

# The financial crisis and money-wash through the off-shore zones

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*Abstract:* In the following paper we have started from the premises that in the “money-wash” phenomenon analysis, the resulted money circulate in the entire world, through some geographic and institutional channels. Starting from the fiscal paradise characteristics we have accomplished a parallel between that and the financial paradise characteristics. In the second part of the paper, we have analyzed the offshore zones, showing also the methods of income placement in the respective countries with some conclusions.

*Keywords:* Shadow economy, illegal economy, the legal economy, the latent economy, evasion from payment of taxes, manual labor, a fiscal method, criminal business, money-laundering, legalization of the means acquired in the illegal way.

## 1 Introduction

If we analyze the money wash phenomenon it results that no matter what the in fractional method of the source, the “dirty money” circulate around the world through some geographical and institutional channels opened for the organized crime. It is obvious the existence of some privileged territories in this financial universe, where huge transactions can be made without any control.

Using the bank institutions, the criminal uses most of the time those who are a part of the so-called “fiscal paradises”. In a strict sense, almost every country in the world can be considered a fiscal paradise because one form or another, the companies and foreign physical persons are offered different stimulants to encourage their investments and to promote the economical growth.

The term of “fiscal paradise” is often incorrect used. To describe a country from this point of view there should be used jurisdiction terms from the financial sector. A certain degree of financial and banking discretion is characteristically to all states. Almost all the states impose a certain level of protection for the banking and commercial information, but also most of them won't protect this information in the case of an investigation from the legal organs from a foreign country.

A jurisdiction of the bank and financial secret will almost all the time refuse to break its own rules about the bank secret even when it could be the case of a serious violation of the laws of a country.

There are considered fiscal paradises the following countries: Panama, Cayman, The Common Wealth of the Bahamas, Bermudas, The Channel Island, The Island of Man, Liechtenstein, Monterrey, The Netherlands Antilles [20].

Gheorghe Nistoreanu and Costica Paun also add to the fiscal paradises Singapore, Hong-Kong and Switzerland [14].

## 2 Problem Formulation

The great financial scandals that have appeared in the past years are marked by the same trait: the criminal formations take advantage of all the given facilities from the financial paradises and offshore bank centers (outside the home country) to wash illicit profits, aspect that imputes over the penal investigations in this field.

The way the fiscal paradises have appeared has been in some cases determined by the lack of intern resources, a lack that has been compensated by the state authorities, respective by granting some fiscal facilities to commercial societies and financial institutions, for those to establish the headquarters in that state. Therefore, it has lead to the situation in which almost half of the world financial flux is going through offshore channels: banks, assurance societies, mutual funds, foundations and holdings [6].

An ideal financial paradise has the following traits:

- There are no deals about the information exchange with any other countries;
- International corporations can be created with minimum of formalities
- The assurance of the bank secret for these corporations
- Very hard rules for the break of the bank secret
- A very well developed tourist activity through which there can be justified the incoming of cash money.
- The use of an universal value, preferably the American dollar, as local money
- A government relatively invulnerable to external pressures
- A high degree of economical dependence in the financial service sector
- The existence of modern communication systems (cable, telex) that are connected to other countries.
- A geographical placement favorable to business travels from and to foreign rich countries [1].

Fiscal paradises are a main component of the organized crime. They are used for the wash of money that came from a large diversity of illegal activities (drug deals, fiscal evasion, and contraband) [4].

Fiscal paradises give the foreign investors a very large variety of services, without the obligation of revealing the origin of the money, stating with the registration of international corporations and ending with the banking operations that are not in the attention of the authorities. Although the banking secret and the financial paradise are two distinct notions, they have in common both the legitimate purposes and the commercial justification. In the same time they offer an unlimited protection to the criminals that are willing to do business at any price. It should also be added that the foreign companies and physical persons to whom it's giving stimulants to encourage their investments consider a country a fiscal paradise but the local population won't regard the same the state politic because the government takes taxes for personal incomes, taxes for the imports and exports, taxes for the successions and donations, for immobile proprieties, etc.

Petruț Ciobanu [7] detaches in the financial paradises the so-called "banking heavens" that being the countries that are interested more by the banking secret than the tax reduction. These "banking heavens" are actually countries with a solid economical potential that offer different facilities for substantial capital contribution from other countries.

The characteristics of the fiscal paradises make of these a special attraction for the fond recyclers because they furnish a wave of secrecy over the transactions, so that the owner of a society that is a part of the fiscal paradise can't be associated with the fond flux. Furthermore, the banking and modern communication systems that the fiscal paradise countries have, allow the fast movement of the funds. All corporation types registered in the fiscal paradises- general societies, offshore banks, and captive assurance societies –can be used by the fond recyclers in all the steps of the money wash process: placement, stratification and integration.

In Eastern Europe one of the most encountered money wash schemes is that through the offshore zones. For example, the illicit income is placed in a bank account. The depositor, making a fictive loan contract with an economical agent from the offshore zone, transfers that money to the loaner account. The last mentioned, at his turn, makes a contract with a third economical agent. It is made the creating cession, the third person transferring the money in a bank, for example in Switzerland or Austria in the account of the "money washer".

The offshore is the territory designated for both the international financial centers and for some banking operations. The offshore zones are a power source that absorbs international organized criminality, and being also an exploitation channel of the country capitals, of money wash and fiscal evasion. They have a dominant role in the washing process, being also very used.

### 3 Problem Solution

Offshore areas are characterized, mainly, through the absence of any registrations referring to the facto leaders of the companies, the legislation interdiction of the revealing of any information about these areas, the leading that are unwilling to cooperate from the idea that in most areas, the fiscal evasion isn't a crime in the purpose of money wash. In some states, the intern legislations interdict the operation effectuation through the way of financial institutions from offshore areas; in others the law doesn't interdict such operations. In the states where the national value is permanently subdued to the inflation, the elicitor can establish limitations for the exchange with the purpose to realize the more powerful value. Offshore areas are usually those who give value exchange services for the strangers. In the states with a stable value, it is usually allowed the participation in offshore banking operations.

The distinctive element of the offshore is confidentiality. Moreover, the majority of offshore

areas don't admit the decisions of the foreign judging instances. The revenue placement in these areas is made by several methods, such as:

- The physical transportation – the illegal obtained value can be placed into offshore areas through luggage, intermediary.

- Bank transfers

- Mailed or physically given checks.

- Trustworthy persons: accountant – who transfers money on the trust fund and then somebody else, transfers it in the offshore areas.

- Telegraphic services: Western Union, American Express –can be made through transfers without the precise identification of the sender and through the application of passwords, it can be avoid the knowledge of the beneficiary's identity.

Once the money reaches the offshore areas, the incomes are stratified and there are reintegrated. Through the most frequently used methods to return the income in the origin country are encountered [13]:

- Fictive loans: fictive corporations can open bank accounts in foreign countries; after this, the checks can be sent to the original state as credits from these fictive companies.

- Fictive investors- the illegal business is organized in the origin state and the fictive investors are usually placed abroad and used to get capital.

- Commissions –are paid for the finding of investments to exercitation of a business, negotiations for immobile acquisitions.

- Checks and transfers

- Physical transfer

The countries, cities or areas that have the typical characteristics for the “financial paradises” in Europe are [18]:

1. In Europe: Andorra, Cyprus, Gibraltar, Man Isle, Channel Islands, Liechtenstein, Luxembourg, Malta, and Monaco.

2. In Asia and Pacific: Cook Islands, Hong Kong, Macao, Marshall Islands, Nauru, Samoa, Singapore, Bahrain, Libyan.

3. In Africa: Liberia, Mauritius, Seychelles

4. In Caribbean Sea and Central America: Antigua, Bahamas, Barbados, Belize, Bermudas, Virgin Islands, Britannic, Cayman Islands, Costa Rica, Panama.

We will make a short presentation of the most representative fiscal paradises as a rapport of the United Nations names them in 1999 [9].

Panama became in a short while an important fiscal paradise and international bank center. Through the abrogation of a law of corporation's birth that is very less exigent, in the last years, there have been made more corporations in Panama (~

50.000) than in all the fiscal paradises from Caribbean/Central America together. Excepting an annual tax of 100\$ there are no kind of taxes for foreign entities, no require to declare the incomes and no supervision from the government.

There is no demand about the minimum of invested capital, no requires for the maintenance of registers, and no stipulation about the frequency and corporation meeting schedules, like there is no need to trace any corporation evidential. At this is added a bank law that authorizes numbered and codified bank accounts. According to several experts in the field, that offer recommendations for the selection and use of the fiscal paradises, the laws of the banking secret and of corporation from Panama make this country an ideal paradise [10].

The *Bahamas Islands* form an independent colony of Great Britain and are situated in the Caribbean Sea at about 30 flight minutes from the east coast of USA. In the Bahamas Islands there are over 350 different banks, including most of the important banks of the world. About 95% of the total financial transactions volume that takes place here is connected to international transactions for foreigners. The bank accounts are easy to open; they can be created even through mail.

There are no monetary or exchange restrictions for the foreign funds that can be transferred from country to country, easily. The banks and their depending governments strictly apply the banking secret [11].

*Liechtenstein* is an independent country situated between Switzerland and Austria. The banking secret is applied here even more strictly than in Switzerland. No so long ago here could be made trust for the income protection. Unlike most of the trusts, the “anstalt” from Liechtenstein is a commercial organism that is capable of having some specific activities that can give the person that is transferring the wealth to the trust. Most of the experts consider Liechtenstein and Switzerland interchangeable from the perspective of the fiscal paradises [12].

But it is admitted that the secret traditions of Liechtenstein assure probably the Switzerland superiority in the banking field. The more sophisticated foreign investors have created a nightmare financial secret through the use of the Switzerland bank accounts for corporations from Liechtenstein.

Although some of the smaller states have drawn certainly the dirty money, the most defying attempt to extract the illicit profits was initiated by the Seychelles Islands, which in the 90s have registered at least 10 million dollars in these banks. Under the

pressure of the United States and of other members of the international community, Seychelles has given up selling its suzerainty.

One of the criticized paradises for the lack of any discrimination towards the customers is Antigua. In 1996, a rapport of the Senate commented that nobody attracts "dirty" money more than Antigua that has a banking industry with no regulations, doesn't apply the reporting demands but sanctions toughly the revealing of the banking secret. In 1995, the bank number in Antigua grown with 75%, any person that had the capital of 1 million dollars could open a bank and many of them were nothing more than a simple room with a fax. The authorities from Antigua have tried to minimize the case of the European Union Bank when the bank directors have disappeared with 8 million dollars, suggesting that there have been taken measures to prevent the apparition of such a situation. Still, they haven't been able to explain convincingly, how can a country with a population of 70.000 inhabitants to assure an adequate supervision of the countless institutions and financial services from the island [12].

Until such a capacity, the changes from Antigua will be purely cosmetics. A clear example of the way in which the legislation of the banking secret encourages this practice is the regulation according to which a member, director, shareholder, audit agent or lawyer of a bank can furnish information about a client's business only when there is a written order from the Justice Court of Antigua. What is very interesting is the fact that this order can be emitted only connected to a proven criminal act.

*Bermudas* is another fiscal paradise- an ex Britannic colony, with lifelong traditions of an international financial center. Its pride is a large community of professions in the field of financial activities (lawyers, accountants, bankers, assurance agents) with experience the field of foreign investors relations. The financial system from Bermudas is old, stable and respected worldwide and the telecommunications network is modern and efficient. The Group of the Bermudas Islands is situated at only 350 miles, in the coasts of North Carolina, are beneficiating of good flight connections with the United States and Europe. There are no controls over the money exchanges and any money quantity can be introduced or removed from the country. The banks in Bermudas offer a large variety of accounts and services (current accounts, of economies, fiducially and of custody, trust counts, investment management, brokerage services, executive services, management and

corporation administration, immobile proprieties management and services for funkier credits).

There is no law code that would govern the banking secret. But the existing banking secret works as a consequence of the common Britannic right, which is strictly respected in the banking community.

The banks from Bermudas are more restricting about the new customers, at least comparing to the other fiscal paradises from the Caribbean area. Generally, they prefer that the new customers to be recommended as a member of the professional community (not necessarily local profession). Despite these, with banking references and a corresponding id, anyone can open an account of their own. The legislation from the Bermudas allows very easily the birth and working of some captive assurance companies.

It is interesting the fact that in the Bermudas, there are only four banks (The Bank of Bermudas, National Bank, Bermudas Provident Bank and The Bank of N.T. Butterfield and Son) and two major law firms that take care of all or most of the financial transactions from the island. All these entities have their meetings in the capital city.

The Channel Islands are a group of islands situated in the Channel between Great Britain and France. They form an independent and self-governed country. Thanks to their unique position in rapport with the United Kingdom and the European Union they have become an important offshore banking operation center for customers from Europe and the whole world. A lot of major international banks have headquarters here. Only two of the eight islands are in the list of fiscal paradises: Jersey and Guernsey.

The bank accounts are opened easily, personally through a representative or through mail. For foreign customers there are no money restrictions or of exchange rate. The islands own modern telecommunication networks, but all ruts to the islands have to pass through London or Paris.

Isle of Man is a small island (227 square miles), situated in the Irish Sea, between Great Britain and Ireland, British possession, that is enjoying a high autonomy that allows her to work a fiscal paradise. There is no money control and like any other fiscal paradise, the telecommunication equipment and the capacities of the Man Isle are excellent.

The air traffic goes through England and Ireland. Same as Bermudas, the legislation of the Man Isle is very attractive to the birth and operations of captive assurance companies. On the island there are 45 different banks. In contrast, a recent rapport says that there is only one hotel that

offers rooms with separate bathrooms. The acquisition of corporations on Man Isle is easy and cheap and therefore is a very often used as a way of opening accounts in another part of the world in the name of a company that the Man Corporation is giving.

Another complains is about the presence of only two major class A bank in the island (Barclays Bank International and Royal Bank of Canada). In May 1984, Montserrat has revoked the licenses of functioning of 22 class B banks. It has been considered that this decision could be the consequence of not paying the authorization taxes, for there was the major of it imposed by the government. After all the probabilities, the same banks have moved their activity elsewhere.

The Netherlands Antilles is stretched for the Caribbean Sea, with two groups of three islands each, situated at a great distance between them (Saint Martin, Saint Eustatus and Saba) situated at about 50 miles east of Puerto Rico (Curacao, Aruba and Bonaire) and at about 50 miles in the Venezuela coasts. The Netherlands Antilles is a member state of the kingdom of Holland (together with Holland and Surinam) but have a complete autonomy in the intern state business. More important as fiscal paradises are Curacao, where the capital of the Netherlands Antilles is situated, Willemstad and St. Martin, half being of French possession.

For many years, the Netherlands Antilles has enjoyed an advantage upon the other jurisdictions of the financial secret because of an old treaty over the taxes made by Holland and the United States and Great Britain. In a simpler manner, the treaty foresees that these corporations of the Netherlands Antilles that possesses investments in the United States are either exempted from taxes, either it pay taxes lower than those on made profits of another countries. This preferentially treatment explains the main domination of the corporations in the Netherlands Antilles (2544 new companies created from 1983) that posses immobile and other incomes from the United States. This explains why a N.V. (Naamzloe Vennootshappen, the name of the assurance company that has a limited response over the Netherlands Antilles) is usually an integrated part of a well thought plan of fiscal evasion in a fiscal paradise.

The accords that lead from the most recent negotiations between the United States and the Netherlands Antilles over the treaty will effectively end the advantage position obtained through the treaty by the Netherlands Antilles. The Netherlands Antilles offer modern and efficient services of telex, phone and mail, a great network of international

banks and flights directly to New York and Miami. A great variety of entities can be made with relatively low costs in a short period of time (2-4 weeks).

The corporative confidentiality is assured through the appliance of civil Holland legislation and the use of the system "shares on hold" in the case of corporation propriety. The banking secret is strictly respected despite the absences of a specific legislation in this field. The tax exemptions and money exchange are given regularly to any corporation made of foreign citizens. As their big rival, the Cayman Islands, the Netherlands Antilles have elaborated their laws to attract the investments market in the fiscal paradises and thanks to their position through the treaty they are sure of a considerable sector of this market.

Switzerland is not a fiscal paradise. Although the words "bank account in Switzerland" have become synonyms with "secret bank account" and even if Switzerland is without doubt, the safest, most stable place to hold secret money, it is not a fiscal paradise. The taxes for locals are high, but the taxes for foreigners that make money in Switzerland are up to 35%.

Of course, through Switzerland banks can be made some arrangements for investments outside the country to avoid high taxes from Switzerland, the profits being afterwards transferred back to safe Switzerland bank accounts.

The Switzerland banks offer an incredible range of services along the regular bank services, including that to act as brokerage agents, commercials in precious metals, administrators and even traveling agents for their customers. The operations banking secret and all the commercial or economical transactions represent a state of normal in Switzerland. The laws about the banking sector are part of the constitution of the country and are taken very seriously.

The Switzerland is making all the efforts to assure the confidentiality of the banking operations of their customers, up to the use of anted less envelops, mail boxes they change frequently, post through personal messengers and the expedition of mail for the customers from France, Italy or Germany, to avoid the stamp of the Switzerland post.

Although the Switzerland legislation assures enough confidentiality to face the necessities or any foreign investor, there are too many cheaper and more accessible places that are faster to create corporations. Recently, through the application of a treaty of assistance between Switzerland and USA, the investigators that have worked using adequate

channels from the Minister of Justice and the State Department have managed to get some data and documents about the accounts in Switzerland of some American criminals. The Switzerland themselves are feeling disappointed and embarrassed by the abuses made by foreign criminals through their banking system. They fear the potential threat that it rises over the integrity of the system the millions of dollars in “easy made money” that could tempt the persons working there, otherwise with no mistakes from the Switzerland bank network.

#### 4 Conclusion

These methods can be applied separately but also together. In the same time, there can be outlined other methods such as: customers presented by a part, branch or another bank from abroad with a headquarter in the country that produces or makes traffic with drugs is a main component of the economy, the use of credit letters or other financial methods to transfer money in the countries where the customer doesn't always do business in, customers that make big and systematic transactions, including the electronically transfer, that can't be clearly identified as being of good faith or customers that receive huge systematized amounts of money from other countries that are usually associated with the production, relocation and accomplishment of drugs, with terrorist organizations, prescribed “fiscal paradises”; the making of huge balances that don't correspond to the business number that the firm usually has and after transfers into bank accounts from abroad, unexplainable electronically transfers, without going through an account, traits of a foreign coin, frequent payment of traveling paychecks.

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