest group	**Sector**	**Description**	**EOI**	**BOT**
Association of British Insurers (ABI)	Insurance	Industry association of the British insurance and long-term savings industry, with over 300 member firms	x	x
Association of Company Registration Agents (ACRA)	Financial and professional services	Professional association for company registration agents		x
Association for Financial Markets in Europe (AFME)	Banking	Industry association representing wholesale financial markets	x	

Table 6: Selection of interest groups for the UK				
Interest group	**Sector**	**Description**	**EOI**	**BOT**
Association of Investment Companies (AIC)	Fund management	Industry association representing companies that are closed-ended funds	x	x
Alternative Investment Management Association (AIMA)	Fund management	Industry association representing over 2,000 firms from the alternative investment industry	x	x
British Bankers Association (BBA) (merged with others into UK Finance in 2017)	Banking	Industry association representing banks and other financial services companies, 300 members (UK Finance)	x	x
BDO	Financial and professional services	Accountancy and business advisory firm	x	
Business Information Providers Association (BIPA)	Financial and professional services	Association facilitating access to business information		x
British Private Equity and Venture Capital Association (BVCA)	Fund management	Industry association for the private equity and venture capital industry		x
British Property Federation (BPF)	Real estate	Industry association of the real estate sector		x
Building Societies Association (BSA)	Banking	Industry association representing all 42 UK building societies and 7 credit unions	x	
Catholic Agency For Overseas Development (CAFOD)	Civil society	The aid agency for the Catholic Church in England and Wales		x
Capita	Financial and professional services	Consulting, transformation and digital services business		x
Christian Aid	Civil society	CSO working on poverty and inequality		x

Table 6: Selection of interest groups for the UK				
Interest group	**Sector**	**Description**	**EOI**	**BOT**
City of London Law Society (CLLS)	Legal	Professional association for solicitors and law firms in the City of London, representing 21,000 solicitors and 64 member firms		x
Deloitte	Financial and professional services	Professional services firm providing audit, consulting, financial advisory, risk management, and tax services		x
Fidelity	Fund management	Investment management firm	x	
Guernsey Association of Trustees (GAT)	Wealth management	Industry association for fiduciary licence holders in Guernsey		x
Global Witness	Civil society	Campaigning CSO		x
Henderson	Fund management	Investment management firm	x	
Institute of Chartered Accountants in England and Wales (ICAEW)	Accounting	Professional association for chartered accountants		x
Institute of Chartered Secretaries and Administrators Registrars Group (ICSA) (renamed to The Chartered Governance Institute in 2019)	Financial and professional services	Professional association representing governance professionals	x	x
International Financial Centres Forum (IFC Forum)	Financial and professional services	Industry association for professional service firms headquartered in British Overseas Territories and Crown Dependencies		x
International Financial Data Services (UK) Limited (IFDS)	Consulting	Provides technology and service solutions to the financial industry	x	
IG Group Holdings	Fund management	Online trading provider	x	

Table 6: Selection of interest groups for the UK				
Interest group	**Sector**	**Description**	**EOI**	**BOT**
Investment & Life Assurance Group (ILAG)	Insurance	Industry association representing the financial services industry, focusing on insurance, pensions, and investments	x	
Investment Management Association (IMA) (now The Investment Association or IA)	Fund management	Industry association for the investment management industry	x	
Jersey Finance Limited (JFL)	Financial and professional services	Industry association representing over 170 financial services firms in Jersey		x
Jersey Funds Association (JFA)	Fund management	Industry association for funds organisations		x
Law Society	Legal	Professional association for solicitors		x
Law Society of Scotland	Legal	Professional association for solicitors		x
M&G Investments	Fund management	Investment firm	x	
Nationwide	Banking	Building society	x	
Oakwood Corporate Services Limited	Financial and professional services	Advising clients on company secretarial, corporate governance and compliance issues		x
ONE	Civil society	Campaigning CSO		x
Open Corporates	Civil society	B corporation promoting corporate transparency		x
Publish What You Pay (PWYP)	Civil society	Association of civil society organisations		x
PwC	Financial and professional services	Firm providing assurance, tax and advisory services		x
Skipton	Banking	Building society	x	
Society of Trust and Estate Practitioners (STEP)	Wealth management	Professional association representing specialists in inheritance and succession planning	x	x

Table 6: Selection of interest groups for the UK				
Interest group	**Sector**	**Description**	**EOI**	**BOT**
The Quoted Companies Alliance (QCA)	Industry	Industry association representing small and medium-sized publicly traded businesses		x
Tax Justice Network	Civil society	Tax justice CSO		x
Tax Research	Civil society	Consulting and research		x
Transparency International (TI)	Civil society	Anti-corruption CSO		x

I prepared the texts for analysis by dissecting combined PDF documents into submissions by actor and in some cases applying optical character recognition to transform scanned documents into readable text. For the computer-assisted qualitative content analysis, I coded the selected consultation submissions in NVivo – in two separate processes for EOI and beneficial ownership transparency. Qualitative content analysis can be inductive or deductive, meaning that the codes can emerge from the texts or be predefined (Boräng et al., 2014). My coding process was inductive at first as the documents had not previously been analysed by academics and therefore no prior knowledge about their content and main themes was available, apart from the government-produced summary reports – which I did not want to be influenced by. I coded the documents very thoroughly as initially I did not know what themes I was looking for. Whenever a new theme emerged, a new code was created. A core of codes emerged that were subsequently refined and reviewed and consistently applied in an iterative process. As I analysed the EOI submissions first, the codes generated there were then applied to the submissions on beneficial ownership transparency, in addition to newly emerging codes. Annex 2 lists all codes. Not all of them were ultimately relevant for the themes this thesis focuses on.

The Swiss documents were a mix of German, French and Italian – as interest groups have the right to submit their responses in any of the three languages – but codes were also created in English for consistency and comparability with the British documents. The multilingual aspect of the study made it more time-consuming as I first had to gain familiarity with the technical terms in the different languages. Further, I translated all quotes used in the thesis to English. The most frequent and relevant codes based on which quotes were analysed in detail were the following:

Exchange of information	**Beneficial ownership transparency**
• Administrative burden and cost • Clarity, details and guidance • Coherence between standards • Competition, level playing field • Exemptions • Flexibility and discretion • Low risk • Market access and other economic benefits • Overregulation • Penalties and sanctions • Pressure • Privacy and data protection • Reputation • Stolen data	• Administrative burden and cost • Adviser • Beneficial owner definition • Beneficial owner protection • Beneficial ownership accuracy and verification • Beneficial ownership identification • Beneficial ownership register public or private • Clarity, details and guidance • Competition, level playing field • Exemptions • Negative business or economic impact • Penalties and sanctions

1.3. Level of rejection

Apart from analysing the selection of consultation submissions in detail, I also wanted to gain a general overview of how contentious the specific consultations were. I therefore coded all submissions I had access to into whether the interest groups simply provided comments or whether they outright rejected the reform proposal. Some submissions were very critical but accepted the overall fact that the reforms will take place. Only in the case of an outright renouncement did I code a submission as a rejection, to have a conservative view on the rejection levels. I then calculated the percentage of submissions that rejected the proposal out of all the ones that I could count. The total therefore excludes the submissions I did not have access to and those that indicated that they would not participate or provide comments. This process was not only enlightening in the sense of identifying particularly delicate consultations but also to spot the differences between the UK and Switzerland. In the UK, the level of rejection never reached more than 5.6% apart from the particularly contentious consultation on HMRC's Civil Information Powers in 2018. In Switzerland, there were several consultations with rejection levels of 20 to 54%. Chapters 4 and 5 contain and discuss these level of rejection tables.

1.4. Quantitative text analysis

Initially I planned to complement the qualitative content analysis of selected consultation submissions with a quantitative text analysis (QTA) of all submissions. Quantitative text analysis can serve "to systematically extract frames from political documents across a large number of policy debates" (Boräng et al., 2014, p. 191). As it automates the analysis, a larger corpus of text can be included, which allows to also focus on cases that are less salient and sensational (Klüver & Mahoney, 2015).

I used R to conduct this analysis as a trial on the exchange of information consultation submissions for both countries, which required to first prepare the documents accordingly. I saved the PDF files as txt files and named them by different document variables which would be useful to dissect the corpus later into different corpora by sector or for specific consultations. The name would for example be CH_2010_AmtshilfeDBA_VSKB_BusinessAssociation_Financial_DE which reflects country, year, consultation, interest group, type, sector and language. It was important to add the language variable because I had to separate out analysis of different languages. I then manually removed headers and signatures from the files so that they don't falsify the results.

I installed different packages in R. I then imported the documents into R and converted them into a corpus and converted the text into tokens (words). R allows you to clean the texts in preparation for analysis. I removed stop words – the words that appear frequently but have little meaning for analysis, converted everything to lower case, removed punctuation, removed numbers, and removed words with fewer than three letters. An issue was that the German stop word catalogue uses spelling which for certain words can be slightly different from the spelling in Switzerland. I therefore had to manually exclude some tokens. I then created sub-corpora based on different document variables, namely for the different consultations and sectors as well as by language. For Switzerland I always had two corpora – one in German and one in French. There were too few Italian submissions to make it work. I realised that the word frequency analysis actually works better for German because the language uses a lot of compound words. For languages like French and English, a 'bag of words' approach is needed to detect tokens that belong together.

Quantitative text analysis can do different things. At its most basic, it counts word frequency to understand which are the dominant themes within a corpus. I therefore created document feature matrices which count how frequently words appear in a corpus. I needed to reduce the size of these matrices to make them manageable. My rule for this was that the words featured need to appear in at least a third of the documents of a given corpus, and must appear a minimum of two times the number of documents that make up the corpus. After creating the

document feature matrix, I would remove more tokens that were irrelevant because they had not been caught by the document cleaning process.

The analysis yielded some interesting results. In the UK, consultations on the CRS and FATCA as well as the submissions by financial sector actors on all EOI consultations, 'investment' was one of the most frequent terms. This was not the case in any of the Swiss corpora. It points towards how in the UK there was more concern about the impact of exchange of information regulation on the important investment industry. What was very interesting in Switzerland, and adds weight to the themes discussed in chapter 5, is that the terms 'market access' and '(competitor) financial centres' were prominent across different document corpora. Other prominent terms are 'data protection' (which relates to chapter 7) and 'regularisation' related to the regularisation of taxpayers who have committed tax evasion offences. Other than these few interesting snippets, the results of the QTA were quite predictable, with terms such as 'accounts' or 'institutions' being present dominantly, and the most frequent terms of different corpora reflecting the topics that these specific consultations were about.

I found that the quantitative text analysis did not contribute much to the research of this thesis and therefore discontinued it. The consultations covered too many different topics and quantitative text analysis seems to lend itself better to a more coherent document corpus. Dissecting each analysis by consultation then leads to quite small corpora which don't lend themselves to quantitative analysis. The themes and frequency of words were so obviously driven by the topic of the respective consultation that the results do not really tell us much that cannot be identified through qualitative analysis. The Swiss consultations on beneficial ownership transparency further are on broad AML law reforms, with beneficial ownership transparency just being a small part of that, which means that the results might not be meaningful for what I am researching. The fact that my documents are in four different languages adds an extra layer of complication. All of them need to be separated, which means that the German, French and in particular Italian corpora can be quite small, making quantitative analysis difficult.

Another analysis potentially interesting for the purposes of this thesis is the analysis of text similarity or text 'reuse'. Text being similar or even the same across submissions could point towards coordination between interest groups. However, the similarity of texts could also be due to interest groups referencing the laws or the government consultation documents. And again, it would not work for Switzerland as the documents are in three different languages. Instead, in order to get an idea of coordination I qualitatively coded whether interest groups refer to each other in their submissions. I used this for social network analysis (see below).

2. The interest group landscape

Based on the list of interest groups that submitted to the consultations, I can paint a picture of the interest group landscape in the area of tax and financial transparency. They will not be the only interest groups active in this policy area but the fact that they regularly take the time to submit written statements to consultations is a good indication of their engagement with the topics at hand.

In order to gain a better understanding of who the interest groups are, I categorised them by sector and type. The following table shows the different types:

Table 7: Interest group types		
Type	**Description**	**Abbreviation**
Firm	Single companies	F
Business Association	Associations of companies	BA
Professional Association	Associations of individuals	PA
Self-regulatory Association (SRO)	Membership organisations for self-regulation under Swiss AML law	SRO
Trade Union	Employee organisations	TU
Civil Society	NGOs, foundations, citizen groups	CS
Research Institute	Research centres, universities, think tanks	RI

The sectors were divided into the following, following the NACE and UK SIC categorisations (in particular for the descriptions) but adapting them to make them useful to this specific research:

Table 8: Interest group sectors			
Sector	**Description**	**NACE/UK SIC code**	**Abbreviation**
Banking	Banks, savings banks, credit unions, building societies	K 64.19	BAN
Wealth management	Trustee, fiduciary and custody services on a fee or contract basis, and financial advisers (selected this for the independent wealth management sector in general, even if lawyers and others are involved (e.g. Alliance Finance))	K 66.19	WM
Insurance	Insurance, reinsurance and pension funding	K 65	INS

Table 8: Interest group sectors			
Sector	**Description**	**NACE/UK SIC code**	**Abbreviation**
Fund management	Management of mutual, investment, and pension funds (asset management), also includes private equity, venture capital	K 66.30	FM
Real estate	Buying, selling, renting and operating of real estate	K 68	RE
Legal	Legal activities, including by notaries	K 69.1	LE
Accounting	Accounting, bookkeeping and auditing, tax consultancy	K 69.2	AC
Management consultancy	Management consultancy services	K 70.2	MC
Crypto	Crypto assets		CR
Cross-sectoral financial and professional services	Associations that group actors from different parts of the broader financial and professional services industry, the Big 4 accounting/consulting firms		FPS
Other industry	Industry that does not fall into the above, e.g. manufacturing, export, or cross-industry associations		IND
NGO	Non-governmental organisations (development NGOs, campaigning NGOs, etc.)		NGO
Foundation	Charitable foundations		FOU
Citizen Group	Citizen groups		CG
Trade Union	Employee organisations		TU
Research Institute	Research centres, universities, think tanks		RI
Other	Others		OT

For consultations on exchange of information, in Switzerland non-financial industry actors and cross-sectoral associations and the banking sector were the best represented participants, followed by legal sector actors, more general financial and professional services and independent wealth management (see figure 1). Foundations are so well represented solely because of the 2019 consultation on the AEOI Regulation which affected foundations.

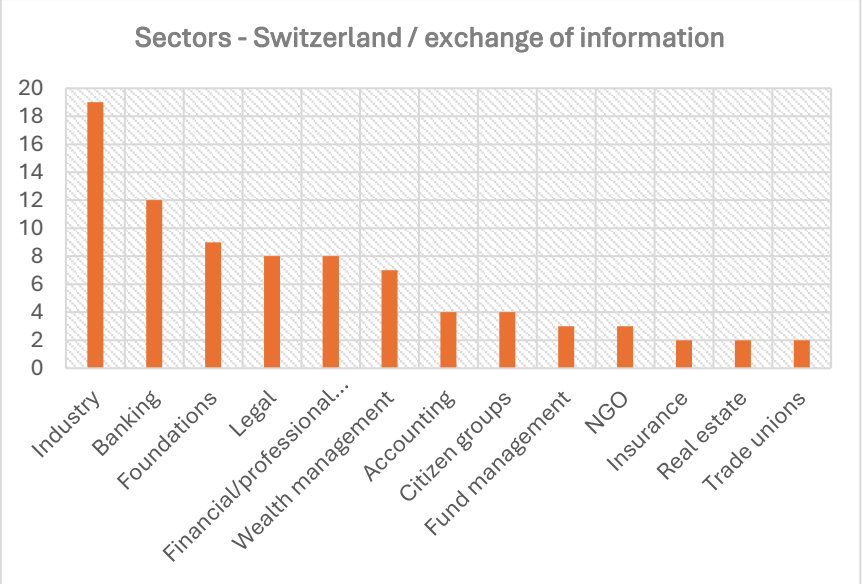

Figure 1: Sectors, Swiss consultations on exchange of information

In the UK, two sectors which were not very present in Swiss consultations on EOI dominated the consultations, together with banking, fund management and insurance (see figure 2). These are important parts of the British financial industry as elaborated above. Also well represented were actors from legal and accounting sectors. There is a massive difference between the large number of industry or cross-sectoral actors participating in Switzerland and the fact that those actors are barely present in the UK consultations. It points towards exchange of information being a more specialised field of interest in the UK. This makes sense in light of my findings that in Switzerland, exchange of information had more salience than in the UK. Further, given Switzerland experienced reputational and sanction threats related to exchange of information standards, there was a lot at stake also for non-financial industry actors.

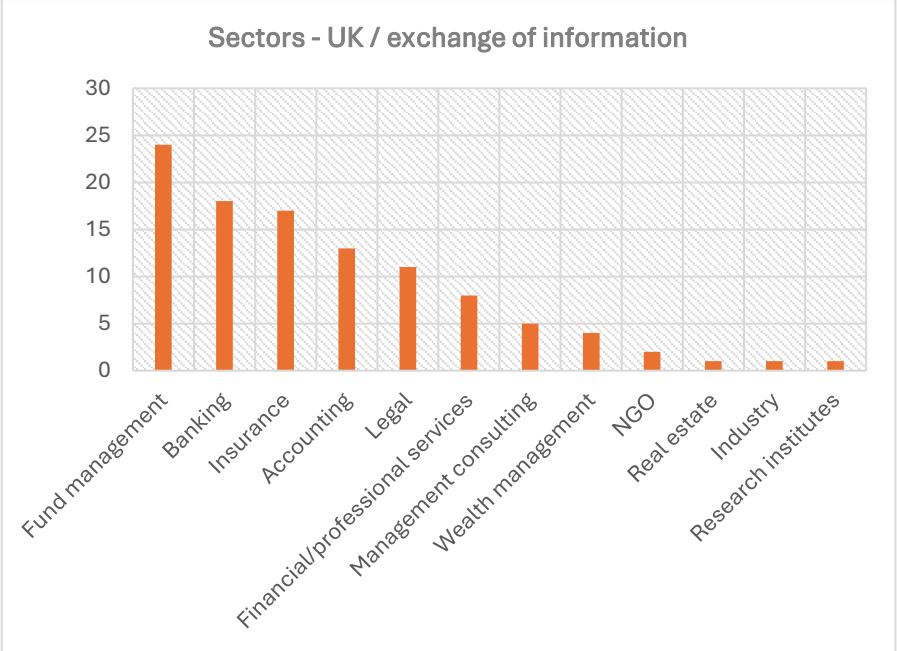

Figure 2: Sectors, UK consultations on exchange of information

For beneficial ownership transparency, the landscape in Switzerland looked very similar as for exchange of information, with a slightly higher representation of legal sector and cross-sectoral financial and professional services industry actors (see figure 3). A broader array of NGOs participated than in consultations on EOI.

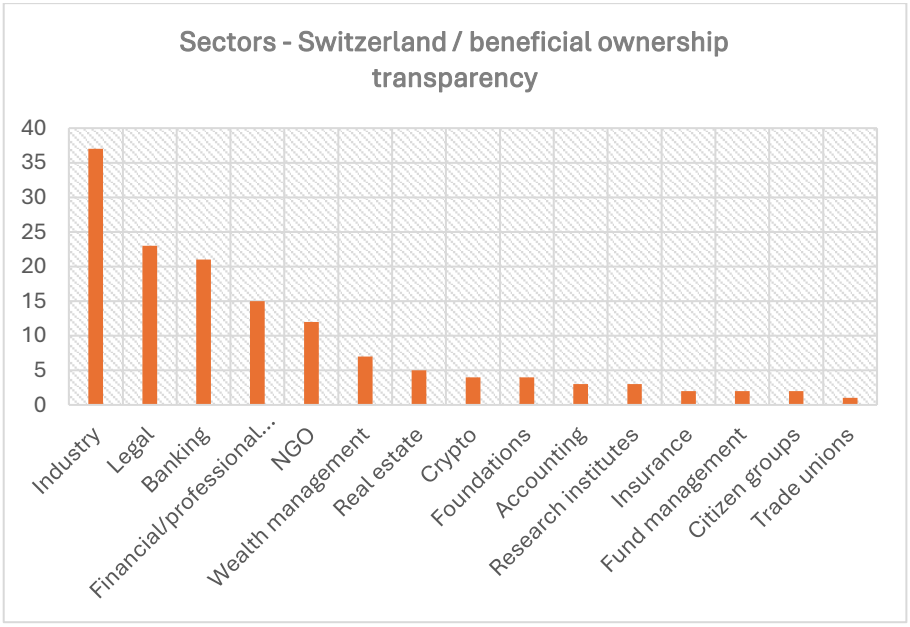

Figure 3: Sectors, Swiss consultations on beneficial ownership transparency

In the UK, legal sector actors dominated the consultations on beneficial ownership transparency, followed by actors from cross-sectoral financial and professional services and a large number of NGOs (see figure 4).

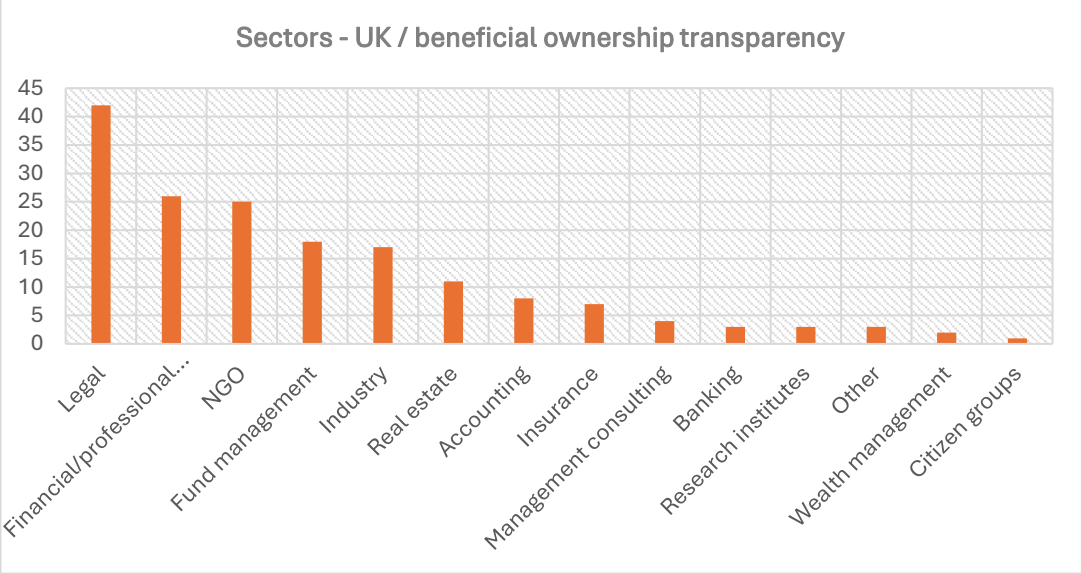

Figure 4: Sectors, UK consultations on beneficial ownership transparency

We can also spot interesting differences between the types of stakeholders that participated in consultations in Switzerland versus the UK. In Switzerland, it was predominantly business associations, which points towards an interest group landscape that is more organised and corporatist. The apparently high number of civil society in figure 5 is misleading and due again to the foundations that participated in the 2019 consultation on the AEOI Regulation. There are not many non-governmental campaigning or development organisations active on the topic, with the only consistent one being Alliance Sud, a CSO alliance. This reflects the business bias identified by other authors in their analysis of consultation submissions (James et al., 2020; Rasmussen & Carroll, 2014).

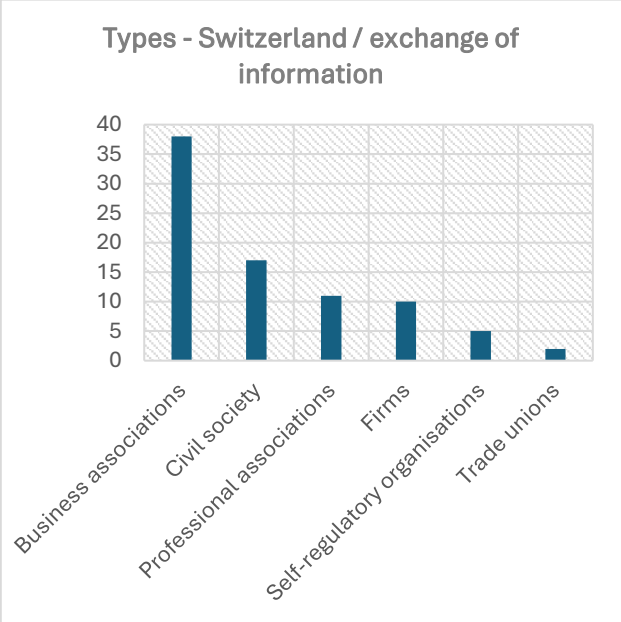

Figure 5: Interest group types, Swiss consultations on exchange of information

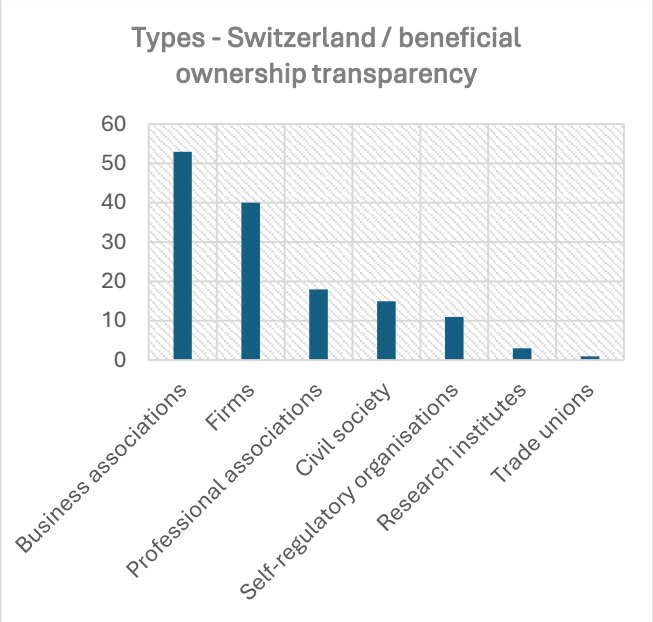

Figure 6: Interest group types, Swiss consultations on beneficial ownership transparency

It is very noticeable that the UK interest group landscape is much more dominated by individual firms than by business and professional associations (see figures 7 and 8). This can indicate less coordination between interest groups and more representation of individual firms' interests. Civil society took much more interest in beneficial ownership transparency than in EOI.

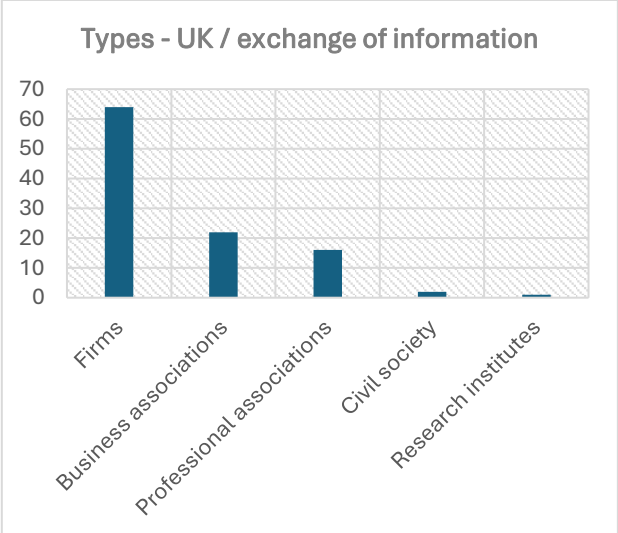

Figure 7: Interest group types, UK consultations on exchange of information

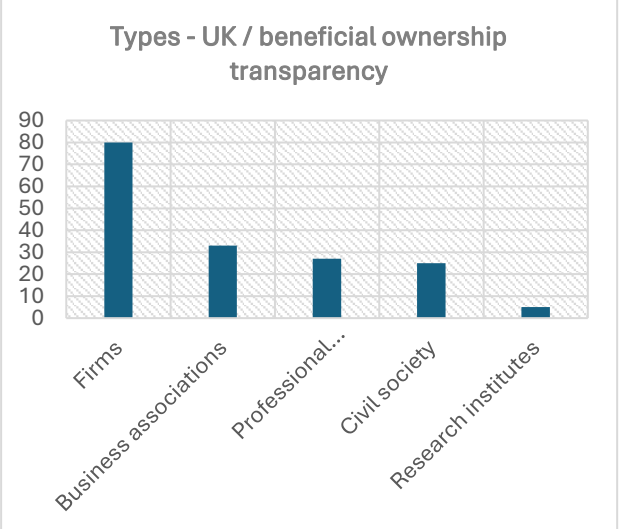

Figure 8: Interest group types, UK consultations on beneficial ownership transparency

2.1. Social Network Analysis

Social network analysis is a fruitful method for studying interest groups. It allows to determine how actors are connected, how they coordinate and who the central actors are. I wanted to conduct this analysis to gain a better overview of the interest group field I was studying as well as to check that my selection of consultation submissions captures the key stakeholders – which it indeed does. I decided to keep the policy areas separate because some different types of actors participated on exchange of information and beneficial ownership transparency and it makes sense to look at the policy areas as their own interest group fields. Based on the consultation datasets, I created adjacency matrices, measuring two types of directed ties for each country and policy area. The measures of connection were:

1. Membership: this measure looks at membership of interest groups in each other. This was mainly interesting to identify key business associations in the two policy fields and the two countries. It also indicates which submissions might have particular weight, because they represent a large number of firms and organisations. For this purpose, I manually consulted the member lists of all interest groups and noted in the adjacency matrix when a tie existed. I thereby counted full members, associate members and sponsoring partners. The data for exchange of information is based on June 2022 and the data for beneficial ownership transparency is from July 2024, as these were the points of data collection. Of course, membership can change over time and the data therefore reflects the state of connection in June 2022 respectively July 2024, and not when the respective consultations happened. This was a practical choice as otherwise I would have had to find old members lists and pick another – arbitrary – date given that my analysis covers a span of several years. Using the membership connections from 2022 and 2024 is not taking away from the meaningfulness of the analysis to identify key actors in the interest group field. Most of it will also not have changed drastically in the last 10 or 15 years as these associations and memberships are fairly stable over time.
2. Referencing: in order to make up for the limitations of the membership measure (the fact that it is not real time), I added another measure of connection, namely whether interest groups refer to each other in their consultation submissions. For that purpose, I manually checked all submissions (not only the ones from the selection) for references to other interest groups. This mainly happened in the beginning or at the end of a submission where an interest group would say that they also support the submission by x group, or that they decided not to submit their own response at all but instead subscribe to the submission of another stakeholder. This referencing of each other is meaningful because it indicates a sense of collaboration and it signals to policymakers

that certain submissions have particular weight as they are supported by a higher number of actors.

I decided to take companies of one larger group together in the analysis to not dissect actors too much. This meant that for example Schroder Investment Mgmt Limited was counted under Schroders and the two M&G companies were analysed together as part of the M&G group. Further, as the analysis of membership is based on 2022 and 2024 data, some mergers and acquisitions or name changes have happened. For membership analysis, I used the current names and constellations so it matches the current membership data. The most important changes are:

- The Wealth Management Association and Association of Professional Financial Advisers have merged into the Personal Investment Management and Financial Advice Association.
- The Investment Management Association (IMA) and the Investment Affairs division of the Association of British Insurers (ABI) merged in 2015 to become The Investment Association (IA).
- The British Bankers Association, Payments UK, the Council of Mortgage Lenders, the UK Cards Association and the Asset Based Finance Association merged in 2017 to create UK Finance.
- Jordans Trust Company Ltd and Jordans Corporate Law Ltd are now Vistra.
- Allen & Overy is now A&O Shearman.
- The Swiss Funds Association and the Swiss Funds & Asset Management Association merged into The Asset Management Association.

There was one main limitation of this data collection, namely that not all data on membership was easily available. Some organisations' membership lists are behind paywalls while others just don't have any lists readily available or no website, or – as just mentioned – they do not exist anymore. The analysis is based on the data that was publicly available and therefore will contain gaps. No data for example could be found for the Association of Private Client Investment Managers and Stockbrokers, the Association of Professional Financial Advisers, The Hundred Group Pensions Committee, the Confederation of British Industry, the Tax Investigation Practitioners Group, the Wealth Management Association, the Federation of Small Businesses, the Fraud Advisory Panel, the International Underwriting Association, the Investment Property Forum, and NAEA Propertymark. In Switzerland, there was for example no data on the Forum Schweizer Selbstregulierungsorganisationen, Schweizer Investorenschutz-Vereinigung, Alliance Finance, Fédération des Entreprises Romandes, and Swiss Association of Investment Companies.

The data collection resulted in eight separate adjacency matrices:

- Membership: UK exchange of information, UK beneficial ownership transparency, Switzerland exchange of information, Switzerland beneficial ownership transparency
- References: UK exchange of information, UK beneficial ownership transparency, Switzerland exchange of information, Switzerland beneficial ownership transparency

I imported the adjacency matrices into R and created social network graphs with directed ties. I thereby excluded isolated organisations (those with no ties).

Figures 9 and 10 depict the membership ties for the fields of exchange of information (figure 9) and beneficial ownership transparency (figure 10) in Switzerland. We see that the key organisations for exchange of information are cross-sectoral industry association economiesuisse, the Swiss Bankers Association (SBA), the Swiss Trade Association (sgv), voice of small and medium-sized enterprises (SMEs), and the Swiss Employers Assocation (SAGV). There is a few smaller networks of organisations, notably the self-regulatory organisations grouping around the Forum SRO, the association of self-regulatory organisations in the non-banking sector, and banks joining in the Swiss Bankers Prepaid Services AG.

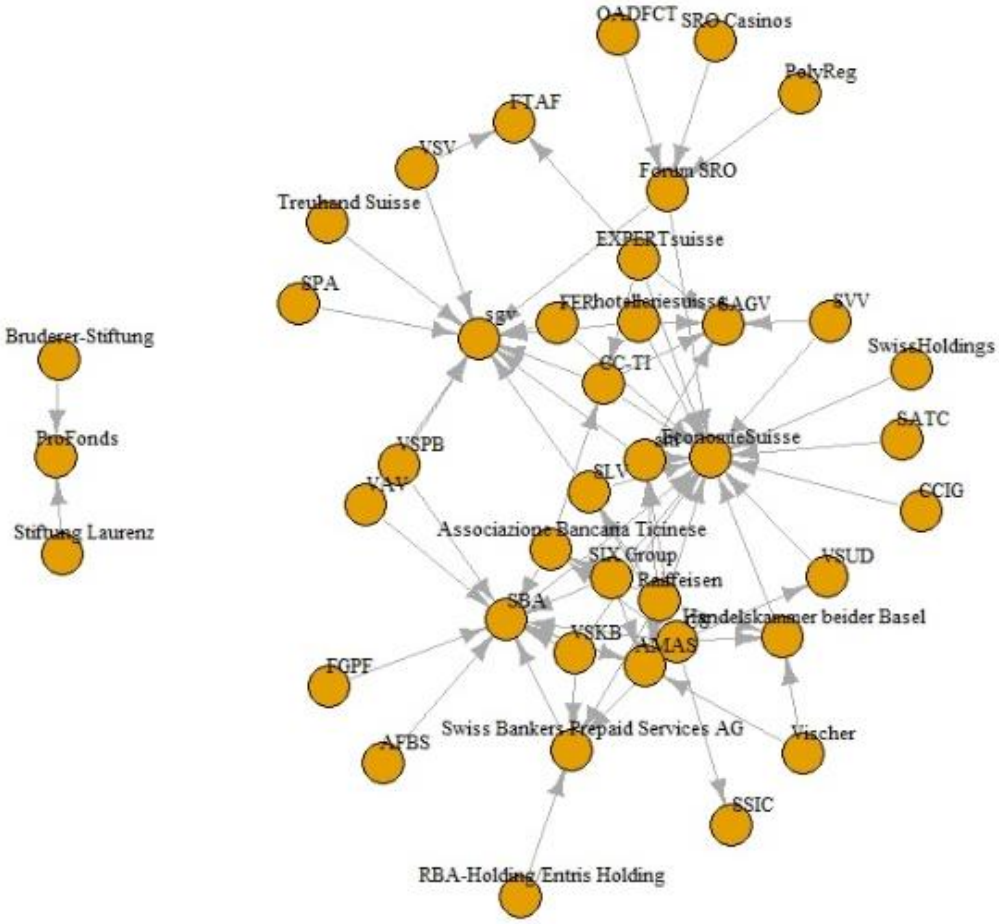

Figure 9: Membership, Switzerland, exchange of information

For beneficial ownership transparency, key organisations are again economiesuisse, the sgv and the SBA. We also have a few other core associations, namely the Asset Management Association (AMAS) and the Swiss Association of Wealth Managers (VSV). Even more organisations belonging to Forum SRO are part of this policy field.

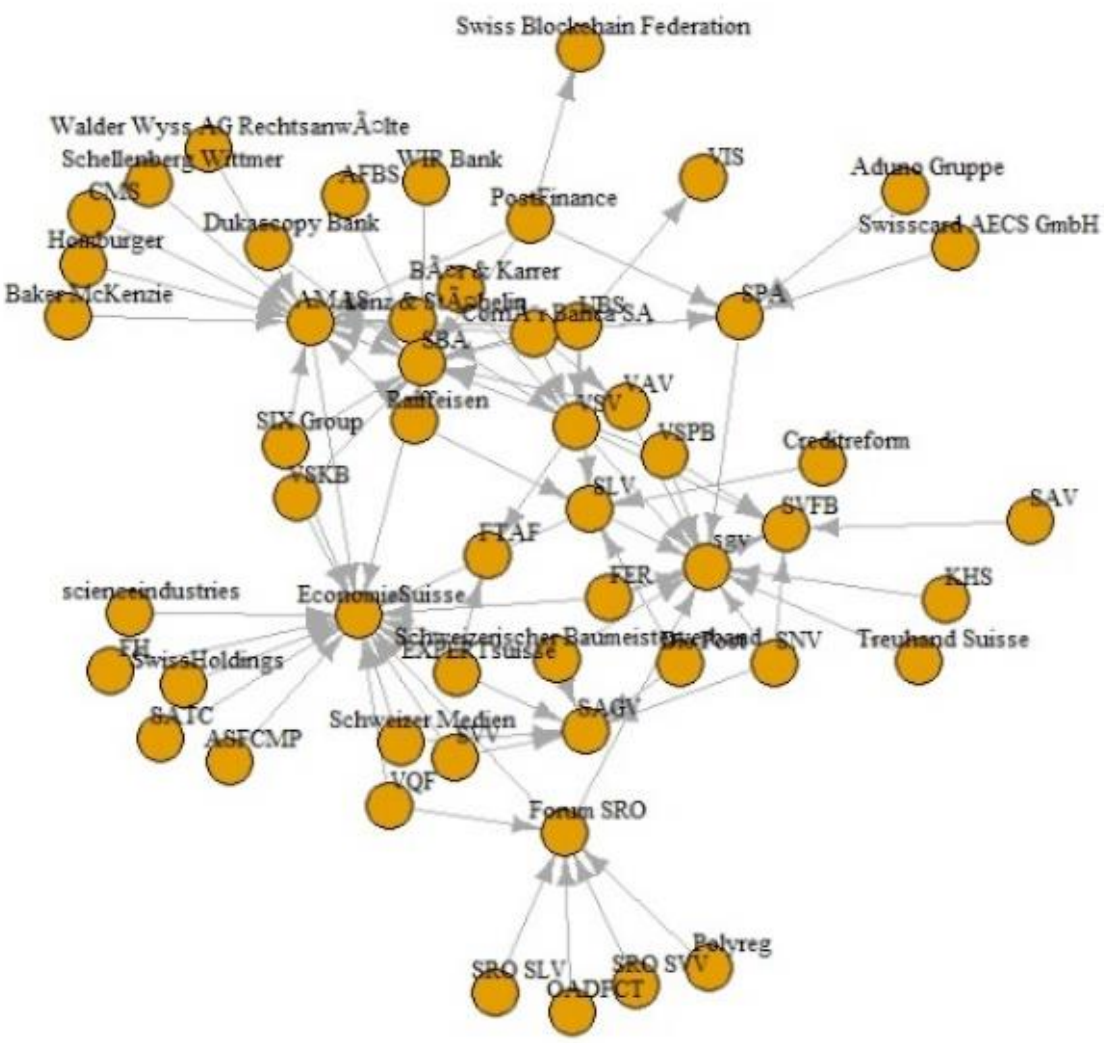

Figure 10: Membership, Switzerland, beneficial ownership transparency

Next, I analysed which interest groups referenced each other in their consultation submissions. Notably, only the SBA is a key actor and seems to be the recognised authority on exchange of information matters. economiesuisse barely gets referred to but refers to more specialised groups in its own submissions (see figure 11).

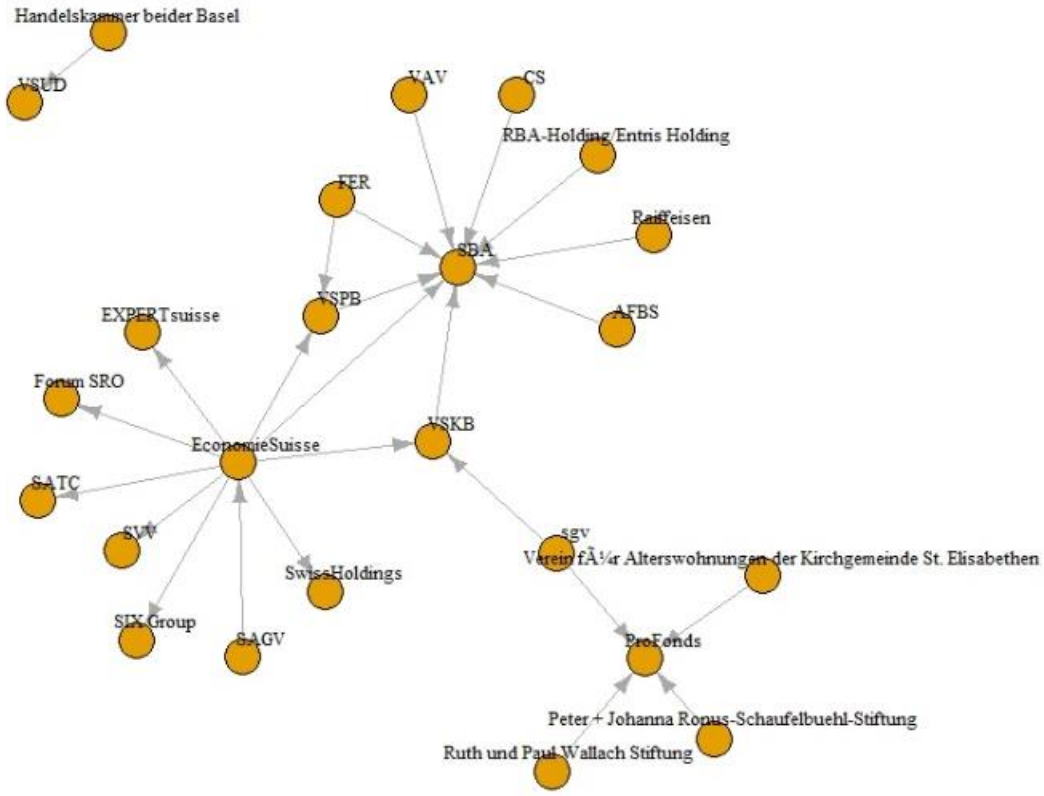

Figure 11: References to each other, Switzerland, exchange of information

The SBA is also the most referred to organisation in consultations on beneficial ownership transparency, closely followed by Forum SRO (see figure 12).

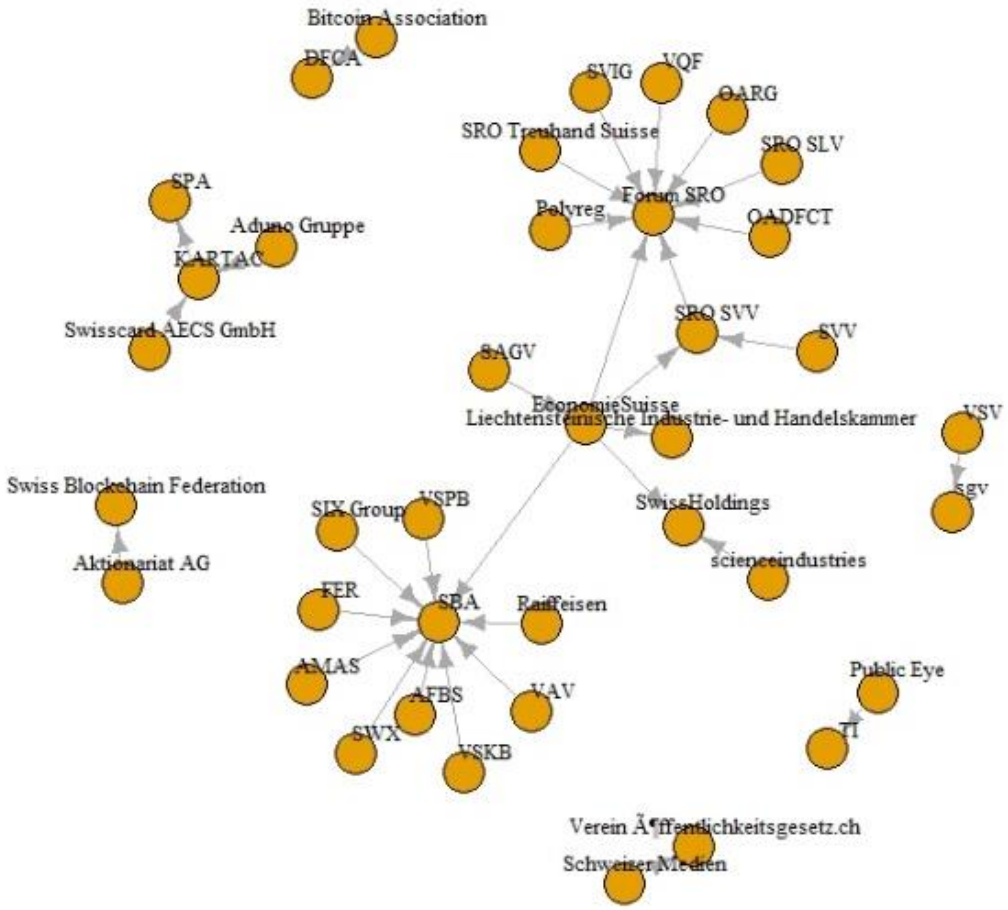

Figure 12: References to each other, Switzerland, beneficial ownership transparency

Key organisations in the UK that have the most members from the field of exchange of information are UK Finance, the wealth management association STEP, the Building Society Association (BSA), the Association of British Insurers (ABI), the Investment Association (IA), the City of London Law Society (CLLS), the British Private Equity & Venture Capital Association (BVCA), and the Tax Incentivised Savings Association (TISA) which represents firms in the savings and investment products industry (see figure 13). This again shows that in the UK more actors from insurance, investment and legal sectors had a stake in the consultations on EOI.

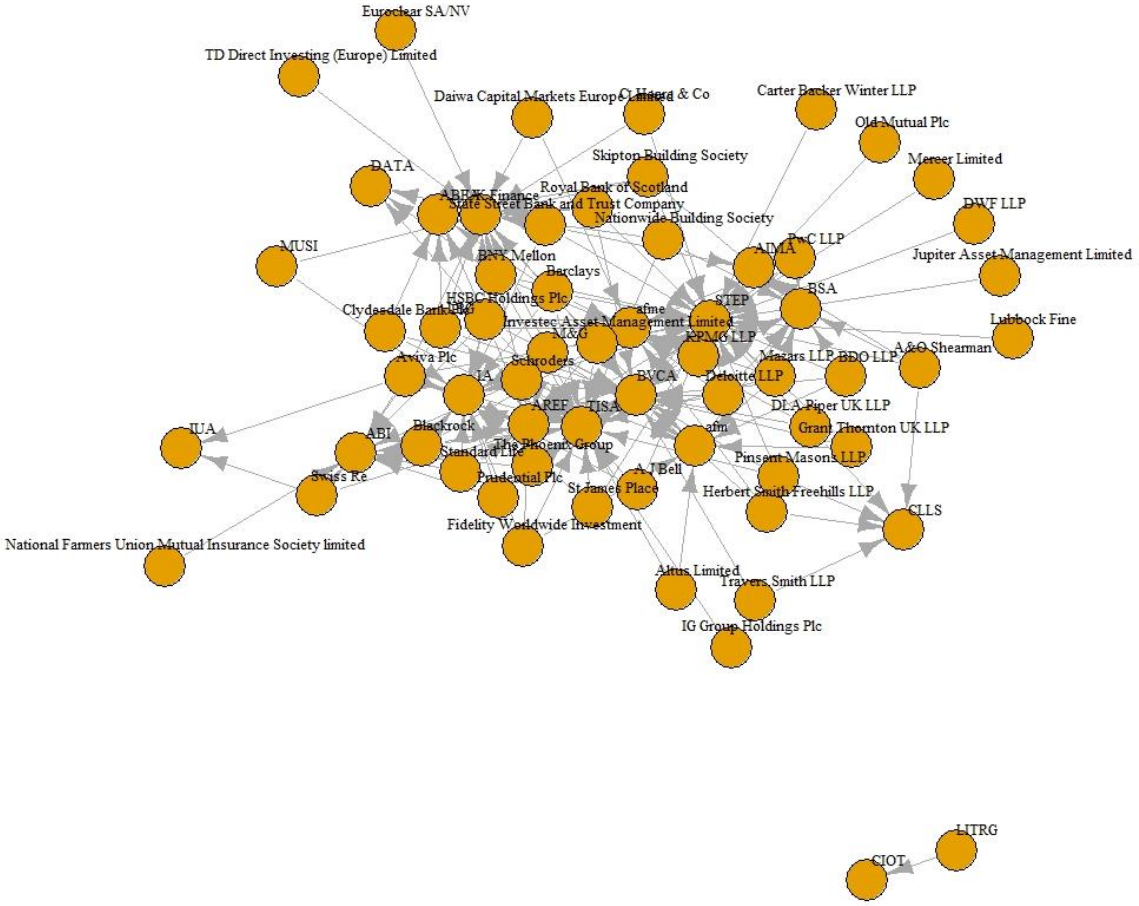

Figure 13: Membership, UK, exchange of information

The membership graph of the beneficial ownership transparency interest group field (see figure 14) looks similarly connected as the one for EOI. There are a few noticeable clusters. The CSOs group around Bond and the Publish What You Pay (PWYP) coalition. In line with the field of EOI, private sector interest groups are connected through STEP, the BVCA, UK Finance, the IA and the ABI. Additional important connecting interest groups are the Scottish Property Federation (SPF), the Association for Financial Markets in Europe (afme), the Jersey Funds Association (JFA), Jersey Finance Limited (JFL), and the Quoted Companies Alliance (QCA).

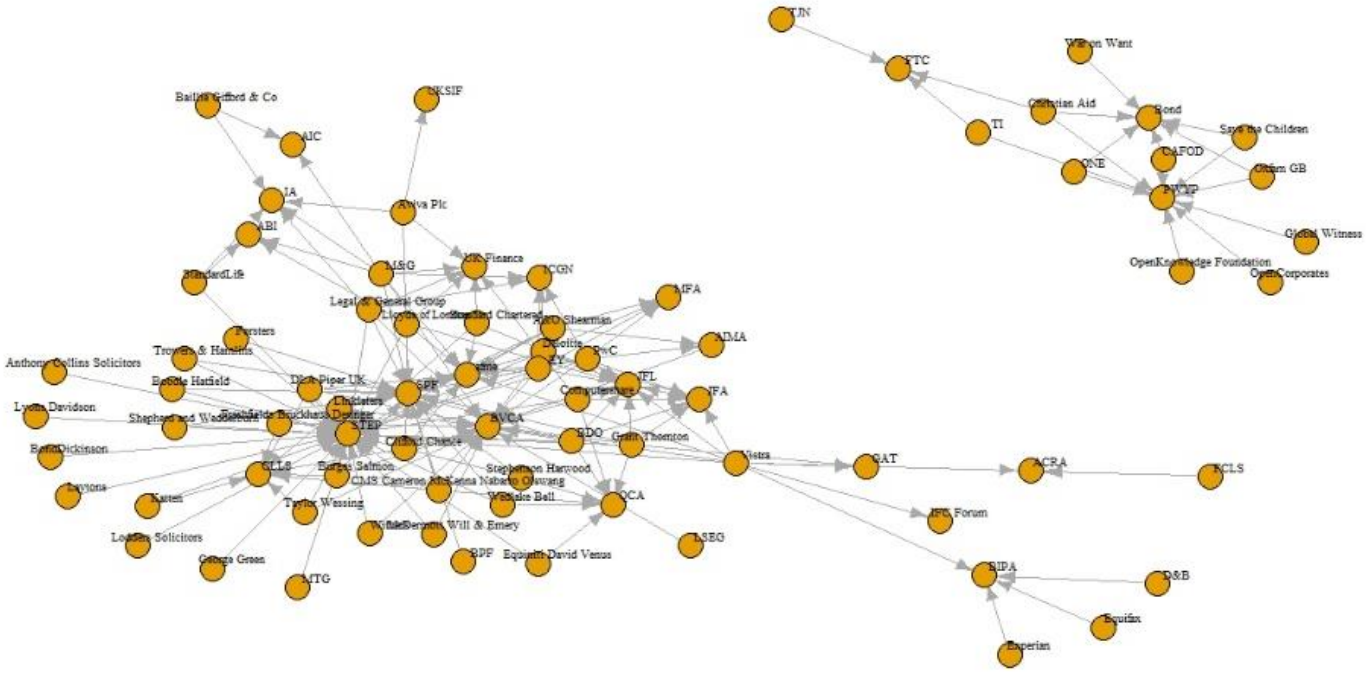

Figure 14: Membership, UK, beneficial ownership transparency

While when we look at organisational membership, the British interest group field looks very connected, in the UK consultations it was much less common for interest groups to refer to each other than in Switzerland. Only the Investment Association (IA) and the Association of British Insurers (ABI) were referred to four or five times (see figure 6).

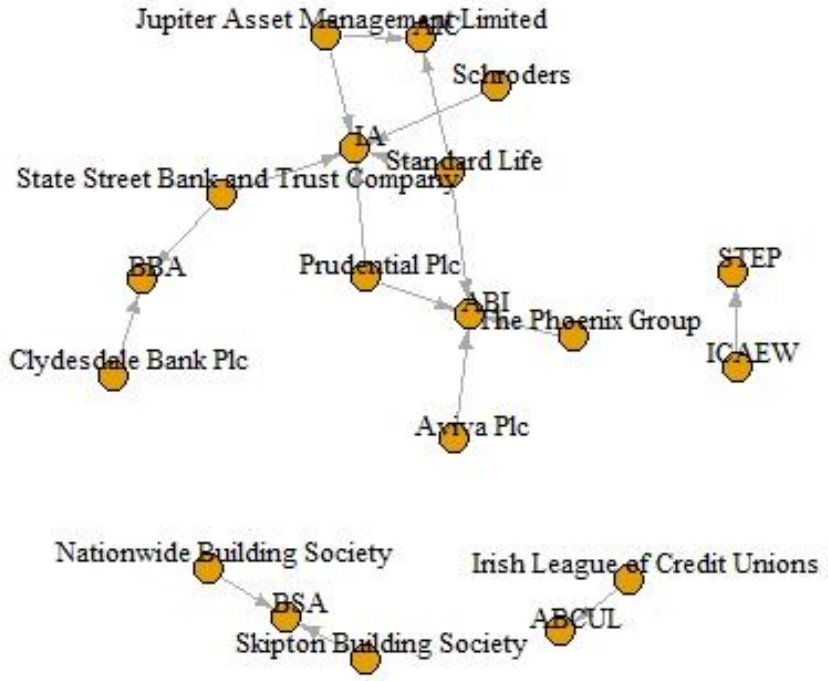

Figure 15: References to each other, UK, exchange of information

There were even fewer references to other interest groups in the UK consultation submissions on beneficial ownership transparency (see figure 16).

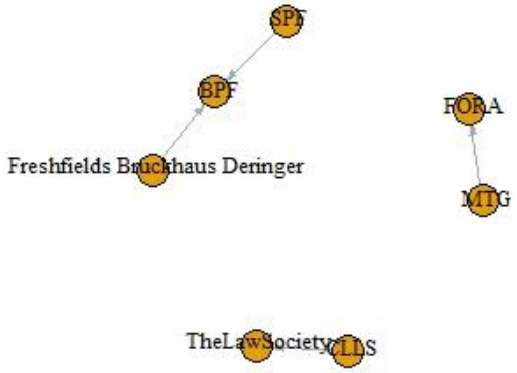

Figure 16: References to each other, UK, beneficial ownership transparency

3. Interviews

3.1. Interviewee recruitment

I knew early on in the research design phase that I wanted to complement the document analysis with qualitative interviews. They would allow me to get a more informal view on stakeholder perspectives about the transparency reforms as well as more detailed insight into the political processes. I knew that interviewee recruitment would be a major challenge. The topic of anti-tax evasion and anti-money laundering is sensitive and many people might be hesitant to speak. While interview recruitment was initially slow, it was overall less difficult than assumed. I started with referrals through personal contacts, made use of the snowball principle where some interviewees put me in touch with other potential ones, and recruited a few individuals at industry events. I also later targeted specific individuals or organisations because of their key role in the sector and the policy processes I am researching. Also this led to a surprisingly good response rate.

There was a noticeable difference between the UK and Switzerland, with interviewee recruitment in the UK being slightly easier. This could reflect the fact that these topics are even more sensitive in Switzerland, a country which has faced a lot of criticism for the activities of its banks in particular. It also reflects the high standards of privacy and confidentiality that Switzerland prides itself on. The relative ease of recruitment in the UK might further have to do with my position as a PhD candidate at the London School of Economics and Political Science, one of the most well-known universities in the UK for those who want to work in the financial sector. Many of my UK interviewees will have either studied at, or have very good knowledge of, the LSE as an institution, which might have created a sense of trust. On the flipside, I also think being Swiss was of big advantage in Switzerland because interviewees likely will have trusted me more than a foreign researcher. I was further able to offer them to conduct the interview in French, Swiss German or German, meaning they could speak in their mother tongue which puts people more at ease.

Interestingly, I feel that two political events helped my interview recruitment. First, Russia's invasion of Ukraine in February 2022 brought the topic of dirty money and the role of the financial and professional services sector to the media but also on the top priority list of governments and international organisations. It put London as a haven for Russian oligarchs in the spotlight. Second, a week before I moved to Switzerland for a few months in March 2023, and when I undertook another round of interviewee recruitment, the country's second-largest bank Credit Suisse collapsed. The Swiss government asked UBS to purchase Credit Suisse to avoid worse consequences of the bank's downfall. This was a big shock to the Swiss finance sector. I think that interest in my research topic again was heightened because there was a sense

that the repeated financial crime scandals that surrounded Credit Suisse had contributed to the bank's eventual collapse. This was contrary to what I first feared, which is that no one would want to talk to me in a time of national crisis, but I found quite the opposite. I believe that in particular interviewees from the private sector might have been more interested in the contents and purposes of my study in light of these political developments. A lot of interviewees were also intrigued by my case study selection, with British interviewees expressing interest in Switzerland as a financial centre and vice versa.

3.2. Interview guides

I prepared three different semi-structured interview guides for three categories of interviewees: private sector, politics, and civil society (see Annex 1). Because I conducted interviews in English, French, German and Swiss German, depending on the interviewee's preference, I translated these interview guides from English into French and German. The interview guides were very similar but contained slight differences in how questions were phrased. All interviews followed the general structure of two topic areas: first, I asked about the interviewees' views on exchange of information and beneficial ownership transparency, focusing on one or the other or both depending on the interviewee's background. Second, I asked about the policy process, the role of public consultations and other interest group involvement. Later in the interview process, after some key themes had emerged and I had progressed more with the document analysis, I started to ask some more directed questions about specific policy events or issues that I needed more detail on. Interviewees were quite varied in terms of what areas they had experience in and knowledge on, so the interviews focused on those areas that were most pertinent to the respective person.

3.3. Interviews

I conducted interviews in 2022 and 2023, a mix of in-person and Zoom interviews. I always attempted to arrange an in-person interview but to make the time commitment less onerous (and thereby eliminating a potential reason for them to decline the invitation) offered the option of a video call. In total I interviewed 39 individuals, 18 of them from Switzerland, 2 working at the international level and 19 from the UK. One interview was conducted with two individuals at the same time. Two interviewees decided to opt out of the research after the interview and I therefore treat the joint conversation with them as informal and off the record. They are not listed in the table below either. Table 9 lists the interviewees and their sectors. I managed to get a good spread of sectors, spanning banking, tax advisory, audit, wealth management, non-financial industry, civil society, civil service and politicians. Many of the interviewees have worked in their respective sectors for a long time and many of them were closely involved in the policy developments studied in this thesis. Their data is treated with

confidentiality and completely anonymised. Interviewees are given pseudonyms and a code composed of their country and broad sector: CH for Switzerland, INT for international and UK for United Kingdom, and the sectors as in CS for civil service, FS for wider financial sector, IND for non-financial industry, NGO for civil society, POL for politicians and TU for trade union. I use first name pseudonyms to follow what is most common in UK sociology.

Table 9: Interviewees

No	Code	Pseudonym	Sector	Country
1	CHFS01	Beat	Banking	Switzerland
2	CHFS02	Andreas	Tax advice	Switzerland
3	CHFS03	Lukas	Banking	Switzerland
4	CHFS04	Regula	Tax advice	Switzerland
5	CHFS05	Reto	Tax advice	Switzerland
6	CHFS06	Paul	Fiduciary	Switzerland
7	CHFS07	Verena	Audit	Switzerland
8	CHFS08	Ursula	Audit	Switzerland
9	CHFS09	Hans	Banking	Switzerland
10	CHIND01	Tim	Industry association	Switzerland
11	CHIND02	Daniel	Industry association	Switzerland
12	CHIND03	Walter	Industry association	Switzerland
13	CHNGO01	Stefan	NGO	Switzerland
14	CHNGO02	Sebastian	NGO	Switzerland
15	CHPOL01	Nadia	Parliamentarian	Switzerland
16	CHPOL02	Miro	Parliamentarian	Switzerland
17	CHPOL03	Marlene	Parliamentarian	Switzerland
18	CHTU01	Peter	Trade union	Switzerland
19	INTFS01	Olivia	AML expert	International
20	INTIO01	Amelia	International organisation	International
21	UKCS01	Oliver	Former civil service	United Kingdom
22	UKCS02	Jacob	Former civil service	United Kingdom
23	UKFS01	Florence	AML in fund management	United Kingdom
24	UKFS02	Harry	Wealth management	United Kingdom
25	UKFS03	Isabella	Wealth management	United Kingdom
26	UKFS04	Henry	Wealth management	United Kingdom
27	UKFS05	Rosie	Wealth management	United Kingdom

Table 9: Interviewees				
No	**Code**	**Pseudonym**	**Sector**	**Country**
28	UKFS06	Thomas	Wealth management	United Kingdom
29	UKFS07	Adam	Tax advice	United Kingdom
30	UKFS08	William	Wealth management	United Kingdom
31	UKNGO01	Hazel	NGO	United Kingdom
32	UKNGO02	Oscar	NGO	United Kingdom
33	UKNGO03	Sofia	NGO	United Kingdom
34	UKNGO04	Leo	NGO	United Kingdom
35	UKNGO05	Nicolas	NGO	United Kingdom
36	UKNGO06	Charlotte	NGO	United Kingdom
37	UKPOL01	Aaron	Former politician	United Kingdom
38	UKPOL02	Mia	Parliamentarian	United Kingdom
39	UKPOL03	Erin	Parliament staff	United Kingdom

3.4. Interview transcription and analysis

Almost all interviewees allowed me to record the interview. I chose to transcribe all interviews by hand. When testing an automated transcription software for an interview in English, I found that it contained many errors and needed a lot of correction. I assumed that the results would be even worse for languages other than English. Software cannot anyway be used for interview recordings in Swiss German as it is not an official written language and transcripts need to be at the same time transcribed and translated into Standard German. I also found it useful to re-listen to the recordings to pick up on the reactions of interviewees and remind myself of all the conversations.

I ended up with transcripts in English, French and German. I coded all of these in NVivo with codes emerging inductively and being applied deductively from what I had learned through the consultation submission analysis. The coding process was iterative. I kept recoding and refining codes as I added new interview transcript to the analysis. At the end, and to aid analysis, I organised the codes into four categories:

Policy development • Opinion on beneficial ownership transparency (BOT) • Opinion on exchange of information (EOI) • BOT policy development • EOI policy development • Interest group influence • International participation • Political culture • Political system • Switzerland policy development • UK policy development • Lawyer due diligence duties	**Competitiveness** • Switzerland as a financial centre • UK as a financial centre • Burden • Competitiveness • Economic impacts • International compliance • International pressure • Leadership • Level playing field • Reputation
Transparency • Data collection • Data quality • Data use • Data verification • Effectiveness (law in practice) • Enforcement • Exemptions and loopholes	**Privacy** • Confidentiality • Data protection • Privacy • Public availability • Safety

Some of the interview results are more descriptive and helpful to complement secondary sources, for example information on policy development. Other insights are more about how the interviewee perceives the political developments and regulations, and their opinions.

4. Parliamentary debates and motions

An important part of a policy process are parliamentary debates and motions or initiatives. They complement the consultation submissions as they provide an indication of what views different political parties and individual politicians have. They can also help us see how regulation has developed and where perhaps certain proposals have failed in the past.

In order to identify relevant debates and motions, I conducted a keyword search on the respective government websites for 'exchange of information' and 'beneficial ownership'. For Switzerland this yielded results between 1983 and 2023, for the UK between 1986 and 2023. The

motions, initiatives and debates were not coded as the consultation submissions were but drawn on to inform the descriptions of policy trajectories in the two countries.

5. Industry sector events

As part of my research, I attended five industry sector events in 2022. This was partially to get an idea about what topics matter for the wider financial and professional services sector nowadays and partially to recruit interviewees for my study. The four events in the UK were organised by firms and associations from the wealth management sector while the one in Switzerland was specifically for professionals working on taxation.

Access to these events can be difficult or costly – far exceeding a doctoral research budget. One of the events in the UK was public as co-organised with an academic institution. To two of them, I gained access through a personal contact. Another organisation in the UK generously granted me free entry to their event in exchange for helping out at the reception desk – something which I offered when approaching them. Their sister organisation in Switzerland interestingly denied me access to their event. The Swiss organisers of the event I did manage to go to also kindly let me attend for free as an academic.

An interesting experience at the UK-based events was that being a Swiss national seemed a clear advantage in terms of building trust. As the events mainly brought together professionals working in London, the Crown Dependencies, Overseas Territories and Switzerland (notably Geneva), being Swiss immediately created a common ground. Many of the attendees from the UK or the CDOTs I spoke to related to me as they had previously lived in Switzerland or worked with Swiss colleagues.

6. Research ethics

This study was cleared for research ethics at the London School of Economics and Political Science (LSE).

The study is largely based on publicly available information. Some documents had to be obtained via Freedom of Information request which puts them into the public domain.

I use little material from the industry events I attended – apart from general impressions from informal conversations I had – as four out of five of them were rather closed events. Most of them did also not touch on the precise policy areas this thesis focuses on.

Research ethics are therefore most relevant for the interview part of the research. Interviewees received a consent form and information sheet which contained information about the study, anonymisation, data protection and their rights more generally. Each interviewee was asked to sign the consent form. They had until July 2023 to withdraw from the study. Further, each

individual received a list of all the direct quotes that I was planning to use in the thesis and had the chance to have them amended or removed. This led only to minor grammatical adjustments and the removal of two short quotes. Interviews are fully anonymised and any identifying information was removed in order to protect the participants' identities.

Chapter 4: Leadership as Distraction – The UK's Surprising Approach to Tax and Financial Transparency

1. Introduction

This chapter details the UK's journey in the two policy areas covered by this thesis: exchange of information (EOI) and beneficial ownership transparency. It constitutes the first study of its kind, as an in-depth examination of how the UK has engaged with global tax and financial transparency norms. It uses material that has not previously been analysed by researchers, notably consultation submissions – most of which I obtained via Freedom of Information requests – and parliamentary debates, as well as interviews. The chapter is motivated by a puzzle: the UK has taken a notably different approach to international developments in tax and financial transparency than other financial and wealth management centres. It has positioned itself as a global leader and promoted an image of a clean and transparent City of London. This included being a first mover on both policy areas, going beyond what most other countries do, and promoting the same transparency standards in the Crown Dependencies and Overseas Territories (CDOTs). This is puzzling at first sight because transparency regulation could be seen as potentially harming the financial and professional services sector that makes up the powerful City of London and much of the CDOTs. This puzzling leadership has also been acknowledged by Pascal Saint-Amans, former head of tax at the OECD (Saint-Amans, 2023). All other major financial and wealth management centres seem to have taken a more prudent approach. This makes more sense from a structural power perspective, according to which governments legislate to protect the most important industries in their countries (Culpepper, 2015; Fairfield, 2015b). This chapter asks:

> Why has the UK adopted a leadership approach on tax and financial transparency?

Common explanations would suggest that it is due to UK industry being less affected by the regulations and the reputational benefits of a first mover approach trumping the potential negative business impacts; or that the leadership approach arose in a particular political and economic context with significant civil society pressure and ideologically aligned political leadership that had more weight than structural power. As this chapter will demonstrate, these are important but insufficient explanations for the UK's transparency leadership.

I argue instead that the UK understood the reputational benefits of being a transparency leader and used those as well as the practical benefits of being a first mover to undertake what I call 'leadership as distraction'. Leadership as distraction manifests in two distinct ways: (1) distracting from other, undesirable, reforms and (2) distracting from questions of effectiveness and

enforcement. On a practical level, leadership as distraction operates as follows: the leading country steers reforms in a certain direction and then uses the moral high ground of being recognised as a first mover to justify slow or no progress in other areas.

Understanding the dynamics of leadership as distraction opens up a different perspective on how governments reconcile pressures to abide by international standards with the structural power imperative of protecting their most important economic sectors. This chapter demonstrates that structural power does not necessarily have to mean regulating less. In the UK's case it for example means regulating certain areas more in order to protect others. I show that the commercial imperative prevails even in a country like the UK that takes a proactive stance on transparency. The recursive processes of conversation, alignment, resistance and contradiction can happen simultaneously, with countries engaging with different aspects of global norms in different ways. The chapter shows that regardless of the speed and perceived enthusiasm of adoption and implementation of global norms, contradictions, indeterminacies and gaps can still persist, and the effectiveness of domestic laws is not guaranteed.

The chapter starts with a literature review on why states take on leadership roles in transnational legal orders and why they would do so in apparent contradiction to dominant business interests. Next, the chapter explores the UK's journey of leadership on automatic exchange of information and beneficial ownership transparency. It then elaborates on two possible explanations for the leadership role and why they are insufficient. The chapter suggests finally that the UK's approach can instead be understood as a form of 'leadership as distraction'.

2. Leadership in transnational legal orders

The first question that arises is why and how countries lead in a transnational legal order. Young (1991) distinguishes three means of leadership. Structural leadership is based on material resources (such as economic strength or military power), entrepreneurial leadership involves negotiation and bargaining skills to bring the different actors together in compromise, while intellectual or cognitive leadership is about shaping how stakeholders think about a given issue and about the available solutions. Others have added exemplary or directional leadership as a fourth type. It describes leadership by example: domestic policies being promoted as a model for others (Szarka, 2011; Wiering et al., 2018).

Leadership in policy regimes is not only distinguished by the *means* of leadership but also by the *type* of leader and what motivates them. These types are differentiated by whether they have external ambitions (focused on international cooperation and influence) and/or internal ambitions (focused on domestic policymaking). *Pushers* have both high internal and external ambitions, while *pioneers* are mainly focused on their domestic policymaking. *Symbolic leaders*, on the other hand, have high external ambitions but low internal ones, which can lead to credibility

and legitimacy issues because they are perceived to not practise what they preach (Liefferink & Wurzel, 2017; Wiering et al., 2018).

A recent study explores a similar question as this chapter, namely the UK's leading role in international tax cooperation (Daly & Hearson, 2023). The authors find that there has been vocal support from British Prime Ministers and Chancellors for multilateral tax cooperation initiatives since the 2009 G20 summit in London. The authors question the country's supposed leadership role. They highlight how the UK has historically shown scepticism towards new international tax rules and find that "the UK has frequently objected when multilateral organisations take on tax cooperation mandates. Once the momentum behind such a mandate becomes unstoppable, the UK places itself at the heart of multilateral tax negotiations and institutions. Unable to influence the general direction of travel, it maximises its influence over the details so as to ensure that initiatives are less intrusive in areas where it seeks to retain sovereignty" (Daly & Hearson, 2023, p. 2). They hint at a strategic *pusher* approach by the British government: opposing initiatives while feasible, but then taking a leadership role when reforms cannot be stopped anymore, to ensure that the policy developments at least align with the country's preferences and interests. However, the authors do not fully elaborate how a leadership role can be used to distract from other – less desirable – reforms, which is what this chapter focuses on. In the policy case studies researched for this thesis, the UK's leadership role is even more pronounced and proactive, with the country shaping global norms instead of merely reacting to them.

3. Regulating against business interests – the City of London

It is particularly surprising when countries lead on an issue that runs counter to dominant domestic business interests. One would expect the government of an important financial centre such as the UK to act in accordance with the interests of its financial industry. This could be because of the industry's instrumental power and therefore direct lobbying influence. But regardless of lobbying, we would also expect the UK to act in the interests of finance because of the sector's structural power, with politicians regulating in finance's favour because of a fear of divestment and not wanting to harm the economy (Culpepper, 2015; Culpepper & Reinke, 2014; Fairfield, 2015b). As Bell (2012, p. 662) writes, however, "structural power arguments cannot explain why governments sometimes stand up to business pressures."

The UK government's transparency leadership is puzzling from a structural power perspective because of the importance of the City of London as an international financial centre. The City further has close historical ties with the British Overseas Territories (OTs) and Crown Dependencies (CDs), many of which are prominent financial centres in their own right (Ogle, 2020). Discretion and confidentiality or, as critics would call it, secrecy, is an important feature

of these jurisdictions, with the British Virgin Islands, the Cayman Islands, Jersey and Guernsey featuring in the top 20 of the Tax Justice Network's Financial Secrecy Index 2022. The UK itself ranked number 13 (Tax Justice Network, 2022). Given the combination of being one of the most important wealth management centres globally, being at the centre of a network of international financial centres, and a certain level of discretion at least being part of its unique selling point, the UK government deciding to take a leadership role on transparency and therefore potentially harming City of London interests is the central puzzle of this chapter.

Researchers have explored how different axes of power operate in the case of the City of London. Throughout the 20th century, the British government has promoted the City as an important financial centre and let it operate with minimal government interference (Thompson, 2017). The City enjoyed close and informal ties to the Treasury and the Bank of England, and the sector did not need to organise much collectively because its power rested on a discourse about the importance of the City as a leading financial centre and its capacity to function without interference, a narrative which was accepted and promoted by the British government (Burn, 1999; James et al., 2021; Johal et al., 2014). Also today, Hopkin and Shaw argue that structural advantage and political ideas play a bigger role than lobbying in the UK because of a "politically insulated executive and much less professionalized lobbying industry" (Hopkin & Shaw, 2016, p. 364).

The era of "quiet politics" (Culpepper, 2011), when an issue is of low salience, was disturbed by the 2008 financial crash and ensuing Eurozone crisis. The City of London and its rather weak regulatory environment came under critique as the Anglo-American approach to finance was blamed for the crisis (Thompson, 2017). In Baker and Wigan's (2017) words, the political terrain became more crowded and noisier post-financial crisis also because of increasing civil society activism against the finance curse (the negative societal consequences of a disproportionately large finance sector), inequality and tax injustice. The discursive power of the City of London was no longer uncontested (Baker & Wigan, 2017; James et al., 2021). According to Bell and Hindmoor (2017), this altered ideational and institutional context weakened the structural power particularly of banks and meant that financial sector interest groups could no longer veto regulatory proposals (Young, 2013). These developments could explain why the UK government might have been more willing to regulate against City interests post-financial crisis.

Asking a similar question as this chapter, researchers have tried to find answers to the puzzle of how Brexit could happen when it was seemingly so against City interests. Part of the explanation is that the Brexit campaign became focused on migration and City-related issues were pushed to the background (Thompson, 2017). According to Thompson (2017), the City further lacked political influence when it came to Brexit. Most financial sector actors kept a low profile during the campaigning, knowing that it would not help the Remain side if the little trusted

financial industry expressed vocal support (James et al., 2021). The finance sector also was divided over Brexit, with the more traditional City actors being against it (Feldmann & Morgan, 2021) while US investment banks, hedge funds and private equity firms supported the Brexit campaign (Benquet & Bourgeron, 2022; James et al., 2021).

In short, the strength of the City's ideational and structural power was hit by the reputational repercussions of the financial crisis and the more crowded and contested interest group landscape with the rise of civil society in the financial and tax policy space. Furthermore, the City has become more disjointed as foreign firms started to establish themselves in London since the 1980s (James et al., 2021) and more recently through the divide between 'first-wave' and 'second-wave' finance which played out during the Brexit campaign (Benquet & Bourgeron, 2022). This literature can partially explain why the City may not have been able to resist the transparency reforms. However, it does not answer the question why the British government took such a proactive leadership role on tax and financial transparency, in particular given it wanted to shield the City from certain EU regulations at the same time.

4. The UK's leadership journey

4.1. Automatic exchange of information

Figure 17: Timeline of the UK's leadership on automatic exchange of information

The groundwork for the UK's leadership on tax and financial transparency in the 2010s was laid since the 1990s, so there was a certain tradition of projecting "positive values abroad in the area of financial transparency, accountability and integrity" (Cobham et al., 2020) – around a common theme of transparent asset ownership. Tony Blair's government published a White Paper in 2000 that acknowledged the threat of financial secrecy in so-called tax havens for international development. The Blair government also was the initiator of the Extractive Industries Transparency Initiative (EITI), an important first standard on transparency of corporate payments to governments (Cobham et al., 2020; Moberg & Rich, 2012; Van Alstine, 2017). Cobham, Knobel and Palmer (2020) admit that this showed a certain ambivalence as the UK at the same time made efforts to be an attractive location for foreign capital – even if this capital was the proceeds of corruption or of corporate tax avoidance. Combining these two sides, according to Jacob, an interviewee who used to work in the civil service, Gordon Brown, Prime

Minister from 2007, followed a campaign of redistribution and supporting the less well off through various anti-avoidance measures, while also wanting to come across as pro-business (UKCS02).

In line with these early transparency efforts, the UK has been quick to adopt and implement automatic exchange of information (AEOI) standards. This chapter focuses on AEOI as the consultations identified concern only this type of EOI. The country supported the EU Savings Tax Directive in the early 2000s (Seely, 2012a). In September 2012, the UK became the first jurisdiction to sign an enhanced automatic tax information exchange agreement with the US to implement the reporting required under FATCA legislation, the 'Intergovernmental Agreement to Improve Tax Compliance and to Implement FATCA' (Saint-Amans, 2023). This leadership role was acknowledged by the Investment Management Association (IMA) in its consultation submission on FATCA:

> "The UK is now recognised widely as setting the pace on FATCA implementation and other countries will look closely at how HMRC have designed the framework for FATCA in its regulations and guidelines." (IMA, 2013a, p. 1)

Inspired by FATCA but importantly *before* the multilateral Common Reporting Standard, the UK government worked on establishing AEOI with the Crown Dependencies and Overseas Territories (CDOTs). In his biography, then-Prime Minister David Cameron showed awareness that the UK was vulnerable to accusations of hypocrisy because of the secrecy that its Overseas Territories' economies are said to be built on. The agreements were signed in 2013 and include the following jurisdictions: Isle of Man, Jersey and Guernsey (Crown Dependencies) and Anguilla, Bermuda, the British Virgin Islands, the Cayman Islands, Gibraltar, Montserrat and the Turks and Caicos Islands (Overseas Territories). Information was exchanged for the years 2014 to 2016 (Cameron, 2019).

Around the same time, in April 2013, the UK announced an initiative for multilateral information exchange based on FATCA with France, Germany, Italy and Spain (the G5), which became a pilot for global AEOI. The UK then worked closely with the G20 and the OECD on the development of the Common Reporting Standard (CRS). Subsequently the UK and all the Crown Dependencies and Overseas Territories adopted the CRS. From 2017 onwards, the CRS has fully superseded the earlier automatic tax information exchange agreements between the UK and the CDOTs (HM Revenue & Customs, n.d.). The UK-led G8 summit in 2013 was part of the UK's strategy to get the OECD to produce an AEOI standard. Cameron highlighted his leadership on the matter in a later parliamentary debate:

> "Through my chairmanship of the G8 at the summit at Lough Erne in 2013, I put tax, trade and transparency on the global agenda, and sought agreement

> on a global standard for the automatic exchange of information over who pays taxes and where. Many said it would never happen, but today 129 jurisdictions have committed to implementing the international standard for exchange of tax information on request, and over 95 jurisdictions have committed to implementing the new global common reporting standard on tax transparency." (UK Parliament: Commons, 2016)

Three items dominated Cameron's agenda as G8 host in 2013: "advancing trade, ensuring tax compliance, and promoting greater transparency" (Cameron, 2019, p. 487). He highlighted the moral and legal issues around tax avoidance and tax evasion and declared that transparency was the answer. Also Mel Stride, the Financial Secretary to the Treasury at the time, highlighted that the UK "led the world" on the CRS (UK Parliament: Commons, 2017). The UK's leadership on the CRS was also acknowledged by tax justice campaigners (Cobham et al., 2020).

Industry group the British Bankers Association (BBA) highlighted the responsibility that comes with this role to create clear rules and guidance, as other jurisdictions will replicate these, akin to exemplary or directional leadership:

> "The BBA also notes that FIs [financial institutions] and jurisdictions around the globe will view the HMRC guidance as setting the standard for the requirements imposed on FIs by the CRS, as has been the case under FATCA and CDOT. As the UK guidance is likely to be the first published by a tax authority it will be essential that the guidance is both clear beyond doubt and comprehensive." (BBA, 2014a, p. 7; see also ABI, 2014a)

The British government clearly pursued a strategy of leadership when it came to automatic information exchange, and the significance of that leadership has been acknowledged by government, civil society and industry alike.

4.2. Beneficial ownership transparency

Figure 18: Timeline of the UK's leadership on beneficial ownership transparency

4.2.1. The PSC Register: a world's first

The UK's leadership on beneficial ownership transparency kicked off during the lead-up to the 2013 G8 summit hosted by the UK, the same summit where commitments to automatic information exchange had been made. In an interview with the Guardian, David Cameron pledged to end the era of secretive companies and the related loss in public revenue. According to the article, "Cameron said he wanted to set an example to fellow G8 leaders" (Wintour & Watt, 2013b). Indeed he highlights this exemplary leadership role:

> "Here in the UK we are going to have a register of beneficial ownership. […] a central registry of beneficial ownership in the UK is a real step forward and we are leading by example." (Wintour & Watt, 2013a)

The UK government consulted on the proposed register shortly after the summit (Department for Business, Innovation & Skills, 2013). A key consideration was whether the register should be publicly accessible – with the government acknowledging there was a case for making it public but also noting concerns that this would harm British business interests – if the UK moved much faster than other countries (Wintour & Watt, 2013a). Cameron said:

> "I am sure that is where I would like to end up, but I do not want to disadvantage Britain by doing something others won't do. […] I don't also want to give up our leverage on others by trying to make them move at the same time." (Wintour & Watt, 2013b)

A year later this discourse had already shifted, with Cameron highlighting his push for publicly accessible registers in the European Union in a letter addressed to the Overseas Territories:

> "I also wrote last year to Herman van Rompuy, President of the European Council, and other European Heads of government to set out the benefits of a publicly accessible registry and call on them to match our level of ambition." (Prime Minister's Office, 2014)

The UK Government introduced provisions to establish a register of company beneficial ownership in the *Small Business, Enterprise & Employment Act 2015*. According to the Act, companies have to keep their own PSC register from January 2016 and start to provide this information to the registrar Companies House from April 2016 with their confirmation statement (annual return). Within one year, by April 2017, all PSC information should therefore be freely available on the Companies House register (Department for Business, Innovation & Skills, 2015).[5]

[5] A PSC is an individual "who directly or indirectly own[s] or control[s] more than 25% of the company's shares or voting rights, or who exercise[s] some other form of significant control over the company" (Department for Business Innovation & Skills, 2014, p. 8).

Cameron highlighted how the UK is the first G20 country to establish a public register, and called on other countries to follow its lead:

> "In June this year, Britain will become the first country in the G20 to have a public register of beneficial ownership, so everyone can see who really owns and controls each company." (UK Parliament: Commons, 2016)

> "This is a complete world first on transparency and I'm proud Britain is leading the way. And today I call on the rest of the world to join us in this journey." (Harding, 2016)

Importantly, the UK's combination of exemplary, intellectual and entrepreneurial leadership is not only self-proclaimed by the government but also acknowledged by tax justice campaigners:

> "The UK has shown perhaps the greatest leadership on beneficial ownership, with David Cameron making the creation of the UK register for companies a central component of his 'golden thread' approach that underpinned both the G8 summit and his subsequent international statesmanship, including a 2016 anti-corruption summit where a number of additional countries committed to introduce company registers." (Cobham et al., 2020)

During the public consultation on the PSC register in 2014, CSO Global Witness called the UK's proposal a "transformative commitment" (Global Witness, 2013b, p. 3) while Christian Aid acknowledged that the "UK deserves praise for seeking to lead on this issue" and that it is "the country that has shown the most political will on tackling this issue" (Christian Aid, 2013b, p. 14; see also ONE 2013b).

In the FATF Mutual Evaluation Report on the UK from 2018, also the international organisation acknowledges this leadership role on corporate transparency:

> "The UK is a global leader in promoting corporate transparency. […] The UK has acted as a global leader in this space, promoting the use of public registers of beneficial ownership and using a variety of fora to encourage transparency in this area." (FATF, 2018, pp. 4, 11)

4.2.2. Beneficial ownership registers in the Crown Dependencies and Overseas Territories

When talking about the UK's surprising leadership on beneficial ownership transparency and exchange of information, a common reaction I got is that it is easy for the UK to promote an image of a clean City of London because they still have the CDOTs to conduct the more secretive business. As shown above, this argument does not hold for exchange of information as the British government included them in AEOI agreements before the CRS was even established, and it does not work for beneficial ownership transparency either. In an interview with

the Guardian in the lead-up to the G8 summit in 2013, Cameron acknowledged that it was important to know the beneficial owners of companies in secretive locations and promised: "Every one of the Crown Dependencies and Overseas Territories are going to have an action plan on beneficial ownership" (Wintour & Watt, 2013a).

As early as April 2014, David Cameron wrote a letter to the CDOTs, encouraging them to also establish public beneficial ownership registers (Prime Minister's Office, 2014). Civil society organisations (CSOs) had pressured the Prime Minister to lobby the territories on this matter (Houlder, 2015). In submissions to the consultation on the PSC register, civil society organisations (CSOs) Christian Aid (2013b) and ONE (2013b) made this point very clearly, warning that a loophole through the CDOTs could harm the UK's credibility:

> "The Overseas Territories and Crown Dependencies must be included in the UK government's efforts to make beneficial ownership transparent. Failure to do so would leave a significant loophole and severely damage the UK's credibility and commitment to greater transparency about beneficial ownership." (ONE, 2013b, p. 13)

In a House of Lords debate in 2016, Lord Collins of Highbury equally highlighted the importance of public registers in the OTs because of the properties held through 'offshore companies' in the UK:

> "How can we demonstrate our leadership in the battle against corruption when our territories are the biggest facilitators of it? Public registers are required. We have only to look down the river at the St George Wharf Tower; two-thirds of it is in foreign ownership and a quarter is held through offshore companies based in tax havens. Will the Minister outline the steps that we will be taking to get full transparency and what timetable is to be set by the Government so that the Overseas Territories will be required to have public registers? Failure to do so will result in even more monuments to this corruption on our riverfront." (UK Parliament: Lords, 2016)

He suggested that the UK's leadership claims are at stake if the OTs do not comply. In 2016, the UK entered into so-called Exchange of Notes with eight important financial centre CDOTs. This was around the time of the 2016 London Anti-Corruption Summit where Cameron made commitments in this regard (Hatchard, 2018). The agreements require the jurisdictions to "hold adequate, accurate and current beneficial ownership information for corporate and legal entities" (Hatchard, 2018, p. 194) and to share this information with each other within 24 hours and within one hour in urgent cases (FATF, 2018). A 2020 review of the agreements showed that they were effective and provided important information to UK law enforcement

(Eastwood & Leveson, 2021). Sir Alan Duncan, Minister for Europe and the Americas, in 2018 said about the CDOTs: "They have made significant progress in implementing the commitments by introducing legislation and establishing, where they did not already exist, central registers or similarly effective systems" (UK Parliament: Commons, 2018). According to Hatchard (2018), the commitments of the CDOTs at the time went beyond the FATF requirements and placed them ahead of most other countries.

In 2018, the British government went one step further through Section 51 of the Sanctions and Anti-Money Laundering Act (SAMLA), which required the UK to support Overseas Territories in the establishment of public registers of beneficial ownership (Eastwood & Leveson, 2021; Sanctions and Anti-Money Laundering Act 2018, 2018). The Crown Dependencies were excluded because of their different constitutional relationship with the UK, while "the Crown retains a residual power to legislate for the OTs" (Hatchard, 2018, p. 191). Section 51 SAMLA asks the Secretary of State to provide "all reasonable assistance" to the OT governments in establishing public registers. Section 51(2) foresees potential resistance from the OTs and requires the government to prepare a draft Order of Council the latest by 31 December 2020 in case the registers have not been put in place by then (Hatchard, 2018; Sanctions and Anti-Money Laundering Act 2018, 2018). In 2020, the government sent out a Written Ministerial Statement, expressing the expectation for all OTs to implement public registers by the end of 2023 (Rutley, 2023).

This pressure on the Overseas Territories was quite remarkable. Interviewee Oliver, who used to work high up in the civil service, called it the greatest pressure he had ever seen being put on the territories to follow the UK in its global leadership approach (UKCS01). Also Aaron, a former politician, said that from a constitutional perspective, forcing legislative change on the OTs was pretty extreme (UKPOL01).

4.2.3. The European Court of Justice ruling against public registers

A more recent development which threw potential obstacles in the way of public registers in the CDOTs but confirmed and cemented the UK's own leadership role on beneficial ownership transparency was the judgment of the European Court of Justice (ECJ) on 22 November 2022 (European Court of Justice, 2022). The case had initially been brought to a Luxembourg court. The ECJ ruled that the requirement in the EU AML Directive for member states to make beneficial ownership information "accessible in all cases to any member of the general public" (Stenson, 2022) was invalid because it conflicted with the rights to privacy and data protection. The Court argued that general public access would mean that a beneficial owner's material and financial information could be misused, retained and disseminated without control (Stenson, 2022; Transparency International, 2022). The ECJ said that the general public access "created a regime that allowed for privacy intrusions that were more than was strictly necessary

to prevent and detect money laundering and terrorist financing and was thus unlawful" (STEP, 2023). The Court recognised that some actors like civil society and journalists have a 'legitimate interest' in accessing registers, so the suggestion is not to completely close off registers, but the judgment put an end to general public access (Transparency International, 2022). Shortly after the ruling, Luxembourg, Austria and the Netherlands had closed their online registers (Machin & Maj, 2022; Martini, 2022). The European Union has since clarified what legitimate access means and guarantees generalised legitimate access to media and civil society, meaning they don't have to apply on a case-by-case basis (Transparency International, 2024).

Following the ECJ judgment, law firm Ropes & Gray cautioned that OTs might also reconsider their commitments to public registers and might water those down (Machin & Maj, 2022). Several OTs indeed expressed concern about the potential conflict of human rights obligations and publicly accessible registers, and therefore their ability to meet the draft Order in Council (Rutley, 2023). The implementation of the registers has been delayed in many of the territories which was discussed in a statement by the Foreign, Commonwealth and Development Office in December 2023. The agency admitted to disagreements with the OTs and suggested a legitimate interest access system as an interim step (Rutley, 2023).

There was hence a step back from the requirement for public registers. The Under Secretary declared that progress would be reviewed in March 2024 during the Ministerial Illicit Finance Dialogue with the Overseas Territories. Only Gibraltar had implemented a publicly accessible register in 2020. Jurisdictions expected to follow in summer 2024 are the Falkland Islands, Montserrat, the Pitcairn Islands, and St Helena. Other territories are planning to implement registers with the legitimate interest access filter within 2024, namely Anguilla, the Cayman Islands, and the Turks and Caicos Islands. The British Virgin Islands and Bermuda lag behind, with their commitment to registers and implementation timelines remaining unclear. Both countries expressed that they would wait for the implementation review of the EU's Fifth AML Directive (Rutley, 2023), supposedly to ensure that they do not go beyond what EU member states do.

A big question was how the UK itself would react to the ECJ's judgment. In light of rumours that at least part of the reason behind Brexit was the UK not wanting to be bound by EU financial regulation anymore, one could have expected the UK using this judgment to also take a step back in terms of its transparency requirements. Instead, the British government updated a policy paper to declare that its PSC register and also the Register of Overseas Entities from 2022 (see below) are compliant with the European Convention on Human Rights – given that the legislation behind the registers allows individuals to make applications for information to be suppressed from the public register if they have grounds for concern (STEP, 2023). The registers hence are to remain publicly accessible, further cementing the UK's leadership

position. Charlotte, a civil society representative interviewed for this research, was puzzled by this news and said:

> "And it's really interesting that just before we spoke the UK has decided that they are going to continue [with the public registers], they're not going to use this as an excuse. Which is good news, I'm quite surprised and wondering what that's about." (UKNGO06)

Wealth management sector interviewee Rosie, in trying to find an answer to this puzzle, suggested that too much work had gone into the public register and that it was an important feature and principle of the UK government (UKFS05). Adam, who works in tax advice, said being able to maintain stricter transparency rules than EU member states was a "reversed Brexit benefit" (UKFS07).

4.2.4. The Register of Overseas Entities

The most recent addition to the UK's corporate transparency regime is the Register of Overseas Entities (ROE). It tackles anonymous real estate ownership, which is relevant because real estate is an attractive asset for those wanting to hide their money. The real estate sector is less regulated than for example banking (Collin et al., 2023). Bomare and Le Guern Herry (2022) show for example how exchange of information on financial accounts can be circumvented by holding wealth in property instead. In the UK and other countries, real estate agents and other property sector professionals are not subject to the same client due diligence rules as financial sector actors. Holding property through a shell company based in an international financial centre can afford high levels of anonymity (Collin et al., 2023). The UK property market – in particular in London – has been found to be particularly attractive not only to wealth holders but also to criminals and kleptocrats. It is a large market that is easy to access, and property can be purchased through multilayered chains of shell companies, aided by the UK's strong links with the CDOTs (Collin et al., 2023; ICAEW, 2022).

The idea of a register for foreign companies that own property in the UK had been around for a number of years before it was actually implemented. The register makes a lot of sense in light of the above-quoted Lord Collin of Highbury's remarks in the House of Lords in 2016, highlighting the financial crime risks of offshore companies owning property in London. His solution were registers in those overseas jurisdictions (UK Parliament: Lords, 2016), but as elaborated above these registers don't exist everywhere yet. The other solution would be for the UK to itself impose transparency requirements on foreign companies.

David Cameron announced a public beneficial ownership register for foreign companies that own UK property or bid for public contracts shortly before the PSC register was established and in the context of the London Anti-Corruption Summit in 2016. This was followed by a

consultation and a draft bill in 2018 (Shalchi, 2022; UK Parliament: Commons, 2016). Lord Ashton of Hyde, in a House of Lords debate, highlighted how this register would cement the UK's leadership position:

> "As regards the tower mentioned by the noble Lord, the Prime Minister made a commitment at the anti-corruption summit that we will have the first public register of foreign-owned companies owning property in this country, and that will apply not only to new but to existing ownership by foreign-owned companies. It will also apply to a public register of public contracting. As I say, we will be the first country to insist on a public register of beneficial ownership by foreign companies for property […]. We are leading the way in the world in opening this up to transparency." (UK Parliament: Lords, 2016)

The draft law on the ROE was mentioned in the Queen's Speech from December 2019, but then not introduced in the 2019-21 parliamentary session. The Conservative government, following David Cameron's resignation after the Brexit vote, had deprioritised the initiative (Collin et al., 2023). The government came under criticism in January 2022 for failing to introduce the Economic Crime Bill – including the ROE – in that parliamentary session. Shortly after, in March 2022, the Economic Crime and Corporate Transparency Bill was fast-tracked through parliament following the invasion of Ukraine and concern about Russian oligarchs' money in London (Collin et al., 2023; Makortoff, 2022a; Shalchi, 2022). The UK had been in the spotlight as a hub for money laundering since the mid-2010s. The National Crime Agency estimated that GBP 100bn of illicit finance flows through the UK every year. Transparency International reported that an estimated GBP 1.5bn worth of UK property was bought with funds linked to Russians connected to the Kremlin or accused of corruption. Following Russia invading Ukraine on February 24th, 2022, the media started to heavily report on the role of the UK in providing a haven for Russian oligarchs. The Economic Crime Bill introduced the public Register of Overseas Entities, requiring all overseas companies that own land in the UK to report beneficial ownership information. The register is retrospective and contains strict sanctions for non-compliance (Beioley et al., 2022; Collin et al., 2023). Collin et al (2023) found that the introduction of the ROE actually drove down real estate activity by overseas companies in the UK, which was not the case in the US where a similar measure had been introduced. Possible reasons could be the public character of the register and the heightened scrutiny of Russian money in the UK.

In sum, the UK's actions on beneficial ownership transparency amount to a proper regime of initiatives and regulations, ranging from a public company register and efforts to get the CDOTs to follow suit to a public register of overseas companies owning real estate. The 2018

FATF Mutual Evaluation Report on the UK even contained a table titled 'UK global leadership in promoting corporate transparency' (see table 10):

Table 10: UK global leadership in promoting corporate transparency

Date	Action taken by UK
June 2013	• At the 2013 G8 summit in Lough Erne, the UK pledged to increase the transparency of companies and legal arrangements and ensure BO information was accessible.
April 2016	• The UK introduces a public register of people with significant control (PSC) in companies. • The UK (with Germany, France, Italy, and Spain) announced the pilot Agreement on the Automatic Exchange of Information on BO.
May 2016	• At the UK Anti-Corruption Summit, 32 commitments were made on increasing BO transparency.
April 2017	• The UK opens a call for evidence on a proposal for a public register on the beneficial owners of property controlled by overseas companies. • The International Anti-Corruption Co-ordination Centre opens in London, hosted by the NCA and funded by the UK Department for International Development.
June 2017	• Exchanges of Notes between the UK and all Crown Dependencies and six Overseas Territories come into effect, under which BO information will be shared within 24 hours, and one hour in urgent cases.
January 2018	• The UK announces its intention to legislate for a public register of beneficial owners of non-UK entities that own or buy UK property, or which participate in UK Government procurement.

Source: recreated based on FATF (2018, p. 149)

5. Two possible explanations

This chapter so far has demonstrated the leadership role the UK has assumed on tax and financial transparency. In particular in international comparison, and even more when compared to its competitor financial and wealth management centres, the UK has gone far beyond other countries. For this comparison, this thesis is referring to the other countries on the Deloitte Wealth Management Centre ranking from 2021, which compares "countries or jurisdictions specialising in and attracting international private clients […] through assets such as bank accounts (checking and saving accounts), debt and equity securities (including shares of funds), derivatives and assets held in fiduciary structures such as companies and trusts" (Deloitte, 2021, p. 2). While the UK was fast and very proactive in terms of exchange of information regulation, the US for example never adopted the CRS and the UAE signed up as one of the last

jurisdictions to the CRS in 2017, following significant pressure by the OECD and G20 (Sleight, 2017). The other jurisdictions implement automatic exchange of information but did not assume proactive or leadership roles. In the realm of beneficial ownership transparency, there is bigger diversity of implementation. The US, Singapore, Luxembourg and Panama have central beneficial ownership registers, but in contrast to the UK these are not accessible to the public. Switzerland, Bahrain, many Caribbean financial centres, the UAE and Hong Kong, while requiring certain due diligence on beneficial owners, do not even have central registers (Baker McKenzie, 2022; Financial Crimes Enforcement Network, n.d.; KPMG, 2021; Linklaters, 2020; Maggiore & Brillaud, 2022; Norton Rose Fulbright, 2023; Open Ownership, n.d.; Trident Trust, 2020).

The UK's leadership role has not only been signalled by politicians and state officials, it has also been acknowledged by the otherwise critical civil society organisations campaigning on these issues, as well as the international organisations that set the standards at the global level. As former politician Aaron put it, the UK led by example (UKPOL01). This well-documented and acknowledged leadership position still presents a puzzle as to *why* the UK assumed this role. While the UK – like most other countries wanting to maintain a certain reputation and good relations with its international partners – would have been unlikely to resist pressures to comply with international standards for very long, the country did not necessarily have to assume the position of first mover and role model for others. The question of competitiveness and structural power considerations certainly made Switzerland more hesitant to impose stricter transparency rules onto its industries (see chapter 5).

This section explores two possible explanations for the leadership role which are here used as counterfactuals: (1) the part of the financial industry which would have been most affected by reforms is less important in the UK economically and politically and had little leverage to block or slow down the reforms, or in short, instrumental and structural power were weak; and (2) the UK's leadership role happened because of the pressures and the political and economic context post-financial crisis and David Cameron's personal ambitions. This section demonstrates that these are insufficient explanations, which leads to an elaboration of what I call 'leadership as distraction'.

5.1. Industry was less affected and less politically powerful

First, one could argue that the leadership role was possible because of the make-up of the City of London and the fact that most industry was not actually that affected by the reforms. This could negatively impact their instrumental and structural power. This at least was the answer many interviewees gave to the question how they explain the UK's proactive approach. Civil society interviewee Nicolas argued that while the UK has a big wealth management industry,

this industry is not as central to the wider financial sector as for example in Switzerland, and therefore has less political power (UKNGO05). Wealth management interviewee William similarly suggested that the City of London relies less on the type of work that revolves around privacy and therefore is less worried about losing competitiveness through transparency reforms (UKFS08). The same was said by former civil servant Jacob who stated that the UK's business model never depended on secrecy (UKCS02). In several informal conversations, I was also told that the City of London's success – as opposed to Switzerland's – does not depend on secrecy, private banking and wealth management – the sub-areas of finance that are thought to be most affected by the transparency initiatives.

Interviewees further overwhelmingly highlighted that there was a sense in the UK that the reputational benefits of a proactive approach on transparency would trump any negative business impacts, with 'reputation' being one of the main codes emerging from the interview analysis for the UK. Former politician Aaron for example said that a weak anti-money laundering regime is politically highly risky and the potential competitive advantages of it do not outweigh those risks (UKPOL01). Finance sector actors adopted the same discourse. Former civil servant Oliver highlighted that in the City of London there is a lot of rhetoric around cleanliness, as the actors realise that the status of the City rests a lot on reputation. He contrasted this with Switzerland who he said never felt the need to justify itself. This is different for the City of London which competes with financial centres such as Frankfurt and New York and therefore needs to be seen to do everything by the book (UKCS01). William from the wealth management sector confirmed this, saying that London has always been "gold plated" in terms of applying rules and adopting high standards, and that playing by the rule is a "British thing". He claimed that London cares more about compliance with international standards because it is a larger financial centre (UKFS08). Andreas, a financial sector interviewee from Switzerland, added that to be a leading financial centre you want to be at the forefront of the regulations to show that you are a good place to do business, and that this is the UK's strategy (CHFS02).

Harry, an interviewee from the UK wealth management industry with previous experience in the public sector, added that initially the UK took a leadership role from an altruistic standpoint but then realised that it was an opportunity to show that they have strong processes in place and that they are "whiter than white", believing that this will attract more business. According to him, actors in the financial sector also understood and adopted this same approach and perspective to see the proactive approach as an opportunity. Harry said that while transparency initiatives impose a bureaucratic burden on the wealth management sector and some firms find it hard to keep up with increasing regulation, the majority of firms see legislation and compliance as being part of the job and consider it good for business if bad actors are therefore rooted out of the industry (UKFS02). It is striking how dominant this type of answer was when I asked interviewees about their view on the reasons for UK leadership.

In line with the interviewees' views, Deloitte argued in their consultation submission on the PSC register that "[e]nhanced transparency in the areas of corporate reporting and corporate governance is a key step in ensuring the UK is seen as a trusted and open place to do business" (Deloitte, 2014b, p. 1). This statement played into the very title of the first PSC register consultation: 'Transparency & Trust: Enhancing the Transparency of UK Company Ownership and Increasing Trust in UK Business' (2013). Trust is a key value leveraged by the government and Deloitte as a justification for enhanced corporate transparency. This might have to do with a sense post-financial crisis that the reputational harm that the financial sector has suffered must be remedied. In advance of the 2013 G8 summit, Cameron said: "What is exciting about this G8 is that it is a good opportunity for British leadership and to recover some of our national self-confidence" (Wintour & Watt, 2013a). In his letter to the CDOTs in 2014, he wrote: "By leading the world on this agenda we are taking an important step in promoting strong and transparent corporate governance in the UK and around the world. We will further improve our reputation as a trusted country in which to invest and do business" (Prime Minister's Office, 2014).

Consistent with these arguments and if we just consider the levels of outright rejection of the consultation proposals, we get a picture of an interest group field that overall agrees with the transparency approach and might not have resisted the government's reform efforts. Tables 11 and 12 show how few interest groups rejected reform proposals on automatic exchange of information and beneficial ownership transparency. This stands in stark contrast with the sometimes very high levels of rejection in the Swiss consultations (see chapter 5).

Table 11: Level of rejection, EOI consultations, United Kingdom

	2012 FATCA	**2013 FATCA**	**2014 CRS**
Total counted	64	44	29
Rejection	0	1	0
Rejection (%)	-	2.3%	-

Table 12: Level of rejection, BOT consultations, United Kingdom

	2013 Transparency Company Ownership	**2014 PSC Register**	**2015 PSC Register**	**2016 Beneficial Ownership Foreign Companies**	**2017 Beneficial Ownership Register**
Total counted	101	18	17	9	42
Rejection	0	1	0	0	2
Rejection %	-	5.56%	-	-	4.76%

If we just consider the discourse of the government and the interviewees together with the low levels of rejection without qualitatively analysing consultation responses, this could paint a false picture of general interest group agreement with all reform proposals. The extensive and novel analysis of consultation submissions conducted for this thesis, however, shows that also in the UK, interest groups frequently raised issues around competitiveness and the costs and burden of implementation – with in particular the latter being a dominant code emanating from the analysis. There were instrumental and structural power processes at play and we hence cannot explain the UK's leadership approach by purely alluding to the lack of business concern or resistance.

In 2012 and 2013, some UK interest groups expressed concern that a FATCA agreement could put the UK at a competitive disadvantage (Henderson, 2012; BSA, 2013a; Nationwide, 2013a). Interest groups raised concerns about the burden, complexity and costs of the checks and reporting framework that will be needed to comply with the new regulations (ABI, 2012; BBA, 2012; Henderson, 2012; IFDS, 2012; ILAG, 2012; Nationwide, 2012; STEP, 2012). The BBA warned that smaller financial institutions in particular would struggle to develop a reporting system by the deadline (BBA, 2012). Building society Skipton described the resources needed for understanding the new rules and developing new systems for client onboarding and reporting as "disproportionate to the likely benefits to the US Treasury and […] [the] little reciprocal benefit to the UK Treasury" (Skipton, 2012, p. 2). To ease the burden and costs many interest groups advocated for flexibility and discretion in terms of how information is being reported and in what time periods (ABI, 2012; AIMA, 2012; BBA, 2012; BDO, 2012; BSA, 2012; Henderson, 2012; ICSA, 2012; IFDS, 2012; ILAG, 2012; IMA, 2012; M&G, 2012; Nationwide, 2012; Skipton, 2012; ABI, 2013a; BBA, 2013a; BSA, 2013a; IFDS, 2013a; IMA, 2013a; M&G, 2013a).

In 2014, the British government consulted on the impact of AEOI agreements with the 44 early adopters[6] of the CRS on UK financial institutions and on the best way to implement the agreements through regulations (HM Revenue & Customs, 2014). Again, interest groups raised concerns about the burden and costs of continuous due diligence, data management and reporting (ABI, 2014a; BBA, 2014a). This was also related to complications and costs when firms have to comply with multiple regimes such as the EU Savings Tax Directive, FATCA, the UK-CDOT agreements and the Common Reporting Standard (ABI, 2014a; AIMA, 2014a; BBA, 2014a; ILAG, 2014a) and the claim that the CRS requires more data than the other standards

[6] Anguilla, Argentina, Belgium, Bermuda, Bulgaria, the British Virgin Islands, the Cayman Islands, Colombia, Croatia, Cyprus, Czech Republic, Denmark, Estonia, the Faroe Islands, Finland, France, Germany, Gibraltar, Greece, Guernsey, Hungary, Iceland, India, Ireland, the Isle of Man, Italy, Jersey, Latvia, Liechtenstein, Lithuania, Malta, Mexico, Montserrat, Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, South Africa, Spain, Sweden and the Turks & Caicos Islands.

(ABI, 2014a; AIMA, 2014a; BBA, 2014a; BSA, 2014a; Henderson, 2014a; STEP, 2014a), as well as more verification (AIC, 2014a; BBA, 2014a; BSA, 2014a; Henderson, 2014a), which costs more (IFDS, 2014a; Nationwide, 2014a; STEP, 2014a). In a similar vein as for FATCA, interest groups asked for flexibility to implement the standard in line with their business models (ABI, 2014a; AIC, 2014a; BBA, 2014a; BSA, 2014a; Fidelity, 2014a; IFDS, 2014a; IMA, 2014a; STEP, 2014a).

Also some of the CDOT jurisdictions showed signs of resistance in 2013 before they signed the AEOI agreements with the UK. The chief minister of Anguilla, Hubert Hughes, pointed out the hypocrisy he saw behind the UK's push for tax transparency in the CDOTs:

> "It is a matter of hypocrisy because when I look at the City of London – they should do something about that first and not try to shelter behind these little territories that are just trying to survive. We are not tax havens as such, we are offshore centres. The City of London is one of the biggest tax havens in the world – it is the biggest money laundering centre in the world." (Wintour & Watt, 2013b)

He suggested that the British government should look at the City of London first, before focusing its attention on the OTs. It is significant that the UK would push for information exchange with these jurisdictions despite their resistance, and before other countries around the world implemented widespread AEOI agreements.

Also for beneficial ownership transparency reforms, the level of rejection of the consultations was very low (see table 12), which could give a false impression of interest group agreement with reform proposals. According to civil society interviewee Nicolas, there were parts of the financial sector who were in favour of beneficial ownership transparency because it would help them comply with their AML due diligence (UKNGO05). This is in accordance with the findings of Meehan's study (2024) that regulated industries subject to increasing AML compliance burdens and costs saw beneficial ownership transparency as a way to simplify their due diligence processes. This perspective, however, ignores that also in the UK there were concerns among interest groups about the negative economic impacts of beneficial ownership transparency reforms from a competitiveness perspective.

Indeed, beneficial ownership transparency was not always a popular idea in the UK. In 2002 the UK government hired consultants to produce a report on the possibility of a system requiring disclosure of beneficial ownership, including through a closed or semi-open register (HM Treasury/DTI, 2002). The government subsequently carried out a public consultation on the report and found that the cost-benefit calculation clearly was in the former's favour – meaning there were too many disadvantages and costs and no clear benefits. Arguments against

beneficial ownership disclosure were that criminals would not provide true information and that the complexity of defining beneficial ownership would lead to misleading information being put on the register. The conclusion was that adding (intentionally or accidentally) wrong information to the register could harm investigations and hence there was no need to reform the disclosure regime (FATF, 2007). It is unlikely that the actual cost-benefit analysis has changed so drastically since the early 2000s, but the discourse has. The account of former civil servant Oliver is enlightening in this regard, as he shows how framing can change quickly depending on context. He explained that while the Treasury initially warned about the competitive disadvantages of beneficial ownership transparency, when they realised that David Cameron would push for reform in this area, they started to produce papers highlighting the reputational benefits of such an approach instead, arguing that the competition issues could be dealt with (UKCS01).

Interest groups did not necessarily agree with this. In line with the HM Treasury's findings from 2002, interest groups voiced concern during the 2013 and 2014 consultations that the UK's approach to beneficial ownership transparency could lead to competitive disadvantage of British companies (e.g. PwC, 2013b). The BBA said that it supported the leadership approach of the UK government, but that they needed to see similar efforts across the G8 to ensure there was no competitive disadvantage for UK companies:

> "An important consideration is how these proposals are complimented by similar initiatives across the entire G8. Whilst the BBA supports the UK Government taking a lead in developing these proposals, we would not wish for UK companies to be placed at a competitive disadvantage against their international peers." (BBA, 2013b, p. 1; also BBA, 2014b)

Also the International Financial Centres (IFC) Forum, an industry group representing members based in the CDOTs, said that it "accepts that the UK has made a political commitment to lead internationally in this area" (IFC Forum, 2014b, p. 3; see also IFC Forum, 2013b). Nonetheless the group warned that there are significant competitive risks for the UK because FATF actually does not require public access to the register, and therefore suggested to defer the decision of making the register public (IFC Forum, 2013b, 2014b). The IFC Forum then proceeded to be much more critical of the leadership approach, saying that a unilateral move would harm the UK's competitiveness:

> "A unilateral move to engage in centralised collection of beneficial ownership data – and particularly to make such data public – would damage UK competitive interests. It would also reduce British influence in international dialogues over financial regulatory standards as other countries would lose the incentive to adopt reciprocal practices in order to receive such data from the UK.

> Protection of British national interests requires that adoption of such measures be internationally coordinated on a multilateral basis and not unilaterally adopted in the UK." (IFC Forum, 2014b, p. 1; see also IFC Forum, 2013b)

Also the Law Society warned that being stricter with its beneficial ownership transparency requirements than other countries could be a "serious disadvantage in terms of attracting new business to the UK" (Law Society, 2014b, p. 2; see also BVCA, 2013b). Many other interest groups also warned that the PSC register and concerns around confidentiality or the compliance costs might deter new investment, in structural power fashion (BVCA, 2013b; ICAEW, 2013b; IFC Forum, 2013b; AIMA, 2014b; BBA, 2014b; Law Society, 2014b; PwC, 2014b). As the IFC Forum put it:

> "International entrepreneurs, wealth creators and investors may be deterred from making UK investments or using and establishing UK companies by the obligation to make their personal ownership of private assets public knowledge. Investors will prefer using foreign companies (not covered by UK rules) to invest in the UK, with possible adverse implications for UK tax collections." (IFC Forum, 2014b, p. 3; see also BBA, 2013b; IFC Forum, 2013b; Law Society, 2013b; BBA, 2014b; STEP, 2014b)

The representative body of the wealth management industry, STEP, warned about the adverse implications for the advisory industry who risks losing business:

> "The result of the UK 'going it alone' could well therefore be that the UK advisory community will suffer a significant loss of business in the trust and company services sector as holding structures move overseas." (STEP, 2014b, p. 1)

From a more recent perspective with regard to the ECJ judgment, Isabella, an interviewee from the wealth management sector, criticised that the UK might lose business if EU countries offer the benefits of anonymity, and the UK does not (UKFS03).

There was also a lot of concern about the administrative burden and costs of implementing the PSC register and complying with it – as there had been for EOI regulation – with this being one of the most dominant codes from the analysis. Interest groups voiced doubts about the accuracy of the Impact Assessment, saying that the costs would likely be much higher than what the government estimated (IFC Forum, 2013b; IFC Forum, 2014b; Law Society, 2014b). Costs and burden would be related to the frequency of reporting (BBA, 2014b; Law Society, 2014b), the complexity of the reporting process (BBA, 2014b), and the cost of chasing unresponsive clients to ascertain beneficial ownership information (BVCA, 2013b; IFC Forum,

2014b). Further, there was concern about the burden of having to regularly review customers' protection status (PwC, 2014b; STEP, 2014b) and verifying beneficial ownership information (ICAEW, 2013b). Particular concern was voiced about the burden the PSC register requirements would represent to SMEs (Capita, 2013b; Law Society, 2014b) but also large companies whose information was already public (BBA, 2015). Some interest groups questioned whether the register made sense from a cost-benefit perspective, for example PwC:

> "Any changes should balance the aims of increasing transparency, making the UK an attractive location for foreign investment and not creating additional burden on companies. We believe that creating a new PSC public register will increase administrative burden on companies in terms of collating, storing and updating the information, with questionable tangible benefit. We would therefore urge the government to conduct a cost benefit analysis prior to any introduction of a PSC register, and consider other practical solutions." (PwC, 2014b, p. 8; see also Law Society, 2013b)

Not only business interest groups expressed concern. The British government's push for beneficial ownership transparency was met with rejection by the OTs in particular. The Cayman Islands resisted the UK's request to provide law enforcement direct access to beneficial ownership information. They argued that it would put the country at a competitive disadvantage with others who do not grant the same access (Houlder, 2015). Bermuda rejected the idea of making its existing central register public. The deputy premier and Finance Minister Bob Richards accused the UK of demanding something from the dependencies that they themselves had not sorted out yet. He said the "UK should get its own house in order before making demands from its dependencies" and:

> "You have more billionaires resident in London than any place on earth. They are not here for the weather, they are here for the tax climate. We have a double standard going on here. […] We have a much more transparent, much cleaner system than the countries that promulgate these rules in the first place." (Garside, 2017)

Some OTs reacted very critically to the draft Order in Council, saying that first, a public register would put them at a competitive disadvantage compared to other financial centre jurisdictions without such registers, and that the Order would undermine their right to internal self-government (Hatchard, 2018).

The administrative burden of implementing the ROE was less thematised than during the PSC register consultations, with just some interest groups cautioning about the costs and burden imposed on legitimate businesses and commercial activities (Law Society, 2017; Law Society of

Scotland, 2017; PwC, 2017). This likely has to do with the already existing infrastructure through Companies House and with the fact that just foreign companies are affected. Some interest groups, however, warned that a public register could impede the competitiveness of the UK property market, due to increased effort and compliance costs (GAT, 2016; JFA, 2016; JFL, 2016; BBA, 2017; IFC Forum, 2017; PwC, 2017).

In sum, according to many interviewees and the government, the UK assumed a leadership role in transparency reforms because the reputational benefits trumped the potential economic disadvantages. This in particular because the UK financial industry allegedly was less reliant on the type of business affected by transparency regulation. It is, however, unclear why government and businesses in the UK would find the reputational benefits more important than the burdens and competitive disadvantages of a comparatively strong tax and financial transparency regime – which have indeed been highlighted by industry and the OTs. One could now argue that the private sector is less politically powerful in the UK, with the consultation process being less important as several interviewees highlighted, and the policymaking process being more centralised (Hopkin & Shaw, 2016). This and the fact that UK consultations often focus on a number of concrete questions, which might leave less room for outright rejection of a proposal, could explain why instrumental power failed. However, also from a structural power perspective it is unclear why the government proactively took a leadership role despite the country being such an important location for company formation (Collin et al., 2023) and real estate investment and number two for wealth management in terms of size (Deloitte, 2021). Not only small wealth management service providers are affected by the transparency regulations, but so are law firms, company service providers, banks, and insurance and investment firms. The consultation submissions, a useful data source with rich information that has not previously been analysed, give an indication of the concerns that interest groups had about the negative business impacts of a transparency leadership role. The claim that industry simply was not that concerned nor affected hence does not hold.

5.2. Just a matter of context?

The argument around industry being less concerned and/or less politically active or influential is not the only explanation for the UK's leadership that I came across in my research. An approach focused on how high salience can restrain business power (Kastner, 2018; Massoc, 2019; Woll, 2013) would argue that the UK's leadership approach emerged in a particular political and economic context which pushed the British government to adopt their particular stance, even against instrumental and structural power. I claim that the escalation of the UK's transparency leadership efforts in the 2010s cannot be understood without reference to the public scandals and increasing salience through media coverage – about the financial crisis and

leaks such as the Panama Papers – and increasingly organised and vocal civil society campaigning (Kastner, 2018). I argue, however, that again this is only a partial explanation.

The financial crisis – whose negative impact on the financial sector's reputation I highlighted above – followed earlier concerns about terrorist financing after 9/11 which also raised the profile of the illicit finance topic. The 2002 HM Treasury report on the cost/benefit analysis of beneficial ownership transparency explicitly refers to the value of identifying beneficial owners for counter-terrorism efforts (HM Treasury/DTI, 2002). Data leaks and the increasing investigative journalism on financial crime in the 2010s further helped to bring issues around tax evasion and money laundering to the front pages (Oei & Ring, 2018). The Panama Papers in 2016 revealed that shell companies based in the CDOTs were used to facilitate tax evasion, organised crime, money laundering and terrorist financing. David Cameron was personally affected by the leaks as they revealed that his father was connected to an offshore fund, following which Cameron published his tax records. He also shortly after presented himself as an anti-corruption and anti-tax evasion champion in the context of the London Anti-Corruption Summit (Shirbon & Piper, 2016). Erin, an interviewee from the political field, confirmed that there was a lot of pressure on the UK following leaks such as the Panama, Paradise or Pandora papers (UKPOL03). Also Harry, a financial sector representative, said that the UK had to show to be a "best citizen to get those places [the CDOTs] to be more transparent", given the public attention from the leaks (UKFS02).

During the financial crisis, a broader platform of media, politicians and development organisations came together (UKNGO02). The financial crisis was also the impetus for movements like UK Uncut and Occupy. They pushed the idea that spending cuts as part of austerity were unfair when large corporations and rich people were not paying their fair share of tax (Occupy London, 2011). Interviewees highlighted the increasing salience at the time as an important part of the explanation for the UK's leadership approach. According to civil society interviewee Nicolas, even right-leaning politicians started using language around tax avoidance and evasion as a tool to respond to public anger in light of austerity policies. They created a public enemy in the rich tax evader (UKNGO05). Former politician Aaron confirmed this, saying that there was a sense that everyone should do their bit in addressing the fallouts from the crisis, and this included addressing tax evasion and tax avoidance (UKPOL01). According to Charlotte from civil society and politician Mia, exposures about Vodafone, Google and Starbucks avoiding their taxes further contributed to these issues being on the public radar and the coalition government understood the popularity of challenging tax avoidance and evasion (UKNGO06; UKPOL02). There was also pressure in this regard due to the uprisings and changes of government in Ukraine, North Africa and the Middle East in the early 2010s. Nicolas explained that some of these new governments approached the UK and asked for the money that had

been stolen and hidden by British financial sector actors, which created awareness about hidden assets in the UK (UKNGO05).

The fact that these moments of crisis matter has more recently been confirmed by the fact that the ROE was stalled for a few years until Russia's invasion of Ukraine in early 2022 created a lot of attention for the Russian oligarch money that was hidden in London. The ROE was subsequently fast-tracked in parliament, but without this political crisis and the salience that was created following it, this probably would not have happened (Heywood, 2022). Author Oliver Bullough stated that "[i]f the government actually cared about oligarchs owning Belgravia, rather than about bad headlines, it would have passed this bill – with proper scrutiny – years ago" (Bullough, 2022). Also politician Mia said that the invasion in Ukraine was a catalyst for raising the issue (UKPOL02). Finance sector interviewee William confirmed that the focus on Russian oligarchs also led to a particular interest in sanctions and therefore a renewed focus on information exchange, which during the Trump presidency had taken a bit of a backseat (UKFS08).

CSOs could use the pressure and salience created by these various crises and scandals for their increasing campaigning on tax justice and financial crime issues (Baker & Wigan, 2017; Hatchard, 2018; Vaughan, 2019). We cannot understand what happened in the UK in terms of financial and tax transparency without reference to the strong and widespread civil society campaigning happening at the time. As early as 2000, Oxfam released a report titled 'Tax Havens: Releasing the hidden billions for poverty eradication' which laid an important ground stone for the tax justice movement (Oxfam, 2000), with civil society interviewee Hazel, who was herself closely involved in the movement, calling it a "landmark report" (UKNGO01). The Tax Justice Network was founded in the UK in 2003 and became a key player globally, with its important report 'Tax us if you can' being published in 2005.

Perhaps unsurprisingly, civil society interviewees highlighted the important role of NGOs at the time. According to Nicolas, when CSOs talked about automatic exchange of information and beneficial ownership transparency in the 2000s, many people said these reforms would never happen. According to Nicolas, "there is […] a story about civil society using a particular political moment and smart campaigning and building coalitions to push for and get concrete policy reform" (UKNGO05). A crucial campaign, launched in the beginning of 2013 in preparation for the UK hosting the G8 summit, was the If campaign, a coalition of 100 UK development charities and faith groups. The goal was to lobby David Cameron to use the UK's presidency of the G8 to get global leaders to take action on ending world hunger. As the campaign took a comprehensive approach, they asked to address the underlying causes of hunger, including tax avoidance and evasion (Ford, 2013; UKNGO01; UKNGO02; UKNGO04). Nicolas remembers that the coalition managed to get access to senior political figures, including

business secretary Vince Cable and some senior civil servants within the Treasury as well as the Metropolitan Police unit working on the proceeds of corruption (UKNGO05). Also in the lead-up to the 2016 Anti-Corruption Summit, civil society activism was strong. Robert Barrington, then-chief executive of Transparency International, highlighted that this was the closest an anti-corruption CSO had ever worked with top government (Wintour, 2021). Nicolas, who was closely involved in the preparation of the G8 summit, called the late 2000s and early 2010s the pinnacle of the power, access and influence of development CSOs in the UK (UKNGO05).

What helped civil society at the time was that Prime Minister David Cameron had taken a particular interest in development and the so-called golden thread theory, namely that long-term development through aid only happens if there is also transparency, a stable government, rule of law and an absence of corruption (Barder, 2012; UKPOL01). He explained how this links to anonymous companies in an interview in the context of the G8 summit:

> "I have been hugely influenced by the work of Paul Collier. I have been a follower of his for many years. What he writes about this issue is hugely powerful. Oil exports from Nigeria are many times the aid flows that go to many African countries. The extractive industry payments to developing countries dwarf the amount of aid they receive. We have got to make sure these minerals are a blessing and not a curse. Obviously you need honest government in those countries, but in the west we have a role to play. If you can still have shady secretive companies, we are simply not playing our part." (Wintour & Watt, 2013a)

Interviewees Oscar, Nicolas and Aaron confirmed that academic Paul Collier was an important influence on David Cameron (UKNGO02; UKNGO05; UKPOL01). The other influential organisation was the Centre for Global Development led by Owen Barder, whose views apparently had a big influence in the Cabinet Office, according to Oscar who has worked on tax-related issues for a long time (UKNGO02). The Centre for Global Development published the 'Fermanagh Declaration on tax, trade and transparency' outlining its expectations for the G8 summit, including a public beneficial ownership register and multilateral automatic exchange of information (Cobham & Barder, 2013). Cameron also writes in his biography about the link between shell companies, money hidden in property and the plight of developing countries:

> "Linked to all this was transparency. Without it you can't see who owns what, who pays what, or where money looted from poor or corrupt countries is hidden. You couldn't separate out the rich world and the developing world on this issue, because so often the stolen wealth was being hidden, for example, in the London property market. That's why I was so keen to legislate for a

> register of who owned what in Britain – the beneficial owners, the real flesh-and-blood people, not the shell companies they hide behind." (Cameron, 2019, p. 487f.)

Politicians Aaron and Mia as well as civil society representatives Oscar and Nicolas highlighted that Cameron personally played a crucial role in the transparency developments (UKPOL01, UKPOL02, UKNGO02, UKNGO05), with Nicolas highlighting that David Cameron was the one positioning the UK as a leader (UKNGO05). Cameron allegedly was looking for his own moment of global leadership, following Gordon Brown having hosted the G20 in London in 2009 where he declared the end of banking secrecy and shutting down tax havens. According to Oscar, transparency was also one of the potential topics of overlap and collaboration with Obama (UKNGO02). Aaron called automatic exchange of information "very much a David Cameron initiative" (UKPOL01). There is also something to be said about certain MPs who were and are pushing for reform in this area, with the role of Dame Marget Hodge MP and Andrew Mitchell MP being highlighted by Nicolas and parliamentary staff Erin (UKNGO05; UKPOL03).

In sum, a combination of increased awareness about the ills of tax evasion, tax avoidance and kleptocracy, the fallouts from the financial crisis, political uprisings, offshore leaks and a concerted civil society campaigning effort as well as amenable political leaders meant that tax and financial transparency reforms came to the forefront of UK policymaking. The story could technically end here. However, this chapter suggests that the political and economic context at the time was a necessary but insufficient condition and explanation for the UK's leadership role. It does explain why the UK undertook reforms, but it does not clarify why the country went beyond what most other countries – and in particular its financial centre competitors – did, or why they would pioneer reforms such as *public* beneficial ownership registers to become the international standard. Other financial and wealth management centres would also have been affected by the growing pressures and crises, and as the example of Switzerland shows (see chapter 5), this did not translate into a proactive approach to transparency. The strong civil society activism and David Cameron's role are more unique to the UK, but it is unclear why their global justice goals would have trumped structural power, business concerns and criticism from the CDOTs as highlighted above.

6. Leadership as distraction

This chapter suggests that, instead, what took place in the UK is a combination of *pusher* and *symbolic leadership,* and what I call here 'leadership as distraction'. The UK in the realm of tax and financial transparency cannot be classified as a *pioneer* leader as its efforts have not focused predominantly on the domestic sphere. UK governments have exercised cognitive and

entrepreneurial leadership externally as well. At first glance, the country can appear as a *pusher* (Liefferink & Wurzel, 2017), being both internally and externally oriented. As this section argues, the internal policy dimension is deficient. *Symbolic leadership* does not adequately describe the UK's role here either – certain domestic policy is strong while other aspects are lacking. This chapter therefore puts forward the concept of 'leadership as distraction' as a strategy that leverages both *pusher* and *symbolic leader* aspects.

'Leadership as distraction' describes how the policy goals promoted by the UK in its *pusher* role distract from the areas that are underdeveloped in its *symbolic leadership* role. Not only did the UK adopt a strategic leadership position to be able to shape the agenda setting and decision making on how the transparency reforms should look like concretely (in line with Daly's and Hearson's (2023) argument), but the country also used its leadership role to fend off other – more undesirable – reforms. The moral high ground of being a first mover and being recognised as such by standard setters such as the FATF lent additional power to the UK to distract from progress in other areas. Leadership as distraction manifests in two distinct ways: (1) distracting from concrete undesirable reforms, and (2) distracting from questions of effectiveness and enforcement – more precisely, using law in the books to distract from law in action (Pound, 1910). I will in the following elaborate on these two processes.

6.1. Distracting from undesirable reforms

The first hint of how the British government might have distracted from other, more undesirable, reforms has been documented by the media, with the main evidence coming from a letter a Conservative peer, Lord Blencathra, submitted to a consultation on tax transparency in the Cayman Islands in February 2014. In the letter he described Cameron's G8 tax transparency promises a "purely political gesture" and an attempt to distract both the EU and the G8 from other reforms that would potentially be harmful to the City of London. He started by describing the political context in 2013 when Germany and other EU member states were advocating for a financial transaction tax (FTT) (Hainey, 2015; Pegg & Ball, 2015). The idea behind the tax was to raise revenue for national budgets which had suffered during the financial crisis, as well as to dis-incentivise "short-term speculative behaviour" (Kalaitzake, 2017, p. 712).

According to Lord Blencathra, the FTT would have harmed the City of London significantly (Pegg & Ball, 2015). Chancellor of the Exchequer at the time, George Osbourne, also argued that the FTT would harm the City of London and negatively impact jobs, investment and growth in the UK (Monaghan, 2014). He said in 2014 that the UK would not implement the FTT and was ready to bring a legal challenge if the final FTT had any implications for the UK (see also Kalaitzake, 2017). This fits into what James et al (2021, p. 8) describe as "a more muscular approach to defending the City's interests in Brussels" post-financial crisis.

France was also at the time pushing for an EU blacklist of low-tax jurisdictions. According to Lord Blencathra, "[i]t was and is a top UK government priority to head that off" (Pegg & Ball, 2015), speaking about the FTT and the blacklist which would certainly affect some of the CDOTs. He went on to say that the British government knew from experience that it could not chair the G8 summit or enter EU negotiations by just rejecting these proposals. He said: "It has to present either a genuine alternative or a false initiative which will divert other MSs [member states] from pursuing their agenda" (Pegg & Ball, 2015). This alternative was the focus on tax and financial transparency, emerging from civil society pressure on the government (Pegg & Ball, 2015). The Conservative Party strongly rejected the Lord's suggestion that Cameron's leadership on transparency was not genuine:

> ""The PM led the world by putting tax and transparency at the top of the global political agenda, and was widely hailed by independent experts and commentators for securing significant progress, after Labour failed to act during its time in office," a spokesman said. "Our motivation was to secure a fairer deal for hard-working British families – and people around the world."" (Wright, 2015)

While the tax and financial transparency efforts were evidently not a false initiative or a purely political gesture, it makes sense that the British government's critical stance against the FTT would have been easier to defend while proposing other reforms. The example also shows that the UK's commitment to transparency and financial sector reform was not all-encompassing but focused on areas that the government deemed most appropriate – in this case automatic exchange of information and company ownership transparency.

The second, and better documented, example of distraction is the effort of the UK government to protect trusts from beneficial ownership transparency requirements. The trust is an important legal institution in the British wealth management field. A trust is "a legal arrangement in which a person or organization controls property and/or money for another person or organization" (Cambridge Dictionary, n.d.). A trustee manages the assets in the trust on behalf of the settlor and for the benefit of the beneficiary or beneficiaries. Trusts can be used for a variety of purposes, such as "tax reduction, investment, avoidance of regulation, control of a family business, directing the inheritance of assets, investment, and charitable giving" (Harrington, 2012, p. 828 f.). Trusts have a long tradition in the UK and first were established in the 11th century in England. Originally, they were mainly used by wealthy landowners to shield assets from creditors and safeguard them for the family. What makes trusts particularly interesting from a beneficial ownership transparency perspective is that legal and beneficial owner are separated in this legal arrangement. This leads to more obscure asset ownership. Trusts have since become a more formalised and professionalised affair (Pistor, 2019).

While different from corporations and other legal entities, the EU – through its AML Directives – committed to public registers for companies, foundations *and* trusts (Cobham et al., 2020). At the same time as the UK made big commitments to *company* beneficial ownership transparency in 2013, David Cameron wrote a letter in November of the same year to the president of the European Council, arguing for special treatment of trusts in the EU AML legislation. He argued that there are differences between companies and trusts that mean public beneficial ownership registers might not be appropriate for the latter. In his own words:

> "It is clearly important we recognise the important differences between companies and trusts. This means that the solution for addressing the potential misuse of companies, such as central public registries, may well not be appropriate generally." (Brunsden & Houlder, 2016)

A senior UK official said that a central register for trusts would have been complicated to implement and would distract from the primary goal of tackling shell companies. They also argued that trusts sometimes serve to protect vulnerable individuals which complicates matters further (Brunsden & Houlder, 2016; Stewart, 2016). According to civil society interviewee Nicolas, beneficial ownership transparency of trusts seemed to go a step too far for politicians and civil servants (UKNGO05).

Another civil society interviewee, Leo, explained that ever since the G8 summit in 2013 there was a constant struggle between the EU and the UK about the role of trusts, with the EU becoming more and more robust in their approach to trust transparency (UKNGO04). Members of the European Parliament as well as France and Austria accused the UK of holding double standards as they promoted certain transparency measures (for companies) but wanted to shield trusts from those same requirements. Judith Sargentini, a lawmaker from the Netherlands who led the parliament's drafting of the law, said: "I saw it [the British position] as a danger and a possible loophole. […] Some member states saw it as an underhand way for the UK to get an advantage" (Brunsden & Houlder, 2016; see also Stewart, 2016). Interviewee Nicolas highlighted this conflict with certain EU member states and questioned the UK's leadership role:

> "Although interestingly the UK was very reticent to do anything on trusts. And so again you saw this like, yes companies, no trusts. And some of the other European countries were like, this is massively hypocritical because you are making us open up all our company data but you're not willing to make movement on trusts. So again, you can see, it's not clear or straightforward in terms of the UK is always the champion of transparency." (UKNGO05)

Nicolas highlighted how other European countries criticised the UK's hypocrisy, the government pushing for company ownership transparency but protecting its trust industry. Civil society interviewee Charlotte said that this is precisely the reason why the UK went along with many transparency measures, as industry had trusts to get around them:

> "But I think the other thing with Britain is that they went along with quite a few transparency measures because the whole industry has had lots of opportunity to prepare and gear up even more than they were before. The whole new trust world which creates new earning opportunities for the finance sector in all the jurisdictions, satellite havens plus London. They know they can shift and have shifted a lot of activities into trusts because they knew this was coming, they couldn't resist pressure all the way." (UKNGO06)

Charlotte highlighted that the trust industry might have even benefitted as a result, and therefore doubted the UK's leadership position:

> "Because you know Cameron got all that credit for oh, it's great isn't it, he's leading on anti-corruption measures. But actually it wasn't really what he was doing. Because he was tackling one type of secrecy, knowing that trusts is a huge area and everyone will just go to the trusts, so no loss of earnings really, if anything an increase in earnings potentially, as beneficial ownership was being discussed. […] So yeah I wouldn't be applauding the British government at all personally. I think we've been terrible, one of the world's worst." (UKNGO06)

She suggested that when Cameron pushed for beneficial ownership transparency, he could take credit for his leadership role while knowing that trusts will be the way around the regulation.

In the end the UK did put in place a Trust Registration Service (TRS) as well, to comply with the EU's 4th AML Directive. This register is anchored in the 2017 Money Laundering Regulations (FATF, 2018). The TRS is an online register where trusts must be listed with the tax authority HMRC. The TRS "uses a slightly different definition of beneficial owners, including the trustees, settlor, named beneficiaries and those beneficiaries who have benefitted from the trust, as well as any person who has significant influence or control over the trust" (Douglas & Layard, 2022). The EU's 5th AML Directive requires public accessibility to trust information (Douglas & Layard, 2022; STEP, 2022). Back in 2019, the UK Joint Select Committee recommended that the TRS be publicly accessible, to prevent trusts being used to launder money:

> "We heard evidence that trusts might be used to circumvent the obligation to register contained within the draft bill. This possible loophole is worrying, and, to allay these concerns, the government should set out in detail in its

> response to this report how it intends to counteract this possibility. […] Because of its importance in preventing the use of trusts in money laundering, we recommend that the TRS be publicly accessible." (Secretary of State for Business Energy and Industrial Strategy, 2019)

The government declined to follow this advice and decided that only those who can prove a 'legitimate interest' in furthering work to counter money laundering or terrorist financing activity can access the TRS's information. This allegedly to protect the privacy rights of trust beneficiaries, who often are children or vulnerable individuals (Douglas & Layard, 2022; Secretary of State for Business, Energy and Industrial Strategy, 2019; STEP, 2022). The government specifically justified this stance with the argument that the UK was already acknowledged as AML leader. They referred to the 2018 FATF evaluation which found that the UK had the strongest AML regime of the 60 assessed countries. The government report said "the UK is a global leader in promoting corporate transparency and has a good understanding of the Money Laundering / Terrorist Financing risks posed by legal persons and arrangements" (Secretary of State for Business, Energy and Industrial Strategy, 2019). This is a good example of how the UK's *pusher* role in certain policy areas could be used to diminish concerns about or distract from it lacking in others.

The issue of trusts also emerged in relation to the ROE. This because overseas companies owned by trusts are exempt from the public beneficial ownership declaration duty (Stylianou, Dahlgreen, et al., 2023). According to a research paper (Advani et al., 2023), around 27% of overseas entities (linked to 69,000 properties) belong to a trust structure, which means their beneficial owners are not made public (see also Rosca & Kozyreva, 2023). Labour party MPs, campaigning groups and members of the House of Lords called to reform the ROE to ensure that beneficiaries of trusts also need to be made publicly known (UKPOL02). In response, the Treasury and the Department for Business sent a letter to Lord Theodore Agnew cautioning to not make this information available to the public without consulting on it first, with reference in particular to the right to privacy (Louch & O'Murchu, 2023). The consultation was launched on December 27th, 2023, seeking options of making the information available to the public as far as possible, while honouring the principle of privacy. In the Ministerial foreword, reference is made once again to the UK's leadership in these matters, calling the PSC register "the first of its kind", saying the Economic Crime Act 2022 and the Economic Crime and Corporate Transparency Act 2023 which established the ROE "strengthened our national reputation as a place where legitimate business can thrive", and calling this progress, including the Trust Registration Service "world leading" (Department for Levelling Up, Housing and Communities, 2023). Again, the UK government used its leadership status on certain issues to argue against or distract from undesirable reforms.

6.2. Distracting from questions of law in practice and enforcement

Apart from the UK using its leadership position to fend off undesirable reforms in the form of the FTT, blacklist and public transparency of trust ownership, there is a more general story to be told about how a leadership reputation can distract from how legislation is actually enforced. There is a lot of scepticism about the UK's leadership position when it comes to law in practice, which can make us question to what extent the UK just pays lip service to transparency while allowing business as usual – being a *symbolic leader*. When prompted about the UK's leadership role, interviewees across sectors expressed scepticism about the actual effectiveness of implementation in the UK. They highlighted that the UK pretends to be compliant by putting in place the right laws but that it does not necessarily do much to enforce the rules (UKCS01; UKFS01; UKFS04; UKNGO05). In Jason Sharman's words, "Britain has strong laws and weak enforcement" (Rutter Pooley, 2022).

Interviewees also debated what Cameron's motivation was behind his proactive stance on transparency. According to civil society representative Oscar, Cameron was not a man of conviction but just saw an opportunity (UKNGO02). Charlotte doubted Cameron's moral awareness and said that he cannot be credited with much (UKNGO06). Financial sector interviewee Thomas, whom I initially met at a wealth management conference, expressed that it was a case of "politics over reality, typical grandstanding" (UKFS06).

The question of law in the books v. law in practice is also related to the international standard setters. According to former civil servant Oliver, one of my first interviewees and having a wealth of experience, the FATF reviews are about the country adhering to a certain set of standards but are limited to formalism and not effectiveness. International reviews can therefore provide countries with the air of being compliant which means they can get away with doing less in practice. He explained how this clean bill of health by FATF could be used strategically by the UK government to fend off further reform:

> "I've mentioned in the past that I think one of the worst things to happen to us was the gold star that we got from the FATF. If you remember back in about 2017-18, we had our fourth-round review and it was so good that the Treasury, there's this famous press release from the Treasury saying that FATF now has awarded the UK the strongest anti-money laundering system in the world. […] In [our agency] we knew that that would instantly mean the Treasury would kind of take the foot off the accelerator and say, well, we don't have to worry anymore. FATF has given us a clean bill of health. We're the best in the world, and this is on effectiveness. So we're implementing

> everything fine. And those of us in [the agency] just couldn't understand how FATF could come to that sort of view." (UKCS01)

Oliver highlighted how this good rating by FATF did not match the reality of dirty money in London:

> "And yet, at the same time, the real-world impression of London was this sink of dodgy Russian money which has now been proven. And that says more about the, not the quality of the FATF review, but almost the entire principles on which FATF runs, which is that you need to adhere to a certain set of things. And London illustrates, you can still appear to do those and at the same time still manage to do the dirty work underneath." (UKCS01)

This made him question the value of FATF peer reviews and the success of the UK therein:

> "And that raises questions about the value of, or the permanence of a FATF review exercise. I think this needs to be looked at a lot more and it is meant to be on effectiveness, not just the kind of formalism of the process. So we were kind of, surprisingly we were probably the only ones in the UK who were disappointed, the only ones in government who were disappointed to have such an unqualified success. You know, we knew that the implications of that would be, well, there's nothing to look at here anymore. Now we've got a clean bill. And so I think that that again illustrates how, despite all the mantras and the kind of PR words that fly around underneath, the real kind of dynamics of financial interest and financial benefits are still clearly circulating." (UKCS01)

Oliver suggested that the positive FATF review resulted in the UK government being able to stop making an effort, as they had received the official stamp of approval. Academic research has also criticised that "the FATF efforts have almost entirely been focused on formal compliance" (Halliday et al., 2019, p. 8) instead of effectiveness. And Pascal Saint-Amans (2023), former director of the OECD's Centre for Tax Policy and Administration, lamented that FATF peer review reports were not nuanced enough to ascertain whether a country was performing well or not.

Critics like Oliver say that therefore industry finds a way around the regulation, something that was also mentioned various times informally at industry conferences I attended in London as part of the research. When asked during the networking breaks what my first research results were, I told attendees about the apparent leadership position of the UK in these regulatory matters. Some individuals reacted with scepticism, alluding to the fact that laws are in place but that there are ways around them and it does not mean they are enforced. Civil society

interviewee Hazel suggested that the lobbyists and big accountancy firms propose a certain design of law so that the UK can claim they are complying with the international standard while the finance sector can carry on doing what they were doing before:

> "And then you get the lobbyists, the technical corporate lobbyists […] and the big accountancy firms saying look, if we design it like this and like this we can say we're doing it but actually we can carry on doing what we were doing before. So that's my take on UK government leadership on it." (UKNGO01)

There are concrete recent doubts about the UK's leadership on anti-financial crime. Patrick Wintour, Diplomatic Editor at the Guardian, said in 2021 that the UK had lost its leadership role. Symptomatic of this for him are the lack of use of Unexplained Wealth Orders[7], the underfunding of the Serious Fraud Office (SFO) and the failure to properly police Companies House (Wintour, 2021). Also author Oliver Bullough supports this view, criticising the underfunding of the National Crime Agency (NCA) and the SFO (Bullough, 2022). Wintour quotes Ed Lucas, senior fellow at the Centre for European Policy Analysis, who testified in front of the US Congress' foreign affairs committee and called the UK's approach to anti-financial crime "dismally ineffective", adding that "[i]t should be a source of national shame that London remains the money-laundering capital of the world" (Wintour, 2021). A Financial Times article stated that the problem in the UK with regard to dirty money was not a lack of laws but the failure to enforce them, with a lack of resources given to enforcement agencies being a key issue (Rutter Pooley, 2022). The article concludes that the UK is only serious about financial crime on paper:

> "Putting in place rules and then failing to allocate the resources needed to enforce them sends the signal that the UK is only serious about serious economic fraud and money laundering on paper, not in practice. If the UK commits properly to robust enforcement instead, that will act as a deterrent for the next regime that wants to conceal its money in the capital. If it does not, Londongrad will still stand." (Rutter Pooley, 2022)

Interviewee Henry, whom I met at a UK wealth management conference, explained that enforcement was weak in the UK in comparison to other financial centres:

> "I get the impression that the UK kind of pays lip service to compliance while Switzerland and the Crown Dependencies take it very seriously." (UKFS04)

[7] "An unexplained wealth order (UWO) is an investigatory order placed on a respondent whose assets appear disproportionate to their income to explain the origins of their wealth" (HM Treasury et al., 2023).

Nicolas criticised that while the laws are in place, the enforcement is lacking. The laws on paper have changed but Nicolas doubted whether that had changed anything in practice:

> "There is still a big wealth management industry in the UK both for domestic wealthy people but also for international wealthy people who have a non-dom regime still. You only need to go round certain parts of London to see huge amounts of wealth of possibly dubious sources. And I think that's probably the biggest critique I would make about the work I did is yes, we changed the laws on paper, yes we got some more legal transparency, but has that actually reduced or changed the flow of dirty money, particularly if it's not matched by sufficient enforcement and resources?" (UKNGO05)

The fact that the OTs missed the end of 2023 deadline to establish public beneficial ownership registers is a case in point for civil society interviewee Charlotte that we should only look at the actions and not listen to the talk:

> "Words are very nice. And then, if you look at actions, there still aren't public registers of beneficial owners, I think, in the OTs and CDs. So you know a very wise person told me once, don't listen to what they say, only look at the actions. So if you apply that logic then it doesn't really matter what the words were, the actions are, there haven't been any actions really. And yes there is a lot of talk." (UKNGO06)

She confirmed that there have been commitments to beneficial ownership registers in the CDOTs but that we should just focus on their actions – which have been lacking. Christensen and others have even questioned whether the UK really pushed the OTs enough on their beneficial ownership transparency commitments (Christensen, 2019). Wintour at the Guardian called the pressure "at best sporadic" (Wintour, 2021). The recent sentencing of former British Virgin Islands premier Andrew Alturo Fahie to 11 years in US prison for facilitating cocaine-trafficking and money laundering certainly makes his 2020 promise of introducing a public beneficial ownership register seem less genuine (Shiel, 2024).

Also with regard to EOI in the CDOTs, former civil servant Oliver cautioned about making assumptions about a country's actions based on its formal laws. About the Cayman Islands, he said:

> "They always want to demonstrate they are above the standard being imposed on everybody. So their laws will look absolutely perfect. There'll be very, very few loopholes that experts can see. But that formalism, I think, is almost a veneer. And one should be looking at the practice." (UKCS01)

A case in point for this lack of effectiveness of the transparency reforms is the January 2024 ranking by Moody's for shell company risk where the UK – at first glance surprisingly – ranked number one (FinTech Global, 2024). Another example is that illicit money for example from Russia is still reaching the UK, as interviewees highlighted (UKCS01; UKNGO01; UKNGO05), which led Oliver to say:

> "There's that dissonance between the public persona of London is entirely clean and we rest on our principles and integrity, and yet we still see the business coming through. We still see the illicit flows from Russia coming and coming through." (UKCS01)

In summary, the UK used its *pusher* role to practically steer reforms away from regulation it did not want – e.g. the FTT, blacklists and trust transparency, and it used the moral high ground gained from establishing itself as a transparency and AML leader to distract from its persistent shortcomings as a *symbolic leader*, i.e. in terms of implementing and enforcing the regulation.

7. Conclusion

The UK took a surprising proactive and leadership approach on tax and financial transparency, going beyond what most other countries and especially competitor financial centres did. This chapter, one of the first in-depth explorations of the UK's approach to exchange of information and beneficial ownership transparency, suggests that the composition of the British financial sector and its alleged limited instrumental and structural power and the particular political and economic context at the time are insufficient explanations for why the UK acted this way. Instead, I argue that taking a proactive *pusher* role brought reputational benefits that allowed the UK to not only establish the tone of international standard setting and act as a role model for other countries, but also to resist other reforms that were seen as more harmful to the City of London and the CDOTs. This tactic further served to distract from the question about how transparency measures are actually enforced.

Leading the way means that other countries and international standard setters might follow the path the UK sets as an exemplary leader. The frequent direct reference to the UK's leadership role proved to be a powerful rhetorical device, which was used to fend off criticism and demands for further reform. These findings have relevance for theories of leadership. Notably, a country is not necessarily a leader on *all* aspects of a policy regime. Indeed, it can be useful to lead on certain areas in order to distract from others. A focus on 'leadership as distraction' may lend more analytical clarity to when, where, and why countries assume leadership roles while also revealing the potential limits and blind spots of such reform efforts.

The findings have further implications for theories of business power and our understanding of how governments can reconcile pressures to implement international standards with the

imperative to protect their most important economic sectors in the recursive processes between global norm making and domestic lawmaking. This chapter showed that it is not a zero-sum game, and governments can use regulation that seems to contradict structural or instrumental power theories to protect industry in other ways. In fact, in times of heightened salience, when a government must be seen to be doing something about a given issue and global norm making takes place, they can strategically focus on less harmful regulation. The chapter therefore suggests that structural and instrumental power might not necessarily manifest in an effort to regulate less overall. Instead, different forms of business power might display in a government's effort to regulate more in certain areas (the less harmful ones) in order to regulate less in others (the more harmful ones). Businesses also negotiate the tension between the reputational benefits of stronger regulation and the economic costs of it, a balance which can shift depending on the political context and the strength of the transnational legal order. This tension was even more pronounced in the Swiss case and will be the subject of chapter 5. This perspective highlights the value of not only studying structural power from a domestic perspective but looking at the interconnections with global processes.

Further, the recursive processes between domestic lawmaking and global norms are not forcibly exclusive. Processes of conversation, alignment, resistance and contradiction can happen simultaneously, with the UK being a good example of that. Alignment with and active promotion of global norms such as company ownership transparency and automatic exchange of information took place at the same time as resistance against transparency of trusts and regulation such as a Financial Transaction Tax. Further, no matter how quick or enthusiastically a country adopts and implements global norms, contradictions and indeterminacies can still exist. Chapter 6 on the politics of transparency will demonstrate this further by discussing issues around resistance, gaps and inconsistencies in the transparency reforms in Switzerland and the UK.

Finally, this chapter demonstrates limits and paradoxes of transparency efforts. Transparency does not equal enforcement and the availability of information therefore does not necessarily mean the information is accurate or being used. As financial and tax affairs have been subject to increasing transparency efforts, it is worth reflecting on what transparency does in the fight against financial crime. The question emerging from this analysis and in particular the 'law on paper' debate is whether transparency is the right or a sufficient approach to tackle tax and financial crime, and what transparency actually means. This chapter focused on the government perspective while integrating insights into how the professional and financial services industry actors reacted to the transparency efforts. In order to explore these aspects further, chapter 6 will explore the political struggles about transparency that took place in the UK and Switzerland in the context of these reforms. The chapter has also shown that the protection of privacy

rights was an important argument against public transparency of trust ownership – a topic which will be discussed in more detail in chapter 7.

Chapter 5: The Competitiveness Tension – Tax and Financial Transparency Reforms in Switzerland

1. Introduction

The previous chapter outlined the UK's approach to tax and financial transparency and highlighted its surprising leadership role. This chapter will do the same for Switzerland but is motivated by a slightly different puzzle. Switzerland's reaction to international developments on exchange of information and beneficial ownership transparency has been more predictable: as number one on Deloitte's wealth management centre ranking (Deloitte, 2021) in terms of size and one of the world's oldest financial centres and the birthplace of the famous Swiss banking secrecy, Switzerland has been a slow adopter of transparency standards. The country for a long time was a major opponent of international administrative assistance and above all automatic exchange of information (AEOI) (Eggenberger & Emmenegger, 2015). Switzerland has also lagged behind heavily on beneficial ownership transparency, having resisted the trend of centralised beneficial ownership registers until very recently. In other words, the relationship between domestic lawmaking and the global transparency norms was one of resistance.

This falls in line with the instrumental and structural power of wealth management and private banking in the country and the ideological commitment to privacy and confidentiality. In 2007, shortly before the transparency reforms kicked off at the international level, financial service providers based in Switzerland managed assets worth over 7 trillion Swiss francs, 13 times the Swiss GDP (Eggenberger & Emmenegger, 2015). The famous banking secrecy was established in the 1700s and anchored in law in the 1930s (Eccleston, 2012). Under it, banks and their employees are by criminal law prohibited from disclosing information about a customer account without that customer's agreement (Eggenberger & Emmenegger, 2015). Between the two World Wars, the amounts of offshore wealth managed by Swiss banks increased more than ten times (Zucman, 2015). At the time, foreign governments did not attempt to attack the status of Switzerland as a safe place for foreign capital (Farquet, 2016). Over the decades, the government has vigorously protected the banking secrecy (Eccleston, 2012) (see chapter 7).

This changed after the 2008 financial crisis when, following international pressure, Switzerland gave in to some transparency reforms, albeit more slowly than other jurisdictions. Today it no longer lags behind on automatic exchange of information and has recently conducted a consultation on a centralised beneficial ownership register. This is particularly impressive because many of the reforms seemed unthinkable not too long ago and were labelled such by prominent individuals. In spring 2009 for example, the Swiss Council of States had an extensive debate, during which the general sense among parliamentarians and the Federal Council was that AEOI would not come into place and there was a consensus about the need to protect banking

secrecy. Swiss Federal President at the time, Hans-Rudolf Merz, spoke out clearly against AEOI and noted that a few EU member states also doubted the usefulness of it. Some members of parliament were very critical of the pressure exerted on Switzerland, and in particular of the crude language used by then-German Finance Minister Steinbrück which infuriated many (Ständerat, 2009). In 2008, Merz directed a clear message to other countries and left-wing politicians who wanted to loosen banking secrecy: "*An diesem Bankgeheimnis werdet Ihr euch die Zähne ausbeißen*", which means as much as banking secrecy is a nut too hard to crack (Der Spiegel, 2008). With regard to beneficial ownership transparency, the prospect of a central register until very recently seemed unrealistic. Individuals interviewed before the consultation on the register was announced spoke rather pessimistically about the chances of it happening in Switzerland anytime soon (CHFS02; CHFS07-08; CHNGO02). This chapter therefore asks:

> Why has Switzerland given in to increasing tax and financial transparency reforms despite its initial strong resistance?

The chapter finds that in the context of the pressure to become compliant with international transparency standards, Switzerland's competitiveness as a financial centre seemed to be at stake. Competitiveness was by far one of the most prominent themes in the Swiss consultation submissions analysed for this research and is at the heart of this chapter. The Swiss government found itself in a tension between pressure to catch up with international standards – for reputational and material reasons – and the concern that transparency regulation itself might harm the country's competitiveness and in particular its financial sector. There was a diagnostic struggle about what is better for the country's competitiveness – and what I call the competitiveness tension: giving in to international pressures in order to fend off reputational damage and sanction threats and making reputational gains versus underregulating in international comparison and maintaining a level playing field with other financial centres. These diverging views have to do with different actors having different needs in terms of maintaining their competitiveness: for example, for industry and for large banks it turned out to be increasingly important that Switzerland has a good reputation as being internationally compliant, while for smaller actors in the wealth management sector, their reputation as maintaining high levels of discretion and confidentiality is what is seen to set them apart against their competitors in other countries. Through the analysis of new data in the form of consultation submissions, parliamentary debates and original interviews, this chapter provides unprecedented insights into the internal struggles on the path to increasing transparency.

This chapter argues that the international pressure on Switzerland to become more transparent and participate in international anti-tax evasion and anti-money laundering (AML) efforts came to outweigh the other domestic pressures in favour of regulating less. The shifting balance in the diagnostic struggle about the competitiveness tension, with powerful industry and finance

sector actors being in favour of international compliance, led to previously unthinkable transparency reforms since the 2008 financial crisis. Resistance shifted from outright rejection to smaller acts of opposition.

The next section will review what previous literature has said about the question of why states comply with global norms. The chapter will then go on to elaborate how international pressure has played out in both policy areas – exchange of information and beneficial ownership transparency – and led to impressive policy reforms in Switzerland. The following section contrasts the two sides of the competitiveness tension and outlines the diagnostic struggle that took place in Switzerland. Using the case study of stolen data, the chapter then illustrates how the balance between the poles can shift over time.

2. Why do states comply with transnational legal orders?

While the previous chapter on the UK asked the question why and how countries might take on a leadership role in transnational legal orders (TLOs), this chapter asks why countries comply with TLOs and their global norms. Keohane (1984) calls this the 'puzzle of compliance', the question why states comply with international regimes when the rules go against their self-interest. Switzerland has been so strictly against tax and financial transparency for so long that recent developments beg the question: why has the country in the last 10-15 years undertaken such drastic change? International relations and international legal scholars have explored these questions in relation to a variety of regimes.

The general idea of these theories is that states "comply with international law because the benefits of cooperation outweigh the short-term costs of compliance" (Brewster, 2009, p. 231). The benefits of abiding by an international regime are weighed against the expected compliance costs (Hathaway, 2005). The ultimate threat is the exclusion from future cooperation but this threat does not work if collective action is needed in the first place to address the issue at hand (Brewster, 2009). This is the case for the TLOs on tax transparency and AML – their success depends on states participating and collaborating, given the cross-border character of tax evasion and money laundering.

The incentives for compliance therefore must be about something else. According to a TLO and recursivity of law perspective, international organisations influence domestic policymaking through factors such as normative influence, persuasion and coercive pressure (Halliday & Carruthers, 2007; Liu & Halliday, 2009). Keohane (1984) suggests that states comply with international rules because of social pressure and retaliatory action by other states. Rationalist scholars believe that states comply because it is in their interest, for one of three reasons: "(1) the agreements are in the state's immediate interests (there are no benefits to defecting); (2) the other parties to the agreement will retaliate against non-compliance; or (3) the state wishes to

preserve its reputation for abiding by agreements" (Brewster, 2009, p. 235). As for Switzerland tax and financial transparency regulation is not in their immediate interest as it would mean adjustment costs and reduced attractiveness for foreign capital (Hakelberg, 2016), the other two factors are the ones explored in this chapter: material or reputational sanctions.

Guzman (2002) adopts a model of self-interested and rationally acting states to put forward his theory that states comply with international norms because of sanctions or reputational repercussions. International law is successful when the costs of non-compliance outweigh the costs of compliance. Direct sanctions are often less used at the international level, which is why so much emphasis has been placed on reputational sanctions (Guzman, 2002; Hathaway, 2005). Sometimes the mere threat of a retaliation is enough to prevent a violation of the international agreement (Guzman, 2002), which has also been found true for international tax cooperation (Hakelberg, 2016).

Keohane (1984) writes that even when there are no specific retaliatory measures, reputational impacts can lead states to comply with international regimes. Sharman (2011) discusses the reputational repercussions of blacklisting in the AML regime. He finds that some governments "put an almost mystical faith in the value of a good reputation" (Sharman, 2011, p. 101), while for others, reputational issues need to translate into material harm before they comply. States have different reputations with regard to different regimes. The costs of defection therefore are not the same in every situation (Brewster, 2009; Downs & Jones, 2022). This is an important consideration for this thesis, as reputation in the tax and AML TLOs for example means something different for the UK than for Switzerland. For the UK and City of London, it seems to matter more to have a good reputation while Switzerland has at least in the past unapologetically been an international wealth management centre and defender of banking secrecy. Brewster (2009, p. 246) has a potential explanation for that: "Wealth-maximizing states may not always want a good reputation either for compliance with international law or for cooperativeness. As Robert Keohane has noted, states might just as well prefer to have a reputation as a bully or being willing to violate international rules."

This dilemma between whether compliance with international standards or the very violation of such standards is better for a country's reputation plays out clearly in Switzerland. It is what this chapter calls the diagnostic struggle about the competitiveness tension: Switzerland's reputation as a confidential place to do business might be more important for the country's competitiveness than the reputation to be compliant with international transparency standards. The country and its financial sector won't only be worried about their reputation towards other states, but also their reputation towards clients of the financial industry. In a diagnostic struggle, the problem definition affects the proposed solution. If the main problem for competitiveness are reputational and material sanction threats, international compliance is the answer. If the

main issue is 'too much transparency', doing as little as possible and maintaining a level playing field with competitor financial centres is the solution. Following the recursivity of law perspective, the chapter takes into account that while international organisations and groups of states can exercise pressure on others, states and domestic actors can resist these pressures through political struggles (Shaffer, 2012; Shaffer & Halliday, 2021).

This chapter builds on previous research by authors who have highlighted how growing international pressure from the EU, OECD and importantly the US has led to important concessions being made by Switzerland in terms of complying with international exchange of information standards. The authors also point towards the ways in which Switzerland has tried to balance its international compliance with its ambitions to remain an important financial centre, for example through special exemptions and agreements (Eccleston, 2012; Emmenegger, 2017; Gurtner, 2010; Hürlimann, 2019; Oberson, 2013). Eccleston (2012) alludes to the disagreements within Switzerland regarding pressure to loosen its banking secrecy following the financial crisis and US pressure on UBS and other banks. The financial industry, above all the Swiss Bankers Association, and right-leaning party SVP at the time strongly opposed reforms (Eccleston, 2012). Eggenberger and Emmenegger's (2015) study about Switzerland's struggle for banking secrecy in the aftermath of the US's attack on UBS found not only that the Swiss financial services industry was strongly divided internally about the best way to react to international pressure, but also that the mode of politics in the country had shifted from strong interest group politics, informal deliberations and close links between industry and politicians towards more polarised partisan politics with less scope for interest group influence. The article also shows how the financial sector itself reacted to international pressure and threats, with certain actors actually advocating for Switzerland to sign up to AEOI. This thesis adds more nuance and detail to the analysis of Switzerland's journey towards increasing exchange of information through interviews and an analysis of previously unexplored consultation submissions, and adds a novel empirical case study through the examination of beneficial ownership transparency efforts.

Eggenberger and Emmenegger's (2015) findings reflect other literature on the shifting links between interest groups and political actors in Switzerland. The Swiss system has traditionally been characterised by weak professionalisation, with a militia parliament and neo-corporatist institutions. Individuals could hold positions in public and private sector organisations at the same time. During the 20th century, industry and finance sector further maintained strong networks in the form of interlocking directorates (Bühlmann et al., 2012, 2017). Swiss business power was strong in the context of a weak central state, a quiet politics environment, highly organised business associations and the dominance of conservative parties over trade unions and Social Democratic actors (Mach et al., 2021). In terms of the political decision-making

process, interest groups played an important role in a consensus-based process with political parties and the administration (Bühlmann et al., 2017).

Since the late 20th century, the close relationships between political and economic elites have weakened (Bühlmann et al., 2012, 2017). The divisions between parts of the elite have become more visible – "for example between industry and finance, between large and small firms or between internationally and domestically oriented sectors of the economy" (Bühlmann et al., 2017, p. 182). Politics have become "noisier and more formal" (Mach et al., 2021, p. 19). This is because of a changed media landscape, more formal and transparent extraparliamentary committees and a more important role for parliament, administration and political parties in comparison to business associations. These developments have meant that weakened instrumental power has been partially replaced with structural power (Mach et al., 2021).

These developments are also visible in the case studies that this thesis focuses on, with the financial crisis leading to a noisy politics environment, divisions between sections of the private sector increasing, and instrumental power decreasing in light of international pressures. This international pressure is the focus of the next section, which traces the Swiss journey towards tax and financial transparency.

3. The slow journey towards transparency and the role of international pressure

3.1. The unilateral power of the US

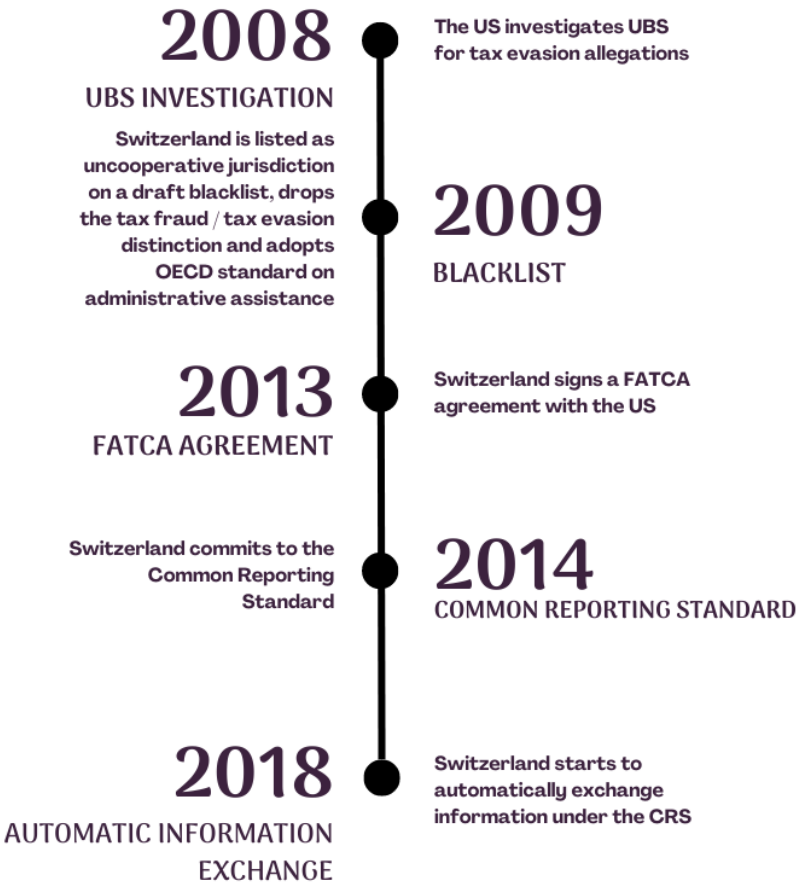

Figure 19: Timeline of Switzerland's approach to automatic exchange of information

The first strong evidence of the importance of international pressure for transparency developments in Switzerland comes from the late 2000s and the pressure exerted by the US. During the 2008 financial crisis, Switzerland came under increasing scrutiny, following an investigation by the US into Swiss bank UBS for holding 19,000 undeclared accounts for US taxpayers of a value of around USD 17.9 billion. UBS was fined and made to hand over thousands of client files and the US launched a broader stream of investigations into Swiss banks (Eccleston, 2012). The likely most dramatic episode of this US pressure on Swiss banks was the indictment of Wegelin & Co, Switzerland's oldest private bank, for aiding US citizens to avoid USD 1.2 billion in taxes. Wegelin did not survive the indictment and closed its doors in early 2013. In reaction to this and out of fear that other banks might follow Wegelin's destiny, Switzerland concluded

an agreement on data transfer with the US. The agreement gave Swiss banks amnesty in return for providing client files dating back to August 2008 (Eggenberger & Emmenegger, 2015; Song, 2015). Switzerland also agreed to sign a Financial Account Tax Compliance Act (FATCA) agreement with the US in February 2013 (Song, 2015). It was not the only financial centre forced into cooperation, with Austria and Luxembourg also succumbing to the US sanction threat (Hakelberg, 2015; Hakelberg & Schaub, 2018).

Political differences and diverging views between Swiss interest groups escalated at the time. The financial industry, above all the Swiss Bankers Association (SBA), strongly opposed reforms initially (Eccleston, 2012). Beat, an interviewee from the financial sector, confirmed that banks looked with big worry at the introduction of new exchange of information (EOI) standards. The topic of tax transparency used to be emotional and politically charged (CHFS01). After the Wegelin indictment, financial sector actors shifted course and started advocating for Switzerland to join AEOI efforts (Eggenberger & Emmenegger, 2015).

According to Emmenegger (2017), the pressure from the US was decisive in changing Switzerland's attitude towards international cooperation on tax matters. Asked about why Switzerland ended up complying with EOI standards, interviewees from industry and the financial sector also highlighted the key role of US pressure (CHFS01; CHFS02; CHIND01; CHIND02). Beat said that when the US introduced FATCA, Swiss banks understood the sanctions that would come with non-compliance. They therefore asked the Swiss government to establish an agreement with the US, and despite some delays Switzerland was the second country after the UK to sign a FATCA agreement:

> "And we've seen that this becomes a problem for us, because it's actually an automatic exchange of information with a bunch of sanction mechanisms and penalties, punitive withholding taxes. And then we developed an offer relatively quickly in which we said we don't want to defend ourselves, we can't defend ourselves against the principle of information exchange, we don't question that. […] We approached our authority and suggested that a bilateral solution be found with the US. We proposed a FATCA agreement." (CHFS01, translated from Swiss German)

Interviewee Andreas from the tax advisory industry confirmed that the key moment was the pressure from the US tax authority IRS and the Department of Justice:

> "The key moment was the pressure from the IRS and the Department of Justice. That was kind of the key which, in the end, there wasn't a huge amount of discussion. It was just something that had to be done in order to help the financial system move forward and stay alive somehow." (CHFS02)

According to industry representative Tim, the pressure worked because the sanctions threat was so big, and sanctions would have been directly targeted at the banks:

> "In the beginning, it was more of a threat of sanctions. So the US in particular has exerted strong pressure on the banking industries or that the big banking institutions would have really had tangible disadvantages if they have business in the US. And virtually all banks do business in the US because it's simply the most important financial centre. So these would have been sanctions, not against the country itself, in principle, not any trade sanctions, but really sanctions against the institutions that would refuse to provide information." (CHIND01, translated from Swiss German)

FATCA kicked off AEOI trends and the US's unilateral power was the first real demonstration of how pressure from other countries pushed Switzerland towards more transparency; however, it did not stop there. In the following years, pressure also emanated from international organisations such as the OECD, the G20 and FATF, which led Switzerland down a path of loosening its restrictions on information exchange more generally, and leading towards AEOI eventually.

3.2. The path towards automatic exchange of information

Pressure first came from the G20 and the OECD through a proposed blacklist of uncooperative jurisdictions in 2009 (Eccleston, 2012). Switzerland was listed as uncooperative jurisdiction on the draft list. Shortly after, the country dropped its controversial differentiation between tax fraud and tax evasion, allowing administrative assistance also in cases of tax evasion.[8] Switzerland remained on the grey list until it had signed twelve new double tax agreements (DTAs). It is in this context that Switzerland decided to adopt the OECD standard on administrative assistance in 2009 (Bühler, 2017; Emmenegger, 2017).

Switzerland's stance changed from thereon, with the country being more amenable to international requirements. In the consultation document on the Administrative Assistance Regulation in 2010, the Swiss government referred to the upcoming Global Forum peer reviews, which points towards an anticipation of increased international scrutiny of Switzerland's compliance with exchange of information standards (Eidgenössisches Finanzdepartement & Eidgenössische Steuerverwaltung, 2010). Switzerland's legal foundations were found to be inadequate by the Global Forum and at risk of being sanctioned, the country revised its Tax Administrative Assistance Act a few years later (Der Bundesrat, 2014). The Swiss government further justified

[8] Traditionally, Switzerland distinguished between tax evasion, the non-reporting of income, and tax fraud, the intentional deceit of the tax administration through for example falsification of documents. Switzerland would only provide legal or administrative assistance to other countries in cases of tax fraud (Gurtner, 2010). See also chapter 7.

its participation in the Agreement of the European Council and the OECD on mutual administrative assistance in tax matters with the argument that the compliance with international standards is important for a competitive financial centre (Der Bundesrat, 2015c).

Equally in 2014, Switzerland committed to AEOI under the Common Reporting Standard (CRS), to become effective from 2018 (Eggenberger & Emmenegger, 2015; Emmenegger, 2017). There was significant pressure from the G20 at the time to participate in the standard (Saint-Amans, 2023). Switzerland has since adopted a Federal Law on the International Automatic Exchange of Information in Tax Matters (AEOI Law) (Der Bundesrat, 2015d). In order for AEOI to take place, there must be a bilateral activation for each partner country. Switzerland has conducted consultations on AEOI agreements with all potential partner countries, starting with Australia and EU member states in 2015 (Der Bundesrat, 2015b, 2015a). Over the following years, Switzerland steadily expanded its network of AEOI partner countries to over 100 by the end of 2023 (Staatssekretariat für internationale Finanzfragen, 2023). There seems to be little leeway for being selective about the partner states. According to the Finance Ministry, Switzerland had to demonstrate that they are happy to expand their network if they don't want to appear uncooperative and unreliable (Eidgenössisches Finanzdepartement, 2018b). This was also the way the expansion was justified in parliament, with the speaker of the responsible commission saying that all large financial centres except for the US are applying the AEOI standard and that it is in Switzerland's interest to expand its AEOI network. Finance Minister Maurer highlighted the potential economic sanctions that Switzerland could face if they don't cooperate (Nationalrat, 2019).

The impression that Switzerland mainly moved towards AEOI and better EOI on request because of international pressure – be it reputational or material – was a prominent topic in many of the interviews I conducted. Politician Nadia expressed this most clearly. She highlighted that the international pressure meant that Swiss businesses and their competitiveness would have been at risk if the country had not participated in AEOI, strongly stressing the material damage this would have caused:

> "We wouldn't have been able to withstand the pressure at all. So that would have been brutally damaging to our credibility, politically and in many other areas as well, if we really hadn't been cooperative at some point. [...] But I think at the latest when it really, when you realise there is brutal economic damage, then you just give in anyway and that was probably really the moment with AEOI where you noticed, we can now insist a little bit on the sovereignty here, but it's simply the economy, the damage simply cannot be justified by anyone. And that is also the strength of such international organisations, that you can really put such black sheep as Switzerland under pressure, even

> though they are so financially strong." (CHPOL01, translated from Swiss German)

Parliamentarian Marlene, who I met in the Swiss Federal Palace, supported this view, saying that international pressure was the decisive factor in pushing forward AEOI developments, notably reputational risks linked to grey or black lists:

> "Clearly, the fact that we have automatic exchange of information is basically simply pressure from abroad. That was the decisive thing. [...] So it's very clear, it was extreme international pressure, it was the so-called grey or black lists […] where you then noticed that the reputational risk has really become quite big, we can no longer escape it." (CHPOL03, translated from Swiss German)

Also former British politician Aaron mentioned that the UK-Switzerland information exchange agreement was possible because the post-financial crisis atmosphere meant Switzerland had more reputational concerns:

> "I think there was a reasonably far-sighted approach by the Swiss government recognising that business as usual could not carry on, that the sort of political pressure in the larger, let's call them the mainstream onshore jurisdictions, was such that post-global financial crisis there would be much less tolerance for anything that was seen as sort of cheating the system or freeloading or what have you and that Switzerland wanted to stay ahead of the curve. Didn't want to find itself on the wrong side of an argument and reputationally very severely damaged which would be very hard to recover from." (UKPOL01)

Aaron acknowledged that there were domestic pressures pushing the other way, but explained that the international pressures weighed more:

> "Of course, one wouldn't expect the Swiss to be leading the way and I was conscious there were a lot of domestic pressures and arguments and so on going on in Switzerland. […] But you know, as it became more and more evident where international standards were going and what expectations were and what the consequences were of not meeting those expectations, then one could see how they, how the Swiss government was prepared to move. So you know, it was never going to sort of lead that process, but it didn't want to be left behind." (UKPOL01)

Actors from the political field were not alone in acknowledging the importance of normative and material pressure in Switzerland's journey towards more tax transparency. Verena, an audit sector representative whom I interviewed together with her colleague, confirmed that she does

not think Switzerland would have moved so quickly on transparency if it had not been for international pressure following the financial crisis (CHFS07), a viewpoint that was confirmed by two other private sector interviewees, Paul and Daniel (CHFS06; CHIND02). Industry representative Tim confirmed that businesses too realised that non-compliance would have drastic consequences and that therefore one "had no choice". According to him, all major information exchange projects "had to be implemented in response to international pressure" (CHIND01, translated from Swiss German). He explained how this has now evolved to a situation where Switzerland is more proactive because of the sanctions risks and reputational factors:

> "And at some point, in Switzerland it has established itself that you actually have a system there that is in line with international standards, and then it has become a bit of a reputational question over time. In other words, whenever an international standard was adopted, there was a relatively strong movement in Switzerland that said we had to adopt it now, because otherwise we could find ourselves in a situation like before, where we were really under pressure to impose sanctions. Although there are no explicit threats of sanctions, but one had the feeling that one had to build up or maintain the reputation of the Swiss financial centre or of tax transparency in Switzerland in order to never get into such a situation again. That's the situation we're in now that Switzerland is actually almost a bit of a model student in all these endeavours, because you simply know the history of the past and don't want to get into that situation anymore." (CHIND01, translated from Swiss German)

This shift has been acknowledged by other interviewees, with Andreas saying that Switzerland has gone from reluctance to be transparent to becoming one of the early adopters of new regulation (CHFS02) and civil society interviewee Stefan and politician Miro stating that the expansion of AEOI is almost happening automatically now and the majority of parliamentarians are in its favour (CHNGO01; CHPOL02). Two UK interviewees who were deeply involved in the policy processes at the time, Jacob and Aaron, highlighted how international pressures led to significant changes in Switzerland (UKCS02; UKPOL01).

This section has shown the path Switzerland followed from being very hesitant about exchange of information to being largely compliant internationally. It highlighted the role international pressure played in this regard, both in reputational and material sanctions terms. Similar dynamics were at play in the area of beneficial ownership transparency, as elaborated in the next section.

3.3. Finally a central register of beneficial ownership?

Figure 20: Timeline of Switzerland's approach to beneficial ownership transparency

For some time now, Switzerland has been the only Western European country without a central register of beneficial ownership (Jones, 2023b; Knobel et al., 2018). The country has so far focused its AML regime on the duties of financial intermediaries to identify beneficial owners. This information did not have to be recorded in a centralised location. Over the years and in response to international developments and pressure, Switzerland has expanded this beneficial

ownership identification and (more recently) verification regime and is now even considering a central register.

In 2016, FATF published its country report about Switzerland, finding that the country did not conform sufficiently with 9 of the 40 FATF recommendations. Main criticisms included that there were no duties for financial intermediaries to systematically verify beneficial ownership information or to do period checks of the continued accuracy of such information. To respond to this critique, the Swiss government suggested in 2018 to anchor these verification and periodic check duties into AML law (Eidgenössisches Finanzdepartement, 2018a). Also in 2018 the government consulted on suggested reforms on the transparency of legal persons based on the Global Forum peer review and recommendations. The Global Forum asks for countries to ensure that information about the identity of all pertinent legal entities and ownership structure is available (Eidgenössisches Finanzdepartement, 2018c). The newest version of the Swiss AML Act from January 1st, 2023 implements a risk-based verification duty for financial intermediaries when it comes to identifying beneficial owners. Financial intermediaries must now periodically check client data – including beneficial ownership information – to ensure it is up to date and accurate. The scope and periodicity of these checks depend on the risk profile of the client (Ruckstuhl, 2021).

While beneficial ownership identification duties have hence been strengthened over the years – mostly in response to international pressures deriving from the FATF and Global Forum peer reviews – the Swiss government and many interest groups have for a long time rejected the idea of a central register, which has become standard in Western Europe. As early as 2013, a Swiss Social Democratic parliamentarian asked the Federal Council about its views on a central beneficial ownership register as suggested by the British government at the time (see chapter 4). The Federal Council responded that it had never considered such a register because of complex and costly implementation, and because other measures can just as well fulfil the FATF requirements. The Federal Council further highlighted that the FATF standards do not require a register (Nationalrat, 2013). This positioning had not changed by 2018 when a member of parliament asked the Federal Council to take position on the matter again. The Federal Council responded that a public register was not necessary, not required according to FATF standards and, furthermore, that beneficial ownership information must be protected for data protection and commercial reasons (Nationalrat, 2016b, 2017b). In the 2018 consultation report on transparency of legal persons, in response to Global Forum recommendations, the Federal Council explained that it had discarded plans to establish an electronic central register because it would go too far and be very costly (Eidgenössisches Finanzdepartement, 2018c).

Interestingly, the Swiss Bankers Association (SBA) actually spoke out in favour of a central and publicly accessible register at the time. The organisation argued that this model had been tried

and tested in other countries and would be more likely to be accepted as an implementation of the Global Forum recommendations than the other suggestions in the consultation:

> "However, the creation of a public register should be at the centre of implementation. This would be based on an implementation model that has proven itself in the surrounding countries. The chances that such an implementation of the recommendations of the Global Forum will also be internationally recognised are likely to be significantly higher than with the "exotic" variant proposed in the consultation." (SBA 2018b, pp. 1f., translated from German)

According to the SBA, a central register would also solve the issue of the proposed expansion of due diligence duties for financial intermediaries with regard to checking companies' share registers and beneficial ownership registers (SBA, 2018b). This is very much in line with Meehan's (2024) findings that certain regulated sectors are in favour of beneficial ownership transparency for due diligence reasons.

Most other interest groups, on the other hand, were critical even of the proposal that financial intermediaries should be able to access share registers and beneficial ownership registers held by companies, let alone of the idea of a central register. They argued that there should be no such access as otherwise financial intermediaries would become the de facto supervisors of corporations (OADFCT, 2018b; sgv, 2018b). The representative body of self-regulatory organisations in the non-banking sector, Forum SRO, and other interest groups said the consequences for financial intermediaries and the administrative burden for corporations were unclear (Forum SRO, 2018b; SVIG, 2018b; VQF, 2018b). The Swiss Bar Association (SAV) highlighted that share registers are private registers and should remain such. In the words of the association, they should under no circumstances become public registers to which third parties have automatic access (SAV, 2018b). This situation did not change over the next years, with professional services firm KPMG stating in 2020 that Switzerland currently had no ambitions to implement a central register of beneficial ownership. The firm did not exclude the possibility that the EU or OECD might exert enough pressure in the following years to make Switzerland change its course (Zünd, 2020).

And indeed, this is what happened, but with the pressure coming from the G7 and FATF. There was an interesting shift regarding the prospect of a central register even in the period during which interviews for this thesis were carried out (2022-2023). Tax adviser Andreas said that the central register was not a topic in Switzerland, including because it is such a private society and people would not feel comfortable with it (CHFS02). In the words of financial sector interviewee Verena, Switzerland, because of its federalist system, is generally sceptical of central registers:

> "In principle, due to federalism, Switzerland is very cautious with central registers. […] It is a long-term political process, often associated with resistance. If they do it, cantons often want to have their own or even regional registers (e.g. land registers, civil registers)." (CHFS07, translated from German)

Swiss federalism was also mentioned by UK wealth management sector interviewee Henry as a major obstacle to a beneficial ownership register. He said he considered it unlikely that Switzerland would implement such a system without the impetus of international pressure, and that it would likely be at least another five years until that happened (UKFS04). Swiss civil society interviewee Sebastian confirmed that while Switzerland had adopted beneficial ownership due diligence requirements, it had not otherwise made much progress in this policy area, in particular when compared with its European neighbours (CHNGO02).

UK civil society interviewee Leo guessed that the pressure on Switzerland would become too big to withstand and beneficial ownership disclosure might become a precondition to do business in certain markets (UKNGO04). And indeed, in fall 2023, the Swiss government consulted on proposed reforms to the AML Act which include the establishment of a central register of beneficial ownership information. The Federal Council justified the reform proposal by saying that it would help secure the integrity of the financial centre, was important for a safe and future oriented place to do business and would facilitate the work of law enforcement authorities to identify who is behind a legal person (Der Bundesrat, 2023). In the words of Finance Minister Keller-Sutter:

> "A robust system to protect against financial crime is essential to the reputation and lasting success of an internationally significant, secure and forward-looking financial centre. […] Money laundering harms the economy and jeopardises confidence in the financial system." (Jones, 2023b)

The arguments follow a commercial and structural power logic. The reforms were suggested in light of the war in Ukraine and the alleged insufficient enforcement of sanctions against Russian oligarchs, exerting increasing international pressures on Switzerland. A letter by the G7 and EU ambassadors in Switzerland accused the country of having loopholes that facilitate sanctions evasion. The letter explicitly refers to the reputational risk that Switzerland faces because of loopholes in their law (Jones, 2023a, 2023b). A newspaper article in Handelszeitung mentioned that Switzerland also risks security related and economic damage by not complying with the international sanctions standard (Kinzelmann & Valda, 2023).

There was little rejection of the 2023 central register proposal, which is surprising given that the idea had seemed unthinkable in Switzerland until not too long ago. Table 14 shows that less than 10% of interest groups outright rejected the reform proposal as a whole. Instead,

interest groups focused on certain implementation details, such as exempting foundations (ARIF, 2023; SBA, 2023) and ensuring coherent definitions of beneficial ownership (economiesuisse, 2023; Forum SRO, 2023; OADFCT, 2023; SBA, 2023; SRO SAV SNV, 2023; SVIG, 2023; VSV, 2023). The most debated question was the level of access to the register, with opinions ranging from having a register accessible to government authorities and financial intermediaries (Centre Patronal, 2023) to the more prevalent view that strictly government authorities working on money laundering and the financing of terrorism should be able to access the information (economiesuisse, 2023; EXPERT Suisse, 2023; SBA, 2023; SRO SAV SNV, 2023; VSV, 2023). Chapter 6 goes into more detail about this question of access.

As for the case of EOI, interviewees shared the impression that the move towards more beneficial ownership transparency has been driven to an important extent by international pressures from peer reviews (CHFS07-08; CHNGO02). This section has outlined Switzerland's initially slow but then swiftly accelerating path towards tax and financial transparency. Reform was mainly driven by international pressure, be it peer reviews by international standard setters, sanction threats or reputational risks. Here lies the central difference to the UK, which was one of the main drivers of this international pressure – by pushing for increasing transparency reforms globally and setting the tone domestically.

The following section will discuss the tension and diagnostic battle about competitiveness: is it better to be internationally compliant and give in to the material and normative pressures, or is it better to do the minimum and ensure a level playing field with competitors?

4. The competitiveness tension

As literature on states' compliance with international regimes has outlined, states can have different reputations in different areas and interest in upholding one can trump another (Brewster, 2009; Downs & Jones, 2022). For the case of Switzerland, the financial sector's competitiveness has seemingly for so long been relying on its reputation as a confidential and privacy-respecting location. This now clashes with the perception of some that being internationally compliant with transparency standards is better for competitiveness. This section will outline how this 'competitiveness tension' has played out in Switzerland as a diagnostic battle.

4.1. International compliance is good for competitiveness: material and reputational factors

Some interest groups shared the Swiss government's growing view that international compliance and therefore acceptance are important for the Swiss economy and its competitiveness. Some of them explicitly referred to the reputational benefits of international compliance when expressing their support for reforms both on exchange of information (economiesuisse, 2013b; Swiss Holdings, 2013b; SGB, 2015c; Swiss Holdings, 2015d; Alliance Sud, 2015e) and beneficial ownership transparency (Centre Patronal, 2015f; Centre Patronal, 2018b; economiesuisse, 2023; FER, 2023). Many more highlighted the need of passing peer reviews by international organisations for Switzerland's reputation and competitiveness (SBA, 2013b; SGB, 2013b; VSKB, 2013b; VSPB, 2013b; economiesuisse, 2014; Swiss Holdings, 2014; VAV, 2014; economiesuisse, 2015e; SBA, 2015e; SGB, 2015e; Swiss Holdings, 2015e; EXPERTSuisse, 2018b; SBA, 2018b; SBA, 2019). Above all cross-sectoral industry associations economiesuisse and Swiss Holdings promoted this perspective, and the tone of their statements on transparency reforms was overall positive (economiesuisse, 2014; economiesuisse, 2015d; SGB 2015e; economiesuisse, 2016b; Swiss Holdings, 2016b; economiesuisse, 2016g; economiesuisse, 2019; FER, 2023). Swiss Holdings, which represents multinational corporations based in Switzerland, at times explicitly welcomed a proactive approach by the Swiss government (Swiss Holdings, 2012; Swiss Holdings, 2013b). In the words of economiesuisse, the most prominent industry association of Switzerland:

> "In its own interest, Switzerland could not and cannot escape international standard setting in exchange of information and administrative assistance. Switzerland as a place of doing business in general, and the important Swiss financial centre in particular, are dependent on international acceptance." (economiesuisse, 2016a, p. 1, translated from German)

Also when it comes to AML standards and beneficial ownership transparency, economiesuisse had already highlighted the importance of complying with international AML standards in 2015, stating that conforming with FATF recommendations was unavoidable for a modern financial centre (economiesuisse, 2015f). In 2023 they said the AML reforms were about strengthening the integrity of the financial centre (economiesuisse, 2023), with many more interest groups sharing this view that year (FER, 2023; Forum SRO, 2023; SBA, 2023; SVIG, 2023; VQF, 2023).

The fact that non-financial industry in particular was in favour of compliance reflects that competitiveness concerns can be different for different economic sectors. While banks and other financial sector companies would have been concerned about the impacts of financial account

transparency reforms, the other economic sectors would have feared economic sanctions against Switzerland much more.

Interest groups often referred to the international pressure being imposed on Switzerland to comply with the standards in their consultation submissions (SGB, 2010; economiesuisse, 2012; sgv, 2012; sgv, 2015a; Swiss Holdings, 2015a; Swiss Holdings, 2015e), stating that Switzerland should be compliant in order to reduce this pressure (Alliance Sud, 2011; economiesuisse, 2012; sgv, 2012; Swiss Holdings, 2012; economiesuisse, 2013b; sgv, 2015a; Swiss Holdings, 2015d; sgv, 2015e). International pressure was a dominant code emanating from the analysis. The pressure exerted sometimes was of more reputational nature, which was an important theme across the interviews. Parliamentarian Marlene highlighted how Switzerland suffered reputational repercussions because it moved so slowly on AEOI (CHPOL03). Interviewees from the wider financial industry and a trade union representative shared the impression that scandals are not good for the financial centre and that participating in international standards is important and necessary from a reputational perspective (CHFS04; CHFS05; CHFS09; CHTU01). According to Hans from the banking industry there has been a significant change in Switzerland in this regard, with the country being compliant with international standards and not suitable anymore to hide money:

> "Since 2016 we have passed all the FATF and OECD Global Forum exams. And that's what we didn't communicate enough abroad, that we have completely changed. Don't come to Switzerland anymore to hide, because you will be discovered five minutes later. So my goal is always that in the next James Bond movie, the bad guy's bankers can't be in Switzerland. You can put them wherever you want, but not in Switzerland. It is no longer believable." (CHFS09, translated from French)

Beat, also from the banking sector, confirmed that the Swiss private sector, including bankers, now cares much more about reputation and therefore are more willing to go along with the reforms. He highlighted that banks now take naming and shaming very seriously, because their customers do too (CHFS01). Also UK interviewees with deep insight into the policy processes around tax transparency in Switzerland highlighted how reputational concerns became more relevant to the country over time. Former civil servant Oliver hinted at how significant this shift in attitude is, as Switzerland previously did not care what the world thought of it:

> "You know, the Swiss obviously have had centuries of not worrying about what the world thought of them. Suddenly now it does matter what the world thinks of you. Well, I think that that's an increasingly underestimated factor in some of the reasons why people make these choices." (UKCS01)

The quote hints at how the developments in the last 15-20 years are unprecedented in terms of the pressure they created for the financial industry to become more transparent.

Next to reputational issues, interest groups also expressed concern about Switzerland landing on grey or black lists or being subject to sanctions (SGB, 2010; economiesuisse, 2014; Swiss Holdings, 2014; VAV, 2015c; VAV, 2015d; VAV, 2016a; Swiss Holdings, 2016g; Swiss Holdings, 2018a; Centre Patronal, 2019; economiesuisse, 2019; SBA, 2019). According to Centre Patronal, an association providing legal advice, political representation and training services, Switzerland signed twelve double tax agreements to be taken off the G20 grey list (Centre Patronal, 2010) and has an interest to adopt AEOI and comply with Global Forum recommendations because otherwise the country might be back on grey or black lists or face sanctions (Centre Patronal, 2015a; Centre Patronal, 2016g; Centre Patronal, 2019). Several interest groups warned about the important disadvantages Swiss financial sector firms would face with regard to the US market if FATCA was not adopted (economiesuisse, 2013a; SBA, 2013a; Swiss Holdings, 2013a).

In the consultation submissions, in particular Swiss Holdings was outspoken about the sanctions threat. The association said that Switzerland is strongly export oriented which is why sanctions would hit the country harder. Sanctions would also mainly hit industry and service sector companies (Swiss Holdings, 2013b; Swiss Holdings, 2015e; Swiss Holdings, 2016g).

> "The Swiss economy is characterised by a relatively small domestic market and companies that are strongly oriented towards the international exchange of goods and services. In contrast to countries with a large domestic market, such as the USA, France or Italy, tax sanctions therefore have a much greater impact on the Swiss economy. Tax sanctions can therefore hit a country with an international economy, such as Switzerland, hard." (Swiss Holdings, 2013b, pp. 1f., translated from German)

In line with this, six interviewees – four from finance and two from industry – highlighted that Switzerland had to succumb to international pressures because of the international embeddedness of its economy and connectivity of Swiss businesses (CHFS03; CHFS04; CHFS05; CHFS07-08; CHIND02; CHIND03). This is true both for banks and for other sectors. Industry representative Daniel highlighted that the international pressure works on banks because they need to maintain market access to countries abroad:

> "Yes, it's mostly international pressure because after all, Switzerland, we're not in the European Union, we have to be able to have access, especially all these big banks must be able to have access to these markets. […] And it's clear that if there's no access to markets, generally you can't send your customers, you

> can't advertise in those countries. So I think that was the quid pro quo. So they probably put pressure on this and then Switzerland had to change." (CHIND02, translated from French)

Ursula from the financial sector made the same point about Swiss businesses more generally, with the potential retaliatory measures against Switzerland's export economy making the country implement reforms. She said it was about simply having no other choice:

> "Yes, I also think that the economic interdependence of Switzerland plays a role. On the one hand, there are many holdings here and, on the other hand, there are also European corporations that have subsidiaries in Switzerland. Due to all this interdependence, Switzerland is not in the EU, but it is never completely excluded from these discussions. The bilateral agreements between Switzerland and the EU still exist today. […] I think this economic interdependence also gives Switzerland a certain amount of pressure or no choice but to go along with it." (CHFS08, translated from German)

The ultimate question here is whether international compliance is good for the competitiveness of the financial centre economically. Swiss politician Marlene highlighted that scandals harm the financial sector and that transparency is also valuable from a societal perspective (CHPOL03). Another parliamentarian, Nadia, supported this view, saying that Switzerland does not want to be one of the 'shady' financial centres, and that complying cannot harm competitiveness because most competitors also participate in the standards, a view that industry representative Tim also supported. Instead, they think that non-compliance would have harmed Switzerland significantly (CHIND01; CHPOL01).

There was a shift in discourse in the way that transparency and international compliance were newly presented as competitive advantages, akin to the UK as highlighted in chapter 4. In a 2020 parliamentary debate, Federal Councillor Maurer highlighted that following the limitations of banking secrecy, Switzerland was obliged to look for other factors of competitiveness, namely transparency and good framework conditions (Nationalrat, 2020b). According to him, international compliance and transparency are now competitive advantages, to attract institutional investors, for example (Ständerat, 2020). This is reflected in interviewees' discourse about exchange of information regulation, with two finance sector representatives and an industry representative who spoke about it positively (CHFS06; CHFS09; CHIND03). Paul, who works for a fiduciary, said that AEOI had a rather positive effect and that not a lot of business was lost because of it (CHFS06). Hans from the banking industry said that while some banks stopped operating in Switzerland, the overall volume of business and clients remained relatively stable, there just was a concentration of business (CHFS09). The other banking sector interviewee Beat said banks were initially worried that the transparency developments would lead

to a decrease in clients, but within a short period of time, they realised that the impacts would be limited, and while money flowed out, new money also came in:

> "Of course, there were fears that the Swiss financial centre could lose a lot of volume as a result of this. That was actually the main concern. And that didn't turn out to be true. So money has flowed out, that is, we don't have any estimates of that. I don't know. But it's certainly true, but it has also attracted new money again. […] From 2012 or so you saw right away, the financial centre survives that relatively well." (CHFS01, translated from Swiss German)

Banking sector interviewee Lukas, who has worked on the political processes at hand for a very long time, confirmed that the continued importance and strength of the Swiss financial centre is a case in point that Switzerland has more to offer than banking secrecy and is also popular because of its stability and predictability:

> "This clearly shows that the accusation that has been made in the past that the Swiss financial centre only functions on the basis of tax evasion and tax secrecy is not true. […] Security, stability and predictability are important locational advantages that the country offers." (CHFS03, translated from Swiss German)

This was confirmed by industry representative Tim, who said that banks and others realised relatively quickly that AEOI was maybe not that bad because the financial centre has other advantages and banking secrecy is not so central. Switzerland can therefore still compete against other financial centres because of the quality and safety of its services (CHIND01). This apparent realisation that transparency reforms were not actually doing much harm to the financial sector also means that banks according to Hans and Beat do not really care about AEOI anymore. They accept it as a routine activity (CHFS01; CHFS09). It was telling that private sector interviewees wanted to present their positive attitude towards transparency regulation, which again shows how much the discourse has changed.

This changed industry attitude developed to the extent that at some point banks seemed to be more in favour of regulation than certain politicians who criticised banks for that. According to Beat: "We hear from time to time, especially from the political level, the criticism of the banks that we would not defend ourselves enough against new standards" (CHFS01, translated from Swiss German). An example of this is that post-financial crisis the Swiss parliament rejected the agreement with the US despite intensive lobbying from the Swiss Bankers Association and other financial sector representatives who were in favour of the agreement. The reasons for the rejection were varied: "The left refused to support the agreement because it did

not lead to an AEI on tax matters, while the right considered the agreement an unacceptable submission to foreign power" (Eggenberger & Emmenegger, 2015, p. 502).

This section has outlined one side of the competitiveness tension: the side that sees the reputational and material pressures as significant enough to give in to them and considers international compliance to be important for Switzerland's competitiveness as a financial centre. The next section will continue with the flipside of this tension: the view that competitiveness requires Switzerland to do the minimum in terms of implementing global norms into domestic law, and to ensure a level playing field with other financial centres.

4.2. Competitiveness requires a level playing field and doing the minimum

This section will explore the other side of the competitiveness tension. Stakeholders here were critical of Switzerland's participation in international standards. In particular compared with the UK where the level of outright rejection of consultation proposals was extremely low and almost non-existent (see chapter 4, tables 11 and 12), in Switzerland interest groups did not shy away from expressing their disapproval of reforms. While certain consultations were less controversial, the level of rejection could reach up to 53.85% for others (see tables 13 and 14). And this only counts outright rejection. Even among those who did not outright say no to a reform proposal were many very critical submissions.

Table 13: Level of rejection, EOI consultations, Switzerland

	2010 administrative assistance	2011 Tax Administrative Assistance Act	2011 legal assistance	2013 FATCA	2013 Tax Administrative Assistance Act	2014 GASI	2014 MCAA	2015 EC/OECD administrative assistance	2015 AEOI Australia	2015 EUSTD	2015 Tax Administrative Assistance Act	2016 AEOI Guernsey et al	2016 AEOI Japan	2016 AEOI Canada	2016 AEOI Korea	2016 AEOI Regulation	2017 AEOI partner countries	2017 AEOI Singapore & Hong Kong	2018 AEOI partner countries	2019 AEOI Act and Regulation
Total counted	12	9	14	20	23	23	31	24	12	18	13	8	9	7	8	19	19	8	11	24
Rejection	1	1	2	2	10	12	2	2	5	4	7	2	3	3	3	0	6	1	2	13
Rejection %	8.33 %	11.11 %	14. 29 %	10.00 %	43.48 %	52.1 7%	6.45 %	8.33 %	41.67 %	22.2 2%	53.85%	25.0 0%	33.33 %	42.86 %	37.50 %	0.00 %	31.58 %	12.50 %	18.18 %	54.17 %

Note: this table excludes the consultation on the popular initiative "Yes to the protection of privacy" (2016) because it is not about information exchange with other countries and as it has a reverse logic, meaning that rejection of the proposal would mean being in favour of transparency.

Table 14: Level of rejection, BOT consultations, Switzerland						
	2005 FATF Recommendations	**2015 AML Regulation**	**2015 FINMA AML Regulation**	**2018 AML Act**	**2018 Global Forum recommendations**	**2023 transparency of legal persons**
Total counted	43	21	42	17	38	61
Rejection	13	0	0	1	17	6
Rejection %	30.23%	-	-	5.88%	44.74%	9.84%

The section is divided into four parts: it explores arguments by actors that (1) are critical about sanctions threats and reputational pressures; (2) advocate for doing the minimum; (3) highlight the importance of a level playing field with other financial centres; and (4) set market access as a condition for exchange of information.

4.2.1. Criticism about sanctions threats and reputational pressure

Not all interest groups accepted the view that international pressure was something Switzerland should necessarily give in to. Large industry associations such as economiesuisse and Swiss Holdings and larger financial sector associations such as the Swiss Bankers Association seemed overall more concerned about sanctions and reputational damage than some of the smaller financial sector actors. In particular the Swiss Association of Wealth Managers (VSV), Swiss Trade Assocation (sgv) and Centre Patronal were more negative about international compliance and expressed scepticism about the sanction threats and reputational arguments.

The three interest groups were critical of Switzerland submitting to international pressure. Centre Patronal lamented that while Switzerland had for a long time resisted the rising international pressure from abroad, it has agreed to an increasing number of concessions (Centre Patronal, 2012). The Swiss Trade Association (sgv), voice of Switzerland's small and medium-sized enterprises (SMEs), criticised that the Federal Council loses ground each time there are plans to submit to international pressures (sgv, 2014; sgv, 2015d). The association said that the Federal Council wanted to implement AEOI in an excessive way, because the government preferred to improve its reputation among other countries rather than protecting its own economic interests (sgv, 2015d). They wrote that the country should pursue its own long-term interests and questioned the legitimacy of the Global Forum:

> "In the weighing between the pursuit of the interests of Switzerland and a provisional recognition by the Global Forum, the sgv chooses the former. The long-term interests of Switzerland are more important than the passing of a "Peer Review" of a loose international group which lacks legitimacy and legitimation" (sgv, 2014, p. 1, translated from German).

Also the Swiss Association of Wealth Managers (VSV), professional association of independent wealth managers, raised the question of the international organisations' and standards' legitimacy, and contrasted this with Switzerland's strong democratic constitution:

> "[They want to implement] non-binding recommendations of a sub-sub-organisation of the OECD that is not legitimised under international law to issue binding guidelines, regardless of the consequences for the Swiss economy, especially the SME sector, and in disregard of fundamental constitutional principles." (VSV, 2018b, p. 2, translated from German)

> "It (Switzerland) has seamlessly and completely submitted to the immoral and unethical dictates of the G8 and G20 and their executors in the Global Forum. [...] From a political point of view, it is not desirable for Switzerland to achieve top marks in the race for the best possible supply of tax data to unjust states and dictatorships. Top marks according to dictatorial standards are not a desirable distinction for a democratically constituted state like Switzerland." (VSV, 2019, p. 2, translated from German)

The VSV at other points expressed scepticism about the sanction threats that the Swiss government and some interest groups referred to when justifying support for a reform. With relation to the OECD Global Forum peer review, the VSV said that the claim that Switzerland must implement the recommendations fully because otherwise it will face consequences was pure fearmongering. The association claimed that there was no proof that Switzerland would be categorised as 'uncooperative' just because it did not want to enter into AEOI agreements with certain countries (VSV, 2018a; see also OADFCT, 2018b). The VSV even accused the Swiss government of artificially upholding this threat and inflating it in order to push for reform (see also VSV, 2014):

> "In particular, it is impossible for Switzerland to be blacklisted by the G20 or the EU as a result of disagreement over detailed aspects of the CRS. This sword of Damocles is artificially held high and untruthfully inflated by the administrative authorities (SIF and ESTV), which are primarily driving the present revision of the law. [...] If there are indeed differences with the CRS [...] it is not to be expected that Switzerland will be blacklisted because of these

> differences [...] Failure to comply with the recommendation will certainly not put Switzerland on a blacklist. The Federal Council should spare parliament from legislating about such nonsense." (VSV, 2019, pp. 2, 6, translated from German)

The concern for granting AEOI to certain countries led to the VSV warning about the reputational risks that come with implementing international standards about exchange of information too fast or too well, in particular with regard to providing information to certain countries, which the VSV called 'dictator' countries or 'unsuitable' states (VSV, 2014; VSV, 2015a). The association thereby turned the reputational argument on its head – suggesting that the very compliance with international exchange of information standards could be of reputational harm.

Despite these concerns about the international standards and Switzerland succumbing to the pressure, the three interest groups at different points said that they understood there was no alternative to accepting the international standards (CentrePatronal, 2015c; Centre Patronal, 2015d; sgv, 2015e; VSV, 2015e; Centre Patronal, 2016a; Centre Patronal, 2016b; Centre Patronal, 2016c; and in relation to beneficial ownership transparency: FER, 2015f). This was particularly obvious in relation to FATCA, with Centre Patronal highlighting how Swiss financial institutions' market access in the US depended on the conclusion of an agreement (Centre Patronal, 2013a). The sgv confirmed that they were ok with the FATCA agreement despite its weaknesses and threats, because of pragmatism and compromise (sgv, 2013a). The VSV highlighted that they supported the FATCA agreement not out of conviction but to prevent economic harm:

> "The VSV supports the ratification of the FATCA agreement. Not out of conviction, but because of the fact that this can avert damage to international business for individual sectors of the Swiss financial centre, namely life insurance companies." (VSV, 2013a, p. 1, translated from German)

The VSV expressed the same sense of inevitability and lack of alternatives with regard to the CRS and a central register of beneficial owners:

> "The VSV accepts that Switzerland currently has no alternatives to adopting the new global standard for the automatic exchange of information (AEOI) to prevent cross-border tax evasion." (VSV, 2015a, p. 2, translated from German)

> "Keeping a register of control holders and beneficial owners of domestic legal entities and other legal entities is a standard required by the OECD. Keeping appropriate information from legal entities […] does not (or no longer) meet

> the requirements. If Switzerland wants to meet the standards, the introduction of such a register is inevitable." (VSV, 2023, pp. 1f., translated from German)

The associations admitted the inevitability of a certain compliance with the standards, but this did not mean that they approved of them. It, however, shows how the balance of the competitiveness tension shifted post-financial crisis towards more transparency.

4.2.2. Doing the minimum

According to Gurtner (2010), Switzerland used to follow a tactic of resisting international pressure as long as possible and then only committing to small changes last minute. Some interest groups advocated for this to continue, suggesting that Switzerland should do the minimum amount of reform as possible. This was even true of those actors that came to generally accept the importance of international compliance.

Interest groups regularly argued against a 'Swiss finish', meaning Switzerland adopting additional requirements that other countries do not have or that go beyond the international obligations (VSV, 2013a; VSPB, 2015a; VSV, 2015a; Swiss Holdings, 2015e; VSPB, 2015e; Centre Patronal, 2016e; sgv, 2019). Interest groups for example criticised in 2012 that the suggested scope for legal assistance was too broad and went beyond international requirements (Forum SRO, 2012; SBA, 2012), and in 2013 that the Tax Administrative Assistance Act reforms would go beyond OECD and Global Forum standards (sgv, 2013b; VSPB, 2013b). With regard to the Multilateral Competent Authority Agreement (MCAA), economiesuisse warned against Switzerland taking a leading role, instead suggesting that the country should stick to the effective international praxis (economiesuisse, 2015a). The Swiss Association of Wealth Managers (VSV) argued that Switzerland should just do the minimum on administrative assistance, otherwise the association would reject the agreement proposed in 2015 (VSV, 2015e). Swiss Holdings warned that a Swiss finish would harm the trust of corporations in Switzerland and cause reputational damage to Switzerland as a place to do business (Swiss Holdings, 2015e). The Swiss Trade Association (sgv) rejected the reform of the AEOI Regulation in 2019 on the basis of being against a Swiss finish:

> "The sgv rejects the reform. What the Federal Council purports to be a guarantee of AEOI conformity of the Swiss implementation is pure "Swiss finish", which in this form is neither desired by the AEOI standard nor proportionate." (sgv, 2019, p. 1, translated from German)

Similar concerns were voiced with regard to beneficial ownership transparency reforms. Several interest groups in the 2018 consultation on transparency of legal persons argued that the Federal Council suggests reforms that the Global Forum and FATF are not even asking for (SAV, 2018b; sgv, 2018b; SVIG, 2018b; VQF, 2018b). Others said that reform should be limited to

the necessary scope (EXPERT Suisse, 2018b) and overregulation should be avoided (Centre Patronal, 2018b, 2018c). Again in 2023 the VSV warned against overregulation and that the proposal went beyond what is required by FATF (VSV, 2023).

This tendency to want to regulate as little as possible and 'doing the minimum' was a topic in several interviews with Swiss stakeholders. Sebastian, an interviewee from civil society, described this Swiss approach of minimal regulation as the country's strategy to remain competitive and be business-friendly:

> "The fact that more is not being done, or that only as much as is necessary is being implemented, is explained by the fact that Switzerland is pursuing a very business-friendly policy in this area. And it still seems to be in the interest of the interest groups, but probably also of the actors, that you have as little regulation as possible in this area. [...] And the image is rather positively coloured and is still held so high by the parliamentary majority, i.e. by the bourgeois parties, in particular, and also represented by the industry associations, demanded in such a way that Switzerland must offer as little regulation as possible in order to remain competitive, in order to compete with other financial centres such as London." (CHNGO02, translated from Swiss German)

Finance sector representative Reto spoke more generally about how Switzerland tends to not be a first mover and usually does the minimum. The country is reactionary rather than proactive:

> "And then you're afraid to be the first mover, so to speak. [...] So in the end, that's a bit of the Swiss mentality. [...] And if you also look at the requirements, Switzerland is certainly not a model child, [...] but rather what is the absolute minimum that is required of me, and I do not necessarily go further as such. […] Nothing innovative can be expected from Switzerland in this area." (CHFS05, translated from Swiss German)

This was confirmed by politician Marlene who spoke more widely about financial regulation, highlighting that Switzerland has the attitude of wanting to regulate as little as possible:

> "Switzerland has had for many years, there is such an attitude that is strongly anchored, they actually want to regulate not at all or as little as possible. [...] We always have, and funnily enough, people always talk about the Swiss Finish, but the Swiss Finish is usually not more, but usually less." (CHPOL03, translated from Swiss German)

In contrast in particular to Sebastian's and Marlene's critical views, banking sector interviewee Hans spoke out in favour of this more reactionary approach. He said that Switzerland moving on its own is not useful, whereas following when others undertake reforms makes sense:

> "There is no point in wanting to do much better in Switzerland if we are the only ones. Because it is not going to change anything in the world. Those who don't want to do better, they will go elsewhere. On the other hand, when everyone else does otherwise, you can't miss the train and stay on the old track because you will get a slap on the wrist. So we change with the others. If others don't change, we don't change. If others change, we change." (CHFS09, translated from French)

According to Beat, also from the banking industry, financial institutions only agreed to AEOI standards because Switzerland was a last mover, despite the pressure that industry was under. They would have not agreed to a proactive approach:

> "The fact that the standards could also be introduced in Switzerland was only possible because Switzerland was the last to move. [Banks] would never have been willing to proactively introduce this. But only if everyone else, then we too." (CHFS01, translated from Swiss German)

Similar arguments were made with regard to AML reforms. In the 2018 consultation some interest groups insisted that Switzerland does not need the best grade and being 'largely conformant' with FATF is enough and does not require any action (Forum SRO, 2018b; sgv, 2018b; VQF, 2018b). The VSV also added that the recommendations from the peer review are not binding and merely provide different options for reform (VSV, 2018b). Daniel Thelesklaf, who used to lead the Swiss Money Laundering Reporting Office, said in an interview in 2020 that Switzerland only tends to implement the minimum required in terms of AML legislation under pressure from abroad (Public Eye, n.d.-a). Civil society interviewee Sebastian also highlighted the role of international pressure behind the central register reform proposals and that Switzerland tends to do the minimum, while staying compliant:

> "So far, the international minimum standard set by FATF that the member states must adopt, there has been no corresponding provision in it that a central or even a public register is needed. So, so far, the standard that Switzerland has implemented with the private or company-managed register, that was sufficient for the FATF standard and accordingly Switzerland did not have to tighten it. And I think that's also in line with Swiss policy in general, implementing as much as possible the minimum of the international standard, so that you can't accuse Switzerland of not fulfilling these obligations, but

> certainly not doing more than you have to." (CHNGO02, translated from Swiss German)

Member of parliament Miro, whom I met in the Swiss Federal Palace's restaurant, said that there should be an option to resist international pressure on occasion. He explained the Swiss political system can allow the Federal Council to portray willingness to cooperate towards the international community, while using the fact that Switzerland has a strong parliament and a direct democracy to justify why some reforms cannot be implemented:

> "And that's not least because you have international pressure and say, come on, we've tried. This was also a bit the case with the AML Act, that the Federal Council took it quite casually, they simply said yes, you can blame me for bringing it up. I had to bring this and I will bring it again. And with that, in that sense, the blame lies with parliament. […] It's basically a negotiation tactic, that they say yes, someone who is not here, doesn't sit at the table, they are the problem. And in Switzerland they can say yes, well the people, we still have to ask the people. And that, of course, strengthens their position in negotiations, especially if they don't want something. Because then they would say, we would, but..." (CHPOL02, translated from Swiss German)

There is hence a broad view that Switzerland should be doing the minimum amount of reform possible and not be a first mover, which is in stark contrast to the UK's leadership approach (see chapter 4). Doing the minimum or as little as possible is always relative to what other countries and in particular competitors are doing. One of the main themes emerging from the consultation submission analysis was about creating a level playing field between countries and in particular between competitor financial centres, which is what the next section focuses on.

4.2.3. Ensuring a level playing field

Across the years Swiss interest groups repeatedly argued that it is important that all competitor financial centres implement exchange of information in the same way to create a level playing field (economiesuisse, 2015a; sgv, 2015a; Swiss Holdings, 2015a; VAV, 2015a; VSKB, 2015a; VSV, 2015a; economiesuisse, 2015c; SBA, 2015c; SBA, 2015d; sgv, 2015d; VSV, 2015d; Centre Patronal, 2015e; sgv, 2015e; VAV, 2015e; Centre Patronal, 2016a; SBA, 2016a; VAV, 2016a; VSPB, 2016a; Centre Patronal, 2016b; VSV, 2016b; Centre Patronal, 2016e; Centre Patronal, 2016g; SBA, 2016g; Centre Patronal, 2018a). It was a dominant and recurring theme in the consultation submissions, going hand in hand with the competitiveness theme. The locations most named as competitor financial centres are London, Hong Kong, Singapore, Luxembourg, New York, Miami and Liechtenstein. In the words of Centre Patronal with regard to the CRS, all large financial centres need to commit to AEOI if Switzerland wants to do so:

> "It will be necessary to ensure that the automatic exchange of information applies to all major financial centres and in the same way in all countries […]. Thus, automatic exchange can only be taken into account if the major financial centres commit themselves in the same direction and actually practice exchange." (Centre Patronal, 2015a, p. 1, translated from French)

The Swiss Association of Wealth Managers (VSV) was sceptical in 2015 – in the context of the consultation on AEOI with EU member states – about the actual commitment by other financial centres to introduce AEOI quickly:

> "The grandiose promises of the states, including those that had joined the group of "early adopters", to introduce the AEOI quickly and with a large number of partner states, have proven to be hot air. In particular, the main competitors of the Swiss financial centre in the international service of private clients, that had loudly welcomed the new standard at the end of 2014, are now shrouded in silence and show no enthusiasm to introduce the AEOI "quickly" as announced." (VSV, 2015d, p. 3, translated from German)

The Association of Swiss Private Banks (VSPB) shared this view, highlighting that other financial centres had not yet committed to AEOI and that Switzerland therefore risked to be the only international financial centre to exchange information automatically with the 28 EU member states (VSPB, 2015d). Interest groups were particularly concerned about the lack of a level playing field with the US, especially since the US does not guarantee reciprocity and has not adopted the CRS (VSV, 2015a; VSV, 2015c; Centre Patronal, 2016g; VSPB, 2016g; Centre Patronal, 2018a; VSPB, 2018a; SBA, 2018a; VAV, 2018a; Centre Patronal, 2019). This was a particularly strong topic in context of the consultation on the AEOI Regulation in 2016, with interest groups speaking out against the US being considered as a partner jurisdiction or participating country (Centre Patronal, 2016e; SBA, 2016e; SGB, 2016e; sgv, 2016e; VAV, 2016e; VSPB, 2016e; VSV, 2016e).

The Swiss Bankers Association (SBA) and Association of Swiss Asset and Wealth Management Banks (VAV) spoke out in favour of a strict mechanism to check countries' compliance with the international AEOI standard (SBA, 2019; VAV, 2019). This to ensure all financial centres implement the CRS in the same way so that a level playing field is guaranteed:

> "The Swiss financial centre is particularly hard hit by the AEOI, as it manages around a quarter of the world's cross-border assets. For this reason, Swiss banks have a great interest in ensuring that the AEOI is implemented across the board and that the same competitive conditions apply to all. To ensure that all relevant financial centres implement the same standard and to ensure

> a level playing field, a strict international audit mechanism is required. The SBA therefore welcomes in principle the work of the Global Forum to ensure the integrity of the international OECD standard." (SBA, 2019, p. 2, translated from German)

This is a perhaps surprising finding: in the interest of a level playing field, interest groups can be in favour of strong peer review and audit mechanisms.

Interest groups heavily advocated for a level playing field in the choice of partner countries under the CRS. They said that Switzerland should only grant an AEOI agreement to a country if other financial centres do the same (VSPB, 2015a; Centre Patronal, 2015c; economiesuisse, 2015c; SBA, 2015c; sgv, 2015c; VAV, 2015c; VSPB, 2015c; VSV, 2015c; SBA, 2015d; VAV, 2015d; VSPB, 2015e; VAV, 2015e; SBA, 2016a; VAV, 2016a; VSPB, 2016a; VSV, 2016a; Centre Patronal, 2016b; economiesuisse, 2016b; VSV, 2016b; Centre Patronal, 2016c; VSV, 2016c; Centre Patronal, 2016g; SBA, 2016g; VSV, 2016g; Centre Patronal, 2017; VAV, 2017; Centre Patronal, 2018a; VSV, 2018a). Otherwise capital will simply displace to another location and clients could practise regulatory arbitrage, undermining the very goal of AEOI to combat tax evasion (VSPB, 2015a; VSV, 2016g; VSV, 2018a). Interest groups said that there could be an activation clause in this regard, making the activation of exchange of information agreements dependent on other financial centres also concluding agreements with the respective partners (VAV, 2016a; Centre Patronal, 2016g; SBA, 2016g; sgv, 2016g; VAV, 2016g; sgv, 2017). Interest groups also said that concluding AEOI agreements with competitor financial centres was important to establish a level playing field with them (economiesuisse, 2016g; SGB, 2016g). This is particularly the case for locations of trusts and domiciliary companies, such as Singapore and Hong Kong (SBA, 2016g; economiesuisse, 2017; SBA, 2017; SGB, 2017). The Swiss government shared this view, justifying the choice of some partner states by claiming their importance as financial centres, and Switzerland's desire to create a global level playing field with them (Eidgenössisches Finanzdepartement, 2016a).

Critical of the 2018 and 2023 beneficial ownership transparency reforms, interest groups referred to the importance of a level playing field (SBA, 2018b), the risk that Switzerland could lose business to other financial centres if it implements suggested reforms (OADFCT, 2023) and a trade war (OADFCT, 2018b). The trade war comment is reminiscent of a debate that happened in 2005, when one of the main competitiveness concerns of Swiss interest groups was about countries that have a strong trust sector, as trusts were exempt from beneficial ownership identification requirements at the time. The Swiss Association of Investment Companies (SVIG) and VSV argued that Switzerland should avoid strict regulation in comparison with jurisdictions that have a large trust industry. In the words of SVIG:

> "As long as investment vehicles can be created on a broad basis in an international environment, such as with Anglo-Saxon trust structures, without the need to identify the beneficial owners, an extremely strict regulation in an international context should be avoided in Switzerland and the requirements should be removed without replacement." (SVIG, 2005, p. 5, translated from German)

The VSV further suggested at the time that some Anglo-Saxon financial centres use selective regulation for competition purposes. The association argued that critique of the anonymous structures that give out bearer shares has come in particular from countries that do themselves have anonymous structures in the form of trusts. VSV suggested that this focus on continental European legal institutions shows the power distribution within FATF. The association claimed that Anglo-Saxon countries use the veil of anti-money laundering efforts for competition purposes:

> "In the past, the harshest attacks on Switzerland in connection with the "anonymous" participation in and control of corporations that issue bearer shares came mainly from those states that themselves provide structures in their legal systems, namely via trusts, which allow such anonymous control relationships without further ado. The Anglo-Saxon legal systems have numerous structures (outside the law of corporations) with which equivalent relationships can be established as those made possible in Swiss law by bearer shares. […] The fact that primarily legal institutions of continental European law are the focus here clearly shows the balance of power and the use of power within the FATF. Under the guise of preventing and combating money laundering, competition policy is being pursued here among the financial centres." (VSV, 2005, p. 16, translated from German)

Even though this was long before the leadership of the UK on beneficial ownership transparency kicked off (see chapter 4), this relates very much to the arguments made in the previous chapter about 'leadership as distraction': the UK taking a proactive approach in order to put itself in a more advantageous position – in particular when it comes to protecting trusts.

Accusations in this regard were also made against the UK, the US and other OECD member states in a parliamentary debate on administrative assistance in the Swiss Council of States in March 2009. Several parliamentarians spoke about transparency pressures coming from the UK, the EU and the US as a trade war in disguise. One parliamentarian made this point very clearly, saying that morality and justice arguments were being used in order to win market share from Switzerland's financial centre:

> "We only adjust these [DTAs] on the condition that the US and the EU plug their own loopholes and treat their own offshore sites equally. What is happening today vis-à-vis Switzerland is not the struggle of the righteous against the evil, the struggle of the just USA and the just Britain against the evil Switzerland; it's about market shares, it's about the primacy of financial centres. Switzerland, one of the five largest financial centres in the world, is in the line of vision. Let's face it: it's an economic war, a fight for market share. As a small state with a large financial centre, without the backing of the European Union, we are in a difficult position that is very challenging for us. The US and individual EU states are waging a crusade under the pretext of morality and justice. In fact, it's about power. Under the premise of morality, however, the Crusades were already conducted in the Middle Ages." (Ständerat, 2009, translated from German)

Another parliamentarian agreed that the main objective of countries like the US and UK was to promote their own wealth management business. In light of this, parliamentarians demanded a level playing field and that competitor financial centres also abide by international standards. Of particular concern were US and British trust structures and anonymous ownership arrangements. A parliamentarian used the word hypocrisy to describe the other countries' pressure on Switzerland:

> "Yes, threatening gestures have been expressed: the United States with states such as Delaware, tax hells such as Germany and France, Great Britain with its Channel Islands and other – crown jewels, I would have almost said – crown colonies and with opaque trust constructions, they hold up a mirror to us. One could almost speak of the united hypocrites." (Ständerat, 2009, translated from German)

In 2009, the Swiss centrist party *Die Mitte-Fraktion* submitted a motion about the competitiveness of the Swiss financial centre. It compared the traditional Swiss banking secrecy, which risked restriction, to other options for secrecy in the US and the UK, notably the Limited Liability Company (LLC) and the trust. The party argued that Switzerland had to give up its restriction on administrative assistance in combination with the banking secrecy which had guaranteed the protection of privacy of banking clients. Countries like the UK or the US had other legal options to guarantee this protection and not declare the beneficial owner of an asset – such as the trust. Out of concern that Switzerland would suffer competitive disadvantages from this difference in legal vehicles, the party suggested that Switzerland needs to adapt its legal framework accordingly:

> "If, contrary to Switzerland's will, these states are not prepared to abandon these internal regulations, Switzerland must be able to apply the same or comparable internal regulations so that the Swiss financial centre does not suffer damage due to "legal" tax loopholes in the two main competitors as asset investment sites (London and New York). It should be borne in mind that common law legal concepts are not identically transferable; the goal of the overall level playing field is to be targeted. For this reason, changes in tax, company and foundation law must be examined and cantonal law must also be taken into account." (Nationalrat, 2009, translated from German)

While the Federal Council supported the goal of a level playing field, it initially rejected the motion with the justification that it did not see that any concrete legal changes would be required at the moment. However, both chambers of parliament accepted the motion in 2011. The Federal Council, in its subsequent report, detailed the legal persons of the trust and the LLC to identify specificities that could be useful for the Swiss approach to protecting clients' privacy. The conclusion was that through the AML requirements to identify beneficial owners, the protection of privacy in the context of LLCs and trusts is already restricted. The Federal Council said that introducing LLCs and trusts in Switzerland would not help the protection of privacy. It would also go against international developments towards more transparency and Switzerland's commitment to those trends (Der Bundesrat, 2013). The two chambers of parliament agreed with this conclusion (Nationalrat, 2009).

The concern about trusts was also present in consultations about AEOI (Centre Patronal, 2015a; Swiss Holdings, 2015a; Centre Patronal, 2015c; Centre Patronal, 2016a; Centre Patronal, 2016b; Centre Patronal, 2016c; Centre Patronal, 2016g; Centre Patronal, 2017; Centre Patronal, 2019). In their submission about the CRS, Centre Patronal demanded that all financial centres implement the standard in the same way, "with no exceptions for trusts or domiciliary companies" (Centre Patronal, 2015a, p. 3, translated from French; also Centre Patronal, 2017). Also Swiss Holdings mentioned the area of trusts as a potential gap which would frustrate efforts to achieve a level playing field (Swiss Holdings, 2015a).

Stronger words were used by the Association of Swiss Private Banks (VSPB) with regard to suggested new due diligence obligations of banks. The association stated that it "is strongly opposed to this will of making Switzerland the (only) constable of the tax world", and that "the competitor financial centres could only be happy to see Switzerland self-sanction itself through such dissuasive measures." No "Swiss finish" should be added to the international standard (VSPB, 2015a, p. 3, translated from French). These concerns about competitiveness with financial centres that are the prime locations for trusts are reflected in Emmenegger's (2017)

suspicion that the international community would not regulate secret companies and trusts with the same rigour as secret financial accounts, given that powerful countries like the UK and US are among the main places of origin for shell companies and arrangements like trusts. Crasnic and Hakelberg (2021, p. 302) found that "the strong focus on banking secrecy left jurisdictions specializing in other types of financial secrecy unattended", referring to trusts in the British CDOTs.

A level playing field is related both to other countries, as well as to other stakeholders within the financial sector. Interviewees highlighted that small actors are less regulated than larger ones, which in the wider wealth management sector can for example be frustrating for banks which have been in the limelight of regulatory efforts. According to politician Marlene, this is also related to, for example, the wealth management sector being poorly regulated in Switzerland, with no protection for the profession and poor supervision. Apparently, banks had complained about having to comply with comparatively more regulations and it leading to competitive distortions (CHPOL03). The banks therefore want lawyers and independent wealth managers to be subject to similar or the same regulations, as highlighted by banking sector interviewee Beat and civil society representative Stefan (CHFS01; CHNGO01; see also chapter 7). Stefan stressed that among large banks there was frustration that all the focus lay on them, and that they understand the reputational risk for the financial centre overall if actors such as lawyers are not regulated:

> "And I mean, the banks always say […] that the lawyers are actually annoying for them because they, because they somehow affect the reputation of the financial centre. […] I also believe that, of course, there was also a certain amount of resentment among the financial centre stakeholders that the whole focus was so strong on the large banks." (CHNGO01, translated from Swiss German)

Politician Nadia suggested that the larger and better-known banks adhere to due diligence duties better than smaller actors:

> "But otherwise, I have the feeling like UBS, CS, the cantonal banks anyway, they more or less comply with the due diligence obligations, and I see the problem with very small banks that are really only specialised in large assets from abroad, but which are also not so, so to speak, in the view of the public. Well, they are often forgotten when you trample on Credit Suisse like that, to put it so crudely." (CHPOL01, translated from Swiss German)

These observations are reflected in the finding mentioned above that associations representing SMEs were on average more critical of transparency efforts than those representing larger companies.

This section so far has shown that not only is there criticism of the Swiss government giving in to international pressures, there is also pressure from certain domestic actors for Switzerland to do the minimum, and in particular to be aware of maintaining a level playing field with competitor financial centres. Another strategy used by financial sector actors to protect their competitiveness in light of tax transparency developments was advocating for market access as a conditionality for exchange of information, as elaborated in the next section.

4.2.4. Market access as a conditionality for exchange of information

Not only were Swiss interest groups concerned about maintaining the Swiss financial centres' competitiveness in comparison with other financial centres, they also reflected on how to put Switzerland in a better position. Interest groups therefore argued for linking exchange of information agreements to the conditionality of partner countries granting market access and preferable conditions to Swiss firms. Market access again was an important code of the consultation submission analysis and perhaps the most surprising one. Several actors for example said that EU member states should not be granted legal assistance without Double Tax Agreements (DTAs) which can be linked to market access requirements (economiesuisse, 2012; sgv, 2012; Swiss Holdings, 2012). The topic was even bigger with regard to AEOI agreements under the CRS. Interest groups argued that the conclusion of such agreements should be conditional on discussions about facilitated market access – meaning partner states should provide access to their financial markets to Swiss service providers in return for an AEOI agreement with Switzerland (economiesuisse, 2015a; SBA, 2015a; VSPB, 2015a; VSV, 2015a; sgv, 2015d; VSV, 2015d; Centre Patronal, 2015e; sgv, 2015e; VSPB, 2015e; VSV, 2016b; VSV, 2016c; Centre Patronal, 2016g; SBA, 2016g; sgb, 2016g; VAV, 2016g; VSPB, 2016g; Centre Patronal, 2017; SBA, 2017; sgv, 2017; VSV, 2017; Centre Patronal, 2018a; SBA, 2018a; VAV, 2018a; VSPB, 2018a).

Interest groups went so far as to demand that the commercial potential and readiness for granting market access should be key criteria for Switzerland's choice of its AEOI partner countries (SBA, 2015c; SBA, 2015d; Centre Patronal, 2016a; SBA, 2016a; VAV, 2016a; economiesuisse, 2016b; SBA, 2016g). A similar criterion proposed by some interest groups was that partner countries should, in the first place, be those countries with which Switzerland has close political and economic relationships (SGB, 2015c; VSV, 2015c; Swiss Holdings, 2015d; Centre Patronal, 2015e; VSV, 2016c; VSV, 2016e; SBA, 2017). This was reflected in the Swiss government's justification for the choice of certain partner countries (Eidgenössisches Finanzdepartement, 2016b). Several interest groups criticised that the commercial potential of Australia for the

Swiss financial sector was limited (sgv, 2015c; VAV, 2015c; VSPB, 2015c; VSV, 2015c). The Swiss Trade Association (sgv) went so far as to say that Switzerland's own benefits should be the only reason for concluding AEOI agreements (sgv, 2015a; sgv, 2015b):

> "For Switzerland, the only motive for introducing the AEOI can be to strengthen and safeguard the interests of its own economy and the financial centre." (sgv, 2015b, p. 2, translated from German)

Interest groups also made market access demands with regard to the 2015 consultation on the reformed agreement on the EU Savings Tax Directive (EUSTD). They criticised that the proposed agreement did not contain any provisions for market access (Centre Patronal, 2015d; economiesuisse, 2015d). According to the VSPB, an EOI system does not make sense for clients who cannot be served from Switzerland, and Swiss banks should be able to provide the same services as local competitors (VSPB, 2015d). The VSV framed improved market access as a partial compensation for the burden and costs that Swiss financial service providers incur with the expansion of the EUSTD to full AEOI (VSV, 2015d). Centre Patronal advocated for a broad agreement about the free movement of financial services in the EU, beyond individual agreements with member states (Centre Patronal, 2015d). According to the VSV, certain EU member states consider the Swiss demand for improved market access a new form of Swiss 'cherry-picking' (VSV, 2015d).

Interest groups have criticised that this market access conditionality has failed (VSV, 2015e; sgv, 2016a) respectively not been applied sufficiently for certain potential partner countries, e.g. Australia (Centre Patronal, 2015c; economiesuisse, 2015c; SBA, 2015c; VAV, 2015d), Norway (VSV, 2016a), Japan (Centre Patronal, 2016b; VSV, 2016b), Canada (Centre Patronal, 2016c; VSV, 2016c) and the EU member states (Centre Patronal, 2015d; economiesuisse, 2015d; VAV, 2015d; VSPB, 2015d). The VSV also argued that partner countries should put Switzerland on the same level as other financial centres in terms of market access (VSV, 2015c). A criticism of Australia was that it had allegedly granted better market access to some of Switzerland's biggest competitors (sgv, 2015c; VSV, 2015c; SBA, 2015d). The VSV analysed each potential partner country for the 2018-19 process of adding 41 CRS partner states and demanded that those that do not have a genuine will to improve market access should not be 'rewarded' with an AEOI agreement. The Association stated that some countries, such as Argentina and India, are systematically protecting their financial markets from foreign providers, with the exception of British providers for India. Market access to Russia and Saudi Arabia is said to be subject to arbitrary rules and being on good terms with the governments. Until the countries make significant concessions on market access, the VSV was against concluding AEOI agreements with them (VSV, 2016g).

The market access conditionality turns the objectives of AEOI on their head: instead of being about the prevention and tackling of cross-border tax evasion, AEOI becomes about Switzerland expanding cross-border financial services – the very risk factor that the international standards aim to regulate. There is a clear diagnostic struggle going on: by highlighting market access as a key deciding factor for the choice of AEOI partner countries, financial industry actors made exchange of information about their market potential in other jurisdictions rather than what it is about according to the global norms: namely, other jurisdictions' need for information from Switzerland to combat tax evasion. By demanding a level playing field with competitors and market access in return for EOI agreements, private sector interest groups give seemingly reasonable grounds for their resistance to regulatory change. They use structural power arguments alluding to the harm that the financial services sector could occur when being overregulated in comparison with competitors. The competition argument allows the interests of regulators and regulated to align, namely to protect the 'Finanzplatz Schweiz' in light of competitor financial centres. The market access frame further is in line with neoliberal economic ideas about free trade. This aligns with Latulippe's (2018) finding that interest groups argue that the purpose of tax policies is to facilitate tax planning and a competitive environment. An interesting question for further research is whether these are conditions that the interest groups really believe in and want to see fulfilled or whether they are deliberately set up to be unrealistic. In the latter case, the interest groups can use them to justify further resistance against the regulation whilst having given the illusion of being open to reform.

4.3. An ever-shifting tension: the case of stolen data

An interesting example of how the government and interest groups negotiate the competitiveness tension outlined above is the case of so-called stolen data. It will be elaborated here in order to illustrate the tension between the two views on what is better for competitiveness, and to show that views on the tension can change.

Switzerland historically does not grant administrative assistance in tax matters when the request for information is based on data that has been illegally acquired or 'stolen'. In the 2010 consultation about the Administrative Assistance Regulation, the Swiss government highlighted that administrative assistance cannot be granted when the public order ('ordre public') or the principle of good faith have been violated (Eidgenössisches Finanzdepartement & Eidgenössische Steuerverwaltung, 2010). In the accompanying report to the consultation on the Administrative Assistance Act 2015 the government referenced the Vienna Convention on treaty law (1969) and the therein anchored principle of 'good faith', which stipulates that a "treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose" (Art. 31, Vienna Convention on the Law of Treaties, 1969). If a government has been actively involved in acquiring stolen

data and bases its administrative assistance request on such data, it circumvents the administrative assistance agreement – constituting therefore a violation of the principle of good faith (Eidgenössisches Finanzdepartement, 2015). Stolen data can further raise issues around confidentiality (see Debelva & Mosquera, 2017).

In alignment with the government's view, interest groups spoke out in the 2010 and 2011 consultations against Switzerland responding to administrative and legal assistance requests that are based on stolen data or data that has been obtained through methods that would be penalised in Switzerland (Centre Patronal, 2010; economiesuisse, 2010; SBA, 2010; sgv, 2010; VSPB, 2010; Centre Patronal, 2011; economiesuisse, 2011; VSPB, 2011; economiesuisse, 2012; SBA, 2012; sgv, 2012). The Swiss Trade Association (sgv) referred to the purchase of stolen CDs by the German authorities to highlight that Switzerland should not enter into such administrative assistance requests as they constitute an "unlawful infringement of its sovereignty and legislation" (sgv, 2010, p. 2, translated from French). CSO Alliance Sud and the Trade Union Association (SGB) argued against this stance, saying that this basically renders administrative assistance requests useless because the requesting state will not be able to obtain the required information (Alliance Sud, 2010; SGB, 2010). Alliance Sud added that the Swiss tax authority does not have the competency or legitimacy to decide whether a foreign request is based on stolen data:

> "It is not Switzerland's job to determine how foreign authorities deal with stolen data. Not only does it have no legal competence to do so, but it also has no moral legitimacy." (Alliance Sud, 2011, p. 4, translated from German)

In 2013 the government consulted on a reform of the Administrative Assistance Act. The Global Forum recommendations to Switzerland in 2011 included a demand that Switzerland adapts its approach to stolen data. India in particular was irritated at the time about the rejection of its administrative assistance requests based on the current Swiss practice. In the consultation document, the Swiss government warned that Switzerland would probably not fare very well in the upcoming Global Forum evaluation if it doesn't change its approach to stolen data. This would lead to the worst grade in the peer review, bad publicity for Switzerland and a risk of sanctions, e.g. landing on a blacklist. The Swiss government suggested as an amendment that requests for administrative assistance would only be rejected if the information was *actively* acquired through acts punishable under Swiss law (Eidgenössisches Finanzdepartement, 2013). Again we see reform proposals being justified with reference to reputational and material sanctions.

This suggestion was heavily critiqued by interest groups (e.g. SBA, 2013b; sgv, 2013b). They argued that the reform would legitimate criminal activities (Swiss Holdings, 2013b), namely the stealing of data, or encourage such activities (SBA, 2013b; sgv, 2013b; VSKB, 2013b), for

example by bank employees (Swiss Holdings, 2013b). It would also wrongfully 'compensate' countries that are using stolen data (Centre Patronal, 2013b) and it would violate the criminal proceeding principle that prohibits the use of evidence that has been gathered through punishable means (Forum SRO, 2013b). economiesuisse, who often were in favour of following international standards and demands, acknowledged the importance of passing the peer review but in this case highlighted that the reasons to reject the reform weighed more:

> "If Switzerland were to provide administrative assistance in the case of requests based on data stolen in Switzerland, it would indirectly justify criminal acts. In doing so, we would undermine not only our legal system, but also internationally valid legal principles. Even though passing the Global Forum's review of administrative assistance is of central importance for Switzerland, we reject this change in line with the majority of the comments we have received." (economiesuisse, 2013b, p. 2, translated from German)

Interest groups highlighted that other countries also reject such reforms and that the reform goes beyond the demands of OECD and Global Forum (SBA, 2013b; Swiss Holdings, 2013b; VSPB, 2013b). The strongest language probably came from the Swiss Association of Wealth Managers (VSV) which used legal and ethical arguments against the reform proposal:

> "With regard to this revision proposal, one can only speak of a complete 'decay' of the rule of law. This revision proposal lacks any legal or ethical basis. It is in no way comprehensible how Switzerland demands that residents here observe the legal system, and to an ever-greater extent also defends this with penal provisions, but at the same time for the sake of the 'sacred cow' of tax transparency, abandons the protection of the Swiss legal system, even invites them to break Swiss law, if possible with secret intelligence methods, so that active participation does not become obvious." (VSV, 2013b, p. 9, translated from German)

Following this strong and united rejection of the reform by interest groups, the suggested change regarding stolen data was abandoned and not included in the revised Act. In this case, domestic pressures trumped international ones.

The fact that the suggested change of law came back on the table already in 2015 can be explained by the pressure following the Swiss Leaks scandal. Data stolen from HSBC was published in the media in February 2015 and brought the issue back onto the political agenda. The government suggested responding positively to administrative assistance requests that are based on information which has originally been acquired through criminal acts (as per Swiss law) if the requesting state has acquired this information *not actively* but through administrative

assistance or through public sources like the media. The Swiss government further warned again that the fact that partner countries consider Swiss rules too restrictive might negatively affect its grade in phase 2 of the Global Forum peer review. It also referred to the case of Luxembourg. The country was considered non-conformant in phase 2 of the peer review and put on a blacklist by Belgium. Potential defensive measures prepared by the OECD include the elimination of certain deductions that companies obtain based on DTAs. International financial organisations further avoid working together with countries that are non-conformant because of the reputational risk. The Swiss government also warned that an insufficient grade will lower the country's credibility in international fora such as FATF. There would further be more insecurity for international corporations based in Switzerland (Der Bundesrat, 2015c).

Surprisingly, multiple interest groups who rejected the reform in 2013 were in favour of it in 2015, referring to international pressure and sanction risks to explain their change in position. economiesuisse and Swiss Holdings used the example of Luxembourg having suffered sanctions from not passing the Global Forum Peer Review process as a reason for why they are supporting the revision of the law this time around – as opposed to two years earlier. They referred to the reputational risks and other potential sanctions facing Swiss industry if Switzerland does not comply with the international expectations. economiesuisse explicitly mentioned that most of their members were in favour of the change of law for those reasons (economiesuisse, 2015e; Swiss Holdings, 2015e). And Swiss Holdings admitted that they changed their viewpoint since 2013 because they saw there were real sanctions risks:

> "At the time, Swiss Holdings opposed an amendment to the standard on grounds of the rule of law. We assumed that Switzerland would pass the peer review of the Global Forum even without adopting this standard. On the basis of more recent findings, we have to revise this assessment. For example, Luxembourg, which had a similarly restrictive regime on requests for administrative assistance based on stolen data, had failed the Global Forum's examination in the first instance. It was only when Luxembourg completely revised its legislation on administrative assistance and responded to such requests that it was able to successfully conclude the Global Forum's examination." (Swiss Holdings, 2015e, p. 1, translated from German)

The Swiss Trade Union Association (SGB) warned explicitly of negative peer reviews and economic sanctions (SGB, 2015e) and also the Swiss Bankers Association (SBA) took this more pragmatic view on the change in law (SBA, 2015e).

Centre Patronal, sgv and VSV, the three interest groups highlighted above as the most critical of international pressure, continued to reject the reform proposal vehemently (Centre Patronal, 2015e; sgv, 2015e; VSV, 2015e). They referred to Liechtenstein as a counterexample to

Luxembourg to show that a reform of the handling of stolen data is not required to pass the Global Forum peer review (VSV, 2015e). The Federal Council found the international pressures to be strong enough to publish suggested reforms in 2016 (Staatssekretariat für internationale Finanzfragen, 2016). In summer 2019, the Council of States rejected the proposal. The majority of parliamentarians found that Switzerland already fulfilled the requirements of the Global Forum (Ständerat, 2019).

While the reforms were not implemented, this case study shows that the balance between withstanding international pressures and giving in to them can be volatile and can shift. In this case, when international pressures became stronger and sanction threats seemed real, the Swiss government brought a previously highly unpopular reform proposal back to the table, and some interest groups had changed their minds about it. The diagnostic struggle about competitiveness can go in the direction of international compliance when international pressure becomes strong enough and there is concrete evidence of the repercussions of non-compliance.

5. Conclusion

This chapter has shown how Switzerland has undergone a quite formidable transformation in the past fifteen years – from being highly resistant to any attack on banking secrecy and very critical of the idea of automatic exchange of information to participating in all exchange of information initiatives and now even considering a central register of beneficial ownership. The chapter asked why and how this transformation took place, considering the role of reputational and material sanctions in making states comply with international regimes, and the tension with a reputation of being a reliable financial centre for international clients.

This chapter showed that Switzerland's participation in international transparency standards is negotiated in a diagnostic struggle across what I call the competitiveness tension, namely the question what is better for the financial centre's competitiveness: international compliance and therefore preventing reputational and material harm and even gaining reputational esteem or doing the minimum and definitely not more than other financial centres and maintaining the country's reputation for discretion and confidentiality. Ultimately even the most transparency-sceptical actors had to concede to some of the international pressures, in light of unprecedented international developments. Over the last 10-15 years, the mood in Switzerland's government and within industry has changed, with increasing recognition that a) perhaps transparency regulation does not have an as negative economic impact as initially feared, and b) that compliance with international standards is important for the Swiss economy and the reputation and economic wellbeing of its financial centre. Reform is mainly driven or justified by peer review results from the OECD or FATF assessment processes, reputational repercussions and the

threat of sanctions and blacklisting. This is in clear contrast with the UK where a proactive and leadership approach dominated, as shown in the previous chapter.

If reform comes into place that some interest groups might be critical of, they at least want to protect their competitiveness by creating a level playing field and negotiating favourable economic conditions – such as market access in return for AEOI agreements. Strikingly, arguments both in favour of and against more transparency revolve around competitiveness and structural power, which again shows the dominance of the commercial imperative which I observed for the UK case. The dominance of the commercial logic is even more pronounced in Switzerland, as well as more outspoken, with moral and ethical concerns being minimised and mainly leveraged by few civil society actors.

Previous literature has mainly referred to the unilateral power of the US and one specific episode post-financial crisis to explain why Switzerland has moved towards increasing transparency of financial accounts. By analysing previously unexplored consultation submissions and conducting original interviews, many of which with key informants, I explored the nuances of the policy developments. The unilateral power of the US was important, but it was not the only international pressure Switzerland experienced. Further, there was resistance against the pressure and banking secrecy and other aspects of Switzerland's financial sector were not easily given up. I instead show how initial rejection of certain policy proposals shifted towards perhaps smaller acts of resistance, such as asking for a level playing field with other financial centres and market access benefits in exchange for transparency.

The Swiss case again shows that the exercise of structural power is not straightforward. Structural power does not need to mean regulating less, in particular as the recursivity between global norms and domestic lawmaking can change structural power calculations. We first have to ask *how* business is best protected: through international compliance and a good reputation or through underregulating in international comparison. The answer to this depends on the external circumstances as well as the precise industry we are looking at. Second, we therefore need to ask *whose* structural power we are talking about. This chapter has demonstrated that protecting industry, large banks and smaller financial sector actors might require different approaches at different times. The policy outcome will therefore also depend on their relative instrumental and structural power.

To conclude this chapter, it is worth looking at what has actually happened to the Swiss financial centre's competitiveness in light of the reforms. While since 2009, there has been a reduction in deposits held by foreign private clients in Swiss banks, the quantitatively more significant bank deposits of foreign institutional clients have seen an important rise (Brunetti, 2019). Zucman (2015) notes that the main Swiss banks focus increasingly on the wealthier clients. Wealthy individuals further make increasing use of "shell companies, trusts, holdings and foundations"

(Zucman, 2015, p. 40). Switzerland has remained an important global financial centre and is still the most important centre for foreign wealth, controlling an estimated 25% of the cross-border private banking business in 2018 (Brunetti, 2019). It also still ranks number one in terms of size and competitiveness on Deloitte's wealth management centre ranking (Deloitte, 2021). This recognition might make actors less worried about future reforms.

The Swiss journey towards tax and financial transparency has been characterised by more overt political struggle than the UK one. But in both countries the way of implementing global transparency standards was subject to much debate. Those struggles around what I call the politics of transparency will be explored in the following chapter.

Chapter 6: The Politics of Transparency

1. Introduction

The previous two chapters have laid out the trajectories of tax and financial transparency regulation in the UK and Switzerland. They showed that the narrative and practices of transparency have become widely accepted and promoted in both countries and across the world. At the same time, both in the UK and Switzerland, structural power and competitiveness concerns meant that there were strategies of resistance as well. This chapter will focus more closely on the political struggles that occur in the recursive process between global transparency norms and domestic lawmaking. They are processes of adoption and alignment, adaptation and resistance. This chapter shows that while transparency as a norm is largely accepted, the question of exactly how to execute transparency is continuously up for debate. In this chapter I ask:

> What are the main political struggles about transparency as a regulatory tool against tax evasion and money laundering?

Specifically, I explore the different interests and struggles over what should be done, how and by whom in the context of exchange of information (EOI) regulation and beneficial ownership transparency in the UK and Switzerland. I argue that these struggles play out across two main axes: (1) What falls outside of and within the concrete laws and policies? What should be made transparent and what not (the politics of exclusion)?; (2) What are the right verification mechanisms for that which is made transparent, to ensure the information is accurate and usable (the politics of verification)? These themes emerged inductively from the consultation submission analysis as key concerns of interest groups in both countries.

The two axes relate to two key findings in the literature on transparency as a governance norm: first, transparency is never complete and by making certain things transparent others necessarily get obscured (Moore, 2018; Roberts, 2009). This can be an accidental or a purposeful process. This chapter in its first part focuses mainly on the active struggles about what to shield from transparency. The second insight from the transparency literature leveraged in this chapter is that the receiving side of information can question the truth claims and veracity of the information and that transparency can lead to the spread of misleading information and to confusion and uncertainty (Heald, 2006b; O'neill, 2006). These two themes relate to the politics of exclusion and the politics of verification because they are about the overarching questions *what information should be made transparent* and *how that information is verified.* The 2023 Global Forum Annual Report also identified these two issues as being at the heart of most of the recommendations made to member states following peer review. The largest number of recommendations relate to domestic exemptions of financial institutions and accounts that do not comply with

the global standards. In second place are recommendations regarding insufficient enforcement of the requirements, such as due diligence duties, reporting and record keeping tasks and imposition of sanctions, which all relate to verification issues (Global Forum on Transparency and Exchange of Information for Tax Purposes, 2023).

In order to illustrate how the struggles around exclusion and verification play out in the two countries, this chapter is divided into a section on each axis. The sections explore how the two struggles arose in consultations on EOI and beneficial ownership transparency in the UK and Switzerland – in the process of translating global norms into domestic laws. The final section explores whether transparency as a regulatory tool works automatically due to the risk of detection, or whether data needs to be used and transparency enforced in order to achieve outcomes. This thesis constitutes one of the first examinations of EOI and beneficial ownership transparency from this particular perspective.

Despite their seemingly different approaches to tax and financial transparency, similar struggles around exclusion and verification take place in the UK and Switzerland. In line with the previous two chapters, this chapter shows that the recursive process between global norms and domestic lawmaking ends up leading to incompleteness, indeterminacies and weaknesses in both countries. This chapter concludes that transparency as an imperfect, conflict- and contradiction-ridden process is a necessary but insufficient step in the fight against tax evasion and money laundering. The way transparency is commonly approached ignores the fact that making certain things transparent necessarily leads to other things being obscured; and assumes that transparency can lead to an accurate depiction of reality, if only the data is properly verified. There is also a question whether transparency distracts from other regulation and whether information needs to be used in order for transparency to achieve its goals, or whether the act of making transparent in itself is a deterrent to financial crime.

2. The politics of exclusion

One of the key debates related to transparency standards and laws is what should and should not be made transparent in the first place. As transparency can never be complete, standard setters and policymakers must decide what falls under transparency requirements. This is done, on the one hand, through definitions of what is within the scope of the standards and laws and, on the other hand, through the setting of exemptions. This could be certain financial institutions or accounts that are exempt from EOI provisions or certain legal persons that are exempt from beneficial ownership disclosure. I call this struggle the *politics of exclusion* because it revolves mainly around the question of what should be exempt from the transparency mandate. Many exemptions exist for valid reasons, such as a low risk that a certain entity or account would be

abused for tax evasion or money laundering purposes, and the therefore disproportionate burden that transparency regulation would impose. Some actors caution that certain exemptions can become loopholes that negatively affect the effectiveness of a law because they provide ways to circumvent legal obligations. Something being exempt can also differ from something being out of the scope of a law in the first place. Explicit exemptions are easier to spot and, in principle, more transparent. The next section will discuss how exemptions were a particularly prominent topic in the UK, followed by a demonstration that exemptions are often justified with reference to their low risk of being abused for financial crime. The chapter continues to elaborate on the special case of the trust and the diagnostic struggle about whether exceptions are justified exemptions or harmful loopholes.

2.1. The high demand for exemptions in the UK

The topic of exemptions was more prominent in the consultation submissions in the UK than in Switzerland. British interest groups expressed very little outright rejection of the laws – as opposed to Swiss interest groups – but more frequently asked for exemptions to be put in place. Of the overall 141 analysed consultation submissions that thematised exemptions, 89 were from the UK. This reflects the findings in chapter 4 that the UK's leadership on many transparency efforts was perhaps used to distract from areas that the government (and interest groups) wanted to shield from regulation.

UK interest groups had a lot to say about the exclusion of certain financial institutions and financial accounts from automatic exchange of information (AEOI) requirements. Four types of financial institutions are subject to Financial Account Tax Compliance Act (FATCA) and Common Reporting Standard (CRS) agreements in the UK: custodial institutions, depository institutions, investment entities and specified insurance companies. Any entity classified as one of these financial institutions can either be a Reporting Financial Institution or a Non-Reporting Financial Institution (NRFI), with the latter being exempt from identifying, collecting and reporting information. The definition of NRFIs differs between FATCA and the CRS. Under each Reporting Financial Institution, certain accounts can be excluded as well because of their alleged low risk character. The HMRC International Exchange of Information Manual specifies these exemptions (HM Revenue & Customs, 2016).

UK interest groups from the investment, insurance and banking sectors in particular attempted to ensure a more limited scope of the UK-US FATCA agreement. In the FATCA consultation in 2013, which was about the UK's Inter-governmental Agreement (IGA) – the instrument implementing FATCA into national law – interest groups asked to align the IGA with the US FATCA regulations to ensure the same exemptions apply (Nationwide, 2012; BSA, 2013a).

In the subsequent consultation on the CRS, a main concern was that the CRS contained fewer exemptions and exclusions than FATCA and the UK's other AEOI agreements that preceded the CRS. Investment management firm Fidelity expressed particular concern about the inclusion of investment managers and investment advisers under the category of reporting entities:

> "The short list of non-reporting Financial Institutions for the CRS, as compared to the previous agreements, means that a number of entities, such as investment managers and investment advisers, which were previously non-reporting, are now reporting Financial Institutions." (Fidelity, 2014a, p. 8)

Table 15 summarises which exemptions were asked for by interest groups in the consultations on FATCA in 2012 and 2013 as well as the CRS in 2014.

Table 15: Exemptions asked for in UK consultation submissions on FATCA and the CRS

FATCA consultation 2012	FATCA consultation 2013	CRS consultation 2014
Investment trust companies and venture capital trusts (VCTs)	Pensions	Domestic savings, pensions and insurance products
Investment managers	Insurance	Investment trusts
Trusts	Trusts	Interests in closed-ended funds that are 'regularly traded on established securities market'
Entities that have no customers	Pre-paid accounts	Lower value (under GBP 10,000 or GBP 50,000) and dormant accounts
Entities that are not required to perform anti-money laundering (AML)/know-your-customer (KYC) checks	Real estate funds	Investment managers and advisers
Share registers		Shareholdings on the share register
Reinsurance contracts		Shareholdings in Investment Trusts and Venture Capital Trusts
Those who do not maintain financial accounts (fund administrators, transfer agents, depositories, trustees, registrars, investment managers)		Excepted charities

Table 15: Exemptions asked for in UK consultation submissions on FATCA and the CRS		
FATCA consultation 2012	**FATCA consultation 2013**	**CRS consultation 2014**
		Pension trustee companies and companies that are solely pension Scheme Administrators
		Investment Trust Companies
Source: ABI, 2012; AIMA, 2012; ILAG, 2012; M&G, 2012; STEP, 2012	*Source: BBA, 2013a; IMA, 2013a; M&G, 2013a*	*Source: ABI, 2014a; AIC, 2014a; AIMA, 2014a; BBA, 2014a; Henderson, 2014a; ICSA, 2014a; IFDS, 2014a; ILAG, 2014a*

The topic of exemptions was not only prevalent with regard to EOI laws but also appeared widely across the different consultations about beneficial ownership transparency. Table 16 lists some of the most asked-for exemptions from the People with significant control (PSC) register requirements:

Table 16: Exemptions asked for in UK consultation submissions on the PSC register	
Exemption	***Source***
Investors in discretionary investment funds	*AIMA, 2014b; AIMA, 2015*
Smallest companies (for first stage of implementation)	*ACRA, 2015*
Quoted/listed companies	*AIC, 2013b; BBA, 2013b; Capita, 2013b; Global Witness, 2013b; ICAEW, 2013b; Law Society of Scotland, 2013b; PwC, 2013b*
All regulated entities	*BVCA, 2013b; AIMA, 2015*

Many interest groups notably promoted an exclusion of quoted/listed companies from reporting requirements, claiming that such duties are redundant as these companies are subject to Financial Conduct Authority (FCA) disclosure rules and additional reporting would represent too much of a burden (AIC, 2013b; BBA, 2013b; Capita, 2013b; Global Witness, 2013b; ICAEW, 2013b; Law Society of Scotland, 2013b; PwC, 2013b). Some argued that this exemption should be extended to all regulated entities, namely those regulated by the FCA or the Prudential Regulation Authority (PRA) or equivalently regulated firms abroad (BVCA, 2013b; AIMA, 2015). Civil society organisations (CSOs) were critical of excluding companies listed on

a regulated market and advocated for an equal reporting burden for non-listed and listed companies (ONE, 2013b; Open Corporates, 2013b; PWYP, 2013b; TI, 2015).

The entities that must send PSC information to the registrar Companies House are UK companies, Societates Europaeae (SEs), limited liability partnerships (LLPs) and eligible Scottish partnerships (ESPs). Exempt are "[c]ompanies with voting shares admitted to trading on a regulated market in the UK or European Economic Area (other than the UK) or on specified markets in Switzerland, the USA, Japan and Israel" (Department for Business, Energy & Industrial Strategy, 2017, p. 7).

Discussions about exemptions do not only revolve around who and what gets to be removed from the scope of legislation altogether. Instead, certain entities can also be simply subject to less transparency than others. In the case of the PSC register, this manifested in a debate about whether some beneficial owners should feature on the register without their information being made public. The Business Information Providers Association (BIPA), for example, asked for minors' information being exempt from publication for protection purposes (BIPA, 2013b). Transparency International cautioned that this type of exemption should be narrowly regulated and must be justified, and that the information should still be available to the authorities (TI, 2013b; see also Open Corporates, 2013b). CSO ONE advocated for there to be no exemptions at all from the public register (ONE, 2013b).

As the Register of Overseas Entities (ROE) is about companies registered abroad, private sector interest groups here advocated for exempting companies from certain countries. They mentioned Jersey or EU states following implementation of the 4th Anti-Money Laundering (AML) Directive, or those countries which already have a central beneficial ownership register (JFA, 2016; JFL, 2016; PwC, 2017), as well as those with equivalent systems, in terms of effectiveness of information verification and sharing with law enforcement (IFC Forum, 2017). These demands, of course, importantly came from interest organisations representing those in overseas jurisdictions, such as the Jersey Funds Association (JFA), Jersey Finance and the International Financial Centres Forum (IFC Forum).

While the topic and code of exemptions was more pronounced and dominant in the consultation submissions of UK interest groups, it also came up in Swiss consultations. Table 17 lists some of the exemptions that Swiss interest groups asked for in consultations on EOI.

Table 17: Exemptions asked for in Swiss consultation submissions on EOI	
Exemption	***Source***
Wealth managers and investment advisers who do not have accounts	*Forum SRO, 2015a; VSV, 2015a; sgv, 2016e*
E-money providers and accounts	*SBA, 2016e; sgv, 2016e*
Increasing threshold for dormant accounts to CHF 10,000	*SBA, 2016e; sgv, 2016e*
Accounts of a value of maximum CHF 50,000	*sgv, 2015e; VSKB, 2015e*

The Swiss Association of Wealth Managers (VSV) was critical of a wide scope, highlighting that spontaneous administrative assistance should be kept to a reasonable level by using the exemptions framework to its fullest. Without limiting the scope, the system would amount to a police and surveillance state:

> "Particularly in the case of spontaneous administrative assistance, it is important that the framework of reservations provided for in the agreement is consistently exhausted. These reservations make it possible to keep the framework of spontaneous administrative assistance at a level that is still reasonable for the tax authorities and the persons concerned. The full scope of spontaneous administrative assistance amounts to an international tax police and surveillance state." (VSV, 2015b, p. 4, translated from German)

An interesting discussion point with regard to the Multilateral Competent Authority Agreement (MCAA) in 2015 and the AEOI Regulation in 2016 was whether accounts of lawyers and notaries to whose assets clients are commercially entitled should be excluded from the AEOI. This was the suggestion of the Swiss government and the private sector, in particular finance sector and lawyer interest groups, welcomed this exception (e.g. SBA, 2015a; VSV, 2015a; Forum SRO, 2016e; sgv, 2016e; VSV, 2016e). This also has to do with the confidentiality requirements of the legal profession, which will be discussed in more detail in chapter 7. As the VSV noted, "[t]he observance of the lawyer-client privilege is one of the elementary requirements of a state governed by the rule of law and thus belongs to public order" (VSV, 2015a, p. 25, translated from German).

2.2. The low-risk justification

Exemptions from EOI regulation were often justified or legitimised with the alleged low risk that the respective institution, account or entity pose for being abused for tax evasion or other financial crime. Including them in regulation would present an undue compliance burden and cost (Nationwide, 2013a). In the UK, examples of allegedly low risk institutions and accounts are insurance products and reinsurance products (ABI, 2012; ABI, 2013a; ABI, 2014a), investment companies for US customers (AIC, 2012), and investment managers where the funds they manage are themselves financial institutions and subject to FATCA (AIMA, 2012). Other examples include UK building societies because they have few US customers and only tend to serve UK resident individuals or trusts (BSA, 2012; BSA, 2014a), UK pension accounts and pension providers (ABI, 2014a), and investment trusts (AIC, 2014a). Interest groups showed disappointment that the CRS did not include any thresholds for reportable accounts, which increases the volume of reportable accounts even though they allegedly pose no risk. According to them, this is not proportionate in terms of risk management (BBA, 2014a; BSA, 2014a):

> "Another factor which will increase the administrative costs for the financial services sector relates to the lack of thresholds in the CRS, which greatly increases the volume of reportable accounts although significant numbers of these pose no actual tax risk which gives rise to a concern that the CRS is not proportionate to dealing with the tax risk and may be susceptible to a legal challenge." (BBA, 2014a, p. 11)

One of the biggest related discussions in Switzerland was the exemption for foundations and charitable associations from AEOI, which was justified with the alleged low risk of these institutions being used for tax evasion. In the consultations on the MCAA in 2015 and the AEOI Regulation in 2016, interest groups asked for the exemption of foundations to be anchored in the Swiss AEOI Act, together with the already foreseen exemption for associations. The argumentation behind this exemption is that the wealth of a foundation cannot be transferred back to the donor or the board of the foundation in case of liquidation. Once the donor gives the money into the foundation, she or he has no claim to it anymore. The foundation therefore has no beneficial owners. This allegedly minimises the risk that foundations are misused for tax evasion. In the words of the Association of Swiss Private Banks (VSPB), foundations pose no risk that would warrant exchange of information, given they have charitable aims and their funds cannot be returned to the founder:

> "These foundations serve a charitable purpose, and their capital can no longer be returned to the founder, so they do not present any risk that justifies an exchange of information in tax matters." (VSPB, 2016e, p. 3, translated from French)

This exemption of foundations was subsequently adopted by the Swiss government into the AEOI Regulation from 2017. In 2019 the government launched a consultation on the revision of the Regulation following the peer review and recommendations by the Global Forum. One of the big pillars of the revision was the elimination of the exemption for foundations, which seems to have been a Swiss specificity. The Swiss government wrote in their explanatory report that there is a big expectation on Switzerland to implement this reform (Eidgenössisches Finanzdepartement, 2019). The suggested change was met with strong resistance from various interest groups and an array of foundations themselves. This consultation had the highest rejection rate out of all the ones analysed, at 54.17% (see table 13 in chapter 5). Interest groups referred to the existing exemption for foundations under FATCA and the administrative burden the elimination of the exemption would represent (Centre Patronal, 2019; economiesuisse, 2019; SBA, 2019; sgv, 2019; VAV, 2019; VSPB, 2019). The Swiss Bankers Association (SBA), while expressing support for the work of the Global Forum to ensure the integrity of the CRS and therefore an international level playing field, asked for a renewed reflection on whether charitable and tax-exempt foundations can remain exempt from the AEOI requirements (SBA, 2019). According to the Swiss Trade Association (sgv), an exclusion of foundations because of their low-risk character is in line with the Swiss FATCA Agreement and FATF:

> "Above all, foundations, as independent special funds that are exclusively and irrevocably intended for charitable purposes, are unsuitable vehicles for tax evasion. This means that the conditions for an exemption under the Global Reporting Standard are met. Even the agreement with the US (FATCA agreement), which serves as a template for the AEOI, does not provide for any reporting obligation for foundations and associations. The Financial Action Task Force (FATF/GAFI), an OECD organisation, has also concluded in the area of money laundering and terrorist financing that foundations are not exposed to an (increased) risk of being misused for fraudulent activities." (sgv, 2019, p. 2, translated from German)

Business association economiesuisse warned about the high costs of the proposal to subject foundations to such due diligence and reporting regulations and what that could mean for the sector as a whole:

> "Due to the elimination of the corresponding exemption, charitable and tax-exempt foundations may have to comply with their own registration, due diligence and reporting obligations as well as bear corresponding cost consequences. According to the explanatory report, a negative effect on the growth of the Swiss foundation sector is conceivable." (economiesuisse, 2019, p. 2, translated from German)

The SBA and the Association of Swiss Asset and Wealth Management Banks (VAV) warned that this increasing burden would also affect banks that must subject previously exempt accounts to increasing controls. The associations also highlighted that these accounts are exempted under the FATCA regime (SBA, 2019; VAV, 2019). Foundations themselves were particularly worried about the money they will have to spend on administrative efforts to comply with AEOI rules instead of the funds going to the charitable causes the foundation supports. The foundations also distanced themselves from trusts and foundations whose wealth can be claimed by donors or council members. The group Swiss Foundations also warned that the removal of the exemption could, in the worst-case, lead to donors and council members having to report personal information such as their own tax declarations. This would make these mandates highly unattractive. The group suspected that the OECD is making an example of Switzerland. The removal of the exemption would, according to them, harm the status of Switzerland as an attractive place for foundations (Swiss Foundations, 2019).

Ultimately, the Swiss government followed the strong rejection coming from interest groups and defended the exemption at the OECD, with success. In October 2022, the OECD Fiscal Affairs Committee approved this exemption to be embedded in the CRS (OECD, 2022). This was likely due to a combined lobbying effort at OECD level from the Swiss government, the Swiss foundations sector and their European allies (Swiss Foundations, 2022).

A paradox with regard to the discussion around low-risk accounts and entities is that by the very fact of being excluded they could become high risk. Customers might target those exempt entities and accounts in order to escape transparency requirements.

2.3. The special case of trusts

A particular concern in terms of exemptions both in EOI and beneficial ownership transparency was the legal arrangement of the trust. This should come as no surprise given how the UK government defended the trust exemption (chapter 4), and the competitiveness concerns that trusts raised in Switzerland (chapter 5). UK interest groups spoke out early on in favour of trusts being exempt from AEOI regulation under FATCA (BBA, 2012). Wealth manager

association STEP was critical of small trusts being treated the same as large banks and warned of increasing compliance burdens:

> "[G]iven the large number of trusts with a professional trustee among the trustees it is worth considering the practical implications if they are to be categorised as "Financial Institutions". Many hundreds of thousands of families will be astonished to discover that their grandmother's or uncle's trust fund, in spite of often having little or no income and limited assets, now falls into the same category as a major investment bank or City institution. In these circumstances it will clearly be necessary for HMRC to mount a major public information campaign to explain the position to families and avoid widespread public concern at the imposition of major new registration and reporting requirements which are likely to give rise to significant compliance costs." (STEP, 2012, p. 4)

The association also echoed the UK government's suggestion (as elaborated in chapter 4) that UK trusts are different and that there is a misunderstanding about them. This rhetorical strategy can be used to justify an exemption, by suggesting that those critical of it simply do not understand what a UK trust is, akin to how the Swiss interest groups argued for the particularities of Swiss foundations:

> "Both the current IGA and the US regulations […] are drafted in such as a way as to indicate a lack of understanding about how trusts are structured and used in the UK." (STEP, 2013a, p. 4)

There is a suggestion that UK trusts are particular and therefore deserve the exemption from FATCA that the US might not understand. In the case of beneficial ownership disclosure if a company is owned by a trust, PwC advocated for solely the trustee being listed – as opposed to all the beneficiaries:

> "Most beneficiaries of most trusts are "passive" beneficiaries (ie not involved in the decisions or management of the trust funds) and would not meet the definition of beneficial owners in this scenario/for these purposes. Disclosure should be limited to those individuals with control ie the Trustees." (PwC, 2013b, p. 6)

Also in relation to the PSC register, STEP referred to the low-risk character of most trusts. The association advocated for personal information only being available to authorities,

cautioned against the publication of a list of potentially vulnerable beneficiaries and asked for minimum bureaucratic reporting effort:

> "The great majority of UK trusts, focused on the protection of vulnerable beneficiaries or family succession issues, are low risk from the point of view of illegal activity or trying to secure inappropriate influence over the affairs of companies they may own stakes in." (STEP, 2013b, p. 3)

With regard to the Register of Overseas Entities (ROE), PwC highlighted a complication when it comes to identifying beneficial ownership of trusts that have shares in offshore companies. The beneficiary's interest in the trust might never come to fruition:

> "Since the beneficiary only has a potential interest (which may never crystallise), it would not appear to be correct to include them on a register of actual interests. However, recording trustee information alone would not show any ultimate beneficial interest." (PwC, 2017, p. 4)

Not everyone agreed that trusts should benefit from exemptions from the beneficial ownership transparency requirements. Civil society organisations (CSOs) expressed concern about the potential that trusts are used as a loophole (ONE, 2013b; Open Corporates, 2017; TI, 2017). The impression that trusts can be used as a way around EOI regulation or beneficial ownership transparency was shared by many interviewees from both countries (CHIND02; CHNGO01; INTFS01; UKFS03; UKFS07; UKNGO06; UKPOL03; UKCS01). For example, Swiss industry representative Daniel saw trusts as having, to a certain extent, replaced banking secrecy, and posited that they are even more obscure than financial accounts:

> "The banking secrecy was a little bit […] for people who don't have a lot of income. But then there are the trusts. And with trusts, well, I don't know if we can see behind them." (CHIND02, translated from French)

UK tax adviser Adam who previously worked in the public sector, and whom I recruited after hearing him speak in a public event, doubted the ultimate effectiveness of a beneficial ownership register because of layers of ownership and because trusts can be a way to get around the regulations. Complex layers of trusts in different locations can be used to create confusion and make detection unlikely:

> "So there are a whole range of reasons why if you've simply got a register of beneficial interests you only get so far. The other reason why it may in the long term prove ineffective is if you are up to no good, the last thing you are

> going to do is have a corporate and have you listed as the beneficial owner of that corporate. You are going to find a way around that. And I am pretty certain no matter how watertight they make these things, there are people who will find a way around it. You know, you have a corporate owned by a trust and that trust owned by another trust. So you'll have layers and layers and layers. And again, in my experience, the most determined tax evaders typically have structures that are layered. So if you see a structure of some offshore holding and there are dozens of offshore companies and trusts all over the place, then you usually know that that's really designed to be as complicated as possible to try and minimise, even if you give full details of it, you try and minimise the ability of a human being to actually understand it." (UKFS07)

As highlighted in chapter 4, civil society representative Charlotte even posited that the UK was able to assume their leadership role in transparency matters because they knew they have the trust as a way around transparency regulation. She suggested that activities were shifted into trusts because actors saw regulation coming. The trusts not only shielded the industry from loss of earnings but potentially even created new earning opportunities (UKNGO06).

In 2014, CSOs advocated for a (public) trust register, to collect information not just on trustees but on settlors, protectors, beneficiaries and other natural persons able to exercise control (Christian Aid, 2013b; Global Witness, 2013b), and on whether the trust is discretionary or non-discretionary, and revocable or irrevocable (Global Witness, 2013b; ONE, 2013b; PWYP, 2013b; TI, 2013b). Not only CSOs supported this view. Also the Association of British Insurers (ABI) expressed itself in favour of a register of trusts (ABI, 2015).

Others were more sceptical about this idea of a trust register, in particular the idea that beneficiaries should be declared (PwC, 2017). In case of shares in a discretionary trust for example, interest groups said that disclosure would be inappropriate as the potential beneficiary list can be very broad and beneficiaries might not even be aware of the trust's existence (Law Society, 2013b; Oakwood, 2013b). Also in other trusts, according to PwC and STEP, most beneficiaries are 'passive' and don't even know about their status or won't benefit from it. It should therefore be the trustee that is disclosed as the beneficial owner, not the beneficiaries (PwC, 2013b; STEP, 2013b; STEP, 2015). STEP further cautioned against the publication of private details of lay trustees (STEP, 2013b).

The UK eventually put in place a Trust Registration Service (TRS), but this register is not public. And, of course, it contains its own exemptions, among them those trusts that are

considered a lower risk for money laundering and terrorist financing (HM Revenue & Customs, 2021).

2.4. Justified exemptions or harmful loopholes?

In particular the example of the trust highlights a prominent theme in the politics of exclusion: the diagnostic struggle about how these exclusions should be framed and labelled. In general, exemptions and differences in how the rules apply to different financial institutions, accounts or legal entities can be framed either as justified exemptions or as harmful loopholes. This chapter has elaborated here above the framing of justified exemptions with, for example, reference to the low-risk character of certain institutions or accounts or the need for protection. Other actors, in particular from civil society, and a number of interviewees, framed the gaps in transparency regulation as loopholes and ways around the rules.

Civil society interviewee Charlotte spoke about the inevitability of such loopholes, because legislation always gets watered down and contains ways around it:

> "Because you can move things around. There's always space, any legislation always gets watered down and there always is space for people to find another route. It's like that, what's the nursery rhyme, we're going on a bear hunt, if you can't go over it, we'll have to go under it. Can't go under it, have to go around it. Anyway, there's always that aspect, so it all sounds really good but there's always a sort of a way around, a work around." (UKNGO06)

In a similar vein, trade union representative Peter highlighted that Switzerland always tries to do the minimum when adopting an international standard, which includes installing exemptions in the law (CHTU01).

UK CSOs specifically warned about exemptions from the PSC register because, according to them, they can be misused. Christian Aid said that all legal entities that can be incorporated in the UK should be included in the register (Christian Aid, 2013b) and ONE supported the view that exemptions should not be made for any type of company or trust (ONE, 2013b). Transparency International in 2015 warned against approving further exemptions that could turn into loopholes and circumvention of the law:

> "[f]urther exemptions will increase the chance of companies finding loopholes in the regime and not having to disclose details of their PSCs. The Financial Times has already reported one law firm which is advising wealthy clients of loopholes in the new law […]. This will decrease the effectiveness of the

> regime and will put those companies who do comply at a comparative disadvantage." (TI, 2015, p. 3)

The CSO not only referred to lack of effectiveness as a negative result of this, but also warned about the competitive disadvantages that compliant companies would suffer. CSOs advocated for the register to also include overseas companies that have registered a UK establishment, and subsidiaries of listed companies (Christian Aid, 2013b; Global Witness, 2013b). According to CSOs, also Limited Liability Partnerships (LLPs), which certain interest groups advocated for being exempt from the PSC Register (CLLS, 2013b; Law Society, 2013b), are open to being abused for money laundering, making such an exemption a potential loophole (Global Witness, 2013b; ONE, 2013b):

> "It is important that the proposed beneficial ownership registry includes all legal entities that can be incorporated in the UK, including limited liability partnerships (LLPs) and unlimited companies. There are numerous examples of alleged abuse of UK LLPs and it would leave a significant loophole if they were not included in the proposed changes." (Global Witness, 2013b, p. 5)

The concern about exemptions and loopholes also came up for the ROE, with Transparency International expressing big concern about potential loopholes linked to exemptions and the protection regime (TI, 2015; TI, 2016; TI, 2017; see also Open Corporates, 2017). Transparency International and Open Corporates advocated for all legal entities being covered by the ROE, in particular because it affects many types of overseas entities that could be used for circumvention of the law (TI, 2017; Open Corporates, 2017):

> "There are a wide variety of types of legal entities around the world, many of which do not correspond to UK company types, with few being transparent about their control and ownership. Given these can own property in the UK, it is essential that all types of legal entity be covered (including all future types, and including trusts). Anything else would provide a strong incentive to use exempted types (such as trusts) to circumvent the legislation." (Open Corporates, 2017, p. 2)

Another potential loophole mentioned by Transparency International is that overseas entities avoid reporting obligations by ensuring that no one person meets the PSC definition, or by using so-called nominee directors – individuals that act on behalf of others:

> "TI-UK believes there is a danger that overseas legal entities may avoid their reporting obligations by structuring their company ownership so that no one

> person meets the definition of PSC, making use of the lack of clarity […]. Professional nominees are paid a fee for their services but otherwise have no interest in the transactions. […] These nominees obscure the reality of the company's ownership and control structure and are often used when beneficial owners do not wish to disclose their identity thus increasing the risk the legal entity will be used to hide ownership of suspicious wealth." (TI, 2017, p. 10)

CSOs cautioned that the proposed exemptions for the ROE would pose a risk that people target jurisdictions with more secretive registers (TI, 2016). They stated there should be no exemptions unless the other register is available publicly and for free and can therefore be incorporated with UK data, the data is at least as detailed and timely as that in UK register (Open Corporates, 2016), and only if the disclosure requirements are absolutely equivalent to the UK's (Global Witness, 2017).

In order for stakeholders to unveil specific exemptions as potential loopholes, they need to know what they are, where they stem from and how they can be challenged. Global Witness therefore advocated for the criteria of exemption being published on the respective register (Global Witness, 2017). A group of CSOs further criticised that there was not enough scope for third parties to challenge registrar decisions on exemptions; the criteria for exemption for purposes of protection should be narrow; and individuals should have to give evidence and apply on a case-by-case basis (CSOs, 2014b). The British Bankers Association (BBA) was more sceptical about the possibility for third parties to appeal an exemption decision based on them not knowing the reason for the exemption (BBA, 2014b). An important caveat is that, in order for an exception from the law being challenged, it must be a defined exemption in the first place. It is much harder to challenge what is out of scope to begin with.

While the loophole framing was particularly pronounced in the UK consultations on beneficial ownership transparency, it was also a topic in Switzerland and with regard to EOI. CSO Alliance Sud criticised the proposed exemption of lawyer- and notary-managed accounts from AEOI as a problematic loophole:

> "This exception is highly problematic. It opens the door to offshore constructs, such as those made public in the context of the "Panama Papers". This refers to structures through which lawyers and fiduciaries in Switzerland manage accounts of clients from third countries where the clients are considered to be the actual beneficial owners (protected by attorney-client privilege). With the exception of such accounts, lawyers and fiduciaries resident in Switzerland

> can circumvent the AEOI that will apply in Switzerland in the future by no longer managing offshore accounts in Switzerland itself, but by moving them to jurisdictions not covered by the AEOI in their role as financial intermediaries." (Alliance Sud, 2016e, p. 3, translated from German)

Exemptions and therefore the politics of exclusion are hence subject to a diagnostic struggle – the struggle about whether exemptions are justified, for example because of the low-risk character of certain accounts or institutions and the therefore disproportionate burden of the transparency mandate, or whether the exemptions are instead harmful loopholes that allow stakeholders to get around the rules. The trust came up again, as in chapter 4, where it was a prime example of the UK's leadership as distraction approach: leading on certain aspects of the transparency standards while shielding others.

After deciding what data should be made transparent comes the debate on how to verify that this data is accurate and truthful – a struggle that I call the politics of verification and that the next section explores.

3. The politics of verification

Discussions about data quality and verification were almost entirely concentrated on beneficial ownership transparency and more marginal for EOI. Throughout the consultations, there was consensus that a beneficial ownership register would only be useful if the information contained in it is accurate, but less agreement of how that should be achieved.

In the UK consultations on the PSC register and the ROE, interest groups were critical about the lack of foreseen verification mechanisms and the reliance on self-reporting (e.g. IFC Forum, 2013b, 2014b). According to interest groups, if the filing is done by lay clients themselves, this opens the door for mistakes or misreporting (ACRA, 2013b; IFC Forum, 2013b, 2014b), and self-reporting without authentication makes the register less effective (Global Witness, 2017). There is also a high likelihood that those with criminal intentions will not submit their information (BBA, 2017). When law enforcement cannot trust the information, the register does not provide much benefit while representing a significant burden for companies (Law Society, 2013b), in particular also the compliant majority (PwC, 2013b). Ultimately, according to the IFC Forum, the poor accuracy of beneficial ownership data could mean that the FATF and OECD peer reviews would rate the UK poorly on technical and effectiveness criteria (IFC Forum, 2017).

The IFC Forum highlighted how the British Crown Dependencies and Overseas Territories (CDOTs) had put in place better verification systems in the early and mid-2000s than the UK

has now (IFC Forum, 2014b; IFC Forum, 2017). Accounting association ICAEW cautioned that the verification of the ROE data would be even harder than for the PSC register because the information comes from very different legal systems, and ownership changes are harder to monitor for foreign companies (ICAEW, 2017). It is also more difficult to identify non-UK citizens, which is why the register needs more verification either through Companies House or a professional, wrote Open Corporates (Open Corporates, 2017).

After the question of how the information is verified in the first place comes the question of how it is maintained and updated given that the information is subject to change. Interest groups highlighted this question of regular maintenance and updating of the information and many mentioned annual updating as an option (BBA, 2013b; BIPA, 2013b; BVCA, 2013b; ICAEW, 2013b; TI, 2017). For the PSC register, CSOs advocated for more frequent updating of information, namely within 14 days (Christian Aid, 2013b; Global Witness, 2013b; ONE, 2013b), or within 30 days of any changes (Open Corporates, 2013b). For the ROE, CSOs agreed with annual updates but stressed the importance that all changes having occurred during that year should be filed (Global Witness, 2017; Open Corporates, 2017; TI, 2017). Other interest groups weighed up the benefits of regular updating against the regulatory burden of such a process (ICAEW, 2013b; PwC, 2013b).

3.1. Who should verify the data?

A big debate took place about the question who should verify the data. Some advocated for the registrar – in the UK's case Companies House – having more responsibility to verify the information. Others highlighted the role of company service providers and other professionals and, in particular, CSOs advocated for registers being made public for verification purposes.

CSOs advocated for Companies House being subject to due diligence requirements in a similar way that company service providers are (Global Witness, 2013b; ONE, 2013b; Christian Aid, 2015). This would mean that the owner of the register must be properly resourced for this verification task (BBA, 2017; Global Witness, 2017). According to The Law Society and ICAEW, verification and due diligence should happen at the moment that the information is submitted to the register (Law Society, 2013b; ICAEW, 2017). Christian Aid also highlighted that due diligence requirements for Companies House are important because otherwise there is a clear loophole: when companies register directly with Companies House, no due diligence is carried out, but when company service providers do the registration, due diligence takes place (Christian Aid, 2013b; Christian Aid, 2015).

Interest groups highlighted the opportunities that use of technology provides for ensuring data accuracy. The online system could include automatic checks such as ensuring that all fields are

completed, and that information is cross-checked with other government data (Christian Aid, 2013b; Global Witness, 2015; ONE, 2015). This includes publishing the register as open data (Global Witness, 2013b; ONE, 2013b; Open Corporates, 2013b) and linking it to other datasets, such as the Open Ownership Register and other countries' beneficial ownership data (Open Corporates, 2017). The register further could provide a specific range for dates of birth (Global Witness, 2013b; ONE, 2013b; Christian Aid, 2015) and specific lists for nationality and country/state of residence. This because free text fields can result in inaccurate or error-laden inputs (Global Witness, 2017). Companies House could also verify information through online identity checks (Global Witness, 2013b; Christian Aid, 2015).

Other actors were more sceptical of Companies House's role as verifier of the data. The IFC Forum described Companies House as a body that does passive archival and recording work on registered shareholders and is therefore not suited for an accurate self-reported beneficial ownership register (IFC Forum, 2013b). Others questioned whether Companies House has sufficient resources for verifying the information (ICAEW, 2013b; TI, 2013b). PwC doubted whether the registrar should become a Financial Conduct Authority-type institution with investigative and intervention power (PwC, 2013b). The IFC Forum equally expressed concern about whether Companies House should be put under a duty of care to correct errors in the register (IFC Forum, 2017). In recent developments, the UK Economic Crime Bill puts more resources into Companies House for data verification and introduced ID checks and identifying numbers for individuals listed on the register (Companies House, 2023).

According to the IFC Forum, if data is filed by corporate service providers, this would make government supervision easier, the data more accurate, and publishing the data for public scrutiny would not be necessary (IFC Forum, 2014b; IFC Forum, 2017). Christian Aid added that company service providers could be asked to do customer due diligence in all cases, even when they just set up a company (Christian Aid, 2015). For the ROE, Transparency International and Global Witness suggested that companies must list a UK professional responsible for verification and suspicious activity reporting (TI, 2016; Global Witness, 2017; TI, 2017). According to promoters of this approach, duties should also extend to other service providers. Notably banks and other AML-covered entities should have to report discrepancies between the beneficial ownership information they hold and the information on Companies House (Global Witness, 2013b; ONE, 2013b; Christian Aid, 2015).

Interviewees were more sceptical about the role of service providers and financial intermediaries in data verification. Two interviewees from the political field in the UK, member of parliament Mia and parliamentary staff Erin, alerted to the potential issue that arises when company

service providers who are inputting bad data are also the ones verifying that data (UKPOL02; UKPOL03). Mia told me in her office in Westminster:

> "So my concern on that is that the people who are putting in the unique identification data on individuals will be the very people who have been colluding and created phoney data to go in. So the company service providers. And until they sort them, I would have brought it in-house and made it in-house, but ideologically the Conservatives wanted to outsource it. So if you're going to do that, you've got to check and regulate those agencies." (UKPOL02)

Lukas and Hans from the Swiss banking industry were also sceptical about the role of financial intermediaries in verifying and correcting beneficial ownership information. They highlighted that it must be the company itself that provides the information, not the intermediaries. From their perspective, the register must be of such quality that no verification is necessary after the information is put in. This requires a high level of trust or what Lukas called a register of public faith (CHFS03; CHFS09):

> "We are open to the introduction of a register of beneficiaries; however, this must be completed by the source, i.e. by the company. The financial intermediary may be required to report any discrepancies about the KYC, but must not be asked to fill in the register or check its accuracy. It also should be a register of public faith, so that the financial intermediary can accept the information as trustworthy and complete without having to carry out further checks. The register should be responsible for the accuracy and up-to-dateness of the information. Examples from other jurisdictions where these issues are not clearly regulated show that the register does not provide the expected added value." (CHFS03, translated from Swiss German)

The insistence on this principle of public faith means that if there is a register with beneficial ownership information, the assumption must be that the information contained therein is correct and therefore trustworthy. If that is not the case, the information becomes unusable. This approach puts more onus on the companies themselves and on the government as a regulator, but it relieves financial intermediaries and service providers from responsibility.

3.2. Penalties and sanctions

Data accuracy can also be supported by a penalties and sanctions regime that punishes non-compliance with the transparency rules. This was an important topic in consultations on exchange of information and beneficial ownership transparency in both countries.

With regard to EOI, Swiss CSO Alliance Sud criticised that the penalty for those providing no or insufficient information was too low and there was no deterrent effect (Alliance Sud, 2011). Many financial sector actors on the flipside cautioned against stricter sanctions and penalties. For the case of Switzerland's FATCA agreements, the Association of Swiss Cantonal Banks (VSKB) argued that it is not appropriate for the Swiss tax authority to hand out fines because punishment already comes through US sanction measures:

> "It seems inappropriate to us that the ESTV [tax authority] can impose fines in connection with FATCA. Failure to comply with FATCA rules would result in exclusion from the global interbank market and civil penalties from the IRS would be likely. In our opinion, these possible consequences are already sufficient to discipline Swiss financial institutions." (VSKB, 2013a, p. 5, translated from German)

Also the Swiss Association of Wealth Managers (VSV) stated that it was problematic if there was dual punishment, in Switzerland *and* the US:

> "The VSV considers the penal provisions to be to a large extent beyond the obligations entered into by Switzerland under the FATCA Agreement, and accordingly these obligations must be deleted without replacement. […] Since there are also penal provisions in US law at the same time, the latent danger of double jeopardy is created, which must be avoided. […] The FFI Treaty regulates the obligations of financial institutions to the US tax authorities. Switzerland does not have to interfere in this relationship with penal provisions." (VSV, 2013a, p. 6, translated from German)

The topic of the correct level of sanctions and penalties in relation to non-compliance with EOI laws was discussed even more by UK interest groups. This reflects the argument made in chapter 4 and this chapter that perhaps outright resistance in the UK was less pronounced than in Switzerland, but that industry certainly was keen to minimise the impact of the regulation. Interest groups advocated for transitional periods with leniency on penalties (UK Finance, 2018) and a period for repair of errors during which institutions are safe from retaliation (AIC, 2012; BSA, 2012; Henderson, 2012; IFDS, 2012; M&G, 2012; Nationwide, 2012). During this transitional period, financial institutions should also be safe from punishment for accidental errors (ICSA, 2012; Nationwide, 2012). The British Bankers Association (BBA) added that financial institutions should also have the possibility to voluntarily disclose errors and omissions, which should lead to a reduction in penalties and fines (BBA, 2012). Interest groups distinguished between wilful non-compliance and minor or administrative errors as well as

accidental errors. The BBA (2012) and Skipton (2012) spoke out against penalties for minor and administrative errors. However, the BBA said that when administrative or minor errors "continually or repeatedly disrupt and prevent information transfer", they can be considered significant non-compliances (BBA, 2012, p. 7). Other interest groups stated that no penalties should be imposed if reasonable steps were undertaken to obtain the information required and if it was not the financial institution's fault that the information was faulty or missing (Skipton, 2012; Fidelity, 2013a; AIC, 2014a).

A similar debate took place regarding penalties and sanctions in the case of beneficial ownership transparency. In Switzerland, this debate most prominently took place in the context of the consultation on transparency of legal persons in 2018. Background to this consultation was the second Global Forum peer review report on Switzerland. One of the things criticised both by the Global Forum and previously FATF were the insufficient sanctions Switzerland had in place with regard to violations of the duty to report beneficial owners and to keep a register (Eidgenössisches Finanzdepartement, 2018c). In line with this, actors from civil society and trade unions (Alliance Sud, 2018b; SGB, 2018b) supported the establishment of a new penalty system but expressed concern about the insufficient monitoring mechanisms.

Private sector actors on the flipside thought the proposed sanctions were disproportional or should be lessened or even removed (Centre Patronal, 2018b; economiesuisse, 2018b; SBA, 2018b; Swiss Holdings, 2018b; VSKB, 2018b; VSPB, 2018b). This concern was expressed in particular with regard to SMEs whose employees would be exposed to liability risks. For this reason, the SBA and the VSKB called to eliminate the sanction for failing to report changes in the beneficial owner's address (SBA, 2018b; VSKB, 2018b). Forum SRO further criticised that the sanctions went beyond the recommendations of the Global Forum (Forum SRO, 2018b), in line with the Swiss Finish arguments that I discussed in chapter 5.

Also in the UK, in the consultation process leading up to the PSC Register, interest groups expressed diverging views on penalties and sanctions for non-compliance. The Association of British Insurers (ABI) raised concern about the lack of clarity and detail regarding the question of penalties and enforcement of the PSC register: "It is unclear how companies will be compelled to keep their PSC information up to date" (ABI, 2015, p. 2). According to the Association of Company Registration Agents (ACRA), it is unlikely that those engaged in financial crime would comply with the beneficial ownership disclosure rules unless there was policing and more control at the moment of company formation. This, however, would bring costs with it, which requires a cost-benefit analysis:

> "[T]he targets of this legislation would be those engaged, or intending to engage, in money laundering, terrorist financing, illicit finance, tax evasion or corruption. Those individuals are demonstrably willing to break the law. A new law requiring them to disclose their beneficial ownership would therefore scarcely be a deterrent and would simply be ignored unless suitably policed. […] To achieve that would mean a more regulatory approach at the time of company formation and thereafter. That would put appreciable extra costs on companies and their promoters. It is a political judgement whether those extra costs outweigh the benefits." (ACRA, 2013b, pp. 3f.)

While private sector interest groups showed understanding for the difficulty companies face in identifying beneficial owners, therefore questioning whether they should face punishment for mistakes in this matter (Deloitte, 2013b; BBA, 2014b), CSO Global Witness advocated for companies as well as beneficial owners facing penalties when they provide fraudulent information or when beneficial owners do not disclose their interest:

> "There should be sufficient penalties for individuals who do not disclose their interest in a company or submit fraudulent information. These should also apply to companies that provide fraudulent information. The existing investigative powers of Companies House, the Insolvency Service and the police should be extended to cover the submission of fraudulent beneficial ownership information." (Global Witness, 2013b, p. 6)

In line with this, interest groups advocated for further investigative powers for UK authorities in the case of complex arrangements (BBA, 2014b), and generally in cases of fraudulent beneficial ownership information (Global Witness, 2013b).

The BBA expressed support for penalties when legal owners and beneficial owners do not notify the company of a change in beneficial owner (BBA, 2014b). CSO ONE even suggested that submitting inaccurate, fraudulent, or intentionally misleading information about beneficial ownership should be a predicate offence for individuals and companies (ONE, 2013b). The ICAEW, on the other hand, cautioned about the risk to criminalise companies and directors who do not have any criminal intent (ICAEW, 2013b).

The discussion about penalties related to the ROE took place almost entirely among CSOs that advocated for criminal sanctions for provision of false information (GAT, 2016; Open Corporates, 2016; Global Witness, 2017; TI, 2016, 2017), or for the failure to keep accurate records (TI, 2016). Sanctions and penalties can include being barred from certain economic activity (TI, 2016; Global Witness, 2017; TI, 2017) or the company's name being made public in case

of refusal to disclose information (Open Corporates, 2016). CSOs said sanctions must be strong and enforceable (Open Corporates, 2017; TI, 2017). According to Transparency International, the implementation of the ROE needs to include a body that can be held accountable and can sanction non-compliant companies (TI, 2016). This body should also be able to pass on information to law enforcement, and law enforcement should be able to pass information on to other governments and enforcement agencies (TI, 2016; Global Witness, 2017).

Both for the PSC register and the ROE, CSOs also discussed sanctions and penalties for service providers. Transparency International observed that HMRC had not yet sanctioned company service providers for non-compliance with due diligence requirements in relation to the PSC Register. Providing false or misleading information to Companies House is an offence, but the organisation highlighted that there need to be also sanctions against service providers, both against those submitting beneficial ownership information and against those tasked with verifying the information (TI, 2013b, 2016, 2017; see also Global Witness, 2017).

Pushback to the debate about sanctions for non-compliance with the ROE requirements mainly came from the Law Society and Law Society of Scotland. The Law Society said that there should be at least one year of implementation period before sanctions come into effect. Authorities should balance sanctions against the need for equal treatment, non-discrimination, and proportionality. Further, in designing sanctions, the government should be careful that not all shareholders are affected by some being non-compliant (Law Society, 2017). The Law Society of Scotland expressed their stance against criminal sanctions, also because of the difficulty of enforcing them against overseas companies (Law Society of Scotland, 2017). The sanctions system should be proportionate in terms of civil and criminal sanctions, something Transparency International agreed with. The failure to provide an update and actively providing false information should not face the same sanctions (Law Society of Scotland, 2017; TI, 2017).

While there is widespread consensus that some sort of negative incentive system must exist to ensure data on financial accounts and company ownership is accurate and up to date, there is a lot of disagreement about *how* this should be achieved and *who* should be targeted by the sanctions. Predictably, private sector interest groups were more hesitant about strict sanctions.

3.3. A public register?

The most controversial option to ensure quality data, an option promoted by civil society in particular, is making the register's data publicly available. During the public consultations on the UK PSC register and the ROE, CSOs highlighted that, even if other verification processes were in place, the register should be public because it increases the chance that errors are found and people can see if they have been fraudulently listed as beneficial owners (Global Witness,

2013b; ONE, 2013b; Open Corporates, 2013b; TI, 2013b; Christian Aid, 2015; TI, 2017). CSOs highlighted that there should be a clear option to report issues detected in the data (Global Witness, 2017; Open Corporates, 2017). Also according to UK interviewees Leo and Nicolas from civil society and member of parliament Mia, making a beneficial ownership register public increases the pressure to provide quality data (UKNGO04; UKNGO05; UKPOL02). Nicolas argued that the register should be public precisely because the enforcement agencies lack the resources or the mandate to control the quality of the data:

> "My view at the time was, get the data out there, particularly get it out there as open data. You can look at the data, you can see where there are problems and that ups the pressure to improve the data quality." (UKNGO05)

Other interest groups were not supportive of the idea that public availability leads to better data. Deloitte (2013b) and ICAEW (2013b) for example stated that public access does not materially enhance the accuracy of the data:

> "We do not believe that the information on beneficial ownership (whether held by the company or at Companies House or otherwise) should be made public. The driver for the proposal appears to be to enhance information available to the enforcement authorities (through due process) and that objective can be met by the information being kept on a confidential basis. We do not consider that accuracy would be improved through public availability to any significant degree." (ICAEW, 2013b, p. 9)

The IFC Forum further highlighted that the public status of the register and the belief that this would enhance data quality should not replace government or professional scrutiny:

> "Verification is vital, as it ensures that registers collecting the information is accurate and can be trusted and used in both investigations and courts. Public information that is not verified could be acted upon even when inaccurate. As the Director of the OECD's Centre for Tax Policy & Administration Pascal Saint-Amans told the All-Party Parliamentary Group for Responsible Taxation in June 2016 "A public registry is not itself a solution if it is not properly fed with information. That can do a lot of damage."" (IFC Forum, 2017, p. 3)

As chapter 4 discussed, there is a lot of criticism of the PSC register's data quality. Making it public was not a sufficient approach to tackling accuracy and verification issues. The UK government has taken steps to tackle the data quality issues. After a 2019 report by the Department for Business, Energy and Industrial Strategy (BEIS) titled the 'Review of the implementation

of the PSC register', Minister for Climate Change and Corporate Responsibility Lord Callanan announced reforms of the PSC register. This was followed by a number of consultations and a white paper by BEIS in 2022 (Department for Business, Energy & Industrial Strategy, 2022). Reforms were included in the Economic Crime and Transparency Act 2023. As a new measure, all PSCs (existing and new) will have to verify their identities with Companies House or an authorised corporate service provider. Those that do not comply with these new requirements after a transition period face criminal sanctions or civil liabilities (Home Office et al., 2024).

3.4. Data quality concerns in exchange of information

For the case of EOI, concerns about data quality interestingly were not considered much in the policy processes – at least according to the consultations and parliamentary debates. This could simply indicate that these issues were not anticipated as much as for beneficial ownership transparency, perhaps because EOI is about data that is already held and supposedly checked by financial institutions. It might also be a less controversial topic because the data is never made public and just shared between financial institutions and tax authorities.

A review of EOI in the EU by the European Court of Auditors (2020, p. 5) found that the financial account information collected "lacks in quality, completeness and accuracy." Further, the Court criticised an absence of audits of financial institutions to make sure that the data is correct and complete before it is passed on to other member states. Now that information has been exchanged automatically for a few years, also several interviewees from financial and non-financial industry in Switzerland raised concerns about the quality of data being collected and transmitted and therefore its usefulness to tackle tax evasion. They said there was a lot of data received and some of it was of bad quality. It therefore took a lot of work to check the data and put it into a format to make it comparable with other data. Another issue is that the data is not harmonised across countries (CHFS07-08; CHFS09; CHIND01; CHIND03). In the words of finance sector representative Verena, it is a lot of work to make sense of some of the poor-quality data Switzerland receives, all for few prosecutions. The cantons need to check whether the information even concerns one of their taxpayers:

> "With AEOI there is a lot of information flowing and some of it was, in particular shortly after the beginning of AEOI, of poor quality. The federal tax authority receives the information from abroad and has to forward it to the respective [cantonal] tax offices; but this is difficult if important information such as the social security number [AHV number] is not provided. This has led to a situation where cantonal tax offices are confronted with cumbersome

> investigative work for ultimately few criminal prosecution cases." (CHFS07, translated from German)

According to industry representative Tim, this problem with bad quality EOI data being received from abroad is used as an argument against loosening the still existing in-country banking secrecy – meaning that authorities cannot access information about accounts held in Switzerland by Swiss residents (see also chapter 7). The fact that AEOI data received from other countries is, according to some, basically useless is a good argument of defenders of this in-country banking secrecy:

> "And the assessment of the quality of the data they receive from abroad, about Swiss taxpayers who have assets abroad, the assessment is such that the data is almost useless. So that they can do very little with it. That it is extremely time-consuming to bring the data into the format so that they can then compare it with their own tax data, so that they can really use it. [...] And the bad experiences with the AEOI abroad are then always used as an argument against [the in-country information exchange] […] and that it is better if, as is the case today, one simply trusts that the taxpayers declare their assets." (CHIND01, translated from Swiss German)

In sum, deciding what data to make transparent does not solve the question how the accuracy of that data will be ensured – a struggle which I call here the politics of verification. While the question of data verification was discussed prior to policy adoption mainly in the case of beneficial ownership registers, concerns about data quality pertain both to exchange of information and beneficial ownership transparency. There seems to be a consensus about the limited usefulness of transparency if the data cannot be trusted. There is, however, disagreement about how data should be verified and by whom, as well as to what extent publication of the data (in the case of beneficial ownership transparency) or penalties and sanctions are useful and appropriate measures to ensure data accuracy.

4. The limits of transparency as a regulatory tool

This chapter so far has explored the struggles about what should be made transparent and how information should be verified. This section will reflect on the limits of transparency as a regulatory tool. It follows on from the above and from chapter 4 on leadership as distraction in the UK which highlighted the law on paper v. law in practice debate.

A good example to demonstrate the difference between law on paper and law in practice is the UK's beneficial ownership transparency regime. Tax justice expert John Christensen expressed doubts about its actual effectiveness because of bad-quality data and weak compliance:

> "Looked at in isolation, the UK appears to be relatively transparent and fit for cooperation in anti-money laundering and anti-tax evasion programmes. But this is something of a Potemkin village: yes, the UK has committed to an open public registry of beneficial ownership of companies, but in practice the information available from Companies House is frequently out of date, inaccurate and consequently useless. Compliance across the entire financial services sector is weak, reflecting an under-resourced and fragmented regulatory service." (Christensen, 2019)

Financial sector and civil society interviewees, too, were sceptical about the effectiveness of the beneficial ownership register, with Harry saying it "isn't working as well as it could" (UKFS02), Adam stating that "it is questionable whether such a register actually achieves anything" (UKFS07), Thomas saying that the government made it easy to game the register which devalues it (UKFS06) and Charlotte calling Companies House a disgrace and embarrassment (UKNGO06). Interviewee Henry from the wealth management industry was sceptical of the quality of information on Companies House and criticised the ineffective enforcement:

> "It kind of depends on how it is enforced. I mean I know people who set up UK companies and they'll use their say corporate entities as the beneficial owners or they'll use a fictitious name. I am advised that it never gets checked, nobody ever comes back and says "hey but this doesn't sound right" or something similar, so you know it's great in theory but it's obviously not being enforced effectively. When you think of the size of the UK and the number of companies that are registered, you know that it's a herculean task to actually check every entity that each declaration of beneficial ownership is correct. So you know I think that in the Crown Dependencies and possibly in Switzerland if it brings in a beneficial ownership register, which it hasn't done yet, there will be more enforcement than there is in the UK." (UKFS04)

He suggested that other financial centres would take compliance more seriously than the UK. Various interviewees highlighted that the data in the register is of poor quality and that no one verifies it due to a lack of resources and a lack of political will (CHFS02; CHFS09; UKCS01; UKFS04; UKNGO05; UKPOL03). As a result of the lack of verification checks, companies in the register sometimes have entities as beneficial owners or use fictitious names (UKFS04), and the information can be very bad (UKNGO05), as Henry from the wealth management sector and civil society representative Nicolas highlighted:

> "You know and there are also problems with the UK registry, which is that the information is unverified and there's lots of rubbish in it." (UKNGO05)

A case in point for this widespread scepticism are reports that have shown that indeed the data quality of the PSC register is doubtful. An initial evaluation by civil society noted that a few thousand companies listed a company with a tax haven address as a beneficial owner, which is not allowed, and that the free text fields lead to inconsistent and absurd data, for example on nationality and date of birth (Global Witness & Open Ownership, 2017; see also Palmer & Leon, 2016). A government review of the register found that "some Law Enforcement Organisations and Financial Institutions did not think that the introduction of the PSC register had had a positive effect on their work. This is because, due to concerns about the quality of information held of the PSC register, these organisations did not consider it a reliable source of information about beneficial ownership" (Department for Business, Energy & Industrial Strategy, 2019, p. 6). The UK government has taken steps to tackle these data quality issues. As a new measure, all PSCs (existing and new) will have to verify their identities with Companies House or an authorised corporate service provider. Those that do not comply with these new requirements after a transition period face criminal sanctions or civil liabilities (Home Office et al., 2024).

Similar concerns also apply to the ROE, with critics wondering whether the enforcement mechanisms are strong enough to have a real impact (Goodrich & Cowdock, 2023; Rosca & Kozyreva, 2023). Collin et al (2023, p. 6) were sceptical because "the UK has a spotty history of enforcing its existing beneficial ownership registries, such as the one that exists for domestic companies." In 2023, the compliance with submission requirements was low (Collin et al., 2023). An analysis by Transparency International and the BBC revealed that almost half of the companies failed to declare their beneficial owners by the deadline (Stylianou, Dahlgreen, et al., 2023). This leads to the question of fines imposed on companies that fail to declare their beneficial owners. A BBC analysis published in May 2023 revealed that no fines had been issued as of yet to the thousands of firms that failed to meet the January 2023 filing deadline. Responding to the criticism, a spokesperson from the Department for Business and Trade – as in other examples mentioned in chapter 4 – referred to the UK's leadership position in defence, saying it was the first country in the world to adopt this strict new approach (Stylianou, Agerholm, et al., 2023). Fines were eventually issued from July 2023 onwards (Healy, 2023). But Helena Wood from think tank RUSI doubted the effectiveness of penalties, saying "the government has failed to equip Companies House with the teeth and resources to apply these in practice" (Stylianou, Dahlgreen, et al., 2023).

Oliver, former member of the British civil service, was critical of those who thought just having transparency of beneficial ownership in place would be a solution:

> "I think it goes perhaps to the heart of, say, beneficial ownership, which I think I mean everybody's always on the search for the kind of golden bullet that's going to solve the problem. And I think there was a tendency to feel certainly in [our department], some of the advocates who we were working with seemed to feel that that just having this ownership transparency would somehow solve the problems." (UKCS01)

With regard to EOI, a similar key question is whether the data needs to actively be used by tax authorities or whether merely collecting it creates enough of a preventative effect to reduce tax evasion. The European Court of Auditors (2020) found that EU member states underuse the information that they receive through AEOI. Several interviewees were sceptical about the effectiveness of EOI in creating more tax income because they are unsure about what authorities are really doing with the data they receive. The fact that data is exchanged between tax authorities does not mean that it is used to follow up on potential cases of tax evasion. Swiss tax adviser Andreas and former British politician Aaron highlighted this need for enforcement based on the information received:

> "There have been a number of reports in the US indicating that FATCA is not useful, but it basically has lined the pockets of tax advisers. But it really hasn't had a big impact on the bottom line in terms of tax revenues. […] I think the reporting works well in itself. […] It's down to the enforcement based on the report and information that determines the real impact of these regulations." (CHFS02)

> "But I think how does, for example, HMRC make use of all the information that it is able to obtain? And how does it pursue taxpayers or non-taxpayers given the information that it has?" (UKPOL01)

Banking industry representative Lukas made a similar comment about the European Savings Tax Directive, stating that when they calculated how much more tax revenue individual countries should receive based on the information exchanged under the Directive, they saw that, if authorities do not act upon the information, it does not change much (CHFS03).

Some of the same interviewees who questioned the effectiveness of EOI in terms of generating more tax revenues also suggested that maybe the threat of being detected is enough to create a certain preventative effect. In the context of the CRS, Lukas said that the threat of information being used by authorities is sufficient:

> "And I think the exchanged information is not even used universally. Because the threat is probably big enough to make people declare anyway." (CHFS03, translated from Swiss German)

Tim from industry agreed with this view, stating that the risk of being found out can be enough to regulate taxpayers' behaviour:

> "If I consider it from the point of view of a taxpayer and I am exposed to a higher risk to be found out, I would probably rather forgo such behaviour. Simply because the risk exists. And because the consequences are relatively drastic and just to avoid the risk. So that it is not really the usage of the information but just the fact that the exchange of information takes place that prevents the behaviour. This is how I imagine the big use." (CHIND01, translated from Swiss German)

Tax adviser Andreas added he believes that the regulation had a psychological impact, making people realise that hiding money has become more difficult. And this in itself probably helps to reduce tax evasion (CHFS02). Walter, another representative from industry, also said that both EOI on request and AEOI have in the first place a deterrent effect (CHIND03). An IMF Working Paper suggests that this is true at least for AEOI, with deposits in offshore jurisdictions dropping by an average of 25% after an AEOI agreement comes into force. The authors caution that this might, of course, be partially due to deposits moving to other places not covered by the AEOI agreements (Beer et al., 2019). Saint-Amans (2023) highlights that AEOI has led to self-reporting and regularisation of more than half a million taxpayers, which points towards its preventative effect. Until the end of 2022, EUR 114 billion of tax income had been collected through these self-reports.

The question of whether and how the data is used also relates to debates about the capacity and resources of authorities to use the information in the first place. Interviewees mentioned that some authorities do not have the resources and capacity to make use of the information they receive and to then impose enforcement action. Walter made this point about limited resources of tax authorities globally:

> "What we are currently seeing more often are the limited resources of tax administrations in a large number of countries. The tax administrations do not get the necessary resources from their respective governments to process and use all the information they receive." (CHIND03, translated from Swiss German)

Former UK politician Aaron said that he believes the issue probably lies less with the compliance of 'offshore jurisdictions' with EOI rules and more with how receiving countries make use of the information based on their resources and capabilities:

> "I think the second point I would make is, then comes the issue of how these powers are used, enforcement, do tax authorities have the ability, do they have the resources, the capabilities to make use of this new information? Do offshore jurisdictions properly cooperate and comply with their obligations? I think probably the bigger challenge is more at the former level than the latter as far as I can tell. But I am happy to be corrected on that." (UKPOL01)

This suspicion is confirmed by a Tax Justice Network article, which stated that some EU members do not even open the data they receive through EOI, due among other reasons to underresourcing of their tax authorities (Knobel, 2019b). This concern about the unclarity of information requests means that banks and other actors might not know what information to provide (UKFS04; CHFS01), as Beat from the Swiss banking industry highlighted:

> "So, for example, with the first foreign requests, the Federal Tax Administration simply copied them more or less unchanged and then sent them to the banks and decreed that they should answer them, and that was relatively difficult in some cases. Because the requests were worded that way: please include all the information that is relevant to the case. And the bank can't really do anything with it if it doesn't know about the case. Well, it doesn't know what the foreign authority is investigating." (CHFS01, translated from Swiss German)

Overall, there are still significant gaps in transparency enforcement from the point of view of stakeholders. They have to do with a lack of data usage, capacity and resource constraints and weak enforcement action. These issues were paradoxically strongly highlighted for the UK which has been very fast in adopting and implementing the transparency measures and positioned itself as a leader in this space. Some interviewees, two of them from the UK, suggested that Switzerland was better at enforcement, once they arrived at the point where they adopt the law (UKFS04; UKNGO06; CHFS09).

Several Swiss interviewees, however, also criticised weak enforcement and sanctions in the country (CHFS06; CHIND02; CHIND03; CHPOL01). Lukas from the banking sector suggested that in Switzerland contradictions and inconsistencies in the laws exist because the country tried to play with the international standards and attempted to adapt them to its own preferences:

> "Switzerland has often tried to adapt and also tried to tinker with it [the international standards] a bit. But that simply leads to contradictions, to inconsistencies, and that's not in the spirit of the matter." (CHFS03, translated from Swiss German)

In the end, similar criticisms are voiced about the UK and Switzerland, namely that they adapt international standards to their preferences which might lead to gaps, and that enforcement is lacking. This is in line with the recursivity perspective which points to the inconsistencies that can occur in the process between global norm making and domestic lawmaking.

5. Conclusion

This chapter asked what the main political struggles around enacting transparency are and what that ultimately means for the usefulness of transparency in achieving its goals – in this case, tackling tax evasion and money laundering. What has become apparent from the previous chapters and this analysis is that transparency has become widely accepted as an inevitable part of anti-financial crime measures. While in Switzerland, as demonstrated in chapter 5, the very idea of transparency has initially still been resisted, this is less and less the case. Following international pressure, the country has restricted banking secrecy in order to participate in international EOI efforts, and it has taken steps towards beneficial ownership transparency – most recently with a renewed discussion about a central – albeit closed – register. In the UK, as discussed in chapter 4, the government pushed the transparency idea with such strength from the beginning that there seemed little scope for outright rejection, which is perhaps illustrated by the fact that UK interest groups are more concerned about details of implementation. Due to this apparent inevitability of transparency, a lot of the struggle and debates in both countries end up revolving around the scope and expansiveness of transparency. I argue that the struggles about transparency in the recursive processes between global standards and domestic laws play out across two main axes: the politics of exclusion and the politics of verification.

Under the politics of exclusion, interest groups struggled about what should be made transparent and what should not. The exemptions topic was even stronger in the UK, likely because in the UK the transparency concept as such was not up for debate, so interest groups had to find other avenues of expressing their concerns or resistance. Additionally, in line with the argument in chapter 4, exemptions can provide one avenue to have a strong 'law on paper' but weak 'law in practice'. One of the main justifications for exemptions was the alleged low risk character of certain financial institutions, accounts or legal entities to be abused for tax evasion or other financial crime. The trust was a particularly controversial exemption that was strongly defended

by the UK government and private sector interest groups. Switzerland saw this exemption as a competitive disadvantage as the country's financial sector would not benefit from it. This shows that exemptions can not only be a means to shield certain actors from excessive administrative burden and costs, but they can also be a means to secure one's competitive advantage as a financial centre.

Importantly, the way these exemptions or exclusions are framed matters, and diagnostic struggles take place. Exemptions can be framed with reference to their low risk, the excessive burden of certain entities or accounts being subject to transparency requirements or the fact that exemptions protect vulnerable individuals (on the latter point, see chapter 7). Critical actors, mainly from civil society, however, can also frame exemptions as loopholes that allow circumvention of the laws and therefore potentially undermine the laws' effectiveness. With this framing, they aim to push for a more expansive scope of transparency. Some stakeholders portray gaps in the regulation as inevitable and draw pessimistic conclusions about the effectiveness of laws. This defeatism may inadvertently become an argument against any regulation at all: if there is always necessarily a way around the rules, what purpose does the regulation play in the first place, if not simply creating inequality between those who abide by it and those who do not?

The politics of verification are about the next step, namely how the information that is being made transparent is verified. There was widespread consensus that bad quality data is of little use, a concern in particular with regard to beneficial ownership data. The topic of data quality was surprisingly little referred to when it comes to EOI policy processes and is mainly discussed in hindsight. The main points of debate regarding verification of information are how the information should be verified and by whom, and what role penalties and sanctions should play in this process, as well as whether making data publicly available can help with ensuring data accuracy. While also private sector interest groups highlighted the importance of high-quality data, they were more sceptical about making the information public and asked for more leniency when it comes to penalties. Again, the idea of transparency as such is not up for debate, but the question to what extent it should be enforced is controversial.

This final section explored the limits of transparency as a regulatory tool. It found that there is a lot of scepticism about how useful transparency is, how it is enforced and whether states have enough capacity and resources to use the data that is available. Some would argue that the very existence of transparency regulation has a preventative effect, while others insist on the importance of enforcement action.

While there might be disagreements about how exactly transparency's weaknesses should be addressed and what the boundaries of the transparency framework should be, there is a dominant idea of an ideal state of transparency where the right information is revealed, its accuracy assured, and it is used for enforcement or preventative purposes. What such a perspective ignores is first, that making certain things transparent always and necessarily leads to other things being obscured. Second, such a perspective assumes that transparency can lead to an accurate depiction of an externally existing reality if only the data is properly verified. It thereby ignores the fact that the so-called reality is always in flux and shifting, also in dynamic response to transparency efforts themselves. As former civil servant Oliver said, regulation can lead to certain activities being pushed even more underground and into secrecy:

> "I don't therefore see that some of these regulatory practices and perhaps the beneficial ownership processes are in themselves silver bullets to solving the problem. I think sometimes they're pushing things further underground by giving an incentive to hide things even better." (UKCS01)

Akin to processes of leadership as distraction in the case of the UK (see chapter 4), the focus on transparency in the international tax and anti-money laundering regimes can perhaps itself be considered an (accidental) process of distraction – distraction from other regulation. As explained earlier in this thesis, EOI was born out of the failed OECD Harmful Tax Competition (HTC) project in the late 1990s (Rixen, 2010). After strong resistance from the business community and low-tax jurisdictions to these proposals, the HTC agenda was transformed into a much narrower commitment to tax information exchange (Eccleston, 2012; Ring, 2010; Woodward, 2016). The new focus on transparency reflected wider trends in liberal economics that focus on solving economic problems through improving transparency rather than through more stringent regulation (Webb, 2004). Gillis (2019) for example calls the very focus on beneficial ownership registers in the international standards problematic because information might be out of date, inaccurate and unreliable. A register could then "give the shell company a false appearance of legitimacy" (Gillis, 2019, p. 394). This chapter concludes that transparency as an imperfect, conflict- and contradiction-ridden process is a necessary but perhaps insufficient step in the fight against tax evasion and money laundering – and, for that matter, the other societal ills that it aims to tackle.

The chapter confirms findings from chapters 4 and 5 that the recursive processes between global norm making and domestic lawmaking consist of actions of alignment, adaptation, resistance and contradiction, and lead to gaps, inconsistencies and indeterminacies – due to the political struggles occurring along the way. One of the main resistance strategies against transparency efforts is the defence of privacy, data protection and confidentiality, that I have hinted

at in different parts of this and the previous two chapters. Chapters 4 and 5 have demonstrated that commercial considerations dominated the UK's and Switzerland's journeys towards transparency. Chapter 7 will show that moral arguments are mainly leveraged to defend the privacy of financial account holders and company owners, the protection of their data and the duty of confidentiality of professional service providers. The chapter will explore how counter-values are mobilised to push back against certain transparency developments.

Chapter 7: The Mobilisation of Privacy as a Counter-Value to Transparency

1. Introduction

The previous chapter elaborated the political struggles around transparency taking place in Switzerland and the UK in the context of expanding tax transparency and anti-money laundering (AML) transnational legal orders (TLOs). It found that the politics of exclusion and politics of verification contain some acts of resistance to transparency reforms, such as exemptions or weak verification and enforcement systems. This chapter focuses on a more overt resistance strategy in the recursive process of implementing global transparency norms domestically: the mobilisation of privacy, data protection and confidentiality as counter-values.

One of the reasons for transparency being a dominant approach against financial crime is that secrecy – often conceived as the opposite of transparency (Florini, 1998) – has been placed at the core of the tax evasion and money laundering problematic. The problem according to this view are secret bank accounts, secret company ownership and secret trusts in secretive locations. Secrecy in this discourse typically has a negative connotation: it is hiding and obscuring something nefarious, and secret acts are "framed as instances of undemocratic power abuse by economic, social or political elites" (Cronin, 2020, p. 220). According to Harrington (2021), secrecy plays an important part in maintaining and protecting wealth inequality, as it protects wealthy elites from scrutiny. Similarly, Anthony et al (2017, p. 259) caution that privacy is unequally distributed and the privileged and more powerful have disproportionate capacities to "limit access to themselves."

Cronin (2020) points out that secrecy in itself does not have to be something negative. More positive concepts linked to secrecy are privacy, data protection and confidentiality. Privacy has been defined in sociology as "the access of one actor (individual, group, or organization) to another" (Anthony et al., 2017, p. 251). Privacy can also be understood as a claim of an individual to decide what should be revealed about them (Sharman, 2009). The boundary between the positively framed privacy and the suspicious secrecy is blurred. According to Knobel (2024, p. 8), "[s]ecrecy involves to intentionally keep things from others, things which may be very important to or even inherent to others. Privacy is a right to keep that which is inherently separate from others that way." Debelva and Mosquera Valderrama (2017) put forward the view that privacy, confidentiality and data protection are intertwined. This is also how this chapter will approach the three concepts.

The level and form of access to someone's information is defined through laws, social practices, technology and norms. Violations of privacy norms can lead to backlash and resistance, which

is why "achieving social order requires managing privacy in a way that allows for an optimal balance between revealing and concealing" (Anthony et al., 2017, p. 252). The human right to privacy is internationally recognised and anchored in the UN International Covenant on Civil and Political Rights and the European Convention on Human Rights.

At the same time as there has been a trend towards increasing transparency, in light of technological advances and concerns around big data and surveillance, privacy and data protection rights have been increasingly in the limelight (Holzner & Holzner, 2002). As Ball (2009, p. 303) wrote, "transparency brings about greater concerns for privacy and secrecy." Authors have conceptualised privacy as a counter-doctrine or counter-value to transparency (Heald, 2006a; Hood, 2006b). Heald (2006a) therefore argues that transparency should not be considered an intrinsic value. It must be weighed against its counter-values (see also Holzner & Holzner, 2002; Hood, 2006a). Ultimately, transparency is always in a necessary tension with privacy. This tension has been acknowledged by the General Reporter for the European Association of Tax Law Professors – a tension between the right of a state to collect the information necessary to protect its tax base and the right of taxpayers to privacy (Debelva & Mosquera, 2017). A more critical view has been put forward by Knobel (2024) who speaks of 'privacy washing' and the 'weaponisation of privacy for secrecy' – when privacy values are used to justify limitations to transparency. Knobel argues that this is happening increasingly, replacing past approaches that focused on technical aspects and specific exemptions – which have been highlighted in chapter 6.

This chapter focuses on how this weighing up of transparency against privacy, data protection and confidentiality has taken place in the recursive processes surrounding anti-tax evasion and anti-money laundering efforts in Switzerland and the UK. Similarly to the previous chapter it focuses on political struggles and strategies of resistance. It explores how privacy, confidentiality and data protection are actively being mobilised as counter-values to transparency politics. The chapter thereby explores how financial centres are negotiating the tension between the transparency mandate and privacy protections. It asks:

> How are privacy, confidentiality and data protection mobilised as counter-values to transparency regulation and how do financial centres negotiate the tension between the transparency mandate and privacy protections?

The codes privacy and data protection and beneficial owner protection were among the most frequent in the consultation submission analysis. There were three specific episodes that stood out in terms of how much these codes occurred and therefore how privacy and its connected values were mobilised in resistance to transparency reforms. This chapter will focus on those three episodes, two from Switzerland and one from the UK. The mobilisation of values linked to privacy and confidentiality was particularly strong in Switzerland with regard to exchange of

information (EOI) between tax authorities and lawyers' AML due diligence duties. In the UK, the debate around privacy was focused more on the safety and protection of beneficial owners in light of public company registers. The first section of this chapter will focus on AEOI and banking secrecy in Switzerland, the second will explore beneficial owner protection in the UK, and the third will look at lawyers' professional confidentiality and AML duties in Switzerland.

2. The death of banking secrecy?

2.1. Introduction

The fact that privacy was a major concern in Switzerland in discussions about tax transparency should not come as a surprise, given the long history of the country's banking secrecy and the well-known discretion of its financial sector, as discussed in chapter 5. Banking secrecy reaches back as far as the early 1700s when it protected French royalty. In 1934, financial privacy was anchored in the Swiss Banking Act through banking secrecy. Article 47 of the Banking Act shifted the violation of banking secrecy to criminal law (Guex, 2002). Before then, as Vogler (2006, p. 5) notes, "an avowedly liberal economic and political environment, and an equally pronounced understanding of the importance of privacy and discretion had made such legislation superfluous." A key part of the protection of bank clients and taxpayers was the distinction between tax evasion and tax fraud. Tax evasion, the non-reporting of income, was only punishable by fines and Switzerland would not provide legal or administrative assistance to other countries in cases of tax evasion. Assistance would only be provided if the other country could prove a case of tax fraud, which involves the intentional deceit of the tax administration and for example falsification of documents. Only tax fraud cases therefore could enable a loosening of banking secrecy (Brassel-Moser, 2012; Gurtner, 2010; Tagblatt, 2009).

Switzerland successfully protected its banking secrecy for a long time. After the First World War, before banking secrecy was even law, there was a big discussion about protection of privacy with regard to bank information. In light of debates about how to finance post-war recovery, the Social Democratic Party launched an initiative demanding that banks must send one-off reports about their clients' account values to the tax authority. This would have been the basis for a one-off wealth tax that would have affected the top 1% of the population. A very successful counter-campaign by conservative politicians and the banking sector convinced the population to vote against the initiative in 1922. The initiative was rejected by 86% and achieved the highest-ever rate of political participation (87%). There were other efforts throughout the 20th century to loosen banking secrecy, all successfully defeated at the ballot box. This demonstrates what value has historically been placed on privacy and confidentiality of bank information, by the banking sector, politicians *and* the Swiss population (Tobler, 2019).

In 2000, Switzerland opposed an OECD report which wanted to advocate for an end of banking secrecy. Instead, the language was watered down and the end of banking secrecy became an aspiration 'in an ideal world' (Saint-Amans, 2023). In 2008, then-Finance Minister Merz still told the EU that banking secrecy was 'too hard of a nut to crack' for them (finews.com, 2019). Equally in 2008, in the context of a parliamentary interpellation by the right-leaning populist party SVP about protecting and strengthening banking secrecy in light of German authorities putting their focus on Swiss banks, the Federal Council said that banking secrecy was not up for debate:

> "The protection of privacy - especially in financial matters - is an important component of our value system and at the same time an important location factor for the Swiss financial centre. For this reason, the Federal Council has repeatedly emphasised that banking secrecy is not up for debate." (Nationalrat, 2008, translated from German)

The Federal Council highlighted the economic and moral reasons for protecting banking secrecy. In a 2009 parliamentary debate in the Council of States, politicians strongly promoted the narrative that the banking secrecy was here to stay, in the midst of financial crisis turmoil. One member of parliament said that only the Swiss population could change banking secrecy, which it would surely not do. Parliamentarians also referred to the trust between citizen and state and the rejection of an intrusive state when arguing for a maintenance of banking secrecy. Then-Federal President Merz confirmed at the time that the Federal Council wants to maintain banking secrecy and the distinction between tax evasion and tax fraud as is:

> "The second thing that the Federal Council has decided is that it has said that banking secrecy in Switzerland must remain as it is today. This banking secrecy is enshrined in the Constitution, in the Civil Code, in the Criminal Code, in the Anti-Money Laundering Act, in part in the Code of Obligations and then also in the Banking Act. None of these laws are to be changed, none! We want to keep banking secrecy as it is today in Switzerland. I can't quite understand the panic, also mentioned by some in the media, saying that banking secrecy has now been abandoned. No, we want to stick with it. We will continue to regard tax fraud and tax evasion as offences with varying degrees of wrongfulness." (Ständerat, 2009, translated from German)

Merz also highlighted that banking secrecy was tradition and anchored in Swiss mentality, a symbol for the protection of privacy that cannot be infringed (Ständerat, 2009). Three Swiss interviewees (CHIND03; CHNGO02; CHPOL03) and four UK interviewees (UKFS03; UKFS08; UKPOL01; UKPOL03) highlighted this strong anchoring of banking secrecy and the protection of privacy in Switzerland. Swiss industry representative Walter emphasised that

protection of privacy respectively lack of transparency was the country's unique selling point and competitive advantage (CHIND03). UK wealth management sector interviewees had the same sense, with Isabella emphasising that secrecy and privacy were part of Switzerland's brand as a wealth management centre (UKFS03) and William highlighting that the country was "much more reliant on this particular type of work" (UKFS08). This discourse mirrors one we have seen in chapter 4, namely that the UK was able to lead on transparency efforts because the wealth management sector there has less economic and political weight.

Seven interviewees from different sectors rooted the protection of privacy more deeply in Swiss society and the country's value system – as opposed to it just being a commercial imperative. This is in line with Bühler's (2017) claim that the banking secrecy is an expression of a liberal understanding of privacy protection and the relationship between citizen and the state. According to Swiss parliamentarian Marlene, in Switzerland the sense of freedom to manage one's personal financial affairs is much stronger than elsewhere. Equally, the protection of privacy is held very high as a value (CHPOL03). Banking sector representative Hans added that the Swiss practice discretion much more than people in other countries, for example about how much they earn or own (CHFS09). British parliamentary staff Erin linked this preference for privacy to Swiss neutrality and called it an "embedded cultural norm", which makes Switzerland a safe place to do business (UKPOL03). Swiss tax adviser Andreas added that Switzerland is a private society, and that people love their privacy (CHFS02). Referring to Swiss banks, former Credit Suisse CEO John Mack said that banking secrecy is "their nature" (Croll, 2022). And academic Guex said that the respect of discretion was at the heart of Swiss bankers' habitus (Guex, 2002).

In line with Bühler's (2017) statement about the relationship between citizens and the state, industry representative Tim explained that in Switzerland data protection is not only about protecting customer data from companies, but also about protecting citizens from the state (CHIND01). Reto, who works in tax advice, supported this view, saying that the Swiss citizen is, in principle, sceptical towards the state (CHFS05). In Tim's words:

> "And the private sphere has always had a high priority in Switzerland. And in society and politics, this has always been given a lot of weight, and that's why it fit in well with banking secrecy, as it is still handled within Switzerland. In other words, there is no exchange of information, but one trusts in the honesty of the citizens, because one attaches greater weight to the privacy than to the full enforcement of tax honesty. So that's actually the reason. And I think it's a bit different in many other countries, you have a higher level of trust in the state, it's as if you provide private information to the state, that you don't see it as a violation of privacy, because it remains with the state, it's not public. In other words, the state authority is trusted to a great extent. In Switzerland,

> there is always a bit of a natural mistrust of government action." (CHIND01, translated from Swiss German)

In line with this, Professor emeritus Niklaus Blattner said that Switzerland's attachment to banking secrecy is based on a myth, namely that in Switzerland there is tax honesty and that the Swiss pay their taxes voluntarily (Siegenthaler, 2012).

This section will explore how privacy and data protection arguments were mobilised in context of the probably biggest attack on Swiss banking secrecy yet: AEOI between tax authorities. It will then proceed to show how banking secrecy has been continuously defended within Switzerland. The section concludes with a discussion about whether banking secrecy indeed is dead, as some actors claim.

2.2. Withholding taxes to prevent automatic exchange of information: the Rubik agreements

Due to its commitment to privacy and banking secrecy, Switzerland for a while attempted to prevent AEOI by instead concluding the so-called Rubik agreements with partner countries – a withholding tax agreement that would allow Swiss banking clients to maintain their anonymity. Under these agreements, Switzerland would collect the owed taxes and give them to each corresponding country, instead of disclosing the identity of those with anonymous accounts in Switzerland (Gurtner, 2010). The first version of this was put in place when the EU established its Savings Tax Directive in 2004 and therefore established a first form of AEOI. Switzerland at the time negotiated a 15% withholding tax on EU residents' interest income. In return, Switzerland was able to maintain banking secrecy (Eccleston, 2012; Saint-Amans, 2023). In a UK House of Commons report, Switzerland was named one of the main obstacles and hold-ups to negotiations on the Directive (Seely, 2012).

Switzerland's initial reaction to US pressures on UBS in 2009 was to again establish a withholding tax under the condition of maintaining banking secrecy and customers' anonymity (Brunetti, 2019), unsuccessfully this time. The country also tried to prevent AEOI with other countries. Switzerland signed Rubik agreements with Germany, the UK and Austria (Oberson, 2013). Critics say that those countries that signed the Rubik agreements, such as the UK, failed to obtain the expected tax revenues (Knobel, 2021). Jacob, who worked for the UK civil service at the time, indeed reported that the results were less positive than anticipated:

> "It was controversial from the outset, simply because it accepted bank secrecy and so allowed British citizens effectively to continue to conceal from HMRC. And it became progressively more controversial as the projected amounts of tax receipts did not materialise." (UKCS02)

Pascal Saint-Amans, head of tax at the OECD at the time, said that the Rubik agreement system could only raise suspicion (Gurtner, 2010). According to Grinberg (2012, p. 310), they would be a "major blow to multilateral automatic information reporting." The agreements raise questions about sovereignty because under a withholding tax agreement, the tax collection duty is delegated to another government (Grinberg, 2012).

The Rubik agreements did not survive for long. A first blow came when German parliament rejected the proposed Rubik agreement in December 2012 (Oberson, 2013). The final stroke was the Common Reporting Standard (CRS) that spread actual AEOI across the world. Two interviewees from the UK that were closely involved in these policy processes at the time, former politician Aaron and former civil servant Jacob, highlighted that the Swiss were hoping the Rubik agreements would help them hold out a bit longer and reduce the pressure regarding AEOI and loosening banking secrecy. This clearly failed because the CRS "overtook it" (UKPOL01) respectively "has washed over banking secrecy" (UKCS02). In 2015, Switzerland and the EU signed an amendment of the Savings Tax Agreement from 2004, basically turning it into an AEOI agreement (Der Bundesrat, 2015a).

2.3. Privacy concerns with regard to automatic exchange of information

The first crack of banking secrecy took place in 2009 when – following strong pressure by the US as elaborated in chapter 5 – the Swiss authorities agreed to hand over more than 4,500 client names of banking giant UBS to the US Internal Revenue Service (IRS) (Longchamp, 2010). Out of fear that UBS would be subject to a lawsuit, Switzerland signed an agreement with the US confirming "that assistance to authorized US agencies would not only be granted in cases of tax fraud but also in cases of continued and serious tax evasion" (Steinlin & Trampusch, 2012, p. 253). The same was granted to other countries following pressure by the OECD and G20 (Steinlin & Trampusch, 2012). The advent of AEOI was a whole different story in terms of its perceived infringement on privacy. When Switzerland joined AEOI efforts, first as part of the US Foreign Account Tax Compliance Act (FATCA) and later as part of the OECD's CRS, the discourses around the protection of privacy became increasingly strong.

Concerns around data protection are integrated into the global standards. As Schaper (2016) writes, the FATCA approach of financial institutions reporting directly to the US tax authority went against European data protection legislation. The intergovernmental agreements turn domestic tax authorities into intermediaries and tackle this issue. The Global Forum also ensures data protection by integrating it as a key aspect of the country assessments before and after information exchange takes place (Global Forum on Transparency and Exchange of Information for Tax Purposes, 2023). According to Debelva and Mosquera Valderrama (2017) however, privacy and confidentiality references are lacking consistency in the existing EOI

instruments. The fact that domestic laws define how confidentially information is treated in a given state contributes to this inconsistency (Debelva & Mosquera, 2017). Further, there are risks such as data leaks and hacking of tax authorities' data.

Privacy and data protection concerns were by far the most dominant cross-cutting theme in the Swiss interest group submissions analysed for this thesis. In 2015, the Swiss Trade Association (sgv), which represents small and medium-sized enterprises (SMEs), called AEOI "a massive infringement of privacy and therefore the basic right to personal freedom" (sgv, 2015a, p. 2, translated from German; see also sgv, 2015b). This view was shared by the Swiss Association of Wealth Managers (VSV) (VSV, 2015a). The sgv said that the Swiss Federal Council's commitment to AEOI was excessive, because "they prefer to be viewed favourably by other states by applying AEOI rather than choosing a model that would permit to protect privacy and the interests of the economy" (sgv, 2015d, p. 2, translated from French).

Interest groups asked for partner countries having to have similar data protection standards as Switzerland before they can receive information through AEOI (economiesuisse, 2014; VSKB, 2015b; Centre Patronal, 2015d; VSPB, 2015d; economiesuisse, 2016a; SBA, 2016a; SGB, 2016a; sgv, 2016a; VSV, 2016a; economiesuisse, 2016b; SGB, 2016b; SGB, 2016c; VSV, 2016c; SBA, 2016d; Centre Patronal, 2016g; SBA, 2016g; sgv, 2016g; VSV, 2016g; Centre Patronal, 2017; economiesuisse, 2017; SBA, 2017; SGB, 2017; VAV, 2017; VSV, 2017; Centre Patronal, 2018a; SBA, 2018a; SGB, 2018a; VAV, 2018a; VSV, 2018a; Centre Patronal, 2019; SGB, 2019). According to them, Switzerland needs to also be concerned with the actual implementation of these basic principles in the partner countries (economiesuisse, 2015d; VSV, 2015d). This means checking whether the partner country has the capacity and the will to abide by the data protection standards, and potentially suspending information exchange if the standards are not met (sgv, 2015a; VSV, 2015a; SBA, 2015d; Centre Patronal, 2016e; Centre Patronal, 2019; SGB, 2019). Centre Patronal suggested that these checks need to happen on a regular basis (Centre Patronal, 2017; Centre Patronal, 2018a). Some interest groups advocated for an activation clause, a final check about data protection standards before the first information is exchanged (economiesuisse, 2016g; sgv, 2016g; VAV, 2016g; VSPB, 2016g).

Interest groups concretely rejected AEOI agreements with Australia (sgv, 2015c; VSV, 2015c), Japan (VSV, 2016b) and South Korea (VSV, 2016d) because of insufficient data protection standards in those countries, and with Russia as well as countries in Latin America and Asia because of corruption risks (VSPB, 2016g). In the consultation on the conclusion of agreements with further partner states for 2020-21, the sgv rejected all (sgv, 2018a) while the VSV rejected several countries (VSV, 2018a). The Association of Swiss Private Banks (VSPB) referred to a number of countries that had been found lacking in confidentiality and data protection provisions in a Global Forum assessment and said that Switzerland should therefore not

deliver any data to them (VSPB, 2018a). The Swiss Bankers Association (SBA) was also concerned about all countries except for Pakistan and Azerbaijan in terms of their data protection standards (SBA, 2018a).

One of the arguments for requiring high data protection standards from partner countries is that there are risks that the data will be misused by the countries' governments themselves (Forum SRO, 2014; VSV, 2014) or by third parties (VSV, 2015a), therefore posing a security risk to banking clients. This point was emphasised mainly by the Swiss Association of Wealth Managers (VSV). The VSV highlighted the importance that partner countries protect human rights within their territory and that they are not dictatorships, as such governments should not be supported with tax collection (VSV, 2014). The association used strong language to emphasise this point and the responsibility of Switzerland in this regard:

> "If the AEOI is nevertheless introduced with such states, Switzerland will make itself an accomplice to human rights violations and corruption by providing despots, tyrants and corrupt politicians, functionaries and judges with further tools for their shameful actions through the transmission of data." (VSV, 2016g, p. 3, translated from German; see also VSV, 2018a)

The risk is not only that an authoritarian regime can use the information to its advantage, the VSV also warned about affected taxpayers being at risk of being targeted by criminals if their financial information is known:

> "In parts of South America, for example, there is a risk that if financial data of people is reported, they will then have to reckon with kidnapping, blackmail or, in the worst case, even murder in their home country because details about their financial situation become known. Persons from affected regions do not keep their funds abroad for tax reasons, but for reasons of privacy protection. […] Under the guise of the AEOI, information must not be exchanged that ultimately exposes persons to serious risks to life, health or property or provides support for the violation of human rights by unlawful states." (VSV, 2015a, p. 5, translated from German)

The VSV's language became even stronger for the consultation on the AEOI Regulation in 2019. The association claimed that Switzerland forgot about all moral and ethical considerations when concluding agreements with 'fascist dictatorships':

> "In concluding the agreements, Switzerland threw overboard all moral and ethical claims and considerations aimed at the promotion and recognition of human rights, democracy and the rule of law, and agreed on the AEOI […] with a hodgepodge of communist and fascist dictatorships as well as other

> regimes that violate and disregard basic human rights. They plan to conclude further agreements, again partly with dictatorial unlawful states, which brutally abuse basic and inalienable human rights on a daily basis." (VSV, 2019, pp. 1f., translated from German)

The VSV advocated for individuals being able to object the transmission of information if it would potentially put them at harm or if the receiving country violates the rules of the agreement (VSV, 2015a; see also VSPB, 2015b).

Swiss parliamentarian Miro referred to how this protection argument is historically anchored in Switzerland, but that it has faded into the background in the last twenty or thirty years:

> "It, of course, relates to the historical justification of banking secrecy which is among others the protection of refugees against autocratic states. […] And I mean, that principally is a noble purpose. […] I don't want to help them to collect their taxes. I would say it is then almost an ethical argument again. […] And I find this question has faded a bit into the background. And I say the positive aspect of banking secrecy, perhaps rightly so, has faded into the background in the debate. Internationally the assumption is that the state is the good guy and that all those who want to betray the state in some way are cheaters." (CHPOL02, translated from Swiss German)

Indeed, until the late 1990s one of the principal discourses about why banking secrecy was reinforced and put into law in 1934 was the determination of the banking sector and government authorities to protect the wealth of Jews persecuted in Nazi Germany (Vogler, 2006). This strategically used moral discourse has according to Guex (2002) been dismantled a long time ago. This might explain why it was mainly the VSV which used arguments around protection from authoritarian regimes and of human rights in its consultation submissions, and why the argument was less present in the submissions by the majority of interest groups.

CSO Alliance Sud countered the protection arguments and said that not entering into information exchange does not so much protect innocent individuals from assaults by extortionate states but it protects tax evaders who belong to an economic elite and whose wealth is known already anyway (Alliance Sud, 2018a). Already in 2011 in relation to the law on administrative assistance, Alliance Sud criticised that Switzerland generally "understands controls by foreign tax authorities as unjustified invasions of privacy" (Alliance Sud, 2011, p. 2, translated from German). This disregards that also other countries have democratically legitimate tax laws and should be supported in their implementation (Alliance Sud, 2011).

In the end, the debate about privacy with regard to tax transparency is a question about the balance between the need for transparency to fight tax evasion and the protection of individual

privacy. Ursula, an interviewee from the Swiss auditing industry, aptly expressed her ambivalence about this balance:

> "It's difficult because I'm always a bit ambivalent about this topic: in principle, I am personally very much in favour of transparency, including transparency in tax and financial matters, but I believe it can only be transparent as long as the rights of the individual, the individual person or the personality respectively the protection of personality are not affected. I think that it is very difficult to make a meaningful distinction here or to find the right way." (CHFS08, translated from German)

The balance has shifted more towards transparency over the years, as discussed in chapter 5 largely due to the strong international pressures. Switzerland is now exchanging information on an automatic basis with over 100 countries.

2.4. The defence of privacy within Switzerland

A less well-known fact is that while banking secrecy has effectively been removed for those foreign taxpayers whose country of tax residence has an AEOI agreement with Switzerland, banking secrecy remains intact for Swiss taxpayers. That means authorities have no access to bank account information of Swiss tax residents except in cases of tax fraud. Promoters of banking secrecy have worked hard to protect this aspect of privacy until now.

In 2009, a parliamentary motion suggested eliminating the distinction between tax evasion and tax fraud also within Switzerland, a proposal which was rejected by the Council of States (Longchamp, 2010). In 2013, millionaire banker and National Councillor of the right-leaning populist party SVP Thomas Matter started an initiative called 'Yes to the protection of privacy', which was submitted in summer 2014. In light of the impending start of international AEOI from 2018 and efforts by the Federal Council to strengthen criminal tax law and eliminate the distinction between tax evasion and tax fraud, Matter aimed to anchor the in-country banking secrecy in the Swiss constitution. This to prevent automatic information exchange within Switzerland and the proposal that tax authorities could get access to bank information when there were specific suspicions of tax evasion (and not only tax fraud). The initiative suggested to amend article 13 of the constitution, titled 'Protection of Privacy', specifically highlighting the right to privacy in financial matters, and restricting the right of third parties to inform authorities about Swiss residents in cases of suspected tax evasion (Eidgenössische Steuerverwaltung, 2015; Ständerat, 2017).

Initially the initiative seemed set up for failure. The Federal Council recommended rejection in summer 2015, with the argument that the initiative would harm tax collection efforts and the fight against money laundering and financing of terrorism, as well as potentially harm the

reputation and international relations of Switzerland (Eidgenössische Steuerverwaltung, 2015). There was also criticism from industry association economiesuisse, the SBA and the Federal Tax Authority, who were all worried about what the initiative would signal to international partners – with potential reputational repercussions (economiesuisse, 2016f).

In light of the controversies about the initiative, though, in fall 2015, then-Finance Minister Widmer-Schlumpf halted the ongoing reform of criminal tax law and announced her resignation. The Matter initiative gained increasing support from parliamentarians (Hanimann, 2016; Swissinfo, 2017). In June 2016, the National Council's Committee for Economic Affairs and Taxes launched a public consultation on their alternative proposal to the initiative, which in essence contained very similar provisions, namely anchoring the protection of privacy in financial matters in the constitution and preventing automatic information exchange within the country. Akin to what I discussed in chapter 5, there was an interesting battle within the finance sector, with large banks, cantonal banks and Raiffeisen banks being against the proposal (Raiffeisen, 2016f; SBA, 2016f; VSKB, 2016f), while associations representing smaller actors such as Alliance Finance (2016f), the Federation of Romand Companies (FER) (2016f) and Centre Patronal (2016f) were in favour (Hanimann, 2016). economiesuisse expressed concern about how the proposal can negatively impact other reforms that are important for the Swiss economy (economiesuisse, 2016f). Banks expressed their rejection of the proposal with the argument that it would mainly protect those who want to hide something about their tax affairs. The reform would also put banks and bank employees at higher risk in terms of liability and reputation and lead to increasing administrative burden and costs. The banks also raised concern about the potential clash between the proposal and the standard about international AEOI (Raiffeisen, 2016f; VSKB, 2016f). The bank Raiffeisen added that privacy is currently protected sufficiently and there is no need for the reform (Raiffeisen, 2016f).

FER, in favour of the proposed reform, criticised that the government had tried to push towards in-country AEOI. The association highlighted that banking secrecy is part of Switzerland's DNA and contributes to a trustful relationship between citizens and the state:

> "In reality, it is a societal choice that is up to the citizen to make and not up to the State. This is a highly political issue, given that banking secrecy has been an integral part of Switzerland's DNA since 1934, that it preserves a healthy relationship of trust between the state and the citizen and prevents the excesses of a snooping state." (FER, 2016f, p. 2, translated from French)

Before the initiative went out for vote, in 2017 both chambers of parliament adopted a motion that finally rejected a strengthening of criminal tax law and the elimination of the distinction between tax evasion and tax fraud (Ständerat, 2017; Swissinfo, 2017; Watson, 2017). Following this, the Matter initiative was withdrawn in early 2018 (Schweizerische Bundeskanzlei, 2018).

According to politician Marlene, this was a compromise after long discussions and many versions of the initiative (CHPOL03). Banking secrecy is therefore still in place within Switzerland, even if financial privacy is not explicitly anchored in the constitution.

2.5. Conclusion

Concerns around privacy and confidentiality are deeply anchored in Swiss society and the banking industry. This has meant that politicians and interest groups have used arguments around the right to privacy and data protection in their attempts to somewhat limit the extent of administrative assistance and in particular AEOI. Actors have mobilised both economic arguments – the fact that banking secrecy is important for the competitiveness of the Swiss financial industry – and value-focused arguments, about the importance of trust between the taxpayer and the state and the deeply rooted right to privacy. Interestingly, in light of the origin myth of banking secrecy serving the protection of those from authoritarian states, safety and protection arguments were mainly mobilised by the VSV but not by many other interest groups. As discussed in chapter 5, a rift developed in the 2010s between those actors who started to value international compliance, out of a fear of sanctions and reputational repercussions, and those actors who fervently tried to defend the right to privacy of banking clients.

Over the last decade or so, the question whether banking secrecy is dead or not has been discussed in politics and academic literature (Johannesen & Zucman, 2014; Knobel & Meinzer, 2014). As elaborated, it certainly is not dead within Switzerland for Swiss taxpayers, and its defenders go to great lengths to keep it that way – including by trying to anchor it in the constitution. Stefan, a civil society interviewee with deep knowledge of these topics in Switzerland, said that there was a discrepancy between the official narrative that banking secrecy is dead and what effectively is happening (CHNGO01).

Part of the banking industry has claimed that for the case of foreign bank clients banking secrecy indeed is dead. According to the SBA as quoted in a newspaper article in 2022:

> "There is no longer Swiss bank client confidentiality for clients abroad. […] Swiss banks have done their homework and implemented all international regulations. We are transparent, there is nothing to hide in Switzerland." (Makortoff, 2022b)

This statement ignores that banking secrecy is only lifted for tax residents of countries who are AEOI partners of Switzerland. These are an impressive 111 countries as of December 2023 (Staatssekretariat für internationale Finanzfragen, 2023), but not all countries are included. Notably, a lot of developing countries are not part of the list and their tax residents can still hide their money on Swiss accounts without fearing to be found out (Gross, 2018; Makortoff, 2022b). In a 2014 consultation, the Trade Union Association (SGB) suggested that

requirements for data protection and reciprocity should be loosened for developing countries in order to facilitate their access to AEOI agreements (SGB, 2014). Alliance Sud supported this view, saying that data protection requirements should not be used as an excuse to exclude developing countries from AEOI. Switzerland should not have too onerous expectations that go beyond what the OECD requires (Alliance Sud, 2015a; Alliance Sud, 2015b).

Switzerland further claims to maintain strong privacy and data protection standards with its AEOI partners and in EOI on request. Andreas, an interviewee from the tax advisory industry, had the impression that data protection in the context of EOI in Switzerland works well, and that those who are still opposed need to accept that EOI is inevitable now. This stands in contrast to his rather pessimistic views on beneficial ownership registers, as outlined above (CHFS02). Also Beat from the banking sector and Paul from a fiduciary confirmed that Switzerland still maintains strict principles in terms of procedures and notifications to account holders, and that the country sometimes has to justify these strong standards towards foreign authorities. The interviewees also said that these principles are broadly supported in parliament. Privacy is therefore still well protected (CHFS01, CHFS06).

> "The Federal Tax Administration often has to explain to the foreign authorities why things are the way they are in Switzerland, namely that there is still a notification and a procedural option and a speciality principle, and the foreign authorities find that relatively uncool. And they are not used to that from each other. And that's why Switzerland is repeatedly criticised or is relatively quickly attacked. Because it is always interpreted as if one resists the principle. And we don't do that. It's simple, we have our rules of procedure and our principles and we maintain them." (CHFS01, translated from Swiss German)

While these three interviewees saw these stricter standards as a positive, civil society representative Stefan criticised that Switzerland managed to have higher standards on data protection that contradict the OECD requirements:

> "And Switzerland has put in like a Swiss finish. Well, the parliament has done that and it is controversial whether this corresponds to the OECD standards, but there, the OECD has already criticised this in the country reviews. [...] And it has simply raised the hurdles for delivery to partner states in the sense that the Swiss Parliament decided that Switzerland decides unilaterally if data security is guaranteed. And if this is not the case, then reciprocity must be suspended. This undermines the idea of the AEOI as a system of information exchange based on equal footing between all participating states." (CHNGO01, translated from Swiss German)

At the same time, and maybe slightly under the radar, the Swiss government implemented in 2015 the Federal Law on the Extension of the Criminality of the Violation of Professional Secrecy (*Bundesgesetz über die Ausweitung der Strafbarkeit der Verletzung des Berufsgeheimnisses*). The law originated in a parliamentary initiative from 2010 which demanded stricter penalties for those who seek to obtain or actually obtain a pecuniary benefit from violating professional secrecy (Nationalrat, 2010). This effectively improves the protection of banking data as it prevents the stealing of data.

Another way in which Switzerland was able to maintain some protection for financial account holders is by insisting on two principles that were highly promoted in consultation submissions: the reciprocity principle and the speciality principle. Both have apparently been advanced by Switzerland at the international level when AEOI was negotiated (Crasnic & Hakelberg, 2021). Many private sector interest groups insisted on the importance of reciprocity in AEOI relationships (sgv, 2015a; VSKB, 2015a; VSV, 2015a; Centre Patronal, 2015b; sgv, 2015b; VSKB, 2015b; VSV, 2015b; SBA, 2015c; economiesuisse, 2015d; Centre Patronal, 2015d; SBA, 2015d; sgv, 2015d; economiesuisse, 2016a; SBA, 2016a; economiesuisse, 2016b; SBA, 2016d; Centre Patronal, 2016e; VSV, 2016e; economiesuisse, 2016g; SBA, 2016g). It means that those countries wanting to receive financial account information from Switzerland must be prepared to send information back. As has been highlighted by critics, this, of course, is often unrealistic in particular for developing countries which do not have the capacity to collect and share the required information. They therefore remain excluded from the system. CSO Alliance Sud has suggested Switzerland should waive the reciprocity requirement at least temporarily for certain developing countries (Alliance Sud, 2015a; Alliance Sud, 2015b; Alliance Sud, 2016e; Alliance Sud, 2019), but most, if not all, private sector actors still insist on it.

The speciality principle was the other requirement that Switzerland heavily insisted on when it came to AEOI. The speciality principle posits that the information that is exchanged can only be used for tax purposes – and for example not for corruption or money laundering investigations. It can therefore not be passed on by tax authorities to law enforcement and other government agencies. There has been a widespread insistence by interest groups across consultations that the speciality principle is important and must be respected (economiesuisse, 2010; SBA, 2010; economiesuisse, 2011; SBA, 2014; sgv, 2015a; VSKB, 2015a; VSV, 2015a; Centre Patronal, 2015b; sgv, 2015b; VAV, 2015b; VSKB, 2015b; VSV, 2015b; SBA, 2015c; VSV, 2015c; Centre Patronal, 2015d; economiesuisse, 2015d; SBA, 2015d; sgv, 2015d; VSV, 2015d; SBA, 2015e; economiesuisse, 2016a; SBA, 2016a; VSV, 2016a; economiesuisse, 2016b; VSV, 2016b; VSV, 2016c; SBA, 2016d; VSV, 2016d; Centre Patronal, 2016e; VSV, 2016e; economiesuisse, 2016g; SBA, 2016g; VSPB, 2016g; VSV, 2016g; SBA, 2017; VSV, 2017; VSV, 2018a).

Ultimately, it seems that Switzerland has found a balance between having to comply with international transparency requirements but maintaining its commitment to strong data protection standards and privacy rights. This is important to maintain a trusted relationship between tax authority and taxpayer as well as for the legitimacy of international tax transparency standards (Debelva & Mosquera, 2017). It is interesting that the protection and authoritarian regime argument is so limited now in Switzerland compared to arguments around data protection and the right to privacy, which demonstrates how justifications shift based on context. This is different in the UK where the protection argument dominated.

3. Safety arguments: The protection of beneficial owners in the UK

3.1. Introduction

In the UK, privacy concerns were much more pronounced in the context of beneficial ownership transparency and voiced very little with regard to EOI. While in Switzerland it was primarily the VSV that linked privacy and data protection to a discourse around safety, human rights and corruption – with the argument otherwise having lost its dominance in the country – in the UK there was an overall dominance of the safety argument.

This section outlines the political struggles around the beneficial ownership registers – the People with significant control (PSC) register and the Register of Overseas Entities (ROE) – with regard to the topic of privacy protection of beneficial owners. It will show first how safety arguments were mobilised against a public register and second in favour of a strong protection regime, as well as outline the most common counter-arguments. I will then delve into the debates about the grounds for protection and the alleged economic consequences of a weak protection regime.

3.2. Safety risks related to public registers

As elaborated in the previous chapter on the political struggles around transparency, one of the key discussions when it came to beneficial ownership registers is whether the registers should be public or just available to government authorities. The previous chapter showed the debate about whether the public character of the register helps with the reliability and verification of the data. There is another large debate related to this, namely whether making the data publicly available puts those listed on the register at risk. According to Gillis (2019), making beneficial ownership information public can lead to an imbalance between an abstract public interest in transparency and the right to privacy.

The Alternative Investment Management Association (AIMA) for example was initially opposed to making any company information available to the public as it could then be "accessed by competitors, family members with adverse interests, criminals and journalists" (Pegg & Ball, 2015). The International Financial Centres (IFC) Forum supported this view, cautioning that the proposed public access to the register "would be an unwarranted intrusion into personal financial affairs (not justified by an overriding public interest)" (IFC Forum, 2014b, p. 4). They cautioned that data aggregators could be used on the PSC register or the ROE "to collate, organise and sell data on ownership of private assets" (IFC Forum, 2013b, p. 5; IFC Forum, 2017). Also the Law Society cautioned against identity theft if personal information is publicly available (Law Society, 2013b; Law Society, 2015). The British Bankers Association (BBA) added that there was not enough possibility for recourse to authorities if one's information is misused or misapplied (BBA, 2014b; BBA, 2017). Going further, the Institute of Chartered Accountants (ICAEW) argued that even making beneficial owners' information available to directors within a company could be an issue from a privacy perspective (ICAEW, 2013b). Also the Law Society initially seemed sceptical even about a central but closed register because the risk of leaks "may be sufficient to put off entirely legitimate investors from forming or investing in UK incorporated entities" (Law Society, 2013b, p. 6).

Three interviewees from the wealth management field, Rosie, Thomas and William, were also sceptical about public registers or at least supported a strong protection regime, from a safety perspective (UKFS05; UKFS06; UKFS08). Four interviewees with more critical views on the privacy and protection argument explicitly expressed support for public registers of beneficial ownership and showed scepticism about the safety arguments. For wealth management sector representative Isabella, this was mainly about being able to perform due diligence duties (UKFS03). Civil society representative Sofia was sceptical about the security threat argument against public registers, saying "I don't buy into the whole 'this is a security threat'" (UKNGO03). Former civil servant Oliver said he does not believe the argument about rich entrepreneurs being worried about kidnapping if their private information is released because rich people pronounced their wealth all the time (UKCS01). Civil society representative Hazel added she thinks the privacy and confidentiality argument is used disingenuously as an excuse. The burden should be on those not wanting their information to be disclosed to argue for that privacy (UKNGO01). This view was evidently shared by the UK government who decided to keep the PSC register public after the European Court of Justice judgment stating that general public access to beneficial ownership registers conflicts with privacy rights. The UK government saw the protection regime as enough of a safeguard. This protection regime, however, was also subject to much discussion.

3.3. A strong or limited protection regime?

While some actors were generally against public access to the register, from a protection and safety perspective, there was a broader discussion about whether information could be excluded from public disclosure on a case-by-case basis if there was ground for protection of the individual (BIPA, 2013b). These decisions are governed by the protection regime. The AIMA said that "if publicly disclosing such information may potentially harm the individual, it should be possible for such information to be held back from public disclosure" (AIMA, 2014b, p. 5). Professional services company Capita was in favour of a public register but said the same possibility that exists for directors to exclude their home address from the public register could be extended to beneficial owners (Capita, 2013b). The PSC register and the ROE have protection regimes which allow for this case-by-case exemption from the publication mandate. According to the application website, a director, LLP member or PSC can apply to protect their personal details if they, or someone living with them, "are at serious risk of violence or intimidation because of [their] company or LLP's activities" (Companies House, 2020). All three categories of individuals can apply to protect their home address from being published, while PSCs can ask for protection of all their information (Companies House, 2020).

In particular during the consultations on the PSC register, interest groups criticised suggestions for too restrictive a protection regime and suggested that the regime should be stronger. The Association of Company Registration Agents (ACRA) stated that "the prevalent view is that it should be difficult to establish eligibility for protection" (ACRA, 2014b, p. 2). They countered that there should be more "emphasis on keeping people safe […] rather than minimising protections" (ACRA, 2014b, p. 3). This view was supported by the Law Society who advocated for a wide protection regime given how novel the PSC register was (Law Society, 2014b). A strong protection regime means that there should not be too much need for proof that there is a real risk of harm, according to the BBA:

> "We also believe that when considering the delineation between actual and possible threat, the lower standard should be applied. The mere possibility of a threat which may result in serious harm should be valid criteria for a PSC or company to gain an exemption. The applicant should be given the benefit of the doubt unless refuting information is available (or becomes available) to the assessing authority." (BBA, 2014b, p. 6)

When it comes to the protection of directors, there is the requirement that there is a serious risk of physical harm – often implying that harm has already occurred. The Law Society suggested that this should be different for beneficial owners, with no need to prove actual harm. A possible threat should be enough to warrant protection (Law Society, 2014b). STEP

supported this view, saying that protection should not be "limited to those who have already taken out injunctions or non-harassment orders" (STEP, 2014b, p. 6). Protection should for example also be granted in cases where the PSC's home government was overthrown, and the rule of law has broken down (STEP, 2014b). The Law Society reinforced this consideration of political context, saying that if the PSC comes from a country with weak rule of law and therefore heightened kidnapping or extortion risk, protection should be considered (Law Society, 2013b). PwC explained the importance of taking account of the geographical context of the PSC:

> "In more extreme cases confidentiality is necessary for reasons of security, whether to protect against extortion or to ensure personal safety. The proposed disclosure regime applies to companies incorporated in the UK irrespective of the location of the beneficial owners. Concerns over security of personal data may be more acute where the beneficial owners are foreign nationals, who may be used to a different culture when dealing with law enforcement agencies or Government departments. Apart from a legitimate concern about the use to which information might be put, and different legal standards applying in their home territory, there may be real concerns over personal security or political aspects of disclosure." (PwC, 2013b, p. 3)

This awareness of the risk of public data availability was also present among interest groups in the lead-up to the ROE. This, according to Deloitte and PwC, because the risks of harm to individuals is heightened with regard to them being linked to a specific property which might be their home address, as opposed to merely being linked to a company (Deloitte, 2017; PwC, 2017). Deloitte wrote that individuals often hold UK property via a foreign structure to precisely achieve some form of anonymity and privacy and shield themselves from "death and kidnap threats, requests for money or being monitored by fans, stalkers and paparazzi" (Deloitte, 2017, p. 1; see also IFC Forum, 2017). The Jersey Funds Association (JFA) wrote that "foreign investors may have legitimate cultural, privacy or personal security reasons (entirely unconnected with criminal or corrupt activity) to keep their investment activities out of the public eye" (JFA, 2016, p. 5). This option to not reveal someone's identity or address was missing in the ROE proposal, according to ACRA (ACRA, 2016). PwC suggested that if the property is the beneficial owner's personal residence, there should be an option to not have to publish the information. It suggested that there needs to be a clear and fast appeals process, including the option of going to court when a request for protection has been denied (PwC, 2017).

As has become evident in previous chapters, in the UK trusts have been protected from transparency requirements more than other legal entities. There were also specific privacy concerns

related to trusts. This for example because beneficiaries of trusts can be children (PwC, 2017). Wealth management association STEP argued that individuals are rightly concerned about threats to their "legitimate rights to privacy" and the risk of abuse because many trustees are lay trustees – particularly in the case of family businesses. Having their residential addresses and other personal information available to the general public would be a concern for them. Equally, disclosing trust beneficiaries would "pose considerable risks of abuse" (STEP, 2013b, p. 3). STEP argued that beneficial owners of trusts are particularly at risk because many of them are vulnerable:

> "HMRC research has identified that the most common reason for establishing a trust is that at least one of the beneficiaries is considered vulnerable. Disclosure of the names of beneficiaries would therefore come very close to publishing a list of vulnerable individuals who may also have access to funds. The risks of this approach, as well as the challenge to a family's legitimate rights to confidentiality in areas such as arrangements for vulnerable family members are clear." (STEP, 2013b, pp. 3f.)

The counterview to a strong protection regime is the perspective that protections should only be given on a case-by-case basis subject to a proper application. Unsurprisingly, this view was promoted primarily by CSOs. Akin to the diagnostic struggle about exemptions (see chapter 6), Transparency International warned that the protection regime could become a loophole (TI, 2015). Global Witness and ONE cautioned that "the definition of "vulnerable individuals" would inevitably be subjective and open to abuse" (Global Witness, 2013b, p. 13; see also ONE, 2013b). A coalition of CSOs suggested that those wanting to apply for protection should have to outline the threat they face and provide evidence if they can (CSOs, 2014b; see also PwC, 2014b). For Christian Aid, the justification must explain how disclosing PSC status increases the individual's risk of being subject to intimidation or violence, because that risk might exist independently of PSC information disclosure (Christian Aid, 2015). Transparency International further highlighted that there should only be a small selection of circumstances that justify not disclosing beneficial ownership information to the public (TI, 2013b; see also Christian Aid, 2013b; TI, 2015). CSOs expressed particular rejection of "blanket, automatic exemptions for particular threats or sectors" (CSOs, 2014b, p. 2). They also promoted the option for third parties to request Companies House to reassess a protection status, for example those with a legitimate interest in the information (Christian Aid, 2013b; CSOs, 2014b), or if there is a public interest in a specific company (Christian Aid, 2015). Wealth manager association STEP strongly spoke out against such third party appeals (STEP, 2014b).

CSOs continued their lobbying against a strong protection regime for the ROE. They advocated for exemptions from public declaration of data being rare and well justified. Transparency

International referred to experience from the PSC register to warn about the risk of people abusing loopholes:

> "When the UK PSC register was introduced, law firms sought to allow wealthy clients to exploit loopholes around exemptions to retain unnecessary privacy. This would entail a similar risk with non-UK companies." (TI, 2016, p. 3)

Global Witness also warned that the threshold for the protection regime should be very high, and at least as high as for the PSC register. This because the regime "is likely to be exploited by exactly the kind of individual that the government hopes to deter" (Global Witness, 2017, p. 15). There still needs to be proof that publication of their details on the ROE "would put them at a specific, additional, and serious risk" (Global Witness, 2017, p. 15), and "there can be no exclusions without evidence, nor because people are located in a particular country or because they are rich or powerful" (Open Corporates, 2017, p. 1). CSOs further demanded transparency about the protections that are granted (Global Witness, 2017; Open Corporates, 2017; see also TI, 2017).

For Christian Aid, the granting of protection always happens in a process of balancing the public interest in information disclosure and the potential need for protection of the PSC (Christian Aid, 2015). The starting point should be in favour of the public interest, with a "clear public interest presumption in favour of disclosure" (Christian Aid, 2015, p. 4). Transparency International and Global Witness also spoke about the need to balance protection of vulnerable individuals against the risk that the protection provisions are used as loopholes (Global Witness, 2017; TI, 2017).

3.4. Protection only from physical harm?

There was a wider debate about whether the protection regime should only apply to physical harm or also to competitive, reputational or economic harm. The government initially suggested that it would not include these latter factors in the protection regime (BBA, 2014b). ICAEW in 2014 suggested that commercial confidentiality should also be balanced against the public interest in transparency (ICAEW, 2013b). The BBA advocated for reputational and competitive harm being taken into account, as activists could use the information from the register for their purposes:

> "political, social or economic activists could use the register to identify investors and beneficial owners with an interest in contentious or unpopular businesses and industry sectors. There is an additional risk that such persons would use that information to directly influence, intimidate, or threaten the property, reputation or commercial interests of those beneficial owners. This has been borne out by experience, with numerous examples of activists

> approaching or protesting at the home of a beneficial owner (or who they believed to be the beneficial owner) in the furtherance of a political agenda." (BBA, 2014b, p. 4; see also BBA, 2017)

This need for protection for reputational or competitive reasons applies in particular to those individuals linked to sectors that are under particular scrutiny by the media or civil society (BBA, 2014b). Deloitte and the Institute of Chartered Secretaries and Administrators (ICSA) also spoke in favour of the risk criteria being extended to competition and reputational impact (ICSA, 2013b; Deloitte, 2014b). Deloitte asked for strong protection of "high-profile, environmentally sensitive" businesses (Deloitte, 2014b, p. 4).

AIMA framed its suggested extension of the protection regime to other risks in terms of "serious or material harm to its or the relevant company's economic interests" (AIMA, 2015, p. 5). In the IFC Forum's words, risks should include "identity theft, cyber-crime, other criminal use, e.g. in support of extortion or kidnapping, […] or [u]se of data to target individual owners by, for example animal rights activists" (IFC Forum, 2014b, p. 2). This could be because a company is "involved in controversial research or other sensitive scientific activity that is lawful but offends extremist or fringe groups" (IFC Forum, 2014b, p. 6; see also Law Society, 2013b). The Law Society added "serious intimidation via social media" as a risk that should be covered (Law Society, 2015, p. 7).

CSOs spoke out against this suggested expansion of the protection regime and said protection should be reserved for those who face serious harm if their information is made public, namely violence or intimidation (Christian Aid, 2015; TI, 2015). They argued that the concealment of information in itself can be a market distortion, tapping into commercial arguments:

> "The criteria for this regime must be tightly defined and explicitly exclude economic factors, as opposed to the danger of violence. For that reason, we see no reason to include distortion of market forces as one of the criteria; indeed we would highlight the fact that concealed ownership allows for market distortion, by depriving the market of useful information, and potentially providing an unfair advantage to those who keep their identity hidden." (CSOs, 2014b, p. 2)

This point about market distortion raises an interesting contradiction of neoliberal capitalism: it depends to an important extent on availability of market information and therefore transparency, but its protagonists are not always happy to be subject to this transparency themselves.

Calls for broad grounds of protection including economic and competitive harm were not successful. The government application page for protection only refers to "serious risk of violence or intimidation" (Companies House, 2020).

3.5. Economic consequences of weak protection

Interest groups not only argued against public access or for a strong protection regime with moral arguments, even if overall the moral arguments were most dominant. They also highlighted the economic consequences for the UK if individuals are scared of investing or doing business in the country because of its strict beneficial ownership transparency regime, leveraging structural power arguments. This was true both for the PSC register and the ROE (BBA, 2014b; PwC, 2014b; BBA, 2017). Instead of not investing, individuals from high-risk "jurisdictions with weak rule of law or respect for property rights at risk of asset seizure or kidnapping" might choose to use "intermediary structures in third party jurisdictions (with a subsequent loss to the UK advisory industry) to hold UK investments in order to avoid disclosure" (STEP, 2014b, p. 5). The British Private Equity and Venture Capital Association (BVCA) wrote that a public register would create an uneven playing field and discourage investment:

> "We do not believe there is a case for making the information on the registry publicly available. It would create an uneven playing field and discourage investment into UK companies at a time when investment is much needed to generate growth." (BVCA, 2013b, pp. 3f.)

For the ROE, the BBA and PwC expressed concerns that the register, if public, would deter real estate investors from the UK market, in PwC's perspective in particular for the case of private residences (BBA, 2017, PwC, 2017). In the BBA's words:

> "If inadequately addressed, these challenges could serve as a barrier and disincentive to foreign investment and inflows, risk triggering a loss of confidence in the UK property market and expose persons who are listed on the register to the risk of harm." (BBA, 2017, p. 3)

This was one of the moments when UK interest groups tapped into the level playing field argument that was so strong in Switzerland (see chapter 5).

3.6. Conclusion

This section showed that also in the UK, part of the resistance against transparency were arguments on privacy. It was striking how prominent the protection and safety arguments were, in particular in comparison to Switzerland. The demands were in line with the frequent reference to exemptions in the UK, in an attempt to reduce the scope of application of the transparency laws. The acts of resistance discussed in this section were not very successful, as the registers are public and the protection regimes narrower than many interest groups advocated for.

Next to value-based and moral discourses, some interest groups mobilised structural power arguments to say limited protections for beneficial owners would have negative impacts on the UK economy. The moral arguments interestingly weighed much stronger, though. This confirms my finding that transparency has mainly been justified through commercial arguments while privacy and therefore limits to transparency rely more on moral discourses.

As a beneficial ownership register has only been on the cards recently in Switzerland, there is not much to compare. It is interesting nonetheless to note that audit and tax professional association EXPERT Suisse in the 2023 consultation warned about even a central (albeit closed) register because of the risk of leaks. This would harm the protection of privacy and the attractiveness of Switzerland for businesses (EXPERT Suisse, 2023). VSV further suggested that media and civil society as well as financial intermediaries should not have easy access to the register (VSV, 2023; see also OADFCT, 2023; SNV, 2023). Given there are no plans to make the register public, it makes sense that safety and data protection concerns are overall less present in Swiss discourses about beneficial ownership transparency.

This and the previous section on Swiss banking secrecy have focused on the privacy rights and protection of financial account owners or beneficial owners of companies. The next section will turn the focus to the duty of confidentiality of professional service providers, in this specific case lawyers.

4. The Swiss 'lawyers' secrecy': a gap in anti-money laundering legislation?

4.1. Introduction

This thesis has shown that the past twenty years have seen an expansion of the anti-money laundering (AML) transnational legal order (TLO) and corresponding domestic laws. Recently, and partially because of data leaks such as the Panama Papers, there has been an increasing focus on the so-called 'enablers' of those crimes – the financial and professional services providers who facilitate the opening of accounts abroad, purchase of real estate or formation of shell companies, trusts and other legal entities (Mulligan et al., 2022; OECD, 2021; Taylor & Beizsley, 2022). The focus of AML standards and laws has traditionally been on financial intermediaries such as banks. Increasingly, AML due diligence duties have been expanded to non-financial businesses and professionals. These increasing identification and reporting duties for those in the so-called advisory industry have provoked a backlash in particular from legal professionals. This is due to the alleged implications the AML duties have for lawyers' duty of confidentiality towards their clients.

This backlash fits into the broader trend of how privacy, data protection and confidentiality have been mobilised as counter-values to the growing transparency regime, as elaborated in the previous two sections. This section asks how the legal sector has successfully defended their professional confidentiality against increasing AML pressures in Switzerland.

This section moves away slightly from specific EOI and beneficial ownership policies and concerns a related aspect of the AML TLO: due diligence and reporting duties of service providers. It is a recent and little explored episode in Switzerland with regard to how privacy and confidentiality concerns are mobilised against expanding transparency requirements. It also shines further light on the divisions within the wider professional and financial services or wealth management industry, by focusing on the legal profession. This topic was less visible in the data and I found out about it first in interviews. It is therefore one of the most novel contributions of this thesis.

This section finds that the Swiss government and left-wing representatives in parliament have made repeated efforts to subject lawyers to stricter AML duties. A lobby of legal professionals and their allies in the form of right-leaning parliamentarians have successfully managed to mobilise arguments around the protection of the so-called "lawyers' secrecy" to fend off such reforms. This despite promoters of the reforms having powerful interest groups from industry and the banking sector on their side. Recent criticism of Switzerland's insufficient enforcement of sanctions against Russia and the role of legal professionals therein has brought the topic back on the agenda.

The next sections will specify what duties lawyers have under international AML standards and how confidentiality duties have been mobilised against AML reforms. The main two sections will then elaborate how an expansion of lawyers' duties under AML law has repeatedly been rejected in Switzerland, with strong reference to the duty of professional secrecy. The last section before the conclusion will show how the focus on lawyers and their role in facilitating financial crime has very recently come back on the agenda because of the focus on enforcing sanctions against Russian oligarchs.

4.2. The anti-money laundering duties of professionals

The enabler term encompasses a wide range of professionals, reaching from bankers and other financial intermediaries to tax advisers, trust and company service providers, accountants, notaries and lawyers. A more positively connoted term is gatekeeper, which alludes to the fact that these actors also play an important role in preventing and combating financial crime (Stolen Asset Recovery Initiative & World Economic Forum, 2021). While the FATF Recommendations started as a voluntary good practice guide for financial intermediaries, the recommendations were extended in 2003 to also apply to non-financial institutions, so-called Designated

Non-Financial Businesses and Professions (DNFBPs) which comprise "legal practitioners, accountants, casino, real estate agents, dealers in precious metals and stones, notaries, and trust and company service providers" (Kamaruddin & Hamin, 2019, p. 585; see also Gikonyo, 2019). These actors fall under AML duties – such as customer due diligence, record keeping and reporting of suspicious activity – if they engage in financial intermediation or transactions (Kamaruddin and Hamin 2019, 585; FATF 2012; NICE Actimize 2017). This aspect of the TLO is fairly uncontroversial and particularly important because there are suggestions that money launderers increasingly use intermediaries like lawyers instead of financial professionals to hide their illicit funds, because the financial industry and in particular banks have become subject to strict regulation (Kamaruddin & Hamin, 2019; Pambo, 2020).

The key debate that this section focuses on is whether lawyers and other advisers should be subject to AML duties when they are involved in setting up and managing shell companies and trusts – even if their services do not involve any financial intermediation but merely 'advice' (Public Eye, n.d.-a). Traditionally, purely advisory functions did not fall under the AML rules. In a FATF report from 2010, the organisation critically noted that several countries had not established an AML supervisory system for professionals acting as trust and company services providers (including lawyers) and that this was an important gap in AML law (FATF, 2010). According to Taylor and Beiszley (2022, p. 29), "[o]ften criminals will attempt to thwart potential investigators by employing legal professionals to set up complex networks of companies and trust arrangements." This to obscure the origin of the funds and the identity of the beneficial owner.

Due diligence duties that have to do with client identification and data storage are less controversial from a lawyer's perspective as it is in principle just about collecting and storing information. The AML duties can, however, also include transferring client data to government authorities and reporting suspicious activity to the state (Ali, 2019; Manhart, 2012). The duty for active cooperation with the state has been implemented in national legislation across Europe, in line with the 4th EU AML Directive (Ali, 2019; Kirby, 2008; Levi, 2022).

4.3. The mobilisation of confidentiality obligations against AML reforms

Some say that AML obligations for lawyers, in particular those that involve reporting and active cooperation with the state have led to the erosion of lawyers' confidentiality obligations (in the UK, Legal Professional Privilege)[9], which protect certain client communications from disclosure (Kamaruddin & Hamin, 2019; Manhart, 2012; Svedberg Helgesson & Mörth, 2018). Others have argued that this very confidentiality is a barrier to money laundering investigations and

[9] The details of how this so-called attorney-client privilege or legal professional privilege works differs between jurisdictions (Ali, 2019; Kirby, 2008).

prosecution (Gikonyo, 2019; OECD, 2021; Svedberg Helgesson & Mörth, 2018). Those in favour of stronger anti-financial crime regulation argue that the lawyers' "confidentiality is also open to abuse: it can be used to conceal wrongdoing involving the lawyer or to resist disclosure where there are no proper grounds for claiming privilege in the circumstances. In particular, there is a real risk that privilege can be asserted to avoid reporting suspicion or knowledge of money laundering" (Taylor & Beizsley, 2022, p. 42; see also Svedberg Helgesson & Mörth, 2018).

The duty of confidentiality has been mobilised across the world to oppose stricter AML duties for lawyers. In Canada, the Federation of Law Societies, after a 15-year-long legal process against FATF rules on lawyers, won their case at the Supreme Court which decided "that lawyers' obligation to actively cooperate with the state undermines solicitor-client privilege and hence violates the constitutional principle of the independence of the bar" (Ali, 2019, p. 286). Also the American Bar Association and the Council of Bars and Law Societies of Europe have opposed the reporting obligations of lawyers, saying that they would impact lawyers' independence, violate the principle of client confidentiality and turn them into agents of the state (Kamaruddin & Hamin, 2019). The Law Council of Australia in 2017 warned about the erosion of client confidentiality, independent legal advice, and harm to the lawyer-client relationship if AML duties are expanded (Goldbarsht, 2020). In Kenya, legal professional privilege is placed above lawyer AML reporting duties. During the 2007-2009 drafting and enactment of the Proceeds of Crime and Anti-Money Laundering Act, lawyers managed to be excluded from the scope of reporting entities. They condemned the suggestion to include them as an assault on lawyer-client privilege and a threat to the existence of the legal profession (Gikonyo, 2019; Pambo, 2020). Also the UK Law Society has "called AML reporting requirements "highly controversial" and said that they are "seen by many to endanger the independence of the legal profession and to be incompatible with the lawyer-client relationship"" (Taylor & Beizsley, 2022, p. 42). UK lawyers don't have to report suspicions of money laundering when they arise in privileged circumstances, which according to Taylor and Beizsley (2022) can be abused or misapplied to not file Suspicious Activity Reports.

This section explores how confidentiality is actively being mobilised as a counter-value to transparency politics. Here a word on terminology: it is noteworthy that in Switzerland both for banking secrecy and lawyers' secrecy, the term 'secrecy' is used. For the case of lawyers, this seems like a Swiss particularity. As elaborated above, generally, secrecy has a negative connotation, as it "implies the concealment of something which is negatively valued by the excluded audience and, in some instances, by the perpetrator as well" (Warren & Laslett, 1977, p. 44). The term secrecy does not seem to have this negative connotation in Switzerland, with the term being used to describe something that is worthy of protection – and closely linked to the right to privacy of bankers' or lawyers' clients.

While the focus politically and in terms of research has heavily been on banking secrecy, there is an increasing focus on the role of the legal profession in facilitating and combating financial crime and therefore a need to understand their positioning in the field of tension between transparency, privacy and confidentiality.

4.4. The exemption of lawyers from Swiss AML law

Switzerland was one of the original 12 FATF member states when the organisation was founded in 1989. The Swiss AML Act from 1998 does not apply to so-called advisers and their services for the construction, leading and administration of company constructs and trusts. They were exempt following lobbying by the respective industries in parliament (Public Eye, n.d.-a).

In 2005, following criticism by FATF in the peer review exercise, there was a consultation about the FATF standards in Switzerland, with the suggestion to subject precious metal traders, lawyers, notaries, real estate agents and company formation and management services and trustees to AML obligations with regard to client and beneficial ownership identification, and duties to keep documentation and to report. There was a big pushback against this proposal. Business association Centre Patronal argued that the widening of the financial intermediary definition was not justified because it trivialised the notion of money laundering:

> "This extension is part of a trend to generalise, at the same time trivialise, the notion of money laundering. However, not all commercial activity is necessarily linked to criminal behaviour, and we are of the opinion that the term "money laundering" should be confined to the strict domain of financial intermediation." (Centre Patronal, 2005, p. 3, translated from French)

Regional business association FER criticised the costs and risks that would be imposed on these additional actors if they were to be subjected to the same AML rules as financial intermediaries. The association said that it would also be ineffective because these professionals do not have the information and means to detect suspicious transactions (FER, 2005). Also the VSV criticised the bureaucratic hurdles created by the proposed new duties for non-financial intermediaries (VSV, 2005).

Forum SRO, the interest group for self-regulatory organisations in the non-banking sector, therefore suggested that lawyers and notaries for example should only be subject to the AML law in the context of them being involved directly in a financial transaction, and not for their 'typical' activities (Forum SRO, 2005). The Swiss Bar Association (SAV) and the Swiss Notaries' Association (SNV) explicitly referred to the lawyers' and notaries' professional secrecy (SAV, 2005; SNV, 2005), with the SAV underlining that activities covered by professional secrecy are not subject to AML law (SAV, 2005; see also SRO SAV SNV, 2005). The Zurich Bar

Association (ZAV) also made the case for the importance of lawyers' professional secrecy in a legal system that is based on the rule of law:

> "In every liberal legal system, the sphere of secrecy of those subject to the law is protected. In doing so, professional secrecy is protected as a result of this protection. A functioning legal system must not only formally grant the subject access to the courts. It must also create a framework that allows experts, in particular lawyers, to be called in to enforce the law without fear of disclosure of the secrets entrusted to the expert. Thus, professional secrecy is a necessary prerequisite for a functioning legal system based on the rule of law." (ZAV, 2005, p. 5, translated from German)

The association referred to how the professional secrecy of lawyers is anchored in Swiss law as well as international law, for example the European Convention on Human Rights. They demanded the government clarifies that the classical activities of lawyers are not subject to the AML law and that professional secrecy takes precedence over the rules of the AML Act (ZAV, 2005).

The interest groups' concerns were heard. Switzerland therefore landed in FATF's Enhanced Follow-up Process in 2016 (Schweizerische Bankiervereinigung, 2020b), showing weaknesses on nine of the FATF recommendations. One of the gaps was regarding recommendation 22: in Switzerland, services related to the creation of companies, legal persons and legal arrangements carried out by lawyers, notaries or fiduciaries as well as trust and company service providers fall outside the scope of the AML Act (Public Eye, n.d.-a). FATF already criticised this weakness in 2005 and 2009. In the FATF 2016 country report on Switzerland, the organisation noted that the distinction between traditional lawyer activities and financial intermediation activities might be blurry:

> "So-called "traditional" activities of lawyers and notaries are not subject to the LBA [AML law] since they are protected by professional secrecy. Only their financial intermediation activities are subject to the LBA. The division between these activities may be unclear, particularly in the case of preparing transactions for a customer, and notably in relation to setting up corporate legal structures." (FATF, 2016, p. 27)

When lawyers, notaries, fiduciaries and trust and company service providers are merely involved in the preparation or execution of non-financial aspects of transactions, they are not subject to AML duties. Lawyers and notaries also "cannot be required to send suspicious transaction reports in the context of activities where they are bound by professional confidentiality" (FATF, 2016, p. 197). This was one of the weaknesses which led to Switzerland being rated

only partially compliant in the FATF review. The FATF concluded with the following recommendation that AML duties should be extended to non-financial activities:

> "So that the activities of lawyers, notaries and fiduciaries related to the creation of legal persons and legal arrangements in particular are subject to customer due diligence requirements, Switzerland should extend the LBA to the non-financial activities carried out by these financial intermediaries, which are covered by the FATF standards." (FATF, 2016, p. 92)

Being in the enhanced follow-up process meant that Switzerland had to improve on at least two areas, and the revisions had to be completed by February 2020, with a follow-up check planned for 2021.

Attention for these issues was not only raised in the FATF report but also in the Panama Papers (first released in April 2016) which showed that 1200 Swiss companies, among them banks and law firms, were involved in the creation of offshore companies. Only Hong Kong- and UK-based service providers were more prominently represented in the leaks (SRF, 2016; Swissinfo, 2021). The Pandora Papers made similar revelations years later (2021), again shining a spotlight on Swiss law firms, their controversial clients and offshore companies (Brönnimann et al., 2021). According to the CSO Public Eye, 38% of proven corruption cases in Switzerland involve domiciliary companies, companies that carry out no operational activity (Public Eye, n.d.-b).

4.5. Lawyers' secrecy under attack

In April 2016, following the Panama Papers scandal and with explicit reference to the leaks, Social Democratic National Councillor Carlo Sommaruga submitted an initiative to the National Council demanding a clear distinction in the law between litigation lawyers and business lawyers. No lawyer should be allowed to carry out both activities at the same time. Further, only litigation lawyers should be able to refer to professional secrecy. As business lawyers such as the ones exposed in the Panama Papers provide services that can also be carried out by accountants or other non-lawyers, their activities should not be protected by professional secrecy (Nationalrat, 2016a). In a National Council debate, Laurence Fehlmann Rielle supported Sommaruga's proposal, explaining that business lawyers have abused their professional secrecy:

> "The Panama Papers and, more recently, the Paradise Papers cases have shown that the dual functions of business and litigation lawyers have made it possible to hide criminal acts and that some business lawyers have abused their professional secrecy in order not to disclose sensitive information to the authorities that could have led to the indictment of some of their clients." (Nationalrat, 2018, translated from French)

In October 2017, a majority of the Committee for Legal Matters proposed to reject the initiative, arguing that the distinction between business and litigation lawyers would be difficult to make and highlighting the importance of lawyers' secrecy (Kommission für Rechtsfragen, 2017). National Councillors who were against the initiative also argued that lawyers acting as financial intermediaries already do not enjoy professional secrecy and are subject to AML law. In the end, the proposal was rejected by a large majority in spring 2018 (Nationalrat, 2018).

In June 2017, the Green faction in the National Council submitted a similar motion, demanding that lawyers advising trusts should be subject to AML law, and that the abuse of professional secrecy for the facilitation of money laundering should be tackled. Again the motion was rejected by a large majority of members of parliament, following a statement by Federal Councillor Ueli Maurer that the Federal Council was preparing similar reform proposals following the FATF report (Nationalrat, 2017a).

The government indeed suggested to change the AML law to address the shortcomings identified by FATF and in 2018 conducted a consultation thereon. One of the suggested reforms was to introduce AML due diligence requirements for advisers such as lawyers, notaries and fiduciaries when they provide services to trusts and domiciliary companies. These duties previously only applied when the advisers were directly managing client funds (Blunschi, 2021). There were very diverging views on the suggested due diligence duties of advisers. The affected industries almost unanimously rejected them, while half of the participating cantons and representatives from the financial intermediary sector expressed their support for the measures and additionally asked for the introduction of a reporting duty (Staatssekretariat für internationale Finanzfragen, 2019).

A number of interest groups representing wealth managers, fiduciaries and lawyers called for a rejection of the proposal with reference to concerns about professional secrecy (Alliance Finance, 2018c; Bär & Karrer, 2018c; Centre Patronal, 2018c; Gantey, 2018c; GCO, 2018c; ODAGE, 2018c). In the words of Alliance Finance, an association representing independent wealth managers, lawyers, fiduciaries and financial service providers, the extension of AML law to advisers would lead to the erosion of legally protected professional secrecy (Alliance Finance, 2018c). Centre Patronal advocated for the maintenance of professional secrecy even if the proposals were accepted (Centre Patronal, 2018c). Alliance Finance further argued that extending the due diligence duties to advisers would lead to a double coverage of domiciliary companies as most of these companies are already linked to banks subject to AML law. According to Alliance Finance and law firm Bär & Karrer, the expansion of coverage further was not necessary because advisers who aid or promote clients carrying out crimes are already liable as accomplices (Alliance Finance, 2018c; Bär & Karrer, 2018c).

In a later report, the SAV, the main representative organisation of the legal profession, summed up the main arguments of the adviser industry against the repeated reform proposals. The report is a strong defence of the lawyers' professional secrecy which the association argues is necessary for the functioning of a state with rule of law. The association highlights that professional secrecy of lawyers in Switzerland is absolute and legally protected, and even enjoys partial constitutional protection. They are critical of suggestions that the activities of lawyers as advisers and lawyers in legal processes should be separated, and that only during legal processes the professional secrecy should be protected. According to them, also advisory activity requires professional secrecy, as long as the activity is an activity typical for lawyers. The association accepts what was confirmed in Federal Court judgments, namely that activities carried out usually by non-lawyers are not protected by professional secrecy, for example when lawyers act as wealth managers or financial intermediaries. Akin to the UK's leadership as distraction approach (see chapter 4), the report argues that Swiss lawyers are already subject to very strict rules and that Switzerland already has much stronger AML rules than other European countries (Schweizerischer Anwaltsverband, 2022).

While the advisory sector advocated against a change of rules and in favour of protecting lawyers' secrecy, some financial intermediaries spoke out in favour of the reforms. KARTAC, the Swiss payment cards association, was in favour of advisers also being subject to the reporting duty as they want a level playing field between financial intermediaries and advisers (KARTAC, 2018c). In a later debate, a parliamentarian who acted as president of a self-regulatory organisation overseeing many smaller financial intermediaries also criticised that the current exemption for advisers created inequalities. Small financial intermediaries are subject to the strict rules of the AML Act and don't understand why lawyers should be exempt. Federal Councillor Ueli Maurer supported this concern about an unlevel playing field (Ständerat, 2020). Parliamentarians Nadia and Miro and civil society representative Sebastian confirmed that the Swiss Bankers Association was in favour of the stricter due diligence rules for advisers, among others because of competitiveness concerns (CHNGO02; CHPOL01; CHPOL02).

Following the 2018 consultation, in June 2019, the Federal Council adopted a 'Message about Reform of the AML Act' (19.044), which included the introduction of due diligence duties for advisers. Advisers would be subject to a lighter regime than financial intermediaries, having due diligence and reporting obligations but not being subject to supervision. The law further only was going to apply to situations where they carry out services for domiciliary companies or trusts, not for operationally active companies (Staatssekretariat für internationale Finanzfragen, 2019). Under this proposal, lawyers and notaries need to identify beneficial owners and the background and purpose of the services they are asked to provide, and their compliance with due diligence requirements will be checked by an auditor. The suggestion was that they also

newly have a duty to report suspicious cases to the Money Laundering Reporting Office (MROS).

In spring 2020, the National Council had a first debate about this AML Act reform. Those in parliament who were against extending due diligence duties to advisers again said that this would harm professional secrecy. In the words of Vincent Maître, a lawyer himself, there was a risk that the constitutionally anchored lawyer secrecy would end, and with it the trust of people in their lawyers:

> "Finally, making lawyers' advisory activities subject to the Anti-Money Laundering Act would simply mean the death of lawyer secrecy, without strengthening the prevention of money laundering. As it stands, the bill would oblige all lawyers to open all of their files to third parties outside their firm, even those that do not deal directly or indirectly with financial transactions. This measure would definitively compromise the confidence and trust that every person is entitled to expect from his or her lawyer. This principle has constitutional weight; we cannot interfere with it." (Nationalrat, 2020a, translated from French)

Another parliamentarian warned about the rule of law consequences of weakening the lawyers' secrecy. One highlighted that the lawyers' secrecy exists to protect the client, not the lawyer, and that the secrecy has constitutional status. A particular concern was also that according to the suggested reforms, auditing firms would have to check lawyers' files, which according to a parliamentarian is not compatible with professional secrecy and therefore unacceptable. Similarly to interest groups before them, politicians also argued that the reforms are unnecessary because advisers are already covered by the AML law when they act as financial intermediaries, and that they can already be convicted if they aid money laundering (Nationalrat, 2020a).

Another main argument against the reforms was a rejection of the 'Swiss finish' – meaning going beyond what other countries are doing (see chapter 5). According to some parliamentarians – and echoing the argument of the Swiss Bar Association in its report – Switzerland already has one of the strongest AML systems and goes beyond what its European neighbours are doing. This argumentation is akin to what I called 'leadership as distraction' in the chapter on the UK – leveraging leadership status to resist further reform. In the words of parliamentarian Vincent Maître:

> "The current Swiss system enshrines an exemplary anti-money laundering policy. It should be noted that, for many years, our country has always played a pioneering and effective role in the fight against money laundering and the financing of terrorism." (Nationalrat, 2020a, translated from French)

Several left-wing MPs, on the other hand, referred to the Panama Papers and other leaks to justify why reforms are necessary. A parliamentarian warned that a more recent FATF report from January 2020 confirmed that Switzerland is still in the enhanced follow-up process which started with the 2016 peer review, and that there is a risk of being grey listed if Switzerland does not improve before the next report is due in 2021. This was also the Federal Council's argument in favour of the reforms. Federal Councillor Maurer downplayed how much the professional secrecy of lawyers would be curtailed. He highlighted that professionalism, transparency and know-how are the core of the Swiss financial industry and important for the institutional investors that make up an important share of the client base. He said: "you cannot risk the image of the whole financial sector just to protect lawyers" (Nationalrat, 2020a, translated from German). Another parliamentarian highlighted the narrow scope of the reforms with regard to lawyers – applying only to activities to do with domiciliary companies and trusts (Nationalrat, 2020a).

Left-wing parties who favoured the adoption of the reforms used the fact that actors from the financial industry and economiesuisse, the most prominent industry association in the country, were in favour of the reform to support their standpoint. In the words of social-democrat Baptiste Hurni:

> "And if some of you imagine that my rhetoric is the result of a narrow vision of a statist left that is not very sensitive to respecting economic freedoms, we like to remind you that the position I have just described is exactly that of economiesuisse, the Swiss Bankers Association or the Swiss Insurance Association – organisations that cannot be suspected of being branches of the Socialist Party." (Nationalrat, 2020a, translated from French)

According to parliamentarians, these actors are concerned about the Swiss finance industry's reputation. Reputational considerations were in general one of the main arguments promoters of the reform used, highlighting that the reputation of the wider financial industry is very important and depends on it being clean and in compliance with international standards (Nationalrat, 2020a). economiesuisse highlighted reputational aspects and was happy when the Council of States decided in 2020 to consider the proposal (economiesuisse, 2020). In March 2021, the association argued that their members are in favour of strengthening the Swiss AML system and adapting to international developments (economiesuisse, 2021). The SBA shared the worry about reputational damage. In September 2020, in light of the FinCen files, a leak in the US, the SBA highlighted that a clean financial centre is a central factor for competitiveness, and that as the largest cross-border wealth management jurisdiction, Switzerland is more exposed to money laundering risk, which is why it should actively participate in international AML standards. The SBA therefore expressed support for international binding rules and

cooperation and the suggestion of the Federal Council to implement the FATF recommendations in order to leave the follow-up process (Schweizerische Bankiervereinigung, 2020a, 2020b). Also the Association of Swiss Private Banks (VSPB) explicitly spoke out in favour of AML duties for advisers and argued that all neighbouring countries had adopted similar requirements. The association demanded that Switzerland needs to adopt the reform so the country can leave FATF's follow-up process, and that the reputation of Switzerland and the appeal of its financial centre must be protected (Vereinigung Schweizerischer Privatbanken, 2020). These arguments are very much in line with what I found was happening with the other tax and financial transparency reforms: reputational and sanction concerns became more pertinent for industry and the banking industry, which is why they started to support international compliance (see chapter 5).

Despite these concerns for Switzerland's reputation and potential sanctions, following recommendation by the Committee for Legal Affairs and the parliamentary debate, the National Council rejected the AML Act reform proposal in spring 2020. Following this vote, the Committee developed different proposals to amend the suggested reforms in order to save them. The version that was proposed in the debate of the Council of States in September 2020 suggested that all reference to advisers should be eliminated from the law. This was justified with the concerns about the lawyers' professional secrecy and again with the argument that Switzerland already has a much stronger AML regime than other countries, as well as that lawyers are already subject to the AML Act when they act as financial intermediaries. Parliamentarians from the Green and Social Democratic Parties argued again that including lawyers and other advisers as foreseen in the original reform proposal was important to protect the credibility and reputation of the financial sector. They also said that if the clause was eliminated now, FATF would raise the same criticisms again during the next country review (Ständerat, 2020).

Social Democrat Carlo Sommaruga accused those MPs who were against the adviser clause that they had been influenced by the lawyer sector (Ständerat, 2020). The influential role of the adviser and lawyer opposition to the reforms on how the National Council decided in spring 2020 was explicitly confirmed by parliamentarian Christa Markwalder from the liberal party (Nationalrat, 2020b). Also newspapers highlighted the strong lawyer influence on the parliamentary debates and outcomes (Schöchli, 2020). Importantly, several parliamentarians declared that they are themselves lawyers and sit on the boards of certain associations. They hence have a personal interest in the outcome of these reform proposals – mostly in their rejection.

At the end of the various parliamentary sessions, parliament adopted a version of the reform without the adviser clause. Advisers like lawyers and fiduciaries will not be subject to due diligence requirements under the AML Act (Swissinfo, 2021). This was very much in line with what the right-leaning majority in parliament wanted. Left-wing politicians were disappointed

by the modesty of the reforms, but both sides agreed that some reforms were better than none. Also according to the SBA, the primary goal was achieved, namely Switzerland leaving the FATF follow-up process (Schweizerische Bankiervereinigung, 2021). The SBA had warned that the general failure of the proposal would have important consequences for the financial centre (Schweizerische Bankiervereinigung, 2020b). In March 2021, the SBA therefore expressed support for the adoption of the revised AML law, after 'long and tough negotiations' and despite it going less far than what they were hoping for (Schweizerische Bankiervereinigung, 2021).

Interviewees were divided about this question. Banking sector interviewee Hans said he had sympathy for the position of the lawyers, as one cannot ask lawyers to denounce their potentially suspect clients (CHFS09). Parliamentarian Miro also supported the position of the lawyers:

> "And the lawyers have just feared that the professional secrecy, the attorney-client privilege, will be directly or indirectly violated. And that was the big line of defence. And you have to know that for the lawyers, every rudimentary scratch on the attorney-client privilege triggers fundamental resistance, which is completely understandable to me. I also took this position [...]. I actually find a relativisation of professional secrecy highly problematic." (CHPOL02, translated from Swiss German)

Miro also insisted that the lawyers' resistance to the reform was not about protecting certain business practices but really about protecting professional secrecy – but that this had been misunderstood (CHPOL02).

His colleague, parliamentarian Marlene, was much more sceptical about the arguments from the lawyer community. She said that when their client does something unlawful, lawyers should not be protected. She stated that many lawyers hold the professional secrecy very high and almost feel attacked when someone wants to look into their practices because it suggests they are doing something wrong. But they also have a simple business interest in maintaining the status quo, because many of the wealth management services are highly lucrative (CHPOL03). Civil society representative Sebastian was sceptical about the argument that the reform of the AML Act would have actually violated lawyers' professional secrecy. He said that there were enough provisions for exemptions. If someone really acted in the capacity of a lawyer, they would have not been subject to the reporting and due diligence duties. But the lawyers' argumentation in the end won in parliament (CHNGO02).

4.6. Renewed focus on lawyers because of Russia sanctions

Sebastian suspected that the issue around lawyers' AML duties would come back on the agenda when international pressure rose, but that it would take a few years, probably until the next

FATF peer review in 2025/26 (CHNGO02). Russia's 2022 invasion of Ukraine accelerated this process dramatically. The invasion led to renewed attention to the role of lawyers and other legal service providers in facilitating financial crime, as well as their due diligence responsibilities (Taylor & Beizsley, 2022). Switzerland has been criticised for not enforcing sanctions sufficiently, given reports that sanctioned Russians brought their assets to safety through shell companies, and Swiss lawyers having no reporting obligations in this regard (Rhyn, 2024). This focus on lawyers and their role in facilitating financial crime after Russia's invasion in Ukraine is not limited to Switzerland and for example has also taken place in the UK (Taylor & Beizsley, 2022).

A National Councillor from the Green Party argued in May 2022 that the lawyers' secrecy was at least partially responsible for the slow implementation of sanctions in terms of freezing assets (Kučera, 2022). Another Green parliamentarian submitted a parliamentary question in summer 2022 asking whether the reporting duties linked to sanctions according to the Ukraine Ordinance (Art. 16) also apply to lawyers when they are acting as advisers (as opposed to as financial intermediaries), given their professional secrecy (Nationalrat, 2022b). The answer provided in the National Council was that the State Secretariat for Economic Affairs (SECO) considers that lawyers are subject to the reporting obligation, but that this was a question for the courts (Nationalrat, 2022c). The Federal Council had also stated that courts would ultimately decide this, but that lawyers were indeed bound to their professional secrecy when acting in lawyer-typical functions, even if it was about frozen assets (Nationalrat, 2022a).

This situation became clearer with the new EU Russia sanctions adopted in October 2022. They explicitly prohibited certain services being provided to Russian legal persons or organisations as well as the Russian government. Among the services was also legal advice (Brunner et al., 2022). Switzerland adopted the same sanction measures and lawyers now risk up to one year imprisonment if they do provide legal advice to Russian companies (Hondl, 2023; Rhyn, 2024). Nonetheless, in spring 2023 the G7 countries sent a letter to Switzerland criticising the country for not implementing the Russia sanctions sufficiently. Particular focus lay on Swiss lawyers and the country's strict data protection and privacy provisions. In the letter, the G7 Ambassadors wrote:

> "We also have concerns that law enforcement officials are blocked from investigating illicit financial structures produced by attorneys most notably serving as financial intermediaries because of privacy protections." (Swissinfo, 2023)

They asked "the Swiss government to clarify the distinction between privacy protection for legal matters and those who use privacy to shield beneficial owners" (Swissinfo, 2023).

Despite this consistent criticism of Switzerland's sanction enforcement and the role of lawyers therein, certain Swiss actors perceive the rules for lawyers to be too strict. In early 2024, a member of the Council of States submitted a motion requesting to take back the prohibition of legal advice that Switzerland took over from EU sanctions rules. Rieder argued that the prohibition was problematic as it denied access to legal assistance and the right to a fair hearing (Rhyn, 2024). The Council of States referred the motion to the respective committee and did not discuss it at this stage (SDA, 2024).

In an interesting shift, also the Swiss government recently seemed concerned to emphasise its commitment to lawyers' secrecy. In the 2023 consultation on the potential establishment of a central register of beneficial ownership and related due diligence rules of the advisory sector (in line with what had previously been proposed), the Swiss government reiterated the importance of the lawyers' secrecy and committed to the exemption from the reporting duty. Explicit reference was made to previous parliamentary debates to justify this approach. They suggested that with the reform proposal they achieved a balance between AML regulation and protection of the lawyers' professional secrecy (Eidgenössisches Finanzdepartement, 2023). The Swiss Bar Association acknowledged and welcomed this commitment to lawyers' secrecy and suggested that it was put forward because of previous resistance from the legal sector (SAV, 2023). For various interest groups from the legal sector, the protection of the professional secrecy did not go far enough (Forum SRO, 2023; SAV, 2023; SNV, 2023; SRO SAV SNV, 2023). As previously, economiesuisse and the SBA expressed support for widened due diligence duties for advisers, in particular lawyers (economiesuisse, 2023; SBA, 2023; see also FER, 2023; VQF, 2023). EXPERT Suisse, representing auditors and tax and fiduciary experts, and the SBA were concerned that other advisers were competitively disadvantaged compared to lawyers because the latter benefitted from lesser regulation (EXPERT Suisse, 2023; SBA, 2023). So far, the debate about the right balance between lawyers' secrecy and the fight against money laundering hence does not seem any closer to being resolved.

4.7. Conclusion

This section has shown that banking secrecy was not the only thing on the line with a widening anti-financial crime regime. It has explored how Swiss lawyers and their allies have successfully defended their professional secrecy against increasing pressures in the form of an expanding AML regime. Mostly in response to international pressures from FATF, the Swiss government has made repeated reform proposals which risked to subject lawyers and other advisers to stricter due diligence obligations, including reporting duties. A lobby of legal professionals and allied stakeholders, including the right-leaning majority in parliament and the many parliamentarians who are lawyers themselves, have managed to mobilise arguments around the protection of lawyers' secrecy in their favour. The mobilisation of confidentiality arguments fits within

the broader trend of how privacy has been mobilised as a counter-value to the transparency mandate of anti-financial crime efforts. Interest groups and politicians also argue that rules are already strong and use the 'leadership as distraction' approach at times too: referring to how advanced Switzerland is in terms of AML in order to argue further reform is not necessary.

In comparison with other European countries, Switzerland has been more reluctant to curtail lawyers' secrecy. European courts, namely the European Court of Justice and the European Court of Human Rights, saw the duty of active cooperation with the state as compatible with lawyers' duty of confidentiality towards their clients. In two different cases (Michaud v. France, Ordre des Barreaux), the courts "decided that lawyers' obligation to actively cooperate with the state on matters of money laundering was a proportionate measure acceptable within free and democratic societies" (Ali, 2019, p. 290).

This successful defence of lawyers' professional secrecy has happened despite efforts by Green and Social Democratic politicians to comply more with international standards, for the sake of Switzerland's reputation and the effective fight against money laundering and implementation of sanctions. These left-leaning political actors had industry and the banking sector on their side at least since the mid-2010s. Those actors understood the importance of international compliance for Switzerland's reputation and wanted to establish a level playing field between financial intermediaries and the advisory sector. This struggle is emblematic of the political divisions between different actors belonging to the wider wealth management or professional and financial services sector.

An interesting question for further research is why lawyers have seemingly been more successful than bankers in their defence of their professional secrecy. Despite sharing the same name – 'secrecy' – parliamentarian Miro said that banking secrecy and lawyers' professional secrecy cannot be compared because they fulfil different functions. The professional secrecy of lawyers is important for the rule of law, which is not necessarily true for banking secrecy. This is why he is confident that the lawyers' secrecy won't be weakened (CHPOL02). The approach of a country to subjecting lawyers to AML law depends on "different constitutional provisions […], different cultural traditions about state interference with the legal profession and different levels of bargaining power and social prestige of lawyers" (Levi, 2022, p. 135). In Switzerland, lawyers' secrecy is deeply anchored, legally and culturally, and lawyers have high bargaining power – due to their lobbying but importantly also because many parliamentarians are lawyers themselves, as has been highlighted by parliamentarian Nadia, industry representative Walter and civil society representative Stefan (CHPOL01; CHIND03; CHNGO01).

Further, the focus of anti-financial crime measures and the salience has so far been heavily on banks, in particular in Switzerland with its well-known banking secrecy. This led to banks even giving up the fight for banking secrecy eventually. This focus on banks disregards that there

are many other actors in the wider financial and professional services industry who might be enabling and facilitating financial crime and who could play an important role in preventing and combating it. An article in Finews stated that "lawyers are the new – and better – private bankers." Wealthy individuals and families increasingly choose lawyers as their first port of call, instead of private bankers (Hody, 2019). And maybe the regulatory focus is now also shifting. According to Taylor and Beizsley (2022), the legal sector now faces similar reputational issues as the banks after the financial crisis in 2008. A sign for this was that the G7 letter to Switzerland about Russian sanctions did not mention banks at all and really focused on lawyers (Mavris, 2023; Swissinfo, 2023).

5. Conclusion

This chapter has explored the interplay between transparency and secrecy in the context of the recursive process of strengthening anti-financial crime regulation. It looked at how privacy, confidentiality and data protection arguments are mobilised domestically in an effort to resist and push back against global transparency norms. This constitutes a more overt resistance strategy than the ones explored in chapter 6 as part of the politics of exclusion and verification. The chapter focused on three episodes in the two case study countries where the resistance was particularly pronounced.

In Switzerland, there have been rumours that banking secrecy is dead, as the international pressure to abide by AEOI standards have trumped the efforts of right-leaning politicians and interest groups to protect banking secrecy for foreign clients. Parts of the industry, including the larger banks, started to support AEOI realising the reputational and sanction threats if Switzerland does not abide by the international standards. Nonetheless, privacy and data protection concerns were a dominant theme in the Swiss political processes around EOI and the country made sure to maintain some safeguards in place. Banking secrecy further lives on within the country. Surprisingly, it was mainly the Swiss Association of Wealth Managers that mobilised arguments around the protection of bank clients and the risk of authoritarian governments and criminals in corrupt states getting access to and abusing the information. Other interest groups spoke more about the right to privacy and data protection concerns.

The argumentation around protection and safety was much more widespread in the UK in debates around the beneficial ownership registers. Interest groups either used these warnings to argue against public registers or for a stronger protection regime. Civil society cautioned that a strong protection regime could constitute a loophole for the effectiveness of the registers. The balance in the UK has been on the side of transparency, with the protection regime being narrower than some interest groups would have hoped, and the registers being public.

Another alleged loophole in AML legislation are the weaker due diligence requirements for lawyers and other advisers – in comparison with financial intermediaries – under the Swiss AML Act. Several attempts to close this supposed gap have failed, after lawyers have successfully defended their professional secrecy – a highly understudied part of Switzerland's AML history. The Swiss lawyers are the only actor in these three case studies who have been fully successful in mobilising their privacy and confidentiality arguments against a widening transparency mandate. This likely has to do with the fact that salience about lawyers' role in facilitating financial crime has been lower, their duty of confidentiality is seen to be closely linked to the rule of law, and that lawyers are particularly well represented in Swiss parliament.

This chapter has shown that the arguments in favour of better privacy protection can be moral and value-focused, or they can be economic, mobilising structural power. The moral arguments revolve around human rights, safety and protection, the rule of law and professional ethics. The economic or structural power arguments focus on the harm that transparency regulation can cause for the affected industries and how it can deter investors. Perhaps moral arguments were used more widely because the structural power arguments can seem less valid when trying to curtail transparency measures. This stands in interesting contrast with the dominance of commercial and competitiveness arguments in justifying processes towards more transparency as chapters 4 and 5 demonstrated.

This chapter reiterates findings from previous chapters that interest group preferences are not always uniform and we need to ask *whose* competitiveness or structural power we are talking about. For example, financial intermediaries might have an interest in lawyers and other advisers being similarly regulated as themselves, for a level playing field. There is also not always a straightforward answer to the question when and how international pressure or domestic interests prevail. In the case of banking secrecy, international pressures trumped domestic pressures to an extent, but protections remain in place. For beneficial ownership registers in the UK, the voices of interest groups were not considered much, with the registers being public and the protection regime probably being more limited than many of them would hope. And Swiss lawyers successfully managed to defend their professional secrecy against an expanding AML regime, and the wishes of financial intermediaries.

Transparency and secrecy/privacy are counter-values that are closely intertwined and in a constantly shifting balance. In the last fifteen years, transparency has increasingly been mobilised against secrecy – for example secrecy of financial accounts and company ownership, and vice versa the positive values attached to secrecy (privacy, confidentiality and data protection) have been mobilised to curtail these transparency efforts. Transparency has very much been on the attack while secrecy has been on the defensive – or, said differently, transparency has been proactive and secrecy reactive. Over the last 15 years, the balance has shifted increasingly

towards transparency. The balance is volatile. Everyone wants a level of privacy and protection of their private affairs, and at the same time the fight against financial crime requires states to tackle certain aspects of financial secrecy. There is also clearly a difference between transparency towards the state – as in the case of AEOI and lawyers' reporting duties – and transparency towards the public – as for the UK's beneficial ownership registers. In light of more recent privacy and data protection concerns around big data, we could potentially see this volatile balance slightly shift back the other way – as the recent decision of the European Court of Justice against general public access to beneficial ownership registers has shown. The defence of privacy has overall been more successful in Switzerland than in the UK, which most likely has to do with the deep anchoring of banking secrecy and other values around privacy and confidentiality in the country.

Chapter 8: Conclusion

This thesis set out to explore the politics of transparency through an examination of tax and financial transparency regulation in Switzerland and the UK, two primary financial and wealth management centres. It examined the recursive processes between global transparency norms on financial accounts and company ownership and domestic policy processes and actors. It is the first study of its kind on the UK and the first to explore beneficial ownership transparency policy processes in Switzerland in this way. It used previously unexplored data – notably almost 400 consultation submissions across a large span of time and topics, parliamentary debates, and original interviews with 39 key stakeholders and experts.

The first two empirical chapters were motivated by a similar question but different puzzles. They asked how and why countries react to and engage with transnational legal orders (TLOs) in recursive processes between global norms and domestic lawmaking. Chapter 4 on the UK explored the puzzle why the country took on a leadership role in tax and financial transparency, in contradiction to structural and instrumental power theories. The country has proactively led exchange of information (EOI) and beneficial ownership transparency developments, not only within the UK but also with regard to the Crown Dependencies and Overseas Territories (CDOTs). It has also played a role in shaping global norms. The UK has thereby gone beyond other wealth management centres, seemingly harming its global competitiveness. At least some parts of industry and several of the Overseas Territories (OTs) expressed concerns about the leadership role. The chapter found that there were two partial but insufficient explanations for this leadership approach: (1) some would argue that as the UK financial industry was less affected by the transparency regulation than financial centres with more of a private banking focus, reputational benefits of a leadership approach weighed more than the potential negative economic impacts. This explanation ignores that interest groups and the CDOTs did raise many concerns about competitive disadvantage and administrative burdens of a proactive stance, and it is unclear why reputational benefits would trump these negative aspects. The UK is the second-largest wealth management centre in the world and is an important location notably for company formation and real estate investment. (2) According to a salience perspective, the post-financial crisis context in combination with strong civil society pressure and David Cameron's personal leadership ambitions would have led to the UK's proactive approach. This explanation ignores that the financial crisis context also affected other wealth management centres, and it remains unclear why civil society and David Cameron would have won over structural power, business concerns and resistance from the CDOTs. The chapter instead suggested that the UK took on a combination of pusher and symbolic leader role, in what I call 'leadership as distraction'. Here, being a pusher on certain parts of a policy area can distract from other, more undesirable reforms and from questions of effectiveness and enforcement.

Chapter 5 on Switzerland was based on a related but different puzzle, namely why the country has made such big strides in tax and financial transparency despite being predictably hesitant about transparency reforms initially. The literature tells us that countries comply with TLOs because of reputational repercussions or retaliation through sanctions. However, reputation does not mean the same for all jurisdictions and actors. A reputation as a clean financial centre has been less relevant for Switzerland in the past. On the contrary, its reputation as a reliable and confidential place to store one's wealth was what mattered. This reputation conflicts with the newly important reputation to be transparent. This contradiction between different reputations played out through the diagnostic struggle over what I call the competitiveness tension. Switzerland's competitiveness was at stake but there are diverging views on what is better for that competitiveness: international compliance for reputational and material reasons or underregulating in international comparison and maintaining a level playing field with other financial centres. The chapter demonstrated that different actors defend different needs in this diagnostic struggle. For industry and large banks, a good international reputation and fending off sanctions became more important over time while smaller wealth management actors favoured a reputation for discretion and confidentiality, and they advocated for Switzerland doing the minimum and certainly not more than other financial centres. They further advocated for negotiating favourable economic terms such as market access in exchange for automatic exchange of information (AEOI) agreements. The overall trend in the competitiveness tension has shifted towards international compliance because of growing pressures from the international level.

Chapter 6 took a deep dive into the politics of transparency as a recursive process between global norms and domestic lawmaking that leads to gaps and inconsistencies and contains acts of resistance. It asked what the main political struggles about transparency as a regulatory tool are. The chapter explored how struggles around transparency play out across two main axes: the politics of exclusion and the politics of verification. Under the politics of exclusion, interest groups struggle about what should be made transparent and what not. The exemption topic was particularly dominant in the UK where the overall rejection of law proposals was lower than in Switzerland. Exemptions in both countries were often justified with reference to the low risk that certain accounts, institutions or legal entities allegedly pose for being abused for tax evasion or money laundering. The exemption of the trust from certain transparency requirements was an important case. There were diagnostic struggles about whether exemptions are justified exceptions or harmful loopholes. Under the politics of verification, struggles focus on how information should be verified for accuracy and truthfulness. There is disagreement about how information should be verified and kept up to date, as well as who should be responsible for that and what role penalties and sanctions should play in that process. Last but not least, the chapter explored the limits of transparency as a regulatory tool. This includes the

questions of whether transparency distracts from other regulation and whether making something transparent is a deterrent to financial crime in itself or whether the information must be used for transparency to live up to its full potential. The chapter found that transparency is a necessary but partial response to tax evasion and money laundering.

Chapter 7 explored a more overt resistance strategy in the recursive process of transparency politics: the mobilisation of privacy, data protection and confidentiality as counter-values to global transparency norms. It was interested in how financial centres are negotiating the tension between transparency and privacy. The chapter focused on three specific episodes where this balancing act between transparency and privacy was most pronounced. (1) In light of AEOI developments in Switzerland, there was widespread concern about financial institutions' clients' privacy rights. This for commercial reasons because Switzerland's competitiveness has according to some for so long revolved around banking secrecy and high levels of confidentiality, but also because these values were said to be part of the country's identity. The section showed that Switzerland had to give up banking secrecy partially because of growing international pressures, but that in-country banking secrecy for Swiss tax residents remains intact, and the country insists on high data protection standards, which means that a certain balance is kept. (2) The second episode focused on the UK and the protection arguments that were used first to reject a public beneficial ownership register and then to promote a strong protection regime. In comparison with Switzerland, interest groups in the UK were much more focused on the safety aspect of transparency – in terms of for example physical violence or kidnapping. They also mentioned that a weak protection system for beneficial owners could have a negative economic impact for the UK as it would lose some attractiveness for investors, but the moral arguments around security and protection weighed even stronger. There was limited success of these protection and safety arguments. (3) Last but not least, there is a little-told story about how lawyers have defended their professional duty of confidentiality in Switzerland against the threat of an expanding anti-money laundering (AML) TLO. There were concerns that demands for active cooperation with the state of the adviser sector (as opposed to just financial intermediaries) would harm the so-called lawyers' secrecy. It turned out to be the most successful defence against transparency out of all examples covered in this thesis. This could be because of the lower salience of the role of lawyers and because of the strong representation of lawyers in Swiss parliament and politics. As in the struggle for banking secrecy, there were political divisions between different sectors, here between lawyers and others in the advisory industry and financial intermediaries who were interested in a level playing field and a positive international reputation. The chapter found that while arguments in favour of transparency mainly followed a commercial and structural power logic, arguments for privacy and confidentiality were primarily moral and value based. The defence of privacy was more successful in Switzerland than

in the UK, probably due to the strong anchoring of values around privacy and confidentiality in the country. In the UK, the focus lies more on technical details and exemptions.

This thesis makes contributions to three bodies of literature: 1) literature on transparency as a governance norm; 2) literature on how global norm making and domestic lawmaking interact in transnational legal orders; and 3) literature on business power and the role of non-state domestic actors in the recursivity of law. I will explicate these contributions in the following sections.

1. The politics of tax and financial transparency

The thesis uses tax and financial transparency regulation as a case study to research the politics of transparency. I argue that these areas of regulation are particularly interesting from a transparency perspective because they are about disclosing things that are purposefully being hidden, and they are about individual financial affairs – where we can expect the biggest tension with the counter-value of privacy. Literature on international tax law and the international AML regime has rarely engaged with the literature on transparency. I suggest that this is a productive engagement because it allows us to question and examine the concept of transparency also in the field of tax and financial crime and prevents us from the pitfall of taking the value of transparency for granted.

Transparency has become an important governance norm and regulatory tool over the past decades. It promises improved trust, more accountability, improved performance and posits as a panacea against corruption and related societal ills. In contradiction to these promises, the literature has well documented the limitations of transparency and that we cannot take its value for granted. Some of the challenges are inaccurate information (O'neill, 2006) or an overload of information (Moore, 2018) which can lead to transparency efforts spreading confusion, uncertainty or false beliefs; transparency's inevitable incompleteness – with it obscuring at the same time as revealing, for example through exemptions or loopholes (Heald, 2006b; Neuman & Calland, 2007); and its potential futility if there is no enforcement (Hood, 2006a). In addition, we need to consider that there is not only a supply side but also a demand side for transparency. The mere publication of information is not enough to achieve transparency and does not mean that information is understood, seen and used (Holzner & Holzner, 2002).

This thesis makes three main contributions to the literature on transparency as a governance norm: 1) it provides empirical evidence to the necessary incompleteness of transparency and the fact that making certain things transparent inevitably leads to obscuring others; 2) it shows that while the principle of transparency as such might not be up for debate, the question to what extent it should be enforced is controversial; and 3) it demonstrates that moral arguments

are mainly invoked to argue for limitations to transparency efforts, while the promotion of transparency follows a commercial logic.

First, in what I call the politics of exclusion, there is a struggle around what should be made transparent and what should not. The research showed that transparency is never complete and that there are active decisions about what to make transparent. The domestic and international levels are not necessarily aligned on this scope of transparency, with each country finding its own limitations – often in line with what would harm the financial centre's competitiveness the most. The politics of exclusion therefore contain overt or hidden strategies of resistance to global transparency norms. An interesting diagnostic struggle takes place under the politics of exclusion, namely the question whether something should be classed as a justified exemption or as a harmful loophole. This was very visible in the UK for the case of beneficial ownership transparency, with many private sector interest groups advocating for a variety of exemptions. Civil society organisations (CSOs), on the other hand, warned that these exemptions could become loopholes that allow affected industries and their clients to circumvent regulation. Some stakeholders portray gaps in the regulation as inevitable and draw pessimistic conclusions about the effectiveness of laws. This defeatism may inadvertently become an argument against any regulation at all: if there is always necessarily a way around the rules, what purpose does the regulation play then in the first place, if not simply creating inequality between those who abide by it and those who do not.

Second, while transparency as such has become a widely accepted norm, the struggles around exclusion and verification led to discussions about how information should be used and raised questions of enforcement. Just making information available – for example to other tax authorities through the exchange of information or by publishing beneficial ownership data on a register – does not mean that this information is used to undertake any enforcement action. Some would argue that simply the fact of making certain things transparent has a preventative effect against tax evasion and money laundering. Previous literature has, however, suggested that at times transparency efforts can be counter-productive and result in less regulation, as the focus on transparency replaces control, enforcement and other regulation. According to Webb (2004), the focus on transparency reflects wider trends in liberal economics that focus on solving economic problems by improving transparency rather than through more stringent regulation. For Etzioni (2010), transparency is itself a form of regulation but might have limited effect if the information is not understood, used or trusted. It might have to be backed up with stronger or more substantive regulation. Similarly I do not regard transparency as a mere smokescreen or distraction from other regulation, but rather as an important part of a wider anti-financial crime regime.

Previous research on the AML TLO has shown that it has strong institutionalisation but weak enforcement (Halliday et al., 2019; Rocha Machado, 2012; Rutter Pooley, 2022). This thesis suggests that the focus on transparency and the challenges related to that could partially explain this. Also the TLO on international taxation has ended up with a strong focus on transparency and in particular EOI, which again begs the question of effectiveness. As mentioned, the UK's leadership as distraction approach marginalises questions of enforcement and leads to a situation where law in the books might not match, and even distract from, law in practice. Transparency, also beyond the realm of anti-financial crime regulation, is often seen as a panacea and an inherently positive value and approach. This thesis suggests that transparency can, on the other hand, also act as a distraction from more fundamental questions and issues. If what is being made transparent is not complete, not relevant, not usable and/or not accurate, what use does it have? Gaps and contradictions in transparency in the form of a limited scope, exemptions and loopholes as well as poor data quality and insufficient verification can make regulation less impactful. This because, as the recursivity of law theory posits, contradictions and indeterminacies in the law can lead to inconsistencies, partial reforms and ambiguities as well as creative compliance.

Third, the thesis shows that while transparency is a widely accepted norm, it conflicts with the right to privacy, data protection and confidentiality obligations. Critics can invoke moral arguments to argue for limitations to transparency, which was the most overt strategy of resistance to global norms that I observed in my research. The actors focus on the right to privacy, data protection, safety of beneficial owners or financial account holders, and professional confidentiality duties. The dominance of moral arguments likely stems from the fact that commercial arguments might seem less valid to argue for limitations to transparency. Interestingly, on the flipside, commercial and economic arguments dominate the domestic struggles in favour of stronger transparency regulation – perhaps in an attempt to pre-empt structural power arguments that transparency would harm the economy. Since the salience of tax evasion and money laundering has risen post-financial crisis and following data leaks and civil society activism, there is an ever-shifting balance between the transparency mandate and privacy protections. The way in which financial centres negotiate this tension depends on the salience of a particular issue, the level of international pressure, and the instrumental and structural power of the affected actors. Transparency seems to have been on the front foot but the European Court of Justice case against public beneficial ownership registers could be an indication that the sands might be shifting.

2. The interaction between global norm making and domestic lawmaking in the anti-tax evasion and anti-money laundering transnational legal orders

This thesis has drawn on literature that asks why states lead on or abide by international regimes. The literature on TLOs and recursivity of law provides a perspective that allows paying attention to the interplay between global norms and domestic politics, the role of non-state actors and the indeterminacies and contradictions in the law that might render it less effective (Genschel & Rixen, 2015; Halliday et al., 2019; Halliday & Shaffer, 2015b, 2015a; Shaffer, 2012; Shaffer & Halliday, 2021). I argue that these perspectives are invaluable in the critical analysis of how financial centres interact with international tax and anti-money laundering efforts. The TLO and recursivity of law framework has been a useful perspective to explore the overarching question of this thesis: how financial centres and their financial and professional services industries respond to and engage with tax and financial transparency norms and standards. The theoretical perspective allows an exploration of how global norms in specific issue areas are contested, adapted or resisted by domestic actors, and how national laws are in conversation, alignment, resistance and/or contradiction with those global norms. The interaction occurs through pressure from the international level, (symbolic) national reforms, acts of resistance and the recursive shaping of international norms.

This thesis contributes two main insights to this literature: 1) contradictions, indeterminacies and gaps can exist regardless of the type of interaction between global norm making and domestic lawmaking in terms of enthusiasm and speed of adoption and implementation; and 2) the recursive processes are not necessarily straightforward and conversation, alignment, resistance and contradiction can happen simultaneously.

The first contribution to literature on TLOs and the recursivity of law is that higher speed or more enthusiasm of adoption or implementation does not inevitably lead to better or more effective regulation. The different recursive processes between global norms and domestic lawmaking in Switzerland and the UK led to similar political struggles (around the issues of exclusion and verification) and to incompleteness, indeterminacies and weaknesses. This for example means that being a leader in a TLO does not necessarily mean the effectiveness of regulation is better. Just because the UK was more proactively involved in global norm setting and domestic lawmaking did not mean that the outcomes are superior. And while in Switzerland there was – and in some aspects still is – a lot of resistance towards global norms, the moral and material pressures from the international level were strong enough to surpass much of that resistance. The slower and more reluctant journey towards international compliance has not meant that Switzerland's laws are worse or the country is less committed to domestic

implementation. As a result, we need to separate analyses of policy processes from conclusions about implementation commitment and outcomes.

On the second aspect, countries do not necessarily engage with global norms in a uniform fashion, meaning in conversation, alignment or resistance alone. They can instead interact with different aspects of global norms in different ways. The UK's interaction with global norms for example was on the face of it one of alignment and active shaping – or what the literature calls a *pusher* role. Looking more closely, we can, however, also discover strategies of resistance, for example trying to protect the trust industry from transparency requirements or promoting certain global norms (e.g. beneficial ownership transparency) to distract from others, such as the Financial Transaction Tax. The thesis has found that a country that shows leadership ambitions and is involved in the shaping of global norms is not necessarily a leader on all aspects of a TLO. Indeed, it can even be useful to lead on certain areas in order to distract from others, which can be a more hidden strategy of resistance. I coined the concept 'leadership as distraction' to describe this process. Similarly, Switzerland has made great strides in adopting transparency requirements into national law but maintains smaller acts of resistance – such as the exemption of lawyers from certain AML due diligence duties and the maintenance of the in-country banking secrecy.

3. The role of non-state domestic actors and theories of business power

The thesis makes further contributions to the literature on the recursivity of law by highlighting the important role of domestic actors and in particular non-state actors in lawmaking and global norm-making. Private sector actors are particularly relevant for the two TLOs that are the focus of this thesis as they are the main targets of the regulation. These actors can be supporters or opponents of the regulation and the recursivity of law approach allows to be attentive to their reactions and actions (Halliday & Shaffer, 2015a; Shaffer & Halliday, 2021) – which we otherwise might assume are largely homogeneous. Previous literature has found that instrumental and structural power can play important roles in shaping policy processes and outcomes, through direct political action and lobbying and/or through threats of divestment or other economic harm (Fairfield, 2015a, 2015b; Hacker & Pierson, 2002). This thesis has shown that regardless of the dominant attitude and approach towards transparency norms, in both countries commercial and structural power considerations prevailed. This shows the importance of adopting a business power and non-state actor perspective.

With regard to non-state domestic actors and theories of business power, the thesis makes three main contributions. It demonstrates 1) that structural or instrumental power do not

always manifests in an effort to regulate less overall; 2) that the question of what is best for business is rarely straightforward; and 3) that we need to ask *whose* structural power we are talking about.

On the first point, it is easy to assume that the private sector would generally be in favour of weak regulation. The UK case and the concept of leadership as distraction have shown that strong structural or instrumental power does not always lead to government's regulating less overall. Sometimes, different forms of business power can display in a government's effort to regulate more in certain areas (the less harmful ones) in order to regulate less in others (the more harmful ones). This, of course, becomes more pertinent when there are non-domestic pressures that also shape business considerations – in this case the salience of a given issue and global norms and standards. More concretely, David Cameron in 2013 made big strides towards corporate transparency while trying to shield trusts from the same transparency requirements. He promoted AEOI while attempting to protect the City of London from a European Financial Transaction Tax. What could have hence looked like an anti-finance initiative can instead be seen as a more differentiated and perhaps less obvious strategy to protect the financial industry.

Related to this, and the second contribution the thesis makes to theories of business power, is that the question of how business interests are best protected depends on the actor and context. In the UK, the leadership as distraction approach seems to have brought reputational benefits to the City of London, possibly allowed a slower move towards trust transparency and was one of the ways the UK pushed against the Financial Transaction Tax. In Switzerland, the diagnostic struggle around the competitiveness tension showed precisely that: regulating less is not always in the interest of business. Sometimes, and for some actors, international compliance and a good reputation and lack of sanctions prevail, while other times and for others, underregulating in international comparison is the more beneficial strategy. As global norms become stronger, international compliance likely gains more weight in this balance. For example, most Swiss private sector interest groups were sceptical of EOI regulation at the very beginning. This then shifted to business associations that represent non-financial industries and the larger banks starting to support international compliance in this area while those representing smaller financial sector actors were still in opposition. Structural power is often studied on a domestic level, but international processes and global norms have an impact on what matters for the wellbeing of an industry. The recursivity between global norms and domestic lawmaking can hence change structural power calculations. Structural power would also be weaker if all countries implement a given TLO because the divestment threat would be much smaller.

On the third point, with regard to studying structural power, in particular the Swiss case study has shown that we need to specify *whose* structural power we are talking about. The chapter has demonstrated that protecting non-financial export-oriented industry, large banks and smaller wealth management service providers might require different approaches at different times. At least for non-financial industry and large banks, international compliance became more important for reputational reasons and to prevent sanctions. These were of less concern to smaller actors who kept insisting on 'doing the minimum' and wanted to protect Switzerland's reputation as a confidential place to do business.

4. Switzerland and the UK: different manifestations of the same phenomena?

These main conclusions and contributions already hint at some similarities between the Swiss and the UK case, which is what this section will explore further. At first glance, the two country cases seem wildly different in their approach to tax and financial transparency, which is reflected in the two different puzzles that underlay chapters 4 and 5: why does a country lead in an international regime v. why does a country comply with an international regime? The UK has been a frontrunner of many transparency regulations, and the government has taken a leadership role in particular on beneficial ownership transparency. The Swiss government has been rather critical of international standards and been a slow adopter of transparency regulation, mostly reacting when international pressure in the form of reputational or material sanctions became too strong. Switzerland's actions have been more in line with what we would expect from a financial and wealth management centre, given the structural and instrumental power of its financial and professional services industry. Interest group activity in the two countries has been different, with Swiss interest groups having reacted much more strongly and emotionally to reform proposals, defending clients' privacy rights and a level playing field with other financial centres. They used broader arguments about the economy, competitiveness and human rights, often in a direct effort to oppose certain laws or clauses, or at least making sure that Switzerland does not go beyond what other financial centres do. British interest groups' consultation submissions, on the other hand, focused on technical aspects such as achieving exemptions for certain financial institutions and accounts, reducing implementation costs and burdens and enhancing flexibility and discretion in applying the new laws. The interest groups' main arguments aimed at reducing the negative impact of the laws on the industry and their clients, but they rarely outright rejected them. Even the difference in tone and language between UK and Swiss documents is telling – with the UK ones being much drier and more technical to read.

These differences can be due to a combination of various factors to do with the countries' economic structures, political systems and identities. The private banking and wealth management industry in Switzerland will occupy a more central place in the wider financial sector than in the UK. The economic threat from the regulation might have therefore been felt more acutely in Switzerland, leading to more open and united resistance. In terms of the political system, the UK seems more centralised in the executive, with less regular and standardised consultations, and consultations often being centred around specific questions – leaving less room for strong or outright rejection from interest groups. Direct democracy in combination with a strong pre-parliamentary consultation process and the militia system which means politicians rely more on the expertise of interest groups means that in Switzerland there might be more space for interest groups to express criticism and opposition through consultation submissions (Bühlmann et al., 2012, 2017; Mach et al., 2021). Further, federalism, the importance of consensus from the cantons and direct democracy were leveraged by Switzerland in opposition to EOI standards (Saint-Amans, 2023). Last but not least, while the two countries are number one and two on Deloitte's wealth management centre ranking, their identities and self-portrayals as financial centres differ. Switzerland's status as a private banking haven is known around the world and openly acknowledged, and the country has a long history of withstanding international pressures and maintaining neutrality and sovereignty. The UK's status as a global financial centre is much more obscured and less part of the public imaginary. Nance (2018, p. 120) refers to Sharman who suggested that financial centres "built around stability preferred stronger AML rules, while those built around secrecy preferred less scrutiny", which fits into this line of argumentation. The UK further considers itself a global power and is more likely to want to foster and maintain a good reputation or leadership status, more generally. Its membership in the G7, which played a pivotal role in driving transparency efforts, would have also contributed to a different approach than the one Switzerland took.

We could hence explain Switzerland's slower adoption of transparency regulation by arguing that Swiss interest groups have been more successful in opposing such regulation, the Swiss government would generally be hesitant about adopting international standards and be more protective about the structurally important private banking and wealth management sector. And likewise, we could argue that the UK government wanted to promote the country as a global leader and interest groups did not have the opportunity to oppose the reforms because of the make-up of the financial sector and the political system. This interpretation, however, posits the UK as a real leader and Switzerland as a laggard, at the same time making assumptions about the countries' real intentions and the effectiveness of their actions against tax evasion and money laundering. This thesis shown that these explanations are reductive. There were divisions within the Swiss private sector and some actors, including large banks and

industry, actually started to support transparency reforms, and in the UK the government attempted to shield industry from certain reforms such as trust transparency.

I suggest, instead, that when we look more closely at the two case studies they suddenly do not seem quite as different. The main commonalities were already elaborated on above. They are 1) that the primary concern in both countries remains their competitiveness; 2) that morality takes a backseat in terms of justifying transparency reforms and is mainly used by those criticising transparency efforts; and 3) that the regulation's effectiveness is debatable in both cases, no matter the speed and enthusiasm of adoption and implementation.

Regarding the first point, both countries seem to be primarily concerned with maintaining their competitiveness in a globalised world – it just manifests in different ways. In Switzerland this focus on competitiveness is more outspoken. The difference between voices who advocate for better transparency standards and international compliance and those who want to underregulate in international comparison is mainly that they have different views on *what* is better for the country's and its financial sector's competitiveness. When focusing solely on the official narrative in the UK, we could easily think that morality trumped economic considerations here, with the British government repeatedly deciding to move faster and go one step further than other countries, seemingly against the interests of the financial and professional services industry. However, through its 'leadership as distraction', the British government managed to perhaps shape the regulation in a way that makes it less threatening to industry and protects the competitiveness of the British financial centre – by sheltering the trust industry and steering the focus away from questions of enforcement. Critics would even argue that promoting transparency of legal entities but not trusts could lead to competitive advantages of jurisdictions like the UK.

The focus on competitiveness and protection of (certain parts of) the financial and professional services sector meant that second, the morality question ultimately was less central in both countries in terms of their promotion of transparency regulation. In the UK, David Cameron sometimes spoke about transparency reforms in moral terms, as part of the fight against corruption and for development. But the reforms were mostly promoted as being the right thing to do for the British economy, to increase trust and establish a clean City of London attractive to investors – again leaning into the competitiveness discourse. In Switzerland, both sides of the divide of the competitiveness tension mainly focused on commercial imperatives. Interest groups mostly framed acceptance of transparency reforms as a necessity in light of international pressures and the threat of reputational or material sanctions. The clearest example of how moral arguments took a backseat is how some Swiss financial industry actors promoted market access as a key condition or even goal of AEOI agreements. This marginalisation of moral and

ethical debates stands in interesting contrast to the centrality of moral arguments in the *international* promotion of tax and financial transparency – by civil society but also international organisations and standard setters. Here the fight against tax evasion and other financial crime as well as financial secrecy is often put in the context of developing countries' loss of revenue, issues of kleptocracy and corruption, difficulty to undertake domestic resource mobilisation and increasing between- and within-country inequality. References to morality in the UK and Switzerland were instead focused mainly on the protection and privacy of those individuals who would be subject to transparency requirements, not on the societies who suffer from the consequences of tax evasion and money laundering.

The third commonality between the two countries is that it is debatable how effective the regulation actually is in tackling tax evasion and money laundering. I suggest that while this lack of effectiveness might express differently in the two countries, it makes the regulation less threatening to affected industries and their clients. While transparency regulation might be of concern to certain actors at different points in time, it ends up being accepted eventually in both cases (even if at varying speed). As this thesis has demonstrated, the struggles around transparency end up revolving heavily around questions of scope and accuracy (the politics of exclusion and the politics of verification). Certain things can fall outside of the transparency mandate, therefore making the regulation less impactful for certain actors. Regulation is less worrisome when its scope is limited and allows business as usual at least for some actors. Or, as critical voices would say, these exemptions represent loopholes that can be exploited to get around the laws. Further, if the demand for transparency does not go hand in hand with a control of the information's accuracy and verifiability, regulation again seems less threatening and impactful as false or incomplete information can be provided with little fear of sanction. This incompleteness of the transparency efforts can allow governments and economic actors to achieve formal compliance while they do not have to sacrifice too much of their economic competitiveness. Further, if the focus lies on making things transparent without matching this effort with enforcement action, the effectiveness again might be limited.

In sum, while the two countries seem like very different case studies, they have more in common than is apparent at first sight. They maintain their concern for their financial industries' competitiveness, questions of morality are invoked more for the defence of privacy than the promotion of transparency, and questions of effectiveness and enforcement need to be asked in both countries.

5. Limitations and future research

This thesis set out to provide a comprehensive picture of the developments, promises and pitfalls of tax and financial transparency regulation in Switzerland and the UK since the 2008 financial crisis. It has done so by combining a variety of data sources, two policy case studies and a period of around 15-20 years. One of its main limitations is that much of the policy process happens behind closed doors and informally, for example interest group lobbying. Available information on policy processes through public consultations and parliamentary debates can provide an insight into what is going on. But there are informal meetings, official meetings that are very hard to find information on, corridor conversations and the revolving door phenomenon – when individuals switch between public and private sector and bring some of those interests into the other sphere. The interviews helped to close some of those information gaps, in particular because many of the interviews were closely involved in the policy processes under research. However, also interviewees portray things a certain way and not everything they say can be taken at face value. This is why the thesis did not set out to simply causally analyse interest group influence on the policies. Instead, the thesis laid out various factors that play a role in domestic policymaking, highlighted the interplay between the global and the national levels and looked at the domestic non-state actors and their varying and shifting positions and strategies. One of the main strategies to overcome this limitation would be archival research in a few decades when more detailed information about the policy processes can be accessed.

Another limitation to the thesis is that it is generally quite challenging to compare two or more countries. Their differences could stem from a multitude of different factors. They typically have different political systems, historical contexts, cultural norms and values, and economies. This is why the focus of this thesis was not solely on the comparative aspect. The case studies have value within themselves and are interesting to analyse also in isolation. In addition, given that Switzerland and the UK are European financial centres and numbers one and two in terms of wealth management centre size, but had such different approaches to tax and financial transparency, there were things to be learned also from the comparison. In particular, it was interesting to understand how the cases are actually not as different as they seem at first glance. It would be interesting for future research to add additional financial centres to the analysis.

In terms of methodological limitations it is always difficult to distinguish between what is a real motivation or driving force and what is pure rhetoric. This applies in particular to my analysis of the drivers behind the policy processes in both countries. For example, did Cameron really care about the development aspect of transparency reforms or was he motivated by other considerations? Did interest groups really care about the safety of beneficial owners and the privacy

rights of foreign taxpayers or did they really just want to protect their market share? I am aware that what is said or written cannot always be taken at face value, and that there are processes and opinions that remain hidden from view. Nonetheless, even just analysing what the dominant public discourses are is incredibly insightful and matters greatly for how policies develop. Further, these limitations are the reason why I combined various data sources. I for example was able to debunk the discourse by interviewees that UK industry simply did not care that much about transparency regulation.

6. Policy implications

The contributions of this thesis go beyond its academic insights. Given its focus on a current and highly salient policy field, the political learnings are of equal importance. They can be summarised into five main points. First, international pressure does matter. This can be reputational or material pressure, but the important insight is that in an interconnected global economy, this pressure does have some leverage to create broader compliance with international standards. It can be a powerful tool to counteract domestic interest group and political pressures. Second, transparency is not enough. When negotiating international agreements, there will always be a challenge to find a solution that the majority can agree with. A focus on transparency instead of other regulatory measures seems to have been the common denominator, but complementing transparency efforts with other regulation is important. Third, transparency has its clear limitations, and it is important to be aware of these when designing international standards and national laws: most importantly, the scope and exemptions need to be well-thought through, and data must be accurate and verified. Further, there needs to be a plan for using the information effectively. Fourth, requiring organisations or individuals to disclose information without any enforcement action can only ever go so far. There need to be ways to enforce the transparency rules. Fifth and finally, privacy, data protection and professional confidentiality matter. They are values that should always be considered in the design and implementation of transparency regulation, and carefully balanced on a regular basis. Regulators should also be mindful that these values can be mobilised for political reasons to push back against transparency reforms.

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Consultation submissions

(see Annex 3 for a complete list of consultation submissions and participants)

Switzerland

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Annex 1: Interview Guides

Note: interview questions were adapted according to each interviewee. The following are the basic interview guides for private sector, politics and civil society interviewees.

Private sector

Introductory question	
Could you tell me a bit about your professional background and your current position?	
Theme 1: Views on policies	
What is your view on the trade-off between transparency to combat tax evasion and financial crime on the one and the freedom of moving money across borders and maintaining privacy on the other hand?	*maintaining the right to privacy of clients while promoting transparency to protect the industry and prevent financial crime*
Do you think the line between transparency and privacy is today drawn in the right place? Is the balance right? Do you think the boundary is drawn well in Switzerland/UK in comparison to other countries?	
What is your general view on exchange of information between tax authorities to prevent and combat tax evasion?	*useful, problematic, achieving their goals, imposition from international level*
What is your general view on beneficial ownership transparency to prevent and combat financial crime?	*useful, problematic, achieving their goals, imposition from international level*
Do you discuss these issues with your colleagues? Within the wider industry? What are those discussions about?	*Different views, distinction, othering*
My initial research seems to suggest that in Switzerland the government as well as professionals working in the sector are questioning the regulations more while the ones in the UK are more willing to go along with it. Is this your sense too? How would you explain that?	
Theme 2: Public consultations	
Part of what I am looking at in terms of data is public consultations on policies related to these issues.	
What do you think about public consultation processes… a. …in terms of their effectiveness to make your voice heard? b. …in terms of them improving the policy outcome?	
How would your organisation prepare a submission to a consultation?	*Collaboration with others, preliminary discussions with government, internal processes,…*

Who do you think the government should be engaging in consultations on tax or financial transparency issues?	
Theme 3: Other involvement in the policy process	
Apart from consultations, what are other ways of engaging in the policy process? How important are they compared to each other?	*nationally and internationally* *membership in committees, bilateral meetings with government agencies, direct engagement with policymakers, membership of business associations,…*
Do you have any examples of where you were able to make yourselves heard in the policy process? / any examples of where you failed?	*You or your industry*
What role does shaping public opinion play in this? Are you/is your industry actively engaging with the public (e.g. events, research reports, media,…)	
Closing	
Thank you very much for your time and openness!	
Is there anything we haven't talked about that you think is important to add?	
Are there other people who you think could be interesting for me to talk to and that you could make an introduction to?	
Are there any reports you think could be interesting for me to read?	

Politics

Introductory question	
Could you tell me a bit about your current position?	
To what extent do you take an interest in issues surrounding tax evasion, financial transparency and international tax law?	
Theme 1: General view on policies	
How do you see the tension and balance between the privacy of individuals and transparency as a means to fight financial crime?	*maintaining the right to privacy of clients while promoting transparency to protect the industry and prevent financial crime*
Could you tell me how you see the progress of exchange of information / administrative assistance regulation in the UK/Switzerland? What have been some successes and what are ongoing challenges?	

Could you tell me how you see the progress of beneficial ownership transparency in the UK/Switzerland? What have been some successes and what are ongoing challenges?	
How are these policies discussed within parliament/the civil service? What are the different viewpoints?	
How have these international policies affected the financial centre UK/Switzerland?	*Competitiveness, reputation,…*
From my preliminary research it seemed that the UK has been quicker in adopting international transparency standards while Switzerland was more careful. Is that also your sense? How would you explain that?	
Theme 2: Public consultations	
For my research I am amongst others looking at submissions to public consultations.	
What do you think about public consultation processes… a. …in terms of gathering the views of interested groups and the public? b. …in terms of getting expertise not present amongst civil servants or policymakers? c. …in terms of them improving the policy outcome?	
Who do you think the government should be engaging in consultations on tax or financial transparency issues?	
What does the process of analysing consultation submissions involve? How are the submissions taken into account?	
Theme 3: Interest group involvement in the policy process	
Apart from consultations, what are other ways of interest groups engaging in the policy process? How important are they compared to each other?	
How do you think the private sector has reacted to the regulatory changes with regard to EOI and beneficial ownership transparency?	*Have there been divergences within the private sector?*
Do you have any examples of where interest groups were able to make themselves heard in the policy process? / any examples of where they failed?	*What factors affect this? (e.g. salience, media interest, scandals, complexity of issue,…)*
Some people see it as problematic when interest groups from a certain sector engage disproportionally in the policy process, while others really encourage that because they bring their expertise and the government wants to develop laws and policies that are acceptable. What is your view on this?	
Closing	
Thank you very much for your time and openness!	
Is there anything we haven't talked about that you think is important to add?	

Are there other people who you think could be interesting for me to talk to and that you could make an introduction to?	
Are there any reports you think could be interesting for me to read?	

Civil society

Introductory question	
Could you tell me a bit about your current position?	
To what extent do you take an interest in issues surrounding tax evasion, financial transparency and international tax law?	
Theme 1: General view on policies	
How do you see the tension and balance between the privacy of individuals and transparency as a means to fight financial crime?	*maintaining the right to privacy of clients while promoting transparency to protect the industry and prevent financial crime*
Could you tell me how you see the progress of exchange of information / administrative assistance regulation in the UK/Switzerland? What have been some successes and what are ongoing challenges?	
Could you tell me how you see the progress of beneficial ownership transparency in the UK/Switzerland? What have been some successes and what are ongoing challenges?	
How are these policies discussed within civil society? What are the different viewpoints?	
From my preliminary research it seemed that the UK has been quicker in adopting international transparency standards while Switzerland was more careful. Is that also your sense? How would you explain that?	*What has made the UK be so willing / Switzerland be so slow?*
Theme 2: Public consultations	
Part of the data I am looking at are submissions to public consultations.	
What do you think about public consultation processes… a. …in terms of their effectiveness to make your voice heard? b. …in terms of them improving the policy outcome?	
Who do you represent when you are submitting to consultations?	
Who do you think the government should be engaging in consultations on tax or financial transparency issues?	*Why do you think the private sector is overrepresented in public consultations on tax and financial transparency issues?*

What does the process of developing submissions to public consultations involve? What steps did you undertake for the last consultation you undertook?	*consultation of member NGOs or the public; coordination with others; meetings with ministries or policy-makers,…*
Theme 3: Interest group involvement in the policy process	
Apart from consultations, what are other ways of engaging in the policy process? How important are they compared to each other?	
Do you have any examples of where you were able to make yourselves heard in the policy process? / any examples of where you failed?	
What role does shaping public opinion play in this? Are you/is your sector actively engaging with the public (e.g. events, research reports, media,…)	
Some people see it as problematic when interest groups from a certain sector engage disproportionally in the policy process, while others really encourage that because they bring their expertise and the government wants to develop laws and policies that are acceptable. What is your view on this?	
Closing	
Thank you very much for your time and openness!	
Is there anything we haven't talked about that you think is important to add?	
Are there other people who you think could be interesting for me to talk to and that you could make an introduction to?	
Are there any reports you think could be interesting for me to read?	

Annex 2: Codes from Qualitative Content Analysis of Consultation Submissions

Codes - Exchange of Information		
Name	**Files**	**References**
Administrative burden and cost	99	435
Clarity, details and guidance	72	370
Privacy and data protection	114	365
Exemptions	88	342
Competition, level playing field	106	333
Market access and other economic benefits	65	208
Coherence between standards	55	193
Regularisation of the past	60	174
Taxpayer rights	30	107
Penalties and sanctions	52	105
Speciality principle	49	99
Reciprocity principle	45	93
Flexibility and discretion	32	89
Reference to other actor	52	80
Stolen data	34	79
Self-certification & TIN	35	65
Reputation	40	64
Pressure	38	58
Overregulation	27	51
Low risk	26	50
Legal certainty	27	46
International compliance	22	41
Development	12	39
National interest	24	38
Fishing expeditions and group requests	15	30
Proportionality	13	28
Scope	18	25
Residence	16	24
Beneficial ownership	18	23
Rule of law	13	18
Customer dissatisfaction	11	16
Limitations	9	15
Sovereignty	11	15
Protection financial centre	12	14
Negative business impact	13	13
Risk for financial intermediaries	11	13
Human rights	3	9
Distinction fraud, evasion, avoidance, planning	7	9
Banking secrecy	7	8
Responsibility private and public	5	5
Effectiveness	1	4

Codes - Exchange of Information		
Name	**Files**	**References**
Leading role	3	4
Differential treatment	2	3
Morality	1	2
Inefficiency	1	2
Weissgeldstrategie	2	2
Transparency of policy	2	2
Police state	1	1

Codes – Beneficial Ownership Transparency		
Name	**Files**	**References**
BOR public or private	58	246
Administrative burden and cost	76	200
BO identification	61	179
BO accuracy and verification	37	165
BO protection	44	161
BO definition	53	148
Exemptions	55	138
Penalties and sanctions	32	88
Law suggestion	25	86
Competition, level playing field	38	80
Adviser	17	80
Negative business or economic impact	33	76
Clarity, details and guidance	31	67
Bearer share	33	60
BOR information	24	59
Trusts	22	52
Confidentiality	15	49
Coherence	28	45
Scope	27	41
Proportionality	17	34
International compliance	22	31
Privacy and data protection	14	31
Loophole	9	25
Transition	13	24
Development	6	21
Leading role	12	21
Public procurement	6	21
Overregulation	11	17
Reference to other actor	15	16
OTs and CDs	7	16
Investigations	11	15
SMEs	11	15
Lobbying evidence	11	14

Codes – Beneficial Ownership Transparency		
Name	**Files**	**References**
Reputation	13	14
Due Diligence	7	11
Pressure	5	10
BOR administration	3	9
Corporate or nominee directors	4	8
Responsibility private and public	4	7
Domiciliary companies	3	7
Low risk	4	5
Objection	3	5
Swiss Finish	5	5
Retrospection	3	5
Flexibility and discretion	4	4
Stolen data	4	4
Risk for financial intermediaries	2	4
Simplicity	4	4
Support	2	3
Protection financial centre	2	3
Rule of law	2	3
Confiscation	2	3
Taxpayer rights	2	2
Effectiveness	2	2
Legal certainty	2	2
Differential treatment	2	2
Speciality principle	2	2
Inefficiency	1	2
Policy process	2	2
National interest	2	2
Accessibility to other states	1	2
Fishing expeditions and group requests	1	1
Sovereignty	1	1
Self-certification & TIN	1	1
Sub-sector differences	1	1
Legal professional privilege	1	1

Annex 3: Consultation Submissions

- The consultations are organised according to the date of when the consultation started, in ascending order.
- In order to facilitate the in-text referencing, if there are several consultations in a country (across the two policy areas) in one year, I used letters to distinguish them. The letters follow chronological order, with **a** being given to the consultation of that year with the earliest starting date.
- When a consultation took place over the start of a new year, I use the year when the consultation started as a reference date, even if some of the submissions would have been submitted in the following year.
- The exchange of information consultations in Switzerland are split into four separate tables for reasons of space.
- Where an interest group submitted a response to a consultation this is indicated with a 1. If the submission is available to me it is highlighted in green, if it is not available that is highlighted with orange.

Consultation submissions on exchange of information reforms – Switzerland (a)

Name	Acronym	Type	Sector	Total	Regulation Administrative Assistance 2010	Tax Administrative Assistance Act 2011	Legal Assistance 2012	FATCA 2013a	Tax Administrative Assistance Act 2013b
Aktion für eine unabhängige und neutrale Schweiz	AUNS	CS	CG	2	0	0	0	1	1
Alliance Finance		BA	WM	7	0	0	0	0	0
Alliance Sud		CS	NGO	11	1	1	1	0	0
Association Romande des Intermédiaires Financiers	ARIF	SRO	FPS	1	0	1	0	0	0
Associazione Bancaria Ticinese	ABT	BA	BAN	1	0	0	0	0	0
Associazione Industrie Ticinesi	aiti	BA	IND	1	0	0	0	0	0
Auslandschweizer-Organisation	ASO	CS	CG	3	0	0	0	1	0
Bizzozero & Partners SA	brp	F	FPS	1	0	0	0	0	0
Bruderer-Stiftung		CS	FOU	1	0	0	0	0	0
Centre Patronal	CP	BA	IND	21	1	1	1	1	1
Camera di commercio cantone Ticino	CC-TI	BA	IND	4	0	0	0	0	0
Camera Ticinese Dell'Economia Fondiaria	CATEF	BA	RE	1	0		0	0	0
Chambre de commerce, d'industrie et des services de Genève	CCIG	BA	IND	1	0	0	0	0	0
Credit Suisse	CS	F	BAN	2	0	0	0	0	0

Name	Acronym	Type	Sector	Total	Regulation Administrative Assistance 2010	Tax Administrative Assistance Act 2011	Legal Assistance 2012	FATCA 2013a	Tax Administrative Assistance Act 2013b
CSN Law		F	LE	3	0	0	0	0	1
Demokratische Juristinnen und Juristen Zürich	DJZ	PA	LE	1	0	0	1	0	0
EconomieSuisse		BA	IND	20	1	1	1	1	1
Erklärung von Bern (EvB) / Public Eye	EvB	CS	NGO	3	1	1	1	0	0
EXPERTsuisse (old: Treuhand-Kammer)		BA	AC	11	1	1	1	1	1
Fédération des Entreprises Romandes	FER	BA	IND	9	0	1	0	1	0
Federazione Ticinese delle Associazioni dei Fiduciari	FTAF	BA	WM	5	0	0	0	0	1
Forum Schweizer Selbstregulierungsorganisationen	Forum SRO	SRO	FPS	14	0	1	1	1	1
Fondation Genève Place Financière	FGPF	BA	FPS	5	0	0	0	0	1
Handelskammer beider Basel		BA	IND	2	1	1	0	0	0
Hauseigentümerverband Schweiz	HEV	CS	RE	1	0	0	0	0	0
hotelleriesuisse		BA	IND	1	0	0	0	0	0
Juristinnen Schweiz		PA	LE	1	0	0	1	0	0
Kaufmännischer Verband Schweiz	KV Schweiz	PA	IND	8	0	1	1	1	1
Lindemann		F	LE	1	0	0	0	0	0

Name	Acronym	Type	Sector	Total	Regulation Administrative Assistance 2010	Tax Administrative Assistance Act 2011	Legal Assistance 2012	FATCA 2013a	Tax Administrative Assistance Act 2013b
Lotte und Adolf Hotz-Sprenger Stiftung	LAHS Stiftung	CS	FOU	1	0	0	0	0	0
Ordre des Avocats de Genève	ODAGE	PA	LE	5	0	0	0	0	1
Organismo di Autodisciplina dei Fiduciari del Cantone Ticino	OADFCT	SRO	WM	1	0	0	0	0	1
Peter + Johanna Ronus-Schaufelbühl-Stiftung		CS	FOU	1	0	0	0	0	0
PolyReg		SRO	FPS	1		1			
ProFonds		CS	FOU	1	0	0	0	0	0
Raiffeisen		F	BAN	3	0	0	0	0	0
Rat für Persönlichkeitsschutz		CS	NGO	1		1			
Entris Holding (previously RBA-Holding)		F	BAN	1	0	0	0	1	0
Ruth und Paul Wallach Stiftung		CS	FOU	1	0	0	0	0	0
Schweizer Investorenschutz-Vereinigung	ASDI	BA	FM	1	0	0	0	1	0
Schweizer Leasingverband	SLV	BA	FPS	2	0	0	0	0	0
Schweizer Verband der Investmentgesellschaften	SVIG	BA	FM	1	0	0	0	0	0
Schweizerischer Anwaltsverband	SAV	PA	LE	8	0	0	0	0	1
Schweizerischer Arbeitgeberverband	SAGV	BA	IND	11	0	1	0	0	1

Name	Acronym	Type	Sector	Total	Regulation Administrative Assistance 2010	Tax Administrative Assistance Act 2011	Legal Assistance 2012	FATCA 2013a	Tax Administrative Assistance Act 2013b
Schweizerische Bankiervereinigung	SBVg	BA	BAN	20	1	1	1	1	1
Schweizer Bauernverband	SBV	PA	IND	1	1	0	0	0	0
Schweizerischer Gewerbeverband	sgv	BA	IND	20	1	0	1	1	1
Schweizerischer Gewerkschaftsbund	SGB	TU	TU	20	1	1	1	1	1
Schweizerische Kriminalistische Gesellschaft	SKG	PA	IND	1	0	0	1	0	0
Schweizerischer Pensionskassenverband	ASIP	BA	INS	5	0	0	0	1	0
Schweizerisches Konsumentenforum	kf	CS	CG	3	0	0	0	0	0
Verband Schweizer Wertpapierhäuser (old: Schweizerischer Verband unabhängiger Effektenhändler)	SVUE	BA	FPS	1	0	0	0	0	1
Schweizerischer Verband der dipl. Experten in Rechnungslegung und Controlling und der Inhaber des eidg. Fachausweises im Finanz- und Rechnungswesen	veb	PA	AC	2		1			
Schweizerische Vereinigung diplomierter Steuerexperten	SVDS	PA	AC	1		1			

Name	Acronym	Type	Sector	Total	Regulation Administrative Assistance 2010	Tax Administrative Assistance Act 2011	Legal Assistance 2012	FATCA 2013a	Tax Administrative Assistance Act 2013b
Schweizerische Vereinigung unabhängiger Finanzberater	SVUF	PA	WM	2	0	0	0	0	1
Schweizerischer Versicherungsverband	SVV	BA	INS	6	0	0	0	1	0
SIX Group		F	FPS	1	0	0	0	1	0
Società Svizzera Impresari Costruttori Sezione Ticino	SSIC	BA	IND	1	0		0	0	0
SRO Casinos		SRO	IND	1	0	0	0	0	0
Stiftung für Konsumentenschutz	SKS	BA	IND	7	0	0	0	0	1
Stiftung Laurenz		CS	FOU	1	0	0	0	0	0
Stiftung Vordemberge-Gildewart		CS	FOU	1	0	0	0	0	0
Streichenberg und Partner, Rechtsanwälte		F	LE	1	0	0	0	0	0
Swiss and Liechtenstein STEP Federation		BA	WM	1	0	0	0	0	0
Swiss Association of Trust Companies	SATC	BA	WM	4	0	0	0	1	0
Swiss Bankers Prepaid Services AG (Swiss Bankers)		F	BAN	1	0	0	0	0	0
Swiss Funds Association / Swiss Funds & Asset Management Association (new: Asset Management Association)	AMAS	BA	FM	3	0	0	1	1	0

Name	Acronym	Type	Sector	Total	Regulation Administrative Assistance 2010	Tax Administrative Assistance Act 2011	Legal Assistance 2012	FATCA 2013a	Tax Administrative Assistance Act 2013b
SwissHoldings		BA	IND	16	0	1	1	1	1
Swiss Payment Association	SPA	BA	BAN	1	0	0	0	0	0
Swiss Society of New Zealand (Inc)		CS	CG	1	0	0	0	0	0
Switzerland Global Enterprise		BA	IND	3					
Travail.Suisse		TU	TU	4	0	0	0	0	0
Treuhand Suisse		BA	AC	4	0	1	0	0	1
Umbricht Rechtsanwälte		F	LE	1		1			
Verband der Auslandsbanken in der Schweiz	AFBS	BA	BAN	5	0	0	0	1	1
Verband der Schweizer Förderstiftungen	Swiss Foundations	CS	FOU	1	0	0	0	0	0
Verband Schweizerischer Kantonalbanken	VSKB	BA	BAN	13	1	0	0	1	1
Verband Schweizerischer Vermögensverwalter	VSV	PA	WM	18	0	1	0	1	1
Verein für Alterswohnungen der Kirchgemeinde St. Elisabethen		CS	FOU	1	0	0	0	0	0
Vereinigung Schweizerischer Assetmanagement- und Vermögensverwaltungsbanken	VAV	BA	BAN	15	0	0	0	0	0
Vereinigung Schweizerischer Handels- und Verwaltungsbanken		BA	BAN	1		1			

Name	Acronym	Type	Sector	Total	Regulation Administrative Assistance 2010	Tax Administrative Assistance Act 2011	Legal Assistance 2012	FATCA 2013a	Tax Administrative Assistance Act 2013b
Vereinigung Schweizerischer Privatbanken	VSPB	BA	BAN	19	1	1	1	1	1
Verein Schweizerischer Unternehmen in Deutschland	VSUD	BA	IND	3	1	1	0	0	1
TOTAL Participants				**391**	13	24	16	23	26
TOTAL Submissions available				**365**	13	10	16	23	25

Consultation submissions on exchange of information reforms – Switzerland (b)

Name	Acronym	Type	Sector	Total	GASI 2014	MCAA 2015a	Agreement European Council and OECD 2015b	AEOI Australia 2015c	EUSTD 2015d
Aktion für eine unabhängige und neutrale Schweiz	AUNS	CS	CG	2	0	0	0	0	0
Alliance Finance		BA	WM	7	1	1	0	1	1
Alliance Sud		CS	NGO	11	1	1	1	0	0
Association Romande des Intermédiaires Financiers	ARIF	SRO	FPS	1	0	0	0	0	0
Associazione Bancaria Ticinese	ABT	BA	BAN	1	1	0	0	0	0
Associazione Industrie Ticinesi	aiti	BA	IND	1	1	0	0	0	0
Auslandschweizer-Organisation	ASO	CS	CG	3	0	0	0	0	0
Bizzozero & Partners SA	brp	F	FPS	1	0	0	0	1	0
Bruderer-Stiftung		CS	FOU	1	0	0	0	0	0
Centre Patronal	CP	BA	IND	21	1	1	1	1	1
Camera di commercio cantone Ticino	CC-TI	BA	IND	4	1	1	1	0	1
Camera Ticinese Dell'Economia Fondiaria	CATEF	BA	RE	1	1	0	0	0	0
Chambre de commerce, d'industrie et des services de Genève	CCIG	BA	IND	1	0	0	0	1	0
Credit Suisse	CS	F	BAN	2	0	1	1	0	0

Name	Acronym	Type	Sector	Total	GASI 2014	MCAA 2015a	Agreement European Council and OECD 2015b	AEOI Australia 2015c	EUSTD 2015d
CSN Law		F	LE	3	0	1	1	0	0
Demokratische Juristinnen und Juristen Zürich	DJZ	PA	LE	1	0	0	0	0	0
EconomieSuisse		BA	IND	20	1	1	0	1	1
Erklärung von Bern (EvB) / Public Eye	EvB	CS	NGO	3	0	0	0	0	0
EXPERTsuisse (old: Treuhand-Kammer)		BA	AC	11	1	1	1	0	1
Fédération des Entreprises Romandes	FER	BA	IND	9	1	1	1	0	1
Federazione Ticinese delle Associazioni dei Fiduciari	FTAF	BA	WM	5	0	1	1	0	1
Forum Schweizer Selbstregulierungsorganisationen	Forum SRO	SRO	FPS	14	1	1	0	1	0
Fondation Genève Place Financière	FGPF	BA	FPS	5	1	1	1	0	0
Handelskammer beider Basel		BA	IND	2	0	0	0	0	0
Hauseigentümerverband Schweiz	HEV	CS	RE	1	0	0	0	0	0
hotelleriesuisse		BA	IND	1	0	0	0	0	0
Juristinnen Schweiz		PA	LE	1	0	0	0	0	0
Kaufmännischer Verband Schweiz	KV Schweiz	PA	IND	8	1	1	1	0	1
Lindemann		F	LE	1	0	0	0	0	0

Name	Acronym	Type	Sector	Total	GASI 2014	MCAA 2015a	Agreement European Council and OECD 2015b	AEOI Australia 2015c	EUSTD 2015d
Lotte und Adolf Hotz-Sprenger Stiftung	LAHS Stiftung	CS	FOU	1	0	0	0	0	0
Ordre des Avocats de Genève	ODAGE	PA	LE	5	0	1	1	0	0
Organismo di Autodisciplina dei Fiduciari del Cantone Ticino	OADFCT	SRO	WM	1	0	0	0	0	0
Peter + Johanna Ronus-Schaufelbühl-Stiftung		CS	FOU	1	0	0	0	0	0
PolyReg		SRO	FPS	1					
ProFonds		CS	FOU	1	0	0	0	0	0
Raiffeisen		F	BAN	3	0	1	0	0	0
Rat für Persönlichkeitsschutz		CS	NGO	1	0	0	0	0	0
Entris Holding (previously RBA-Holding)		F	BAN	1	0	0	0	0	0
Ruth und Paul Wallach Stiftung		CS	FOU	1	0	0	0	0	0
Schweizer Investorenschutz-Vereinigung	ASDI	BA	FM	1	0	0	0	0	0
Schweizer Leasingverband	SLV	BA	FPS	2	0	1	0	0	0
Schweizer Verband der Investmentgesellschaften	SVIG	BA	FM	1	0	1	0	0	0
Schweizerischer Anwaltsverband	SAV	PA	LE	8	1	1	1	1	1
Schweizerischer Arbeitgeberverband	SAGV	BA	IND	11	1	1	1	1	0

Name	Acronym	Type	Sector	Total	GASI 2014	MCAA 2015a	Agreement European Council and OECD 2015b	AEOI Australia 2015c	EUSTD 2015d
Schweizerische Bankiervereinigung	SBVg	BA	BAN	20	0	1	1	1	1
Schweizer Bauernverband	SBV	PA	IND	1	0	0	0	0	0
Schweizerischer Gewerbeverband	sgv	BA	IND	20	1	1	1	1	1
Schweizerischer Gewerkschafts-bund	SGB	TU	TU	20	1	1	1	1	1
Schweizerische Kriminalistische Gesellschaft	SKG	PA	IND	1	0	0	0	0	0
Schweizerischer Pensionskassen-verband	ASIP	BA	INS	5	0	1	1	1	1
Schweizerisches Konsumenten-forum	kf	CS	CG	3	1	0	1	1	0
Verband Schweizer Wertpapierhäu-ser (old: Schweizerischer Verband unabhängiger Effektenhändler)	SVUE	BA	FPS	1	0	0	0	0	0
Schweizerischer Verband der dipl. Experten in Rechnungslegung und Controlling und der Inhaber des eidg. Fachausweises im Finanz- und Rechnungswesen	veb	PA	AC	2	0	0	0	0	0
Schweizerische Vereinigung diplomierter Steuerexperten	SVDS	PA	AC	1	0	0	0	0	0

Name	Acronym	Type	Sector	Total	GASI 2014	MCAA 2015a	Agreement European Council and OECD 2015b	AEOI Australia 2015c	EUSTD 2015d
Schweizerische Vereinigung unabhängiger Finanzberater	SVUF	PA	WM	2	0	0	0	0	0
Schweizerischer Versicherungsverband	SVV	BA	INS	6	1	1	0	0	0
SIX Group		F	FPS	1	0	0	0	0	0
Società Svizzera Impresari Costruttori Sezione Ticino	SSIC	BA	IND	1	1	0	0	0	0
SRO Casinos		SRO	IND	1	0	0	1	0	0
Stiftung für Konsumentenschutz	SKS	BA	IND	7	1	0	0	0	0
Stiftung Laurenz		CS	FOU	1	0	0	0	0	0
Stiftung Vordemberge-Gildewart		CS	FOU	1	0	0	0	0	0
Streichenberg und Partner, Rechtsanwälte		F	LE	1	0	1	0	0	0
Swiss and Liechtenstein STEP Federation		BA	WM	1	0	0	0	0	0
Swiss Association of Trust Companies	SATC	BA	WM	4	0	1	1	0	0
Swiss Bankers Prepaid Services AG (Swiss Bankers)		F	BAN	1	0	1	0	0	0
Swiss Funds Association / Swiss Funds & Asset Management Association (new: Asset Management Association)	AMAS	BA	FM	3	0	1	0	0	0

Name	Acronym	Type	Sector	Total	GASI 2014	MCAA 2015a	Agreement European Council and OECD 2015b	AEOI Australia 2015c	EUSTD 2015d
SwissHoldings		BA	IND	16	1	1	1	0	1
Swiss Payment Association	SPA	BA	BAN	1	0	0	0	0	0
Swiss Society of New Zealand (Inc)		CS	CG	1	0	0	0	0	0
Switzerland Global Enterprise		BA	IND	3		1	1	1	
Travail.Suisse		TU	TU	4	0	1	1	0	1
Treuhand Suisse		BA	AC	4	0	0	0	0	0
Umbricht Rechtsanwälte		F	LE	1					
Verband der Auslandsbanken in der Schweiz	AFBS	BA	BAN	5	1	0	0	0	0
Verband der Schweizer Förderstiftungen	Swiss Foundations	CS	FOU	1	0	0	0	0	0
Verband Schweizerischer Kantonalbanken	VSKB	BA	BAN	13	0	1	1	0	0
Verband Schweizerischer Vermögensverwalter	VSV	PA	WM	18	1	1	1	1	1
Verein für Alterswohnungen der Kirchgemeinde St. Elisabethen		CS	FOU	1	0	0	0	0	0
Vereinigung Schweizerischer Assetmanagement- und Vermögensverwaltungsbanken	VAV	BA	BAN	15	1	1	1	1	1
Vereinigung Schweizerischer Handels- und Verwaltungsbanken		BA	BAN	1	0	0	0	0	0

Name	Acronym	Type	Sector	Total	GASI 2014	MCAA 2015a	Agreement European Council and OECD 2015b	AEOI Australia 2015c	EUSTD 2015d
Vereinigung Schweizerischer Privatbanken	VSPB	BA	BAN	19	1	1	1	1	1
Verein Schweizerischer Unternehmen in Deutschland	VSUD	BA	IND	3	0	0	0	0	0
TOTAL Participants				**391**	26	35	27	17	18
TOTAL Submissions available				**365**	22	32	27	17	0

Consultation submissions on exchange of information reforms – Switzerland (c)

Name	Acronym	Type	Sector	Total	Tax Administrative Assistance Act (stolen data) 2015e	AEOI Guernsey and others 2016a	AEOI Japan 2016b	AEOI Canada 2016c	AEOI South Korea 2016d
Aktion für eine unabhängige und neutrale Schweiz	AUNS	CS	CG	2	0	0	0	0	0
Alliance Finance		BA	WM	7	0	0	0	0	0
Alliance Sud		CS	NGO	11	1	0	0	0	0
Association Romande des Intermédiaires Financiers	ARIF	SRO	FPS	1	0	0	0	0	0
Associazione Bancaria Ticinese	ABT	BA	BAN	1	0	0	0	0	0
Associazione Industrie Ticinesi	aiti	BA	IND	1	0	0	0	0	0
Auslandschweizer-Organisation	ASO	CS	CG	3	0	0	0	0	0
Bizzozero & Partners SA	brp	F	FPS	1	0	0	0	0	0
Bruderer-Stiftung		CS	FOU	1	0	0	0	0	0
Centre Patronal	CP	BA	IND	21	1	1	1	1	1
Camera di commercio cantone Ticino	CC-TI	BA	IND	4	0	0	0	0	0
Camera Ticinese Dell'Economia Fondiaria	CATEF	BA	RE	1	0	0	0	0	0

Name	Acronym	Type	Sector	Total	Tax Administrative Assistance Act (stolen data) 2015e	AEOI Guernsey and others 2016a	AEOI Japan 2016b	AEOI Canada 2016c	AEOI South Korea 2016d
Chambre de commerce, d'industrie et des services de Genève	CCIG	BA	IND	1	0	0	0	0	0
Credit Suisse	CS	F	BAN	2	0	0	0	0	0
CSN Law		F	LE	3	0	0	0	0	0
Demokratische Juristinnen und Juristen Zürich	DJZ	PA	LE	1	0	0	0	0	0
EconomieSuisse		BA	IND	20	1	1	1	1	1
Erklärung von Bern (EvB) / Public Eye	EvB	CS	NGO	3	0	0	0	0	0
EXPERTsuisse (old: Treuhand-Kammer)		BA	AC	11	1	0	0	0	0
Fédération des Entreprises Romandes	FER	BA	IND	9	0	0	0	0	0
Federazione Ticinese delle Associazioni dei Fiduciari	FTAF	BA	WM	5	0	0	0	0	0
Forum Schweizer Selbstregulierungsorganisationen	Forum SRO	SRO	FPS	14	0	1	1	1	1
Fondation Genève Place Financière	FGPF	BA	FPS	5	0	0	0	0	0
Handelskammer beider Basel		BA	IND	2	0	0	0	0	0
Hauseigentümerverband Schweiz	HEV	CS	RE	1	0	0	0	0	0

Name	Acronym	Type	Sector	Total	Tax Administrative Assistance Act (stolen data) 2015e	AEOI Guernsey and others 2016a	AEOI Japan 2016b	AEOI Canada 2016c	AEOI South Korea 2016d
hotelleriesuisse		BA	IND	1	0	0	0	0	0
Juristinnen Schweiz		PA	LE	1	0	0	0	0	0
Kaufmännischer Verband Schweiz	KV Schweiz	PA	IND	8	0	0	0	0	0
Lindemann		F	LE	1	0	0	0	0	0
Lotte und Adolf Hotz-Sprenger Stiftung	LAHS Stiftung	CS	FOU	1	0	0	0	0	0
Ordre des Avocats de Genève	ODAGE	PA	LE	5	1	0	0	0	0
Organismo di Autodisciplina dei Fiduciari del Cantone Ticino	OADFCT	SRO	WM	1	0	0	0	0	0
Peter + Johanna Ronus-Schaufelbühl-Stiftung		CS	FOU	1	0	0	0	0	0
PolyReg		SRO	FPS	1					
ProFonds		CS	FOU	1	0	0	0	0	0
Raiffeisen		F	BAN	3	0	0	0	0	0
Rat für Persönlichkeitsschutz		CS	NGO	1					
Entris Holding (previously RBA-Holding)		F	BAN	1	0	0	0	0	0
Ruth und Paul Wallach Stiftung		CS	FOU	1	0	0	0	0	0
Schweizer Investorenschutz-Vereinigung	ASDI	BA	FM	1	0	0	0	0	0
Schweizer Leasingverband	SLV	BA	FPS	2	0	0	0	0	0

Name	Acronym	Type	Sector	Total	Tax Administrative Assistance Act (stolen data) 2015e	AEOI Guernsey and others 2016a	AEOI Japan 2016b	AEOI Canada 2016c	AEOI South Korea 2016d
Schweizer Verband der Investmentgesellschaften	SVIG	BA	FM	1	0	0	0	0	0
Schweizerischer Anwaltsverband	SAV	PA	LE	8	1	0	0	0	0
Schweizerischer Arbeitgeberverband	SAGV	BA	IND	11	1	0	0	0	0
Schweizerische Bankiervereinigung	SBVg	BA	BAN	20	1	1	1	1	1
Schweizer Bauernverband	SBV	PA	IND	1	0	0	0	0	0
Schweizerischer Gewerbeverband	sgv	BA	IND	20	1	1	1	1	1
Schweizerischer Gewerkschaftsbund	SGB	TU	TU	20	1	1	1	1	0
Schweizerische Kriminalistische Gesellschaft	SKG	PA	IND	1	0	0	0	0	0
Schweizerischer Pensionskassenverband	ASIP	BA	INS	5	0	0	0	0	0
Schweizerisches Konsumentenforum	kf	CS	CG	3	0	0	0	0	0
Verband Schweizer Wertpapierhäuser (old: Schweizerischer Verband unabhängiger Effektenhändler)	SVUE	BA	FPS	1	0	0	0	0	0

Name	Acronym	Type	Sector	Total	Tax Administrative Assistance Act (stolen data) 2015e	AEOI Guernsey and others 2016a	AEOI Japan 2016b	AEOI Canada 2016c	AEOI South Korea 2016d
Schweizerischer Verband der dipl. Experten in Rechnungslegung und Controlling und der Inhaber des eidg. Fachausweises im Finanz- und Rechnungswesen	veb	PA	AC	2	0	0	0	0	0
Schweizerische Vereinigung diplomierter Steuerexperten	SVDS	PA	AC	1	0	0	0	0	0
Schweizerische Vereinigung unabhängiger Finanzberater	SVUF	PA	WM	2	1	0	0	0	0
Schweizerischer Versicherungsverband	SVV	BA	INS	6	0	0	0	0	0
SIX Group		F	FPS	1	0	0	0	0	0
Società Svizzera Impresari Costruttori Sezione Ticino	SSIC	BA	IND	1	0	0	0	0	0
SRO Casinos		SRO	IND	1	0	0	0	0	0
Stiftung für Konsumentenschutz	SKS	BA	IND	7	1	0	0	1	1
Stiftung Laurenz		CS	FOU	1	0	0	0	0	0
Stiftung Vordemberge-Gildewart		CS	FOU	1	0	0	0	0	0
Streichenberg und Partner, Rechtsanwälte		F	LE	1	0	0	0	0	0
Swiss and Liechtenstein STEP Federation		BA	WM	1	0	0	0	0	0

Name	Acronym	Type	Sector	Total	Tax Administrative Assistance Act (stolen data) 2015e	AEOI Guernsey and others 2016a	AEOI Japan 2016b	AEOI Canada 2016c	AEOI South Korea 2016d
Swiss Association of Trust Companies	SATC	BA	WM	4	0	0	0	0	0
Swiss Bankers Prepaid Services AG (Swiss Bankers)		F	BAN	1	0	0	0	0	0
Swiss Funds Association / Swiss Funds & Asset Management Association (new: Asset Management Association)	AMAS	BA	FM	3	0	0	0	0	0
SwissHoldings		BA	IND	16	1	0	1	1	1
Swiss Payment Association	SPA	BA	BAN	1	0	0	0	0	0
Swiss Society of New Zealand (Inc)		CS	CG	1	0	0	0	0	0
Switzerland Global Enterprise		BA	IND	3					
Travail.Suisse		TU	TU	4	0	0	0	0	0
Treuhand Suisse		BA	AC	4	1	0	0	0	0
Umbricht Rechtsanwälte		F	LE	1					
Verband der Auslandsbanken in der Schweiz	AFBS	BA	BAN	5	0	0	0	0	0
Verband der Schweizer Förderstiftungen	Swiss Foundations	CS	FOU	1	0	0	0	0	0
Verband Schweizerischer Kantonalbanken	VSKB	BA	BAN	13	0	1	1	1	1
Verband Schweizerischer Vermögensverwalter	VSV	PA	WM	18	1	1	1	1	1

Name	Acronym	Type	Sector	Total	Tax Administrative Assistance Act (stolen data) 2015e	AEOI Guernsey and others 2016a	AEOI Japan 2016b	AEOI Canada 2016c	AEOI South Korea 2016d
Verein für Alterswohnungen der Kirchgemeinde St. Elisabethen		CS	FOU	1	0	0	0	0	0
Vereinigung Schweizerischer Assetmanagement- und Vermögensverwaltungsbanken	VAV	BA	BAN	15	0	1	1	1	1
Vereinigung Schweizerischer Handels- und Verwaltungsbanken		BA	BAN	1	0	0	0	0	0
Vereinigung Schweizerischer Privatbanken	VSPB	BA	BAN	19	0	1	1	1	1
Verein Schweizerischer Unternehmen in Deutschland	VSUD	BA	IND	3	0	0	0	0	0
TOTAL Participants				**391**	15	10	11	12	11
TOTAL Submissions available				**365**	15	10	11	9	10

Consultation submissions on exchange of information reforms – Switzerland (d)

Name	Acronym	Type	Sector	Total	AEOI Regulation 2016e	Protection of privacy 2016f	AEOI with partner countries 2018-19 2016g	AEOI Singapore & Hong Kong 2017	AEOI with partner countries 2020-21 2018a	AEOI Regulation 2019
Aktion für eine unabhängige und neutrale Schweiz	AUNS	CS	CG	2	0	0	0	0	0	0
Alliance Finance		BA	WM	7	0	1	1	0	1	0
Alliance Sud		CS	NGO	11	1	0	1	0	1	1
Association Romande des Intermédiaires Financiers	ARIF	SRO	FPS	1	0	0	0	0	0	0
Associazione Bancaria Ticinese	ABT	BA	BAN	1	0	0	0	0	0	0
Associazione Industrie Ticinesi	aiti	BA	IND	1	0	0	0	0	0	0
Auslandschweizer-Organisation	ASO	CS	CG	3	0	0	1	0	1	0
Bizzozero & Partners SA	brp	F	FPS	1	0	0	0	0	0	0
Bruderer-Stiftung		CS	FOU	1	0	0	0	0	0	1
Centre Patronal	CP	BA	IND	21	1	1	1	1	1	1
Camera di commercio cantone Ticino	CC-TI	BA	IND	4	0	0	0	0	0	0
Camera Ticinese Dell'Economia Fondiaria	CATEF	BA	RE	1	0	0	0	0	0	0

Name	Acronym	Type	Sector	Total	AEOI Regulation 2016e	Protection of privacy 2016f	AEOI with partner countries 2018-19 2016g	AEOI Singapore & Hong Kong 2017	AEOI with partner countries 2020-21 2018a	AEOI Regulation 2019
Chambre de commerce, d'industrie et des services de Genève	CCIG	BA	IND	1	0	0	0	0	0	0
Credit Suisse	CS	F	BAN	2	0	0	0	0	0	0
CSN Law		F	LE	3	0	0	0	0	0	0
Demokratische Juristinnen und Juristen Zürich	DJZ	PA	LE	1	0	0	0	0	0	0
EconomieSuisse		BA	IND	20	1	1	1	1	1	1
Erklärung von Bern (EvB) / Public Eye	EvB	CS	NGO	3	0	0	0	0	0	0
EXPERTsuisse (old: Treuhand-Kammer)		BA	AC	11	1	0	0	0	0	0
Fédération des Entreprises Romandes	FER	BA	IND	9	0	1	1	0	0	1
Federazione Ticinese delle Associazioni dei Fiduciari	FTAF	BA	WM	5	1	0	0	0	0	0
Forum Schweizer Selbstregulierungsorganisationen	Forum SRO	SRO	FPS	14	1	0	1	1	0	0
Fondation Genève Place Financière	FGPF	BA	FPS	5	0	0	1	0	0	0
Handelskammer beider Basel		BA	IND	2	0	0	0	0	0	0
Hauseigentümerverband Schweiz	HEV	CS	RE	1	0	0	0	0	0	1

Name	Acronym	Type	Sector	Total	AEOI Regulation 2016e	Protection of privacy 2016f	AEOI with partner countries 2018-19 2016g	AEOI Singapore & Hong Kong 2017	AEOI with partner countries 2020-21 2018a	AEOI Regulation 2019
hotelleriesuisse		BA	IND	1	0	0	0	0	0	1
Juristinnen Schweiz		PA	LE	1	0	0	0	0	0	0
Kaufmännischer Verband Schweiz	KV Schweiz	PA	IND	8	0	0	0	0	0	0
Lindemann		F	LE	1	0	0	1	0	0	0
Lotte und Adolf Hotz-Sprenger Stiftung	LAHS Stiftung	CS	FOU	1	0	0	0	0	0	1
Ordre des Avocats de Genève	ODAGE	PA	LE	5	1	0	0	0	0	0
Organismo di Autodisciplina dei Fiduciari del Cantone Ticino	OADFCT	SRO	WM	1	0	0	0	0	0	0
Peter + Johanna Ronus-Schaufelbühl-Stiftung		CS	FOU	1	0	0	0	0	0	1
PolyReg		SRO	FPS	1	0	0	0	0	0	0
ProFonds		CS	FOU	1	0	0	0	0	0	1
Raiffeisen		F	BAN	3	1	1	0	0	0	0
Rat für Persönlichkeitsschutz		CS	NGO	1	0	0	0	0	0	0
Entris Holding (previously RBA-Holding)		F	BAN	1	0	0	0	0	0	0
Ruth und Paul Wallach Stiftung		CS	FOU	1	0	0	0	0	0	1
Schweizer Investorenschutz-Vereinigung	ASDI	BA	FM	1	0	0	0	0	0	0
Schweizer Leasingverband	SLV	BA	FPS	2	1	0	0	0	0	0

Name	Acronym	Type	Sector	Total	AEOI Regulation 2016e	Protection of privacy 2016f	AEOI with partner countries 2018-19 2016g	AEOI Singapore & Hong Kong 2017	AEOI with partner countries 2020-21 2018a	AEOI Regulation 2019
Schweizer Verband der Investmentgesellschaften	SVIG	BA	FM	1	0	0	0	0	0	0
Schweizerischer Anwaltsverband	SAV	PA	LE	8	1	0	0	0	0	0
Schweizerischer Arbeitgeberverband	SAGV	BA	IND	11	1	1	1	1	0	0
Schweizerische Bankiervereinigung	SBVg	BA	BAN	20	1	1	1	1	1	1
Schweizer Bauernverband	SBV	PA	IND	1	0	0	0	0	0	0
Schweizerischer Gewerbeverband	sgv	BA	IND	20	1	1	1	1	1	1
Schweizerischer Gewerkschaftsbund	SGB	TU	TU	20	1	1	1	1	1	1
Schweizerische Kriminalistische Gesellschaft	SKG	PA	IND	1	0	0	0	0	0	0
Schweizerischer Pensionskassenverband	ASIP	BA	INS	5	0	0	0	0	0	0
Schweizerisches Konsumentenforum	kf	CS	CG	3	0	0	0	0	0	0
Verband Schweizer Wertpapierhäuser (old: Schweizerischer Verband unabhängiger Effektenhändler)	SVUE	BA	FPS	1	0	0	0	0	0	0

Name	Acronym	Type	Sector	Total	AEOI Regulation 2016e	Protection of privacy 2016f	AEOI with partner countries 2018-19 2016g	AEOI Singapore & Hong Kong 2017	AEOI with partner countries 2020-21 2018a	AEOI Regulation 2019
Schweizerischer Verband der dipl. Experten in Rechnungslegung und Controlling und der Inhaber des eidg. Fachausweises im Finanz- und Rechnungswesen	veb	PA	AC	2	0	1	0	0	0	0
Schweizerische Vereinigung diplomierter Steuerexperten	SVDS	PA	AC	1	0	0	0	0	0	0
Schweizerische Vereinigung unabhängiger Finanzberater	SVUF	PA	WM	2	0	0	0	0	0	0
Schweizerischer Versicherungsverband	SVV	BA	INS	6	1	0	1	0	0	1
SIX Group		F	FPS	1	0	0	0	0	0	0
Società Svizzera Impresari Costruttori Sezione Ticino	SSIC	BA	IND	1	0	0	0	0	0	0
SRO Casinos		SRO	IND	1	0	0	0	0	0	0
Stiftung für Konsumentenschutz	SKS	BA	IND	7	0	0	1	0	1	0
Stiftung Laurenz		CS	FOU	1	0	0	0	0	0	1
Stiftung Vordemberge-Gildewart		CS	FOU	1	0	0	0	0	0	1
Streichenberg und Partner, Rechtsanwälte		F	LE	1	0	0	0	0	0	0
Swiss and Liechtenstein STEP Federation		BA	WM	1	0	0	1	0	0	0

Name	Acronym	Type	Sector	Total	AEOI Regulation 2016e	Protection of privacy 2016f	AEOI with partner countries 2018-19 2016g	AEOI Singapore & Hong Kong 2017	AEOI with partner countries 2020-21 2018a	AEOI Regulation 2019
Swiss Association of Trust Companies	SATC	BA	WM	4	0	0	0	0	0	1
Swiss Bankers Prepaid Services AG (Swiss Bankers)		F	BAN	1	0	0	0	0	0	0
Swiss Funds Association / Swiss Funds & Asset Management Association (new: Asset Management Association)	AMAS	BA	FM	3	0	0	0	0	0	0
SwissHoldings		BA	IND	16	0	1	1	1	1	0
Swiss Payment Association	SPA	BA	BAN	1	1	0	0	0	0	0
Swiss Society of New Zealand (Inc)		CS	CG	1	0	0	1	0	0	0
Switzerland Global Enterprise		BA	IND	3	0	0	0	0		
Travail.Suisse		TU	TU	4	0	1	0	0	0	0
Treuhand Suisse		BA	AC	4	1	0	0	0	0	0
Umbricht Rechtsanwälte		F	LE	1	0	0	0	0	0	0
Verband der Auslandsbanken in der Schweiz	AFBS	BA	BAN	5	0	0	1	0	0	1
Verband der Schweizer Förderstiftungen	Swiss Foundations	CS	FOU	1	0	0	0	0	0	1
Verband Schweizerischer Kantonalbanken	VSKB	BA	BAN	13	1	1	1	1	0	0
Verband Schweizerischer Vermögensverwalter	VSV	PA	WM	18	1	0	1	1	1	1

Name	Acronym	Type	Sector	Total	AEOI Regulation 2016e	Protection of privacy 2016f	AEOI with partner countries 2018-19 2016g	AEOI Singapore & Hong Kong 2017	AEOI with partner countries 2020-21 2018a	AEOI Regulation 2019
Verein für Alterswohnungen der Kirchgemeinde St. Elisabethen		CS	FOU	1	0	0	0	0	0	1
Vereinigung Schweizerischer Asset-management- und Vermögensverwaltungsbanken	VAV	BA	BAN	15	1	1	1	1	1	1
Vereinigung Schweizerischer Handels- und Verwaltungsbanken		BA	BAN	1	0	0	0	0	0	0
Vereinigung Schweizerischer Privatbanken	VSPB	BA	BAN	19	1	1	1	0	1	1
Verein Schweizerischer Unternehmen in Deutschland	VSUD	BA	IND	3	0	0	0	0	0	0
TOTAL Participants				**391**	21	15	23	11	13	24
TOTAL Submissions available				**365**	21	15	23	11	13	24

Consultation submissions on beneficial ownership transparency reforms – Switzerland

Name	Acronym	Type	Sector	Total	FATF 2005	FINMA AML Regulation 2015f	AML Regulation 2015g	Global Forum recommendations 2018b	AML Law 2018c	Transparency of Legal Persons 2023
Aduno Gruppe		F	BAN	1	0	1	0	0	0	0
Aktion Finanzplatz Schweiz	AFP	CS	NGO	1	1	0	0	0	0	0
Aktionariat AG		F	FPS	1	0	0	0	0	0	1
Alithis		F	LE	1	0	0	0	0	1	0
Alliance Finance		BA	WM	2	0	0	0	0	1	1
Alliance Sud		CS	NGO	1	0	0	0	1	0	0
Arbeitsgruppe Berggebiet	AG Berggebiet	CS	CG	1	0	0	0	0	1	0
Association des Fournisseurs d'Horlogerie, Marché Suisse	AMS	BA	IND	1	1	0	0	0	0	0
Association Romande des Intermédiaires Financiers	ARIF	SRO	FPS	**5**	1	1	1	0	1	1
Baker McKenzie		F	LE	1	0	0	0	1	0	0
Bär & Karrer		F	LE	2	0	0	0	1	1	0
Basel Institute on Governance		RI	RI	1	0	0	0	0	0	1
Bischöfliches Ordinariat Chur		CS	FOU	1	0	0	1	0	0	0
Bitcoin Association		BA	CR	2	0	1	0	1	0	0
Bity SA		F	CR	1	0	0	0	1	0	0
Bündner Notarenverband	BNV	PA	LE	1	0	0	0	0	0	1
Centre Patronal	CP	BA	IND	**6**	1	1	1	1	1	1
CMS von Erlach Poncet AG	CMS	F	LE	1	0	0	1	0	0	0
CoOpera Leasing AG		F	IND	1	0	1	0	0	0	0
Cornèr Banca SA		F	BAN	1	0	1	0	0	0	0
Creditreform		F	FPS	1	0	0	0	0	0	1
CSN Law		F	LE	1	0	0	0	0	0	1

Name	Acronym	Type	Sector	Total	FATF 2005	FINMA AML Regulation 2015f	AML Regulation 2015g	Global Forum recommendations 2018b	AML Law 2018c	Transparency of Legal Persons 2023
Dachverband Freikirchen & christliche Gemeinschaften Schweiz		CS	NGO	1	0	0	0	0	0	1
Das-Aktienregister.ch		F	FPS	1	0	0	0	0	0	1
Der Schweizerische Verband freier Berufe	SVFB	PA	IND	1	1	0	0	0	0	0
Die Post		F	IND	1	1	0	0	0	0	0
Digital Finance Compliance Verein	DFCA	BA	FPS	1	0	1	0	0	0	0
Dukascopy Bank		F	BAN	1	0	1	0	0	0	0
EconomieSuisse		BA	IND	**5**	1	1	1	1	0	1
Ed. Steck & Cie		F	LE	1	0	0	0	0	0	1
Erklärung von Bern (EvB) / Public Eye	EvB	CS	NGO	3	0	0	0	1	1	1
EXPERTsuisse (old: Treuhand-Kammer)		BA	AC	**4**	**0**	1	1	1	0	1
Fédération des Entreprises Romandes	FER	BA	IND	**5**	1	1	1	1	0	1
Fédération Romande Immobilière	FRI	BA	RE	1	1	0	0	0	0	0
Federazione Ticinese delle Associazioni dei Fiduciari	FTAF	BA	WM	1	0	0	0	0	0	1
FINcontrol Suisse AG		SRO	FPS	1	0	0	0	0	0	1
Forum Schweizer Selbstregulierungsorganisationen	Forum SRO	SRO	FPS	**5**	1	1	1	1	0	1
Gantey Avocats		F	LE	1	0	0	0	0	1	0

Name	Acronym	Type	Sector	Total	FATF 2005	FINMA AML Regulation 2015f	AML Regulation 2015g	Global Forum recommendations 2018b	AML Law 2018c	Transparency of Legal Persons 2023
Groupement des Compliance Officers de Suisse Romande et du Tessin	GCO	PA	FPS	3	0	1	0	0	1	1
Gyr Edelmetalle AG		F	IND	1	0	0	0	0	1	
Hauseigentümerverband Schweiz	HEV	CS	CG	2	1	0	0	0	0	1
Homburger		F	LE	1	0	0	0	1	0	0
impressum		PA	NGO	1	0	0	0	0	0	1
IndéNodes Sàrl		F	IND	1	0	0	0	1	0	0
Interessensgemeinschaft der Zahlkartenindustrie	KARTAC	BA	BAN	2	0	1	0	0	1	0
Interessensgemeinschaft Detailhandel Schweiz	IG DHS	BA	IND	1	0	0	1	0	0	0
Kaufmännischer Verband Schweiz	KV Schweiz	PA	IND	1	1	0	0	0	0	0
Kohli & Urbach		F	LE	1	0	0	0	1	0	0
Kunsthandelsverband der Schweiz	KHS	BA	IND	1	1	0	0	0	0	0
Lenz & Stähelin		F	LE	1	0	0	0	1	0	0
Liechtensteinischer Bankenverband		BA	BAN	1	0	1	0	0	0	0
Liechtensteinische Industrie- und Handelskammer		BA	IND	1	0	1	0	0	0	0
MasterCard Europe		F	BAN	1	0	1	0	0	0	0
MCE Avocats		F	LE	1	0	0	0	1	0	0
Moving Media		F	IND	2	0	1		1	0	0
MUUME AG		F	BAN	1	0	1	0	0	0	0
NEXUS Avocats SA		F	LE	1	0	0	0	0	0	1

Name	Acronym	Type	Sector	Total	FATF 2005	FINMA AML Regulation 2015f	AML Regulation 2015g	Global Forum recommendations 2018b	AML Law 2018c	Transparency of Legal Persons 2023
Opendata.ch		CS	NGO	1	0	0	0	0	0	1
Ordre des Avocats de Genève	ODAGE	PA	LE	1	0	0	0	0	1	0
Organisme d'autorégulation des gérants de patrimoine	OARG	SRO	WM	1	0	1	0	0	0	0
Organismo di Autodisciplina dei Fiduciari del Cantone Ticino	OADFCT	SRO	WM	**4**	0	1	0	1	1	1
PD-Consulting GmbH		F	LE	1	0	1	0	0	0	0
Polyreg		SRO	FPS	2	0	1	0	0	0	1
Poseidon Group SA		F	CR	1	0	0	0	0	1	0
PostFinance		F	BAN	1	0	1	0	0	0	0
Ports Francs et Entrepôts de Genève S.A.		F	IND	1	1	0	0	0	0	0
ProFonds		CS	FOU	2	0	0	0	0	1	1
Raiffeisen		F	BAN	3	1	1	0	0	1	0
santésuisse		BA	IND	1	0	0	0	0	0	1
Schellenberg Wittmer		F	LE	1	0	0	0	1	0	0
Schweizer Franchise Verband (now: Swiss Distribution)	SFV	F	IND	1	1	0	0	0	0	0
Schweizer Leasingverband	SLV	BA	FPS	1	0	0	0	1	0	0
Schweizer Medien		BA	NGO	1	0	0	0	0	0	1
Schweizer Verband der Investmentgesellschaften	SVIG	BA	FM	**5**	1	1	1	1	0	1
Schweizer Verband der Raiffeisenbanken	SVRB	BA	BAN	1	1	0	0	0	0	0
Schweizerischer Anwaltsverband	SAV	PA	LE	**5**	1	1	1	1	0	1
Schweizerischer Arbeitgeberverband	SAGV	BA	IND	2	0	0	0	1	0	1

Name	Acronym	Type	Sector	Total	FATF 2005	FINMA AML Regulation 2015f	AML Regulation 2015g	Global Forum recommendations 2018b	AML Law 2018c	Transparency of Legal Persons 2023
Schweizerische Bankiervereinigung	SBA	BA	BAN	**5**	1	1	1	1	0	1
Schweizerischer Bankpersonal-verband	SBPV	PA	BAN	1	0	0	1	0	0	0
Schweizerischer Baumeisterverband		BA	IND	1	0	0	0	1	0	0
Schweizerischer Bauernverband	SBV	PA	IND	1	0	0	0	1	0	0
Schweizerischer Gewerbeverband	sgv	BA	IND	**4**	1	1	1	1	0	0
Schweizerischer Gewerkschafts-bund	SGB	TU	TU	3	0	0	1	1	0	1
Schweizerischer Notarenverband	SNV	PA	LE	**5**	1	1	1	1	0	1
Verband Schweizer Wertpapierhäu-ser (old: Schweizerischer Verband unabhängiger Effektenhändler)	SVUE	BA	FPS	1	1	0	0	0	0	0
Schweizerische Vereinigung Edel-metallfabrikanten und Händler	ASFCMP	BA	IND	1	0	1	0	0	0	0
Schweizerischer Versicher-ungsverband	SVV	BA	INS	3	1	0	0	1	0	1
scienceindustries		BA	IND	1	0	0	0	1	0	0
Selbstregulierungsorganisation des Schweizerischen Anwaltsverbandes und des Schweizerischen Notaren-verbandes	SRO SAV/SNV	SRO	LE	**4**	1	1	1	0	0	1

Name	Acronym	Type	Sector	Total	FATF 2005	FINMA AML Regulation 2015f	AML Regulation 2015g	Global Forum recommendations 2018b	AML Law 2018c	Transparency of Legal Persons 2023
Selbstregulierungsorganisation des Schweizerischen Leasingverbandes	SRO SLV	SRO	FPS	3	0	1	0	1	0	1
Selbstregulierungsorganisation Treuhand Suisse	SRO Treuhand Suisse	SRO	AC	1	0	0	0	0	0	1
Selbstregulierungsorganisation des Schweizerischen Versicherungsverbands	SRO SVV	SRO	INS	3	0	1	0	1	0	1
Selbstregulierungsorganisation SBB	SRO SBB	SRO	IND	1	0	1	0	0	0	0
SIX Group		F	FPS	1	0	1	0	0	0	0
SOLIFONDS		CS	NGO	1	0	0	0	0	0	1
Society for Trust and Estate Practioners Geneva	STEP Geneva	PA	WM	1	0	0	0	0	0	1
SVIT Schweiz		BA	RE	1	0	0	0	0	0	1
Swiss-American Chamber of Commerce	AmCham	BA	IND	1	1	0	0	0	0	0
Swiss Funds Association / Swiss Funds & Asset Management Association (new: Asset Management Association)	AMAS	BA	FM	2	1	1	0	0	0	0
Swiss Association of Trust Companies	SATC	BA	WM	2	0	0	0	1	0	1
Swiss Blockchain Federation		BA	CR	1	0	0	0	0	0	1
Swiss Board Forum		PA	IND	1	0	0	0	1	0	0
Swisscard AECS GmbH		F	BAN	1	0		0	0	0	0

Name	Acronym	Type	Sector	Total	FATF 2005	FINMA AML Regulation 2015f	AML Regulation 2015g	Global Forum recommendations 2018b	AML Law 2018c	Transparency of Legal Persons 2023
Swiss Exchange	SWX	F	FPS	1	1	0	0	0	0	0
Swiss Foundations		CS	FOU	1	0	0	0	0	0	1
SwissHoldings (former Industrie-Holding)		BA	IND	3	1	0	0	1	0	1
Swiss Payment Association	SPA	BA	BAN	1	0	0	0	0	0	1
Trägerverein SuisseID	SuisseID	CS	FOU	1	0	1	0	0	0	0
Transparency International	TI	CS	NGO	2	0	0	0	1	0	1
Treuhand Suisse (old: Schweizeri-scher Treuhänder-Verband)		BA	AC	2	1	0	0	0	0	1
UBS		F	BAN	1	0	0	0	0	0	1
Union Suisse des Professionnels de l'Immobilier	USPI	PA	RE	2	1	0	0	0	0	1
Universität Bern	UniBern	RI	RI	1	0	1	0	0	0	0
University of Geneva	UNIGE	RI	RI	2	1	0	0	1	0	0
veb.ch		PA	AC	1	0	0	0	0	0	1
Verband Bernischer Notare	VbN	PA	LE	1	0	0	0	0	0	1
Verband der Auslandsbanken in der Schweiz	AFBS	BA	BAN	2		0	0	0	0	1
Verband der Immobilien-Investo-ren und -Verwaltungen	VIV	BA	RE	1	1	0	0	0	0	0
Verband der Schweizerischen Uhrenindustrie	FH	BA	IND	1	1	0	0	0	0	0
Verband freier Autohandel Schweiz	VFAS	BA	IND	1	0	0	1	0	0	0
Verband Immobilien Schweiz	VIS	BA	RE	1	0	0	0	0	0	1
Verband Kunstmarkt Schweiz	VKMS	BA	IND	1	0	0	1	0	0	0

Name	Acronym	Type	Sector	Total	FATF 2005	FINMA AML Regulation 2015f	AML Regulation 2015g	Global Forum recommendations 2018b	AML Law 2018c	Transparency of Legal Persons 2023
Verband Schweizer Goldschmiede und Uhrenfachgeschäfte	VSGU	BA	IND	1	0	0	1	0	0	0
Verband Schweizerischer Kantonalbanken	VSKB	BA	BAN	3	1	0	1	1	0	0
Verband Schweizerischer Vermögensverwalter	VSV	PA	WM	**5**	1	1	1	1	0	1
Verein investigativ.ch		PA	NGO	1	0	0	0	0	0	1
Verein öffentlichkeitsgesetz.ch		CS	NGO	1	0	0	0	0	0	1
Verein zur Qualitätssicherung von Finanzdienstleistungen	VQF	SRO	FPS	**5**	1	1	1	1	0	1
Verband schweizerischer Antiquare und Kunsthändler	VSAK	BA	IND	1	1	0	0	0	0	0
Verband schweizerischer Auktionatoren von Kunst und Kulturgut	VSA	BA	IND	1	1	0	0	0	0	0
Verband Schweizerischer Münzenhändler	VSM	BA	IND	1	1	0	0	0	0	0
Vereinigung der Buchantiquare und Kupferstichhändler der Schweiz	VEBUKU	BA	IND	1	1	0	0	0	0	0
Vereinigung Schweizerischer Assetmanagement- und Vermögensverwaltungsbanken (ehemals: Vereinigung Schweizerischer Handels- und Verwaltungsbanken)	VAV	BA	BAN	2	1	0	0	0	0	1

Name	Acronym	Type	Sector	Total	FATF 2005	FINMA AML Regulation 2015f	AML Regulation 2015g	Global Forum recommendations 2018b	AML Law 2018c	Transparency of Legal Persons 2023
Vereinigung Schweizerischer Juwelen- und Edelmetallbranchen	UBOS	BA	IND	1	1	0	0	0	0	0
Vereinigung Schweizerischer Privatbanken	VSPB	BA	BAN	3	1	0	0	1	1	0
Vischer		F	LE	3	0	1	1	1	0	0
Walder Wyss AG Rechtsanwälte		F	LE	2	0	0	0	1	0	1
WIR Bank Genossenschaft	WIR Bank	F	BAN	1	0	1	0	0	0	0
Wirtschaftskammer Liechtenstein		BA	IND	1	0	1	0	0	0	0
ZEWO		CS	NGO	1	0	0	0	0	0	1
Zürcher Anwaltsverband	ZAV	PA	LE	1	1	0	0	0	0	0
TOTAL Participants				**238**	**46**	**45**	**24**	**44**	**17**	**62**
TOTAL Submissions available				**219**	**42**	**39**	**20**	**40**	**17**	**61**

Consultation submissions on exchange of information reforms – United Kingdom

Name	Acronym	Type	Sector	Total	EUSTD 2003	FATCA 2012	FATCA 2013a	CRS 2014a	Civil Information Powers 2018
A J Bell		F	FM	2	0	1	1	0	0
Admin Re UK		F	INS	1	0	0	0	1	0
Allen & Overy LLP		F	LE	1	0	0	1	0	0
Alternative Investment Management Association	AIMA	BA	FM	3	0	1	1	1	0
Altus Limited		F	MC	1	0	1	0	0	0
Asset Based Finance Association	ABFA	BA	FM	2	0	1	1	0	0
Association of Chartered Certified Accountants	ACCA	PA	AC	1	0	0	0	0	1
Association for Financial Markets in Europe	afme	BA	BAN	3	0	1	1	1	0
Association of Accounting Technicians	AAT	PA	AC	1	0	0	0	0	1
Association of British Credit Unions Limited	ABCUL	BA	BAN	2	0	1	1	0	0
Association of British Insurers	ABI	BA	INS	3	0	1	1	1	0
Association of Financial Mutuals	afm	BA	INS	1	0	1	0	0	0
Association of Investment Companies	AIC	BA	FM	3	0	1	1	1	0

Name	Acronym	Type	Sector	Total	EUSTD 2003	FATCA 2012	FATCA 2013a	CRS 2014a	Civil Information Powers 2018
Association of Private Client Investment Managers and Stockbrokers	APCIMS	BA	FM	2	0	1	1	0	0
Association of Professional Financial Advisors	APFA	BA	WM	2	0	1	1	0	0
Association of Taxation Technicians	ATT	PA	AC	1					1
Aviva Plc		F	INS	2	0	1	1	0	0
Bank of New York Mellon	BNY Mellon	F	BAN	1	0	1	0	0	0
Barclays		F	BAN	2	0	1	1	0	0
BDO LLP		F	FPS	4	0	1	1	1	1
Blackrock		F	FM	2	0	1	0	1	0
British Bankers Association	BBA	BA	BAN	4	1	1	1	1	0
British Private Equity and Venture Capital Association	BVCA	BA	FM	2	0	1	0	1	0
Building Societies Association	BSA	BA	BAN	4	0	1	1	1	1
C. Hoare & Co		F	BAN	1	0	1	0	0	0
Carter Backer Winter LLP		F	AC	1	0	0	0	0	1
Catlin Holdings Limited		F	INS	1	0	0	0	1	0

Name	Acronym	Type	Sector	Total	EUSTD 2003	FATCA 2012	FATCA 2013a	CRS 2014a	Civil Information Powers 2018
Certified Public Accountants Association	CPAA	PA	AC	1	0	0	0	0	1
Charity Finance Group	CFG	CS	NGO	1	0	1	0	0	0
Chartered Institute of Taxation	CIOT	PA	AC	2	0	1	0	0	1
City of London Law Society	CLLS	PA	LE	1	0	1	0	0	0
Clydesdale Bank Plc		F	BAN	1	0	1	0	0	0
Daiwa Capital Markets Europe Limited		F	FM	1	0	1	0	0	0
Deloitte LLP		F	FPS	2	1	0	0	0	1
Depositary and Trustee Association	DATA	BA	FM	2	0	1	1	0	0
Diligenta Ltd		F	INS	1				1	
DLA Piper UK LLP		F	LE	2	0	1	1	0	0
DWF LLP		F	LE	1	0	0	0	0	1
Equitable Life Assurance Society		F	INS	1	0	1	0	0	0
Eurobank Ergasias SA		F	BAN	1	0	0	1	0	0
Euroclear SA/NV		F	FM	1	0	1	0	0	0
Everton FC		F	IND	1	0	0	0	0	1
Fidelity Worldwide Investment		F	FM	3	0	1	1	1	0
Field Fisher Waterhouse LLP		F	LE	1	0	0	1	0	0
Friends Life		F	FM	1	0	1	0	0	0
Grant Thornton UK LLP		F	FPS	2	0	1	0	0	1

Name	Acronym	Type	Sector	Total	EUSTD 2003	FATCA 2012	FATCA 2013a	CRS 2014a	Civil Information Powers 2018
Hartford Life Limited		F	INS	1	0	1	0	0	0
Henderson Global Investors Limited		F	FM	3	0	1	1	1	0
Henleydown Consulting Limited	HCL	F	AC	1	0	1	0	0	0
Herbert Smith Freehills LLP		F	LE	1	0	0	0	0	1
HSBC Holdings Plc		F	BAN	2	0	1	0	1	0
Investment Company Institute Global	ICI Global	BA	FM	1	0	1	0	0	0
IG Group Holdings Plc		F	FM	3	0	1	1	1	0
Institute of Chartered Accountants in England and Wales	ICAEW	PA	AC	2	0	1	1	0	0
Institute of Chartered Accountants of Scotland	ICAS	PA	AC	1	0	0	0	0	1
Institute of Chartered Secretaries and Administrators Registrars Group	ICSA	PA	FPS	3	0	1	1	1	0
International Financial Data Services (UK) Limited	IFDS	F	MC	4	1	1	1	1	0
International Underwriting Association	IUA	BA	INS	1	0	0	0	1	0

Name	Acronym	Type	Sector	Total	EUSTD 2003	FATCA 2012	FATCA 2013a	CRS 2014a	Civil Information Powers 2018
Investec Asset Management Limited		F	FM	1	0	1	0	0	0
Investment & Life Assurance Group	ILAG	BA	INS	3	0	1	1	1	0
Investment Management Association	IMA	BA	FM	3	0	1	1	1	0
Irish League of Credit Unions		BA	BAN	1	0	0	1	0	0
Jupiter Asset Management Limited		F	FM	1	0	0	0	1	0
JWG		F	MC	1	0	1	0	0	0
KzzJ Ltd		F	MC	1	0	0	1	0	0
KPMG LLP		F	FPS	1	0	0	0	0	1
Lloyds Banking Group	LBG	F	BAN	2	0	1	1	0	0
Low Income Tax Reform Group	LITRG	CS	NGO	1					1
Lubbock Fine		F	AC	1	0	0	0	0	1
M&G Investments / Prudential		F	FM	4	0	1	1	1	1
Mazars LLP		F	AC	2	0	0	0	1	1
Mercer Limited		F	MC	2	0	1	1	0	0
Mitsubishi UJF Securities International plc	MUSI	F	BAN	1	0	0	1	0	0
National Farmers Union Mutual Insurance Society limited		F	INS	1	0	1	0	0	0

Name	Acronym	Type	Sector	Total	EUSTD 2003	FATCA 2012	FATCA 2013a	CRS 2014a	Civil Information Powers 2018
Nationwide Building Society		F	BAN	4	1	1	1	1	0
Old Mutual Plc		F	BAN	1	0	1	0	0	0
Pinsent Masons LLP		F	LE	1	0	0	0	0	1
Portman Building Society		F	BAN	1	1	0	0	0	0
Prudential Plc		F	INS	1	0	0	0	1	0
PwC LLP		F	FPS	1	0	0	0	0	1
Royal Bank of Scotland		F	BAN	1	0	0	0	1	0
Schroder Investment Management Limited		F	FM	1	0	1	0	0	0
Skipton Building Society		F	BAN	3	0	1	1	1	0
Society of Trust and Estate Practitioners	STEP	PA	WM	3	0	1	1	1	0
St James Place		F	WM	1	0	1	0	0	0
Standard Life		F	INS	2	0	1	1	0	0
State Street Bank and Trust Company		F	FM	2	0	1	1	0	0
Squire Sanders Public Advocacy LLC		F	LE	1	0	0	1	0	0
Swiss Re		F	INS	1	0	0	1	0	0
TD Direct Investing (Europe) Limited		F	FM	2	0	1	1	0	0
The Hundred Group Pensions Committee		BA	INS	1	0	1	0	0	0
The Association of Real Estate Funds	AREF	BA	RE	1	0	0	1	0	0

Name	Acronym	Type	Sector	Total	EUSTD 2003	FATCA 2012	FATCA 2013a	CRS 2014a	Civil Information Powers 2018
Tax Incentivised Savings Association	TISA	BA	FM	1	0	0	0	0	1
Tax Investigation Practitioners Group	TIPG	PA	AC	1	0	0	0	0	1
Tax Law Review Committee	TLRC	RI	RI	1	0	0	0	0	1
The Law Society		PA	LE	2	0	0	1	1	0
The Law Society of Scotland		PA	LE	1	0	0	0	0	1
The Phoenix Group		F	INS	1	0	1	0	0	0
The Society of Pension Consultants	SPC	PA	INS	2	0	1	1	0	0
The TA Forum		PA	FM	1	0	1	0	0	0
Transatlantic Tax Inc		F	AC	1	0	1	0	0	0
Travers Smith LLP		F	LE	2	0	1	0	0	1
UK Finance		BA	FPS	1	0	0	0	0	1
Wealth Management Association	WMA	PA	WM	1	0	0	0	1	0
XL Group Plc		F	FPS	1	0	1	0	0	0
TOTAL Participants				**172**	5	65	44	31	27
TOTAL Submissions available				**159**	5	63	44	29	18

Consultation submissions on beneficial ownership transparency reforms – United Kingdom

Name	Acronym	Type	Sector	Total	Transparency & Trust 2013b	PSC Register 2014b	PSC Register 2015	Beneficial Ownership Transparency 2016	Register of Beneficial Owners of Overseas Companies 2017
Accounting Web		F	AC	1	1	0	0	0	0
Africa Progress Panel		CS	NGO	1	1	0	0	0	0
Akzo Nobel		F	IND	1	1	0	0	0	0
Allen & Overy LLP		F	LE	2	1	0	0	1	0
Alternative Investment Management Association	AIMA	BA	FM	**3**	1	1	1	0	0
Anthony Collins Solicitors LLP		F	LE	1	0	0	0	1	0
Asset Based Finance Association	ABFA	BA	FM	1	1	0	0	0	0
Association of British Insurers	ABI	BA	INS	**3**	1	1	1	0	0
Association of Business Recovery Professionals	R3	PA	FPS	2	1	1	0	0	0
Association of Company Registration Agents	ACRA	PA	FPS	**4**	1	1	1	1	0
Association of Investment Companies	AIC	BA	FM	**3**	1	0	1	0	1
Assocation of Pension Lawyers		PA	LE	1	1	0	0	0	0
Association for Financial Markets in Europe	afme	BA	BAN	1	1	0	0	0	0
Aviva Plc		F	INS	1	1	0	0	0	0
Baillie Gifford & Co		F	FM	1	0	0	1	0	0
BDO LLP		F	LE	1	0	0	0	0	1

Name	Acronym	Type	Sector	Total	Transparency & Trust 2013b	PSC Register 2014b	PSC Register 2015	Beneficial Ownership Transparency 2016	Register of Beneficial Owners of Overseas Companies 2017
Berwin Leighton Paisner LLP	BLP	F	LE	1	0	0	0	0	1
Bidwell's Property Consultancy		F	RE	1	0	0	0	1	0
Bircham Dyson Bell LLP		F	LE	1	0	0	1	0	0
Black Country Chamber of Commerce		BA	IND	1	1	0	0	0	0
Bond		CS	NGO	1	0	0	0	0	1
Bond Dickinson LLP		F	LE	1	0	0	0	0	1
Boodle Hatfield LLP		F	LE	1	0	0	0	0	1
British Bankers' Association	BBA	BA	BAN	**4**	1	1	1	0	1
British Private Equity and Venture Capital Association	BVCA	BA	FM	**3**	1	1	1	0	0
British Property Federation	BPF	BA	RE	2	0	0	0	1	1
Burges Salmon LLP		F	LE	1	0	0	0	0	1
Business Information Providers Association	BIPA	BA	FPS	**3**	1	1	1	0	0
Business Tax Centre		F	AC	1	1	0	0	0	0
Campaign for Legislation Against Money-laundering in Property by Kleptocracts	ClampK	CS	CG	2	0	0	0	1	1
Capita		F	FPS	**3**	1	1	1	0	0
Catholic Agency For Overseas Development	CAFOD	CS	NGO	2	1	1	0	0	0

Name	Acronym	Type	Sector	Total	Transparency & Trust 2013b	PSC Register 2014b	PSC Register 2015	Beneficial Ownership Transparency 2016	Register of Beneficial Owners of Overseas Companies 2017
Center for Global Development		RI	NGO	1	1	0	0	0	0
Chancery Bar Association		PA	LE	2	1	0	1	0	0
Charity Law Association	CLA	PA	LE	2	1	1	0	0	0
Christian Aid		CS	NGO	**3**	1	1	1	0	0
Cifas		BA	FPS	1	0	0	0	0	
City of London Law Society	CLLS	PA	LE	**3**	1	0	1	0	1
City of London Police		F	OT	1	1	0	0	0	0
Civil Court Users Association	CCUA	PA	LE	1	1	0	0	0	0
Clifford Chance LLP		F	LE	2	0	0	0	1	1
CMS Cameron McKenna Nabarro Olswang		F	LE	1	0	0	0	0	1
Compliancy Services Ltd		F	FPS	1	0	1	0	0	0
Computershare Investor Services PLC	Computershare	F	FM	1	1	0	0	0	0
Confederation of British Industry	CBI	BA	IND	1	1	0	0	0	0
Co-operatives UK		F	IND	1	0	0	1	0	0
CORE		RI	RI	1	1	0	0	0	0
Council for Licensed Conveyancers	CLC	F	RE	1	0	0	0	0	1
Council of Mortgage Lenders	CML	BA	RE	1	0	0	0	0	1
Credit Safe		F	FPS	1	0	1	0	0	0

Name	Acronym	Type	Sector	Total	Transparency & Trust 2013b	PSC Register 2014b	PSC Register 2015	Beneficial Ownership Transparency 2016	Register of Beneficial Owners of Overseas Companies 2017
Creditsafe Business Solutions		F	FPS	1	0	1	0	0	0
DC Systems Limited		F	IND	1	1	0	0	0	0
Deloitte		F	FPS	**4**	1	1	1	0	1
DLA Piper UK LLP		F	LE	2	0	1	1	0	0
Dun & Bradstreet	D&B	F	MC	2	1	0	1	0	0
Easton Oxford Corporation		F	OT	1	0	0	1	0	0
Elemental CoSec Limited		F	AC	1	1	0	0	0	0
Environmental Law Service		F	LE	1	1	0	0	0	0
Equifax Ltd		F	FPS	2	1	0	1	0	0
Equiniti David Venus Ltd.		F	LE	1	0	0	1	0	0
Ernst and Young	EY	F	FPS	1	1	0	0	0	0
Experian		F	FPS	2	0	1	1	0	0
Family Office Real Estate Advisers	FORA	F	RE	1	0	0	0	0	1
First Corporate Law Services	FCLS	F	LE	1	0	0	1	0	0
Federation of Small Businesses	FSB	BA	IND	1	0	0	1	0	0
Financial Transparency Coalition	FTC	CS	NGO	1	0	0	0	0	1
Forsters LLP		F	LE	1	0	0	0	0	1
Fraud Advisory Panel		CS	NGO	2	1	1	0	0	0
Freshfields Bruckhaus Deringer LLP		F	LE	1	0	0	0	0	1

Name	Acronym	Type	Sector	Total	Transparency & Trust 2013b	PSC Register 2014b	PSC Register 2015	Beneficial Ownership Transparency 2016	Register of Beneficial Owners of Overseas Companies 2017
General Council of the Bar in England and Wales	Bar Council	PA	LE	1	1	0	0	0	0
General Counsel 100	GC100	PA	FPS	2	1	0	1	0	0
George Green LLP		F	LE	1	1				
GlaxoSmithKline	GSK	F	IND	1	1	0	0	0	0
Global Witness		CS	NGO	**5**	1	1	1	1	1
Grant Thornton UK LLP		F	FPS	1	1	0	0	0	0
Guernsey Association of Trustees	GAT	PA	WM	1	0	0	0	1	0
Harney & Co		F	AC	1	1	0	0	0	0
Hermes Equity Ownership		F	FM	1	1	0	0	0	0
The Institute of Certified Bookkeepers	ICB	PA	AC	1	1	0	0	0	0
International Financial Centres Forum	IFC Forum	BA	FPS	**3**	1	1	0	0	1
Insolvency Lawers' Association	ILA	PA	LE	1	1	0	0	0	0
Insolvency Practitioners Association		PA	FPS	1	0	0	1	0	0
Institute for Family Business		BA	IND	1	0	0	1	0	0
Institute of Chartered Accountants in England and Wales	ICAEW	PA	AC	**5**	1	1	1	1	1
Institute of Chartered Accountants of Scotland	ICAS	PA	AC	1	1	0	0	0	0

Name	Acronym	Type	Sector	Total	Transparency & Trust 2013b	PSC Register 2014b	PSC Register 2015	Beneficial Ownership Transparency 2016	Register of Beneficial Owners of Overseas Companies 2017
Institute of Chartered Secretaries and Administrators	ICSA	PA	IND	**3**	1	1	1	0	0
Registrars Group									
Institute of Credit Management	ICM	PA	FPS	1	1	0	0	0	0
Institute of Directors	IoD	PA	IND	2	1	1			
Institute of Practitioners in Advertising	IPA	BA	IND	1	1	0	0	0	0
International Corporate Governance Network	ICGN	BA	IND	1	1	0	0	0	0
International Underwriting Association		BA	INS	1		1			
Investing in Enterprise Ltd		F	FM	1	1	0	0	0	0
Investment Management Association	IMA	BA	FM	2	1	1	0	0	0
Investment Property Forum	IPF	PA	FM	1	0	0	0	0	1
Isonomy		F	MC	1	1	0	0	0	0
Jersey Finance Limited	JFL	BA	FPS	2	0	0	0	1	1
Jersey Funds Association	JFA	BA	FM	1	0	0	0	1	0
Jordans Trust Company Ltd. and Jordans Corporate Law Ltd.		F	LE	2	0	1	1	0	0
Katten Muchin Rosenman UK LLP	Katten	F	LE	1	0	0	0	0	1
Laing O'Rourke Plc		F	IND	1	1	0	0	0	0

Name	Acronym	Type	Sector	Total	Transparency & Trust 2013b	PSC Register 2014b	PSC Register 2015	Beneficial Ownership Transparency 2016	Register of Beneficial Owners of Overseas Companies 2017
Laytons		F	LE	1	0	1	0	0	0
Legal & General Group Plc		F	FM	1	1	0	0	0	0
Linklaters LLP		F	LE	1	1	0	0	0	0
Lloyds of London		F	INS	1	0	1	0	0	0
Loan Market Association	LMA	BA	FPS	1	0	0	0	0	1
Local Authority Pension Fund Forum	LAPFF	BA	INS	1	1	0	0	0	0
Lodders Solicitors LLP		F	LE	2	1	0	1	0	0
London Stock Exchange Group	LSEG	F	FPS	1	1	0	0	0	0
LS Contracts Services Ltd		F	IND	1	0	1	0	0	0
Lyons Davidson		F	LE	1	1	0	0	0	0
M&G		F	FM	1	0	0	0	1	0
Managed Funds Association	MFA	BA	FM	1	0	1	0	0	0
Manolete Partners Plc		F	FM	1	1	0	0	0	0
Maurice Turnor Gardner LLP	MTG	F	LE	1	0	0	0	0	1
McDermott Will & Emery UK LLP		F	LE	1	0	0	0	0	1
MSP Chartered Secretaries		F	FPS	1	0	0	1	0	0

Name	Acronym	Type	Sector	Total	Transparency & Trust 2013b	PSC Register 2014b	PSC Register 2015	Beneficial Ownership Transparency 2016	Register of Beneficial Owners of Overseas Companies 2017
National Association of Estate Agents	NAEA Propertymark	PA	RE	2	0	0	0	1	1
National Association of Pension Funds	NAPF	BA	INS	1	1	0	0	0	0
National Federation of Property Professionals	NFOPP	PA	RE	1	1	0	0	0	0
Nobarro LLP		F	LE	1	0	0	0	1	0
Oakwood Corporate Services Limited		F	FPS	**3**	1	1	1	0	0
ONE		CS	NGO	**3**	1	1	1	0	0
Open Knowledge Foundation		CS	NGO	1	1	0	0	0	0
Open Society Policy Center		CS	NGO	1	1	0	0	0	0
OpenCorporates		CS	NGO	**5**	1	1	1	1	1
Open Government		CS	NGO	1	0	0	0	1	0
Open Ownership		CS	NGO	1	0	0	0	0	1
Ordered Management Ltd		F	MC	1	1	0	0	0	0
Oxfam GB		CS	NGO	1	1	0	0	0	0
Portman International		F	FPS	1	1	0	0	0	0
Publish What You Pay	PWYP	CS	NGO	**3**	1	1	1	0	0
PwC		F	FPS	**3**	1	1	0	0	1
The Quoted Companies Alliance	QCA	BA	IND	**3**	0	1	1	1	0
Save the Children		CS	NGO	1	1	0	0	0	0
Savills Estate Agents		F	RE	1	0	0	0	1	0

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Scarborough Christian Aid		CS	NGO	1	1	0	0	0	0
Scottish Land & Estates		BA	RE	1	0	0	0	0	1
Scottish Property Federation	SPF	BA	RE	1	0	0	0	0	1
ShareAction		CS	NGO	1	1	0	0	0	0
Shelter		CS	NGO	1	0	0	0	0	1
Shepherd and Wedderburn		F	LE	1	0	0	0	0	1
Serious Organised Crime Agency	SOCA	RI	OT	1	1	0	0	0	0
Society of Trust and Estate Practitioners	STEP	PA	WM	**3**	1	1	1	0	0
Solicitors Regulation Authority	SRA	PA	LE	1	1	0	0	0	0
Spend Network		RI	RI	1	0	0	0	1	0
Standard Chartered PLC		F	BAN	1	0	1	0	0	0
Standard Life		F	INS	2	1	0	0	0	1
Stephenson Harwood LLP		F	LE	1	0	0	0	0	1
Tax Justice Network	TJN	CS	NGO	2	1	1	0	0	0
Tax Reseach LLP		RI	RI	2	1	1	0	0	0
Taylor Wessing LLP		F	LE	1	0	0	0	0	1
The Association of British Travel Agents	ABTA	BA	IND	1	1	0	0	0	0
The Association of Chartered Certified Accountants	ACCA	PA	AC	1	1	0	0	0	0

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The Association of Company Registration Agents	ACRA	BA	FPS	1	1	0	0	0	0
The Association of Private Client Investment Managers and Stockbrokers	APCIMS	BA	FM	1	1	0	0	0	0
The Ecumenical Council for Corporate Responsibility (now: Just Money Movement)	ECCR	CS	NGO	1	1	0	0	0	0
The Governance Institute		F	MC		0	0	0	1	0
The Investor Relations Society	ir society	PA	FM	1	1	0	0	0	0
The Law Society		PA	LE	**5**	1	1	1	1	1
The Law Society of Scotland		PA	LE	**3**	1	1	0	0	1
Transpact		F	FPS	2	1	1	0	0	0
Transparency International	TI	CS	NGO	**4**	1	0	1	1	1
Trowers & Hamlins LLP		F	LE	2	1	0	0	1	0
UK Sustainable Investment and Finance Association	UKSIF	BA	FM	1	1	0	0	0	0
Unite Students		F	RE	1	0	0	1	0	0
War on Want		CS	NGO	1	1	0	0	0	0
Wedlake Bell LLP		F	LE	1	1	0	0	0	0
Withers LLP		F	LE	1	0	0	0	0	1

Name	Acronym	Type	Sector	Total	Transparency & Trust 2013b	PSC Register 2014b	PSC Register 2015	Beneficial Ownership Transparency 2016	Register of Beneficial Owners of Overseas Com-panies 2017
Wolverhampton World Poverty Action Group		CS	NGO	1	1	0	0	0	0
Wood Group		F	IND	1	0	1	0	0	0
TOTAL Participants				**257**	**103**	**44**	**41**	**24**	**45**
TOTAL Submissions available				**174**	98	11	14	9	42