The New Luxury Freeports

Offshore Storage, Tax Avoidance, and 'Invisible' Art

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The New Luxury Freeports:
Offshore storage, tax avoidance, and ‘invisible’ art

Abstract

This paper introduces the concept of a *Luxury Freeport* to describe a novel form of offshore where art and other high-end goods can be stored indefinitely without tax and duty-payments being made. The paper makes three key contributions to our understanding of these new actors in the global political economy. First, it conceptualizes Luxury Freeports as part of what has been called the ‘offshore world’, showing that over the course of the last decade these previously understudied sites have become part of an evolving global ecosystem of tax avoidance. Second, the paper attributes the rise of this new form of offshore to meso-level spillover effects within the offshore world itself: this new model of offshore was born from a combination of the competitive ‘push’ of the rapid spread of Open Customs Warehouses at the turn of the century and the investment ‘pull’ of large pools of money needing new investment outlets in the wake of the recent multilateral effort to clamp down on banking secrecy. Third, it examines how the development and diffusion of the Luxury Freeport model has been shaped and constrained by this clampdown. Navigating the regulatory push against offshore and in an effort to mainstream and legitimize their activities, newer Luxury Freeports have aligned themselves both with the exclusive and high cultural capital environment of the art world and the ecosystem of specialized services offered by the wealth management industry.

Introduction

In a handful of specialized storage sites dotting the globe, a strange thing has been happening: art and other objects traditionally prized for their beauty are being kept in sealed crates and hidden away behind lock and key indefinitely. In many cases they see the light of day only if they are about to change hands. After they change hands, they may simply be returned to the store where they were previously held. Why are people paying to keep art where no one can see it?

Economists have long considered art a risky investment and a poor store of value (Velthuis 2005; Baumol 1986; Beckert and Rössel 2013). For much of the twentieth century collectors behaved accordingly, purchasing art primarily for the innate pleasure and social prestige it offered (Frey and Eichenberger 1995). Over the past few decades, however, the nature of the art trade has been changing: the high-end of the art market has been in an almost relentless boom since the 1980s and even the Global Financial Crisis (GFC) of 2008 only registered as a brief blip in the art world (Horowitz 2011; Zarobell 2017; Adam 2014, 2017). In this environment, art has gradually been evolving into an investment asset in its own right.[1]

However, buying art has not just become more attractive because of rapidly rising prices at the high end of the market. Rather, as collecting art has taken on some of the characteristics of more traditional investment, an infrastructure enabling tax avoidance has also risen up around its trade. At the heart of this development are newfangled high-security storage sites that this paper refers to as *Luxury Freeports*. While these secretive locations are now gaining more attention—both in mainstream media (e.g. 'Über-warehouses…' 2013; Segal 2012) and, more recently, in academic literature (Zarobell 2017; Weeks 2018)—we know little about how they came to play their particular niche role that they do and the ways in which they have navigated greater public scrutiny, legitimacy crises and regulatory shifts to preserve that role. To tackle this gap, this paper has three main aims: (1) to conceptualize Luxury Freeports as part of what has been called the 'offshore world'

[1] Unlike, say, equities or commercial real estate, art doesn't have an underlying income stream to recommend it as a form of investment. Even so, the post-crisis confluence of low yields on a number of traditional assets and a growing pool of high net worth individuals competing to buy the work of so-called 'blue chip artists' have contributed to the growth of art investment (Helgadóttir forthcoming; Horowitz 2011; Goetzmann, Renneboog and Spaenjers 2011; Schrager 2015)

(Palan 2003; Aalbers 2018; Clark et al. 2015),[2] (2) to explain how the Luxury Freeport model emerged and (3) to examine the development and diffusion of this model in the face of various challenges. This account is based on data yielded by comparative case analysis of recent developments in the Geneva and Luxemburg freeports in particular as well as on seven semi-structured interviews and one email-based interview with regulators, experts and service providers in Switzerland.[3]

Firstly, in conceptualizing Luxury Freeports, the paper makes a distinction between these new actors in the international political economy and the traditional freeports that are their historical predecessors. Traditional freeports have a long history, serving primarily as *temporary* tax- and duty-free storage for commercial goods in transit. As such they have been integral to the smooth functioning of international trade in some parts of the world. And as world trade is increasingly characterized by geographically dispersed production in the form of Global Value Chains (GVCs), the importance of intermediary storage sites has been increasing over the course of the last few decades. Indeed, since the 1990s better integration of 'the management of transport, *storage*, purchasing, inventory management, manufacture and marketing [has been seen to] radically enhance competitiveness' (Gibbon and Ponte 2008, p. 369; see also Coe 2014).[4]

Luxury Freeports, by contrast, are high-security storage spaces where, by virtue of special legal exemptions, art and other luxury goods can both be traded and stored for *unlimited periods of time* without tax and duty payments (Zarobell 2017; Adam 2017; Segal 2012). This paper argues that Luxury Freeports have hollowed out and transformed the older freeport model in ways that have allowed them to emerge as new players in the complex and evolving global ecosystem of tax avoidance taking place in specially designated regulatory spaces.

Second, in trying to understand the emergence of the Luxury Freeport model this paper sheds light on the endogenous evolutionary incentives of the decentralized and largely unregulated system of wealth accumulation and protection. Thus, the rise of Luxury

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[2] I also use the terms offshore and tax haven interchangeably. See Sharman 2012 for a discussion of the various terms used in the scholary literature and their specific connotations.

[3] Given the secretive nature of Luxury Freeports, making contact with interviewees was not easy. A number of the actors I reached out to did not respond to my requests and eventualy inroads were made with the support and introduction of one of the interviewees.

[4] Emphasis added.

Freeports in Switzerland was spurred both by the competitive 'push' of Open Customs Warehouses (OCW) established from the mid-1990s onwards as part of World Trade Organization (WTO) regulatory changes and the 'pull' of large pools of money seeking new offshore destinations in response to an international push against banking secrecy and traditional offshore activity. Spillover effects between different kinds offshores are, in other words, key to understanding the present day evolution of the global nebula of tax havens.[5]

Third, the paper makes the case that the diffusion and development of this new kind of offshore has been marked by the need to navigate the regulatory challenges associated with the international push against offshores and secrecy practices. Facing a regulatory crackdown, a new generation of Luxury Freeports has actively exploited the special nature of the assets they store, capitalizing both on the halo-effect of the high-end art world and on closer ties with the wealth management industry as core parts of their business model. Thus, while new Luxury Freeports have emerged alongside established financial hubs and/or tax havens, this has by no means been an automatic process in which freeports spontaneously appear where there is a concentration of private wealth. Rather, the spread of Luxury Freeports has been network-driven and tactically embedded in cultural systems of meaning and prestige.[6] Or, to put it differently, the trajectory of Luxury Freeports' business models has been shaped and constrained by the need to maintain legitimacy and space for maneuver within a contested and rapidly shifting regulatory field. To date this strategy has been largely successful and, for now at least, regulatory developments do not seem to threaten the core elements of Luxury Freeports' business model and their ability to act as a novel kind of offshore, though this could change quite quickly if regulation shifts.

Why Luxury Freeports matter

The rise of Luxury Freeports is part and parcel of the dynamic relationship between global wealth and tax planning. In the face of increasing capital mobility and the rise of offshore activity in the post-1970s, ease of collection was a key rationale for the turn away from

[5] For a different take on spillover effects between offshores see Christensen et al. 2016.
[6] For the role of expertise and prestige in deciding art prices see Beckert and Rössel 2013.

progressive equity-oriented taxation (e.g. personal income taxes; corporate taxes) and toward more regressive efficiency-oriented taxation (e.g. consumption taxes, including value-added tax (VAT); payroll taxes) (Wilensky 2002; Kato 2003; Swank and Steinmo 2002; Genschel and Schwarz 2011). But for well-heeled customers, Luxury Freeports are pushing tax avoidance to new frontiers by making it possible to trade high-end goods such as art without payment of VAT, which ranges from five to fifteen percent in many countries.[7] Therefore, even this presumed workhorse tax might now be added to the list of taxes that ultra high net worth individuals (UHNWIs)[8] can already circumvent (e.g. capital tax, income tax, inheritance tax and, where applicable, wealth tax) (Zucman 2015).

In spite of this, Luxury Freeports have largely passed under the radar of academic research on offshore activity.[9] One reason for this academic blind spot is that the value of freeport wealth is notoriously difficult to gauge.[10] A *New York Times* article on the Geneva Freeport, a trailblazer in the Luxury Freeport business, reports that art dealers and insurers believe that the art housed in that facility alone would suffice 'to create one of the world's great museums'. In a similar vein, a London-based insurer states that there isn't 'a piece of paper wide enough to write down all the zeros' needed to capture the value of the riches kept in Geneva (Segal 2012). While evocative, such claims are both vague and impossible to test. Still, a number of indicators beyond the anecdotal suggest that private wealth kept in luxury offshores is both substantial and growing.

One such indicator is rapid growth in the high-end of the art market. Deloitte estimates that US$1.62 trillion of HNWI wealth was allocated to art and collectibles in 2016 and projects that this figure will reach US$2.7 trillion by 2026 (Deloitte Art & Finance report 2017).[11]A growing pool of UHNWIs engaging in conspicuous consumption

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[7] Here it should be noted that VAT is due when a dealer who is registered as a trader sells art, but not when an individual who is trading it as part of a private collection does. Moreover, in many cases VAT is due only on the margin between the purchase price and the sales prices as well as the services rendered as part of the trade. However, these can be very significant amounts, especially as prices at the high end of the art market rise very quickly as they have in recent years.

[8] For an overview of the concepts various strands of literature use to describe UHNWIs, see Fernandez et al. 2016.

[9] Zucman (2015) explicitly highlights this as a gap in the literature, mentioning art kept in freeports specifically as a key gap in our knowledge. For recent exceptions see Zarobell 2017; Weeks 2018.

[10] Some news sources mention the sum of CHF100 billion when discussing the Geneva Freeport, but the origins and basis of that figure are unclear.

[11] Since the bulk of art transactions are not publicly reported, any estimate of the overall value of the art market should be taken with a grain of salt. Clare McAndrew, until recently an economist for the European

and social signaling likely explains much of this art market boom: we have seen the rapid proliferation of private collections that are open to the public in recent years (Wallop 2015) and a 2015 Deloitte survey revealed that 61% of art collectors think that the social perks of collecting—being thought of as a person of taste and receiving invitations to the right dinners and openings—was part of the allure of collecting art (Gapper 2015). Nevertheless, this does not seem to be the only factor at play: in tandem with the booming art market, we have witnessed the number of square meters Luxury Freeports are letting balloon. In 2010, they offered 46,722 m^2 of dedicated storage, compared to over 178,800 m^2 today. All in all, then, the value of nonfinancial private wealth kept in Luxury Freeports may represent a significant and growing addition to the $7.6 trillion that economist Gabriel Zucman estimates is kept in financial offshores (2015).[12]

But Luxury Freeports should also be of interest to social scientists for reasons that go beyond the price tag we attach to them. As political economist Jason Sharman notes, the study of offshores can provide 'new insights into existing and emerging issues at the heart of International Political Economy (Sharman 2010 p. 2).' And, indeed, a number of scholars have leveraged the unique characteristics of offshores for analytical traction in thinking about the 'big structures, large processes and huge comparisons' of the global economy.[13] This paper follows in that tradition, arguing that close examination of Luxury Freeports stands both to supplement the state of the art in the offshore literature by highlighting the often overlooked endogenous dynamics that shape the offshore world and the role that networks of service providers and experts play therein.

It is easy to understand why states might choose to act as tax havens: in a classic encapsulation of free rider logic, offering tax privileges to non-residents stands to attract new sources of revenue while losses, in the form of foregone tax income, are primarily borne by other states. Yet, the historical record suggests that this kind of strategic reasoning was not the primary dynamic powering the rise of the offshore world. Rather, as an early wave of offshore literature has demonstrated, the emergence of tax havens was an

Fine Art Fair, estimates that art market transactions were $64bn in 2017 alone (McAndrew 2017). Economist Nouriel Roubini estimates total market capitalisation of $1tn (Roubini 2015). Regardless of the difference between specific estimates, all agree that the overall growth trend is indisputable.

[12] For other higher estimates—some of them much higher—see e.g. Henry 2012; Palan et al. 2010; Christensen and Murphy 2012

[13] E.g. Sharman 2006, 2010, 2012; Palan 1998, 2003; Picciotto 1999; Aalbers 2018; Rixen 2013.

unintended consequence of system-level characteristics and contradictions (Palan 1998, 2003; Palan et al. 2010; Picciotto 1992, 1999).

Thus, Ronen Palan traces the rise of offshore back to the 19th century, when tension between the increasingly robust system of juridically discrete sovereign states and global capital mobility necessitated the invention of offshore as an extra-territorial space of maneuver (Palan 1998; 2003). Offering a similar analysis from the perspective of international law, Sol Picciotto sees the concept of the offshore as a malleable 'legal fiction' that was bound to emerge as the mirror image of the legal fiction of 'the state' as an objective and geographically bounded entity. The plastic nature of these constructs lent itself to the kind of legal and fiscal maneuvering that is carried out in offshore jurisdictions (Picciotto 1992; 1999).

Early offshores, then, did not emerge fully formed from the head of Zeus. Rather, the discovery of new forms of tax avoidance has most often resulted from piecemeal and haphazard responses to macro-level political, legal and territorial developments. As a rule, more instrumental pursuit of offshore status has taken off only once initially disparate and fumbling practices have coalesced into coherent new forms of avoidance. Strategic emulation then takes off, with new actors entering the fray after observing the success of early movers (Picciotto 1992; Palan 2003; Palan et al. 2010; Shaxson 2011). Palan (1998) has broken this down into an explicit four-step process, the stages of which are: (1) pragmatic resolution of the contradictions between positivist law and capital mobility, (2) further innovation, (3) competitive emulation and, finally, (4) a race to the bottom.

At first glance the emergence of Luxury Freeports seems to fit this established trajectory of tax havens quite well: this form of offshore originated through experimentation in Geneva, Switzerland and then spread to other parts of the world where it has been pursued in more strategic fashion. Yet, the rise of Luxury Freeports also diverges from this model in ways that merit further discussion. Established accounts of the rise of the offshore world are 'creation myths' that describe offshore as a spatio-juridical innovation that acts as a pressure valve in response to tectonic shifts in the global political economy.[14] The rise of Luxury Freeports, by contrast, is an evolutionary tale, highlighting

[14] This focus, it should be noted, was a deliberate and informed choice of this wave of scholarship. For example, Palan stresses the 'important distinction between the origins of the modern tax havens strategy and

how the spatial arrangements of global finance evolve over time, bringing together new actors in novel relations (e.g. French, Layshon and Wainwright 2011; Pike and Pollard 2010; Zaloom 2006; Hudson 2007)[15] and the agentic role of service providers and experts in that process (Wójcik 2012, 2018; Seabrooke and Wigan 2017; Harrington 2016).

Luxury Freeports, in other words, did not appear in response to entrenched contradictions, nor do they speak to fundamental underlying transformations of the international political economy. Rather, they shed light on how a decentralized and largely unregulated system of wealth accumulation and protection snowballs, generating its own internal momentum and endogenous evolutionary incentives where both competition and symbiosis play a role and where wealth can be transformed from financial to non- or quasi-financial forms, as regulatory and economic incentives shift (Wójcik 2013; Faulconbridge 2004; Seabrooke and Wigan 2017). In light of this, the literature on 'financial ecologies', which views the global financial system as a patchwork of smaller constitutive ecologies that rely on distinctive financial practices and forms of knowledge (Coppock 2013; French et al. 2011; Leyshon et al. 2008; Leyshon et al. 2004) should be expanded to accommodate quasi-financial spaces such as Luxury Freeports, contributing to our understanding of wealth management as variegated and partial phenomenon where wealth can take divergent forms (Langley and Leyshon 2017; French et al. 2011; Pike and Pollard 2010). This also serves to further our knowledge of the universe of services exclusively available to the super-rich and their broader impact on society (Beaverstock et al. 2004, 2013; Beaverstock 2004; Webber and Burrows 2016; Savage and Williams 2008). For example, the repercussions of making art 'invisible' are in many ways comparable to what Hernandez et al. (2016) call 'Buy-to-Leave' prime real estate investment: in both instances prized objects that are made to be used go unused because they have become vehicles for the management of wealth.

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the later diffusion and growth of the phenomenon' but also concludes that though 'its development is naturally of great interest to financial regulators, its origins are what international relations scholars find interesting, not least because of the importance attached to a system of states, particularly a system of sovereign states that appears to have encouraged the experimentation and innovation in state laws that produced the tax havens strategy (2002 p. 162).' By contrast, this paper sees the growth and diffusion as no less interesting for social scientists.

[15] See Quemin 2006 for how such processes affect the art world in particular.

To date, Luxury Freeports' pattern of diffusion is to a significant extent a function of pre-existing networks, knowledge and information (e.g. Wójcik 2018; Haberly and Wójcik 2017; French et al. 2011; Beaverstock et al. 2007; Muellerleile 2013; Lai 2009). In order to safeguard their newfound role in the offshore ecosystem, newer Luxury Freeports have deployed luxurious materialities, ambiances and expert advisory services, positioning themselves as part and parcel of the art world and as a crucial element of a new wave of holistic wealth management. The expert ecosystems surrounding Luxury Freeports can be conceptualized as a form of advanced business services (ABS), exercising significant influence through niche expertise and linking financial centers, offshore jurisdictions and the rest of the world (Jones 2005, Wójcik 2012, 2018; Coe et al. 2014). However, in contrast to ABS services for corporate customers (e.g. Beaverstock et al. 2011; Faulconbridge et al. 2011), the primary locus of this expertise is not law, accounting or finance. Rather, the form of knowledge most important to Luxury Freeports is the considerably more subjective sphere of art expertise. Crucially, as sociologists Beckert and Rössel (2013) have demonstrated, art experts (i.e. gallerists, curators, critics, collectors, etc.) play a key role in reducing art market uncertainty and facilitating valuation in the art market through intersubjective assessments and constructions of value (see also Beckert 2020). This makes art valuation uniquely malleable and reliant on 'reputation', [16] generating useful flexibility for those that invest in this market. While it has its own downsides, such flexibility can appear particularly attractive in conditions of regulatory uncertainty and low yields on traditional assets, as has been the case in the post-GFC international political economy.

Here it should be noted that framing the emergence of Luxury Freeports in these terms, taking broader economic conditions into account while also emphasizing the role of experts and the wealth management industry as part of that broader ecosystem is not so much a challenge to the earlier offshore literature as it is a natural continuation of it, applying its empirical and historically grounded method to contemporary meso-level developments.

[16] Here is should be noted that in framing the valuation of art in this way, this paper fundementally departs from scholarly attempts to uncover 'underlying' dynamics of supply, demand and quality that might play a role determine the value of art (e.g. Frey and Pommerehne 1995).

The Endogenous rise of Luxury Freeports

The competitive 'push' of Open Customs Warehouses

Freeports have a long tradition in Swiss history. The Geneva Freeport—now officially *Ports Francs et Entrêpots de Genève SA*—was founded in 1888. Historically, Swiss freeports acted primarily as tax and duty-free storage spaces for grain and other goods in transit. Even as the Swiss economy modernized they continued to serve much the same function and by 1970 there were around forty freeports in Switzerland (SFAO 2014). The Geneva Freeport, however, was unusual in that by that point it had already begun cultivating a niche role storing wealth in the form of luxury goods – a specialization stimulated by Geneva's role as a purveyor of art and high-end objects (Jaccard and Guex 2011). In many cases, goods of this kind were stored for long periods of time, even as they were technically treated as 'in transit.' Tax exemptions therefore applied, even when goods were deposited for decades and traded hands inside the freeport in transactions that otherwise would have incurred VAT. This deviation from the rapid stock roll-over that usually characterizes freeports foreshadowed the future role of the Geneva Freeport and other Luxury Freeports that have since emulated it.

The late 1990s marked a turning point for the Swiss freeport model in general and the Geneva Freeport in particular. As part of the founding of the WTO in 1995, Open Customs Warehouses, a new kind of tax and duty-free storage option, were promoted with the aim of facilitating free trade and harmonizing trade practices across borders. OCWs quickly spread all over Europe, including Switzerland, exerting competitive pressures on the traditional freeport model (FATF/OECD 2010; SFAO 2014; author's interview).

There are several important differences between Swiss freeports and OCWs that gave the latter a competitive edge over the former. One is that in order to be licensed, freeports had to operate alongside Swiss Customs offices and were therefore bound by Customs' official opening hours. This requirement stemmed from the fact that legally speaking freeports were, until Swiss customs law was changed in 2005,[17] extraterritorial. OCWs, by contrast, were never legally extraterritorial. On-site customs offices were therefore not a requirement and OCWs could operate on flexible schedules that were well

[17] The change took effect in 2007.

suited to the needs of modern freight and haulage. They also had the late-mover advantage of being built and located to suit the technological requirements of freight and logistics.

The price of this flexibility was that Swiss licensing practices for OCWs were more stringent than those for freeports. Still, the process for opening up a new OCW was standardized and transparent enough not hamper the diffusion of this new storage model. Indeed, the fact that for OCWs the process was harmonized, if demanding, may have contributed to the spread of OCWs over freeports, as the requirements for opening up a new freeport facility were more lenient but also largely discretionary and opaque (Loi sur les douanes 2005; SFAO 2014; author's interviews). The upshot of all this was the rapid spread of the new storage model. There are now around 250 OCWs in Switzerland, many of them clustered near logistics and transit hubs. As OCWs took off, freeports found themselves in commensurate decline, with the notable exception of the Geneva Freeport (SFAO 2014; author's interviews).

It was in this new environment of heightened competition that the Geneva Freeport was reinvented as a Luxury Freeport. With an 87% stake in the freeport, the Canton of Geneva is its majority shareholder, but the vision for the freeport's overhaul came from international art dealer Yves Bouvier. Sometimes nicknamed the 'freeport king' for his role in establishing and spreading the Luxury Freeport model, Bouvier owned 7% of the Geneva Freeport and his art services and logistics company, Natural Le Coultre, rented almost a quarter of the freeport's space for its commercial pursuits (SFAO 2014; Report on inquiry into money laundering… (2017/2013(INI)).

The makeover of the Geneva Freeport drew on Bouvier's experience as a dealer in high-end art and the freeport's established reputation as a depot for luxury goods. But it also leveraged the differences between freeports and OCWs, turning freeports' competitive weaknesses into strengths. Most importantly, in order to encourage the trade of goods within freeports—something that rarely happens in OCWs—the Geneva Freeport was equipped with showrooms and offered a range of services explicitly supporting the tax-free trade of art.

Other differences between freeports and OCWs also favored the Geneva Freeport's new niche role. For example, for the purpose of storing luxury goods for long periods of time, the on-site presence of Swiss Customs is not an impediment but a selling point, contributing to secure storage without adding costs to be passed down to customers. What is more, until the 2005 changes to customs law, Swiss freeports, unlike OCWs, were not required to keep inventories. Even now they are only required to keep limited inventories and inventory requirements are not retroactive. Moreover, while OCW operators are legally liable for all goods stored in their warehouses, in freeports responsibility is shared between warehouse operators and tenants. The warehouse keeper has a legal duty to point out pertinent laws and regulation but cannot be held accountable if customers fail to comply with them. Since the stock of goods is rarely cross-checked against inventories, failure to comply is difficult to detect. Or, as one specialist interviewed for this paper put it: 'what is not controlled, does not exist (author's interview).'

Swiss freeports, then, may not have been as well adapted to the fast-paced world of logistics as OCWs were, but they could facilitate tax and duty-free trade in luxury goods while also providing a good measure of secrecy and anonymity. [18] This niche role, discovered through a process of experimentation in Geneva, would become the blueprint for other Luxury Freeports.

However, while competition between traditional freeports and OCWs helps explain the supply side of the rise of Luxury Freeports, it tells us little about the demand side of the equation. What explains growing demand for these services? The backdrop of growing economic inequality, an international post-crisis turn to quantitative easing and low yields on traditional financial assets are necessary preconditions, but they do not suffice to explain why this kind of offshore has taken off. The following section makes the case that here, again, endogenous dynamics are a key factor.

The investment 'pull' of funds fleeing a regulatory clampdown

In 2014 the Geneva Freeport expanded, adding 10,000 m^2 of storage to its pre-existing 46,722 m^2 and the Swiss Federal Audit Office (SFAO) concludes that there has been 'a huge increase in value [stored in the freeport] since 2007' (2014 p. 14). By some estimates

[18] Following the 2014 publication of an SFAO report on freeports and OCWs, the Swiss Parliament harmonized legislation governing the two kinds of storage sites. By that point, however, the bifurcation of roles had already been established. Though there is now some overlap, with certain OCWs acting much like Luxury Freeports, path dependencies remain (author's interviews).

over a million artworks are now stored in the freeport.[19] But where does this influx of wealth come from and why is it finding its way into the Geneva Freeport now? A likely answer is that in the face of an international drive to curtail banking secrecy, the freeport is acting as an alternative and supplement to the kind of offshore services that Swiss banks have long specialized in.

Given the secrecy with which freeports operate, a 'smoking gun,' establishing a systemic link between itinerant financial wealth in Switzerland and the growth of the Geneva Freeport is unlikely to appear.[20] Thinking in terms of a 'hoop test', however, we can see that the necessary, if not sufficient, conditions for establishing such a link are in place (Mahoney 2012): in recent years we have witnessed concerted multilateral efforts to crack down on offshores and the secrecy practices that sustain them. However, in spite of such measures, money continues to pour into Switzerland (Zucman 2013, 2015; Sharman 2012). Zucman (2015) finds that in early 2015 foreign wealth held in Switzerland reached $2.3 trillion, an 18% increase from 2009, when the G20 prematurely proclaimed that new practices would lead to the 'end of banking secrecy.'[21]

In other words, then, the Geneva Freeport has flourished in tandem with the combination of an international clamp down on banking secrecy and growing inflows of funds into Switzerland.[22] It is therefore not unreasonable to conclude that the freeport may be a key mechanism allowing the co-occurrence of these seemingly conflicting developments. The fact that a range of luxury goods, including the kind that are the bread

[19] For comparison, this is five times the number owned by the Modern Museum of Art (MOMA) in New York City https://www.connaissancedesarts.com/marche-de-lart/dans-le-secret-des-ports-francs-11136/.

[20] Still, A Deloitte Luxembourg pamphlet on the Le Freeport in Luxembourg comes quite close, stating that, '[t]he traditional Ultra High-Net-Worth Individuals (UHNWI) are now asking for a higher level of personalization and customized products and services. Standardized offerings are no longer sufficient to satisfy sophisticated client demands that go beyond investment portfolio management. In such a context, Le Freeport Luxembourg can clearly offer Luxembourg and foreign financial institutions the opportunity to develop a group competence center on value goods in Luxembourg. Financial players based in Luxembourg can indeed leverage the unique ecosystem of Le Freeport to become the center of excellence for value goods, not only to serve their own clients but also those of other entities of the group the belong to, located abroad. David Arendt [CEO of Le Freeport] confirms the interest from the financial sector: "Wealth managers are very interested in Le Freeport. We constantly have visits from bankers and Professionals of the Financial Sector (PFS), and they often bring their clients. Then, it is up to our licensed operators to turn these visits into concrete business.' https://www2.deloitte.com/content/dam/Deloitte/lu/Documents/financial-services/artandfinance/lu-le-freeport-luxembourg-new-perspectives-01062015.pdf.

[21] For the offshore world as a whole the figure is even higher, at 25%.

[22] This, in turn, is likely a function of rising wealth inequality and a growing pool of UHNWIs (World Inequality Report 2018; Piketty 2014). See Fuller et al. 2019 for an interesting discussion of the challenges of assessing wealth vs. income inequality.

and butter of Luxury Freeports, have risen in value over the same time period is also suggestive.

Putting together the different parts of the puzzle it is easy to conclude, as does a recent report commissioned by the European Parliament, that new regulation is spurring investment in tangible assets and, by extension, the growing use of freeports. More specifically, the report finds that:

> …growing demand for free ports has been attributed in part to the increasing crackdown by governments on bank secrecy and tax evasion. The introduction of the Foreign Account Tax Compliance Act (FATCA) in the USA (2010) and the commitment of OECD members to the OECD's 2014 Common Reporting Standards (CRS) – in the EU transposed via the Directive on Administrative Cooperation (DAC) – make it hard for individuals to escape taxation on proceeds of funds held in bank accounts. High net worth individuals have started looking for alternatives and many have substituted their 'bank account money' with replacement goods such as art, diamonds, antiques, wine or bank notes (EPRS 2018, p. 13-14).

The pattern of diffusion of Luxury Freeports also supports the conclusion that they have grown as a function of investors' desire for substitute or supplemental ways to evade taxes as more established financial methods become more difficult to pursue. Thus, over the course of the last few years new Luxury Freeports have emerged alongside known financial hubs and/or tax havens such as Singapore (2010), Monaco (2013), Luxembourg (2014), Beijing (2014), Delaware (2014) and New York City (2018).

Crucially, however, this pattern of diffusion has not been a mechanistic process, with Luxury Freeports spontaneously appearing where there is a high concentration of wealth. Rather, the spread of Luxury Freeports has been network-based and strategically embedded in systems of wealth management, art expertise and hierarchies of cultural prestige and status. Over the last few years, as the Geneva Freeport has been on its back foot for a range of reasons discussed in the section that follows, a new cohort of Luxury Freeports has actively tried to avoid some of the pitfalls of the Geneva experience by embracing the high-end aesthetics of the art world and the stewardship of the wealth management industry while also staying ahead of new regulatory measures. It is to this process that the next section of the paper turns.

The strategic spread of Luxury Freeports

Trouble in Geneva

The previous section argued that in the face of heightened competition within its sector, the Geneva Freeport reinvented itself as a novel form of offshore. While this strategy has proven successful, the Geneva Freeport has also been plagued by a series of scandals. This pattern took hold before the freeport made a decisive pivot to luxury services but has not abated since. Thus, in 1995, Italian and Swiss police raided the Geneva Freeport and found over 3000 invaluable artworks, stashed there by an international circle of antique smugglers (Felch and Frammolino 2011). [23] Less than a decade later, in 2003, Swiss Customs uncovered 200 stolen ancient Egyptian artifacts, including two mummies, sarcophagi, masks and statues, on the freeport premises. Some of the items had reportedly been painted in garish colors so they could be presented as cheap souvenirs to customs officials (Segal 2012). In 2010, a Roman sarcophagus, pilfered from an archeological site in Turkey, was also discovered in the freeport. Most recently, in 2016 Roman and Etruscan artifacts looted from Italy were found in the freeport (EPRS 2018; Bernstein 2018). In other words, then, smuggling scandals and the trade of illegally sourced art have tarnished the image of the Geneva Freeport for decades.

In 2016, information contained in the Panama Papers then brought on another sort of scandal. At its heart was a painting by renowned Italian expressionist Amadeo Modigiliani, which Nazis confiscated from Jewish art dealer Oscar Stettiner during the Second World War. The painting resurfaced at a Christie's auction in 1996, where it was bought for $3.2 million by a company called International Art Center (IAC). In 2011, Stettiner's heirs filed for restitution but hit a legal impasse since the ultimate beneficial

[23] An investigative journalist that has worked on art crime for decades notes that 'Medici [the ringleader of a known smuggling circle] felt so safe in Geneva['s freeport], that he kept extensive records and photographs of all the objects.' https://www.swissinfo.ch/eng/free-port-problemclosing-in-on-the-archaeological-underworld/33088854

ownership (UBO) of IAC could not be established. The company was rumored to belong to the Nahmad family of international art dealers but the family denied any connection. It was only five years after the case was first filed that the Panama Papers revealed that the company, which was registered by Panama law firm Mossack Fonseca, did in fact belong to the Nahmads and that the Modigliani had been stored in the Geneva Freeport (Bernstein 2016, 2017; EPRS 2018). This case highlighted the fact that artwork kept in the freeport could be registered through shell companies or other intermediaries, making it difficult to trace UBO. This is a known risk factor in fraud, money laundering and tax avoidance (Nielson et al. 2014; Findley et al. 2013).

Though of a different nature, the so-called 'Bouvier affair' also took a reputational toll. This scandal, which sent shock waves through the art world, erupted in 2015 when billionaire art collector Dmitry Rybolovlev sued 'freeport king' Yves Bouvier for fraud, claiming that he had sold him art at artificially inflated prices over the course of a decade. The margins Bouvier charged were very high indeed—Rybolovlev's lawyers claim that his profit totaled over $1 billion[24]—but Bouvier has countered that Rybolovlev was under no pressure to purchase the works on offer and that the high mark-ups were just a routine part of 'a commercial game' (Knight 2016). While it remains to be seen whether Bouvier's methods will be deemed criminal, the case has underscored the opacity, information asymmetry, subjective valuations and potential for conflicts of interest that characterize the art world—all of which can also be conducive to fraud and abuse.

These scandals have been consequential for the Geneva Freeport in a variety of ways. One is that they have drawn attention, presumably very much unwanted, to an industry that thrives on confidentiality and anonymity. Over the course of the last few years, a number of media outlets, including the *New York Times*, *Economist, BBC, New Yorker*, *Süddeutsche Zeitung*, *Le Temps*, *Swissinfo*, *Le Figaro* and *L'Express* have trained their critical focus on the Geneva Freeport. International organization, governmental agencies and non-governmental organizations have also started paying attention. In a report from 2010, the Financial Action Task Force (FATF) concluded that free trade zones (FTZs), which include freeports, offer 'opportunities for money laundering and the

[24] Or, as Rybolovlev reportedly put it to Bouvier: 'But, Yves, these markups are worth a Boeing.' (https://www.newyorker.com/magazine/2016/02/08/the-bouvier-affair)

financing of terrorism (p. 4).' In 2014, the SFAO published a report on customs activities in Swiss freeports and OCWs, noting that the former in particular could be staging grounds for tax evasion and money laundering. Moreover, that there was 'a lack of awareness within the Confederation of the political and economic stakes' and 'reputational risk' that could 'make Switzerland the target of foreign fiscal and tax authorities (p. 21).'[25] A UNESCO report (2016) on freeports for art stressed that they could be used for illicit trafficking of cultural property[26] and the independent advocacy group Tax Justice Network has added the presence of FTZs and freeports to the list indicators covered by its Financial Secrecy Index and now includes a discussion of freeports in its qualitative country reports.[27] The 2017 final report of the European Parliament's *Committee* of Inquiry into Money laundering, tax avoidance and tax evasion (*PANA*) similarly concluded that freeports 'may constitute offshore storage facilities, enabling money laundering and untaxed trade in valuables' (p. 11).[28] Most recently, the Directorate-General for Parliamentary Research Services of the Secretariat of the European Parliament (2018) published a report dedicated entirely to the risk of money laundering and tax evasion in freeports.

In some cases regulatory changes have followed in the wake of scandals and heightened scrutiny. Thus, following the discovery of stolen Egyptian artifacts in the Geneva Freeport in 2003, Switzerland decided to opt into the 1970 UNESCO Convention on Cultural Property. Until then, it had relied on 'good faith' norms that made it difficult to contest ownership of smuggled or stolen goods (author's interview). In 2005, the Swiss Federal Government then embarked on a more fundamental overhaul of its customs code, revoking the historical extraterritorial status of freeports and bringing them into Swiss customs territory for the first time. The new laws also required freeports to start keeping inventories of 'sensitive' goods and gave customs the right to inspect inventories on request. [29] In 2016, further anti-money laundering measures were introduced, requiring

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[25] Author's translation.

[26] http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CLT/pdf/2_FC_free_port_working_document_Final_EN_revclean.pdf

[27] https://www.financialsecrecyindex.com/introduction/fsi-2018-results

[28] http://www.europarl.europa.eu/cmsdata/134368/A8-0357_2017_EN.pdf

[29] https://www.admin.ch/opc/fr/classifiedcompilation/20030370/index.html#app1. A representative of Swiss Customs responded to a request for comment by saying that Swiss Customs 'monitors the movement of goods, knows the stored goods and their owners and also provides information abroad within the framework of administrative and mutual assistance.' Whether information on goods kept in Swiss freeports is in fact

official financial intermediaries for art transactions exceeding CHF 100,000, limiting anonymity and cash transactions, which are common in the art world. The new law, however, also offered an escape clause, allowing buyers and sellers to stay anonymous and keep their transactions confidential if sellers take steps to ensure the legal origins of buyers' funds (Loi sur les douanes 2005).

Crucially, these reactions share a definition of the problem at hand as one of money laundering, terrorist financing and smuggling. The freeport, meanwhile, has retained its designer tax regime even as much of the criticism leveled against it centers on its role as a novel kind of tax haven. This mirrors early regulatory responses to traditional tax havens, which also took a rather narrow view of criminality *qua* money laundering (Palan 2003). In fact, even as they have taken action on other fronts, Swiss public authorities have remained almost entirely mum on the topic of tax avoidance in Luxury Freeports. One exception is that the canton of Geneva conducted a study on the economic impact of its freeport. This study found that the tax losses for the economy of Geneva come to CHF 300 million a year and that 80% of freeport customers were foreign nationals. Further results of the study, however, remain strictly confidential. Even the Swiss Federal Department of Finance has been denied access to it (SFAO 2014).

In spite of the scandals and criticism, the Geneva Freeport continues to do brisk business and is reportedly operating at capacity, even after the 2014 enlargement. Still, for actors that want to mimic its success, a number of lessons can be drawn from the reputational and legitimacy challenges it has faced. In what follows, the paper turns to the strategic emulation of the new generation of Luxury Freeports, which strive to include a range of advanced business services to art collectors and embed themselves both in the high end art world and spheres of wealth management to protect their business model. A particular focus will be on the Luxembourgish Le Freeport, the most prominent of the new generation of Luxury Freeports and one that has faced reputational and regulatory challenges out of the gate.

being shared with other governments is, however, difficult to assess. What is more, to date inventory requirements are not retroactive and two experts interviewed for this paper remain skeptical that Swiss Customs has the institutional capacity and art expertise to carry out meaningful surveillance of goods kept in freeports.

Luxury Freeports 2.0: Le Freeport in Luxembourg

Since 2010, new Luxury Freeports have opened up in Singapore, Monaco, Luxembourg, Beijing, Delaware and New York City. The same handful of actors has been behind many of these endeavors. Most notably, 'freeport king' Yves Bouvier has been intimately involved with many of the new freeports. Building on his experience as the biggest private shareholder in the Geneva Freeport, he has been the driving force behind the Le Freeport brand, of which the freeports in Singapore and Luxembourg are branches.[30] He has also been a consultant for the enormous state-owned Beijing Freeport, which aims to cater to growing demand for art services among newly wealthy Chinese collectors.[31] The owners of US Luxury Freeports have also taken direct inspiration from Bouvier's Le Freeport business model (Abrahamian 2018) and the small government-owned Monaco Freeport is part of public initiative to emulate Geneva's success and develop business related to art and other luxury items.

The new generation of Luxury Freeports is, then, very much an interconnected web, with Bouvier at the center, and the lessons he took from Geneva can be observed in many aspects of their operations. In what follows, this paper hones in on some of the strategic ways in which the newer freeports differ from the Geneva blueprint, all of which aim to legitimize, promote and mainstream this new form of offshore in the face of new challenges.

Bouvier's vision for the future of Luxury Freeports was one in which the worlds of high culture and wealth management would dovetail into seamless ABS, catering to a growing pool of wealthy clients with discerning taste (Knight 2016). Part of executing this vision was to ensure that newer freeports looked not like warehouses but rather like galleries or museums, embodying the aesthetics of the works they contained. The Geneva Freeport, which evolved from a traditional freeport model, consists of a series of drab, functional and unremarkable storage units. Le Freeport Luxembourg, by contrast, is as glamorous as its Genovese counterpart is dreary. Designed by the Swiss Atelier d'Architecture 3BM3, the outside of Le Freeport is a modern take on a medieval fortress, imposing and austere. The disjointed shape of the building is a function of its cutting edge

[30] In Singapore ownership passes through one of Bouvier's companies, EurAsia SA.

[31] For more see Helgadóttir forthcoming.

security infrastructure, including seismic detectors, infrared cameras and temperature and humidity controls (Adam 2018; https://www.lefreeport.lu/facilities/).

The inside of the four-story building is more ostentatious. The style is futuristic neo-brutalism with enormous concrete slabs meeting at jagged angles, cut through with glass elevator shafts that connect the different levels of the building. A glass-covered atrium compensates for a dearth of windows, with additional light coming from oversized panels of jewel-colored halogens, the work of American designer Johanna Grawunder. A vast mural by Portuguese artist Alexandre Farto is etched into one of the sloping concrete walls lining the atrium (Adam 2018; https://www.lefreeport.lu/facilities/).

The service infrastructure and expertise on offer at Le Freeport are equally top-of-the-line. A Deloitte publication that catalogs the myriad benefits of Le Freeport notes that 'Luxembourg's airport is a very convenient landing spot for private jets' and that the freeport sits alongside the cargo center of the Luxembourg airport, with an internal road leading directly from the tarmac into the center of the building. There clients can access a range of services including tax and customs advisory, consultation on art monetization, private showrooms, strong rooms, a studio to photograph art pieces for sales and exhibition catalogues, art valuation, restoration, insurance brokerage, customs handling, crating, shipping and framing (Le Freeport Luxembourg Creates…2015 p. 3).[32]

In keeping with Bouvier's vision, the official opening of Le Freeport in September of 2014 was an opulent and star-studded affair, overseen by the Grand Duke of Luxembourg and attended by the deputy Prime Minister, the Ministers of Finance and Culture, art dealers, auctioneers, collectors and bankers from around Europe. As part of the festivities, the Luxembourg Philharmonic played a 'Freeport' overture, composed for the occasion (Adam 2018). This is akin to what one might expect at the launch of a prestigious museum or gallery, rather than a storage facility with special legal exemptions.

The all-encompassing luxury experience that Le Freeport strives to provide for its clients is in line with recent shifts within the wealth management industry more broadly, ,where there has been a turn to what is sometimes called 'holistic wealth management'. This is an intensely individualized approach that takes multiple facets of wealth and social

[32] https://www2.deloitte.com/lu/en/pages/art-finance/articles/freeport-new-perspectives-luxembourg-economy.html

satisfaction into account, including the juncture between investing in and deriving pleasure from the ownership of luxury goods such as art and which makes use of a broader network of expert advisors, including art historians, insurers and restorers.[33] Deloitte, one of the so-called 'big four' accounting and auditing firms, has been at the forefront of this development. The firm has made Luxembourg the center for its new 'Art and Finance' initiative, which takes Le Freeport and the tax benefits it offers as a core element of its business model (Art and Finance Report 2017). It is, moreover, a business model that has found a receptive audience among wealth management professionals. Thus, Deloitte's 2017 annual report for the Art and Finance initiative notes that:

> When we launched the inaugural Art & Finance report six years ago, one third of the wealth managers surveyed said they were aware and followed the developments linked to art as an asset class and issues around art and wealth management. This year, close to 60 percent of the wealth managers said the same. However, it's not only awareness that has increased over the last years—we are also seeing real action, with 64 percent of wealth managers saying they were actively offering services related to art and collectibles. The most recent survey shows an increase from 78 percent in 2016 to 88 percent in 2017 of wealth managers saying that they think art and collectibles should be included as part of the wealth management offering, the highest registered reading since the launch of the survey in 2011 (p. 16).

In Luxembourg, both the Le Freeport and Deloitte's Art and Finance initiative have been endorsed at the highest levels of government, where they are framed as a means of diversifying the financial economy of the country (Weeks 2018). Thus, for Luxembourg's former Deputy Primer Minister and Minister of Economy, Etienne Schneider, 'Le Freeport Luxembourg will significantly contribute to the diversification of the Luxembourg economy, enriching and complementing both its logistics platform and its financial center (Le Freeport Luxembourg Creates…2015 p. 3).'

[33] For more on wealth managers see Harrington 2016.

Luxembourgish policymaking also reflects these priorities. In 2011, the Luxembourg parliament made amendments to its customs law specifically to accommodate the Le Freeport business model.[34] More recently, a law was passed allowing UHNWIs that want to invest in Luxembourg to benefit from a special renewable three-year visa (Entry and Stay in Luxembourg…). Deloitte finds that '[t]his new measure is particularly favorable to UHNWIs collecting artworks or other high-value goods, and seeks to encourage them to view Luxembourg as their gateway to the art world (Deloitte Art and Finance Report 2017, p. 95).'

The strategy of tapping into a combination of the cultural cachet and aesthetics of the art world and the expertise of the wealth management industry, while also relying on government support or sponsorship got off to an auspicious start, as exemplified by the success of Le Freeport's opening in Luxembourg. However, the fact that Bouvier himself has been so central to the diffusion of the Luxury Freeport model has also made these new offshores vulnerable to his travails. The Bouvier affair broke in 2015, just a few months after the grand opening of Le Freeport in Luxembourg. The new freeport, where every detail had been overseen by Bouvier (Knight 2016), was tainted by association (EPRS 2018).

In response, both Luxembourgish authorities and Le Freeport's management tried to distance themselves from the scandal. As was the case in Geneva, these efforts centered on a definition of the problem as one of money laundering and illicit trafficking. The topic of taxation, by contrast, was not broached. Thus, in the immediate wake of the scandal, the government carried out an analysis of money laundering risks in Le Freeport and then, in July of 2015, went on to implement elements of the EU's fifth Anti-Money Laundering Directive (AMLD5), five years ahead of time (the directive will take full force everywhere in 2020).[35] The freeport's management has publicly embraced the directive, framing the early implementation of anti-money laundering measures in Luxembourg as both a competitive advantage and a safeguard against illicit activity, setting Luxembourg apart

[34] https://www.cc.lu/uploads/media/Presentation_8_David_Arendt_Freeport.pdf

[35] http://www.europarl.europa.eu/cmsdata/124822/A(2017)7777_Gramegna%20Reply.pdf; EPRS 2018. See Tsingou 2010 for the complex origins of the international AML regime. See Roth 2015 for money laundering in the art trade.

from scandal-ridden Geneva. Thus, Philippe Dauvergne, the director of Le Freeport has made the case that:

> …in the world of free trade zones, the transparency of the Luxembourg system is unparalleled…One wonders why someone trying to conceal goods or transaction would run the risk of storing valuables in a free trade zone with record levels of customs control and strict enforcement of anti-money laundering regulations…The Ports Francs et Entrêpots de Genève also rents surfaces to businesses and individuals without carrying out anti-money laundering measures. Having the choice between solutions with little or no control and the Luxemburg Freeport, which is subject to strict state surveillance, it seems doubtful that criminals would opt for Luxembourg (2018).[36]

The new directive broadens the scope of earlier directives to encompass a number of new actors, including freeports and art traders. Under AMLD5, freeports are required to report suspicious activity to national financial intelligence units, to carry out customer due diligence and to keep records of ultimate beneficial ownership. At first glance it may seem like these changes should fundamentally undermine the Luxury Freeport model. However, since AMLD5 does not classify freeports as 'financial institutions' but rather as obligated 'non-financial institutions' it does *not* require them to engage in automatic exchange of information between tax authorities as laid out under the EU's DAC6, the OECD's Common Reporting Standards (CRS) or the US Foreign Account Tax Compliance Act (FATCA). Moreover, 'fishing' in information from non-financial entities is expressly prohibited. Under AMLD5, information from freeports will therefore only be exchanged upon request and where there is prior suspicion of misdeeds. Since confidentiality and discretion is key to the art trade, the effects of the new legislation may therefore be very limited in practice. The impact of AMLD5 will also be nearly impossible to assess, as freeports are under no obligation to report on whatever information they do exchange

[36] Author's translation of Dauvergne's letter declining to attend a hearing of the EU's PANA committee: http://www.europarl.europa.eu/cmsdata/155705/6%20-%2007%20-%20Letter%20and%20contribution%20from%20Philippe%20Dauvergne%20freeport%20Lux.pdf.

(EPRS 2018).

Even as Le Freeport takes a pro-active stance against money laundering and smuggling, it also continues to vaunt the tax benefits it offers to customers. Indeed, Dauvergne's official statements reflect a clear awareness that the freeport's designer tax regime is its meal ticket and that strict compliance on other fronts is essential to protect this key asset. Thus, he has noted that Le Freeport is reliant on its 'revocable' legal exemptions and that in light of this '[t]he interest of Le Freeport is first and foremost to follow laws and regulations to the letter, in order to preserve its special legal status.'[37]

This strategy hinges on a clear distinction between money laundering on the one hand and tax planning on the other. Yet this distinction may become difficult to maintain as more regulatory and surveillance bodies acknowledge the overlap between tax dodging and money laundering. Thus, in 2017, the EU made tax evasion and tax fraud predicate crimes for money laundering (Directive (EU) 2015/849), following 2012 recommendations from the FATF.[38] What is more, some actors, notably German MEP Wolf Klinz, are beginning to openly ask why Luxury Freeports, which unlike their traditional predecessors have low stock turnover and no clear role in GVCs, should be granted any special tax provisions at all (Shaw 2019a). If this critique makes it way into policy, it could put an end to the Luxury Freeport model. However, for now this seems an unlikely outcome. In response to Klinz's inquiries about Le Freeport Luxembourg, the European commissioner for economic and financial affairs has reinforced the distinction between tax avoidance and criminality that the Luxury Freeport model relies on, stating that they are 'useful to simplify commercial operations' and that there is no evidence that they 'are systematically used to commit fraud' (Shaw 2019b).

Conclusions

This paper introduced the concept of a *Luxury Freeport* to describe a novel form of non-financial offshore where art and other material goods can be stored indefinitely without tax and duty-payments. It makes the case that the recent emergence and diffusion of this

[37] Author's translation of Dauvergne's letter declining to attend a hearing of the EU's PANA committee: http://www.europarl.europa.eu/cmsdata/155705/6%20-%2007%20-%20Letter%20and%20contribution%20from%20Philippe%20Dauvergne%20freeport%20Lux.pdf

[38] https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL_2015_141_R_0003&from=ES

phenomenon can be traced back to meso-level developments within the broader ecosystem of offshores and tax havens. More specifically, it argues that the Luxury Freeport model, which evolved from traditional freeports, was spurred by the combination of competition from Open Customs Warehouses and the search for alternative tax-free investment outlets in the wake of an international clampdown on banking secrecy, highlighting the potential for wealth management to shift between financial and non-financial outlets in response to regulatory shifts, pushing the boundaries of our current understanding of what constitutes financial ecologies.

While Luxury Freeports have emerged alongside a number of global financial hubs, the paper stresses that the diffusion of this novel form of offshore has not been automatic but spearheaded by key actors with a strategic vision of how to promote and mainstream their business model, even as traditional offshores and the secrecy practices that maintain them have come under attack. This has involved tapping into the cachet of the art world and assuming its aesthetics—with newer freeports looking like museums of contemporary art—and enrolling the expertise and services of the wealth management industry, all while cooperating with regulatory authorities in anti-money laundering efforts. So far this strategy has proven successful, with Luxury Freeports operating in a variety of locations internationally and current AML measures, even in their most far-reaching iterations, doing little to undermine their business model.

However, the ongoing legitimacy of Luxury Freeports hinges on a differentiation between money laundering and tax avoidance that is coming under pressure as more actors come to define tax fraud as a predicate crime for money laundering. It also skirts the question of why suspension of VAT, which was originally meant to promote trade, should be extended to the quasi-permanent storage of luxury objects. If criticism of this kind comes to be reflected in policy, i.e. by defining Luxury Freeports as 'financial institutions' that are subject to automatic information exchange between tax authorities, this could spell an end to this new kind of offshore. This would likely set of another round of meso-level spillover effects in the offshore world, as wealth currently stored in Luxury Freeports would seek new havens. It could also have a serious impact trade in high-end art, which is closely entangled with the rapid growth in Luxury Freeports.

For future research on this topic it is, however, important to keep in mind that taxes are likely only part of this story. While the tax benefits of keeping art in Luxury Freeports can be substantial and their draw for art collectors and investors is therefore understandable, these benefits apply only so long as art is stored and traded in a freeport. If, as a result, this kind of storage and trading grows in volume and prices go up, then 'invisible art' stands become more valuable simply by being located in such a place to begin with. In this way, Luxury Freeports could play a role in pushing art—by its very nature a material and non-fungible artifact—that much closer to becoming a financial asset. This, in turn, stands to boost demand and provide further business for Luxury Freeports, making for a neatly closed loop of investment, valuation and tax-free storage.

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