


Uninformed reading my structures that are not reportable for CRS, blurt out 'MDR Hallmark 6, so you're screwed' are ignoramuses.

 **Mark Morris**
CRS and CARF expert. No, truly.

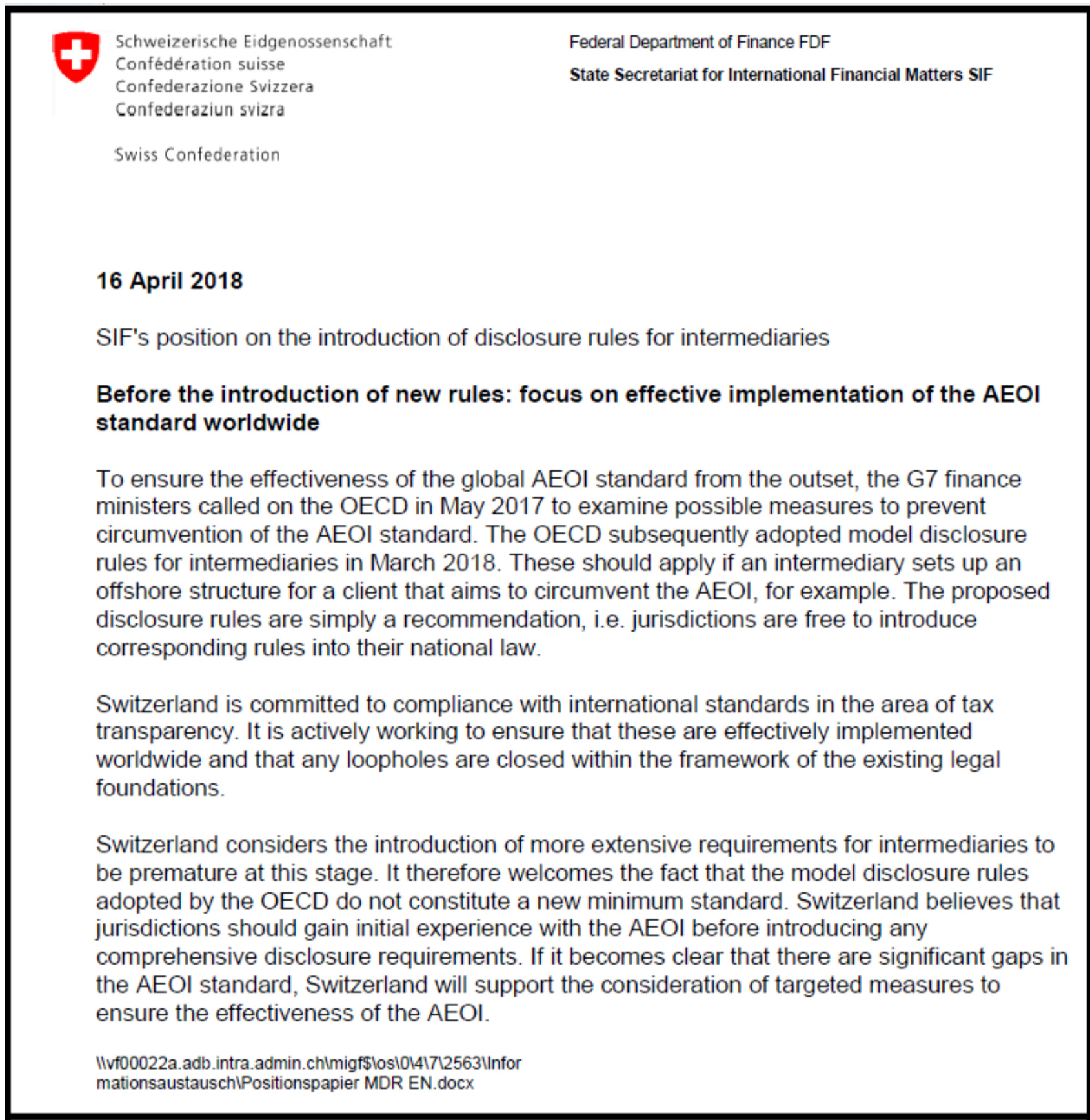


July 13, 2024

- MDR requires intermediaries designing or marketing or supplying structures which avoid CRS, or are opaque designed to hide beneficial owner.
- The weakness is that the intermediary must report to the avoidance structure to their tax authorities.
- However if no intermediary is reporting due to exemptions (legal privilege of lawyers or intermediaries from a non participating country), then the user of the avoidance structure must self-report. What a joke.
- Read my article [Adoption of Mandatory Disclosure Rules for CRS avoidance arrangements & opaque structures a flop. Useless with key exemptions and no OECD peer review](#)



- Intermediaries based in countries that did not implement MDR are not included.
- MDR is a BEPS Action 12 but is not a minimum standard or prescriptive. Thus it is optional for countries to implement.
- As only a handful of countries outside EU implemented MDR, then hardly any international intermediary has to report the structure.
- Eg. I am based in Switzerland and I can market and supply CRS avoidance structures to clients in the EU without MDR obligations.
- Global Transparency Forum does not peer review if countries adopt MDR



Switzerland telling OECD to get lost on MDR

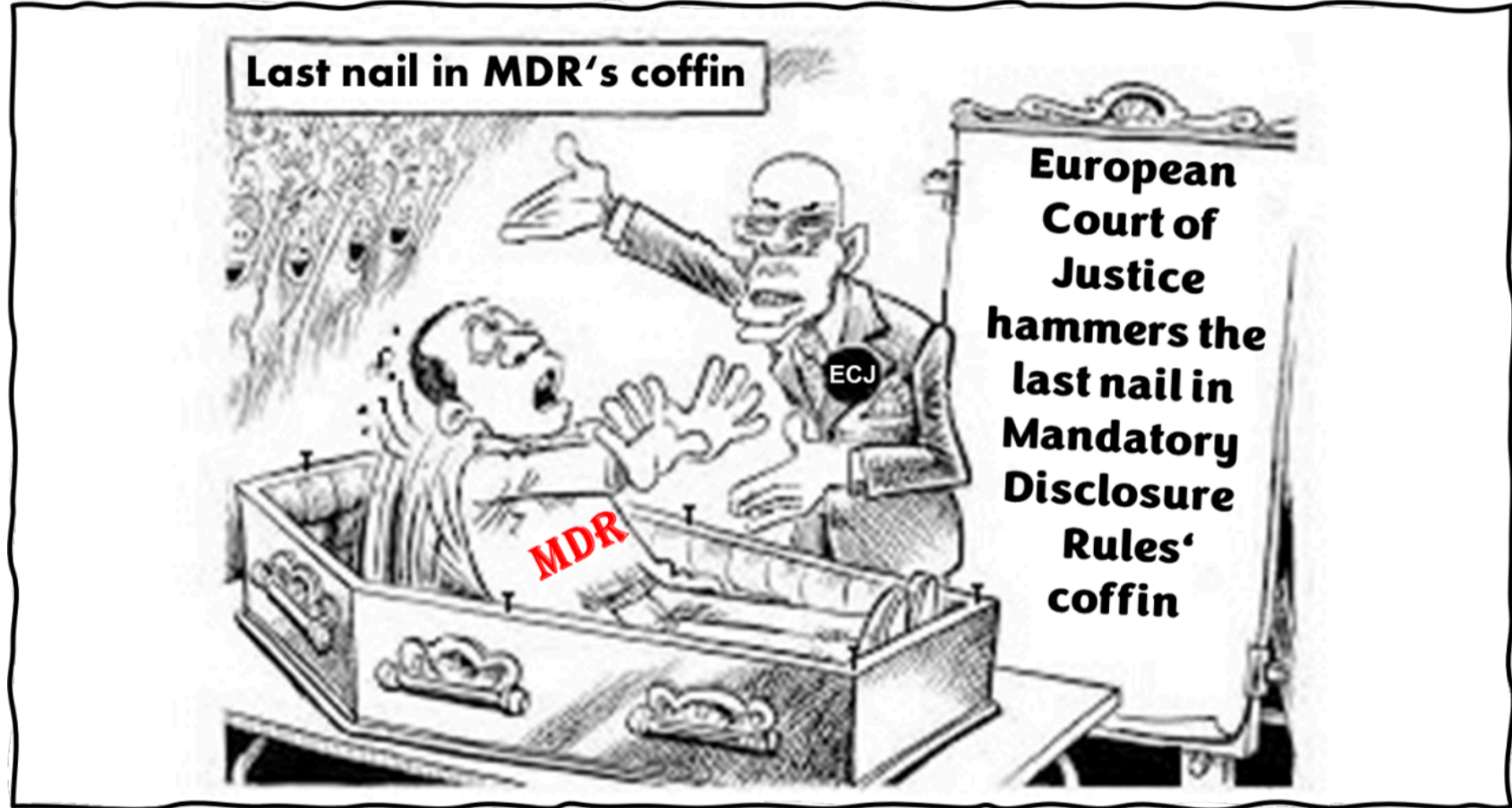
MDR says lawyers are exempt from reporting MDR if the country recognises legal privilege confidentiality

A new legal opinion by the Advocate General to the ECJ is another nail in the coffin for those advocating transparency. The ECJ Advocate General considers that legal professional privilege (aka lawyers' confidentiality) extends to setting up companies, and that communications between law firms and entities are protected by the right to "private and family life"

Impact on Mandatory Disclosure Rules

- I have written articles on why MDR is a toothless wonder because it does not apply to intermediaries who are lawyers (due to legal professional privilege), or any introducer/designer who is resident in jurisdictions that have not implemented MDR (which is the vast majority of the world, including say Switzerland, Liechtenstein, etc).

Read [European Court of Justice is about to re-confirm the legal privilege of lawyers, who will thus be exempt from AEOI/MDR/AML/KYC reporting obligations](#).



Summary

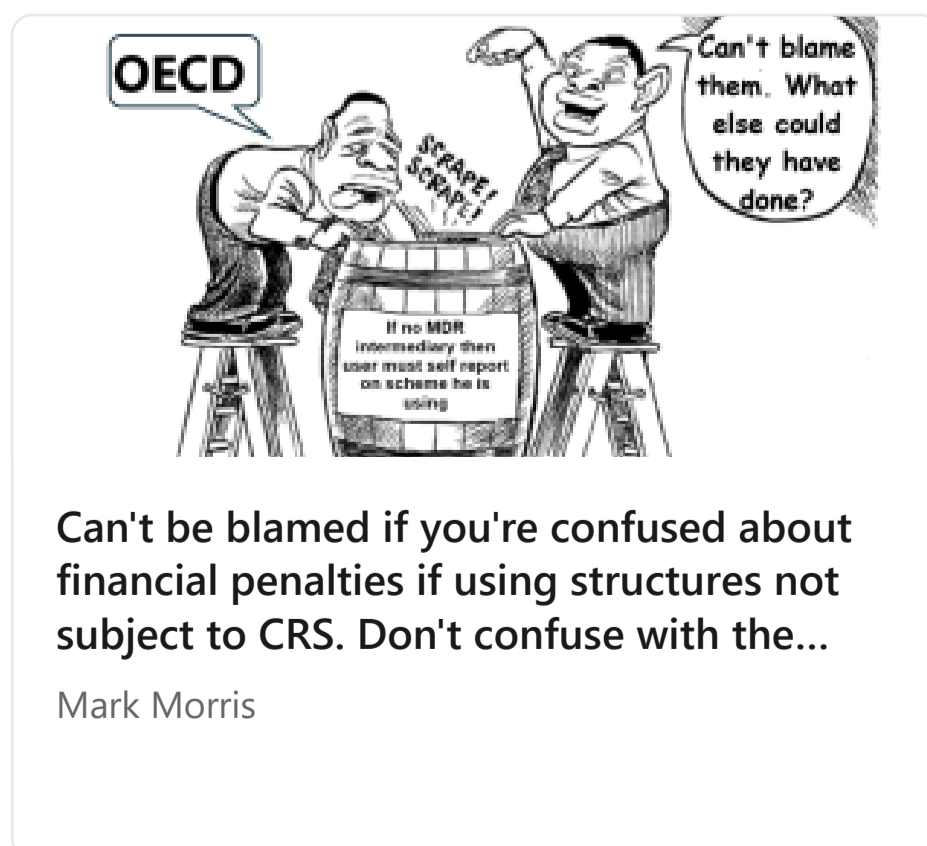
- If no intermediary is reporting the structure, in that case MDR reporting obligations rely on the avoidance structure to do himself in.
- Brilliant!

=====END=====



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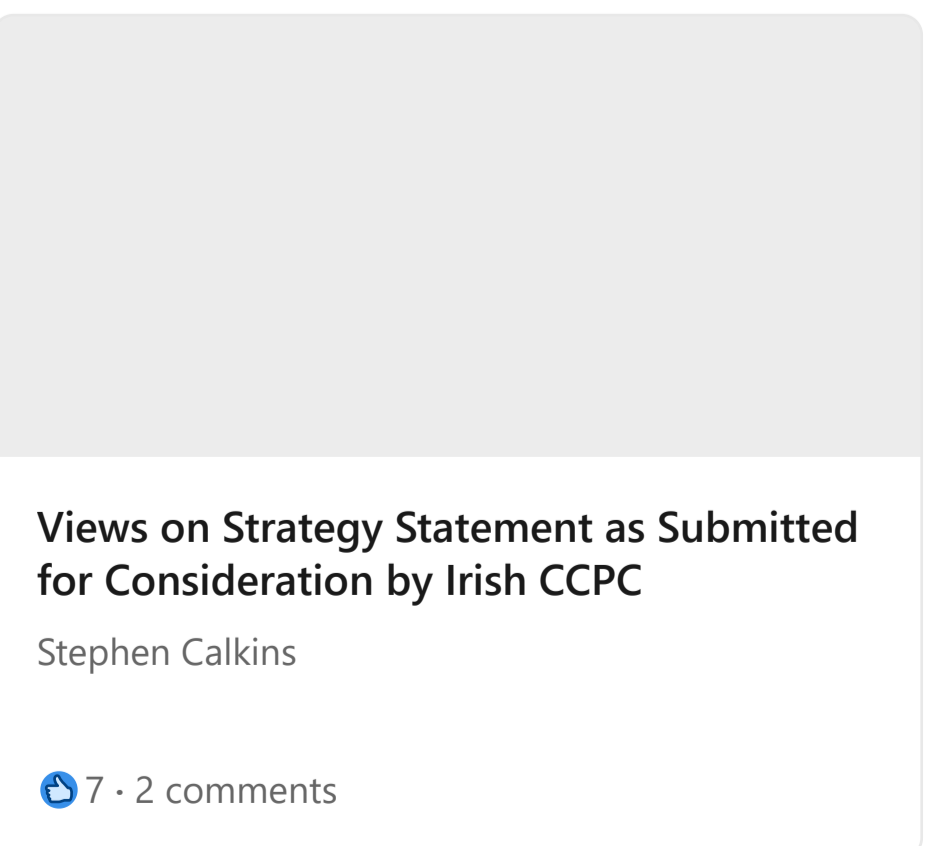
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