



TRANSPARENCY INITIATIVES GLOBALLY

EU, UK-CDOT, G20, OECD, NZ, AUSTRALIA AND THE USA

A few weeks after the "Panama Papers" were published, various countries and organizations, including the UK, EU, OECD, G20, Australia, New Zealand and shortly afterwards the United States announced further transparency measures to combat tax evasion, corruption, money laundering and terrorist financing. Details are below.

OVERALL THE MEASURES ARE:

- To establish a list of non-cooperative jurisdictions and measures against such jurisdictions;**
- To create national public registers of UBO information of entities and trusts;**
- To create automatic exchange of such UBO data between authorities;**
- To make banks, advisors and providers co-liable for facilitating tax evasion; and**
- ICIJ revealed a searchable database on 9 May.**

EU: the European Union's Finance ministers unanimously agreed to lead the fight against tax evasion and tax avoidance.

- To establish one EU list of non-cooperative jurisdictions, as well as defining actions to be taken against jurisdictions on this list;
- To start a pilot project for the automatic exchange of information on ultimate beneficial owners, between law enforcement and tax authorities; this was initiated by G5 and already more EU countries and some UK-CDOT agreed to join this pilot;
- To explore ways to introduce disincentives for those who give advice in tax evasion planning and elaborate tax evasion schemes;
- EU Commission wants a revised AML Directive which would be broader and go beyond measures for terrorism financing to also capturing issues on tax avoidance;
- To push the Anti-Tax Avoidance Directive to combat tax avoidance by multinationals, including country-by-country reporting (CbCR) on their income tax; and
- **Note:** EU already agreed on UBO register for EU entities, to be implemented by June 2017.

OECD and G20: issued a Communiqué mid-April, which includes:

- Request jurisdictions to improve availability of UBO data and improve international exchange of UBO data between competent authorities for the purposes of tackling tax evasion, terrorist financing and money laundering;
- Request FATF and Global Forum to develop a global standard on transparency: this would create a global UBO register; and
- Develop objective criteria for global blacklist and prepare defensive measures against blacklisted jurisdictions.

UK: the UK is in the forefront to issue measures to combat tax evasion, corruption, terrorist financing and money laundering. The UK recently announced:

- All UK companies and UK LLPs to keep company's register PSC (People with Significant Control) per 6 April 2016 at its registered office and to provide free access on request for public inspection; it will be required to submit all data of PSC Register to the public register of Companies House from 30 June 2016, which data will be held on a publicly searchable database;
- UK established agreements mid-April with its Crown Dependencies and Overseas Territories (BVI, Cayman Islands, Jersey, etc) to enable the sharing of beneficial ownership information of entities incorporated in their jurisdictions, upon request within 24 hours;
- Proposal that all foreign companies purchasing properties in the UK be required to reveal the full beneficial ownership of the company purchasing the UK property (also foreign companies that public tender for UK government);
- Plans to introduce a criminal offence for corporations who fail to prevent their staff facilitating tax evasion (part of anti-corruption Summit May 2016): need for establishing a "reasonable prevention procedure"; and
- Note: based on existing UK law the stakeholder and UK company (including UK LLP) are held criminally liable for non-disclosure and mindful cooperation to tax evasion (up to 2 years in jail)

USA: The United States is nowadays considered a tax paradise for foreigner to hide assets, as the US is not part of CRS and as the IGA's are limited in its reciprocity. Foreigners using US vehicles and/or offshore entities with US bank accounts will not yet be reported and exchanged. However, after a few week of being silent the US Treasury and White House made announcements on 5 May 2016 to facilitate reporting and investigations in support of tax compliance and to advance FATCA- IGA commitments made.

- Introduced Customer Due Diligence (CDD) Final Rules: US banks and other US FI's to collect and verify information of the Beneficial Owners (25%+ control) of entities upon opening US accounts, to develop customer risk profiles and to ensure the information is accurate on an ongoing basis; with a 2 years implementation period;
- Proposed UBO legislation to Congress: US Companies to file UBO data (also foreigners) with FinCEN, department of US Treasury, at time of formation or transfer (to create central federal register, i.e. no longer per individual state), allowing law enforcement by the IRS;
- Proposed regulations for foreign-owned, single-member LLCs to obtain EIN with the IRS, who can determine federal tax liability and share information with other tax authorities (closing loophole to foreigners to hide behind US entities);
- The White House called on Congress (May 5, 2016) to pass a series of measures to tackle offshore tax avoidance:
 - Passing Beneficial Ownership legislation (see above),
 - Providing IGAs full reciprocity with our FATCA partners, thus requiring US banks to collect and report UBO data to IRS,
 - Approving (8) bilateral tax treaties currently pending in the Senate.

- Overall it is unlikely in an election year to get much traction in a divided Congress, as so far they have not shown an appetite for tackling tax evaders or burdening US banks.

New Zealand: 61,000 documents of Panama Papers related to New Zealand indicating NZ Trust as a solution to hide assets, especially by Latin families. This has led to the NZ government being put under pressure to review the NZ foreign trust regime and examination of NZ disclosure rules relating to foreign trust. The NZ Government has appointed a third party to perform an inquiry, has brought forward the introduction of CRS to July 1st 2017 and tax authorities introduced a new requirement to NZ incorporated companies, which has a single shareholder holding more than 25% (acting as LTC, PTS, or as GP) to open a NZ bank account and apply for a tax IRD number. The NZ Government also requested to move quickly on rules already under consideration to tighten anti-money laundering requirements for lawyers, real estates and accountants.

Australia: may follow the UK in creating its own publicly available beneficial ownership register after the Panama leak named more than 800 Australians. It would mean the public and law enforcement agencies know who ultimately controls the company. If implemented, it would make Australia only the second major economy to set up this kind of public register after the UK.

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