

ICRICT 

Independent Commission for the Reform
of International Corporate Taxation

A ROADMAP FOR A GLOBAL ASSET REGISTRY

Measuring and tackling inequality:
Curbing tax avoidance, tax evasion,
corruption and illicit financial flows

ABOUT ICRICT

The Independent Commission for the Reform of International Corporate Taxation aims to promote the international corporate tax reform debate through a wider and more inclusive discussion of international tax rules than is possible through any other existing forum; to consider reforms from a perspective of public interest rather than national advantage; and to seek fair, effective and sustainable tax solutions for development.

ICRICT has been established by a broad coalition of civil society and labor organizations including ActionAid, Alliance-Sud, the Arab NGO Network for Development, the Center for Economic and Social Rights, Christian Aid, the Global Alliance for Tax Justice, Oxfam, Public Services International, South Centre, Tax Justice Network and the World Council of Churches. ICRICT is supported by Friedrich-Ebert-Stiftung, The Joffe Charitable Trust and The American Assembly.

This paper is based on the presentations by Gabriel Zucman (UC Berkley), Delphine Nougayrede (Columbia University) and Andres Knobel (Tax Justice Network) at ICRICT's meeting in New York on Sept 4th, 2018.

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EXECUTIVE SUMMARY

Wealth inequality poses serious risks to economies, to societies more broadly, and to the functioning of democracies. And yet the actual magnitude of wealth inequality is unknown because of the deep financial secrecy that surrounds it.

The use of ‘offshore’ structures allows not only the real ownership of wealth to remain hidden, but also its location and perhaps its very existence. This same secrecy also creates fertile ground for tax evasion, avoidance, and for financial crimes.

Despite the scale of hidden wealth, however, the existing data-collection infrastructure includes potentially powerful tools for transparency, including the recent adoption of tax transparency measures, such as the automatic, multilateral exchange of bank accounts data at a global level between tax authorities, public registries of beneficial ownerships and exchange between tax authorities of country-by-country reporting from multinational companies.

A global asset registry (GAR) has therefore been proposed to link the existing data and provide missing wealth data.

A GAR would allow wealth inequality to be measured and understood, facilitate well-informed public and policymaker discussions on the desired degree of inequality and support appropriate taxation to reduce the negative consequences of inequality. In addition, a registry would also prove a vital tool against illicit financial flows, by ending impunity for hiding and using the proceeds of crime, and for removing legitimate income and profits from the economy in which they arise for tax purposes.

This paper explains the benefit that a GAR will bring, outlines some of its possible features and the process required in order for the GAR to come to life.

INTRODUCTION

Wealth inequality poses serious risks to economies, to societies more broadly, and to the functioning of democracies. And yet the actual magnitude of wealth inequality is unknown because of the deep financial secrecy that surrounds it. And not unrelatedly, wealth, in contrast to income, is rarely subject to progressive taxation aimed specifically at limiting overall inequality.

This is despite the fact that wealth inequality, often even more than income inequality, shapes the life chances of people around the world, as it affects economic security over time while simultaneously concentrating social and political power over business and politics.

Once, most wealth was held in the form of land, and most countries had publicly accessible registries of land ownership – and, often, progressive land taxes. Common-sense transparency requirements like this have not kept up with the pace and scale of globalization and the financialisation of wealth, leading to a blackhole at the centre of the global financial system, and to the erosion of our knowledge of the scale and nature of inequalities in the distribution of assets.

The use of ‘offshore’ structures – companies, trusts, foundations and financial instruments held in or via other jurisdictions – allows not only the real ownership of wealth to remain hidden, but also its location and perhaps its very existence. This same secrecy also creates fertile ground for tax evasion and avoidance, and for financial crimes such as corruption, money laundering, and the funding of terrorism. Wealth secrecy also helps kleptocrats, multiplying the damage they can cause.

While the actual value and location of offshore wealth cannot be known (thanks to secrecy), global offshore wealth in tax havens is estimated at around 12-14%, with Switzerland alone holding 3% of it. And whereas on average countries’ wealth held offshore stands at around 10% of their GDP, some countries suffer much more: offshore wealth represents more than 40% of GDP for Greece, Argentina, Russia, Saudi Arabia and the UAE. Offshore wealth is likely therefore to be a key factor responsible for exacerbating wealth inequality, as this wealth is subject to low or no taxation. Approximately 50% of the wealth held offshore and not reported to authorities belongs to the top 0.01% of the wealthiest. In Russia, for example, the top 0.01% holds more than 12% of the total household wealth, and more than half of it is held offshore¹.

¹Data from Alstadsaeter, A; Johannesen, N; Zucman, G. (2018) Who owns the wealth in tax havens? Macro evidence and implications for global inequality, *Journal of Public Economics* Volume 162, Pages 89-100, <https://doi.org/10.1016/j.jpubeco.2018.01.008>. 06.03.19.

BEACONS OF HOPE

Despite the scale of hidden wealth, however, the existing data-collection infrastructure includes potentially powerful tools for transparency. Among older measures, many countries still have functional land registries – albeit much of that ownership is recorded in the name of corporate entities rather than natural persons. Many of the securities traded on financial markets have their legal ownership periodically recorded in central depositories, even if such data are not typically made public.

More recently, significant progress has been made through the growing adoption of tax transparency measures:

- Automatic, multilateral exchange of financial information (data exchanged between tax authorities on the holding by each other's residents of relevant financial instruments, including bank accounts, at financial institutions in each jurisdiction);
- Beneficial ownership (that is, public registries of the ultimate natural persons owning and/or controlling companies, trusts and foundations in open data format); and
- Country-by-country reporting (public data from multinational companies on the scale of their activities in each jurisdiction, including *inter alia* a list of all legal entities within each multinational group).

This information alone, if combined with consistent legal entity and taxpayer identifier numbers, would provide a powerful core of transparency on wealth inequality.

Substantially more progress is, of course, needed. For example, automatic information exchange under the OECD Common Reporting Standard (CRS) can be circumvented by changing or disguising the residency of the account holder, and covers only financial assets (e.g. bank accounts, interests in investment entities) but not hard assets such as real estate, gold, art or cash held in a safe deposit box.

In addition, the current framework for automatic exchange relies on financial institutions from all countries (including in tax havens) to collect and report data, even though many of these financial institutions are the ones that were assisting clients hide their money in order to avoid or evade tax in the first place. The problems generated by this practice is what led to the development of automatic exchange of information in the US, copied later by the OECD². Public registries of beneficial ownership are the emerging international standard, but many secrecy jurisdictions continue to reject them – from the UK's Crown Dependencies and Overseas Territories, to the US – and the registries do not in any case cover companies whose shares are listed on a stock exchange. And while the OECD standard for country-by-country reporting is a positive initiative, the key failure is that at present the data are held privately by (only some) tax authorities.

²<https://lecocqassociate.com/publication/the-foreign-account-tax-compliance-act/>; 06.03.19.

A global asset registry (GAR) has therefore been proposed to provide the missing wealth data, and to ensure the necessary linkages are made between one and another of the underlying transparency mechanisms.

A GAR need not be seen as some futuristic utopia, but rather as a feasible and sensible extension of current transparency approaches. This will revitalize a broken social contract in which private property received protection from the law, in exchange for disclosure of ownership –and the payment of applicable taxes.

The aspiration to record wealth inequality should not be seen as radical. It is the status quo that is radical, in allowing private property to be protected by the law without disclosure of its ownership or of how it was acquired.

At a technical level, many of the features of a GAR are yet to be defined in detail (e.g. its scope, access to its information, etc.). But such developments may be based on existing instruments that would merely need to be upgraded to collect and link national beneficial ownership information (e.g. registries of land, companies, trusts and foundations; and central depositories of securities' ownership).

Initial GAR pilots could be developed, especially in major financial centres (used by residents from all over the world to hold assets) and in relation to specific types of wealth that is already subject to some form of registration (e.g. real estate or securities). This briefing provides an initial outline for such an approach.

A GLOBAL ASSET REGISTRY

The GAR would end wealth secrecy by providing information on the relevant wealth and their owners. However radical this may sound, public knowledge of asset ownership involves a return to origins of democratic principles, not a futuristic utopia. The very basic idea of societies organised in constitutional States involves rights and duties for each individual. Each right underpins an obligation, and vice-versa. Information is actually a basic need to enforce and exercise those rights. That's why free media and right to information acts are so important for democracies, and essential in the fight against corruption.

Being subject to tax is an obligation. Public knowledge of asset ownership is another one. Importantly, such public knowledge wasn't even conceived as a tool against corruption or kleptocracy, but an element of a well-functioning capital market: merchants, investors or banks needed to know the ownership of companies and the solvency of natural and legal persons to determine whether they were solvent and trustworthy before engaging in business with them (e.g. starting a partnership or lending money to them).

WHAT WILL THE GAR LOOK LIKE?

The concept and characteristics of a GAR are yet to be clearly defined. However, some essential features of the ideal GAR are noted below, such as ensuring that the ownership information of wealth refers to the final beneficial owner of the assets, and not to its legal owners (e.g. a company or nominee or front man³). This may appear hard to achieve in practice but can be done with sufficient will, and has many positive consequences. Other issues may evolve or be expanded with time (e.g. the scope of wealth or type of assets to be registered). Lastly, some matters should be thoroughly discussed until an agreement is reached (e.g. public or restricted access).

The GAR's characteristics may be classified according to the following categories:

Essential:

- **Beneficial ownership data:** wealth ownership must include the beneficial owners of assets (otherwise, the real owners can remain hidden, escaping taxes and criminal laws). Data on legal ownership, including the whole ownership chain, should also be available to verify beneficial ownership data. Beneficial ownership accuracy will be enhanced the more that countries establish public registries of beneficial owners of legal vehicles (e.g. companies, trusts, partnerships, foundations, etc.). Based on the European Union (EU)'s 5th Anti-Money Laundering Directive and an Amendment to the UK's sanctions and anti-money laundering law, by 2021 more than 45 jurisdictions will already have beneficial ownership registries⁴.

³<https://www.fatf-gafi.org/media/fatf/documents/reports/FATF-Egmont-Concealment-beneficial-ownership.pdf> p20; 06.03.19

⁴<https://www.taxjustice.net/wp-content/uploads/2018/06/TJN2018-BeneficialOwnershipRegistration-StateOfPlay-FSI.pdf>; 06.03.19.

Data on beneficial owners will require proper ways to identify a specific individual with certainty. Therefore, the beneficial owner's name or address alone will not suffice, given that a name or address can be written in many different ways (e.g. a name in Arabic or Chinese may be written in English in different phonetical ways), or there may be many people with the same name. Data involving numbers (e.g. passport number, tax identification number, or date of birth) prevent problems of identification. New advances may enable any individual to be accurately identified, for example if a "global individual unique identifier" is developed (similar to the Legal Entity Identifier⁵, but for individuals).

- Machine-readable data:** while ideally a GAR should be in open-data format (this will depend on the below issue of privacy vs. publicly available information), at the very least GAR data should be machine-readable (instead of paper documents or photos of a document) to allow for information to be automatically cross-checked for accuracy purposes, global analysis, application of big data to identify patterns, etc.

What could evolve/be expanded with time:

- Global:** as its name indicates, a GAR should eventually be global (one for the whole world, or at least interconnecting all national asset registries). Otherwise, criminals and others trying to remain hidden may end up stashing their wealth in countries that lack an asset registry.

- Historical data:** GAR data should allow for past information to be checked to ensure data accuracy and to allow for legal investigations (e.g. it may be relevant to know who owned an asset a few years ago or when it was sold). Blockchain technology could be applied for this purpose (also to track any future ownership of an asset).

To be determined:

- Scope of assets covered by the GAR:** all relevant assets should be included in the GAR. The question, however, is which assets are "relevant". A minimal (and, in fact, insufficient) approach would be for the GAR to include only immovable property and movable assets that are already subject to registration (e.g. houses, cars, planes and ships). Alternatively, the scope of the GAR may depend on a threshold, e.g. assets worth more than USD 10.000 or USD 100.000. The GAR could also be limited to hard or tangible assets, or also cover intangibles (e.g. intellectual property, trademarks, patents, etc.) and include financial assets and property of firms and other ownership vehicles (e.g. trusts).

- Confidential or public:** Civil society organisations advocating for transparency will likely demand information that is fully public, including in open data format (while allowing for some exceptions, e.g. when a judge determines that disclosing information in a particular case may put a person in

⁵<https://www.gleif.org/en/about-lei/introducing-the-legal-entity-identifier-lei>; 06.03.19

danger). Public access to online data will allow foreign authorities to easily access information (freeing public officials from having to respond to requests for information). Another advantage is that it will allow citizens, investigative journalists and civil society organisations to oversight, prevent abuses of power, denounce corruption and verify registered information in order to report inaccuracies to authorities or to run their own investigations. For example, civil society organisations⁶ checked the UK's beneficial ownership registry and reported many inaccuracies, which helped improve the registry's data quality. Public knowledge would also allow citizens to hold authorities to account (e.g. if the registry isn't working or if it's outdated, or if no action is taken against illegal activities). The GAR could show if public officers are unjustifiably enriching themselves (or if their relatives or associates are doing so).

Opponents to public knowledge will likely refer to the right to privacy in general, or at least to the dangers of kidnappings, extortion or other types of crimes. Yet, the right to privacy is not an absolute right. It may be limited under specific conditions (e.g. for the exercise of other rights such as freedom of expression, national security or public health), provided that interference is neither arbitrary nor unlawful. Its protection requires balancing choices and procedures to achieve a result that is legally and socially acceptable.

Moreover, it could be argued that there is no evidence of correlation, let alone causation, of asset disclosure with kidnappings; moreover, kidnappings and other types of violence have been taking place in the past even though no GAR ever existed; more importantly, many rich people are already known based on publications (e.g. Forbes' list of billionaires), or their own display of wealth (their cars, houses, neighbourhoods, private schools, etc.).

The GAR may indeed have an impact on those "quiet" (unknown) rich people, e.g. those not owning publicly-listed stock and deciding to live a non-luxurious life. After all, the GAR, as much as any policy measure, involves a trade-off. However, it could be argued that the potential benefit for society as a whole to tackle inequality and financial crimes, ensure transparency and access to information outweighs the right to privacy of those "quiet" rich people, especially given the lack of evidence of correlation between the increase in public information and crimes.

If the GAR was (initially) to entail no public access, different scenarios may apply. One option is to limit access to authorities, particularly tax authorities, or to expand it to institutions (e.g. banks) subject to anti-money laundering provisions (in order for them to properly assess the risk profile of clients). If the GAR starts, not as a unique global registry, but as different national registries, the question is whether foreign authorities will be given access to data either directly, or only as a result of making a request, and whether access will be general or limited to information about their tax residents.

A compromise between public knowledge and confidentiality may deter-

⁶<https://www.globalwitness.org/en/press-releases/groundbreaking-analysis-owners-uk-companies-uncovers-serious-money-laundering-risks/>; 06.03.19.

mine that access to GAR information could be public in relation to some public officers, such as those politically exposed persons (PEPs), but not regarding private citizens. Argentina⁷, for instance, publishes a description of assets and their value held by public officials who are required to make asset declarations. An alternative hybrid solution may involve making only aggregate information accessible to the public. For example, the total value of a person's real estate would be public, while the actual type of real estate, the address and individual value of each house would remain confidential.

- Incentives and penalties:** a GAR would require an effective framework of incentives (positive and negative) for registration to facilitate and incentivise compliance and punish non-compliance.

⁷<http://interactivos.lanacion.com.ar/declaraciones-juradas/>; 06.03.19.

A GAR PILOT

There may be a few obstacles before a GAR comes to light. First, there are design and scope issues that are still to be defined (see above). Second, political support for such a global undertaking may pose a big challenge. Third, even if global political interest existed, capacity constraints in terms of legal development and costs may prevent countries, especially developing countries, from establishing such a GAR.

Consequently, a potential first step towards establishing a GAR would be to focus initially on a narrower pilot.

The pilot could be based on feasibility and relevance: countries that are more capable of establishing some type of an asset registry, countries that are most relevant (because wealth is actually stashed there), types of assets that represent a high proportion of wealth, types of assets that are already subject to some type of reporting or registration, etc.

WHERE

As for the countries that would be more capable –and at the same time relevant– to establish an asset registry, OECD countries that are major financial centres come first: they have the financial and technological capacity, and much of the world’s wealth is already there. However, given the past and present lack of progress shown by the US, a more realistic option may be the EU, which has been at the vanguard of transparency measures.

WHICH ASSETS

As for the types of assets that could be subject to registration, two options are feasible. First, real estate. Most countries already have real estate registries to enforce private property. Moreover, countries such as the UK⁸ and the US⁹ have started collecting beneficial ownership data of real estate (at least in some regions). Existing real estate registries could be upgraded to collect beneficial ownership information. They would then feed real estate data into the GAR so that information is centralised.

A second alternative would be to add securities (e.g. bonds and other financial instruments), including companies’ shares listed in a stock exchange, since most countries already have some type of registration of securities that are traded in regulated markets. This should be complemented with information on all types of deposits in banks and other financial institutions. This would be highly relevant, given that most of household wealth at the moment is financial wealth¹⁰.

⁸<http://www.blplaw.com/private-wealth/insights-resources/blog-post/public-register-of-beneficial-owners-of-uk-real-estate-to-go-live-in-2021>; 06.03.19.

⁹https://www.fincen.gov/sites/default/files/advisory/2017-08-22/Risk%20in%20Real%20Estate%20Advisory_FINAL%20508%20Tuesday%20%28002%29.pdf; 06.03.19.

¹⁰Credit Suisse (2017) Global Wealth Report 2017 – Credit Suisse Research Institute, November 2017, <https://www.mers.be/FILES/credit.pdf> p15 06.03.19

Positively, collecting beneficial ownership of companies' shares listed in a stock exchange would also complement current progress towards beneficial ownership registries. For example, in 2018 the EU approved the 5th Anti-Money Laundering Directive requiring all member states to establish public beneficial ownership registries for legal persons (e.g. companies) and some trusts. However, companies listed in a stock exchange are excluded from registering in the beneficial ownership registry. If the GAR collected this information, there would be no gap: there would be information about the beneficial owners of both listed and unlisted companies.

The best source of information for securities would be *central securities depositories* (CSDs) of instruments traded in regulated markets, since these depositories already collect information. However, in the US and the EU the securities holding model is largely built on multiple tier intermediation (e.g. many custodial banks and brokers involved) and frequent use of omnibus accounts at multiple levels of the chain (accounts that combine transactions of many different end-investors under the name of the intermediary broker). This means that CSDs don't know the beneficial owners of each transaction or asset. Therefore, these CSDs would have to be upgraded to start collecting beneficial ownership information based on the example of Nordics, Baltics and specific countries like Brazil and South Africa¹¹.

¹¹Nougayrède, D (2018) Towards a Global Financial Register? The Case for End Investor Transparency in Central Securities Depositories, *Journal of Financial Regulation*, Volume 4, Issue 2, 10 September 2018, Pages 276–313, <https://doi.org/10.1093/jfr/fjy003>

CONCLUSIONS

Tackling economic inequality is not easy, but ignoring it is extremely undesirable from a public perspective.

A GAR would allow wealth inequality to be measured and understood. It would also facilitate well-informed public and policymaker discussions on the desired degree of inequality and support appropriate taxation to reduce the negative consequences of inequality. In addition, a registry would also prove a vital tool against illicit financial flows, by ending impunity for hiding and using the proceeds of crime, and for removing legitimate income and profits from the economy in which they arise for tax purposes.

A GAR would also ensure transparency and access to information, which are the pillars of anti-corruption strategies. It will diminish opportunities to keep corrupt arrangements secret. It would allow monitoring institutions and other actors to have the necessary information to prevent corruption and abuses of power by public officials.

A global asset registry need not be seen as some futuristic utopia, but rather as a feasible and sensible extension of current transparency approaches. The need for further work in this area is critical in the fight to tackle inequality.

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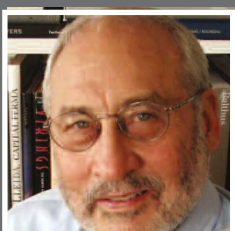
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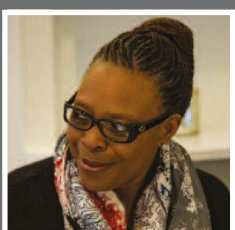
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