

## **What's in a Name? Tax Havens, Offshore Financial Centres and Global Governance**

Ronen Palan, Richard Murphy and Christian Chavagneux

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Tax havens and offshore financial centres (OFCs) have emerged as one of the key areas of concern of international economic organizations in the past decade. Due to the complexity and diversity of tax havens/OFCs they have attracted the attention of a number of organizations for different reasons. As a result, a number of campaigns, running in parallel, led by different international economic organizations are currently aimed at tax havens/OFCs. The main actors in these campaigns are the familiar international economic organizations joined, from time to time, by national agencies such as tax authorities, treasury department, trade and other agencies of the state. International organizations have been concerned with four issues: harmful tax competition, financial stability, money laundering and the need to track terrorist financing.

The principal campaign against tax havens in terms of resources and political capital put into it, is a campaign that began already in the late 1980s concerned with money laundering, criminality and more recently terrorist finance. This campaign is led by the Financial Action Task Force for Money Laundering (FATF) and supported by the IMF, the World Bank and the Financial Task Force (FSF). The second campaign was initiated in the late 1990s was concerned with harmful tax competition. This campaign is led by the OECD, the EU as well as a number of national tax authorities, including the UK, and more surprisingly, the Irish and the U.S'. A third ongoing concern is with financial stability and so-called New International Financial Architecture (NIFA). The organizations most concerned with these issues are the International Monetary Fund (IMF), the Financial Stability Forum (FSF) and the Bank of International Settlements (BIS).

Despite the plethora of campaign, tax havens, or as they would increasingly wish to be described, Offshore Financial Centres (OFCs) appear to have survived the onslaught. The apparent success of some of the smallest and weakest states in the world to stand up to the largest and most powerful states has raised considerable academic interest (Sharman 2006; Webb 2004; Sullivan 2007 ).

One interesting aspect of the treatment of tax havens by international economic organizations, an aspect that has attracted so far less attention is the on-going if tacit disagreement among the various international agencies and their supporting research personnel about the characterization of tax havens and/or OFCs. Some international organizations adopt the concept of tax haven; others have banished the term altogether and prefer the concept of OFC, others again, appear to employ the two terms interchangeably or use the term tax havens sparingly. For some organizations, OFCs are the small jurisdictions that are considered by most commentators to be in reality tax havens; for others, OFCs are the traditional tax havens as well as some of the largest and most respectable financial centres in the world, including London, New York and Tokyo.

What accounts for the differences among international economic organizations? We believe we can provide a good, consistent explanation for the differences by putting forward the following hypothesis:

- (a) Each organization defines tax havens/OFCs in the way that suits best its function and agenda. It is not simply the case that those organizations that are concerned with tax issues defined these countries as tax havens, while those that are concerned with financial stability define them as OFCs – which as we will demonstrate, is what they do. But equally important, each organization appears to define these jurisdictions in such way as to maximise cooperation from tax havens/OFCs for its agenda sometimes to the detriment of other organizations' agenda.
- (b) Each organization defines tax havens/OFCs in way that minimizes conflict with its principle backers, which tend to be the industrialized countries. The problem is that nearly all industrialized countries are implicated in one way or another in the tax haven/OFC game. Each organization, therefore, the very tough

task of defining tax havens/OFCs in such way as to avoid conflict and yet, and that is our third point:

- (c) A distant third are the facts on the ground, i.e. what states actually do. There are objective difficulties in data gathering and conceptualization which complicate matters. Nonetheless, there is a limit of course to politicking when it comes to certain undisputed facts.

The full impact of this tacit debate among the different organization on the global financial architecture is still unknown, as we are in the midst of a process, and the situation is highly fluid but the debate raises an interesting question about intra-international organization debate and the nature of global governance. Whilst it is unreasonable to assume that such debates among international organizations are more widespread than often assumed there is a subject-area of inter international organization debate and conflict which is rarely explored, the intra politics of international organization.

### **The Confusion between Tax Havens and OFCs**

While tax havens and OFCs are confused nowadays, conceptually and analytically they are distinct phenomena. They have evolved for different purposes and in different historical periods.

The term 'tax havens' has been in use since the beginning of the twentieth century. This has not prevented there being objective difficulties in defining tax havens for the simple reason that the complexity of tax laws has rendered practically every country in the world a potential haven for non-residents. Conceptually, however, the definition of tax havens is straight forward. Tax havens are jurisdictions that are used primarily, but not exclusively, for the purpose of tax evasion and avoidance that might otherwise arise in the home jurisdiction of the person locating transactions in those places. They have served other purposes as well, including money laundering, capital flight and secrecy, but their primary functions is tax evasion and avoidance.

The U.S. Inland Revenue Services offers a perfectly adequate working definition of tax havens. They say these are

‘Foreign jurisdictions that offer financial secrecy laws in an effort to attract investment from outside their borders. These jurisdictions are commonly referred to as "tax havens" because, in addition to the financial secrecy they provide, they impose little or no tax on income from sources outside their jurisdiction.’

(<http://www.irs.gov/businesses/small/article/0,,id=106568,00.html>).

The concept of offshore financial centre is a more recent and became current only around the early 1980s.<sup>1</sup> Offshore financial markets are broadly defined as markets in which financial operators are permitted to raise funds from non-residents and invest or lend the money to non-residents free from most regulations and taxes. Most commonly the designation ‘offshore’ financial market is used interchangeably with the wholesale international financial market, otherwise known as the Eurodollar market, or the Euromarkets in short. Some experts believed in the 1980s that the was only temporarily a wholesale market and may eventually become a retail market as well (Bryant 1983). That, however, has not happened as yet and is unlikely to happen. The Euromarket has spawned a number of markets since the 1950s, including the Euroloan markets, Eurobond market, the Euronote market and so on.

The exact nature of the Euromarket, however, is in dispute and the dispute is certainly responsible for some of the confusion between OFCs and tax havens. Some very distinguished economists believe that the Euromarket is simply a wholesale financial market for U.S. dollar that emerged in Europe in the 1950s. The term ‘offshore’ implies in this case quite simply the location of the market outside the territorial boundaries of the U.S. We will describe this theory as thesis 1 of the Euromarket. As we will see, all international economic organizations subscribe to thesis 1, while some of them, as we will see, adopt in practice a different thesis or thesis 2 to which we turn in a moment.

Thesis 1 maintains that because the Euromarket developed in Europe, or ‘offshore’ as far as the U.S. is concerned, it proved attractive for having the advantage of escaping stringent U.S. financial regulations. But why should a market in non-resident currencies be less regulated than in domestic currencies is not clear. But used

in this way the term Euromarket or the offshore financial market has in time come to denote any market in non-resident ‘hard’ currencies such as the British Sterling, the Yen, the Swiss Frank, the Deutsche Mark and the Euro. Offshore Financial Centers, according to thesis 1, are simply the locations where such financial transactions among non-residents take place. As, however, in this understanding the Euromarket is not distinct from any other market there are no specific characteristics to OFCs that result because most if not all the world’s financial centers tend to handle both resident and non-resident currencies. The term OFC is, therefore, is an arbitrary concept denoting a high proportion of non-resident transactions in proportion to either resident transactions or in terms of assets/per capita ratio. In this theory, which we might call thesis 3, in other words, OFCs are the financial equivalent of an export processing zones. To avoid doubt let us dub those who define an OFC as being synonymous with a tax haven of the sort described by the IRS as being adherents of thesis 4. Both are important: as we will see, international economic organizations tend to oscillate between thesis 3 and 4 of OFCs.

There is, however, a very different theory, which we will dub here thesis 2, which suggests that the Euromarket is a very specific type of market that emerged in late 1957 in London. Faced with mounting speculation against the pound after the Suez Canal crisis, the British government imposed restrictions on the use of pound sterling in trade credits between non-residents. Consequently, British and other international banks sought to use the US dollars in their international dealings. Transaction between non-residents and in a foreign currency (i.e. not the British pound) mediated by banks located in London, British or not, were considered by the Bank of England as if they were taking place abroad or ‘offshore’, i.e. not under the regulatory laws and supervision of the British state (Higonnet, 1985; Burn 2005). According to this theory, it was this decision of the Bank of England to treat certain type of financial transaction between non-resident parties undertaken in foreign currency as if they did not take place in London and hence not under the regulatory and supervisory arm of the Bank of England that created offshore. Economic historians are still unable to trace the precise origin of this decision or a recorded rationale for it. What is clear is that whilst the transactions were physically taking place in London and no other regulatory or supervisory agency could intervene they were as a consequence of this action only deemed ‘offshore’, but the consequence was that they were unregulated and unsupervised by any jurisdiction. We do not know

whether the decision was taken intentionally or not, but we know that the market emerged in September, 1957 (Burn 2005).

Experts who subscribe to Thesis 2 sometimes call the Euromarket a booking devise meaning it exists in the accounting books of banks and financial institutions but is not actually 'offshore'. This 'offshore' space is created when the books for foreign-to-foreign accounts are kept separate from the books for domestic financial and capital transactions. The essential facts of the matter for our case here is that an offshore financial market is according to thesis 2 unique, not because of the place of exchange used for non-resident currencies but because those exchanges escape nearly all forms of supervision and regulation and maybe taxation in that place because they are deemed to take place elsewhere, or 'offshore'. However, as far as we can tell, the original rationale for the development of the market, and indeed, the reason for its use, had little do with taxation. British banks innovated the market simply as way of pursuing international business under new regulation imposed by the British treasury. The Bank of England allows for such provisions because transactions among non-residents in a foreign currencies had no effect on British balance of payments.

The market remained small and practically unknown for a short while. However when U.S. banks literally discovered the market in the early '60s, they developed a branch network in London with the intention of circumventing stringent U.S. banking and financial regulations. These regulations were the product of long standing attitudes, leading back to the late 18<sup>th</sup> century, towards concentration of financial power, combined with the more recent regulation introduced in the 1930s (the New Deal regulations) of the banking system, to produce a highly restrictive financial regulatory environment in the U.S.. A leading examples of this regulation was the prohibitions on inter-state banking (McFadden Act, 1927) which meant that U.S. money-centered banks could not buy another bank, or even open a branch, outside of the confines of their state. Another example was the 1933 Glass-Steagall Act that mandated a separation of commercial and investment banking. U.S. banking regulations also dictated lending no more than about 10% of a bank's capital to one borrower. In addition, Regulation Q, which placed an interest rate ceiling on time deposits in US banks was as remnant from the 1930s New Deal.<sup>ii</sup> Regulation Q kept banks interest rate on time deposits very low, a situation that met with little objection from the banks but which created what were, in effect, anti-usury laws in the U.S.

By late 1950s, some of the US banks were among America's and the world's largest banks, yet 'even the largest of them individually possessed no more than about 3 per cent of US bank assets' (Sylla 2002, 54). As US multinationals began to expand international operations in the 1950s, US banks had difficulties servicing their large corporate clients. U.S. Banks were caught in a funding squeeze. Due to Regulation Q, corporate clients began to bypass them and tap directly into the Euromarket to reap higher interests, while the same clients were also looking to the same Euromarket to fund their operations (Burn 2005; Sylla, 2002). To stem the flow, the Kennedy administration proposed in 1963 an Interest Equalization Tax to ensure that U.S. citizens did not get additional interest in the European markets. The results, predictably, were the opposite of the intended outcome. Instead of stemming the flow of capital out of the U.S., American corporations kept capital abroad to avoid paying the interest equalization tax, fuelling in the process the Euromarkets. U.S. banks learned soon that the unregulated environment in London allowed them (or their London branches) to circumvent all the New Deal regulations such as the McFadden, Glass-Steagal, and Regulation Q. They were able, therefore, to establish large diverse banks in London, that were competing in every aspect of finance. German and Japanese banks followed suit.

According to this theory, London emerged as a spontaneous offshore financial market as a result of what might almost be seen to have been an administrative accident. All other areas under the jurisdiction of the UK at the time including Hong Kong, the Channel Islands, the Cayman Islands and other British Caribbean Islands enjoyed the same legal provisions and developed as spontaneous offshore centers as a result. We also know from various reports that some of the smaller North American banks, U.S. and Canadian, faced with the high infrastructural costs of a London base, 'realized that the Caribbean OFCs offered a cheaper and equally attractive regulatory environment – free of exchange controls, reserve requirements and interest rate ceilings, and in the same time zone as New York' (Hudson 1998, p?). According to various reports (Sylla 2002), the early spillover of OFCs activities into the Bahamas and Cayman was not motivated by tax advantages, but because it was cheaper to set up branches in these locations. They had an additional advantage of sharing New York's time zone. That is why, incidentally smaller U.S. and Canadian banks were at the forefront of establishing Cayman's OFC. Hence, it is sometimes heard that U.S. and Canadian banks 'established' the Caribbean havens.

The original arrangements that created the offshore financial market in London did however, and paradoxically, keep British banks and corporations at a disadvantage vis-à-vis their rival foreign financial institutions located in that same city. The reason was that the freedom from the regulatory and supervisory role of the Bank of England was applied in London only to certain types of transactions, being those between non-residents and conducted in a foreign currency. Banks and other financial institutions maintained, therefore, two sets of books, one for 'on-shore' transactions in which at least one of the parties was British residents and/or where the transaction was denominated in British sterling, and the other for 'off-shore' when both parties were non-residents.<sup>iii</sup> It stands to reason that in order to circumvent this disadvantageous position, British banks and corporations quite quickly established subsidiaries in British crown colonies such as the Channel Islands and Cayman so that they might avoid this anomalous situation. Such subsidiaries allowed them to participate freely in the fledgling offshore market as they could appear now as non-residents. Unfortunately, there has never been any systemic research on the subject and we have to rely on anecdotal sources as evidence of this behaviour.<sup>iv</sup>

Due to the success of London's offshore centre, the U.S. treasury which for years has tried to fight off unsuccessfully the offshore market, reluctantly agreed in 1981 to set up a more restrictive form of offshore markets in the U.S., the International Banking Facilities (IBFs). These type of facilities enabled depository institutions in the United States to offer deposit and loan services to foreign residents and institutions free of Federal Reserve System reserve requirements, as well as some state and local taxes on income.<sup>v</sup> The IBF, according to Moffett and Stonehill 'represents an attempt by U.S. government regulators to 'internalize" the Euromarkets into the U.S. banking system. The purpose of the IBF was to minimize the size and growth of the offshore shell branches of U.S. banks, while providing U.S.-based banks and their offshore customers with a lower cost of funds.' (1989, 89). The Japanese government created a similar structure in 1986 modeled on the U.S IBFs': this was the Japanese Offshore Market (JOM). Both incidentally are modeled on Singapore Asian Currency Market (ACU) which was set up in 1968. Bangkok also followed suit by setting up the Bangkok International Banking Facility (BIBF), Malaysia has somewhat similar arrangement in Labuan, as indeed, does Bahrain. According to some estimates, about one third of international banking in the U.S. is undertaken in IBFs and nearly a half of Japanese are in JOM. While the U.S. and the

Japanese IBFs are exempt from some state and local taxes on income, they are not tax havens, but if anything, ‘regulatory havens’: they are aimed primarily to emulate or internalize, as Moffet and Stohhill put it, the Euromarket, into their respective financial system. They are distinct from their ‘on-shore’ brethren by the relatively loose regulatory environment, not by the lack of taxation.

From inauspicious beginning, the Euromarket is now dominating international financial transactions. Current estimates place offshore or Euromarket at about 80% of all international financial activities. Meanwhile, many countries have removed some important financial regulations such as capital controls and interest ceiling requirements. As a results, organizations such as BIS no longer distinguish in their statistical abstracts between offshore and onshore international financial transactions. The BIS Euro-Currency standing committee was renamed the committee on Global Financial System.

Means of exploiting this new market were quickly appreciated by those participating in it. It did not take long, of course, for banks and other financial institutions to appreciate some useful synergies between tax havens and OFCs, particularly if located in the same place. In dual status tax havens/OFCs banks and financial institutions were able not only to circumvent stringent financial regulations, but also find ‘tax efficient’ ways of conducting their business. This is why some tax havens could appear as OFCs. As Marvin Goodfriend of the Federal Reserve Bank of Richmond notes: ‘Eurodollar deposits and loans negotiated in London or elsewhere often are booked in locations such as Nassau and the Cayman Islands to obtain more favorable tax treatment’ (1998,50).

Tax havens are, therefore, closely linked to, and have benefited enormously from the emergence of the Euromarket, with the result that the terms tax haven and OFC have tended, as we have seen, to merge and are used interchangeably. But that has caused confusion.

First, because of confusion between thesis 1 and thesis 2, the term offshore is used in different ways by different researchers.

Second, every tax havens has aspirations to become an OFCs – the benefits, after all, are enormous; it is far more lucrative to serve as OFC than a mere tax haven. Those tax havens that were successful in setting up an OFC are among the richest countries in the world in GDP per capita term.

Third, an OFC strategy is a logical extension of the strategy of the tax haven strategy, although at the same time some OFCs, such as the UK, Luxembourg and Switzerland strenuously deny that they are tax havens.

Fourth, confusion arose also because the two shares a fundamental characteristic; they are both the product of, and are aimed at, avoidance. Furthermore, the lack of regulation or light supervision that characterizes OFCs can easily be used (or abused) for reasons other than strictly avoidance of financial regulation, i.e. for tax avoidance, money laundering and so on.

Fifth, and perhaps most important, promoters as well as users of tax havens/OFCs are interested in perpetrating the confusion. Many tax havens have simply jumped on the bandwagon and claim for themselves the more respectful appellation, offshore financial centre.

### **Tax Havens and OFCs in Official Discourse**

Since the late 1990s, tax havens and OFCs have attracted the attention of all the world's premier international economic organizations. Unfortunately, instead of resolving the definitional problem, if anything, they have added to the confusion. Due to heightened political sensitivity, most of international organizations eschew the pejorative term, tax haven, in favor of the somewhat more dignified term 'offshore financial centre' which has suffered, as a result a diminution as well.<sup>vi</sup> But the term tax haven creeps in from time to time in official documentations, reminding us that not everyone in these organization buys into the 'offshore centre' terminology.

Broadly speaking, we can divide the area of concern of international economic organizations into three: The first group consists of organizations whose primary concern with regard to tax havens/OFCs is tax issues. Among those the OECD and the EU have been at the forefront, joined by national tax authorities. These organizations are not shy of the term tax havens. On the opposite end of the spectrum there are organizations, led by the IMF, the BIS and the FSF who are concerned primarily with financial stability. These organizations tend to define tax havens as OFCs. There are those in between, such as the Financial Task (FATF) that take an intermediate position.

### **Summary: The different theories of the Euromarket and OFCs**

Thesis 1 maintains that because the Euromarket developed in Europe, or 'offshore' as far as the U.S. is concerned, it proved attractive for having the advantage of escaping stringent U.S. financial regulations.

Thesis 2 says that an OFC is a booking device meaning it exists in the accounting books of banks and financial institutions but is not actually 'offshore'. This 'offshore' space is created when the books for foreign-to-foreign accounts are kept separate from the books for domestic financial and capital transactions. The essential facts of the matter for our case here is that an offshore financial market is according to thesis 11 unique, not because of the place of exchange used for non-resident currencies but because those exchanges take place in a location but escape nearly all forms of supervision and regulation and maybe taxation in that place because they are deemed to take place elsewhere.

In thesis 3 the term OFC is an arbitrary concept denoting a high proportion of non-resident transactions in proportion to either resident transactions or in terms of assets/per capita ratio. In other words, OFCs are the financial equivalent of an export processing zones.

Thesis 4 says that an OFC is a foreign jurisdictions that offer financial secrecy laws in an effort to attract investment from outside their borders. These jurisdictions are also commonly referred to as "tax havens" because, in addition to the financial secrecy they provide, they impose little or no tax on income from sources outside their jurisdiction.

### **The Bank for International Settlements (BIS)**

Among the premier international organizations, the Bank for international settlements (BIS), the so-called central banker's bank, whose customers are central banks and international organizations, has been most assiduous in insisting on the

term “offshore financial centers”.<sup>vii</sup> The Bank used to describe OFCs as territories whose financial activities did not develop ‘organically’. The Bank, however, never defined the meaning of an organic growth of financial centers.<sup>viii</sup> More recently, the BIS has adopted a variant of the IMF definition of offshore centers as ‘an expression used to describe countries with banking sectors dealing primarily with non-residents and/or in foreign currency on a scale out of proportion to the size of the host economy’ (BIS, 2000). The BIS subscribes therefore very clearly to thesis 3 of OFC.

BIS’ definition of OFC is closely linked to its position vis-à-vis the theories of the theory of Euromarket it subscribes to. The BIS attaches significance to the difference between what it calls, traditional foreign banking business and Euro-currency banking:

‘Traditional foreign banking business refers to business carried out with non-residents in the domestic currency of the country in which the bank is located. It is called "traditional" because of the historical role of banks as providers of domestic currency facilities for the financing of trade, which involved keeping corresponding balances with foreign banks’ (BIS, 1995, 4).

‘Euro-currency banking activities cover those assets and liabilities denominated in foreign currencies (again from the point of view of the country in which the bank is located) conducted with both residents and non-residents’ (1995, 4).

In the above (and elsewhere in its documentations) The BIS appears to adopt what we have described as thesis 1 of the Euromarket, namely, offshore denotes banking activities in non-resident currencies. Confusingly, the report continues:

‘It should be stressed, however, that the Euro-currency definition is no longer used by the BIS as an analytical concept. The setting-up of offshore facilities in the United States and Japan [i.e. IBF and JOM], whose exemption from most domestic regulations makes their operations akin to Euro-currency business (sic!), and, more generally, the growing intertwining of domestic and foreign currency business, have considerably reduced the importance of the distinction between these two segments’ (BIS, 1995, p.4).

The problem with this later ‘clarification’, which is repeated from time to time in other BIS documents as well, is that the definition of Euro-currency market favored by the BIS (Thesis 1) has nothing to do with exemptions from domestic regulation. According to the BIS’ own definition, euro-currency simply covers assets and liabilities denominated in foreign currencies. Thesis 2, in contrast, centers on financial regulation and supervision. The BIS clarification on the role of the U.S. IBF and the Japanese JOM describes them as ‘offshore’ (and, indeed, they are treated as offshore in BIS statistics) because they are exempt from the majority of domestic regulation. This implies a thesis 2 type of definition of the Euro-currency market in contrast to their thesis 1 definition noted above. But the BIS quickly adds a caveat, namely, that the growing intertwining, or as some say, blurring, of the distinction between offshore and onshore has persuaded the BIS to forgo the distinction between offshore and traditional international banking. The problem with this is that it is unclear what the blurring of the distinction between domestic and euro-currency transactions actually means in this case.

Does it mean, as it appears above, that due to financial de-regulation the Euro-currency market does not now have any substantial advantages vis-à-vis other markets? Or does it mean that assets and liabilities denominated in foreign currencies can no longer be separated from assets and liabilities denominated in domestic currencies? The more likely answer, implied but not clarified by the BIS, is obviously, the former. This confusion, which as we will see, is repeated in IMF documents as well, generates in turn confusion in the classification of centers as OFCs.

The BIS has also got itself also into a muddle also with regards to those countries and territories it considered as OFCs. In 1995 it maintained two lists of reporting countries, being industrialised reporting countries and what it described as ‘other banking centers’. The industrialised countries include:

- |            |                    |
|------------|--------------------|
| 1. Austria | 10. Japan          |
| 2. Belgium | 11. Luxembourg     |
| 3. Canada  | 12. Netherlands    |
| 4. Denmark | 13. Norway         |
| 5. Finland | 14. Spain          |
| 6. France  | 15. Sweden         |
| 7. Germany | 16. Switzerland    |
| 8. Ireland | 17. United Kingdom |
| 9. Italy   | 18. United States  |

Other banking centers are:

- |                    |                          |
|--------------------|--------------------------|
| 19. Bahamas        | 22. Hong Kong            |
| 20. Bahrain        | 23. Netherlands Antilles |
| 21. Cayman Islands | 24. Singapore            |

(BIS, 1995, p.5)

The principal anomaly with this list has to do with those classified as ‘other’ centers which are clearly tax havens as well as OFCs. However, the report notes that

‘The reporting includes in the case of the United States and Japan separate information on the International Banking Facilities and the Japan Offshore Market respectively. As far as the other reporting centers are concerned, two of these (Bahrain and Singapore) include in their data only those institutions, or departments of institutions, that are exclusively engaged in offshore business. In the case of Bahrain these are the so-called "Offshore Banking Units" (OBUs), while for Singapore they are the "Asian Currency Units" (ACUs) of the commercial banks and merchant banks operating in the country’ (1995, p5).

BIS recognizes, therefore, problems in the distinction it makes between industrialized and ‘other’ or OFC centers as the U.S. IBFs and the Japanese JOM as offering something equivalent to Bahrain and Singapore.

The BIS has consistently sought to widen participation in order to improve the quality of its data. In doing so it achieved considerable success. Among the latest reporting countries providing locational banking data, the BIS lists Guernsey 2001, the Isle of Man 2001, Jersey 2001, Bermuda 2002, Panama 2002 and Macao SAR 2006. As a result, BIS replaced the category of ‘other’ centers with a new category of OFCs listed under the heading of ‘Caribbean and Asian offshore centers’. The list of Caribbean and Asian OFC is changing from time to time and includes, rather conveniently, some European centers as well. Currently the list consists of Aruba, Bahamas, Bahrain, Barbados, Bermuda, Cayman Islands, Gibraltar, Guernsey, Hong Kong SAR, Isle of Man, Jersey, Lebanon, Liberia, Macau SAR, Mauritius, Netherlands Antilles, Panama, Singapore, Vanuatu, West Indies UK.

Notably, the money markets of London are not regarded by the BIS as an offshore financial centre, although London is the epicenter of the offshore financial market. The Financial Stability Forum, to which we will shortly turn, in contrast, recognizes this anomaly. In one of its documents, the FSF notes:

‘For example, the growth of London as the largest offshore banking centre has been linked directly to regulations imposed on the U.S. banking sector:’(FSF, 2000, 11, footnote 1).

This leads to the obvious question of how the largest offshore financial centre in the world cannot be considered an offshore financial centre by the BIS? But just to add to the confusion in the BIS database on the world’s FDI, London is considered an OFC!

The BIS is clearly confused about the definition it should use for the Euro-currency market and OFCs. This is not surprising: as a club of central bankers the BIS is bound to shy away from controversy. In classifying offshore centers as it does, the BIS is undoubtedly catering to its constituencies, such as the American Fed, the Bank of England or the Bank of Japan, who do not wish to be treated as ‘offshore’ centers. Furthermore, the BIS has no particular agenda with regards to tax havens, but seeks to obtain best available information from different corners of the world. It accepts, therefore, the self-denomination of reporting countries as OFCs at face value regardless of the ensuing conceptual and analytical confusion.

### **The Organization for Economic Cooperation and Development (OECD)**

The OECD has positioned itself on the other end of the spectrum among the premier international bodies. Established in 1961, The OECD serves as a ‘think tank’ for the world’s advanced industrialized countries, those countries that are committed, in the OECD’s own words, to democracy and market economy. The OECD is located in Paris and is considered to be particularly sensitive to the interests of the European powers, such as Germany and France, countries that have traditionally been critical of tax havens. Leading a campaign against ‘harmful tax competition’ since 1998, the OECD never shied from describing tax havens by their name. The reason being is, we

suspect, that as the OECD is concerned largely with the question of taxation, and less with the nature of tax havens as offshore financial centers this name suits their purpose. An OECD document, for instance, provides the following definition of a tax haven.

‘Four key factors are used to determine whether a jurisdiction is a tax haven. The first is that the jurisdiction imposes no or only nominal taxes. The no or nominal tax criterion is not sufficient, by itself, to result in characterization as a tax haven. The OECD recognizes that every jurisdiction has a right to determine whether to impose direct taxes and, if so, to determine the appropriate tax rate. An analysis of the other key factors is needed for a jurisdiction to be considered a tax haven. The three other factors to be considered are:

- \* Whether there is a lack of transparency
- \* Whether there are laws or administrative practices that prevent the effective exchange of information for tax purposes with other governments on taxpayers benefiting from the no or nominal taxation.
- \* Whether there is an absence of a requirement that the activity be substantial’

(OECD, No date).

The OECD has recognized the concept of OFC as well. A 1995 OECD report provides the following rather straightforward definition. OFCs are:

‘Financial centers set up to avoid regulations or taxation by operating outside the countries of the main parties to financial transactions’ (Edey and Hviding, 1995).

In contrast to the BIS, which stresses the high ratio of non-resident finance in its definition of OFC, the OECD emphasizes avoidance as the defining characteristic of OFCs, demonstrating a long term concern with tax matters. The OECD leans, therefore, towards what we dubbed thesis 4 of OFCs.

The OECD was forced, however, to shift its position and is increasingly using the more neutral term OFC in the way the BIS does. The OECD's recognition that every jurisdiction has the right to determine its own level of taxation took a while to develop. The original OECD report of 1998 saw no problem in denouncing what it described as harmful tax competition. Many states, led by Switzerland, Luxembourg and the Caribbean havens argued that a tax regime is a sovereign prerogative, and the OECD campaign amounted to a new form of imperialism whereby powerful states dictated terms to weaker states. This argument gained a powerful ally once the first Bush administration came to power in 2001 and broke ranks with the OECD.

The first Bush administration was critical of the harmful tax competition campaign on two grounds (a) agreeing implicitly with the imperialist theory, it came to the defense of the sovereign right of even the smaller states in the world and (b) the Bush administration advanced the theory that just as market competition is good in principle, so tax competition is good as well, because it prevents governments from imposing unnecessarily high and punitive taxation. Hence, the US administration argued the tax haven campaign should not be aimed at competition. In more recent documents the OECD has succumbed to these pressures and as a result has shifted the onus of its definition of tax haven away from the level of taxation as such, to the question of preferential treatment of foreign residences. According to the new definition, countries can impose zero taxation, and not be considered a tax haven provided they impose such taxation uniformly on those resident and non-resident in the territory. Of course, countries who wish to maintain very low level of taxation would have then to find other source of income.

The OECD appears to be more ambiguous also in relationship to Eurocurrency market. In the early 1980s, the OECD has commissioned a number of studies to learn about the fledgling Euromarket. A study from 1983 into the effect of the Eurocurrency on global stability begins by noting the conventional definition of Euromarket as market for non-resident currencies, or what we describe as thesis 1 (Bryant 1983). Bryant, however, raises the puzzle of this thesis which is why so many commentators consider the Euromarket to be 'unregulated' or 'out of control' if there is nothing unique about the Eurocurrency market (1983, 14). Bryant's explanation raises questions about thesis 1. He attributes the rapid rise of the Eurocurrency market

to growing interdependence among nations (interdependence was a popular theory in the 1980s), but, significantly, he adds,

‘A second explanation is also important. Banks have been able to offer somewhat higher deposit rates and extend credits at somewhat lower lending rates in international banking than in traditional domestic banking by exploiting differences in national regulatory and tax environments. Eurocurrency banking in particular has benefited from this phenomenon.’

But why and how exactly does the Euro-currency market exploit differences in national regulatory and tax environments? It is worth quoting Bryant at length:

‘Two broad types of regulatory differences have been important. First, the bank supervisory authorities in virtually all nations have discriminated in favor of foreign-currency banking, especially where the banks’ customers are non-residents. For example, they have imposed lower reserve requirements on deposits and fewer quantitative restrictions on lending activities denominated in foreign currencies than those applicable in domestic-currency banking; in many cases, foreign-currency banking has been altogether free of reserve requirements and quantitative restrictions.

Second, some small nations – the so-called offshore banking centers – have provided regulatory and tax environments that allow bank branches and subsidiaries a greater freedom of action in virtually all respects relative to the environments in the nations where the head offices of the banks are located’ (1983, pp 18-9).

We note that this is one of the earliest documents we have come across to mention the concept of OFCs! Equally important, Bryant ends up conceding that the Euromarket is in fact not simply a market in non-resident currencies, but a market that offers reduction in financial regulation, which is thesis 2. Indeed, he notes the key argument of thesis 2, namely, that

‘Supervisory and regulatory authorities in most nations differentiate between domestic-currency and external-currency assets and liabilities, and between relations vis-à-vis resident customers and non-resident customers’ (1983, p.10).

He credits this without substantiation to the traditional policies of regulatory authorities of ‘virtually all nations’. This is rather strange considering that only two years before publication, the U.S. introduced the principle of the IBFs into its financial laws, and three years after the report Japan followed suit, hardly strong evidence to the claim that these are the traditional policies of virtually all nations.

Edey and Hviding, in a report written twelve years later for the OECD, stress already the lack of regulation and avoidance as the defining characteristic of Euro-currency market. They speak of a shrinkage of the regulatory base which

‘occurred through various types of regulatory avoidance (for example, the development of offshore financial centers and off-balance-sheet methods of financing by banks) as well as through a more general tendency for banks and other regulated institutions to lose business to the less regulated parts of the financial sector’ (Edey and Hviding, 1995, p.2).

Why is there this confusion between thesis 1 and thesis 2 in respect of the Euromarket? Perhaps it is genuine confusion, but it may also be the case that the OECD does not wish to create internal divisions among its members, some of which should be classified as offshore financial centers, and prefers instead to concentrate on taxation where OECD members appear, on the whole, in much better position than non-OECD members – provided, of course, that we exclude the British and Dutch dependencies from the equation.

### **The Financial Stability Forum (FSF)**

The Financial Stability Forum (FSF) and the Financial Task Force for Money Laundering (FATF) do refer to tax havens from time to time, without offering any clear definition of such entities. They prefer, however, the term OFC. The FSF, in particular, has taken a rather positive attitude to OFCs, arguing that under the right set of circumstances – circumstances defined, of course, by the FSF– these centers have a positive contribution to make to the world economy.

The FSF was convened in April 1999 by the G-8 group of nations to promote international financial stability through information exchange and international co-operation in financial supervision and surveillance. The FSF works closely with the IMF and the OECD. Still its definition of OFCs differs from both. The FSF agrees that ‘‘OFCs are not easily defined’’, but continues, ‘they can be characterized as jurisdictions that attract a high level of non-resident activity’ – which is the IMF/BIS position - but adds:

‘Traditionally, the term has implied some or all of the following (but not all OFCs operate this way):

- \*Low or no taxes on business or investment income;
- \*No withholding taxes;
- \*Light and flexible incorporation and licensing regimes;
- \*Light and flexible supervisory regimes;
- \*Flexible use of trusts and other special corporate vehicles;
- \*No need for financial institutions and/or corporate structures to have a physical presence;
- \*An inappropriately high level of client confidentiality based on impenetrable secrecy laws; and
- \*Unavailability of similar incentives to residents.’ (FSF, 2000, 12)

The list of attributes that ‘traditionally’ were attached to the OFC is almost identical to the one that the OECD used to characterize tax havens. The FSF, therefore, simply added together thesis 4 upon thesis 3 in its definition of OFCs.

Despite the above list, the FSF claims that it does not object to OFCs in principle. Indeed, it declares, ‘there are, however, highly reputable OFCs that actively aspire to and apply internationally accepted practices, and there are some legitimate uses of OFCs’ (FSF 2000). But what precisely the legitimate uses of (for example) ‘light and flexible supervisory regimes and/or flexible uses of trusts and other special corporate structures’ are is not made clear.

Reading between the lines, it appears that OFCs can play a positive role in world finance, (according to the FSF) because all the major financial centers are OFCs and hence they must, by default, play a positive role. The FSF recognizes the problem this poses by implication:

‘While OFCs are commonly perceived to be small island states, a number of advanced countries have succeeded in attracting very large concentrations of non-resident business by offering economic incentives either throughout their jurisdiction or in special economic zones’ (FSF 2000).

In other words, ‘incentives’ to non-residents are common practice.

The notion of incentives appears to be the FSF resolution of thesis 1 and thesis 2 of the Euromarket. It is reminiscent of OECD’s Bryant (1983) who believes that virtually all countries offer some special incentives to non-residents. But like every other international economic organization, the FSF is equally confused about the nature of the Euromarket and the offshore financial market, and hence cannot avoid and recognizing implicitly that some advanced countries may be considered as OFCs as well.

True to its task of international financial stability, the FSF is interested in large scale financial flows and the potential difficulties lack of regulation and transparency may lead to. As a result and not surprisingly the FSF plays down the tax issues, despite its list of characteristics of OFC which centers on tax, because it does not help its main purpose to strengthen the ‘regulatory, supervisory, cooperation and information exchange arrangements’ between OFCs and advanced industrialized countries. These definitions represent then the FSF tactics of co-opting tax havens into its regime by recognizing their value by noting ‘some legitimate uses of OFCs’.

## **The International Monetary Fund (IMF)**

The IMF has gone through an interesting transformation. The IMF was among the first international economic organizations to raise the alarm about tax havens (Cassard 1994). In the early years of the new century (and facing its own crisis of identity), the IMF is attempting to wrest the lead in analytical and research work on tax havens from other organizations (helped in this by the FSF). It is conducting some of the more innovative analytical work on tax havens. Like other organizations, the IMF notes the objective difficulties in identifying a tax haven/OFCs. The term tax havens creeps up in IMF documents without attendant definition. The IMF recognizes officially only the term OFC. In a widely cited ‘background paper’ it sought to define OFCs as follows:

‘perhaps the most practical characterizes OFCs as centers where the bulk of financial sector transactions on both sides of the balance sheet are with individuals or companies that are not residents of OFCs, where the transactions are initiated elsewhere, and where the majority of the institutions involved are controlled by non-residents. Thus many OFCs have the following characteristics:

1. Jurisdictions that have financial institutions engaged primarily in business with non-residents;
2. Financial systems with external assets and liabilities out of proportion to domestic financial intermediation designed to finance domestic economies; and
3. More popularly, centers which provide some or all of the following opportunities: low or zero taxation; moderate or light financial regulation; banking secrecy and anonymity’ (IMF 2000).

. This is the by now familiar definition which combines Thesis 3 and 4 of OFCs. It is this combination of definitions that creates great confusion because it lumps tax havens together with centers such as London and the U.S. IBFs and Japanese JOM. That is because this IMF background paper of 2000 is atypically (for the IMF), rather muddled and confusing. The document begins, in fact, with an entirely different definition of OFCs. In this section the IMF subscribes to thesis 1 of the Euromarket when it says:

Offshore finance is, at its simplest, the provision of financial services by banks and other agents to non-residents' (IMF, 2000).

It follows, the document logically concludes, that 'any financial center where offshore activity takes place' is an OFC – which is thesis 3 of OFCs, although such definition, the briefing paper admits, 'would include all the major financial centers in the world.'

If all the major financial centers in the world are OFCs (thesis 3)– which is the logical conclusion of a thesis 1 of the Euromarket, then the IMF may either take the position that OFCs are fine, or that global finance must undergo fundamental change. The IMF seeks, however, a third position, that global finance is fine but that some OFCs must amend their ways. In order to achieve that, the briefing paper contradicts itself and goes on to say:

'A more practical definition of an OFC is a center where the bulk of financial sector activity is offshore on both sides of the balance sheet'

and identifies specifically:

'Centers which provide some or all of the following services:

- low or zero taxation;
- moderate or light financial regulation;
- banking secrecy and anonymity.'

This clarification, in the name of ‘practicality’, pulls the IMF in the direction of thesis 2 of the Euromarket, stressing lack of regulation as defining characteristics of the Euromarket. It also pulls the IMF towards thesis 4 suggesting that OFC are really, for all intent and purpose, tax havens. The IMF briefing papers subscribes therefore to the two positions, thesis 3 and thesis 4 of OFCs.

There is little doubt as a result that the briefing paper of 2000 is conceptually problematic. The IMF never conceded its contradictory position, but obviously felt that something was not right about its 2000 briefing paper. In a recently published IMF working paper (Zoromé 2007), the IMF appears to have shifted its position – although the working paper specifies very clearly that it does not represent the views of the IMF as a whole. In this paper, which is devoted entirely to the definitional problem, Ahmed Zoromé (2007) argues that all existing definition fail to capture the essence of the OFC phenomenon. According to him, the essence of OFC is ‘the provision of **financial services** to nonresidents, namely, exports of financial services’ (Zoromé 2007, p.8). This suggests a clear shift towards thesis 3, which, as we saw, is problematic as well because all financial centers service non-resident as well. Zoromé says, therefore, ‘Although one could argue that any given economy, to some extent, provides financial services, the peculiarity of OFCs is that they have specialized in the supply of financial services on a scale far exceeding the needs and the size of their economies’. Zoromé suggests therefore the following definition of OFCs.

*An OFC is a country or jurisdiction that provides **financial services** to nonresidents on a scale that is incommensurate with the size and the financing of its domestic economy’ (2007, pp.12-3)*

Zoromé offers an objective definition of offshore centers which does not rely on biases or prejudices, but is instead a rigorous rendering of thesis 3 of the OFCs. He proposes techniques for measuring and defining the size of the financial service sectors vis-à-vis domestic needs. His methodology shows very clearly that countries such as Luxembourg, Switzerland as well as the City of London are, indeed, offshore financial centers – which they certainly are. His methodology also reveals Latvia as a

new and surprising addition to the list of OFCs (which is not a great surprise, though, to residents of the former Soviet Union).

There are of course problems with such methodology. First, a statistical methodology shows only the relatively successful tax havens/OFCs. There are a good number of ‘failed’ OFCs among the small Pacific Islands and some Caribbean islands which tried but failed to develop from tax haven to OFC, and hence do not show up in his methodology. Second, statistical data is not available for many of the territories identified by other agencies as both tax havens of OFCs and as such this approach is limited in application and might result in incomplete outputs as a result of incomplete inputs. Third, his methodology fails to acknowledge what may be described as ‘inner’ tax havens; states or regions within federal states such as the U.S. (Nevada, Delaware) or Russia (Ingushetia) or Malaysia (Labuan) which used domestic relative autonomy to enact similar type of laws that we associate with tax havens. Fourth, we would question the wisdom of thinking of offshore financial centers as a ‘service’ economy in the traditional sense of the word, or of ignoring completely the issue of taxation.

### **The Financial Task Force on Money Laundering (FATF)**

The Financial Task Force on Money Laundering (FATF) was established by the G-7 summit held in Paris in 1989, in response to mounting concern over money laundering. FATF secretariat sits at the OECD building in Paris, a fact of some significance when it comes to the definitional problem. Early on FATF has decided to stay away from the definitional debate on the nature of tax havens and OFCs. Instead, the FATF concentrated on the task at hand of money laundering, and since 2001, terrorist financing. FATF has identified certain practices as such as lack of regulation and obstacles on customer identification as potentially facilitating the flow of money laundering and created a list of ‘non-cooperative countries and territories’ (NCCTs), or countries that still adopts detrimental rules that facilitate laundering. Their list of required actions to address money laundering contains forty recommendations. Another nine were added after 9/11 to address terrorist financing issues. In practice these describe tax havens and in that sense we would argue that FATF subscribes entirely to thesis 4.

## **Lists and Politics**

As we have seen, international economic organizations appear to be confused somewhat about the nature of the Euromarket, oscillating between thesis 1 and 2. They are equally confused about the nature of tax havens/OFCs, oscillating, between thesis 3 and 4. A rigorous application of any one of these theses to the exclusion of all others yields different list of nations, while a combination of lists, which has been the case in practice, yields quite different lists of nations. As a result, each organization has a different list of nations that it considers to be tax haven or OFCs.

The tacit debate between the different organizations would have remained academic if it was not for the fact that the different lists maintained by different organization are of great significance. We have observed in the past few years an interesting development whereby tax havens/OFCs are modifying their laws in order to avoid being classified as a tax haven/OFC according to this or that organization. Interestingly, the FATF' decision to avoid the definitional debate altogether proved a shrewd move. The least popular list to be on has proved to be the list of non-cooperative nations and territories (NCCT) maintained by the FATF. By the FATF's own account, most countries it has identified as NCCTs have responded by changing their legislative and regulatory laws. The last to remain on FATF list was Myanmar, but since October 16 (YEAR) Myanmar has been taken off that list as well. The FATF list is, therefore, empty. The FATF has the advantage, of course, that no one argues in favor of money laundering and that the U.S. is leading the campaign against terrorist financing.

Second among the unpopular lists is the one maintained by the FSF, followed by the one maintained by the OECD. (See Table 1)

But is the process of de-listing genuine? The problem is that countries make effort to de-list themselves, without changing the principle of tax havens/OFCs that has served them so well. This is particularly evident in the case of the OECD list

where agreement to comply has been conditional in most cases on what is called the 'Isle of Man clause'. Following the Isle of Man's lead, most jurisdictions have complied on condition that a "level playing field" be created between them and OECD member states. The Bahamas, for example stated that it would comply with OECD demands only if

"...those jurisdictions, including OECD member countries and other countries and jurisdictions yet to be identified, that fail either to make equivalent commitments or to satisfy the standards of the 1998 Tax Competition Report, will be the subject of a common framework of defensive countermeasures". (<http://www.oecd.org/dataoecd/44/59/2075870.pdf> accessed 4-9-07).

The result is that the undertakings given are virtually meaningless since it is almost certain that Singapore and Switzerland will not agree to the terms of creation of the 'level playing field' in question (Sharman 2006 ).

In contrast the FATF claims to have been a great success. Independent observers are far more skeptical. Compliance processes with the different organizations and different campaigns is a complicated matter, which deserve an independent set of assessment.

The list of tax havens/OFCs maintained by different organization (see above) is incredibly diverse. And yet, we have been unable to find any briefing paper, report that begins to acknowledge the differences. Only Zoromé's working paper for the IMF (2007), acknowledges indirectly the diversity of opinions and the different listing of tax havens.

This paper shows that:

- (a) there is an unacknowledged debate among the different organizations as to the nature of tax havens and OFCs;
- (b) International organizations tend to define tax havens/OFCs largely in terms that they believe advance their interests, rather than on the basis of a genuine research of the subject-matter;

- (c) Naturally, these organizations cannot simply invent a category of tax haven or OFC out of thin air, their definitions and research must correspond to the facts on the ground but there is also ongoing genuine intellectual debate as to the nature of tax havens and OFCs and the differences between them;
- (d) Nonetheless, the overwhelming impression is that international organizations tend to tailor their definitions to their own political agendas and are prepared to make certain compromises with regards to the facts on the ground.

We question the validity of this approach. If practical policy implications are to follow from the work of these organizations two conditions exist. The first is that a working language involving the creation of common ground be agreed upon. The second is that the resulting definition be objectively applied. Zoromé has tried the latter, but for the reasons noted above has failed in this objective.

We suggest that to resolve the dilemma of definition the circumstances that gave rise to the creation of the Euromarket have to be considered the precedent from which much else has followed. Two actions occurred. The first was the creation of a space in which regulation was relaxed with the intent of attracting transactions to be located in that space without the full weight of local legislation and supervision being applied. Initially this related to financial regulation; it rapidly developed to include taxation.

The second, and consequent action was the commercial exploitation of that resulting regulatory space by banks and other entities. These are, of course, related but none the less separate events and the actors in each can be distinguished.

The creation of the regulatory space was the action of a government: in 1957 it was the action of the UK government. Since then the action has been copied many times over. This action results in the creation of a tax haven. Whatever the motive for the UK's action in 1957 those who have followed in its path have done so deliberately. The continuing development of tax haven law, including in recent years protected cell companies and redomiciliation are indication that this is a dynamic process of choice and we would suggest that it is this choice that is indication of the existence of a tax haven. The decision to perpetuate the temporary advantage that the

initial act of creating a haven, whether by accident or on purpose provides in inducing the relocation of recording of economic transactions is, we suggest the characteristic that determines the placement of a place on a list of tax havens.

Whether or not such regulatory advantage is something that gives rise to the creation of an OFC within the de-regulated space that the government has chosen to provide is something that cannot be guaranteed, a conclusion supported by Dharmapala and Hines (2006). A significant number of tax havens listed above are little more than 'registration spaces' where, for example, an offshore company can be purchased and locate its necessary (and probably metaphorical) brass plaque. Examples might be Liberia (where the registry is actually maintained in the USA) and St Kitts & Nevis. These places do not host OFCs.

The presence of an OFC is characterized by the presence of those required to book the transactions associated with that activity. This requires the presence of banks, lawyers and accountants above all else. As Murphy et al (2007, 128) showed, the Big 4 firms of accountants are most notable by their absence in 31 of the tax havens listed by that organization, noted above (See table 2) This suggests that there is a clear operational difference between being a tax haven and an OFC. The conclusion is obvious: tax haven spaces are real and conform to thesis 4. OFCs are also real since their existence can be observed, but their behavior conforms to thesis 2. There is no logical support for theses 1 and 3.

The consequences are significant. Governments create tax havens if this proposition is correct. As such they have a direct responsibility for eradicating the problems they cause. OFCs are, however, commercial phenomena. The regulation of commercial entities to prevent money laundering is now accepted. If OFCs do promote acceptable practices then these have to be defined and ring-fenced from those which are otherwise. And the remaining activities have to be proscribed and a regulatory environment working with and within the commercial sector has to be created to deal with the resulting issues.

This suggests a two pronged management approach to this issue. This mirrors the solution we suggest to the definitional confusion that is apparent in the world's

IFOs. That resolution is to accept that tax havens and OFCs are two distinct, separate and practically identifiable phenomena that need separate definition.

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**Table 1; Lists of tax havens/OFCs maintained by different organizations**

Jurisdiction	OECD	FSF-IMF 2000	BIS	IMF 2007	TJN 2005	FATF (NCCT 2000-1)
1. Andorra	■	■				■
2. Anguilla	■	■	■			■
3. Antigua & Barbuda	■	■				■
4. Aruba	■	■	■			■
5. Australia	□					
6. Austria	□					
7. Bahamas	■	■	■	■		■
8. Bahrain	■	■	■	■		■
9. Barbados	■	■	■	■		■
10. Belgium	□					■
11. Belize	■	■				■
12. Bermuda	■	■	■	■		■
13. British Virgin Islands	■	■	■			■
14. Canada	□					
15. Cayman	■	■	■	■		■
16. Cook Is	■	■				■
17. Costa Rica			■			■
18. Cyprus	■	■		■		■
19. Dominica	■	■				■
20. Dubai						■
21. Egypt						■
22. Finland	□					
23. France	□					
24. Germany	□					■
25. Gibraltar	■	■	■			■
26. Greece	□					
27. Grenada	■	■				■
28. Guatemala						■
29. Guernsey	■	■	■	■		■
30. Hong Kong		■	■	■		■
31. Hungary	□					■
32. Iceland	□					■
33.Indonesia						■
34. Ireland	□	■			■	■
35. Isle of Man	■	■	■	■		■

36. Israel					■	■
37. Italy	□				■	
(Campione d'Italia & Trieste)						
38. Jersey	■	■	■	■	■	
39. Korea	□					
40. Latvia				■		
41. Lebanon		■	■		■	■
42. Liberia	■				■	
43. Liechtenstein	■	■			■	■
44. Luxembourg	□	■		■	■	
45. Macao		■	■		■	
46. Malaysia (Labuan)		■			■	
47. Maldives	■				■	
48. Malta	■	■		■	■	
49. Marshall Is	■	■			■	■
50. Mauritius	■	■		■	■	■
51. Monaco	■	■			■	
52. Montserrat	■	■	■		■	
53. Myanmar						■
54. Nauru	■	■			■	■
55. Netherlands	□				■	
56. Netherlands Antilles	■	■	■	■	■	
57. Nigeria						■
58. Niue	■	■			■	■
59. Northern Mariana Islands						■
60. Palau		■				
61. Panama	■	■	■	■	■	■
62. Philippines						■
63. Portugal (Madeira)	□				■	
64. Russia (Ingushetia)					■	■
65. Saint Kitts & Nevis	■	■			■	■
66. Saint Lucia	■	■			■	

67. Saint Vincent & the Grenadines	■	■			■	■
68. Samoa	■	■			■	
69. San Marino	■					
70. São Tomé e Príncipe					■	
71. Seychelles	■	■			■	
72. Singapore		■	■	■	■	
73. Somalia					■	
74. South Africa					■	
75. Spain (Melilla)	□				■	
76. Sweden	□					
77. Switzerland	□	■		■	■	
78. Taiwan (Taipei)					■	
79. Tonga	■				■	
80. Turkey (Istanbul)	□					
81. Turkish Rep. of Northern Cyprus					■	
82. Turks & Caicos Islands	■	■	■		■	
83. Ukraine						■
84. United Kingdom (City of London)				■	■	
85. Uruguay				■	■	
86. US Virgin Islands	■				■	
87. USA (New York)	□				■	
88. Vanuatu	■	■	■	■	■	

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- Tax Haven OECD, TJN 2007 /Offshore Financial Centre FSF/IMF 2000
  - OECD member country with potentially harmful preferential tax regime as distinguished by OECD 2000
  - No longer regarded a tax haven according to the OECD 2006

**Table 2: The world's tax havens and the firms that operate in them**

Tax Havens	Total Havens	KPM G 1	KPM G 2	E&Y 1	E&Y 2	PW C 1	PW C 2	Deloitte 1	Deloitte 2
<b>Major Financial Centers</b>									
Belgium		1	1	1	1	1	1	1	1
City of London		1	1	1	1	1	1	1	1
Frankfurt		1	1		1	1	1	1	1
Hong Kong		1	1	1	1	1	1	1	1
Netherlands		1	1	1	1	1	1	1	1
New York		1	1	1	1	1	1	1	1
South Africa		1	1	1	1	1	1	1	1
Switzerland		1	1	1	1	1	1	1	1
Tel Aviv		1	1	1	1	1	1	1	1
<b>Sub Total: Major Financial Centers</b>	<b>9</b>	<b>9</b>	<b>9</b>	<b>8</b>	<b>9</b>	<b>9</b>	<b>9</b>	<b>9</b>	<b>9</b>
<b>Premier Havens</b>									
British Virgin Islands		1	1	1	1	1	1	1	1
Cayman Islands		1	1	1	1	1	1	1	1
Cyprus		1	1	1	1	1	1	1	1
Dubai		1	1	1	1	1	1	1	1
Guernsey		1	1	1	1	1	1	1	1
Ireland		1	1	1	1	1	1	1	1
Isle of Man		1	1	1	1	1	1	1	1
Jersey		1	1	1	1	1	1	1	1
Liechtenstein		1	1		1	1	1	1	1
Luxembourg		1	1	1	1	1	1	1	1
Singapore		1	1	1	1	1	1	1	1
The Bahamas		1	1	1	1	1	1		1
<b>Sub Total: Premier Havens</b>	<b>12</b>	<b>12</b>	<b>12</b>	<b>11</b>	<b>12</b>	<b>12</b>	<b>12</b>	<b>11</b>	<b>12</b>
<b>Mid-range Havens</b>									
Aruba		1	1	1	1	1	1	1	1
Bahrain		1	1	1	1	1	1	1	1
Barbados		1	1	1	1	1	1	1	1
Bermuda		1	1	1	1	1	1	1	1
Costa Rica		1	1	1	1	1	1	1	1
Dominica		1	1		1	1	1		
Gibraltar			1			1	1	1	1
Hungary		1	1	1	1	1	1	1	1
Iceland		1	1	1	1	1	1	1	1
Labuan		1	1	1	1	1	1	1	1
Lebanon		1	1	1	1	1	1	1	1
Macau		1	1		1	1	1	1	1
Malta		1	1	1	1	1	1	1	1
Mauritius		1	1	1	1	1	1	1	1
Netherlands Antilles			1		1	1	1	1	1

Panama		1	1	1	1	1	1	1	1
Taipei		1	1	1	1	1	1	1	1
Turks & Caicos Islands		1	1			1	1		
Uruguay		1	1	1	1	1	1	1	1
US Virgin Islands			1			1			
<b>Sub Total: Mid-range Havens</b>	<b>20</b>	<b>17</b>	<b>20</b>	<b>14</b>	<b>17</b>	<b>20</b>	<b>19</b>	<b>17</b>	<b>17</b>
<b>Minor Havens</b>									
Andorra		1							
Anguilla		1	1						
Antigua & Barbuda		1	1			1	1		
Belize			1		1				1
Grenada					1	1	1		1
Madeira		1	1		1				1
Monaco					1			1	
Saint Lucia		1	1		1	1	1		
Saint Vincent & the Grenadines		1	1		1				
St Kitts & Nevis					1	1	1		
The Cook Islands		1	1						1
The Maldives		1	1		1	1	1		
Trieste		1	1		1	1	1		
<b>Sub Total: Minor Havens</b>	<b>13</b>	<b>9</b>	<b>9</b>	<b>0</b>	<b>9</b>	<b>6</b>	<b>6</b>	<b>1</b>	<b>4</b>
<b>Notional Havens</b>									
Alderney									
Campione d'Italia									
Ingushetia									
Liberia									
Marshall Islands								1	1
Melilla									
Montserrat									
Nauru									
Niue									
Samoa									
Sao Tome e Principe									
Sark									
Somalia									
The Marianas					1			1	1
The Seychelles			1						
Tonga									
Turkish Republic of Northern Cyprus									
Vanuatu									
<b>Sub Total: Notional Havens</b>	<b>18</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>2</b>
<b>Total</b>	<b>72</b>	<b>47</b>	<b>51</b>	<b>33</b>	<b>48</b>	<b>47</b>	<b>46</b>	<b>40</b>	<b>44</b>

Source: Tax Havens from Tax Us if You Can, a TJN publication.

Source: Accountancy and Audit firms column "1" from firm's own websites.

Source: Accountancy and Audit firms column "2" from Google search engine.

Research undertaken by Chris Steel BSc, ATTAC and TJN Jersey <http://www.jersey.attac.org/>

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<sup>i</sup> The earliest document we have come across the term was written by Bryant of the Brookings Institutions. The document refers to the ‘so-called offshore financial centres’ (Bryant, 1983, 19).

<sup>ii</sup> Regulation Q Prohibits member banks from paying interest on demand deposits. See: Electronic Code of Federal Regulations (e-CFR), <http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=34e77e83022a57f1be2cdd2beeaf50e2&rgn=div5&view=text&node=12:2.0.1.1.17&idno=12>. The National Recovery Administration, which was set up under the New Deal, sought to fix prices in industry in order to eliminate “ruinous” competition, while Regulation Q attempted to do the same thing in the banking sector.

<sup>iii</sup> The same applies to the IBFs. A report by the Federal Reserve Bank of New York explains: Despite the use of terms such as "international banking facilities," "international banking zones," "international banking branches," and the "Yankee dollar market," which convey a meaning of special offices in separate locations, activities of IBFs can be conducted by institutions from existing quarters. However, IBFs' transactions must be maintained on separate books or ledgers of the institution. (<http://www.newyorkfed.org/aboutthefed/fedpoint/fed34.html>).

<sup>iv</sup> For the very same reason, the U.S. IBFs failed to stop the use of offshore shell companies by U.S. banks and corporations (Moffett and Stonehill).

<sup>v</sup> BIS defines **IBFs** as ‘A banking unit in the United States conducting cross-border business unrestricted by many of the rules and regulations applied in ordinary banking with residents. Similar institutions exist in Japan. IBFs and similar institutions are considered residents of the country in which they are located.’ (BIS 2000, p.67).

<sup>vi</sup> A FSF document notes:states “The term “offshore” carries with it in some quarters a perception of dubious or nefarious activities. There are, however, highly reputable OFCs that actively aspire to and apply internationally accepted practices, and there are some legitimate uses of OFCs. OFCs are not homogeneous and there is a wide variety of practices found in them. Hence, there is a strong aversion by some jurisdictions to being listed as an offshore centre given the risk of “guilt by association”. The document also recognises that there Also, it is recognised that there may be jurisdictions not formally thought of as OFCs that are more problematic in terms of global financial stability than some OFCs. In this light, coming up with a precise definition and listing of offshore centres was not considered the most fruitful use of the Group’s efforts. Instead the Group focused on the characteristics of OFCs (FSF, 2000, p.9).

<sup>vii</sup> But even the BIS gets it wrong sometimes. A study on bond holdings by foreign residents identify the category of tax havens drawing on a list found at [escapeartist.com](http://escapeartist.com) See Bae et. al. 2006, p.105.

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<sup>viii</sup> A researcher at the Bank of England comes up with somewhat different interpretation of the term, offshore, to describe 'jurisdictions in which transactions with non-residents far outweigh transactions related to the domestic economy.' (Dixon 2001).