

The Australian Taxation Office is reported to be playing a “lead role” in sharing intelligence between tax officials from OECD countries, as part of the continuing fallout from the revelations of the Panama Papers. The Joint International Tax Shelter Information Collaboration, which is chaired by ATO head Chris Jordan, was being convened in Paris overnight, Australian time.

[An ATO spokesman told Reuters](#) the meeting would “consider how member jurisdictions can share information on leaked documents, and collaborate on analyzing the data and opportunities for joint action”.

A key outcome of meeting would be “to develop a joint and coordinated response, including a commitment to collaborate and share data, analytical methodologies and future joint compliance action”.

But this response to the revelations of the Panama Papers would seem tepid at best, considering stringent information exchange principles were agreed to by G20 countries back in 2014 - and not acted on.

In fact, not a single G20 member country - including Australia - has implemented any of the comprehensive principles set down to improve beneficial ownership transparency agreed to at the Brisbane meeting.

Since the Panama Papers hit the world media most of the commentary has surrounded the names involved. A number of world leaders, or their associates, were mentioned in the Mossack Fonseca files released by the International Consortium of Investigative Journalists (ICIJ) and its media partners last week. To some that may seem revelatory and to others conspiratorial, but most of the commentary has simply been speculation about tax avoidance, money laundering and other criminal activities.

Although the Prime Minister of Iceland resigned and David Cameron embarrassingly admitted some involvement with an offshore company setup by his father, the Panama Papers are yet to produce any concrete evidence of significant wrongdoing. Critically, with all the focus on politicians with a direct or indirect link to companies set up by Mossack Fonseca, a major

problem that has existed for decades has been overshadowed.

Essentially, the documents contain the names of some 200,000 companies set up by Mossack Fonseca in more than 200 countries. Most are in a group of 21 countries regarded as either secrecy jurisdictions, such as the British Virgin Islands, or in tax havens, such as Bermuda and the Seychelles. However, there are at least 1000 US companies set up mainly in the US state of Delaware, which is also known as a secrecy jurisdiction.

The real issue, however, relates to what is missing from the files; the ultimate beneficial owners of the vast majority of those 200,000 companies. For example, it was reported by the ICIJ that Mossack Fonseca were aware of only 204 beneficial owners out of the 14,000 companies they setup in the Seychelles. Therefore, further investigation of the vast majority of these companies is futile because the beneficial owner is unknown and therefore beyond prosecution.

Australia led the way at the 2014 G20 on transparency and disclosure of beneficial ownership. After the G20 meeting of Finance Ministers and Central Bankers in Sydney, all agreed to the development of 'high-level principles on beneficial ownership transparency'.

G20 countries were asked to endorse nine principles to prevent the misuse of offshore entities for illicit purposes such as corruption, tax evasion and money laundering.

Among the principles is establishing a definition of a "beneficial owner" that captures the natural person(s) who ultimately owns or controls a company, as well as up-to-date onshore beneficial ownership information.

G20 countries also agreed to assess existing and emerging domestic and international risks associated with different types of legal persons and corporate arrangements and share information with relevant authorities and professions, financial institutions, and other jurisdictions.

This included undertaking effective and proportionate risk mitigation measures and identifying high-risk sectors, with enhanced due diligence.

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Importantly, G20 nations had already agreed to a number of information exchange principles, including:

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Ensuring law enforcement and judicial authorities, regulatory bodies, tax authorities and financial intelligence units have timely access to beneficial ownership information (legal person and arrangements), using central registries or other appropriate mechanisms;

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Implementing effective cooperation, both domestically and internationally, between national authorities. This should include timely and effective participation in information exchange with international counterparts;

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Ensuring that beneficial ownership information is accessible to their tax authorities including information exchange.

Other detailed actions included:

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Requiring that trustees of express trusts also maintain the same level of beneficial ownership information. This should include settlors, protector trustees and beneficiaries. These measures should also apply to other legal arrangements with a structure or function similar to express trusts;

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Requiring financial institutions, and trust and company service providers, to identify and take reasonable steps to verify the beneficial ownership of their customers. This includes facilitating access to beneficial ownership information by financial institutions and effective supervision, including the establishment and enforcement of effective, proportionate and dissuasive sanctions for non-compliance;

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Ensuring countries should address the misuse of corporate structures including legal persons and arrangements as these may obstruct transparency.

This included prohibiting the creation and ongoing use of bearer shares - that is, shares without a name on the certificate, and ensuring that legal persons which allow nominee shareholders or nominee directors are not misused.

But the only action since has been the call for the meeting of the Joint International Tax Shelter Information Collaboration, a forum with much less clout than the G20.

Not only have the initiative based on the above principles not been implemented, the public memory of them has so quickly faded they have not been featured in the resulting commentary around the Panama Papers. Perhaps it is convenient for some countries and/or individuals to ignore the problems surrounding beneficial ownership transparency. Finally one must also question the resolve of Australia on this issue since 2014 when it lead the debate as the host at the G20.

The authors do not work for, consult, own shares in or receive funding from any company or organization that would benefit from this article, and has disclosed no relevant affiliations beyond the academic appointment above.

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