



## Revision of the EU Anti-Money Laundering Directive (AMLD): How we can end damaging corporate ownership secrecy

This note summarises why the EU should establish public government registries of the real beneficial owners of companies, trusts and other corporate structures. This would represent a huge step towards curtailing global tax dodging, closing down tax havens and stemming the flows of illicit funds that cost developing and developed countries hundreds of billions of dollars every year. See Eurodad's report, *Secret structures, hidden crimes*.<sup>1</sup>

### What's the problem? Hidden ownership facilitates tax evasion and other crimes

While Europe struggles financially and its citizens suffer from severe budget cuts, EU Member States are losing around €1 trillion annually to tax evasion and avoidance.<sup>2</sup> Tax evasion and avoidance by multinational companies is also hampering development in the global south. Illicit financial flows from developing countries exceed the amount of development aid received many times over. The Tax Justice Network estimates that since the 1970s, the world's richest had accumulated US\$7.3-\$9.3 trillion of unrecorded wealth in tax havens in 2010.<sup>3</sup>

Today, criminals can hide behind anonymously owned corporate structures. The fact that banks don't have to know who the real owners of companies and other corporate vehicles are makes it easy to move illegal money around the global banking system and out of the reach of tax collectors. Companies, trusts and foundations can hide the real person – or 'beneficial owner' – behind a bank account. In this way, they can facilitate laundering of proceeds from crimes such as tax evasion, corruption, drugs and arms trade. Tax evaders and avoiders use many of the same mechanisms. Therefore, shedding light on these anonymous structures would make tax avoidance – which is legal, yet morally unacceptable – far more difficult.

### Reviewing the AMLD: Change is needed to end ownership secrecy

The review of the EU Anti-Money Laundering Directive (AMLD) presents an incredibly important opportunity to close regulatory loopholes and to put an end to the ownership secrecy that is a key tool to dodging tax payments and hiding money from tax evasion as well as drugs and arms trafficking and corruption.

The draft proposal from the European Commission includes only minor measures towards greater transparency of company and trust ownership. It proposes that all companies, trusts and similar legal entities must hold their own beneficial ownership information internally and make this available to relevant government authorities and financial institutions upon request – which we can only hope is already happening (see Articles 29 and 39)<sup>4</sup>

This implies that law enforcers already need to know about infractions and would have to proactively approach a company for its ownership information – an inefficient, non-transparent and expensive system that will not work to deter or detect money laundering. In order to be truly effective, the legislation should mandate public registries of ownership of companies and other corporate vehicles.

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<sup>1</sup> <http://eurodad.org/1544288/>

<sup>2</sup> EC DG Taxation and Customs Union:

[http://ec.europa.eu/taxation\\_customs/taxation/tax\\_fraud\\_evasion/index\\_en.htm](http://ec.europa.eu/taxation_customs/taxation/tax_fraud_evasion/index_en.htm)

<sup>3</sup> Tax Justice Network: [http://www.taxjustice.net/cms/upload/pdf/Price\\_of\\_Offshore\\_Revisited\\_120722.pdf](http://www.taxjustice.net/cms/upload/pdf/Price_of_Offshore_Revisited_120722.pdf)

<sup>4</sup> See the European Commission's proposal here: [http://eur-](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52013PC0045:EN:NOT)

[lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52013PC0045:EN:NOT](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52013PC0045:EN:NOT)



### Why do we need centralised registries?

- Banks and other financial intermediaries are obliged to carry out checks to know who their customers are. So are lawyers and other professionals. In cases where one company uses several banks, each bank now has to go through the same processes of identifying the beneficial owner of the same company. Creating one central register would be much more efficient, which is why the European Banking Federation supports this.
- Registries make it easier and less costly for banks and professionals to carry out due diligence checks on each company. Today, banks are allowed to hide behind the excuse that the beneficial owner cannot be found, rather than rejecting a customer based on missing beneficial ownership information. With a central registry it will be more difficult for banks to use this excuse, and customers that do not provide beneficial ownership information should be rejected.
- For most businesses, particularly small and medium-sized enterprises, it will not be costly to identify and register the beneficial owner. The European Commission has suggested that 98-99 per cent of businesses have simple business structures and can easily provide information on their beneficial ownership.
- Registries will allow public authorities to access information on beneficial ownership very quickly and without companies knowing when they are checked. The current system gives plenty of time for companies undertaking illegal activity to move their dodgy business elsewhere before responding to authorities' investigations with nothing to declare.

### Why do we need registries on public record?

- Public registries will give additional opportunities for a wide range of stakeholders to spot inaccurate information and to make it more difficult for criminals to lie about their beneficial ownership. It will also dramatically increase the deterrent effect, ensuring a far higher rate of compliance.
- Money laundering, including tax crimes, is often a crime that crosses many borders. Public information will increase the use by overseas agents such as the police and financial institutions, including in developing countries.
- It will increase the use by non-government third parties such as researchers, media and non-governmental organisations that can shed light on illegal practices. Increased transparency and public debate can give Member States the public support they need to clamp down on economic crime.
- It is in the interests of big business to know who they are going into a joint venture with, who they are sub-contracting work to, or who they are bidding against for contracts. For example, knowing whether a corrupt politician is the beneficial owner of a potential partner can help companies to avoid the risk of violating anti-corruption laws.
- The question should be why should this *not* be a matter of public record: Who owns companies is a matter of public interest and concern. While counter arguments have been the right of privacy for companies and their owners – for example, because prices can be distorted if it is public information who buys shares in companies or buys up land for business purposes – our society cannot afford to keep land prices low for big companies at the cost of higher risk of economic criminal activity.

If effectively implemented, the recommendations listed above would help bring trillions of dollars of offshore wealth back into the tax net. If countries could start to recover this untaxed wealth, it could have an enormous impact on people's lives in the EU and beyond. The revision of the AMLD is a golden opportunity for the EU to become a global leader in the fight against illicit financial flows.

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