The OECD standard of 2009 and Singapore's commitment

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Banking confidentiality under section 47 of the Banking Act

Banking confidentiality in Singapore rests on statute. Section 47(1) of the Banking Act 1970 provides that customer information must not, in any way, be disclosed by a bank in Singapore or any of its officers to any other person, except as the Act expressly permits. The permitted disclosures are listed in the Third Schedule, which sets out the purpose of each disclosure, the persons to whom it may be made and the conditions attached to it. A breach is a criminal offence, punishable for an individual with a fine of up to S$125,000 or imprisonment for up to three years, and in other cases with a fine of up to S$250,000.[1]

The provision protected clients against private persons, competitors and, in principle, foreign states. Before 2009, the Inland Revenue Authority of Singapore (IRAS) could obtain information for a foreign treaty partner only where Singapore itself had a tax interest in it, a condition that the legislation of 2009 had to lift.[2] Since Singapore did not tax most of the foreign wealth of non-residents booked with its banks, that condition excluded the bulk of foreign requests concerning such wealth. The combination of statutory confidentiality and a domestic interest requirement was what made Singapore attractive to clients who did not wish their home authorities to see their accounts.

The grey list and the decision of March 2009

The financial crisis of 2008 changed the political climate. On 2 April 2009 the leaders of the G20, meeting in London, announced measures against non-cooperative jurisdictions, while the OECD published lists of jurisdictions on the same day. Singapore had moved shortly before. On 7 March 2009 the Ministry of Finance announced that Singapore had decided to endorse the OECD standard for effective exchange of information through its double taxation agreements. Draft amendments to the law were to follow in the middle of the year.[3]

The ministry presented the decision as consistent with existing policy. The standard, it said, was compatible with Singapore's system of banking confidentiality, which "does not shelter criminals". It also noted that the United Nations Committee of Experts on International Cooperation in Tax Matters had supported the standard in October 2008 and that Singapore would apply it only to bona fide requests for information.[4]

The endorsement came too late to avoid the lists. In early April 2009 Singapore appeared on the OECD's so-called grey list of jurisdictions that had committed to the standard but had not yet substantially implemented it. Asked in Parliament on 28 May 2009 by the Non-Constituency Member

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Sylvia Lim, the Minister for Finance, Tharman Shanmugaratnam, stressed that Singapore had 60 treaty partners and that the OECD did not regard it as a tax haven. He added that Singapore "does not and will not stand for the abuse of its laws to shelter financial criminals and their ill-gotten proceeds".[5]

The Exchange of Information Act of 2009 and its safeguards

The draft Income Tax (Amendment) (Exchange of Information) Bill 2009 went to public consultation from 29 June to 28 July 2009. The ministry received 74 comments and accepted 56 of them, most of which concerned access to information held by banks and trust companies. Respondents asked that taxpayers and banks be notified of a valid request and that taxpayers have a right of appeal to the courts. Both suggestions were adopted, together with the removal of a requirement for the Attorney-General's consent before IRAS could apply to the High Court.[6]

The Minister for Finance moved the second reading on 19 October 2009. He explained that a new section 105F lifted the domestic interest condition for prescribed agreements and that a new Part XXB widened IRAS' powers to obtain bank and trust information. Information protected under the Banking Act and the Trust Companies Act could be obtained only through a judicial process. IRAS had to apply to the High Court for a production order. The taxpayer and the bank would normally be notified and could apply to discharge or vary it.[7]

The speech also set out the safeguards on which Singapore insisted. Requests had to meet documentary requirements laid down in a new Eighth Schedule to the Income Tax Act. The bill excluded "fishing expeditions" and assistance would be given only "where there is a genuine case at hand". By the time of the debate, Singapore had agreed with 20 jurisdictions, 15 of them OECD members, to incorporate the standard in their treaties, and had signed formal agreements with 11 of them. The Minister pointed out that Switzerland and Austria had each signed more than twelve such agreements, a reminder that the competitors of Singapore were moving at the same speed.[8]

The provisions survive, in renumbered form, in Part 20A of the Income Tax Act 1947, which runs from section 105A to section 105HA. Section 105D(2) still requires a request to contain the information prescribed in the Eighth Schedule. Section 105D(4)(a) provides that an arrangement must not be read so as to allow the Comptroller to refuse a request merely because Singapore does not need the information for its own tax purposes.[9]

From the white list to the peer reviews

The legislation and the protocols that followed allowed Singapore to leave the grey list within months. When Singapore and Brunei signed a protocol incorporating the standard on 13 November 2009, the Ministry of Finance described it as the first protocol signed after Singapore had joined the OECD white list of jurisdictions that had substantially implemented the standard.[10] The speed of the exit owed much to an administration able to negotiate protocols with its sixty or so treaty partners in quick succession.

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Singapore also positioned itself inside the new machinery of review. In January 2010 it announced that it would host the meeting of the Global Forum on Transparency and Exchange of Information for Tax Purposes from 30 September to 1 October 2010, the first meeting after the forum had been reconstituted as a self-standing body in September 2009. Singapore was then vice-chair of the forum's Peer Review Group.[11] The choice reflected a strategy that recurs throughout this chapter: accept the standard early, shape its application from within and insist on equal treatment of competitors.

The peer reviews confirmed the result. The Global Forum adopted its Phase 1 report on Singapore's legal framework on 1 June 2011 and its Phase 2 report on practical implementation on 2 April 2013. According to the Ministry of Finance, the forum found that Singapore exchanged information "in an effective and timely manner" and was considered by its peers "an important and reliable EOI partner". By then Singapore had signed 41 agreements incorporating the standard and had answered more than 300 requests in three years. A second-round review under the stricter Terms of Reference of 2016 rated Singapore "Compliant" overall, the highest available rating, in October 2018. The review covered the availability of beneficial ownership information, IRAS' access powers and the quality of exchange in practice.[12]

The reforms of 2013

A second wave of reforms followed in 2013. On 14 May 2013 the Ministry of Finance announced that Singapore would extend assistance under the standard to all its existing treaty partners, subject to reciprocity, without renegotiating each agreement. It would also sign the multilateral Convention on Mutual Administrative Assistance in Tax Matters, which would raise the number of its exchange partners from 41 to 83. IRAS would be allowed to obtain bank and trust information without a court order, while taxpayers kept their right of appeal. The same announcement foreshadowed a Model 1 agreement with the United States under FATCA and the criminalisation of laundering the proceeds of serious tax offences from 1 July 2013.[13]

The draft Income Tax (Amendment) Bill 2013 went to public consultation from 18 to 31 July 2013. The ministry justified the removal of the court order by the need to streamline exchange. It argued that the change would not undermine the basic safeguards, since IRAS would continue to assess each request against the standard. Singapore ratified the amended multilateral convention on 20 January 2016.[14] The judicial filter that the consultation of 2009 had built into the law thus lasted only four years. Its disappearance marked the point at which exchange on request became an administrative routine.

Notes

1. Banking Act 1970, s. 47(1), (2), (5) and (6), as reproduced by LawPlayer (lawplayer.com/sg/article/BA1970/47, accessed November 2026): customer information "must not, in any way, be disclosed by a bank in Singapore or any of its officers to any other person" except as permitted by the Third Schedule; penalty for an individual "a fine not exceeding $125,000 or … imprisonment for a term not exceeding 3 years", and in any other case a fine not exceeding $250,000.

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2. Tharman Shanmugaratnam, second reading speech on the Income Tax (Amendment) (Exchange of Information) Bill 2009, 19 October 2009 (mof.gov.sg): the new s. 105F "lifts this domestic interest condition" so that IRAS can meet its obligations under prescribed DTAs.
3. Ressos, *Genève, place financière internationale*, Part E, Chapter III, on the communiqué of the G20 London summit of 2 April 2009 announcing measures against non-cooperative jurisdictions and the lists published by the OECD on the same day. Ministry of Finance, "Singapore Endorses the OECD Standard for Exchange of Information", press release, 7 March 2009 (mof.gov.sg, accessed November 2026): decision to endorse the OECD standard for information exchange under DTAs; draft legislative amendments to be introduced in mid-2009 and tabled in Parliament.
4. Ministry of Finance, press release of 7 March 2009: the standard "is consistent with Singapore's system of banking confidentiality, which does not shelter criminals"; support by the UN Committee of Experts in October 2008; Singapore to apply the standard to bona fide requests; the Ministry had told Parliament on 10 February 2009 that it was studying the standard.
5. Ministry of Finance, "Organisation for Economic Cooperation and Development (Singapore on the 'Grey List')", parliamentary reply of 28 May 2009 by Tharman Shanmugaratnam to Sylvia Lim: placement on the list in early April 2009 of jurisdictions that "committed to the OECD Standard … but have not yet substantially implemented" it; 60 DTA partners; "Singapore does not and will not stand for the abuse of its laws to shelter financial criminals and their ill-gotten proceeds".
6. Ministry of Finance, "MOF Accepts Most Suggestions in the Feedback on the Legislative Framework to Implement the Internationally Agreed Standard for Exchange of Information for Tax Purposes", 15 September 2009: consultation from 29 June to 28 July 2009; 74 comments received, 56 accepted; notification of taxpayer and bank and a right of appeal through the courts incorporated; removal of the need for the Attorney-General's consent before an application to the High Court.
7. Tharman Shanmugaratnam, second reading speech on the Income Tax (Amendment) (Exchange of Information) Bill 2009, 19 October 2009 (mof.gov.sg): s. 105F "lifts this domestic interest condition"; Part XXB widens IRAS' information-gathering powers; IRAS "will make an application to the High Court for a production order"; notification of the taxpayer and the bank or trust company, who may apply to discharge or vary the order.
8. Tharman Shanmugaratnam, second reading speech of 19 October 2009: the Eighth Schedule requirements "ensure that requests are justified"; the bill "does not allow for what is called 'fishing expeditions'"; assistance only "where there is a genuine case at hand"; agreement with 20 jurisdictions, 15 of them OECD members, formal agreements signed with 11. In the same speech: "Switzerland and Austria have each signed more than 12 DTAs" incorporating the standard; Hong Kong was making "the same moves".
9. Income Tax Act 1947, Part 20A (ss. 105A–105HA), "Exchange of Information under Avoidance of Double Taxation Arrangements and Exchange of Information Arrangements", as reproduced by LawPlayer (lawplayer.com/sg/act/ITA1947/section/part-20a, accessed November 2026): s. 105D(2), request must set out the information prescribed in the Eighth Schedule; s. 105D(4)(a), no refusal merely because "Singapore does not need the information for its own tax purposes"; s. 105E(2)(a), notice where the information is protected under s. 47 of the Banking Act.
10. Ministry of Finance, "Singapore and Brunei Enhance Tax Cooperation – First Protocol after Singapore Joins OECD's White List", 13 November 2009: the protocol is "the first Protocol Singapore signed after joining the … OECD white list of jurisdictions that have substantially implemented the Standard".
11. Ministry of Finance, "Singapore to Host 2010 Global Forum on Transparency and Exchange of Information for Tax Purposes", 25 January 2010: meeting from 30 September to 1 October 2010; the forum of over 90 jurisdictions restructured as a self-standing body in September 2009 in Mexico; Singapore Vice-Chair of the Peer Review Group.
12. Ministry of Finance, "Global Forum Completes Peer Review of Singapore's International Tax Cooperation Framework", 15 April 2013: Phase 1 report adopted on 1 June 2011, Phase 2 report on 2 April 2013; Singapore "exchanges information with its EOI partners in an effective and timely manner" and is "an important and reliable EOI partner"; 41 agreements signed incorporating the standard; more than 300 requests fulfilled in the preceding

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three years. Ministry of Finance, "Singapore Rated Overall Compliant with International Standards on Exchange of Information", 25 October 2018: "the highest overall rating a jurisdiction can receive"; assessment under the 2016 Terms of Reference; legislation requiring availability of information including on beneficial owners, broad access powers of the tax authority, timely and effective exchange.

13. Ministry of Finance, "Singapore to Significantly Strengthen Framework for International Tax Cooperation", 14 May 2013: extension of EOI to all existing treaty partners subject to reciprocity; signature of the Convention on Mutual Administrative Assistance in Tax Matters, raising exchange partners from 41 to 83; access to bank and trust information without a court order; Model 1 IGA with the United States; "From 1 July 2013, Singapore will criminalise the laundering of proceeds from serious tax offences."
14. Ministry of Finance, "Public Consultation on Amendments to the Income Tax Act to Incorporate Changes to our Exchange of Information (EOI) Regime", 18 July 2013: consultation from 18 to 31 July 2013; removal of the court order requirement "will further streamline the administration of EOI under the Standard" without undermining basic safeguards; taxpayers keep the right of appeal. Wikipedia, "Convention on Mutual Administrative Assistance in Tax Matters" (accessed November 2026): table of parties showing Singapore's ratification of the amended convention on 20 January 2016; the convention was opened for signature on 25 January 1988 and amended by the protocol of 27 May 2010.

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