

The Myth of Panama Papers – *What it is and what it is not*



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29th June 2016 –Lunch Seminar to Chartered Accountants
of Australia & New Zealand

Haldanes

Why do we concern about Panama?



3 things you know about Panama?



Panama Papers – what's the story?

MOSSACK ✖ FONSECA

[John Doe]
Hello. This is John Doe.
Interested in data?

[John Doe] We're very interested.
There are a couple of conditions. My life is in danger.
We will only chat over encrypted files.
No meeting, ever.
The choice of stories is obviously up to you.

[Süddeutsche Zeitung]
Why are you doing this?

[John Doe]
I want to make these crimes public.

Panama Papers are not...

1. Misnomer - not “Panama Papers”!!!
2. Being named in PP – not *per se* criminal or dubious
3. Not evidence of criminal wrongdoings
(yet)

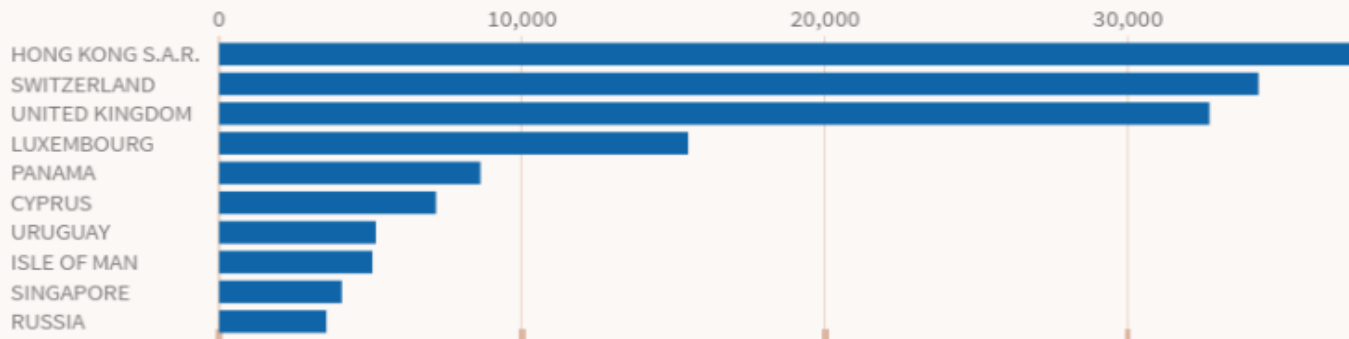


Panama Papers are....



1. “Mossack Fonseca Papers”
2. or....at most... "Hong Kong Papers"?

Countries with the most active intermediaries



Mossack Fonseca worked with intermediaries in more than 100 countries all over the globe. Their most active clients by number of offshore company incorporations were from Hong Kong, Switzerland and the United Kingdom.



Source: The Panama Papers [Read more](#)

Panama Papers are....

3. Per Edward Snowden: *"the biggest leak in the history of data journalism"*
 - Panama Papers - **2.6 TB data / over 11 million records**
 - Edward Snowden - **1.7 million documents** (15% of PP)
 - Julian Assange / Wikileaks (2010) - Afghanistan & Iraq War
1.7GB data / 92,000 & 400,000 documents



Latest stories – from Panama & beyond

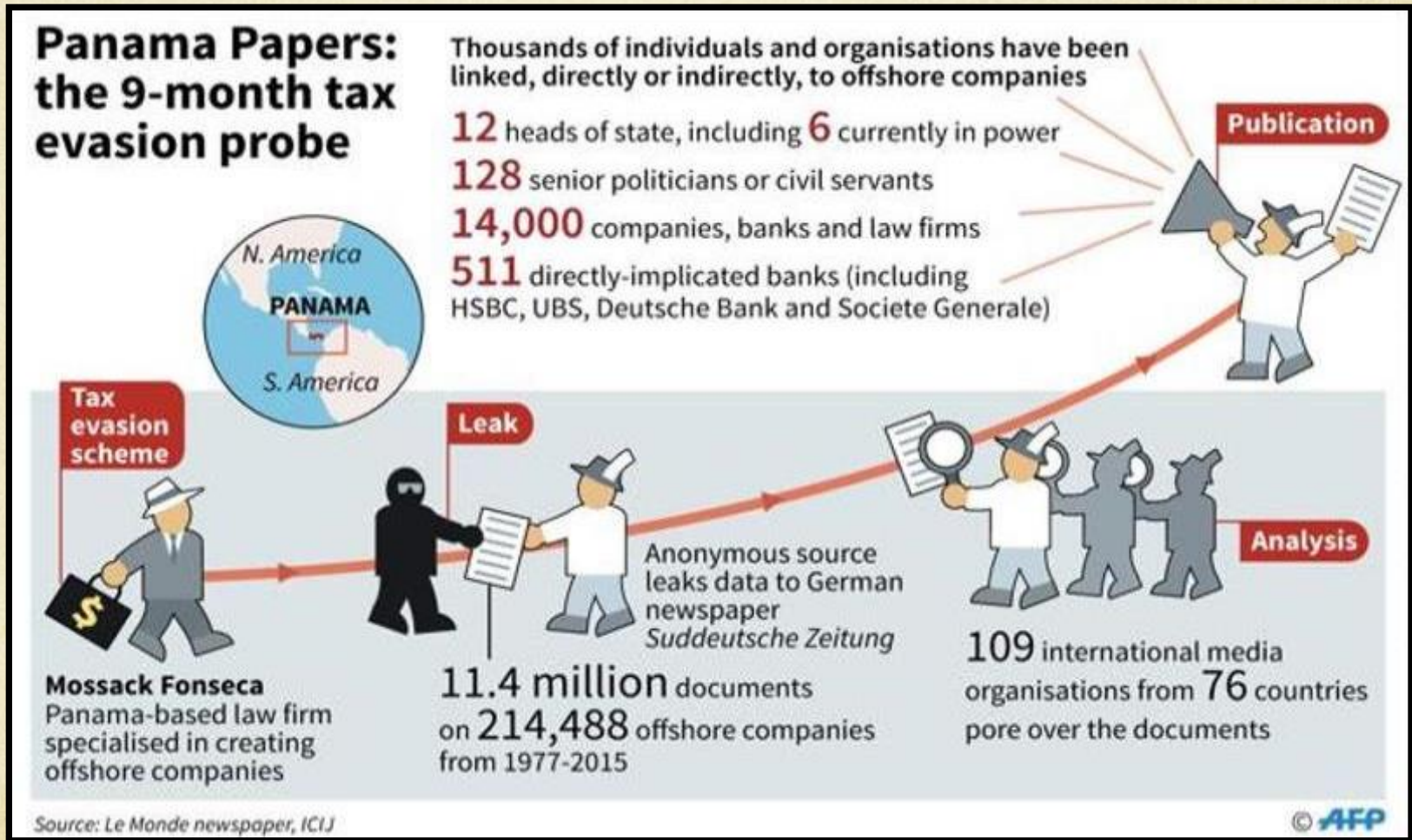
Panama Papers leaks: political connections

Most of the alleged dealings are believed to be legal but political fall-out is expected

140 political figures from more than **50 countries** are implicated



Panama Papers –significance?



Panama Papers - Impact on Hong Kong?

伯查報章 巴拿馬文件 港政商 BVI 大曝光

報明

A2 A4 A5 A6

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Lesson from PP: wake up call for HK?

- Failure of HK's AML & Anti-tax evasion regime?
- AML legislation
 1. Drug Trafficking (Recovery of Proceeds) Ordinance (Cap 405)
 2. Organized & Serious Crimes Ordinance (Cap 455)
 3. United Nations (Anti-Terrorism Measures) Ordinance (Cap 575)
 4. Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) Ordinance (Cap 615)
- Anti-Tax Evasion
 1. S.82 Inland Revenue Ordinance: *“Willfully with Intent to Evade Tax”*
 2. Common Law offence: *“Cheating the Public Revenue”*



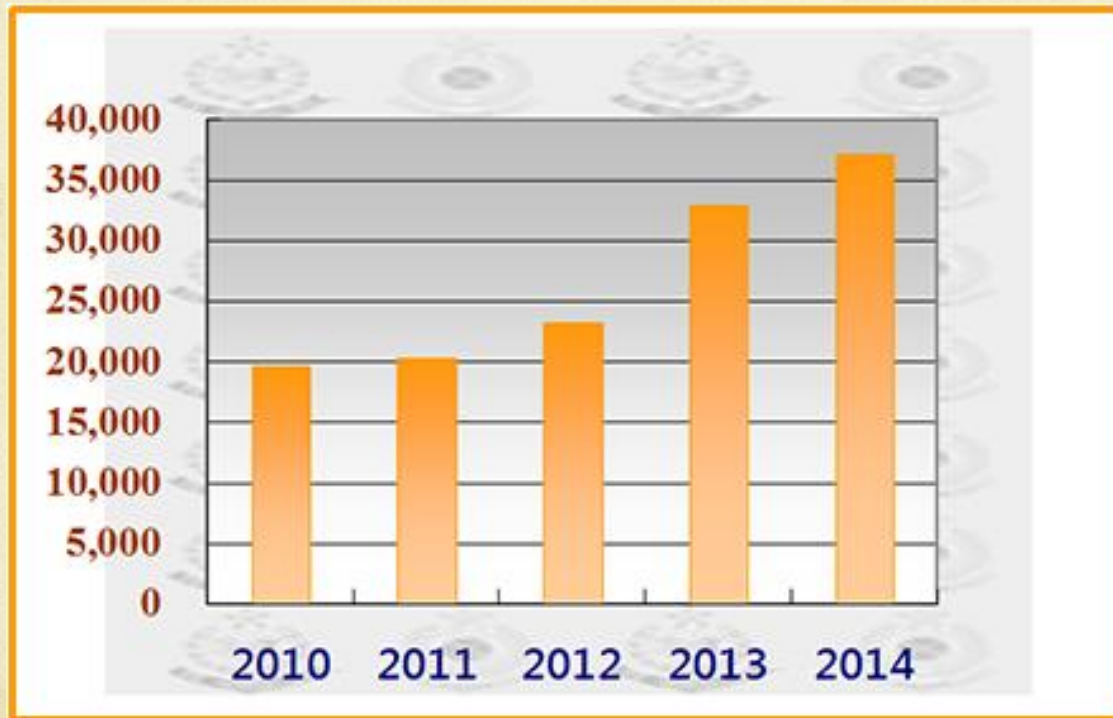
Money Laundering– HK Recent Developments

- Money Laundering (s 25 OSCO) : “dealing with any property known or believed to represent proceeds of an indictable offence”
- Knowing (*subjective*) or having reasonable grounds to believe (*inferred from circumstances*)
- **NOTE:** *NOT* necessary for prosecution to prove the money was in fact “dirty” / derived from the predicate offence (*CFA decision - Oei Hengky Wiryo 2007*)
- Reverse is true: Accused has to show DD has been done - money is “clean” or “not dirty”
- Effectively – “criminal negligence”
- CFA Appeal of *Yeung Ka Sing Carson (FAMC29/2015)*



Suspicious Transaction Reports

- Obligation to report (STR) to JFIU (s.25A OSCO)



STRs by profession

Sector	No. of STR received in 2014	Percentage (%)
Banks	31,095	83.62
Insurance	446	1.20
Securities	1,574	4.23
Money Service Operator	2,772	7.45
Money Lender	32	0.09
Real Estate	29	0.08
Dealers in Precious Products	18	0.05
Legal	222	0.60
Accounting	3	0.01
Trust & Corporate Services	46	0.12
Others	951	2.55
Total	37,188	100

Reform?

- What else do we need?

STAIRWAY TO TAX HEAVEN

Welcome to the secret world of offshore. Your goal is to navigate this parallel universe and hide your cash away. Don't worry! Lawyers, wealth managers and bankers are there to help you.

Pick a character and don't get caught.



Juan Penalti
Soccer Player



Polly Tisien
Politician



Edmund von Kronen
Business Executive

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