The Multi-Stakeholder Initiative on Tax and Good Governance in Africa

HIGH-LEVEL CONFERENCE
HIGH NET-WORTH INDIVIDUALS: THE CHALLENGE THEY POSE FOR TAX ADMINISTRATION, FIUs AND LAW ENFORCEMENT AGENCIES

ANNOTATED AGENDA

21 – 23 February 2018
Vienna, Austria

Hosted by the Institute for Austrian and International Tax Law at WU (Vienna University of Economics and Business), organised in cooperation with the United Nations Office on Drugs and Crime (UNODC) and with the support of the World Bank Group
**High Net-Worth Individuals: The Challenge They Pose for Tax Administrations, FIUs and Law Enforcement Agencies**
Vienna, 21-23 February, 2018

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**Day 1: Wednesday, 21 February 2018**
**Room: EA.0.024 (EA Foyer)**

*All sessions on Day 1 are open only to government officials and representatives from regional and international organizations.*

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**Chair: Prof. Jeffrey Owens** (Co-Director, Tax and Good Governance Project, WU Institute for Austrian and International Tax Law)

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<td>11:30 – 12:30</td>
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<tr>
<td>12:30 – 14:00</td>
<td>Lunch at Mensa (WU Campus)</td>
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<td>14:00 – 14:15</td>
<td><strong>Welcome Address:</strong></td>
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<td>- Prof. Jeffrey Owens, Co-Director, Tax and Good Governance Project, WU Institute for Austrian and International Tax Law</td>
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Session I: Outcomes from the Tax and Good Governance Project

- Tax and Good Governance Project: A brief review.
- What has been achieved over the last three years?
- How has the project helped African governments deal with IFFs? (testimonials from countries).
- How has the project complemented other initiatives?
- The transitional phase of the project.

Speakers:
- Mr Jean-Luc Lemahieu, Director, Policy Analysis and Public Affairs, UNODC
- Prof. Riël Franzsen, Co-Director, Tax and Good Governance Project, and Director, African Tax Institute (ATI) at the University of Pretoria
- Mr Rick McDonell, Co-Director, Tax and Good Governance Project, WU Institute for Austrian and International Tax Law

Open Discussion

Documentation:
Communiques from previous meetings; Project Report 2015-2018; Statements from African Commissioners.

The session will provide an opportunity to take stock of what has been achieved over the three-year Tax and Good Governance Project to date, and consider how it can be adapted to the rapidly changing economic environment to better meet the needs of competent authorities in Africa and other regions.
Session II: The changing environment within which HNWIs operate: How have African countries adapted to the challenges posed by these changes?

- Understanding the changing environment within which High-Net-Worth Individuals (HNWIs) operate.
- Examining how African tax and customs administrations and FIUs have adapted to this changing environment.
- Designing effective voluntary compliance programs for HNWIs.
- Improving the effectiveness of financial investigations, prosecutions and imposition of sanctions in case of failure of voluntary compliance programs for HNWIs.
- Examining how better access to beneficial ownership can help FIUs and Tax and Customs Departments in their investigations.

**Speakers:**

- **Mr Leigh H. Winchell**, Deputy Director, Compliance and Enforcement, World Customs Organization (WCO)
- **Hon. Nnamdi Dimgba**, Judge, Federal High Court, Nigeria
- **Mr Kosie Louw**, Ex-Chair of the Board, Global Forum on Transparency and Exchange of Information for Tax Purposes, OECD
- **Mr Duncan Onduru**, Secretary General, Commonwealth Association of Tax Administrators (CATA)
- **Mr Bernd Schlenther**, Technical Advisor, African Tax Administration Forum (ATAF)
- **Ms Varsha Singh**, Deputy Head of Global Relations and Development Division, Centre for Tax Policy and Administration, OECD
- **Hon. Samuel Kawale**, Chairperson, Media and ICT Committee of Parliament, Malawi National Assembly
- **Ms Rita Julien**, Teaching and Research Associate, WU Institute for Austrian and International Tax Law

**Documentation:**

Summary of recent reports; Article on Beneficial Ownership by Jeffrey Owens & Rick McDonell; Working Paper on “Unexplained wealth orders (UWOs) under the UK’s Criminal Finances Act 2017: The role of tax laws and tax authorities in its successful implementation” by Rita Julien.
HNWIs are high-wealth and high-income individuals. Their activities pose significant challenges for governments due to the complexity of their affairs and the opportunity for offshore and aggressive tax planning which, potentially, can have a negative impact on revenue collection and overall integrity of the tax system. HNWIs may also engage in criminal activities such as money laundering and bribery.

This session brings together officials from tax and customs administrations, financial intelligence units (FIUs), justice departments, law enforcement agencies (LEAs), and the judiciary. It will examine how competent authorities can leverage the tax and financial transparency initiatives of the G20, the outcomes from the OECD Global Forum on Tax Transparency, the FATF and the EU to encourage HNWIs to regularise their affairs.

It is intended that this session will enable government officials to effectively prepare for the subsequent sessions that will provide a platform for open discussion with business as well as advisors to HNWIs.

**Issues of likely interest to participants:**

1. What are the current regulatory frameworks that seek to ensure compliance by HNWIs?

2. How have African Tax Administrations and FIUs reacted to the recent leaks (e.g. “Mossack Fonseca Leaks” and “Paradise Papers”) and the increased pressure from civil society and calls for more transparency to ensure compliance by HNWIs?

3. Are there any new regulatory frameworks proposed?

4. What is the role of voluntary compliance programs (VCPs) for HNWIs in enforcing compliance?

5. How should a VCP be designed for maximum impact? Should it include any incentives? For how long should it run? What are the skill sets needed to run a VCP?

6. How can VCPs support efforts by FIUs to counter cross-border crimes, particularly by politically exposed persons?

7. How can we evaluate whether a VCP has been effective? If they have not been effective, what are the alternatives for ensuring compliance?

8. Can better access to beneficial ownership information help FIUs and Tax and Customs Departments in their investigations of HNWIs?

**15:45 – 16:15** Coffee Break

**16:15 – 18:00** Session II (Continuation): The changing environment within which HNWIs operate: How have African countries adapted to the challenges posed by these changes? Open Discussion
Day 2: Thursday, 22 February 2018  
Room: LC.0.100 (Festsaal 1)

**Chair: Mr Rick McDonell** (Co-Director, Tax and Good Governance Project, WU Institute for Austrian and International Tax Law)

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<td>08:00 – 09:00</td>
<td>Registration</td>
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<td>09:00 – 10:30</td>
<td>Session III: Recent changes in the environment in which HNWIs and their advisors operate and the role of Designated Non-Financial Businesses and Professions (DNFBPs)</td>
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<td>09:00 – 10:30</td>
<td><strong>Speakers:</strong></td>
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<td>- Mr James Githii Mburu, Commissioner of Intelligence &amp; Strategic Operations, Kenya Revenue Authority</td>
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<td>- Mr Christoph Kampitsch, Head of Private Banking Wealth Management, Erste Bank</td>
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<td>- Ms Laure Brillaud, Senior Policy Officer, AML, Transparency International</td>
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<td>- Prof Olateju Abiola Somorin, Head, Association of African Tax Institutes (AATI) &amp; Head of Taxation Department, CALEB University, Nigeria</td>
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<td><strong>Open Discussion</strong></td>
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<td><strong>Documentation:</strong></td>
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<td>Article on &quot;Designated non-financial businesses and professions: The weak link in Australia’s AML/CTF regime&quot;, Journal of Money Laundering Control, by Michael Newbury, (2017); FATF Recommendations Related to DNFBPs.</td>
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The past decade has seen significant changes in the economic and political environment in which HNWIs and their professional advisors operate, with the G20’s call for countries to adopt higher standards of transparency and information exchange in tax matters leading to the creation of the OECD Global Forum on Transparency and Exchange of Information for Tax Purposes and, ultimately, to the global shift towards the Automatic Exchange of Information (AEoI) and the adoption of the Common Reporting Standard (CRS). Governments have recognized that for these efforts to succeed, better access to information on the ultimate owners of trusts, foundations and other opaque vehicles will be required. This focus on HNWIs has been encouraged by the “Mossack Fonseca Leak” and the “Paradise” papers, the number of high profile investigations into the misuse of private bank accounts, including by politicians, and the general blurring of the acceptability between tax evasion and avoidance. The FATF has also been supportive of moves towards better transparency as a way to counter illicit activities.

This session will provide a brief overview of these initiatives and examine the impact that this changed environment has had on competent authorities, HNWIs, and their advisors. This session will finally look at the role of Designated Non-Financial Businesses and Professions (DNFBPs), such as casinos, real estate agents and dealers in precious metals, dealers in precious stones, legal practitioners, notaries and other lawyers, accountants, and trust and company service providers. In the past years, money launderers have found in the non-financial sector an innovative way to conceal the proceeds of their crimes. The role of the DNFBPs is thus one of the major issues contributing to the changes in the environment in which HNWIs and their advisors operate, and it is in this light that this session will also address and examine the different ways to deal with DNFBPs.

Issues of likely interest to participants:

1. Why are Designated Non-Financial Businesses and Professions (DNFBPs) important to HNWIs? What is the role of professional associations?
2. What are the existing standards, rules and regulations that provide oversight over DNFBPs in particular in ensuring that HWIs comply with the law?
3. What are the barriers to effective implementation to the existing standards?
4. Should new requirements be introduced to regulate the role of DNFBPs?

10:30 – 11:00  Group Photo & Coffee Break

11:00 – 12:30  Session IV: What are the concerns of HNWIs in this environment?

Speakers:
- Mr Philip Marcovici, Offices of Philip Marcovici, Hong Kong
- Mr Paolo Ludovici, Partner, Ludovici Piccone & Partners
- Mr Arjo van Eijsden, Partner, Tax Policy & Controversy Group, EY

Open Discussion

Documentation:
Developments in Global Tax Transparency and the Need for Effective Dialogue, Part I and Part II, by Philip Marcovici.
This session will be used to facilitate and encourage a frank and open discussion between competent authorities, HNWIs, FIUs and their advisors on the most significant issues and concerns that have arisen in adjusting to this changing environment.

**Issues of likely interest to participants:**

1. What are the key concerns of HNWIs in the new environment that calls for more transparency and accountability for their affairs/activities?
2. What are their expectations from the tax and customs administrations, FIUs and other law enforcement authorities with oversight over their affairs?
3. What are the expectations of the tax and customs administrations, FIUs and other law enforcement authorities?
4. What sort of access will HNWI have to Mutual Agreement Procedure (MAP) to resolve potential issues of double taxation?

**12:30 – 14:30**

**Lunch Break at Mensa (WU Campus)**

**Chair: Prof. Jeffrey Owens** (Co-Director, Tax and Good Governance Project, WU Institute for Austrian and International Tax Law)

**Session V: How do you design voluntary compliance programs that would encourage HNWIs to regularise their past affairs?**

**Speakers:**

- **Mr Jonathan Leigh-Pemberton**, Director, Cooperative Compliance and Tax and Technology Projects, WU Institute for Austrian and International Tax Law
- **Mr Marcio Ferreira Verdi**, Executive Secretary, Inter-American Center of Tax Administrations (CIAT)
- **Ms Susan Nakato**, Supervisor Corporate Performance Reporting, Monitoring and Evaluation, Uganda Revenue Authority (URA)

**Open Discussion**

**Documentation:**

A summary paper of the OECD report on voluntary disclosure programs.
This session will examine the most important issues that competent authorities, HNWIs, and their advisors should consider that would facilitate the design of successful voluntary compliance programs.

**Issues of likely interest to participants:**

1. What are the key issues that should be addressed in a VCP?
2. What role should incentives play in persuading HNWIs to regularise their past affairs and what form should the incentive take?
3. What time period should a VCP cover and for how long should it run?
4. How can we assess and measure whether a VCP has been effective?
5. How to ensure consistency between the anti-money laundering rules and voluntary disclosure provisions?

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<th>16:00 – 16:30</th>
<th><strong>Coffee Break</strong></th>
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<td>16:30 – 18:00</td>
<td><strong>Session VI: What are the implications of this approach for African tax administrations, FIUs, and the judiciary?</strong></td>
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**Panel Debate:**

- **Hon. Justice Nnamdi Dimgba**, Judge of the Federal High Court, Nigeria
- **Ms Yana Bugrimova**, Advisor to the Minister of Finance, Ukraine

**Open Discussion**

This session will examine the policy, revenue, and criminal justice implications of implementing voluntary compliance programs for HNWIs.

**Issues of likely interest to participants:**

1. What are the implications of adopting a voluntary compliance programme by a tax administration?
2. Can a VCP, which provides incentives for HNWIs, affect the morale of other segments of the taxpayer population? Can it be challenged by other segments of taxpayers?
Session VII: Taking the debate forward: Exploring the capacity-building needs of emerging and developing countries

Panel Debate:

- **Mr Duncan Onduru**, Secretary General, Commonwealth Association of Tax Administrators (CATA)
- **Ms Varsha Singh**, Deputy Head of Global Relations and Development Division, Centre for Tax Policy and Administration, OECD
- **Mr Philip Marcovici**, Offices of Philip Marcovici, Hong Kong
- **Mr Jeffrey Owens**, Co-Director, Tax and Good Governance Project, WU Institute for Austrian and International Tax Law

Open Discussion

Documentation:
The Platform for Collaboration on Tax - Discussion Draft: Report on Effective Capacity Building on Tax Matters in Developing Countries; Enhancing the Effectiveness of External Support in Building Tax Capacity in Developing Countries; ECOSOC: Strengthening Tax Capacity Development Support to Developing Countries; How Can We Build Tax Capacity in Developing Countries? By the World Bank Group.

Issues of likely interest to participants:
1. What are the skills set needed to effectively investigate the affairs of HNWIs?
2. What role can civil society play?
3. What role can the private sector play?

Dinner at a typical Austrian wine tavern (Heuriger Wolff)

Bus pick-up from WU Campus at 18:30 Hs.
Day 3: Friday, 23 February 2018  
Room: LC.0.100 (Festsaal 1)

**Chair:** Mr Rick McDonell (Co-Director, Tax and Good Governance Project, WU Institute for Austrian and International Tax Law)

### Session VIII: The role played by Financial Technology (FinTech) / Regulatory Technology (RegTech)

**Speakers:**

- Ms Julia de Jong, Researcher, WU Institute for Austrian and International Tax Law
- Mr Jerome Duperrut, Associate Director - Economic Analysis & International Affairs, SICPA SA, Switzerland

**Open Discussion**

**Documentation:**

101 Blockchain paper; Article on Blockchain and Beneficial Ownership by Jeffrey Owens and Julia de Jong.

This session will examine the potential roles to be played by emerging Financial Technology (FinTech) and Regulatory Technology (RegTech) initiatives (including, e.g. blockchain) in enhancing the global agenda for greater financial transparency and more effective and efficient exchange of information.

**Issues of likely interest to participants:**

1. Can emerging FinTech and RegTech initiatives (for example, blockchain) have a role in enhancing compliance by HNWIs with regulatory requirements e.g. providing information on beneficial ownership?

2. Can these technologies facilitate more transparency and enhancing information exchange between competent authorities domestically and internationally?

**Completion of Evaluation Forms by Participants**
Recent leaks like the “Mossack Fonseca Leak” and the “Paradise Papers” as well as the European Parliament’s Committee of Inquiry into Money Laundering, Tax Avoidance and Tax Evasion (PANA) have highlighted the significant role of lawyers in providing service to HNWIs. The PANA Report highlighted that: “in many Member States, lawyers cannot be sanctioned for advising non-residents on how to evade tax or launder money in another jurisdiction as per the territoriality principle;” and noted that “legal advisors have excluded themselves from legal obligations by invoking ‘professional secrecy’ in order to avoid performing CDD, even when they have not been acting as lawyers but as providers of financial services.

Legal professional privilege or client-attorney privilege has and can be used to frustrate access to crucial information that facilitate investigations into the activities of HNWIs. This session will analyse the challenges posed by legal professional privilege when trying to get access to beneficial ownership information.

**Issues of likely interest to participants:**

1. What are the practical consequences for FIU and tax administrations of excessively strict legal professional privilege?
2. What is the scope and what are the limitations of the legal professional privilege?
3. What challenges does it pose to competent authorities trying to access beneficial ownership information?
4. Should we impose restrictions to unlimited legal secrecy? Should we have disclosure and waiver standards? Should we impose criminal sanctions against lawyers?
5. How can we strike the right balance between the movement towards greater transparency, the right to confidentiality and legal professional privilege?
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<th>Time</th>
<th>Session X: Transitional phase of the Tax and Good Governance Project</th>
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| 12:00 – 13:30 | **Speakers:**  
|           | - Dr Dela Heloo, Assistant Commissioner, Ghana Revenue Authority  
|           | - Ms Susan Nakato, Supervisor Corporate Performance Reporting, Monitoring and Evaluation, Uganda Revenue Authority (URA)  
|           | - Mr Jean Pierre Brun, Senior Financial Sector Specialist, World Bank Group  
|           | - Prof Jeffrey Owens, Co-Director, Tax and Good Governance Project, WU Institute for Austrian and International Tax Law |

This session will examine the transitional phase of the project with a view to building upon the network established under the project and initiating an extension of the programme to other African countries.  
Issues to be considered by participants:  
1. Would African countries support the extension of the program for another 3 years?  
2. If so, what issues should be examined and how can such a program be financed?  

| Time     | Lunch at Mensa (WU Campus) |
Address and Contacts

ADDRESS

WU Global Tax Policy Center at the Institute for Austrian and International Tax Law WU (Vienna University of Economics and Business)

CONTACTS

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Conference Materials:
https://short.wu.ac.at/February2018

This is a password protected link. Please contact us at globaltaxpolicycenter@wu.ac.at for assistance.