

## Overview of the state of the negotiations as of 28 June 2017

Key Issue	European Parliament's position	State of the negotiation with Member states & Commission	Green assessment as of 28 June 2017
Public registers on the beneficial owners for companies (Art. 30)	Full public access to the information	Full public access achieved for profit-making companies through the company law directive. Information on beneficial owners of non-profit companies possibly publicly available under anti-money laundering directive	Well done if in the end also non-profit companies are covered
Public registers on the beneficial owners for trusts (Art. 31)	Equal treatment with companies - full registration of beneficial owners and public access to the information	Commission proposes to distinguish between trusts set up for commercial purposes (in public registers) through company law directive and "private" trusts (only legitimate interest access via anti-money laundering directive). European Parliament could agree with Commission. Council Presidency cannot accept this division and wants all sorts of trusts to be accessible only through legitimate interest - red line for them	Poor if in the end beneficial ownership information on trusts is kept non-public
Strawmen (Article 3)	Nominee directors shall not be accepted as beneficial owners. If the real beneficial owner of an entity cannot be identified, the business relationship has to be terminated	Council wants to allow that nominee directors can be identified as beneficial owners. No termination of business relationship in this case	Poor. Real beneficial owners shall not be allowed to hide behind strawmen
Politically exposed	Create public lists of national PEPs in all member states	Council suggests that PEPs from EU member states should not	Not enough. Council proposal means that EU PEPs like the

persons (PEPs) (Art. 20a)		always be subject to enhanced customer due diligence (COM and EP disagree)	Maltese members of government found in the Panama Papers owning dodgy shell companies would not be subject to enhanced customer due diligence measures. This would mean a weakening of the existing law
National bank account registers (Article 32a)	Establish national registers and interconnect them including information about safe deposit boxes	Establish automated national mechanisms such as central registers or retrieval systems. Interconnect only registers. Inclusion of safe deposit boxes is agreed	Fail. Member States having only automated retrieval systems would not be included in a European centrally accessible bank account register
Beneficial ownership information for securities, shares and other MifiD instruments (Article 32a - new)	Include information on beneficial owners for MiFID financial instruments in the bank account registers	Council wants to include beneficial ownership information only for PSD II payment services	Insufficient. Criminal money is not only stored in bank accounts but also in financial instruments administered in depots
Beneficial ownership information for real estate and land (Article 32b - new)	Creation of national registers for real estate and land with the perspective of interconnecting them	Council: connect only national registers which already exist	Not enough. Each Member State has to establish a national register. The EU register has to connect all member states' registers so that criminal money can be found across borders
Threshold for identification of beneficial owners (Article 3)	Natural persons owning more than 10% of an entity shall be identified as beneficial owner	Commission proposal is to identify a natural person as beneficial owner if it owns more than 25% of an entity. The threshold shall be reduced to 10% only for passive non-financial entities. Member states insist that 25% remain in any case	No progress.

Enforcement of legislation in the member states (Art. 48a - new)	Audit power for Commission to assess Member States enforcement of the Directive and implementation of recommendations issued by the Commission	Commission suggests to include in the review clause (Article 65) the obligation for the Commission to report every three years on the actions taken by Member States. Council cannot accept audit rights for the Commission	Poor. A mere report done from the desk of the Commission is inappropriate to assess whether Member States fulfil their obligations in reality
Supervision of self-regulatory service providers such as lawyers, notaries, tax advisers (Article 48)	Member States shall ensure that all obliged entities are subject to independent and strict supervision	Commission proposal to draw up national lists of authorities that supervise obliged entities	Poor if this was the final result. Panama Papers have shown that self-supervision by lawyers and notaries is not effective at all
Golden Visas (Article 5a)	Third country nationals applying for citizenship or residence rights in a Member State (in exchange of capital transfers) should be subject to customer due diligence	Council is not keen to agree on the EP text. The Commission understands EP concerns but believes customer due diligence in AMLD is limited to obliged entities (and not to state authorities)	Not satisfying. Not discussed enough to find a compromise
High-risk third countries (Article 9)	Strengthen the criteria for identifying high-risk third countries and ask Commission to do an independent assessment despite solely relying on external information stemming from FATF	Commission proposal in line with demand from the Parliament. Council not willing to compromise	Insufficient. We need to improve the criteria to have a real European blacklist of countries with severe money laundering risks. As a minimum, the Commission should actively contribute to the work of FATF, Moneyval and IMF and make its input public
Information on beneficial owners of life insurance contracts (Art. 32c - new)	Establish national registers for beneficial ownership information on life insurance contracts which can be used for tax avoidance and money laundering	Council not willing to compromise.	Unacceptable. We need at least an assessment by the Commission of the dimension of money laundering and tax evasion done through life insurance contracts including a legislative proposal

			to remedy the problem if needed
supranational money laundering risk assessments (Art. 6)	foresee consequences if a Member State does not comply with the recommendations of the Commission on deficiencies in addressing money laundering risk	Commission only proposes to require Member States to justify why they do not follow the Commission recommendations	Poor compromise proposal. If money laundering risks in Member States persist, the Commission has to have the right to take additional measures including to ask to terminate risky business