



**B Lab Controversial Issues Statement -
Financial Services in Tax Havens and Wealth Planning Structures
Companies
Updated as of August 2022**

B Lab's Approach to Controversial Issues and B Corp Certification

As for-profit companies that meet the most rigorous standards of overall social and environmental performance, accountability, and transparency, Certified B Corporations are leaders in the movement to use business as a force for good.

Whether through information a company provides in its [Disclosure Questionnaire](#), an issue raised by a third-party through B Lab's formal [Public Complaint Process](#), or public discourse on B Corp certification requirements and standards, difficult and complex questions regularly arise as to how controversial issues in the world of business should affect a company's eligibility for B Corp certification. Judgments on these issues are then determined by B Lab's independent [Standards Advisory Council](#) as part of a disclosure review process.

B Lab's Disclosure Questionnaire forms the basis of the disclosure review process, which covers sensitive industries, practices, outcomes, and penalties and is based on third party screenings and standards like the IFC Excluded Industries List and International Labor Organization Conventions. Recognizing that any list of sensitive issues may be incomplete, however, B Lab also reserves the right to conduct similar reviews on issues that are not currently featured in the Disclosure Questionnaire, but are deemed subject to material stakeholder concern and a potential violation of the B Corp movement's Declaration of Interdependence.

When new industries or issues where a decision making model has not already been developed arise, B Lab conducts research into the issue in order to guide the Standards Advisory Council's decision. Research is based on secondary sources compiled by B Lab staff, with the overall intent of identifying and understanding the different concerns related to the industry or issue and the different perspectives of stakeholders. This includes a review of press related to the industry and its impact, how the issue is covered by other standards, existing public policy and public policy recommendations from non-profit organizations and other topical experts, examples - potentially both good and bad - of actors within the industry, interviews with expert stakeholders and other public commentary and perspectives. This content is in turn used to develop the framework for Standards Advisory Council review, and determines the types of questions that individual companies are required to answer as part of their review.

Particularly when it comes to industries that are controversial, there is a natural and healthy tension between the inclination to exclude all companies in those industries from eligibility for B Corp Certification, and *the need for leadership* that has the potential to transform the culture, behavior, and impact of those industries. While B Lab and its [Standards Advisory Council](#) may determine that an industry as a whole is ineligible for certification because of its negative impacts or practices, they also recognize that in controversial industries it may be possible for companies to be meaningfully managing those potential negative impacts or controversies. In these circumstances, the need may be greatest to distinguish between good and bad actors, as well as good, better, and best performance by using rigorous standards of verified social and environmental performance, legal accountability, and public transparency. All stakeholders are best served by the existence of credible and transparent standards that facilitate improved policy, investment, purchasing, and employment decisions.

Along with the recognition that there are many diverse and reasonable perspectives as to what contributes to a shared and durable prosperity for all, B Lab and its Standards Advisory Council will make determinations regarding eligibility for B Corp Certification and, if eligible, will require companies in controversial industries, with controversial policies, or engaged in controversial practices to be transparent about their practices and how they work to manage and mitigate concerns. B Lab will also document and share these positions publicly in order to enable all stakeholders, including citizens and policymakers, to make their own judgments about a company's performance, as well as further thoughtful, constructive public discussion about important issues. Existing B Lab statements and frameworks on controversial issues are available [here](#).

These frameworks, like B Lab's standards generally, are works in progress, and we look forward to improving upon them in the future. B Lab invites other perspectives as it continues to refine its views and, hopefully, contribute to a constructive conversation about the role of business in society.

Independent of eligibility for B Corp Certification, all companies in any industry are able to use the [B Impact Assessment](#) as an internal impact management tool to assess and improve their overall practices, and/or adopt a stakeholder governance legal structure (such as [benefit corporation](#)) appropriate to the company's current corporate structure and jurisdiction.

If you have questions or comments about B Lab's approach to the below issues, please email B Lab's Standards Management team at standardsmanagement@bcorporation.net.

Financial Services in Tax Havens, Wealth Planning Structures Companies and B Corp Certification

Companies in the wealth planning structures industry play a significant role in global wealth holding and creation, alongside other financial service companies, especially those who operate in jurisdictions that are known as tax havens for corporations or individuals. Given the important nature of their services, their operations and business models also have associated risks. While a company's specific risk will vary, the most material potential risks related to the industry can be categorized as: concealment of beneficial ownership and wealth sources; money laundering and corruption; and tax evasion and avoidance.

In response to these controversies, B Lab and its independent Standards Advisory Council have rendered the following decision regarding their eligibility for B Corp Certification:

Wealth planning structures companies and other financial service companies that 1) operate in jurisdictions in the Tax Justice Network's [Corporate Tax Haven Index](#) with a 100 Haven Score and 2) do not exclusively serve clients physically resident in that jurisdiction are currently ineligible for B Corp Certification.

All other wealth planning structures companies are eligible for B Corp Certification if they meet the following requirements:

1. Compliant jurisdictions: Operate in jurisdictions that the [OECD's Global Forum has rated](#) as "Compliant" or "Largely Compliant" with the EOIR Standard.
2. Management practices for regulatory compliance: Demonstrate sufficient management practices in place to screen clients for criminal activities and compliance with relevant local and international regulations.
 - a. Describe all relevant regulations, domestic and international, that are relevant to client confidentiality and potential criminal activities (including potential tax evasion by clients); Describe company practices to comply with the above regulations (and copies of any relevant policies or documentation of those practices);
 - b. Share whether the company/individual has received any fines or sanctions related to compliance with them (including descriptions of the cases, the amount of any fines, and remediation actions);
 - c. Describe company practices regarding client identification and screening practices beyond regulatory requirements, including copies of relevant policies or documentation of those practices, and whether the company is able to claim that criminal activities are not being undertaken through their practices; and
 - d. Describe oversight over policies and practices for all of the above, including who oversees compliance to them and how they are reviewed/updated.
3. Public tax policy: Publish a publicly available tax policy and demonstrate sufficient management practices in place to maintain compliance with the tax policy.
 - a. A positive declaration in the company's B Corp profile Disclosure Statement that the company's policy and practices are aligned with [B Lab's Tax Framework](#);

- b. Publicly available tax policy statement approved by the highest level of governance (e.g. Board of Directors) within the company, that appropriately reflects and confirms alignment with the principles contained in the B Lab tax Framework that the taxes paid over time by their clients are representative of the business' or the individual's actual income and operations in each jurisdiction. This statement should also include acknowledgment that their own engagement with governments and tax regulators should also align with the above policy; and
 - c. Processes in place to manage and maintain compliance of their services, recommendations, and government and tax regulator engagement with their tax policy.
4. Support of public policy: Commitment to support public policies designed to address concerns related to the industry, including beneficial ownership and wealth sources transparency, exchange of tax-related information, and wealth inequality. Example practices include the below:
 - a. Public commitment stated in B Corp profile Disclosure Statement;
 - b. Support of local legislation that addresses industry risks; and / or
 - c. Support of international frameworks that address industry risks (e.g., OECD's International Tax Standards).
5. Positive impact-focused client services: Offer client services that incorporate positive impact-focused strategies. Example practices include the below:
 - a. Dedicated resources (e.g., team members, documents) that advise clients on how to use their wealth to have a positive impact; and / or
 - b. Separate product offering for positive impact-focused services that compose a substantial portion of their services.

Industry Overview

In the Sustainable Industry Classification System (SICS), the financial services sector is segmented into three sub-sectors: capital markets, corporate & retail banking, and insurance.¹ Capital markets is segmented into three industries: asset management & custody activities, investment banking & brokerage, and security & commodity exchanges. The asset management & custody activities industry consists of companies that manage investment portfolios on a commission or fee basis for institutional, retail, and high net-worth investors.

Within this industry, one specific service offering is wealth planning structures companies that create and administer structures such as trusts, foundations, and companies on behalf of individuals and corporations. Unlike asset management companies, wealth planning structures companies do not invest their clients' capital, but rather develop the structure, oversee transactions, and perform administrative duties.

In addition to tax planning, wealth planning structures (e.g., trusts) are used for a variety of reasons, including the reasons below:

¹ [Sustainability Accounting Standards Board](#)

- Legacy and succession planning: Planning the effective transfer of wealth and assets from estates to beneficiaries. This may include preventing individuals from inheriting wealth before they are financially mature, avoiding public probate and division of assets, and/or circumventing forced heirship laws.
- Forced heirship: Protecting family wealth from forced heirship laws. Certain countries have laws that prevent intended individuals from inheriting wealth and assets (e.g., gender discrimination).
- Unstable political regimes: Protecting the wealth of individuals that live in countries with unstable political regimes and financial systems.
- Exchange controls: Enabling flexibility on where and how cross-border funds may be transferred. Certain countries limit the freedom of the movement of capital.
- Privacy: Enabling the right of individuals and families to privacy in respect to certain aspects of their private assets and family arrangements.
- Tax relief: Avoiding double taxation.

The nature of the global financial and taxation system, in which different jurisdictions have control over their own approach to taxation, mean individuals and corporations have the ability to utilize complex strategies to navigate these rules to their advantage. Historically, this created a 'race to the bottom' in which certain jurisdictions were able to design their approaches in a way to attract capital and investment, through very low (or non-existent taxes) and financial secrecy to attract offshore clients / accounts.

These parameters are defined below:

- Low-tax jurisdictions: Jurisdictions (including cities, states, or countries) that grant favorable tax treatment which can benefit non-residents and attract relocation of economic transactions to their territory by applying no or minimal tax rates. Many are also secrecy jurisdictions.
- Secrecy jurisdictions: Jurisdictions with limited public disclosures around beneficial ownership and/or wealth sources.
- Offshore clients/accounts: Individuals that have accounts in jurisdictions where they do not have residency nor sources of income, and companies that have accounts in jurisdictions where they do not have substantial operations.

While there is no definitive list of low-tax jurisdictions nor secrecy jurisdictions, there are several lists that are referenced by the industry, including [OECD's compliance rating of the EOIR Standard](#), the [EU list of non-cooperative jurisdictions](#), [Oxfam's ranking of the global corporate tax havens](#), and the Tax Justice Network's [Financial Secrecy Index](#) and [Corporate Tax Haven Index](#).

The OECD compliance rating of the EOIR (exchange of information on request) standard monitors the implementation of the international standards on transparency and exchange of information for tax purposes. Jurisdictions are peer reviewed and can receive four distinct ratings: compliant, largely compliant, partially compliant, and non-compliant. The Tax Justice Network is a global

organization that aims to reform tax and financial systems to enable a more just society. The organization publishes the Corporate Tax Haven Index (CTHI) and the Financial Secrecy Index (FSI), which ranks each country based on how intensely the country's tax and financial systems serve as a tool for corporations or individuals to underpay their taxes. Additional detail on these two ratings can be found in the Appendix.

While higher scrutiny and changing regulation and coordination at both the local and global level has led to reduction in these risks, wealth planning structures companies along with other financial service companies in low-tax jurisdictions and secrecy jurisdictions with offshore clients are exposed to higher risk relative to other companies in the industry.

Risks and Material Issues

Concealment of beneficial ownership and wealth sources

In secrecy jurisdictions with limited disclosure requirements, an individual may create a legal vehicle (e.g., company, trust) to hold their wealth and assets without disclosing information about their identity nor wealth sources. These structures act as a layer between the owner and their wealth, potentially obscuring the owner's identity as well as the true value of their wealth.² This built-in secrecy creates an attractive financial system for money laundering and tax evasion schemes, which are discussed further in the following sections.

Examples of structures that obscure beneficial ownership and wealth sources include the following:

- Anonymous shell companies: Companies that only exist on paper (e.g., no employees, no office space) and lack information on beneficial owners.³
- Abusive trust arrangements: Arrangements that involve more than one trust, each holding different assets of the taxpayer as well as interest in other trusts. The trusts are vertically layered with each trust distributing income to the next layer, with the goal of using inflated or nonexistent deductions to reduce taxable income.⁴

Money laundering and corruption

Because secrecy jurisdictions provide the potential for beneficial ownership concealment, there is a risk of attracting corrupt individuals that intend on laundering illegally accumulated wealth. Sources of illegal proceeds may include political corruption, arms trading, drug trafficking, human trafficking, and/or terrorist financing. The estimated amount of money laundered globally on an annual basis is 800 billion-2 trillion USD.⁵

² [Tax Justice Network](#)

³ [Transparency International](#)

⁴ [Internal Revenue Service \(IRS\)](#)

⁵ [United Nations \(UN\)](#)

Political corruption is an especially serious problem in developing countries. It is a major barrier to economic and political development and reduces the capacity of national governments to effectively implement poverty-reduction strategies. Secrecy jurisdictions can enable corrupt leaders and officials that are taking bribes or stealing from public funds to hide the origins of their funds.⁶

Tax evasion and avoidance

While wealth planning structures companies are not tax advisors and do not provide tax advice to their clients they play important roles in the value chain by facilitating the financial vehicles through which clients execute their tax strategies. B Lab's existing position statement on Tax Strategies and Tax Advisory Services can be found [here](#).

All wealth planning structures companies experience the risk of clients participating in tax evasion or aggressive tax avoidance, and this risk is higher in low-tax jurisdictions and secrecy jurisdictions. Industry proponents highlight that clients that reside in unstable political environments or are subject to human rights abuses have a legitimate need for offshore wealth planning structures given the offshore jurisdiction's more stable financial and legal systems. However, civil society stakeholders argue that these types of cases make up a small percentage of global clients.

Tax evasion or tax avoidance occurs when a person or a company structures their financial activity to pay less tax than they should. The terms tax evasion and tax avoidance are defined below:

- **Tax evasion:** Illegal arrangements where liability to tax is hidden or ignored. The taxpayer pays less tax than they are legally obligated to pay by hiding income or information from the tax authorities.
- **Tax avoidance:** The arrangement of taxpayer's affairs that is intended to reduce their tax liability. Although the arrangement could be strictly legal, it is usually in contradiction with the intent of the law it purports to follow.⁷

Annually, global tax havens cost governments 500-600 billion USD in lost corporate tax revenue and 200 billion USD in lost individual tax revenue with individual wealth held in tax havens estimated at 8-36 trillion USD. For context, low-income economies account for around 200 billion USD of the lost corporate tax revenue, which is greater than the 150 billion USD they receive in foreign development assistance.⁸

When individuals and companies underpay their taxes, they deprive governments of the tax revenue needed to provide critical public services and infrastructure, such as schools, hospitals,

⁶ [Oxfam](#)

⁷ [Organization for Economic Cooperation and Development \(OECD\)](#)

⁸ [International Monetary Fund](#)

and roads. This has a negative effect on poverty and inequality, especially in low-income countries.⁹ Of the billions of USD in lost corporate tax revenue, low-income economies experience a larger loss as a percentage of GDP relative to high-income economies.

Rationale for the Standards Advisory Council Decision

These standards for financial service companies in tax havens and wealth planning structure companies have been informed by and build upon the B Corp standards for [Banking in Switzerland](#) and [Tax Advisory Services](#).

Wealth planning structures companies and other financial service companies that operate in jurisdictions with a 100 Haven Score are currently ineligible for B Corp certification due to higher degrees of risk that their services be used for tax avoidance or other risks identified above, especially when those companies serve clientele who are based outside of the jurisdiction itself. These risks exist regardless of the type of client being served (including individuals and corporations of various sizes), and while such risks exist in other jurisdictions beyond those scoring a 100 Haven Score (the highest possible score), those jurisdictions with the highest possible score indicate the highest risk and likelihood that services may be misused.

Recognizing that these risks do however exist in other jurisdictions as well, wealth planning structure companies in all other jurisdictions are eligible for B Corp Certification only if they meet the other specific requirements outlined above.

While the wealth planning structures industry presents significant risks related to money laundering, corruption, and tax evasion and avoidance, individual companies meeting requirements #1-3 can mitigate these risks for the reasons below:

1. Compliant jurisdictions: Companies operating in jurisdictions that are complying with international standards for financial transparency can mitigate the risk of international tax evasion and aggressive tax avoidance. The OECD International Tax Standards represent an important milestone in improving cross-border beneficial ownership transparency, and the exchanged information serves as a critical tool for local tax authorities to enforce regulations. The peer ratings serve as a clear benchmark to identify compliant jurisdictions versus non-compliant jurisdictions.
2. Management practices for regulatory compliance: Companies with management practices in place to ensure compliance with local and international financial regulations can mitigate industry risks. There are a number of regulations that address the risks of concealment of beneficial ownership and wealth sources, money laundering and corruption, and tax evasion and aggressive tax avoidance.
3. Public tax policy: Companies can mitigate the risk of enabling tax evasion or aggressive tax avoidance by publishing a publicly available tax policy and implementing management practices to maintain compliance. Companies with public tax policies are held accountable

⁹ [Oxfam](#)

to decline working with clients that are pursuing tax evasion or aggressive tax avoidance strategies. Since wealth planning structures companies do not provide tax advice themselves, they should require their clients to provide copies of tax advice from reputable tax advisory companies.

Regarding requirements #4 and #5, there is a recognition that companies in the financial services industry (i.e., beyond the wealth planning structures industry) have the potential to drive global systems change. Example activities include supporting public policies that address industry risks and offering client services that incorporate positive impact-focused strategies. By going beyond risk mitigation and having a positive impact on their stakeholders, companies can meaningfully contribute to a more inclusive, equitable, and regenerative economy.

The decision of the Standards Advisory Council has been informed by independent research conducted by B Lab and stakeholder consultations.

This statement is effective as of December 2021 until further judgment from the Standards Advisory Council. It may be revisited as part of the development of [new financial service standards](#) for B Corp Certification scheduled to be developed in 2023 and 2024.

Please send your feedback or questions to B Lab's Standards Management team at standardsmanagement@bcorporation.net.

Appendix

OECD International Tax Standards

Exchange of information on request (EOIR)

The EOIR is a tool for tax authorities worldwide to ensure that taxpayers pay the correct amount of tax. Under the EOIR Standard, tax authorities can make specific requests to other tax authorities for information that will allow them to progress their tax investigations. The information that could be requested includes accounting records, bank statements, and information on the ownership of assets.

The Global Forum carries out peer reviews processes to monitor the implementation of the international standards on transparency and the exchange of information for tax purposes. Issuing ratings to assessed jurisdictions is the last step of the review process. Ratings can be improved over time when a jurisdiction effectively responds to the recommendations made. Four distinct ratings are allocated per country based on ten subcriteria (listed in the table below). The four distinct ratings are defined below:

- **Compliant:** The EOIR standard is implemented. This rating can be granted even if a few recommendations were issued, to the extent that no material deficiencies were identified.
- **Largely Compliant:** The EOIR standard is implemented to a large extent but improvements are needed. Some deficiencies identified are material but have limited impact on EOIR.
- **Partially Compliant:** The EOIR standard is only partly implemented. At least one material deficiency which has had, or is likely to have, a significant effect on EOIR in practice has been identified.
- **Non-Compliant:** Fundamental deficiencies in the implementation of the EOIR standard have been identified.

The list of EOIR Standard compliance ratings by jurisdiction can be found on the [OECD's website](#).

Automatic exchange of information (AEOI)

The automatic exchange of information (AEOI) provides for the automatic exchange of a predefined set of information between tax authorities. The AEOI Standard, also known as the Common Reporting Standard (CRS), requires the annual exchange of information on financial accounts held by non-resident individuals and entities in a pre-defined format. The information exchanged includes details about the financial account (e.g., the financial institution maintaining it, the account number, account balance) and details about the account holder (e.g., name, address, date of birth, taxpayer identification number).

The Global Forum conducts peer review processes to monitor the implementation of the AEOI Standard. In 2020, the Global Forum presented the conclusions of the [peer reviews of the legal frameworks](#) put in place by each jurisdiction to implement the AEOI Standard. The AEOI Standard compliance ratings by jurisdiction are in process and are expected to be published in 2022.

Tax Justice Network Corporate Tax Haven Index and Financial Secrecy Index^{10,11}

The Tax Justice Network is a global organization that inspires and equips people and governments to reprogram their tax and financial systems. The organization publishes the Corporate Tax Haven Index (CTHI) and the Financial Secrecy Index (FSI). The CTHI ranks each country based on how intensely the country's tax and financial systems serve as a tool for corporations to extract wealth from around the world and hide it in the country for the purposes of underpaying tax elsewhere in the world. Similarly, the FSI ranks each country based on how intensely the country's tax and financial systems serve as a tool for individuals to hide their finances from the rule of law including other countries' laws.

The indices are regularly updated. The last update to the CTHI was in 2021, and the last update to the FSI was in 2020.

¹⁰ [Tax Justice Network Corporate Tax Haven Index](#)

¹¹ [Tax Justice Network Financial Secrecy Index](#)

Corporate Tax Haven Index

Criteria

- Corporate Tax Haven Score: how intensely the country has been programmed to enable corporations to abuse tax; 20 indicators that look at the presence or absence of specific laws and policies that enable corporate tax abuse
- Global Scale Weight: how much corporate activity takes place in the country

Top 20 jurisdictions (in descending order)

- Overall: British Virgin Islands, Cayman Islands, Bermuda, Netherlands, Switzerland, Luxembourg, Hong Kong, Jersey, Singapore, United Arab Emirates, Ireland, Bahamas, UK, Cyprus, Mauritius, Belgium, Guernsey, France, China, Isle of Man
- Corporate Tax Haven Score: British Virgin Islands, Cayman Islands, Bermuda, Jersey, Bahamas, Isle of Man, Turks and Caicos Islands, Anguilla, United Arab Emirates, Guernsey, Switzerland, Cyprus, Singapore, Mauritius, Netherlands, Malta, Hong Kong, Ireland, Lebanon, Luxembourg

Financial Secrecy Index

Criteria

- Financial Secrecy Score: how intensely the country has been programmed to enable individuals to hide their finances from the rule of law; 20 indicators that look at the presence or absence of specific laws and policies that enable financial secrecy
- Global Scale Weight: how much financial activity takes place in the country

Top 20 jurisdictions (in descending order)

- Overall: Cayman Islands, United States, Switzerland, Hong Kong, Singapore, Luxembourg, Japan, Netherlands, British Virgin Islands, United Arab Emirates, Guernsey, United Kingdom, Taiwan, Germany, Panama, Jersey, Thailand, Malta, Canada, Qatar
- Financial Secrecy Score: Algeria, Angola, Maldives, Bolivia, United Arab Emirates, Jordan, Anguilla, Turks and Caicos Islands, Liberia, Brunei, Qatar, Paraguay, Cayman Islands, Kenya, Vanuatu, Antigua and Barbuda, Bahamas, Liechtenstein, St. Kitts and Nevis, Samoa