



**OPENING
THE VAULTS:
THE USE
OF TAX HAVENS
BY EUROPE'S
BIGGEST BANKS**

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OXFAM

OPENING THE VAULTS: THE USE OF TAX HAVENS BY EUROPE'S BIGGEST BANKS



Editor: Oxfam International

Authors: Manon Aubry, Thomas Dauphin

With contributions from: Aurore Chardonnet, Max Lawson, Michael McCarthy Flynn, Robert Silverman, Francis Weyzig.

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EXECUTIVE SUMMARY

The world of tax havens is a murky place. In Europe, only one sector is required to publicly report its profits and tax on a country-by-country basis – the banking sector, as a result of regulation following the financial crisis. Since 2015 all banks based in the European Union have been obliged to report on their operations in this way. This report showcases research by Oxfam that uses this new transparency data in depth for the first time to illustrate the extent to which the top 20 EU banks are using tax havens, and in which ways.

Corporations, including banks, have for a long time been artificially shifting their profits to countries with very low, or zero, corporate tax rates. This accounting trick, used to avoid paying tax, is widespread and is evidenced by corporations registering very low profits or even losses in countries that have fairer corporate tax rates.

These tricks deny countries large amounts of potential tax revenue. This in turn increases inequality and poverty, as governments are forced to decide between increasing indirect taxes such as value-added tax, which are paid disproportionately by ordinary people, or cutting public services, which again hits the poorest people hardest, particularly women.

Over the past few decades, the tax contributions of large corporations have been diminishing as governments compete in a ‘race to the bottom’ on corporate taxation¹. Corporate tax havens are causing the loss of huge amounts of valuable tax revenue, and their

use is becoming standard business practice for many companies, including EU banks.

This report showcases research by Oxfam that uses this new transparency data in depth for the first time to illustrate the extent to which the top 20 EU banks are using tax havens, and in which ways.

Despite widespread agreement that this behaviour by corporations is destructive, accurate data on the extent to which this is happening has been elusive. This is because corporations have not been required to publish their profits or the tax they pay on a country-by-country basis. Instead they produce aggregate accounts that obscure their use of tax havens.

Oxfam's research on the EU banking sector provides just a glimpse into the harm that tax abuse is causing across the world. The findings are stark:

- ➔ The 20 biggest European banks register around one in every four euros of their profits in tax havens, an estimated total of €25bn in 2015. The business conducted by banks in low-tax jurisdictions is clearly disproportionate to the 1 percent of the world population and the 5 percent of the world's GDP that these tax haven countries account for².
- ➔ While tax havens account for 26 percent of the total profits made by the top 20 EU banks, these countries account for only 12 percent of the banks' total turnover and 7 percent of their employees, signalling a clear discrepancy between the profits made by banks in tax havens and the level of real economic activity that they undertake in those countries.
- ➔ In 2015 the 20 biggest European banks made profits of €4.9bn in Luxembourg – more than they did in the UK, Sweden and Germany combined³.
- ➔ Barclays, the fifth biggest European bank, registered €557m of its profits in Luxembourg and paid €1m in taxes in 2015 – an effective tax rate of 0.2 percent⁴.
- ➔ Often banks do not pay any tax at all on profits booked in tax havens. European banks did not pay a single euro of tax on €383m of profit made in tax havens in 2015⁵.
- ➔ At the same time, a number of these banks are registering losses in countries where they operate. Deutsche Bank, for example, registered a loss in Germany while booking profits of €1,897m in tax havens.
- ➔ A large proportion of these profits is made despite the banks not employing a single person in the countries concerned. Overall, at least €628m of the European banks' profits were made in countries where they employ nobody⁶.
- ➔ Fifty-nine percent of the EU banks' US subsidiaries were domiciled in Delaware and 42 per cent of those subsidiaries for which an address could be found were located at the exact same address⁷, a building famous for being the legal address of more than 285,000 companies.
- ➔ Low levels of profit in countries that are not tax havens translate into low tax revenues for those countries' governments. For instance, Indonesia and Monaco have a similar level of economic activity by European banks, but the banks make 10 times more profit in Monaco than they do in Indonesia⁸. Such gaps, which can hardly be explained on the basis of 'real' economic activity, lead to the loss of vital tax revenues to fight inequality and poverty to countries like Indonesia, where 28 million people live in extreme poverty.

The 20 biggest European banks register around one in every four euros of their profits in tax havens, an estimated total of €25bn in 2015

European banks did not pay a single euro of tax on €383m of profit made in tax havens in 2015

BANKS TOP TAX HAVENS FOR TAX DODGING – LUXEMBOURG AND IRELAND

A handful of tax havens play a leading role in incentivizing banks to artificially route their profits through them. In 2015 the top 20 EU banks made 8.4 percent of their collective total profits from just two tax haven countries – Luxembourg and Ireland.

- **Luxembourg:** The banks made €4.9bn in profits in the Grand Duchy in 2015. This was 5.2 percent of their collective total profits and was made with only 0.5 percent of their overall employee headcount – an exceptional level of profits for a country that accounts for only 0,008 percent of the world population. This was more profit than the banks made in the UK, Sweden and Germany combined⁹. Barclays' 42 employees in Luxembourg generated €557m of profits, putting the average productivity per employee at €13.255m, 348 times higher than the bank's average of €38,000. On these huge profits, Barclays paid almost no tax (just €1m)¹⁰.
- **Ireland:** In Ireland, the banks made profits close to or even exceeding their turnovers in 2015, with over €2.3bn in profits on a combined turnover of €3bn. In Sweden, where the banks had a similar turnover of around €3bn, they made only €0.9bn in profits. Five banks (RBS¹¹, Société Générale, UniCredit, Santander and BBVA) recorded profit margins of over 100 percent, meaning that their profits were bigger than their turnovers – which raises strong suspicions of potential profit shifting to Ireland. Furthermore, the tax rates paid on these large profits were often much lower than Ireland's already low statutory corporate income tax rate of 12.5 percent. The average effective rate paid by the 16 of the top 20 European banks that have operations in Ireland was just half the statutory rate at 6 percent, with three banks – Barclays, RBS and Crédit Agricole – paying an effective rate of just 2 percent on their profits.

The most productive workers in the world?

According to Oxfam's analysis of the data, bank employees working in tax havens appear to be four times more 'productive' than the average employee. An average full-time bank employee generates a profit for their company of €45,000 per year; for employees in tax havens the average profit is €171,000 per year. An employee of Italian bank Intesa Sanpaolo based in a tax haven appears to be 20 times more 'productive' than an average worker at the bank. These very high profits per employee in tax havens cannot reasonably be a reflection of the skills and efficiency of employees based in tax havens, but rather indicate that reported profits are unusually high there.

Similarly, the data also shows that the overall profitability of the 20 top European banks in 2015 was 19 percent: i.e. each €100 of turnover generated €19 of profit. In tax havens, however, their activities were on average more than twice as lucrative, with every €100 of turnover generating €42 of profit. The activities of British bank Lloyds were over six times more profitable in tax havens than its average performance^{11,2}. This exceptionally high "profitability" in tax havens clearly indicates how much money is channelled through tax havens.

Not all as bad as each other

Interestingly, Oxfam's research finds that not all banks are as bad as each other. While all 20 banks have operations in tax havens, some are much more active in using them to avoid paying tax than others. This shows that it is quite feasible for a bank to act more ethically, despite market pressures.

Banks are also among the biggest facilitators of tax dodging by other corporations. For example, five of the top 10 banks most heavily implicated in the Panama papers leak scandal have set up nearly 7,000 offshore companies between them¹². So it is little wonder that they have blazed a trail in using tax havens themselves.

Sunlight is the best disinfectant

This analysis shows the power of the new transparency data in revealing the scale of this problem. The data disclosed by the banks is far from perfect and further improvements need to be made, but this level of data availability is already a game-changer demonstrating in concrete terms just how widespread tax abuse is.

The urgent need now is to extend public country-by-country reporting (CBCR) to all sectors of the economy. If tax transparency is extended to all sectors, it will be easier for governments to clamp down on tax dodging and to repatriate lost tax revenues that could be used to fight inequality through investment in healthcare, education, social protection and job creation. With this information, governments can put in place effective policies and standards more easily, and commit to incentives and sanctions in order to stop tax dodging happening for the benefit of society. Corporations would also be compelled to demonstrate higher standards in tax responsibility if their activities were made public.

In April 2016, after a number of calls from European citizens and the European Parliament, the European Commission put forward a proposal on public reporting for all large multinationals. However, this has a number of flaws, including limiting public CBCR to activities in EU countries and an arbitrary list of tax havens. This denies countries outside the EU public access to vital

information on the activities of EU companies, including whether they are paying their fair share of taxes. There is an urgent need to go beyond this and to require full, public country by country reporting for all corporations on their activities in every country across the world.

Oxfam is calling on governments to improve public CBCR and extend it beyond the banking sector to all multinationals.

Full transparency requirements should include the following:

- ➔ Data should be broken down on a country-by-country basis for each country and jurisdiction of operation, both inside and outside the EU.
- ➔ Information should include the following elements: turnover, number of employees, physical assets, sales, profits and taxes (due and paid), list of subsidiaries, nature of activities of each subsidiary and public subsidies received.
- ➔ A threshold of €40m in turnover should be applied, above which all companies should be required to report.

However, transparency alone will not put an end to the race to the bottom. Governments must act on the problem that this information exposes. Oxfam supports the use of progressive taxation and spending to reduce inequality and poverty. Taxing global corporations according to their means is the most progressive form of taxation. Tax havens are the ultimate expression of the global corporate tax race to the bottom, and the EU must take robust action at regional and international levels to ensure better regulation of them and greater transparency.

The EU should take the following actions:

- ➔ Establish a clear and objective list of tax havens. Criteria must go beyond transparency measures and must also include zero percent or very low tax rates, as well as the existence of harmful tax practices that grant substantial tax reductions. Strong defensive measures should then be adopted against listed countries to limit base erosion and profit shifting.
- ➔ Implement strong controlled foreign company (CFC) rules, a measure which allows governments to tax profits artificially parked in tax havens. Such a measure can be introduced without waiting for global agreement.
- ➔ Support the creation of a global tax body to lead and coordinate international tax cooperation which includes all countries on an equal footing, ensuring that global, regional and national tax systems support the public interest in all countries.

INTRODUCTION

Governments serious about tackling the global inequality crisis need to act now to redistribute income and wealth. Since the turn of the century, the poorest half of the world's population has received just 1 per cent of the total increase in global wealth, while half of that same increase has gone to the richest 1 percent¹³. One of the key trends underlying the huge concentration of wealth and income is tax avoidance, which is a problem that must be tackled if extreme and growing inequality is to be halted. At present, wealth is being redistributed upwards, and the inequality gap is growing. This extreme concentration of wealth at the top is holding back the fight to end global poverty. Consequently, when governments lose tax revenues, ordinary citizens pay the price: schools and hospitals lose funding and vital public services are cut. Alternatively, governments make up the shortfall by levying higher taxes, such as value added tax (VAT), which impact disproportionately on poorer populations. At the same time, increased profits as a result of lower corporate taxation benefit wealthy companies' shareholders, further increasing the gap between rich and poor.

Tax dodging affects both poor and rich countries, but it has a relatively greater impact on developing countries, which depend to a greater extent on the taxation of large businesses to raise public revenues. Recent research by the Internal Monetary Fund indicates that the amount of revenue lost by developing countries as a result of base erosion and profit shifting by multinational companies is 30 percent higher than for OECD countries. Profit shifting is a tax avoidance strategy used by multinational companies wherein profits are shifted from jurisdictions where the real economic activity takes place to jurisdictions that have low or zero taxes. Developing countries lose around \$100bn annually as a result of corporate tax avoidance schemes. This amount is more than enough to provide an education for all of the 124 million children currently out of school, and to pay for health interventions that could save the lives of six million children¹⁴.

Developing countries lose around 100\$bn annually as a result of corporate tax avoidance schemes

Public resources, funded by government levies, are key to development and the well-being of citizens, but they are constrained by a system which allows wealthy individuals and multinationals to circumvent or reduce their tax liabilities, choking off the revenues that societies need to function. Major banks play a pivotal role in tax dodging practices globally. A series of scandals has revealed patterns of foreign holdings in bank accounts operated in well-known tax havens: the 'Offshore Leaks' (2013), 'Swiss Leaks' (2015), 'Panama Papers' and 'Bahamas Leaks' (both 2016) affairs provide just a few examples of banks acting as agents to shelter corporate or private wealth from public scrutiny, alongside other intermediaries such as lawyers and tax advisory firms.

In addition to helping clients conceal their wealth in tax havens, banks use tax havens to reduce their own tax bills; however, until recently this activity was itself well hidden, unless exposed by scandal.

Lifting the veil on tax secrecy

Thanks to recent European Union legislation, this situation is now changing, and data obtained since the implementation of the EU's public country-by-country-reporting legislation in 2013 is now publicly available. The legislation requires large banks operating in the EU to disclose key information about their financial activities, including their tax liabilities. The banking industry was the first major business sector to be subjected to a common standard of public reporting on activities across the world. Although the banks were initially reluctant, most no longer oppose the measure¹⁵; and research shows that they have not been adversely affected by public CBCR, as the majority of companies assessed have maintained or improved their revenue performance during the assessment period¹⁶. A quick comparison of performances by the five largest French banks in 2015 and 2014, for example, shows that their combined activity (turnover) increased by 7 percent (+€95bn) and their profit before tax by 38 percent (+€10.6bn) from one year to the next¹⁷.

In 2015, all country-by-country-reports of all major European banks were made available for the first time. Oxfam has analysed this new data to understand the activities of banks in tax havens. The data must be handled with care due to a continuing lack of transparency and an inconsistent data on international banking. However, this report demonstrates how valuable is the information that is being provided now. For this reason, Oxfam supports the case for these transparency standards to be applied across all sectors of the economy, as a tool to deter the most harmful tax practices and to put the tax responsibility of companies at the heart of public debate. This paper proposes that, if further steps are taken to improve current CBCR for banking, and tax transparency generally through the extension of public CBCR to all sectors, it will be easier for governments to clamp down on tax dodging and to repatriate billions of euros and dollars in lost tax revenues which could be deployed for investment in healthcare, education, social protection and job creation.

The value of transparency

Public CBCR provides essential (albeit basic) information on corporations' activities and the taxes they pay in every country of operation. This information makes it possible to probe discrepancies between the countries in which banks conduct their activities and the countries in which they report profits and pay taxes. This 'follow the money' reporting tool also makes it possible to hold multinationals accountable for paying their fair share of taxes, where they are due. Without these measures, companies are more easily able to avoid with impunity their obligations to pay tax in the countries in which they operate, and there is little means of exposing flaws in the taxation system or taking remedial action to fix them. In the case of the biggest European banks, Oxfam's research shows, thanks to new data disclosed through CBCR that in 2015 alone, banks reported almost €25bn of profits in countries recognized as tax havens; an amount far in excess of the real economic activity of their total operations in those jurisdictions.

The OECD and the EU have taken a set of initiatives to oblige multinationals to directly communicate their country-by-country information to tax administrations that have agreed to exchange this data with one another, but this remains confidential. Progress has

been very inadequate as essential stakeholders have been excluded from the debate and from accessing this information, unlike with public CBCR that would enable developing countries to use the data to claim and recover missing tax incomes. With public CBCR, citizens will be better able to understand whether a company they buy from or whose services they use is paying its fair share of tax and so is financially contributing to public services. Decision makers would have a very powerful tool at their disposal to better design fair and efficient tax systems. Investors, shareholders and trade unions would have a more accurate picture of a company's operations and financial performance in each country, the extent to which it pays a fair share of taxes in each country where it operates, and the potential associated legal, financial and reputational risks. This report focuses on the tax behaviour of banks and more specifically on the use of tax havens.

Improving tax transparency across all sectors

While improving transparency alone will never be enough to overhaul the rigged and flawed international tax system, it is an essential first step. The EU legislation which introduced public CBCR on bank reporting marks welcome progress on the global agenda to improve tax transparency. Legislation that would roll out public CBCR to all sectors is being negotiated by EU member states and the European Parliament, while public pressure is mounting on the European Commission and its proposed directive on this issue, which still requires significant improvement (see box on page 12). Currently, the draft directive excludes some countries of operation from the scope of public reporting, potentially rendering it meaningless. In their negotiations over the coming months, member states and the European Parliament need to ensure that this glaring weakness is remedied, with an agreement that all countries where multinationals have operations are covered by the reporting obligation.

In 2015, the country-by-country-reports of all major European banks were made available for the first time. Oxfam has analysed this new data to understand the activities of banks in tax havens

THE EU'S SELECTIVE PROPOSAL ON TAX TRANSPARENCY LEAVES A LOT IN THE DARK

In April 2016, responding to pressure from European citizens and the European Parliament, the European Commission (EC) put forward a proposal on public reporting for all large multinationals¹⁸. However, the current proposal limits public CBCR to the EU and to an arbitrary list of tax havens. Moreover, only companies with an annual turnover of €750m or more would have to report their tax data, which excludes 85–90 percent of multinationals¹⁹.

In a last-minute move following the disclosures contained in the Panama Papers in 2016, the EC added a requirement for companies to also publish information from any tax haven blacklisted by the EU where they have a subsidiary, but only if their EU subsidiaries engage in direct transactions with the tax haven subsidiaries. If transactions between EU subsidiaries and a tax haven are routed through other non-EU countries, the proposal does not require companies to report on activities in that tax haven. While this clearly shows that public pressure and scrutiny can boost political will when it comes to fighting tax avoidance, what seemed like a progressive step has turned out to be a poor proposition in reality. There is in fact no list of EU-blacklisted tax havens at the moment and any process to draw one up is most likely to result in a very diplomatic and subjective list. The only effective way to truly reveal what is happening in all tax havens is to have full disclosure of information for every country where large multinationals operate, including all companies above a threshold of €40m turnover. Without this, developing countries will remain in the dark, as they will not have access to information on the activities and tax payments of multinational companies operating within their borders.

In November 2016, France became the first country to adopt a form of public country-by-country reporting for multinationals²⁰. Despite containing many loopholes²¹, the Sapin II anti-corruption legislation should have paved the way for the adoption of similar transparency measures by other EU countries. However, surprisingly, in December 2016 the French Constitutional Court ruled that public CBCR was not constitutional as it would represent 'a disproportionate infringement to the freedom of entrepreneurship'²². This decision is highly questionable, as it is hard to understand how basic financial information could jeopardize a company's business and because the fight against tax avoidance is itself a constitutional principle²³.

The opportunity is still there for the EU to lead the way on corporate transparency and to encourage the OECD and the G20 to follow its own bold stance on tax avoidance. As a matter of urgency, the European Parliament and European ministers should strengthen the draft directive to require that all large multinationals publish separate country-by-country information for all countries worldwide where they have a presence.

Summary of methodology

In 2015, following the introduction of the 2013 EU Capital Requirement Directive²⁴, European banks were obligated to disclose new and additional information for each country of operation. This information comprises:

- a list of (main) subsidiaries and the type of (main) activities they are involved in
- turnover
- profit or loss before tax
- number of employees, expressed as full-time equivalent (FTE)
- corporate tax
- public subsidies received

This new wealth of publicly available data gives insights into the activities and financial profiles of banks in countries where they have operations. Oxfam's new research, based on this data, gives an insight into banks' activities in tax havens and on potential profit shifting to these jurisdictions, where taxes are lower. The intention is for the findings of this study to contribute to the formulation of policy proposals in order to improve and expand public CBCR data. Appendix 2 analyses in detail the current challenges involved in the analysis of banking CBCR information and makes recommendations to improve CBCR formats and to facilitate their understanding and interpretation.

Oxfam collected and analysed data disclosed in 2016 for the year 2015 by the top 20 EU-based banks in terms of assets.

Indicators were identified that would enable a comparison of the banks' full operational and financial activities in tax havens, compared with their activities in each other country worldwide where they operate. The methodology for these calculations is detailed in Appendix 1, section 1.3. Note that the calculations use the country-by-country data only (before global eliminations), even if these do not match with a bank's consolidated accounts.

Despite periodic efforts the international community has failed to agree collectively on a common list of tax havens. The EU recently agreed on common criteria to identify corporate tax havens as well as secrecy jurisdictions, but it still needs to assess third countries according to these criteria, and EU countries themselves will not be assessed as part of this process. For this reason, Oxfam uses the criteria outlined in the box opposite, which are an amalgam of criteria used by different credible international bodies which compile lists of tax havens, such as the U.S. Government Accountability Office, the European Parliament and the Bank for International Settlements. The full list of tax havens identified by Oxfam, which provides a starting point for the analysis, is provided in Appendix 1, section 1.2.

WHAT IS A TAX HAVEN?

Tax havens are jurisdictions or territories that have intentionally adopted fiscal and legal frameworks that allow non-residents (physical persons or legal entities) to minimize the amount of taxes they should pay where they perform a substantial economic activity.

Tax havens tend to specialize, but while many of them do not tick all the boxes, they usually fulfil several of the following criteria via a combination of services:

- They grant fiscal advantages to non-resident individuals or legal entities only, without requiring that substantial economic activity be undertaken in the country or dependency.
- They provide a significantly lower effective level of taxation, including zero taxation for individuals or legal entities.
- They have adopted laws or administrative practices that do not allow the automatic exchange of information for tax purposes with other governments.
- They have adopted legislative, legal or administrative provisions that allow the non-disclosure of the corporate structure of legal entities (including trusts, charities, foundations, etc.) or the ownership of assets or rights.

THE TOP 20 EU-BASED BANKS ANALYSED BY OXFAM

FRANCE		
GERMANY		ITALY
NETHERLANDS	SPAIN	SWEDEN
UK		

A LUCRATIVE BUSINESS: BANKING IN TAX HAVENS

What the data reveals: banks make disproportionately large profits in low-tax jurisdictions

The new data available through public CBCR gives an indication of the extent to which banks make use of tax havens. Oxfam examined how the top 20 EU-based banks use tax havens, and found that altogether they reported almost €25bn in profits in tax havens in 2015. Compared with the contribution of these tax havens to the global economy, there is a clear discrepancy: while 26 percent of the profits of the 20 banks are registered in tax havens, these jurisdictions themselves represent only 5 percent of global GDP, and account for just 1 percent of the global population²⁵. This indicates that the combined profits made by the 20 banks in tax havens are disproportionate to the probable level of real economic activity they undertake in these countries, and strongly suggests profit shifting to these jurisdictions, which merits further explanation by the banks. While we cannot prove which amount of the profits shown in tax havens would, in fact, have been made elsewhere, it is likely that a significant proportion are the result of shifting profit to low tax jurisdictions. In so doing, these banks are denying governments vital tax revenues to fight inequality, paying for key public services like healthcare and education.

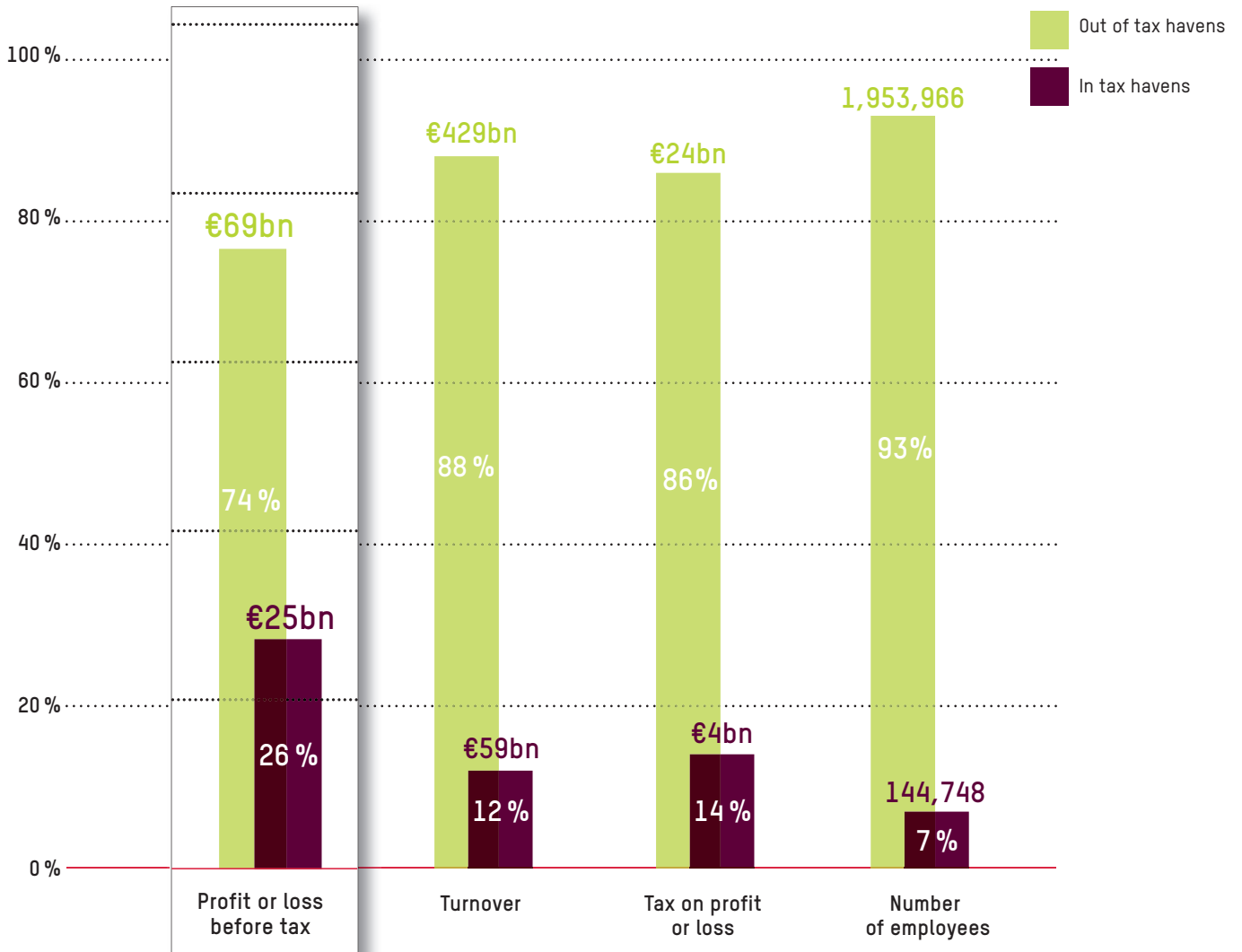
The top EU banks registered €25 bn in tax havens in 2015

This clear discrepancy between tax havens where banks register and accumulate their profits and the countries where they conduct their real economic activity is illustrated in figure on page 15. This shows that while tax havens accounted for 26 percent of the total profits made by EU-based banks in 2015, their share of taxes paid was 14 percent, turnover was only 12 percent and they accounted for just 7 percent of bank employees.

Looking at individual banks in more detail, some of the discrepancies are more striking: for example, while 22 percent of Société Générale's profits were registered in tax havens, only 10 percent of its turnover was generated in such jurisdictions and just 4 percent of its employees worked in them.

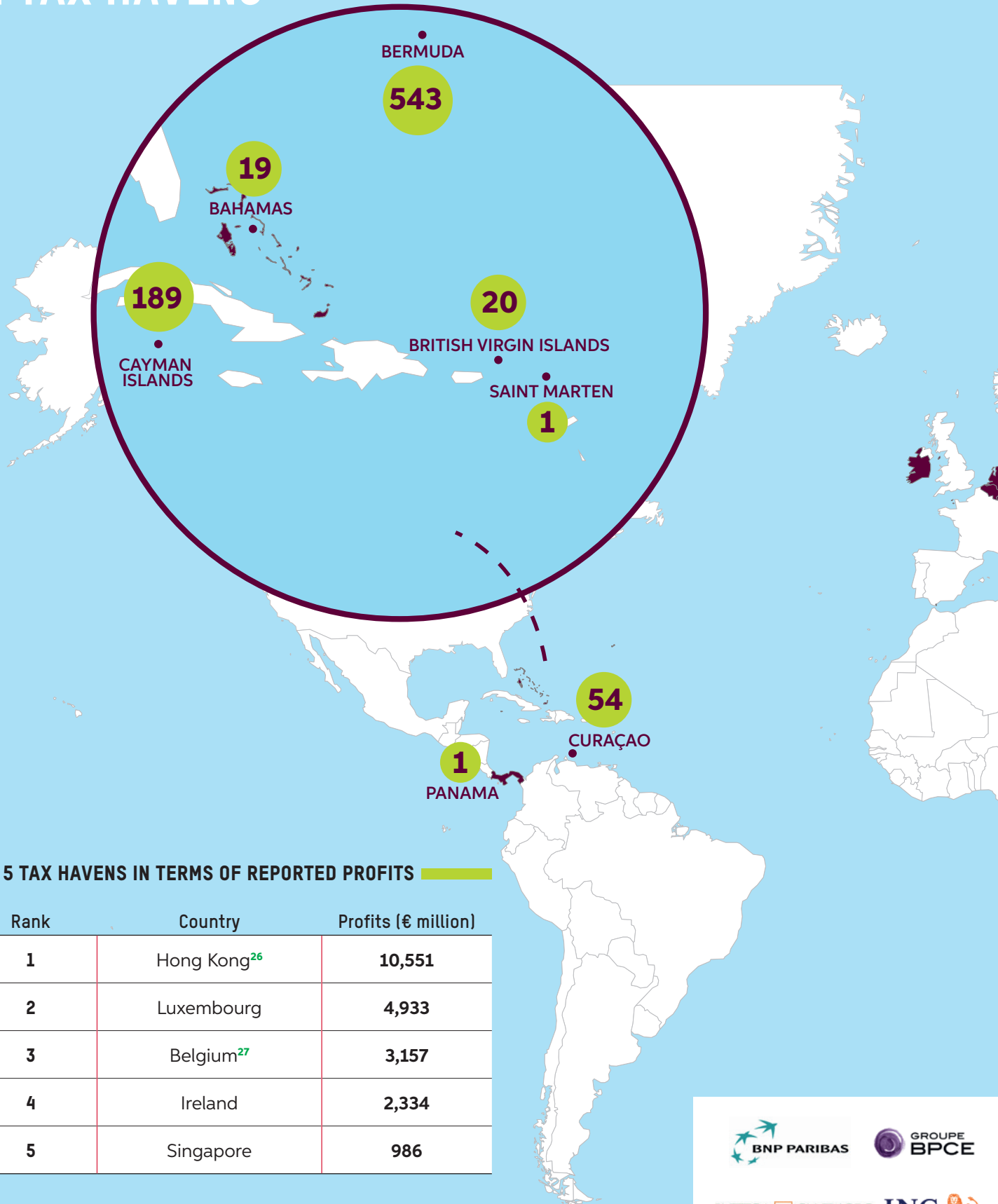
The map on page 16-17 displays an overview of the top 20 EU banks' activities in tax havens and the amount of profits they collectively report in each of them. The map shows that some tax havens are most commonly used than others. Other tax havens concentrate less profit, but despite the limited size of their economies, they nonetheless play host to the major European banks. They are discussed in more detail in the second section of the report ('The banks's favourite tax havens').

TOP 20 EU BANKS' AGGREGATED ACTIVITIES IN AND OUT OF TAX HAVENS, 2015




While tax havens account for 26% of the total profits made by the top 20 EU banks, these countries account for only 12 percent of their total turnover and 7 percent of their employees

TOP 20 EU BANKS' REPORTED PROFITS IN TAX HAVENS

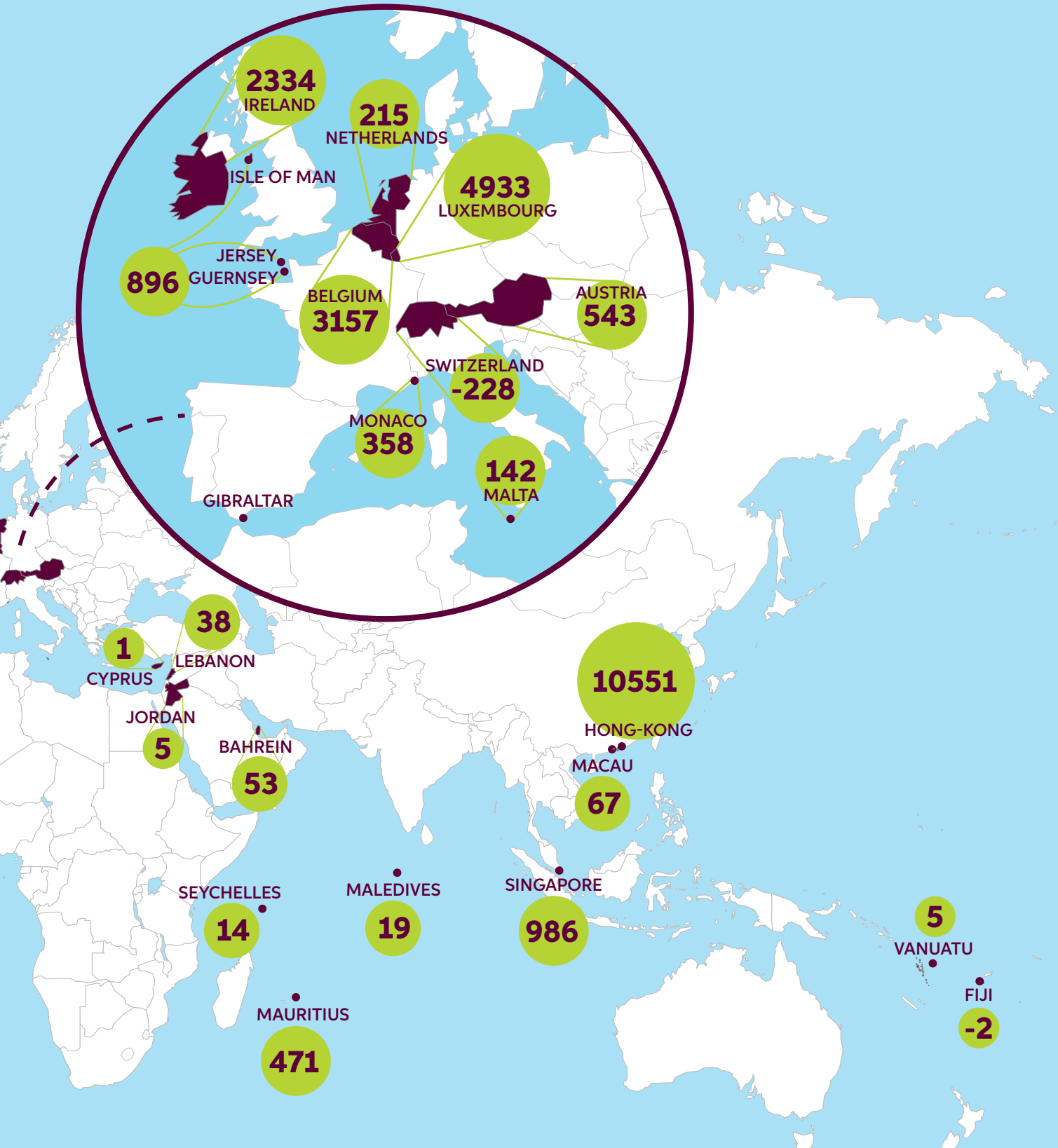


TOP 5 TAX HAVENS IN TERMS OF REPORTED PROFITS

Rank	Country	Profits (€ million)
1	Hong Kong ²⁶	10,551
2	Luxembourg	4,933
3	Belgium ²⁷	3,157
4	Ireland	2,334
5	Singapore	986

 EU banks' reported profits in 2015 (€ million)





6,298,000

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PROFITS PER
EMPLOYEE
IN 2015 (€)

6,000,000

5,000,000

4,000,000

3,000,000

2,000,000

1,000,000

0

Cayman
Islands

4,154,000



Curaçao



454,000



Luxembourg



409,000



Ireland



171,000

TAX HAVENS
AVERAGE

45,000

GLOBAL
AVERAGE

29,000

BANKS' HOME
COUNTRY
AVERAGE³⁰

Lucrative activities

Tax havens play a central role in banks' activities, and some of these activities are very lucrative indeed, with abnormally high profit ratios in many cases. The measure of labour productivity, which is the level of output expressed in terms of annual profit (or loss) before tax generated per full-time equivalent (FTE) employee, sheds light on differences in productivity between different locations.

An average full-time employee of the group of banks generates each year profit of €45,000 while an employee in tax havens generates on average a profit of €171,000 per year – four times more than an average employee. Such big differences in the productivity of employees might suggest the artificial shifting of profits to a zero or low-tax country for tax purposes. This skewing is amplified by the fact that, in general, the subsidiaries of multinational companies in tax havens have relatively few employees. Productivity per employee in banks' home countries is on average €29,000 annually, six times less than that of the average employee based in a tax haven. In some cases, EU-based banks have reported relatively low profits or even losses in their home countries, which increases the gap²⁸. One wonders to what extent this exceptional productivity level in tax havens is related to the specialization of the tax haven in highly

An employee in tax havens generates on average 4 times more profit than an average full time employee of the banks: €171,000 vs €45,000

AVERAGE PRODUCTIVITY PER COUNTRY AND COUNTRY GROUP²⁹

Note: for example, in the Cayman Islands, a full-time employee generated €6,298,000 in 2015, vs €45,000 on average. Productivity in some home countries is distorted because of major losses reported by some banks.

profitable activities, and to what extent it is due to profit shifting. By artificially reducing the profitability of their business in some countries to reduce their tax liabilities, companies are skewing economic indicators that should help drive real investments.

A bank-by-bank and country-by-country analysis shows an even wider gap between tax havens and the rest of the world. For instance, an employee of Italian bank Intesa Sanpaolo who happens to be based in a tax haven generates €1.75m per year for the group and appears to be 20 times more 'productive' than the average employee.

Tax havens are not a homogeneous group of territories, and there may be legitimate reasons for banks to have operations in some of them. Banks do not set productivity records in all offshore jurisdictions considered to be tax havens, but the profits generated per employee are nevertheless astonishing. The highest figure recorded in 2015 was €6.3m per

employee in the Cayman Islands. This is further discussed in the second section of the report).

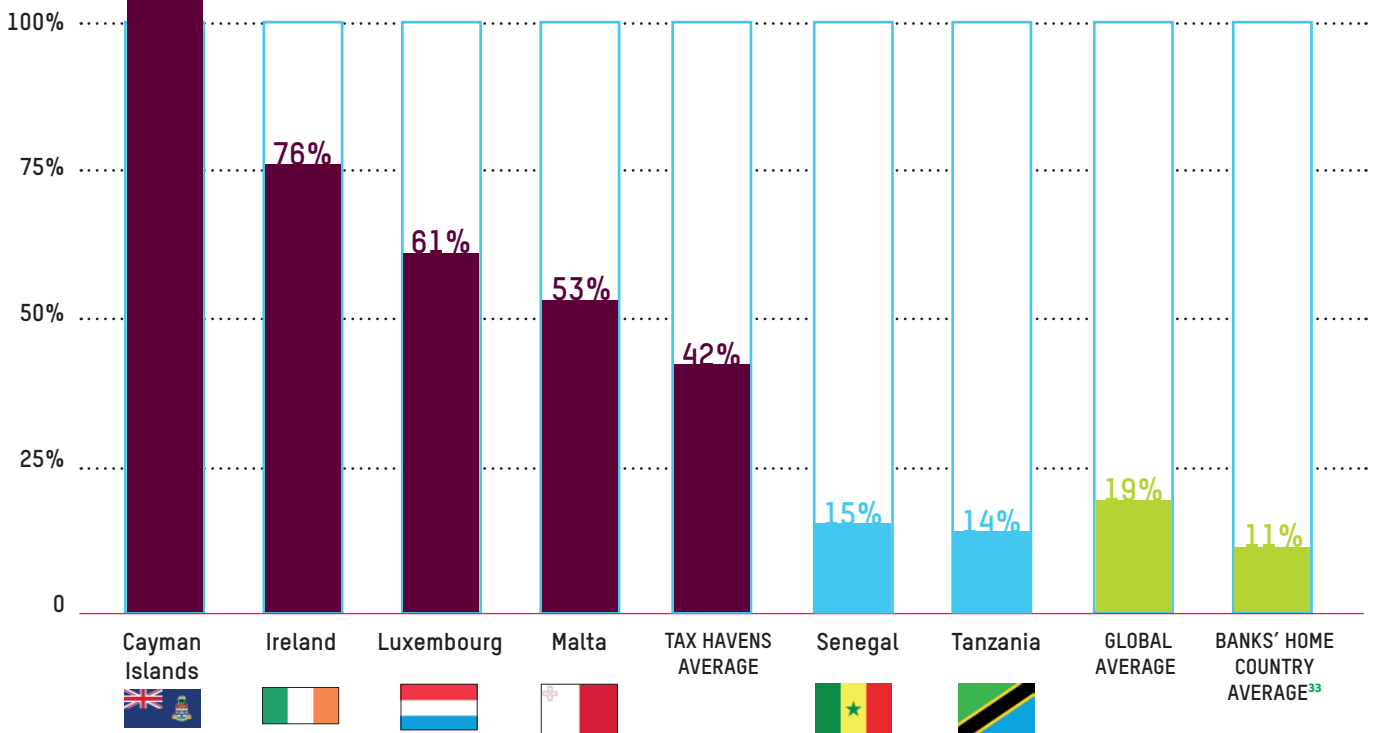
Similarly, banks' profit margins – i.e. their level of profit compared with their turnover – provide an indicator of how much profit they make on average in different

countries on the same level of turnover and how much profit comes from each euro's worth of activity. The data shows that overall profitability of the 20 banks is 19 percent: i.e. each €100 of turnover generates €19 of profit. In tax havens, however,

profit margins are more than twice as high at 42 percent, which means that every €100 of turnover generates €42 of profit. The British bank Lloyds exhibits the biggest discrepancy: it is over six times more profitable in tax havens than its average performance³¹.

Profit margins in tax havens are more than twice as high as in average

AVERAGE PROFITABILITY PER COUNTRY AND COUNTRY GROUP³²



Note: For example, in Ireland, for every €100 of turnover, EU-based banks make on average €76 of profits. Profitability in some home countries is distorted because of major losses reported by some banks.

FRENCH BANKS MAINTAIN THEIR PROFIT MARGINS

In a previous study³⁴, Oxfam analysed the country-by-country reports for 2014 of the five largest French banks that were the first to disclose information following the French banking law of 2013³⁵. This data indicated that an employee in a tax haven made €114,000 in profit for the bank, more than twice as much as an average employee (€50,000). In 2015, labour productivity increased slightly, with an employee in a tax haven making €127,000 vs €61,000 on average. Similarly, in 2015 banks' activities were more profitable in tax havens (with a 37 percent profit margin) than the average (27 percent), following a similar trend as in 2014 (36 percent vs 24 percent).

The profits made by banks in tax havens seem particularly high compared with profits made in non-tax haven countries, indicating the global divide between their activities in tax havens and the rest of the world. First, it is worth noting that in a selected group of tax havens, extreme ratios are seen much more often, which indicates the presence of apparently abnormal activities in these jurisdictions. Second, if home countries are taken out of the equation³⁶, banks' profit ratios are lower in developing countries³⁷. Although the activities of EU-based banks are not that significant in all developing countries, the shifting of millions of euros in profits out of these countries may be very damaging in relation to the size of their economies. Indonesia is one of the countries where inequality is growing fastest and the country has 28 million people living on less than \$2 a day³⁸. A full-time bank employee in Indonesia generates only €4,000 per year, 10 times lower than the global average and 42 times lower than in tax havens. European banks in Monaco and Indonesia had similar turnovers in 2015 (€918m in Monaco vs €973m in

Indonesia), but in Monaco eight banks made €358m of profit while in Indonesia seven banks made only €43m (see table below).

There is a similar pattern in many other of the poorest countries: productivity figures of €11,000 per employee annually in Tanzania, €15,000 in Senegal and €19,000 in Uganda were all significantly below the level of €171,000 seen in tax havens. Similarly, EU banks appear to have low profitability levels in most developing countries: 4 percent in Indonesia, 14 percent in Tanzania, 15 percent in Senegal, all significantly below the average profitability figure for tax havens of 42 percent. Even in countries where banks play a greater economic role, such as Brazil and Mexico, profit ratios appear to be quite low compared with those of tax havens. For example, an employee generates an average annual profit of €41,000 in Brazil and €34,000 in Mexico, and profitability is 17 percent and 22 percent respectively in those two countries.

Such discrepancies can be explained in part by the different business activities carried out in each country, although they are often difficult to assess due to the opaque nature of business activities (see box 'Opaque activities' on page 23). Even taking this into account, the mismatch between the low profits reported in developing countries and levels of economic activity is striking and appears to be an important component of the discrepancies that are apparent between tax havens and developing countries. This is reinforced by the pattern of low profit ratios in developing countries and high ratios in tax havens.

EU BANKS' ACTIVITIES IN MONACO AND INDONESIA

	MONACO	INDONESIA
Total turnover	918	973
Total profits	358	43
Profit per employee	€156,000	€4,000
Profitability	39%	4%
Numbers living on \$2 a day	0	28 million

Banks in profile : good and poor performers on tax responsibility

Country-by-country data can be used to compare the overall profile of different banks. Although the data does not provide conclusive evidence on banks paying a fair share or dodging taxes, it does help to distinguish different patterns.

The country-by-country data reported by Barclays and Deutsche Bank provides strong indications of profit shifting and merits an explanation. Barclays reported €5bn of global profit in 2015, approximately €900 of this in Luxembourg, Switzerland and Ireland. The tax charge on these profits was only €11m and the effective tax rate near zero. The large profits reported in these three countries contrast markedly with the geographical distribution of employees. Barclays has more than 130,000 employees worldwide, but only 500 in these three countries. In other words, in 2015 these three countries accounted for 18 percent of Barclays' global profits but only 0.4 percent of its employees. Its productivity was highest in Luxembourg: an astonishing €13m per employee. Analysis of the accounts of individual subsidiaries does not provide a clear explanation for these high profit levels, such as high net profits from minority participations³⁹. Considering that Barclays reported losses in Italy and France, and relatively low profits in major rich countries, including the UK, the US and Japan, its country-by-country report merits a further explanation by the bank as to why the profits in the tax havens are so much higher than in other countries⁴⁰.

Deutsche Bank reported a global loss of €6.1bn in 2015. Strikingly, however, it still reported €1.2bn of profits in Luxembourg, which was effectively taxed at a relatively low rate of 16 percent. As the bank employed only around 600 FTEs there, its profits in Luxembourg were almost €2m per employee, which is exceptionally high. It is not clear what types of income are included in this figure, as the bank's country-by-country data does not match with its consolidated statement of income. However, the high profits in Luxembourg contrast with the losses or conspicuously low profits reported in all of its other major markets (except Hong Kong.). Deutsche Bank's country-by-country profile therefore also strongly indicates profit shifting, despite its global loss.

Rabobank's breakdown of activities and profits, on the other hand, looks relatively clean. The Dutch multinational's main markets are European countries and the USA. It reported significant losses in two coun-

tries in 2015. One was the USA, where it made a loss of €112m, due to a €604m goodwill impairment on Rabobank N.A. in California⁴¹. As this impairment was non-deductible, Rabobank still paid €189m of taxes in the USA. The other country was Indonesia, where the bank reported a loss in 2015 due to loan impairments resulting from adverse market conditions. Rabobank provided further details in separate annual accounts for its Indonesian operations⁴². The bank reported €67m of profits taxed at a low rate in Ireland and Singapore, but its profit margins and profits per employee were not unusually high, and the country-by-country data do not indicate any profit shifting to these countries. Finally, Rabobank reported €53m of profits taxed at a very low rate in Curaçao. These profits were disregarded from the analysis, because the activities from Curaçao were discontinued and transferred to Rabobank Netherlands in September 2016⁴³. Therefore Rabobank's current country-by-country profile does not show indications of profit shifting and suggests that the bank is paying its fair share in the countries where it operates.

MOROCCO – SAME BUSINESS, DIFFERENT PROFIT RATIOS

Country-by-country reporting shows that banks have substantial activities in a number of developing countries, but also that there are significant differences between banks. In Morocco, for example, the French banks BNP Paribas, Crédit Agricole and Société Générale together employ more than 9,400 people and in 2015 generated total income of €914m. Combined, they provided over 20 percent of total bank lending in Morocco and thus play an important role in the country's economy⁴⁴.

The local profit margins of BNP Paribas and Société Générale were approximately 20 percent in 2015, similar to their global average, and their effective tax rates in Morocco were approximately 40 percent. This suggests that these banks were contributing their fair share of tax payments to the Moroccan government. However, Crédit Agricole's profit margin was much lower, at only 6 percent, and the bank provided no explanation for this. Similarly, its productivity was much lower than that of the other banks active in Morocco: its employees made on average less than €5,000 per year, while employees of BNP Paribas and Société Générale made €18,000 and €25,000 respectively. A Crédit Agricole employee in Morocco is therefore not only thirteen times less productive than an average employee of the group, but also five times less productive than their counterparts at Société Générale. While banking activities in Morocco might be more labour-intensive, comparisons between banks help to identify suspicious profit ratios that might indicate that banks are shifting profits out of a country.

US BANKS GAINING FROM TAX HAVENS AT THE EXPENSE OF EU GOVERNMENTS AND THE US

The EC's mandate for requiring more reporting covers all financial institutions operating within the EU, not just those that are headquartered there. As a result, US banks must report financial information for their European subsidiaries under the EU's fourth Capital Requirements Directive (CRD IV), and this sheds some light on their tax practices in Europe. Because the EU reporting requirements do not cover the headquarters of US banks or their subsidiaries outside of Europe, the US data is incomplete, and should be strengthened. (See Appendix 1 Methodology). However, the information we do have shows how valuable CBCR data can also be for non-EU banks.

Oxfam analysed the CBCR data for the European operations of the six largest US banks: Bank of America Merrill Lynch, Citi, Goldman Sachs, JPMorgan Chase, Morgan Stanley, and Wells Fargo (see Appendix 1: Methodology, section 1.1). We also compared the EU CBCR data with the global data that these banks report in their annual 10-K filings with the U.S. Securities and Exchange Commission (SEC).

POTENTIAL ABUSE OF TAX HAVENS

While the CBCR information about US banks in the EU is limited, it does reveal important discrepancies that may indicate tax dodging. For instance, the top six US banks earned 9 percent of their global revenues in EU countries in 2015 but made only 1 percent of their global tax payments to EU countries⁴⁵. The CBCR data suggests that US banks may be using tax havens to reduce their overall tax bills, often in ways that would be difficult to justify. The profit margins of tax haven subsidiaries of EU branches of US banks are twice as large as they are for other subsidiaries – 41 percent compared with about 21 percent on average. This suggests that banks may be reporting profits in tax havens rather than where they are really earned, but further disclosure would be needed.

To take one example, US banks on average made a 43 percent profit margin on their earnings in Ireland, which accounts for three-quarters of all the profits they earned in tax havens. Other examples illustrate the use of tax havens by specific banks:

- Goldman Sachs' subsidiary in the Cayman Islands reported \$100m in profits, while paying no tax and employing no staff. This single subsidiary earned more than 1 percent of all profits booked by all US banks in

Europe without having to hire a single person or spend a single dollar in expenses.

- Morgan Stanley has a subsidiary in Jersey which reported \$6m in profits, similarly with no staff and paying no tax.
- Wells Fargo makes 65 percent of its EU profits in tax havens.

TAX LOSSES TO THE EU AND THE USA

The EU subsidiaries of four of these six US banks made between 87 percent and 96 percent of their revenues in the UK, which is home to the City of London, Europe's leading financial hub⁴⁶. They reported paying an effective tax rate of just 0.5 percent in the UK⁴⁷ – well below the country's statutory rate of 20 percent⁴⁸.

The US Treasury may also be losing out. Unlike their European competitors, US banks must pay tax to the US Treasury on their worldwide profits, but are credited for taxes paid to foreign governments and can indefinitely defer paying taxes to the US on earnings that are permanently reinvested abroad. The global reports of all six banks indicate that they are exploiting this 'deferral loophole' to reduce their US tax rate of 35 percent by about 5 percentage points. Although this tax break applies to all non-US operations combined, there are indications that

it benefits mainly the banks' European operations. JPMorgan Chase acknowledges as much in a footnote to its financial statements⁴⁹. Goldman Sachs reports an effective tax rate for the Europe, Middle East and Africa (EMEA) region of 23 percent, compared with 29 percent for Asia and 36 percent for the Americas⁵⁰.

Collectively, the banks report earning

nearly 90 percent of their European profits in the UK and another 4 percent in Ireland, where the statutory rate is 12.5 percent. The rates for both countries are well below the US rate of 35 percent, leaving ample room to exploit the deferral loophole.

Based on this analysis, Oxfam makes the following recommendations:

- The US should mandate full public country-by-reporting for all companies headquartered in the US and those that do business in the US.
- The EU should include foreign companies which have activities in the EU in its public CBCR currently discussed and positively influence non-EU countries (including the US) to adopt public CBCR.

Subsidiaries of four US banks report paying an effective tax rate of just 0.5 percent in the UK

Countries: winners and losers, a projection

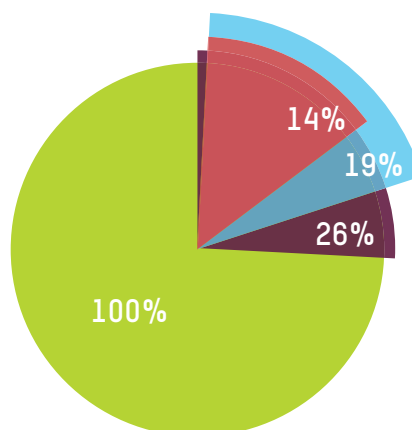
If we make a hypothetical projection of the mismatches between the profits reported in tax havens and other jurisdictions, and assuming that all activities undertaken by banks require a similar level of human resources – i.e. the average of the 20 banks globally, then we can roughly estimate the profit that banks might be expected to report in tax havens. For this, each bank's average productivity figure is used and multiplied by the number of employees they have in each country. On this basis, the profits to be reported in tax havens would amount to €6.5bn in 2015 – but instead the figure effectively reported was €24.7bn⁵¹, meaning that there was a gap of €18.3bn, or 19 percent of the total profits reported by the 20 banks. Assuming that the activities undertaken are similar, this suggests that 19 percent of the banks' total profits are being reported in tax havens while they should be reported elsewhere.

Following the same logic and assuming that all activities have the same level of profitability – the average of the 20 banks globally – the profits that might be expected to be reported in tax havens would amount to €11.3bn in 2015, instead of the €24.7bn effectively reported⁵². This is a gap of € 13.5bn, being 14 percent of the total profit reported by the 20 banks.

What these estimates show is that profits reported in tax havens are significantly higher than expected (which could suggest the occurrence of over-reporting) – i.e. by €18.3bn if calculated on productivity measures or €13.5bn on profitability – while profits reported in non-tax havens are lower than expected (under-reporting). Although the two different over- and under-reporting figures cannot be added together into a single figure, they do identify a similar pattern: possibilities of over-reporting profits in tax havens where this income is taxed at a much lower rate, and under-reporting of profits in non-tax havens where such income may be subject to higher taxes.

Taken together, these indicators are quite consistent, and all underline the fact that profits are disproportionately high in tax havens. Although it is difficult to precisely quantify the amount of profits over-reported in tax havens, it does seem possible to identify a pattern supporting the idea that the 20 biggest banks in Europe are over-using tax havens.

ESTIMATE OF EXCESS PROFITS REPORTED IN TAX HAVENS



Global profits declared by EU banks
€94bn

Total of profit reported in tax havens
€25bn

Estimate excess of profits reported in tax havens (same level of profitability)
€13,5bn

Estimate excess of profits reported in tax havens (same level of productivity)
€18bn

OPAQUE ACTIVITIES MUDDY THE WATERS

The assumptions made above do not reflect the complexity and the differences that exist in real labour productivity and profitability across different countries and banks. For example, investment banking may be more profitable or may require fewer employees than retail banking. If investment banking is heavily concentrated in one country, then profits or labour productivity might indeed be expected to be higher than in a country where retail banking is the main source of profits. For more precise calculations that would take these differences into account, more data is required, including data on financial performance for each type of activity, or even for each subsidiary. This is a limitation of the current CBCR format. However, even taking into account the limitations of the data and acknowledging that assumptions cannot be made with confidence, the findings suggest that both over- and under-reporting are useful indicators of profit shifting.

Why banks are so active in tax havens

Banks play an integral role in the operation of tax havens. Between them, tax havens and banks provide the foundations for a rigged global economic system that enables the redistribution of wealth and income upwards via tax dodging, contrary to the false premise that wealth trickles down. There are several reasons banks have a strong involvement in tax havens that can explain the results outlined above.

1 TO SHIFT THEIR PROFITS IN ORDER TO REDUCE THEIR TAX BILLS

First, as multinational companies, banks can artificially shift their profits from one country to a tax haven in order to reduce their tax bill. There are many techniques commonly used by multinationals, as highlighted by recent scandals (such as those involving Apple⁵³ and Zara⁵⁴, for example). Companies rely on the mismatches and gaps that exist between the tax rules of different jurisdictions and minimize their tax contributions by making taxable profits 'disappear', shifting profits to operations in low-tax jurisdictions where there may be little or no genuine economic or profit-making activity. The result of this is that companies declare astonishingly small profits in countries where they do high levels of business, while profits reported in tax havens are completely out of proportion to the business opportunities that these territories should realistically represent for the company. There is a real disconnect between reported profits and actual business activity, and the banks have long been suspected of sleight of hand, although it was difficult to prove; now, however, it appears highly probable thanks to the production of country-by-country accountancy data. This shows how obsolete the corporate taxation system is: the taxable profits of each entity are determined as if an entity were operating independently from the rest of its group, but it is these intra-group relationships that permit profit transfers and ultimately potential tax avoidance strategies.

2 TO FACILITATE TAX DODGING FOR THEIR CLIENTS

Second, banks can operate as agents to facilitate tax dodging for their clients, both private and commercial, through the services they offer in tax havens, which provide the fiscal environment for tax minimization. The tax dodging industry involves many different actors, including an array of lawyers, accountants, wealth managers, auditors, and banks themselves. Tax dodging by private clients always involves a bank or investment account and, without disclosure of the ultimate beneficial owners of the assets in those accounts, tax fraud will continue. The

substantial presence of banks in tax havens is likely to mask an even greater exploitation of these offshore territories by major companies and individuals. In recent years a number of international banks have been implicated in major scandals involving the facilitation of tax avoidance. The biggest scandal to date is the 'Panama Papers' in 2016, an unprecedented leak of 11.5 million confidential files from the Panama-based offshore law firm Mossack Fonseca, which were analysed by the International Consortium of Investigative Journalists (ICIJ)⁵⁵. The documents show the myriad ways in which the rich can exploit secretive offshore tax regimes and how banks facilitate this business. More than 500 banks registered nearly 15,600 shell companies with Mossack Fonseca, via subsidiaries located mainly in Honk Kong, Switzerland and Luxembourg⁵⁶. Those three tax havens also figure prominently in the analysis above, and facilitation of tax avoidance may partly explain the intensity of activity reported in them by European banks.

3 TO ESCAPE OF REGULATORY AND LEGAL OBLIGATIONS

Finally, a financial operation based in a tax haven can enable circumvention of regulatory and legal obligations. Tax havens can be opaque locations where financial activities are lightly regulated and overseen, enabling financial actors to take risks or use debt beyond what is allowed in 'normal jurisdictions'. This poses challenges to financial stability as it means that governments and markets do not have an accurate picture of the true financial situation, thus increasing levels of risk. Banks can also take advantage of the lack of transparency prevalent in tax havens to avoid their regulatory obligations and to conduct highly lucrative or speculative and high-risk business activities, unrelated to the real economy.

The analysis above gives a strong indication of the heavy use made of tax havens by the major European banks. However, a country case-by-case analysis is needed to further elucidate the various practices employed by their operations in tax havens.

BANKS AS FACILITATORS OF TAX AVOIDANCE

Recent scandals have underlined the key role that banks play as intermediaries in tax avoidance transactions for wealthy clients and companies. A recent report by the Greens/European Free Alliance (EFA) Group in the European Parliament investigated documents from the Offshore Leaks (2013), Panama Papers and Bahamas Leaks (both 2016) scandals, made available by the ICIJ⁵⁷. The report identified the main intermediaries involved in the tax avoidance industry; these included global banks, which play an essential role, creating and running hundreds of offshore entities for their clients. The list of European banks setting up the most offshore companies is headed by UBS and Credit Suisse of Switzerland, but the top 10 also includes five of the banks covered in this report: HSBC (with 2,882 offshore entities), Société Générale (1,639), Crédit Agricole (1,005), BNP Paribas (782) and Santander (680)⁵⁸. The top 10 jurisdictions where international intermediaries operate include Hong Kong, Switzerland, Jersey, the Bahamas, Luxembourg, Guernsey and the Isle of Man⁵⁹ all of which are prominent in the analysis of banks' CBCR data. The UK and the USA – both of which have their own tax havens⁶⁰ – also feature in the top 10.

Many other tax avoidance scandals have involved major

banks. In 2014, Crédit Suisse pleaded guilty in the USA and agreed to pay a fine of \$1.8bn after it was accused of setting up a tax avoidance scheme for its American clients⁶¹. The SwissLeaks affair exposed how HSBC, through its Swiss branch, potentially helped around 200,000 clients to hide €180bn in secret bank accounts between 2006 and 2007⁶². HSBC is also potentially facing trial in France for enabling tax evasion⁶³, as is UBS⁶⁴.

Five of the top 10 banks most heavily implicated in the Panama papers leak scandal have set up nearly 7,000 offshore companies

The Crédit Mutuel group's entity in Monaco – Pasche Bank, which it sold in 2015 – is under investigation by French authorities on suspicion of facilitating tax fraud and money laundering between 2010 and 2013, in connection with other tax havens such as the Bahamas and Panama⁶⁵. In 2016, an investigation was opened into BNP Paribas's alleged role in facilitating the evasion of more than €900m of its clients' wealth out of

Argentina between 2001 and 2008 through its Luxembourg and Swiss branches⁶⁶. The Argentinian tax authorities have estimated that BNP earned more than €16m from this dodgy business⁶⁷.

This selective list of scandals demonstrates once again that the global tax avoidance system relies on intermediaries such as global banks.

THE BANKS' FAVOURITE TAX HAVENS

At the core of this system is a global network of tax havens that provide very low tax rates and/or weak regulatory regimes that facilitate tax avoidance. Tax havens encourage countries all over the world to engage in a race to the bottom⁶⁸ in order to steer capital flows and tax bases toward their own economy. In the long term, this is a vicious circle: less tax is paid by the richest individuals and multinationals, which encourages governments to shift the tax burden to ordinary people while cutting back on public services.

A handful of tax havens emerge as being the most popular with banks as bases for their operations. Other countries, while less important on a global scale, stand out for their astonishing profit ratios, which confirm that they are still playing an important role as tax havens.

The leaders

The group of 20 leading European banks featured in this report derive 7 percent of their collective total turnover and 19 percent of their collective total profits from just three tax haven countries: Luxembourg, Ireland and Hong Kong. Together, these three countries account for 72 percent of the profits in tax havens – and as much as all profits reported in 14 major countries (Argentina, Australia, Bangladesh, Brazil, Canada, Chile, China, Czech Republic, Denmark, Finland, India, Japan, Norway and South Korea⁶⁹). This demonstrates the significance of these countries in the banks' activities and the discrepancies between their reported profits and real economic activity. This also underlines the leading role those countries are playing in the global race to the bottom.

BANKS' FAVOURITE HAVENS AMONG THE WORST

The leading tax havens are the tip of the tax avoidance iceberg and are leading a global race to the bottom on corporate taxation that has seen governments around the world slash corporate tax liabilities in an attempt to attract business. Oxfam recently exposed the world's 15 worst corporate tax havens in its 2016 report 'Tax Battles', which identifies jurisdictions that have adopted specific features to artificially attract profits from corporations⁷⁰.

Oxfam's research revealed that some of these jurisdictions were countries with reasonable nominal corporate tax rates, such as Luxembourg, Singapore and Hong Kong. Perhaps unsurprisingly, this analysis of public CBCR data reinforces these earlier findings, and the countries where banks report most of their highly profitable activities again rank highly. For example, Ireland and Luxembourg (the

world's sixth and seventh worst tax havens, according to Oxfam) are the most profitable locations for EU banks, which not only make a significant proportion of their profits in these two countries but also achieve very high profit ratios. Similarly, countries such as the Cayman Islands which stand out in the CBCR data, are also ranked among the top 15 tax havens.

This provides further evidence that a small number of jurisdictions are leading a corporate tax race to the bottom, but also that public country-by-country reporting is a powerful tool that allows others to follow the money and shed light on potential discrepancies between real economic activity and the locations where banks report their profits.



LUXEMBOURG: A TAX HAVEN IN THE CENTRE OF EUROPE

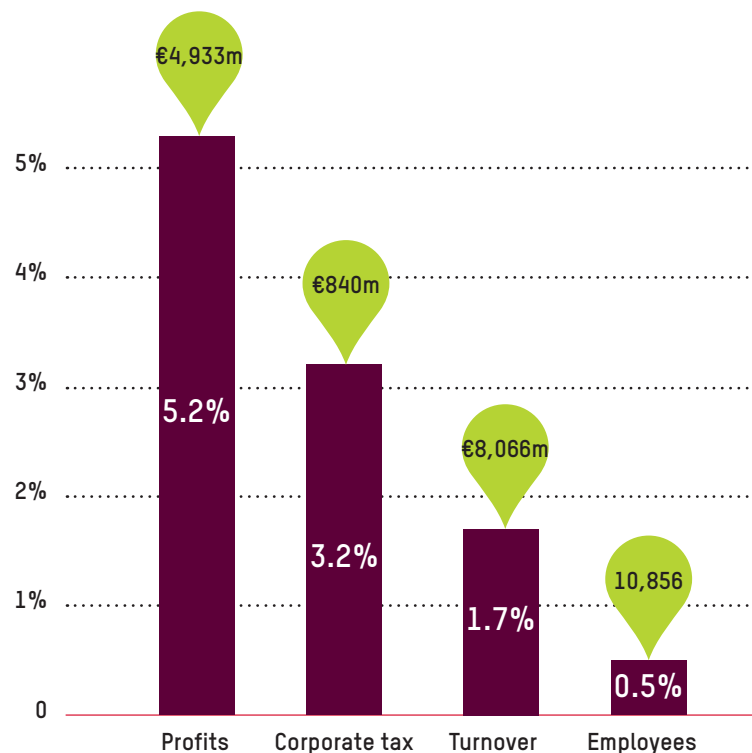
Luxembourg accounts for less than 2 percent of the 20 banks' global turnover and just 0.5 percent of their employee headcount. However, it accounts for a disproportionately large 5.2 percent of their collective global profits. The banks made €4.9bn in profits in the Grand Duchy in 2015, more than the combined profits reported in the UK, Sweden, and Germany⁷¹. This is an extraordinarily high profit level for a small country like Luxembourg, which accounts for 0.008 percent of the global population and 0.08 percent of the world's GDP⁷².

The banks' activities in Luxembourg do not appear to be serving local clients, but the country's enormous financial sector enjoys a very favourable tax and regulatory regime. It is set up expressly to cater to the financial sector and to provide a low-tax environment for multinational companies to minimize their tax bills. For example, Luxembourg offers low or zero withholding taxes on royalties and interest payments⁷³, a preferential regime for taxing profits on intellectual property (known as 'patent boxes')⁷⁴ and a large number of investment vehicles (companies and funds) that can be used for tax structuring. The Luxleaks affair also exposed the practice of tax rulings – agreements reached directly on a case-by-case basis between large companies and governments to reduce their effective tax rates way below the statutory rate. Tax rulings are not exclusive to Luxembourg, but the LuxLeaks affair revealed that the Grand Duchy used them on an industrial scale: 340 companies were involved⁷⁵, including 34 banks⁷⁶, nine of which are covered in this report⁷⁷.

These numerous advantages attract many banking activities to Luxembourg and explain the extreme contrasts between reported profits and the size of the country. This data also confirms the pre-eminent role that Luxembourg plays in the international financial system; it represents 12 percent of the total offshore financial services market, according to the Tax Justice Network's Financial Secrecy Index⁷⁸. It is the leading centre for private banking and asset management in the Eurozone and second in the world for investment funds⁷⁹.

The activities of banks in Luxembourg are not only significant but they are also very lucrative: with a productivity figure of €454,000 per year, the average bank employee in Luxembourg is 10 times as productive as employees in the rest of the world, third in the pro-

TOP 20 EU BANKS' ACTIVITIES IN LUXEMBOURG AS A PROPORTION OF THEIR GLOBAL ACTIVITIES

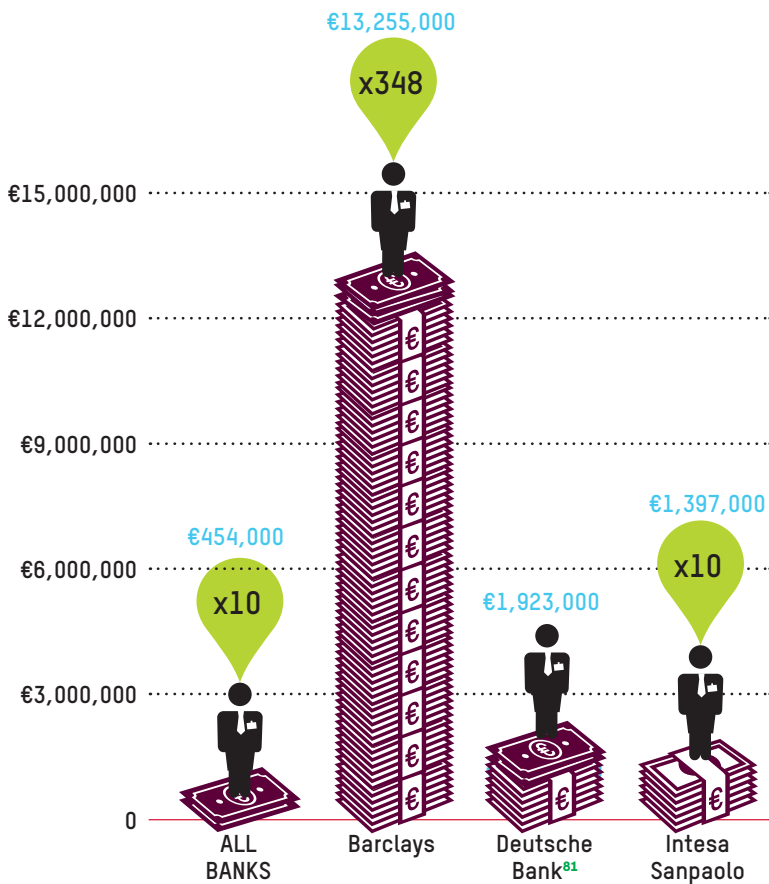


The top 20 EU banks made €4.9bn in profits in Luxembourg, more than in the UK, Sweden and Germany all together

ductivity ranking after Cayman Islands and Curaçao⁸⁰. Barclays' 42 employees in Luxembourg beat all records and managed to generate €557m of profits in 2015, putting the average productivity per employee at €13,255m, 348 times higher than the bank's average of €38,000. Deutsche Bank had an average productivity per employee of €1.9m in Luxembourg in 2015, and it was the country where it made by far its biggest profit (€1.167bn). India was Deutsche Bank's second most profitable location, but its performance there was far less impressive: the bank makes 2.5 times more profit in Luxembourg than it does in India, where it made €450m but with 19 times as many employees. A comparison with a country like India highlights the abnormality of Deutsche Bank's productivity in Luxembourg.

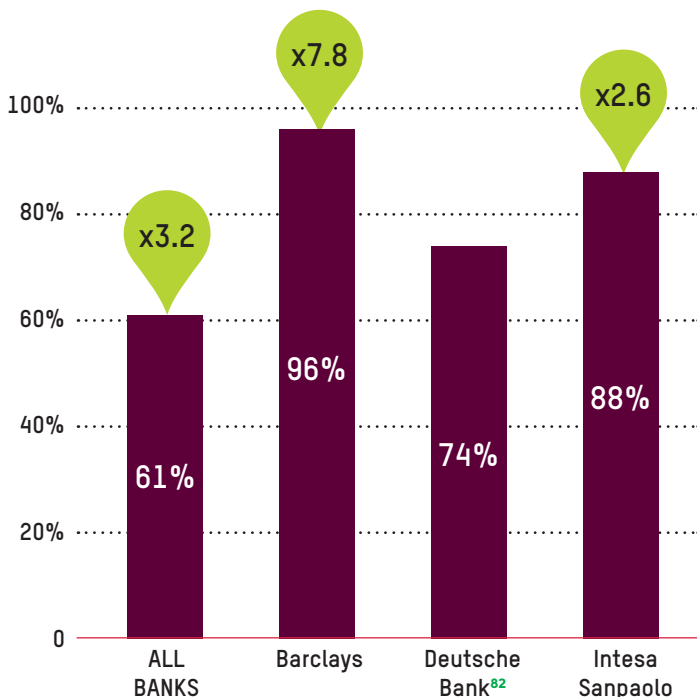
Similarly, the banks' profitability in Luxembourg is very high at over 61 percent –, meaning that each €100 of turnover generates €61 in profit, which is over three times the average profitability for all countries. This implies that banks are making on average three times more profits in Luxembourg than in all other countries

PRODUCTIVITY PER EMPLOYEE IN LUXEMBOURG AND COMPARISON WITH THE BANK'S AVERAGE



NB: this means that Barclays average employee in Luxembourg is 348 times more productive than the average employee of the group

PROFITABILITY PER EMPLOYEE IN LUXEMBOURG AND COMPARISON WITH THE BANK'S AVERAGE



NB: this means that for Barclays in Luxembourg, each €100 of turnover generates €96 of profits, which is 7.8 times the average profitability of the bank worldwide

on a similar volume of activities. Variations between banks are also illuminating: with profits of €446m on a turnover of €506m in Luxembourg, the Italian bank Intesa Sanpaolo stands out for its profitability level of 88 percent.

The employee of the year award goes to Barclays' staff in Luxembourg with an average productivity of more than €13m per employee, 348 times higher than the bank's average

Because banks play a pivotal role in the economy for their clients, both corporations and individuals, this intense banking activity can also reveal the wider tax dodging business that takes place in Luxembourg. For example, the Panama Papers revealed that French bank Société Générale asked law firm Mossack Fonseca to open 1,005 shell companies for its clients⁸³. Nearly half of these requests (465)⁸⁴ were initiated by a Luxembourg subsidiary (Société Générale Bank & Trust Luxembourg) and 71 of these shell companies were still active in 2015⁸⁵. This lucrative activity resulted in €587m in profits for the group in Luxembourg in 2015, which is nearly equivalent to the combined profits (€598m) it made in Germany (€135m), Italy (€168m), Spain (€163m) and the Netherlands (€132m). Société Générale paid only €101m of tax on this, giving at an effective tax rate of 17 percent, which is also the average effective tax rate for the 17 of the 20 banks that operate in Luxembourg, far below the country's nominal tax rate of 29.22 percent⁸⁶. Barclays managed an effective tax rate of near zero and with just €1m paid in taxes on €557m of profit⁸⁷.



IRELAND: A PARADISE OF PROFITABILITY

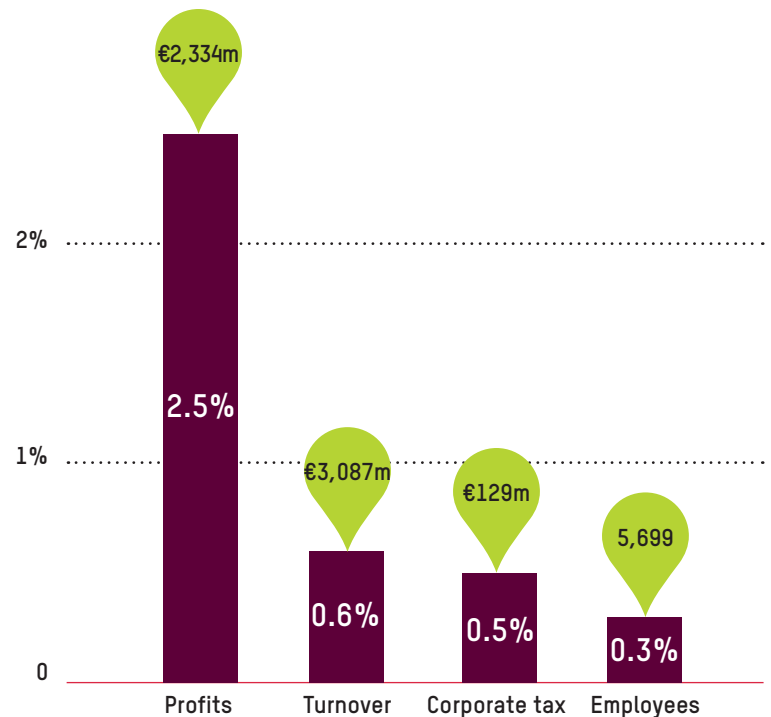
Ireland also plays a significant role in global banking activities. While European banks collectively make only 0.6 percent of their turnover in Ireland and base only 0.3 percent of their employees there, they make a disproportionately large 2.5 percent of their profits, while paying only 0.5 percent of their taxes in the country.

What is particularly striking, however, is the extraordinary profitability of European banks in Ireland: with about €3bn of turnover, they made more than €2.3bn in profits in 2015. In comparison, in Sweden, where the same banks have a similar turnover of €3bn, they made only €0.9bn of profits. Ireland is therefore almost 2.5 times more profitable as a banking location than Sweden. The profit margin of European banks in Ireland is 76 percent, meaning that every euro of turnover generates 76 cents of profit, a performance that is four times higher than the global average.

Five banks (RBS, Société Générale, UniCredit, Santander, and BBVA) managed a profit margin of over 100 percent, which means that their profits were bigger than their turnovers, and potentially suggests that they are artificially shifting profits to Ireland. Société Générale's figures were also startling: its profits of €39m were four times higher than its turnover of €9m, making its business in Ireland 18 times more profitable than its global average – and it was able to generate these profits with just 46 employees in the country⁸⁸. There can also be other explanations unrelated to intra-group transactions, for example, it should be noted that while RBS recorded a profit of €1.140bn in 2015 on a turnover of €763m – a profit margin of 150 percent, a large proportion of these profits are accounted for because of a €0.9 billion reversal of loan loss impairments (that is, a reduction in the provisions for bad loans) from earlier periods⁸⁹. BBVA meanwhile made €27m of profits on a turnover of €12m, with just four employees⁹⁰.

Intesa Sanpaolo reported €438m of profits in Ireland. This is over 10 percent of its worldwide profits of €4.2bn. Intesa Sanpaolo's profit margin in Ireland was 56 percent, higher than the bank's global average of 33 percent. Moreover, Intesa Sanpaolo only employed 133 FTE staff in Ireland⁹¹. Thus, the profit per employee was €3.3m, which is very high by any standard. An analysis of the activities of Intesa's major subsidiaries in Ireland shows that most of profits registered in Ireland seemingly relate to activities or financing of the parent company in Italy

TOP 20 EU BANKS' ACTIVITIES IN IRELAND AS A PROPORTION OF THEIR GLOBAL ACTIVITIES



(interest on intra-group loans, investment services to clients in Italy etc.)⁹².

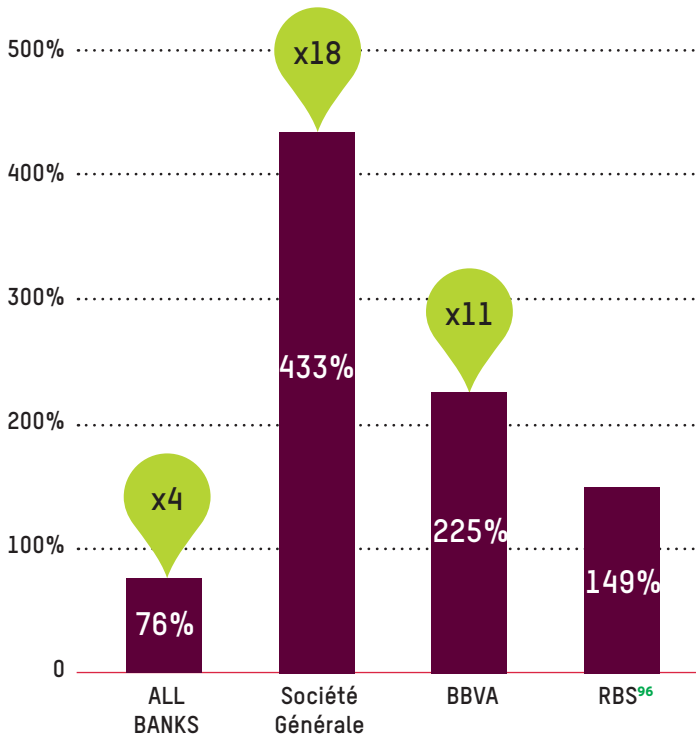
Furthermore, the tax rates paid on these large profits are often much lower than Ireland's already low statutory corporate income tax rate of 12.5 percent. The average effective rate of the 16 top European banks operating in Ireland⁹³ is actually half the statutory rate at 6 percent, with three banks – Barclays, RBS and Crédit Agricole – only paying an effective rate of just 2 percent on their profits. This means, for example,

that had RBS's profits been taxed at 12.5 percent, it would have paid €120.5m extra in taxes⁹⁴. This is not to suggest that the banks are doing anything illegal, but it does show how Ireland's corporate income tax system allows some multinationals to pay tax at an effective rate that is significantly below the statutory rate. The true cost of preferential tax regimes is rarely publicly documented in national accounts or used to assess the utility of such loopholes. The European Commission stated in its ruling in the Apple case that the tax advantages offered by Ireland are effectively a large subsidy for some of the world's most profitable companies⁹⁵.

5 banks (RBS, Société Générale, Unicredit, Santander and BBVA) manage to make more profits than their turnover in Ireland

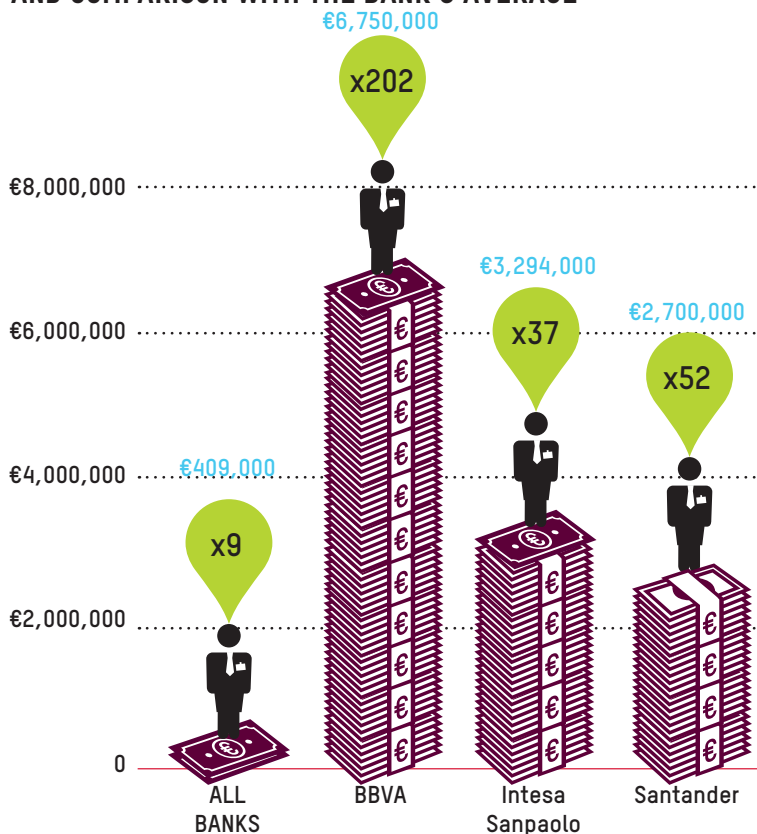
documented in national accounts or used to assess the utility of such loopholes. The European Commission stated in its ruling in the Apple case that the tax advantages offered by Ireland are effectively a large subsidy for some of the world's most profitable companies⁹⁵.

PROFITABILITY PER EMPLOYEE IN IRELAND AND COMPARISON WITH THE BANK'S AVERAGE



NB : this means that for Société Générale in Ireland, each €100 of turnover generates €433 of profits, which is 18 times the average profitability of the bank worldwide

PRODUCTIVITY PER EMPLOYEE IN LUXEMBOURG AND COMPARISON WITH THE BANK'S AVERAGE



NB : this means that BBVA's average employee in Ireland is 202 times more productive than the average employee of the group

Ireland also appears to be a very productive location for European banks: an average bank employee there generated €409,000 in profits in 2015, more than nine times the average for employees worldwide. BBVA stands out in this respect: while the bank's employees generated on average a profit of €33,000 each, an average employee in Ireland generated €6.8m, well over 200 times as much.

In its recent 'Tax Battles' report, Oxfam ranked Ireland as the sixth worst corporate tax haven in the world, for two main reasons⁹⁷. First, it is a jurisdiction that facilitates large-scale corporate tax avoidance, with excess profits flowing to or through the country estimated in the tens of billions of euros each year. In 2015, Ireland's gross domestic product (GDP) grew by 26 percent, more than triple the rate previously estimated⁹⁸. According to the Irish Finance Minister, Michael Noonan, the main factors explaining the spike in GDP were contract manufacturing, relocation of intellectual property (IP) to Ireland and aircraft leasing – aspects of each can be described as tax avoidance strategies and which have a limited impact on actual activity in the Irish economy⁹⁹. Second, Ireland has not implemented effective rules to prevent corporate tax avoidance, such as a Controlled Foreign Company (CFC) rule and its anti-abuse rules are patchy. Moreover, Ireland has only had transfer pricing specific legislation since 2010, and that legislation is exceptionally weak. The regime is exclusively 'one way' – that is, Irish officials are only mandated to look at instances where the transfer pricing might be understated, whereas we know that the reverse is true for profit shifting into Ireland.

Ireland provides significant tax breaks for research and development (R&D), IP and intangible assets, in addition to highly advantageous treatment of holding companies¹⁰⁰. It has also instituted legal provisions that are renowned for their flexibility regarding high-risk market activities¹⁰¹. Consequently, its regulatory environment facilitates the establishment of companies known as special purpose vehicles (SPVs) that allow banks to indulge in highly leveraged and potentially extremely lucrative deals. Under Section 110 of the Irish tax code, many SPVs pay little or no tax, and while recent changes to the code restrict the extent to which they can avoid paying tax on Irish property assets, other assets are unaffected¹⁰².

THE REMAKING OF SWITZERLAND?

Switzerland, once the favourite destination for hiding wealth from tax authorities, may now be moving away from its former status as the most renowned secrecy jurisdiction, due to enforced improvements in tax transparency. Banks operating in Switzerland have suddenly become less profitable due to this welcome move towards transparency. In 2015, the leading 20 EU-based banks collectively recorded losses of €248m, mainly due to major losses by Crédit Agricole, HSBC and RBS (€408m¹⁰³, €195m and €243m respectively) and poor results from the others.

Analysis by the Swiss National Bank indicates that deposits from abroad decreased by 6.4 percent in 2015¹⁰⁴. This seems to tally with individual data from the Swiss branches of the international banks covered by this study: for instance, the Swiss subsidiary of Société Générale saw a fall of 26 percent in its total assets between 2014 and 2015¹⁰⁵, while those of Pasche – a private bank owned by Crédit Mutuel – fell by 35 percent in the same period¹⁰⁶. Numerous redundancy plans are also a sign that banks are winding down their activities; in 2015 the number of staff employed by the banking sector in Switzerland declined by 1,012¹⁰⁷. Other leading financial institutions have closed their Swiss private banking entities over the past few years. Commerzbank and ING disposed of their Swiss private banking units in 2009, Santander in 2012, and Lloyds and Standard Chartered in 2013 and 2014 respectively¹⁰⁸. In 2015, another 15 banks shut down their operations in the country¹⁰⁹.

The squeeze on banking activities dates in part from the 2008 crisis but all this data strongly supports the hypothesis that its effects have been amplified by the (perspective of the) implementation of Automatic Exchange of Information (AEI) agreements for tax purposes with the

USA (the Foreign Account Tax Compliance Act, or FATCA), EU member states and signatories of the Multilateral Competent Authority Agreement (MCAA) led by the OECD. Switzerland's offshore economy might be particularly affected by these new regulations as it has for so long relied on banking secrecy. However, this should not be perceived as a worrying trend for Switzerland's real economy, but rather as a rebalancing towards activities that create real economic value. Indeed, all the usual economic indicators, though weak, are positive: GDP per capita has been steadily increasing since 2009 (\$62,550 in 2016 for Switzerland while the EU28 average is \$38,652)¹¹⁰ and its unemployment rate remains one of the lowest in the OECD, at around 4.5 percent¹¹¹.

Nevertheless, Switzerland cannot yet be removed from the tax havens map: even though the crackdown on bank secrecy has had a definite effect on the volume of banking activity in the country, it continues to play a central role as a tax haven economy (as outlined in Oxfam's report 'Tax Battles'). It remains the leading country for wealth management and is now appealing to wealthy individuals from countries (mostly outside the EU) that have not signed up to AEI standards¹¹². Even more worrying, the Swiss confederation is also changing its tax haven profile from a paradise for the wealthy to one that welcomes artificially shifted corporate profits from multinationals. For example, in June 2016, the Swiss parliament adopted a tax reform that reduces corporate tax rates (the average for the 26 cantons is already low, at 18 percent) and offers new tax cuts to multinationals, such as a 'patent box' and exemption on R&D expenses¹¹³. On 12 February 2017, the Swiss largely rejected the reform during a referendum, sending a clear signal against harmful tax competition¹¹⁴.

Small havens, big profits

Although the volume of their activity is less significant than the leading tax havens, a group of smaller tax havens – mostly small islands – also have some striking features and perform a pivotal role in the offshore industry for the 20 major EU banks. European banks have a surprisingly large presence in small countries, with small populations and banking customer base. In six countries with a combined population of just

413,000 inhabitants – Monaco, the Cayman Islands, Jersey, Guernsey, Isle of Man and Bermuda – the top 20 EU-based banks made a collective total of €3.2bn in turnover in 2015, and reported more than €1.5bn in profits. The banks made as much profit in these six countries as they did in India, which has a population of 1.3bn inhabitants, a population more than 3,000 times larger.

CHARACTERISTICS OF SELECTED SMALL TAX HAVENS AND BANK ACTIVITY, 2015

Country	Population	Area (sq km)	Number of banks with operations	Turnover (€ million)	Profit (€ million)	Employees	Taxes (€ million)	Productivity per employee (€)	Profitability
Cayman Islands	60,413	264	10	113	189	30	0	6,300,000	167%
Jersey + Guernsey + Isle of Man	249,759	716	8	1,836	896	4,635	79	190,000	49%
Bermuda	65,187	53	4	284	96	618	0	160,000	34%
Monaco	38,400	2	8	918	358	2,292	76	160,000	39%
TOTAL	413,759	1,035	-	3,151	1,539	7,575	155	203,000	49%

Note: Jersey, Guernsey and the Isle of Man are grouped together as some banks group them in their CBCR reports. This category includes information from all banks operating in at least one of the three jurisdictions.

Populations: Jersey: 102,700; Guernsey: 62,562; Isle of Man: 84,497.

Surface areas: Jersey : 120 sq km; Guernsey : 24 sq km; Isle of Man : 572 sq km.

In some of these countries, banks have a relatively sizeable number of employees, probably because the countries are prime locations for wealth management and financial services. For instance, eight banks (including all five French banks in the top 20) have 2,292 employees between them in Monaco, which is equivalent to more than 1,145 bankers per square kilometre, in a territory with a population of 40,000 inhabitants. The six EU banks operating in Vietnam have only slightly more employees (2,350), though the country has 93 million inhabitants. Unsurprisingly, perhaps, in 2015 the banks made €358m in profits in Monaco but just €83m in Vietnam. Given the profits made in Monaco, the banks' productivity there is high, with an average of €156,000 per employee, almost four times more than the average. Why do these countries require such a high level of banking services? Private banking, and wealth management are labour-intensive activities, perhaps, but why do banks export these activities to

these rather isolated jurisdictions that have little connection to broader economies?

EMPTY SHELLS

In some of the smaller tax havens, banks registered profits without having any employees. Among all 10 banks with operations in the Cayman Islands, for instance, nine have no employees and make €171 million in profit¹¹⁵. French banks account for most of the activity reported in the islands as BNP Paribas, Crédit Agricole and BPCE respectively make €134m, €38m and €2m in profit there.

Overall, at least €628m in profits is made without any employees in nine countries¹¹⁶. In part, this reflects the use of intermediate holdings, which report profits from minority participations and from the sale of subsidiaries. In all these cases, profits are either equal to or

higher than the bank's turnover, which means that it is not supporting any expenditure in these jurisdictions, such as offices, running costs, etc. For example, on its 2015 turnover of €39m in the Cayman Islands, French bank BNP Paribas makes €134m in profit – three times as much.

Given the lack of substance, it is clear that the information reported in these Island economies does not reflect any real economic activity taking place there, and in general banks do not serve local markets or needs. These results confirm the disproportionate role that those countries are playing in the global economy. In an earlier report¹¹⁷, Oxfam found that US multinational companies reported US\$80bn in profits in Bermuda – more than their profits reported in Japan, China, Germany and France combined.

ZERO TAX RATES

One common feature of tax havens is that they provide a lower effective level of taxation, or even a zero corporate tax rate, making it possible for companies to avoid paying any taxes at all. Despite the limitations of the information provided in the CBCR data for measuring the effective tax rate (see Appendix 2: Challenges in CBCR analysis, section 2.2), it does reveal that these European banks have not paid a single euro of tax on €383m of profits made in seven of these smaller countries: the Bahamas (€19m), Bahrain (€53m), Bermuda (€96m), the Cayman Islands (€189m), Panama (€1m),

Vanuatu (€5m) and the British Virgin Islands (€20m). With the exception of Panama¹¹⁸, none of these countries impose corporate taxes. Looking at the banks in more detail, there are eight examples for €479m of profits where they have made a profit but have not paid a single euro in tax. BNP Paribas put in the 'best' performance, paying no tax at all on €134m of profits in the Cayman Islands.

EXAMPLES OF BANKS MAKING PROFITS BUT PAYING ZERO TAX

Country	Bank	Profit (€ million)	Tax (€ million)
Austria	Santander	43	0
Bermuda	HSBC	79	0
Cayman Islands	BNP Paribas ¹¹⁹	134	0
Cayman Islands	Crédit Agricole ¹²⁰	38	0
Hong Kong	Barclays	83	0
Monaco	BNP	23	0
Singapore	Société Générale	57	0
Channel Islands and the Isle of Man	BNP Paribas	22	0

GOT TO ADDRESS OF DELAWARE TAX HAVEN

In addition to its analysis of the CBCR data, Oxfam analysed the lists of subsidiaries provided by banks in their financial documents (see Appendix 1: Methodology, section 1.2). This analysis gives some insight into the presence of the 20 banks in the US state of Delaware.

Seventeen banks were surveyed¹²¹, and the research found that 59 percent of their US subsidiaries were domiciled in Delaware¹²². More strikingly 200, or 42 percent, of the subsidiaries of the 11 banks¹²³ for which an address could be found (i.e. 479) were located at exactly the same address: 1209 Orange Street, Wilmington, a building famous for being the legal address of more than 285,000 separate businesses, including giant US multinationals¹²⁴, it is run by CT corporation¹²⁵, a firm providing 'registered agent' services. Twenty percent of the subsidiaries are registered at another address, 2711 Centerville Road, Suite 400, which is run by Corporation Service Company (CSC)¹²⁶.

These results are not surprising, given that Delaware is notorious as a tax haven on account of the secrecy it offers and because its corporate income tax does not apply to companies that do not have physical presence in Delaware. Non-residents can incorporate their companies completely anonymously, without having any physical presence or business in Delaware (although the federal corporate income tax rate of 35 percent still applies)¹²⁷. Delaware was a pioneer in the offshore incorporation business and remains a leader, hosting over half of all US corporations and two-thirds of Fortune 500 companies¹²⁸. The state nurtures the incorporation industry with a strong legal system to resolve corporate disputes and with low incorporation fees, which nevertheless account for a significant portion of state revenues thanks to their huge volume.

CONCLUSIONS

The first in-depth analysis of public country-by-country reports released by the top 20 EU banks confirms the importance of public information to uncover banks' activities in tax havens. It has highlighted a clear pattern: large banks in the EU are disproportionately using tax havens to benefit from their favourable tax and regulatory rules. The reporting also makes it possible for stakeholders to make distinctions between banks and countries, and can dispel some doubts about banks' activities in tax havens.

Although progress is still needed in the current transparency requirements for banks, this new information highlights the urgent need to know more about companies' activities in all countries in which they operate and to extend public country-by-country requirements to all multinationals. The public should have access to a breakdown of their turnover, intra-firm sales, employees, physical assets,

profits and current taxes due and taxes paid, to reveal the scale of the problem and to spur urgent action to end corporate tax dodging for good.

While banks are taking advantage of this global race to the bottom, the losers are often the poor who experience the consequences of the inadequate public spending as a result of lower tax revenues for the government

These data also shed light on specific countries: a number of tax havens that play a key role in banks' business. It underlines once more the role that these countries are playing in the haemorrhaging of global tax resources by competing against each other to offer ever more favourable tax regimes to global corporations. While banks are taking advantage of this global race to the bottom, the losers are often the poor, who experience the consequences of the inadequate public spending as a result of lower tax revenues for the government. Only a fundamental paradigm

shift on corporate tax and significant international and European tax reforms will help to put an end to this harmful global race to the bottom.

RECOMMENDATIONS

1. Extend CBCR to all multinational corporations

This analysis of the country-by-country reporting of the top 20 EU-based banks provides vital information on their activities and identifies significant discrepancies between their reported profits and their real economic activities in certain countries. EU states should extend this transparency requirement to all multinational companies, following these criteria:

- ➔ Data should be broken down on a country-by-country basis for each country and jurisdiction of operation, both inside and outside the EU.
Information should include the following elements: turnover, number of employees, physical assets, sales, profits and taxes (due and paid), public subsidies received, information on the nature of activities and a full list of subsidiaries.
- ➔ A threshold of €40m in turnover should be applied, above which all companies should be required to report.
- ➔ Challenges in interpreting the current CBCR for banks are analysed in the methodology section and recommendations are made to improve CBCR formats. (see Appendices 1 and 2). These recommendations are all the more important in light of the current EU discussions around extending public CBCR to all multinationals.
- ➔ In the meantime, all companies should voluntarily publish full CBCR data to signal to regulatory bodies, policy makers, investors, civil society organizations and other stakeholders that their financial reporting is complete and transparent, and that they are not artificially shifting profits to tax havens.

2. End the race to the bottom on corporate taxation

The information analysed in this report shows the relevance of public CBCR as a tool to shed light on profit shifting schemes. With the support of tax havens, big firms such as banks are commonly both over – and under – reporting their profits. This is fuelling the ongoing race to the bottom on corporate tax rates, which reduces the fiscal contribution of the richest, to the detriment of the poorest. It is time for countries to stop undercutting each other on tax.

To rebalance the global tax system and reduce inequality, governments should:

- ➔ Acknowledge that the race to the bottom is harmful for the sustainability of tax systems and the reduction of inequality, and call for a new generation of international tax reforms, especially in the framework of the German presidency of the G20 in 2017.

- ➔ Create a global tax body to lead and coordinate international tax cooperation. This process could start with an International Framework Convention on Tax.
- ➔ Establish a clear and objective list of tax havens. Criteria must go beyond transparency measures and include also very low or zero tax rates, as well as the existence of harmful tax practices that grant substantial tax reductions to multinationals. Strong defensive measures should be adopted against listed countries to limit base erosion and profit shifting¹²⁹.
- ➔ Implement strong Controlled Foreign Company (CFC) rules, a measure that allows governments to tax profits artificially parked in tax havens. Such a measure can be implemented without waiting for global agreement.
- ➔ Stop ideologically driven decreases in corporate income tax rates, to ensure that multinationals contribute their fair shares domestically to tax systems that benefit both citizens and companies.
- ➔ Speed up the cultural change needed from big multinationals by adding tax as a core element of policies on corporate social responsibility (CSR). Companies should be more responsible with regards to tax by being more transparent about their business structures and operations.

3. Banks' responsible tax behaviour

Banks should:








- ➔ Improve the content, format and accuracy and timeliness of their reporting (see appendix 2 for more details)
- ➔ Publicly call for the extension of public CBCR to all sectors, as a means to improve trust and confidence of all stakeholders (customers, shareholders, business partners, public regulators, etc.), and overall create a more sustainable economic environment
- ➔ Approach their tax responsibility as conduct that goes beyond legal compliance and reflects their broader duties to contribute to the public goods on which companies themselves depend.
- ➔ Be transparent about their business structures and operations, their tax affairs and tax decision making; assess and publicly report the fiscal, economic and social impacts of their tax-related decisions and practices; and take progressive and measurable steps to improve the sustainable development impact of their tax behaviour¹³⁰.

ANNEX

TOP 20 EU BANKS' ACTIVITIES IN LUXEMBOURG

		TURNOVER (€M)			PROFIT BEFORE TAX (€M)			INCOME TAX (€M)			NUMBER OF EMPLOYEES (FTE)			PRODUCTIVITY (€000/FTE)		PROFITABILITY (%)	
		Total	% of global	% of international	Total	% of global	% of international	Total	Tax havens	Tax havens as % of total	Total	% of total	% of international	comparison with global (x)	comparison with global (x)		
FRANCE	BNP	1,208	3%	4%	665	7%	8%	118	4%	5%	3,609	2%	3%	184	3	55%	2
	BPCE GROUP	208	1%	4%	129	2%	7%	18	1%	3%	259	0%	2%	498	8	62%	2
	CRÉDIT AGRICOLE	679	2%	8%	411	5%	16%	75	3%	11%	1,293	1%	4%	318	5	61%	2
	CRÉDIT MUTUEL	324	2%	12%	151	2%	15%	36	2%	16%	863	1%	7%	175	2	47%	1
	SOCIÉTÉ GÉNÉRALE	855	3%	6%	587	10%	13%	101	6%	9%	1,570	1%	2%	374	8	69%	3
GERMANY	COMMERZ-BANK AG	348	3%	11%	220	7%	16%	62	10%	15%	491	1%	5%	448	6	63%	2
	DEUTSCHE BANK	1,567	5%	6%	1,167	N/A	N/A	192	23%	15%	607	1%	1%	1,923	N/A	74%	N/A
	KFW IPEX	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
ITALY	INTESA SANPAOLO	506	2%	12%	446	6%	23%	76	5%	21%	319	0%	1%	1,397	16	88%	3
	UNICREDIT	1,040	5%	9%	216	10%	8%	52	63%	23%	191	0%	0%	1	64	21%	2
NETHERLANDS	ING	298	2%	3%	166	3%	3%	35	2%	3%	774	1%	2%	214	2	56%	1
	RABOBANK	2	0%	0%	0	0%	0%	0	0%	0%	12	0%	0%	0	0	0%	0
SPAIN	BBVA	12	0%	0%	0	0%	0%	4	0%	0%	3	0%	0%	0	0	0%	0
	SANTANDER	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
SWEDEN	NORDEA	313	3%	4%	211	4%	5%	64	6%	7%	393	1%	2%	537	3	67%	1
UNITED KINGDOM	BARCLAYS	582	1%	3%	557	11%	17%	1	0%	0%	42	0%	0%	13,255	348	96%	8
	HSBC	96	0%	0%	0	0%	0%	3	0%	0%	340	0%	0%	0	0	0%	0
	LLOYDS	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	RBS	29	0%	1%	8	0%	0%	3	4%	N/A	99	0%	0%	84	N/A	29%	N/A
	STANDARD CHARTERED	0	0%	0%	-1	0%	0%	0	0%	0%	4	0%	0%	N/A	N/A	N/A	N/A
	TOGETHER	8,066	1.7%	3%	4,933	5.2%	7.3%	840	3.0%	4.5%	10,869	0.5%	1%	454	10	61%	3

TOP 20 EU BANKS' ACTIVITIES IN IRELAND

		TURNOVER (€M)			PROFIT BEFORE TAX (€M)			INCOME TAX (€M)			NUMBER OF EMPLOYEES (FTE)			PRODUCTIVITY (€000/FTE)		PROFITABILITY (%)	
		Total	% of global	% of international	Total	% of global	% of international	Total	Tax havens	Tax havens as % of total	Total	% of total	% of international	comparison with global (x)	comparison with global (x)		
 FRANCE	BNP	290	0.7%	1%	164	2%	2%	13	0%	1%	470	0%	0%	349	6	57%	2
	BPCE GROUP	5	0%	0%	2	0%	0%	-1	0%	0%	9	0%	0%	222	3	40%	1
	CRÉDIT AGRICOLE	198	1%	2%	172	2%	7%	4	0%	1%	162	0%	0%	1,062	17	87%	3
	CRÉDIT MUTUEL	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	SOCIÉTÉ GÉNÉRALE	9	0%	0%	39	1%	1%	0	0%	0%	46	0%	0%	848	18	433%	18
 GERMANY	COMMERZ-BANK AG	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	DEUTSCHE BANK	36	0%	0%	9	N/A	N/A	1	0%	0%	538	1%	1%	17	0	25%	N/A
	KFW IPEX	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
 ITALY	INTESA SANPAOLO	780	3%	18%	438	6%	23%	55	4%	15%	133	0%	0%	3,294	37	56%	2
	UNICREDIT	95	0%	1%	97	5%	3%	15	18%	7%	670	1%	1%	145	8	103%	10
 NETHERLANDS	ING	64	0%	1%	36	1%	1%	5	0%	0%	39	0%	0%	923	8	56%	1
	RABOBANK	270	2%	7%	39	1%	5%	4	1%	1%	435	1%	4%	90	1	14%	1
 SPAIN	BBVA	12	0%	0%	27	1%	0%	5	0%	0%	4	0%	0%	6,750	202	225%	11
	SANTANDER	25	0%	0%	27	0%	0%	3	0%	0%	10	0%	0%	2,700	52	108%	5
 SWEDEN	NORDEA	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
 UNITED KINGDOM	BARCLAYS	150	0%	1%	125	3%	4%	3	0%	0%	125	0%	0%	1,003	26	83%	7
	HSBC	85	0%	0%	10	0%	0%	-	0%	0%	85	0%	0%	26	0	12%	0
	LLOYDS	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	RBS	763	4%	29%	1,140	N/A	N/A	22	29%	N/A	2,936	3%	11%	388	N/A	149%	N/A
	STANDARD CHARTERED	305	2%	3%	8	N/A	3%	0	0%	0%	37	0%	0%	219	N/A	3%	N/A
	TOGETHER	3,087	0.6%	1.2%	2,334	2.5%	3.4%	129	0.5%	0.7%	5,699	0.3%	0.5%	409	9	76%	4

NOTES

1 McKinsey Global Institute (2015). The New Global Competition for Corporate Profits. <http://www.mckinsey.com/business-functions/strategy-and-corporate-finance/our-insights/the-new-global-competition-for-corporate-profits>

2 World population: 7.347 billion people. Combined population of the 31 tax havens where at least one of the 20 banks declared an activity: 89.051 million. World GDP in 2015: €66,269bn. Combined GDP in 2015 of the 31 tax havens where at least one of the 20 banks declared an activity: €3,116bn. Population data from INED (2015). Tous les pays du monde, in Populations et Sociétés, n° 525, September 2015. https://www.ined.fr/fichier/s_rubrique/211/population.societes.2015.525.tous.pays.monde.fr.fr.pdf; and World Bank database (last accessed 13 January 2017) at <http://donnees.banquemondiale.org/indicateur/SP.POP.TOTL>. GDP data from UN database (last accessed 13 January 2017) at <http://data.un.org/>; and CIA World Factbook (last accessed 13 January 2017) at <https://www.cia.gov/library/publications/the-world-factbook/geos/gi.html>. Average 2015 exchange rate USD to EUR: 0.9016.

3 UK: €731m, Germany: €1.118bn, Sweden: €933m; combined: €2.782bn. The low profits reported in the UK and Germany are linked to major losses incurred by a number of banks.

4 Barclays commented in its CBCR file: 'Luxembourg tax was not paid on the great majority of the profits due to either an offset of tax losses or as a result a dividends not being taxed under Luxembourg law.' Barclays Tax 'Our 2015 country snapshot'. When contacted, the bank confirmed that its high profit margin and very low tax rate in Luxembourg was due to the receipt of non-taxable dividends in the country. <https://www.home.barclays/content/dam/barclayspublic/docs/InvestorRelations/AnnualReports/AR2015/Barclays%20PLC%20Country%20by%20Country%20Report%202015.pdf>

5 The Bahamas (€19m), Bahrain (€53m), Bermuda (€96m), the Cayman Islands (€189m), Panama (€1m), Vanuatu (€5m) and the British Virgin Islands (€20m)

6 The cases in which banks declare profits but do not have any employee working in the jurisdiction are : Bermuda : Société Générale
Cayman Islands : BNP Paribas; Crédit Agricole; BPCE; Santander
Curaçao : Société Générale
Cyprus : Société Générale
Lebanon : Société Générale

Malta : Unicredit

Mauritius : ING

British Virgin Islands : Standard Chartered

ING Bank's turnover and profit in Mauritius are the net result from a minority participation attributed to an intermediate holding. It concerns a one-off profit from the merger of ING Vysya Bank, an Indian bank in which it held a 44% stake, with another Indian bank.

When contacted, Standard Chartered indicated that the €20m of one-off profits booked in the British Virgin Islands (BVI) relate to the sale of its shares in a Chinese company, the resulting capital gain having been taxed in China. Yet the question remains: why using a holding company incorporated in a renowned tax haven for this operation?

7 The exact address could only be found for 11 banks: Barclays, HSBC, Santander, BNP Paribas, BPCE, BBVA, RBS, Société Générale, Crédit Agricole, Standard Chartered, Crédit Mutuel-CIC. The exact address where all those subsidiaries are registered is: 1209 Orange Street, Wilmington

8 A full-time bank employee in Indonesia generates only €4,000 per year, 10 times lower than the global average and 42 times lower than in tax havens. The banking industries in Monaco and Indonesia had quite similar turnovers in 2015 (€918m in Monaco vs €973m in Indonesia), but in Monaco eight banks made €358m of profit while in Indonesia seven banks only made €43m.

9 UK: €731m, Germany: €1.118bn, Sweden: €933m; combined: €2.782bn. The low profits reported in the UK and Germany are linked to major losses incurred by a number of banks.

10 Barclays commented in its CBCR file: 'Luxembourg tax was not paid on the great majority of the profits due to either an offset of tax losses or as a result a dividends not being taxed under Luxembourg law.' Barclays Tax 'Our 2015 country snapshot'. When contacted, the bank confirmed that its high profit margin and very low tax rate in Luxembourg was due to the receipt of non-taxable dividends in the country. <https://www.home.barclays/content/dam/barclayspublic/docs/InvestorRelations/AnnualReports/AR2015/Barclays%20PLC%20Country%20by%20Country%20Report%202015.pdf>

11 When contacted, RBS explained that it had exceptional profits in Ireland in 2015 as a result of impairment write backs from earlier periods.

11.2 Lloyds' profits in tax havens totalled £74m out of a total profit of £1.762bn. The profitability ratio for this small (4.2%) portion of total profits was much higher (x6) than the overall profitability. Lloyds told us the reasons for this discrepancy included one offs, simplification costs, PPI costs and TSB hive off costs, which all reduce UK profitability.

12 The list of European banks setting up the most offshore companies is headed by UBS and Credit Suisse of Switzerland, but the top 10 also includes five of the banks covered in this report: HSBC (with 2,882 offshore entities), Société Générale (1,639), Crédit Agricole (1,005), BNP Paribas (782) and Santander (680) B. Schumann (2017). Usual Suspects? Co-conspirators in the business of tax dodging. Report commissioned by the Greens/EFA Group in the European Parliament. <http://www.greens-efa.eu/files/doc/docs/d6bd745c6d08df3856eb6d49ebd9fe58.pdf>

13 Oxfam (2017). Just 8 men own same wealth as half the world. Available at <https://www.oxfam.org/en/pressroom/pressreleases/2017-01-16/just-8-men-own-same-wealth-half-world>

14 The total annual financing gap to achieve universal pre-primary, primary and secondary education (as per the SDGs) is \$39bn each year. The number of children out of school is 124 million (59 million young children, 65 million adolescents). See UNESCO. (2016). *Education for people and planet: creating sustainable futures for all*. <http://unesdoc.unesco.org/images/0024/002457/245745e.pdf> and UNESCO. (2015). *Out of school children data release 2015*. <http://www.uis.unesco.org/Education/Pages/oosc-data-release-2015.aspx>

15 'I see no problem with transparency from the moment it is required by the law'. Statement of Jean-Charles Balat, Finance Director of Crédit Agricole group, during a hearing of the Special Committee of the European Parliament on Tax Rulings and Other Measures Similar in Nature or Effect (TAXE 2), 21 March 2016. <http://www.europarl.europa.eu/ep-live/en/committees/video?event=20160321-1500-COMMITTEE-TAX2>

16 Transparency International EU Office (2016). *Do Corporate Claims on Public Disclosure Stack Up? Impact of Public Reporting on Corporate Competitiveness*, p.7. https://transparency.eu/wp-content/uploads/2016/10/Impact_of_Public_Reporting_FINAL.pdf

17 Calculations based on the public CBCR of BNP Paribas, Société Générale, BPCE, Crédit Agricole and Crédit Mutuel for the years 2015 and 2014. Turnover: BNP Paribas – 2015: €42.938bn, 2014: €39.168bn; Société Générale – 2015: €25.639bn, 2014: €23.561bn; BPCE – 2015: €23.868bn, 2014: €23.257bn; Crédit Agricole – 2015: €32.426bn, 2014: €30.243bn; Crédit Mutuel – 2015: €16.318bn, 2014: €15.411bn. Profits: BNP Paribas – 2015: €9.790bn, 2014: €2.741bn; Société Générale – 2015: €6.109bn, 2014: €4.375bn; BPCE – 2015: €6.604bn, 2014: €5.925bn; Crédit Agricole – 2015: €3.232bn, 2014: €2.605bn; Crédit Mutuel – 2015: €7.367bn, 2014: €6.852bn.

18 European Commission, Proposal for a directive amending directive 2013/34/EU as regards disclosure of income tax information by certain undertakings and branches. <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52016PC0198&from=EN>

19 OECD (2015). *Action 13, Guidance on the Implementation of Transfer Pricing Documentation and Country-by-Country Reporting*, p.4. <https://www.oecd.org/ctp/beps-action-13-guidance-implementation-tp-documentation-cbc-reporting.pdf>

20 Oxfam France (2016). *Loi Sapin 2: des avancées sur le statut des lanceurs d'alerte mais de nombreuses déceptions sur les autres sujets*. Press release, 15 November 2016. <https://www.oxfam-france.org/communique-presse/justice-fiscale/loi-sapin-2-des-avancees-sur-statut-des-lanceurs-dalerte-mais>

21 Oxfam France, CCFD-Terre Solidaire, ONE France, ActionAid France Peuples Solidaires (2016). *Loi Sapin 2 et lutte contre l'évasion fiscale: pourquoi le compromis sur le reporting pays par pays public proposé par les rapporteurs n'est toujours pas satisfaisant*. https://www.oxfamfrance.org/sites/default/files/communique_presse/reporting_public_-_analyse_proposition_rapporteurs_vf.pdf https://www.oxfam-france.org/sites/default/files/communique_presse/reporting_public_-_analyse_proposition_rapporteurs_vf.pdf

22 Conseil Constitutionnel, Décision n°2016-741 du 8 décembre 2016, point. 103. <http://www.conseil-constitutionnel.fr/conseil-constitutionnel/francais/les-decisions/acces-par-date/decisions-depuis-1959/2016/2016-741-dc/decision-n-2016-741-dc-du-8-decembre-2016.148310.html>

23 Oxfam France (2016). *Analyse de la conformité constitutionnelle du reporting public adopté dans la loi Sapin 2*. https://www.oxfamfrance.org/sites/default/files/argumentaire_constitutionnalite_du_reporting_public_dec2016.pdf

24 4th EU Capital Requirement Directive of 26 June 2013, article 89. <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013L0036&from=FR>

25 World population: 7.347 billion people. Combined population of the 31 tax havens where at least one of the 20 banks declared an activity: 89.051 million. World GDP in 2015: €66,269bn. Combined GDP in 2015 of the 31 tax havens where at least one of the 20 banks declared an activity: €3,116bn. Population data from INED (2015). *Tous les pays du monde, in Populations et Sociétés*, n° 525, September 2015. https://www.ined.fr/fichier/s_rubrique/211/population.societes.2015.525.tous.pays.monde.fr.fr.pdf; and World Bank database (last accessed 13 January 2017) at <http://donnees.banquemondiale.org/indicateur/SP.POP.TOTL>. GDP data from UN database (last accessed 13 January 2017) at <http://data.un.org/>; and CIA World Factbook (last accessed 13 January 2017) at <https://www.cia.gov/library/publications/the-world-factbook/geos/gi.html>. Average 2015 exchange rate USD to EUR: 0.9016.

26 HSBC accounted for 68 percent of the 20 banks' turnover in Hong Kong in 2015 (€14.079 of a total of €20.652bn) and 84 percent of the profits (€8.841bn of €10.551bn). Its significant activity here is in part explained by its historical roots, with the Hong Kong and Shanghai Banking Corporation being established in 1865 to finance trade between Europe and Asia. The CBCR data indicate that HSBC is over-reporting profit in Hong Kong, though it is not possible to discern the precise level of over-reporting. Oxfam treated all tax havens and all banks consistently: except for where banks have their 'home' in tax havens (the 2 Netherlands-based banks), all tax havens were seen as such for all banks.

27 CBCR data suggest that in fact most banks do not use as Belgium as a tax haven. On average, in Belgium profitability per bank employee is €107,000, banking activities have a profit margin of 35 percent and the effective tax rate is 30%. However, both indicators vary considerably from bank to bank. BNP Paribas and ING bank, which generate 10% and 18% of their turnover in Belgium, respectively, have ratios close to the average. However, Santander has a very

high productivity per employee of €508,000, a very high profit margin of 72 percent and a low effective tax rate of 15%.

28 Seven banks reported losses in their home countries in 2015: HSBC in the UK (-€480m); RBS in the UK (-€438m); Standard Chartered in the UK (-€1.647bn); Deutsche Bank in Germany (-€4.247bn); UniCredit in Italy (-€675m); Santander in Spain (-€990m); BBVA in Spain (-€1.576bn).

29 This excludes territories where the 20 banks collectively reported less than €100m in turnover.

30 Banks' home country average was impacted by particular situations in the following countries: Germany: two banks declared a loss: RBS (-€143m) and Deutsche Bank (-€5bn), mainly due to the €5.2bn paid in litigation costs as the outcome of several proceedings and impairment charges of €6.5 bn. UK: five banks incurred a loss in 2015: HSBC (-€481m), RBS (-€438m), Standard Chartered (-€1.647bn), Deutsche Bank (-€1.437bn) and UniCredit (-€8m). Spain: five banks declared a loss in 2015: HSBC (-€4m), RBS (-€134m), Deutsche Bank (€0m), BBVA (-€1.576bn) and Santander (-€990m).

31 Lloyds' profits in tax havens totalled £74m out of a total profit of £1.762bn. The profitability ratio for this small (4.2%) portion of total profits was much higher (x6) than the overall profitability. Lloyds told us the reasons for this discrepancy included one offs, simplification costs, PPI costs and TSB hive off costs, which all reduce UK profitability.

32 This excludes countries where the 20 banks together collectively reported less than €100m in turnover.

33 Banks' home country average was impacted by particular situations in the following countries: Germany: two banks declared a loss: RBS (-€143m) and Deutsche Bank (-€5bn), mainly due to the €5.2bn paid in litigation costs as the outcome of several proceedings and impairment charges of €6.5 bn. UK: five banks incurred a loss in 2015: HSBC (-€481m), RBS (-€438m), Standard Chartered (-€1.647bn), Deutsche Bank (-€1.437bn) and UniCredit (-€8m). Spain: five banks declared a loss in 2015: HSBC (-€4m), RBS (-€134m), Deutsche Bank (€0m), BBVA (-€1.576bn) and Santander (-€990m).

34 For an analysis of French banks' 2014 public CBCR, see Oxfam, CCFD-Terre Solidaire, Secours Catholique Caritas (2016). *Following the Money: French banks' activities in tax havens [En quête de transparence: sur la piste des banques françaises dans les paradis fiscaux]*. English version: https://www.oxfam.org/sites/www.oxfam.org/files/following_the_money_final_english.pdf; French version: https://www.oxfam.org/sites/www.oxfam.org/files/sur_la_piste_des_banques_francaises.pdf. Dataset of French banks' CBCR for 2014 is available at: <https://www.data.gouv.fr/fr/datasets/transparence-donnees-comptables-pays-par-pays-des-5-plus-grandes-banques-francaises/>. In this previous research, the CBCR data of Credit Agricole S.A, the main entity of Crédit Agricole Group, was taken into account. The present report uses the CBCR data of the Credit Agricole group that includes all the activities of the Group.

35 Loi n° 2013-672 du 26 juillet 2013 de séparation et de régulation des activités bancaires, article 7. Légifrance. <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000027754539>

36 Profit ratios may be lower in home countries if shared services are taken into account (see Appendix 2, section 2.2).

37 This might result from lower levels of labour productivity and more labour-intensive forms of banking, but it cannot fully explain a productivity gap of more than 40 times.

38 World Bank data, Indonesia, Context <https://www.worldbank.org/en/country/indonesia/overview>

39 Appendix 2, section 2.3.

40 Barclays commented in its CBCR file: 'Luxembourg tax was not paid on the great majority of the profits due to either an offset of tax losses or as a result a dividends not being taxed under Luxembourg law.' Barclays Tax 'Our 2015 country snapshot'. When contacted, the bank confirmed that its high profit margin and very low tax rate in Luxembourg was due to the receipt of non-taxable dividends in the country. <https://www.home.barclays/content/dam/barclayspublic/docs/InvestorRelations/AnnualReports/AR2015/Barclays%20PLC%20Country%20by%20Country%20Report%202015.pdf>

41 See <https://www.rabobank.com/en/images/rabobank-annual-report-2015.pdf>, p.24.

42 See https://www.rabobank.co.id/content/en/images/AR2015_Rabobank_tcm47-232800.pdf

43 These activities involved the financing of corporate clients in South America that could not be provided via local subsidiaries, for example because of currency restrictions. According to the bank, the geographical advantages no longer outweighed the costs of maintaining an office in Curaçao. See <https://www.rabobank.com/en/locate-us/americas/curacao.html>

44 BNP Paribas and Crédit Agricole together provided approximately 17 percent of total bank lending in 2014; see <https://www.oxfordbusinessgroup.com/overview/morocco-banking-sector-sees-asset-growth-expanded-lending-and-greater-penetration>.

45 The low taxes paid by EU subsidiaries of US banks may reflect the exclusion of deferred taxes. See Appendix 2, section 2.2.

46 The remaining two banks, Citi and Wells Fargo, also both have large operations in the UK, but Citi also has retail banking activities in Eastern Europe, while Wells Fargo's centre of gravity is Ireland. Wells Fargo's presence in Europe is much smaller than that of the other five US banks. Citi provided the following response to this data: 'Country-by-country reporting requirements provide only a partial picture of Citi's accounts in the EU. For example, as a UK branch of a US entity, Citi's Citibank NA London Branch vehicle, which houses many of the bank's largest businesses, does not fall under Country-by-Country reporting requirements.'

47 Investigations by Reuters in each of the last two years found similarly low rates. See <http://mobile.reuters.com/article/idUSKBN1460NY> and <http://www.reuters.com/article/us-britain-banks-tax-idUSKBN0UH0DN20160103>. In 2016 the UK imposed an 8 percent surcharge for the banking sector on corporate income tax. A levy on banks' capital was also instituted in 2011 to ensure that the sector contributed towards the cost of bailouts.

48 Deferred taxes, losses carried forward from the financial crisis and possible profit shifting may all contribute to this low rate; the existing data is insufficient to provide a complete explanation.

49 JPMorgan Chase & Co's Form 10-K for the fiscal year ending December 31, 2015, p.285. <https://investor.shareholder.com/jpmorganchase/secfiling.cfm?filingID=19617-16-902&CIK=19617>

50 Goldman Sachs Group's Form 10-K for the fiscal year ending December 31, 2015, p.196. <http://www.goldmansachs.com/investor-relations/financials/current/10k/2015-form-10-k-a.pdf>

51 In total, 144,572 people work for the 20 banks in tax haven territories. If these employees had the same level of productivity as the global average (€44,000), the profits reported in tax havens by the 20 banks collectively would be 144,572 x €44,000 = €6.3bn.

52 The 20 banks reported €58.5bn of turnover in tax havens. If these activities were as profitable as the average (19 percent), the profits reported would amount to 19 percent x €58.5bn = €11bn.

53 European Commission (2016). *State aid: Ireland gave illegal tax benefits to Apple worth up to €13 billion*. 30 August 2016. http://europa.eu/rapid/press-release_IP-16-2923_en.htm

54 M. Tataré and J. Angusto (2016). *Tax Shopping: Exploring Zara's tax avoidance business*. Report commissioned by the Greens/European Free Alliance in the European Parliament. <http://www.greens-efa.eu/en/article/tax-shopping/>

55 ICIJ. *The Panama Papers*. <https://www.panamapapers.icij.org>

56 Many shell companies were also set up by bank subsidiaries located in the UK, which has its own internal tax haven, the City of London. However, the UK has been deliberately excluded from the group of tax havens examined in this report since country-by-country reporting is insufficiently detailed to identify which subsidiaries and activities are linked to the City, even though this decision means that our evaluation of banks' activities in tax havens is understated. See Appendix 1: Methodology.

57 B. Schumann (2017). *Usual Suspects? Co-conspirators in the business of tax dodging*. Report commissioned by the Greens/EFA Group in the European Parliament. <http://www.greens-efa.eu/files/doc/docs/d6bd745c6d08df3856eb6d49ebd9fe58.pdf>

58 Ibid., Figure 19.

59 Ibid., Figure 18.

60 See Appendix 1: Methodology, section 1.2.

61 B. Protess, J. Silver-Greenberg (2014). *Credit*

Suisse pleads guilty in Felony Case. *The New York Times*, 19 May 2014. https://dealbook.nytimes.com/2014/05/19/credit-suisse-set-to-plead-guilty-in-tax-evasion-case/?_r=0

62 E. Albert (2015). *HSBC a honte du scandale Swiss-leaks*, *Le Monde*, 22 February 2015. http://abonnes.lemonde.fr/evasion-fiscale/article/2015/02/22/stuart-gulliver-directeur-general-de-hsbc-pratiquait-aussi-l-evasion-fiscale_4581286_4862750.html

63 J. Kollewe and J. Treanor (2016). *French prosecutor calls for HSBC to stand trial for alleged tax fraud*. *The Guardian*, 3 November 2016. <https://www.theguardian.com/business/2016/nov/03/hsbc-bank-french-prosecutor-calls-stand-trial-alleged-tax-swiss-subsidiary>

64 G. Sebag (2016). *French prosecutors said to recommend UBS face trial in tax case*. *Bloomberg*, 27 June 2016. <https://www.bloomberg.com/news/articles/2016-06-27/french-prosecutors-said-to-recommend-ubs-face-trial-in-tax-case>

65 F. Arfi, D. Israël, G. Livolsi (2014). *Une filiale du Crédit Mutuel en pleine 'dérive mafieuse'*. *Médiapart*, 5 June 2014. <https://www.mediapart.fr/journal/france/050614/une-filiale-du-credit-mutuel-en-pleine-derive-mafieuse>

66 S. Fontvieille (2016). *La BNP est mise en cause dans un scandale à un milliard de dollars*. *Médiapart*, 11 October 2016. <https://www.mediapart.fr/journal/economie/111016/la-bnp-est-mise-en-cause-dans-un-scandale-un-milliard-de-dollars>

67 Ibid.

68 Oxfam (2016). *Tax Battles: The Dangerous Global Race to the Bottom on Corporate Tax*. https://www.oxfam.org/sites/www.oxfam.org/files/file_attachments/bp-race-to-bottom-corporate-tax-121216-en.pdf

69 Figures of profits reported for each country are : Argentina, €1,452m; Australia, €1,112m; Bangladesh, €258m; Brazil, €2,791m; Canada, €736m; Chile, €1,072m; China, €3,238m; Czech Republic, €1,006m; Denmark, €1,033m; Finland, €1,659m; India, €1,566m; Japan, €788m; Norway, €1,010m; South Korea, €144m. Total profits reported in the fourteen countries: 17,864m. Figures of profits reported in Hong-Kong, Luxembourg Ireland are: Hong-Kong, €10,551m; Luxembourg, €4,933m; Ireland, €2,334m. Total of profits reported in the three countries :

€17,817m.

70 Oxfam (2016). *Tax Battles*, op. cit.

71 UK: €731m, Germany: €1.118bn, Sweden: €933m; combined: €2.782bn. The low profits reported in the UK and Germany are linked to major losses incurred by a number of banks.

72 Luxembourg's population in 2015 was 0.6 million people, compared with 7.347 billion worldwide. Luxembourg GDP was €52bn in 2015 compared with €66,269bn worldwide.

73 Deloitte, *Taxation and investment in Luxembourg 2016: Reach, relevance and reliability*, p.19.<https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-luxembourgguide-2016.pdf>

74 Luxembourg permits the registering in its territory of intellectual property such as patents, trademarks, brands, etc. As a result, if a subsidiary of a company wishes to use or acquire these IP rights, the fees or capital gain can be paid to the Luxembourg subsidiary, which receives an 80 percent tax exemption on such income.

75 All the companies involved in the LuxLeaks scandal are listed on the ICIJ website. <https://www.icij.org/project/luxembourg-leaks/explore-documents-luxembourg-leaks-database>

76 In total, 230 of these companies were from the financial industry (banks, investment funds, private equity funds, insurance companies, etc.).

77 The nine banks implicated in Luxleaks and included in the present study are Barclays, BNP Paribas, BPCE, Commerzbank, Crédit Agricole, Deutsche Bank, HSBC, Intesa Sanpaolo and UniCredit. The other 25 banks involved were ABN AMRO, Aozora Bank, Banca Delle Marche, Banca Popolare Dell'Emilia Romagna, Banca Bradesco, Banca Itau Unibanco, Banque Degroof, Banque Martin Maurer, Bayerische Landesbank, Royal Bank of Canada, Citigroup, Crédit Suisse, Dexia, Groupe Edmond de Rothschild, Groupe Rothschild, Gruppo Banca Sella, J.P. Morgan, Lehman Brothers, Macquarie Group, Merrill Lynch, Sberbank, UBI Banca, UBS, Union Bancaire Privée and WGZ Bank.

78 Tax Justice Network (2015). *Financial Secrecy Index, Narrative Report on Luxembourg*. <http://www.financialsecrecyindex.com/PDF/Luxembourg.pdf>

79 Ibid

80 This ranking excludes countries where total profits reported collectively by the 20 banks were less than €100m.

81 Deutsche Bank reported a loss €4.498bn in 2015, so the group's output per employee was a negative number. It makes no sense to compare the output per employee in Luxembourg with this negative average productivity for the group.

82 Ibid.

83 J. Baruch, A. Michel and M. Vaudano (2016). *Panama Papers: les non-dits de la Société Générale sur son activité offshore*. *Le Monde*, 11 May 2016. http://www.lemonde.fr/panama-papers/article/2016/05/11/panama-papers-le-patron-de-la-societe-generale-frederic-oudea-a-l-epreuve-des-faits_4917214_4890278.html

84 R. Carvajal, R. Chittum and C. Schilis-Gallego (2016). *Global Banks Team with Law Firms to Help the Wealthy Hide Assets*. ICIJ website, 4 April 2016. <https://panamapapers.icij.org/20160404-banks-lawyers-hide-assets.html>

85 J. Baruch, A. Michel and M. Vaudano (2016), op. cit.

86 PwC, *Luxembourg: Corporate – Taxes on corporate income*. <http://taxsummaries.pwc.com/uk/taxsummaries/wwts.nsf/ID/Luxembourg-Corporate-Taxes-on-corporate-income>

87 Barclays commented in its CBCR file: 'Luxembourg tax was not paid on the great majority of the profits due to either an offset of tax losses or as a result a dividends not being taxed under Luxembourg law.' Barclays Tax 'Our 2015 country snapshot'. <https://www.home.barclays/content/dam/barclayspublic/docs/InvestorRelations/AnnualReports/AR2015/Barclays%20PLC%20Country%20by%20Country%20Report%202015.pdf>

88 It should be noted that Société Générale's Irish profits partly consisted of net income from minority participations not included in turnover. When contacted, Société Générale indicated confirmed that its high profit ratio in Ireland was due mainly to its application of the equity method, by which some of its subsidiaries contribute to profits before tax but not to its turnover in the country.

89 When contacted, RBS explained that it had exceptional profits in Ireland in 2015 as a result of impairment write backs from earlier periods.

90 When contacted, BBVA indicated that its high profit ratio was due to an extraordinary income stemming from the reversion of a provision that had been recorded in its accounts in previous years.

91 Intesa SanPaolo annual report 2015.

92 Oxfam further analysed this case using additional data from Intesa's Irish subsidiaries (Fideuram and Intesa SanPaolo Bank Ireland annual reports for 2015). Most of the Irish profits are generated by the Irish subsidiary in the bank's private banking division, Fideuram Asset Management. The subsidiary earned €586m of investment management fees and made €278m profits; 80% of its expenses consist of fees paid to other group companies, mostly in Italy. The Irish entity had only 54 employees on average and staff costs of €9m, including social welfare, pensions and bonuses. Thus, it reports a very high margin on investment services to external clients that are, according to its cost structure, in fact largely provided by group companies in Italy.

Contacted on this case, the Bank provided the following comment: Fideuram Asset Management (FAMI)'s main activity is the collective and individual portfolio management. The latter is a highly profitable activity with very low risks; moreover, the highly skilled workers located in Ireland create high value. Furthermore, whenever associated companies not located in Ireland contribute to generate FAMI's profits, transfer pricing rules are applied and all the intra-group transactions are compliant with the arm's length principle. It should be also taken into account that the 90% of the fees paid to other group companies are related to the distribution activity as such. More importantly, FAMI has successfully demonstrated that it is not subject to the Controlled Foreign Companies (CFC) rules specifically proving to the Italian tax authority that it is not an artificial business arrangement established in Ireland to obtain undue tax advantages.

Another subsidiary, Intesa SanPaolo Bank Ireland, carried out banking activities. It had issued €9.3bn of debt securities to third parties and provided €9.1bn of loans to related parties, of which €6bn to the Italian parent company. On the other hand, the assets employed in local banking activities, such as deposits from customers and loans to corporations, were smaller: approximately €4bn in total. This suggests that the Irish subsidiary passed on the debt raised from third parties to other group companies. In 2015,

it received €204m of interest on these intra-group loans, while its annual accounts suggest that total charges related to the debt securities were at most €118m. Thus, it seems that Intesa SanPaolo Bank Ireland realized a net interest margin of at least €86m on the on-lending of funds, suggesting a potential tax avoidance scheme at group level to benefit from the Irish accommodating corporate tax system. Contacted on this case, the bank provided the following comment: As for Intesa Sanpaolo Bank Ireland (ISPIRE), the main contributors to the net interest margin were: (i) a mismatch of dates of maturity that made the activity very profitable; (ii) lower funding costs due to the improved market conditions; (iii) the fact that net exposure to non-performing loans accounted for almost zero percent. Furthermore, ISPIRE has successfully demonstrated that it is not subject to the CFC rules specifically proving to the Italian tax authority that it is not an artificial business arrangement established in Ireland to obtain undue tax advantages.

93 Only 16 of the 20 banks in this study have operations in Ireland (all but Lloyds, Crédit Mutuel, Commerzbank & KfW Ipx).

94 Had Ireland's statutory tax rate of 12.5 percent been applied to the €1.14bn of profits made by RBS in the country, the amount of tax paid would be equivalent to €142.5m instead of the €22m the group actually paid. When contacted, RBS explained that it had exceptional profits in Ireland in 2015 as a result of impairment write backs from earlier periods.

95 European Commission (2016). *State aid: Ireland gave illegal tax benefits to Apple worth up to €13 billion*, op. cit.

96 RBS's overall result for 2015 was a loss of €3.725bn. It makes no sense to compare the output per employee in Ireland with this negative average profitability for the group as a whole.

97 Oxfam (2016). *Tax Battles*, op. cit.

98 European Commission. *Economic Performance by Country: Ireland*. https://ec.europa.eu/info/business-economy-euro/economic-performance-and-forecasts/economic-performance-country/ireland_en

99 Houses of the Oireachtas (2016). *Written Answers to PQs 154 and 210*. 19 July 2016. <http://oireachtasdebates.oireachtas.ie/Debates%20Authoring/DebatesWebPack.nsf/takes/dail2016071900068#N57>

- 100** Byrne Wallace (2014). *Why Ireland? Tax considerations. Guide to company taxation in Ireland*. http://byrnewallace.com/uploadedFiles/Services/Service_List/Why%20Ireland%20-%20Guide%20French.pdf?n=2332; and PwC (2014). *Pourquoi l'Irlande? [Why Ireland?]*. <http://download.pwc.com/ie/pubs/2015-pwc-ireland-why-ireland-french.pdf>
- 101** Section 110 of the Taxes Consolidation Act is the cornerstone that establishes the regulatory and tax regime facilitating special purpose vehicles (SPVs) and securitization. See B. Godfrey, N. Killeen and K. Moloney (2015). *Data Gaps and Shadow Banking: Profiling Special Purpose Vehicles' Activities in Ireland. Central Bank, Quarterly Bulletin 03*. <https://www.centralbank.ie/publications/Documents/Data%20Gaps%20and%20Shadow%20Banking%20Profiling%20Special%20Purpose%20Vehicles%20Activities%20in%20Ireland.pdf>
- 102** William Fry, *Changes to Section 110 Regime Relating to Irish SPVs Holding Irish Property Assets*. 8 September 2016. <http://www.williamfry.com/newsandinsights/news-article/2016/09/08/changes-to-section-110-regime-relating-to-irish-spvs-holding-irish-property-assets>
- 103** Crédit Agricole in Switzerland paid a €91m fine to the US government to avoid being prosecuted in a tax avoidance case. However, this had no bearing on the pre-tax result for 2015 because the bank had already made provisions for this sum earlier. M. Protard (2015) *Crédit Agricole Suisse paie l'amende de 99,2 millions de dollars*. Capital.fr, 31 December 2015. <http://www.capital.fr/bourse/actualites/credit-agricole-suisse-paie-l-amende-de-99-2-millions-de-dollars-1094222>
- 104** Swiss National Bank (2016). *Banks in Switzerland, 2015 edition*. Available from: http://www.snb.ch/en/mmr/reference/pre_20160630/source/pre_20160630.en.pdf
- 105** Financial data from Société Générale Private Banking (Suisse) SA available on the website of the project 'TheBanks.eu'. <https://thebanks.eu/banks/9690>
- 106** Financial data from Banque Pasche SA available on the website 'TheBanks.eu'. <https://thebanks.eu/banks/9663>
- 107** Swiss National Bank (2016). *Banks in Switzerland*, op. cit.
- 108** A. Kirchfeld and E. Logutenkova (2013). *Private Banks Leave Switzerland as End of Secrecy Hurts*. Bloomberg, 1 July 2013. <http://www.bloomberg.com/news/articles/2013-06-30/private-banks-leave-switzerland-as-end-of-secrecy-hurts-profits>
- 109** Ibid.
- 110** OECD. *Gross domestic product (GDP) total, US dollars/capita, 1980–2015*. Source: Aggregate National Accounts, SNA 2008 (or SNA 1993). <https://data.oecd.org/gdp/gross-domestic-product-gdp.htm>
- 111** OECD, *Short-Term Labour Market Statistics: Harmonised Unemployment Rates (HURs)*. <http://stats.oecd.org/index.aspx?queryid=36324#>
- 112** A. Duparc (2016). *Les banquiers suisses ont le blues, la transparence leur est imposée*. Médiapart, 4 December 2016. <https://www.mediapart.fr/journal/economie/041216/les-banquiers-suisses-ont-le-blues-la-transparence-leur-est-imposee>
- 113** The third Corporate Tax Reform bill (CRT III), passed on 17 June 2016, includes the following measures: notional deduction of interest; exemption from corporate tax on income derived from patent and intangible property rights, up to 90 percent; a deduction of 150 percent on R&D expenditure incurred in Switzerland; and net wealth tax reduction for inter-company loans. The law guarantees that the overall tax relief granted by these different measures cannot exceed 80 percent of the initial corporate tax due. PwC (2016). *Switzerland passes final corporate tax reform package to enhance global competitiveness*. 21 June 2016. <https://www.pwc.com/us/en/tax-services/publications/insights/assets/pwc-switzerland-passes-final-corporate-tax-reform-package.pdf>In addition, several cantons have announced that they are planning to reduce their legal corporate tax rates, including the cantons of Zug (to 12 percent), Vaud (from 21.75 percent to 13.79 percent), Geneva (from 24 percent to 13.49 percent) and Basel-Stadt (from 22.18 percent to 13 percent). Crédit Suisse (2016). *Locational Quality: Basel-Stadt Set to Overtake Canton Zurich*. https://www.credit-suisse.com/media/assets/corporate/docs/about-us/media/media-release/2016/09/sqi_2016_final_en.pdf
- 114** Bloomberg, *Swiss Reject Tax Reform, Threatening Country's Competitive Edge*. <https://www.bloomberg.com/news/articles/2017-02-12/swiss-voters-seen-rejecting-corporate-tax-reform-srf-projection-iz2lfkx>

115 Among those banks, BNP Paribas and Crédit Agricole reveal that the employees related to their Cayman Islands entity are based in the US. But the question remains: why is their Cayman Islands branch fully operated from the US, if not to benefit its lax tax and regulatory regime?

116 The cases in which banks declare profits but do not have any employees working in the jurisdiction are : Bermuda : Société Générale
Cayman Islands : BNP Paribas; Crédit Agricole; BPCE; Santander
Curaçao : Société Générale
Cyprus : Société Générale
Lebanon : Société Générale
Malta : Unicredit
Mauritius : ING
British Virgin Islands : Standard Chartered
ING Bank's turnover and profit in Mauritius are the net result of a minority participation attributed to an intermediate holding. It concerns a one-off profit from the merger of ING Vysya Bank, an Indian bank in which it held a 44% stake, with another Indian bank.
When contacted, Standard Chartered indicated that the €20m of one-off profits booked in the British Virgin Islands (BVI) relate to the sale of its shares in a Chinese company, the resulting capital gain having been taxed in China. Yet the question remains: why use a holding company incorporated in a renowned tax haven for this operation?

117 Oxfam, Tax Justice Network, Global Alliance for Tax Justice, PSI (2015). *Still Broken: Governments must do more to fix the international corporate tax system*. https://www.oxfam.org/sites/www.oxfam.org/files/file_attachments/bn-still-broken-corporate-tax-101115-embargo-en.pdf

118 Only income derived from within Panama is subject to corporate tax at a rate of 25 percent, meaning that the sale of products or services outside the territory is not taxed. Deloitte, *Panama Highlights 2015*. https://www2.deloitte.com/content/dam/Deloitte/pa/Documents/tax/2015_PA_Tax-panamahighlights.pdf

119 BNP Paribas' profit in the Cayman Islands is taxed in the United States. But one wonders why the bank operates in this jurisdiction where none of its employees directly works.

120 Crédit Agricole's profit in the Cayman Islands is taxed in the United States. But one wonders why the bank operates in this jurisdiction where none of its

employees directly works.

121 The lists of Lloyds, ING bank and Nordea were not taken into account for the following reasons: Lloyds' list does not give the precise location of subsidiaries, ING Bank's list is only available at the Dutch Chamber of Commerce and Nordea does disclose a list, but it was not found at the time the research began.

122 L. Wayne (2012). *How Delaware Thrives as a Corporate Tax Haven*. *The New York Times*, 30 June 2012. http://www.nytimes.com/2012/07/01/business/how-delaware-thrives-as-a-corporate-tax-haven.html?_r=0

123 Barclays, HSBC, Santander, BNP Paribas, BPCE, BBVA, RBS, Société Générale, Crédit Agricole, Standard Chartered, Crédit Mutuel-CIC.

124 L. Wayne (2012). *How Delaware Thrives as a Corporate Tax Haven*, op. cit.

125 CT Corporation is owned by Wolters Kluwer. <https://ct.wolterskluwer.com/>

126 Corporation Service Company website: <https://www.cscglobal.com/service/csc/csc-office-locations>

127 Advantage Delaware LLC, *Limited Liability Company*. <https://www.advantage-de.com/information-center/type-de-bus-entities/llc/>

128 C. Wink (2014). *64% of Fortune 500 Firms are Delaware incorporations: here's why*. Technical, 23 September 2014. <http://technical.ly/delaware/2014/09/23/why-delaware-incorporation/>

129 The EU has recently established criteria to identify tax havens but has only retained the zero tax rate as an indicator and not a sufficient criterion to blacklist a jurisdiction.

130 This approach is detailed in Oxfam, Christian Aid, Action Aid. (2015). *Getting to Good: Towards Responsible Corporate Tax Behaviour*.

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For further information on the issues raised in this paper email advocacy@oxfaminternational.org

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Media contact: Anna Ratcliff - Anna.Ratcliff@oxfaminternational.org

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