WHAT IS 'CUM-EX' AND WHY SUCH A SCANDAL?

An explainer

'Cum-Ex' is Latin - and it means 'with without'.

In essence, it's a massive stock trading scam by bankers, brokers, hedge funds, international tax firms, investment companies, lawyers and insurance companies. By acting as promoters to help their clients get a refund for a tax they never actually paid for, they have defrauded EU member states by billions of euros.

This rapid trading of shares with (cum) and without (ex) dividend rights thus gave rise to the scandal of the same name.

How much money are we talking about?

So far, this EU-wide fraud is estimated to have cost EU taxpayers at least €55 billion.

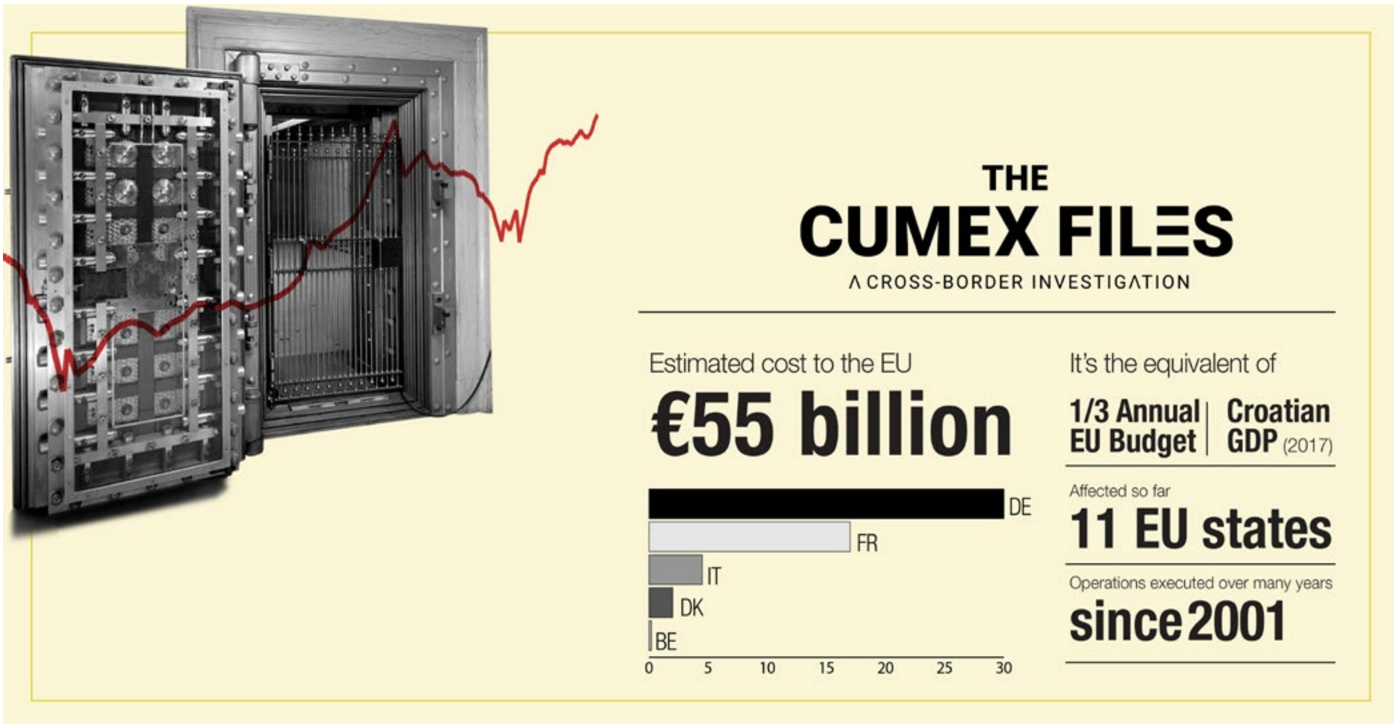
This scandal has already been described as Germany's biggest post-war fraud investigation even though the country had both changed and updated the law in 2007, 2009 and 2012 to ban the practice.

How did it work?

A network of banks, brokers and top lawyers etc would lend each other shares in large companies, creating the mirage for tax authorities that there were two owners of the shares when there was only ever one. Investment bankers and hedge funds would also set up Special Purpose Vehicles (SPVs) for traders to sell to investors, for example.

Banks would provide the loans, thus multiplying the trades' volume. The bank that was used in stock trading would then issue a 'confirmation' to the investor that tax on the dividend payment had been paid - without it actually being done. Finally, tax lawyers would write legal opinions to confirm that everything was legitimate and above board. Armed with this confirmation, the investor - EU or non-EU - would have the tax 'reimbursed' by the state.

In fact, foreign investors being able to reclaim the refund on such taxes is at the heart of the 'cum-ex' scandal.



Who's been involved?

The banks which have been implicated so far include Germany's Deutsche Bank, Commerzbank, Hypovereinsbank and Warburg Bank, Britain's Barclays, France's BNP Paribas, plus global giants like UBS, Bank of America, JPMorgan, Merrill Lynch and Morgan Stanley. Investment company BlackRock and the accountancy firm EY are also under the spotlight.

How did this tax fraud come to light?

The exposé itself came to light when a non-profit consortium of investigative journalists from Germany's CORRECTIV helped bring the scandal to wider public attention. The #CumExFiles have since been picked up by media in other countries as well as member state tax authorities.

How many European countries are affected?

At the latest count, at least 11 member states have been tricked by this scam - plus Switzerland.

Estimated losses for Germany ranges from €5.3 billion to as high as €30 billion. Other countries include at least €17 billion for France, €4.5 billion in Italy, €2 billion in Denmark and €201 million for Belgium.

US authorities have also launched an inquiry into the scandal.

What happened in Germany?

Back in 2007, the country's banking association had warned and proposed solutions to the country's finance ministry about the risks of double tax reimbursements. But the government chose to ignore them and instead caved into banking lobbyists and made no changes to the law.

And in Denmark?

The Danish authorities have subpoenaed at least 420 companies and people they suspect of being involved - freezing their assets around the globe. Like Germany, the Danish tax authority has also been accused of failing to act upon numerous warnings that foreign companies were abusing tax rules and forging documents to fraudulently apply for dividend tax refunds.

What is the EU doing about it?

At present, no EU legislation or authority has the mandate to take the necessary action.

The European Commission had introduced new guidelines on withholding taxes - a tax that is paid at source when income is transferred cross-border rather than paid by the recipient on the other end - in December 2017 to simplify procedures for cross-border investors in the EU. It had also encouraged member states to adopt IT systems for relief-at-source from withholding taxes.

The Commission claimed this would eliminate the risk of fraudulent behaviour. However, relief-at-source has actually increased the risk of double-non-taxation or zero taxation since foreign investors don't actually pay any taxes anywhere.

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