

# Beneficial ownership transparency in the European Union

## Requirements of the 5th Anti-Money Laundering Directive

### Introduction

In 2016, in response to the tax scandal known as the 'Panama Papers', the European Commission put forward a proposal for a 5<sup>th</sup> EU Anti-Money Laundering Directive.<sup>1</sup> Among other things, the Commission suggested introducing public registers of beneficial owners – something that civil society organisations and the European Parliament had been advocating for many years.

After intense negotiations, a political agreement was reached between the Council of Member States and the European Parliament in December 2017.<sup>2</sup> The final directive was adopted in Spring 2018,<sup>3</sup> and entered into force on 9 July 2018.<sup>4</sup>

Through the 5<sup>th</sup> Anti-Money Laundering Directive,<sup>5</sup> the EU introduced some significant and important changes to the requirements related to beneficial ownership transparency. The main changes to the Anti-Money Laundering Directive in relation to beneficial ownership transparency are as follows:

- For beneficial owners of companies, the EU Member States must establish public registers.
- For beneficial owners of trusts and similar legal arrangements, the EU Member States must establish registers that should be accessible to everyone with a 'legitimate interest'. For trusts that own a company not incorporated in the EU, access to the register should be given upon written request.
- The European Commission must ensure that the company and trust registers of Member States are interconnected.

### Timeline for transposition

The timeline for implementing the key measures in the EU Directive are as follows:

- **10 January 2020:**
  - Overall deadline for Member States to have in place the laws, regulations and administrative positions necessary to comply with the directive.
  - Deadline for Member States to establish public beneficial ownership registers for companies.
- **10 March 2020:** Deadline for Member States to establish beneficial ownership registers for trusts.
- **10 March 2021:** Deadline for Member States and European Commission to ensure interconnectedness of EU company and trust registers via a 'European Central Platform'.

### What is transposition?

In the European Union, transposition is the process whereby EU Member States translate EU legislation into national law. Under transposition, national parliaments will be required to implement the changes in the EU Directive into their national legislation.

The European Commission is closely involved in monitoring the effective transposition of EU legislation, and plays a role in ensuring that legislation is correctly implemented and in a timely manner.

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## Minimum requirements – checklist

### Public registers of beneficial ownership for companies

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At the very minimum, Member States must:

- Establish a public register of beneficial owners of companies no later than 10 January 2020.
- Ensure that the public information includes *“at least the name, the month and year of birth and the country of residence and nationality of the beneficial owner as well as the nature and extent of the beneficial interest held”*.
- Ensure that any fees do not exceed the administrative costs.

### Registers of beneficial ownership for trusts and similar legal entities

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At the very minimum, Member States must:

- Establish a non-public register of beneficial owners of *“trusts and other types of legal arrangements, such as, inter alia, fiducie, certain types of Treuhand or fideicomiso, where such arrangements have a structure or functions similar to trusts”*. The registry must be established no later than 10 March 2020, and should include the following information: *“the identity of: (a) the settlor(s); (b) the trustee(s); (c) the protector(s) (if any); (d) the beneficiaries or class of beneficiaries; (e) any other natural person exercising effective control of the trust”*. This information should be registered in the country where the trustee resides.
- Ensure that all people with a *“legitimate interest”* can get access to this register to see the *“name, the month and year of birth and the country of residence and nationality of the beneficial owner, as well as nature and extent of beneficial interest held”*.
- Ensure that everyone who submits a written request will get access to the beneficial ownership information in cases where the trust or similar legal instrument owns a company not registered in the EU. Again, this must include access to information about the *“name, the month and year of birth and the country of residence and nationality of the beneficial owner, as well as nature and extent of beneficial interest held”*.
- Ensure that any fees do not exceed the administrative costs.

### Beneficial ownership definition and threshold

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At the very minimum, Member States must:

- Ensure that the national definition of ‘beneficial owner’ includes individuals who own a share of 25 per cent plus one share.

## What if a Member State fails to fulfil the minimum requirements?

It can (and will most likely) happen that Member States fail to comply with the Directive – either by introducing the required legislation too late, or by failing to introduce such legislation altogether.

The European Commission is tasked with monitoring the transposition, and can sanction Member States that fail to implement the Directive. For citizens, it is also possible to submit a complaint to the European Commission if a Member State has failed to transpose the Directive correctly.<sup>6</sup>

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## Member States can also go further

The EU's Anti-Money Laundering Directive is what is known as a ‘minimum harmonisation Directive’, which means that EU Member States and national parliaments can choose to implement or maintain requirements that are stricter than those contained in the Directive itself. According to Article 5 of the Directive, *“Member States may adopt or retain in force stricter provisions in the field covered by this Directive to prevent money laundering and terrorist financing, within the limits of Union law”*.

Below are some examples of ways that Member States can choose to be more ambitious than the minimum requirements set out in the EU Directive.

### Public registers of beneficial ownership for companies

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In order to strengthen implementation, Member States can:

- Create public registers according to Open Data principles and in a machine-readable format, to enhance data accessibility and comparability.
- Create public registers that do not impede public access by imposing search fees or requiring registration in order to access data.
- Ensure that the registry allows searches on all the public elements. This is important to ensure that the registry provides real and full transparency. For example, if a registry only allows searches on the names of company names, but not on owners, it would severely restrict the possibilities of checking whether specific people own companies registered in the country.

### Registers of beneficial ownership for trusts and similar legal entities

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In order to strengthen implementation, Member States can:

- Choose to go beyond the above minimum EU requirement and establish fully public beneficial ownership registers for trusts and similar legal structures.

### Beneficial ownership definition and threshold

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The Directive defines a beneficial owner as any natural person who has a shareholding of 25 per cent plus one share. This threshold creates a risk that significant interests in a company may not be represented in the register; after all, it only takes five people to co-own a company in order to get the ownership share down to 20 per cent, and thus ensure that no one gets registered.

An analysis of the UK beneficial ownership registry by Global Witness in November 2016 revealed that nearly 1 in 10 companies “claimed to have no beneficial owner” at all, a claim that was made possible in part by the high ownership threshold level set at 25 per cent.<sup>7</sup>

In order to strengthen implementation, Member States can:

- Set a beneficial ownership threshold substantially lower than the current 25 per cent threshold. Ideally, Member States could also include a rule saying that, in case no owner is above the threshold, the owners with the largest shares should be registered.
- If there is no political will to lower the threshold, Member States should at the very least use the 25 per cent threshold as one, but not the only, indicator of beneficial ownership. They should also specify that a natural person exercising control via other means can also qualify as a beneficial owner. While this will not be a guarantee that circumvention of the definition will not happen, it at least provides scope for owners with an official share of less than 25 per cent can be included.

## Annex 1: Changes since the 4th Anti-Money Laundering Directive

For those Member States that have already implemented the 4th Anti-Money Laundering Directive, legislative changes might be necessary to ensure that the requirements of the 5th Anti-Money Laundering Directive are fulfilled.

Below is a comparison between some of the key requirements of the 4th and 5th Anti-Money Laundering Directives. The comparison includes the following articles:

- Article 3(6) (the definition of 'beneficial owner')
- Article 30 (beneficial owners of companies)
- Article 31 (beneficial owners of trusts and similar legal entities)

THE DEFINITION OF 'BENEFICIAL OWNER'	
Old Article 3(6)	New Article 3(6)
<p>(6) 'beneficial owner' means any natural person(s) who ultimately owns or controls the customer and/or the natural person(s) on whose behalf a transaction or activity is being conducted and includes at least:</p> <p>(a) in the case of corporate entities:</p> <p>(i) the natural person(s) who ultimately owns or controls a legal entity through direct or indirect ownership of a sufficient percentage of the shares or voting rights or ownership interest in that entity, including through bearer shareholdings, or through control via other means, other than a company listed on a regulated market that is subject to disclosure requirements consistent with Union law or subject to equivalent international standards which ensure adequate transparency of ownership information. A shareholding of 25 % plus one share or an ownership interest of more than 25 % in the customer held by a natural person shall be an indication of direct ownership. A shareholding of 25 % plus one share or an ownership interest of more than 25 % in the customer held by a corporate entity, which is under the control of a natural person(s), or by multiple corporate entities, which are under the control of the same natural person(s), shall be an indication of indirect ownership. This applies without prejudice to the right of Member States to decide that a lower percentage may be an indication of ownership or control. Control through other means may be determined, inter alia, in accordance with the criteria in Article 22(1) to (5) of Directive 2013/34/EU of the European Parliament and of the Council (3);</p> <p>(ii) if, after having exhausted all possible means and provided there are no grounds for suspicion, no person under point (i) is identified, or if there is any doubt that the person(s) identified are the beneficial owner(s), the natural person(s) who hold the position of senior managing official(s), the obliged entities shall keep records of the actions taken in order to identify the beneficial ownership under point (i) and this point;</p>	<p>Unchanged</p>

<p>(b) in the case of trusts:</p> <p>(i) the settlor;</p> <p>(ii) the trustee(s);</p> <p>(iii) the protector, if any;</p> <p>(iv) the beneficiaries, or where the individuals benefiting from the legal arrangement or entity have yet to be determined, the class of persons in whose main interest the legal arrangement or entity is set up or operates;</p> <p>(v) any other natural person exercising ultimate control over the trust by means of direct or indirect ownership or by other means;</p>	<p>Subparagraph (b) is replaced by the following:</p> <p>(b) in the case of trusts, all following persons:</p> <p>(i) the settlor(s);</p> <p>(ii) the trustee(s);</p> <p>(iii) the protector(s), if any;</p> <p>(iv) the beneficiaries or where the individuals benefiting from the legal arrangement or entity have yet to be determined, the class of persons in whose main interest the legal arrangement or entity is set up or operates;</p> <p>(v) any other natural person exercising ultimate control over the trust by means of direct or indirect ownership or by other means;</p> <p>(v) any other natural person exercising ultimate control over the trust by means of direct or indirect ownership or by other means;</p>
<p>(c) in the case of legal entities such as foundations, and legal arrangements similar to trusts, the natural person(s) holding equivalent or similar positions to those referred to in point (b);</p>	<p>Unchanged</p>

#### BENEFICIAL OWNERS OF COMPANIES

Old Article 30	New Article 30
<p>1. Member States shall ensure that corporate and other legal entities incorporated within their territory are required to obtain and hold adequate, accurate and current information on their beneficial ownership, including the details of the beneficial interests held. Member States shall ensure that those entities are required to provide, in addition to information about their legal owner, information on the beneficial owner to obliged entities when the obliged entities are taking customer due diligence measures in accordance with Chapter II.</p>	<p>The first subparagraph in paragraph 1 is replaced by the following:</p> <p>Member States shall ensure that corporate and other legal entities incorporated within their territory are required to obtain and hold adequate, accurate and current information on their beneficial ownership, including the details of the beneficial interests held. Member States shall ensure that breaches of this Article are subject to effective, proportionate and dissuasive measures or sanctions.</p> <p>The following new subparagraph is added to paragraph 1:</p> <p>Member States shall require that the beneficial owners of corporate or other legal entities, including through shares, voting rights, ownership interest, bearer shareholdings or control via other means, provide those entities with all the information necessary for the corporate or other legal entity to comply with the requirements in the first subparagraph.</p>
<p>2. Member States shall require that the information referred to in paragraph 1 can be accessed in a timely manner by competent authorities and FIUs.</p>	<p>Unchanged</p>
<p>3. Member States shall ensure that the information referred to in paragraph 1 is held in a central register in each Member State, for example a commercial register, companies register as referred to in Article 3 of Directive 2009/101/EC of the European Parliament and of the Council ( 1 ), or a public register. Member States shall notify to the Commission the characteristics of those national mechanisms. The information on beneficial ownership contained in that database may be collected in accordance with national systems.</p>	<p>Unchanged</p>

<p>4. Member States shall require that the information held in the central register referred to in paragraph 3 is adequate, accurate and current.</p>	<p>Paragraph 4 is replaced by the following:</p> <p>4. Member States shall require that the information held in the central register referred to in paragraph 3 is adequate, accurate and current, and shall put in place mechanisms to this effect. Such mechanisms shall include requiring obliged entities and, if appropriate and to the extent that this requirement does not interfere unnecessarily with their functions, competent authorities to report any discrepancies they find between the beneficial ownership information available in the central registers and the beneficial ownership information available to them. In the case of reported discrepancies, Member States shall ensure that appropriate actions be taken to resolve the discrepancies in a timely manner and, if appropriate, a specific mention be included in the central register in the meantime.</p>
<p>5. Member States shall ensure that the information on the beneficial ownership is accessible in all cases to:</p> <p>(a) competent authorities and FIUs, without any restriction;</p> <p>(b) obliged entities, within the framework of customer due diligence in accordance with Chapter II;</p> <p>(c) any person or organisation that can demonstrate a legitimate interest.</p> <p>The persons or organisations referred to in point (c) shall access at least the name, the month and year of birth, the nationality and the country of residence of the beneficial owner as well as the nature and extent of the beneficial interest held. For the purposes of this paragraph, access to the information on beneficial ownership shall be in accordance with data protection rules and may be subject to online registration and to the payment of a fee. The fees charged for obtaining the information shall not exceed the administrative costs thereof.</p>	<p>Paragraph 5 is replaced by the following:</p> <p>5. Member States shall ensure that the information on the beneficial ownership is accessible in all cases to:</p> <p>(a) competent authorities and FIUs, without any restriction;</p> <p>(b) obliged entities, within the framework of customer due diligence in accordance with Chapter II;</p> <p>(c) any member of the general public.</p> <p>The persons referred to in point (c) shall be permitted to access at least the name, the month and year of birth and the country of residence and nationality of the beneficial owner as well as the nature and extent of the beneficial interest held.</p> <p>Member States may, under conditions to be determined in national law, provide for access to additional information enabling the identification of the beneficial owner. That additional information shall include at least the date of birth or contact details in accordance with data protection rules.</p>
	<p>New paragraph 5(a) is added:</p> <p>5a. Member States may choose to make the information held in their national registers referred to in paragraph 3 available on the condition of online registration and the payment of a fee, which shall not exceed the administrative costs of making the information available, including costs of maintenance and developments of the register.</p>
<p>6. The central register referred to in paragraph 3 shall ensure timely and unrestricted access by competent authorities and FIUs, without alerting the entity concerned. It shall also allow timely access by obliged entities when taking customer due diligence measures.</p>	<p>Paragraph 6 is replaced by the following:</p> <p>6. Member States shall ensure that competent authorities and FIUs have timely and unrestricted access to all information held in the central register referred to in paragraph 3 without alerting the entity concerned. Member States shall also allow timely access by obliged entities when taking customer due diligence measures in accordance with Chapter II.</p> <p>Competent authorities granted access to the central register referred to in paragraph 3 shall be those public authorities with designated responsibilities for combating money laundering or terrorist financing, as well as tax authorities, supervisors of obliged entities and authorities that have the function of investigating or prosecuting money laundering, associated predicate offences and terrorist financing, tracing and seizing or freezing and confiscating criminal assets.</p>

<p>7. Member States shall ensure that competent authorities and FIUs are able to provide the information referred to in paragraphs 1 and 3 to the competent authorities and to the FIUs of other Member States in a timely manner.</p>	<p>Paragraph 7 is replaced by the following:</p> <p>7. Member States shall ensure that competent authorities and FIUs are able to provide the information referred to in paragraphs 1 and 3 to the competent authorities and to the FIUs of other Member States in a timely manner and free of charge.</p>
<p>8. Member States shall require that obliged entities do not rely exclusively on the central register referred to in paragraph 3 to fulfil their customer due diligence requirements in accordance with Chapter II. Those requirements shall be fulfilled by using a risk-based approach.</p>	<p>Unchanged</p>
<p>9. Member States may provide for an exemption to the access referred to in points (b) and (c) of paragraph 5 to all or part of the information on the beneficial ownership on a case-by-case basis in exceptional circumstances, where such access would expose the beneficial owner to the risk of fraud, kidnapping, blackmail, violence or intimidation, or where the beneficial owner is a minor or otherwise incapable. Exemptions granted pursuant to this paragraph shall not apply to the credit institutions and financial institutions, and to obliged entities referred to in point (3)(b) of Article 2(1) that are public officials.</p>	<p>Paragraph 9 is replaced by the following:</p> <p>9. In exceptional circumstances to be laid down in national law, where the access referred to in points (b) and (c) of the first subparagraph of paragraph 5 would expose the beneficial owner to disproportionate risk, risk of fraud, kidnapping, blackmail, extortion, harassment, violence or intimidation, or where the beneficial owner is a minor or otherwise legally incapable, Member States may provide for an exemption from such access to all or part of the information on the beneficial ownership on a case-by-case basis. Member States shall ensure that these exemptions are granted upon a detailed evaluation of the exceptional nature of the circumstances. Rights to an administrative review of the exemption decision and to an effective judicial remedy shall be guaranteed. A Member State that has granted exemptions shall publish annual statistical data on the number of exemptions granted and reasons stated and report the data to the Commission.</p> <p>Exemptions granted pursuant to the first subparagraph of this paragraph shall not apply to credit institutions and financial institutions, or to the obliged entities referred to in point (3)(b) of Article 2(1) that are public officials.</p>
<p>10. By 26 June 2019, the Commission shall submit a report to the European Parliament and to the Council assessing the conditions and the technical specifications and procedures for ensuring the safe and efficient interconnection of the central registers referred to in paragraph 3 via the European central platform established by Article 4a(1) of Directive 2009/101/EC. Where appropriate, that report shall be accompanied by a legislative proposal.</p>	<p>Paragraph 10 is replaced by the following:</p> <p>10. Member States shall ensure that the central registers referred to in paragraph 3 of this Article are interconnected via the European Central Platform established by Article 22(1) of Directive (EU) 2017/1132 of the European Parliament and of the Council (*). The connection of the Member States' central registers to the platform shall be set up in accordance with the technical specifications and procedures established by implementing acts adopted by the Commission in accordance with Article 24 of Directive (EU) 2017/1132 and with Article 31a of this Directive.</p> <p>Member States shall ensure that the information referred to in paragraph 1 of this Article is available through the system of interconnection of registers established by Article 22(1) of Directive (EU) 2017/1132, in accordance with Member States' national laws implementing paragraphs 5, 5a and 6 of this Article.</p> <p>The information referred to in paragraph 1 shall be available through the national registers and through the system of interconnection of registers for at least five years and no more than 10 years after the corporate or other legal entity has been struck off from the register. Member States shall cooperate among themselves and with the Commission in order to implement the different types of access in accordance with this Article.</p>

## BENEFICIAL OWNERS OF TRUSTS AND SIMILAR LEGAL ENTITIES

Old Article 31	New Article 31
<p>1. Member States shall require that trustees of any express trust governed under their law obtain and hold adequate, accurate and up-to-date information on beneficial ownership regarding the trust. That information shall include the identity of:</p> <ul style="list-style-type: none"> <li>(a) the settlor;</li> <li>(b) the trustee(s);</li> <li>(c) the protector (if any);</li> <li>(d) the beneficiaries or class of beneficiaries; and</li> <li>(e) any other natural person exercising effective control over the trust.</li> </ul>	<p>Paragraph 1 is replaced by the following:</p> <p>1. Member States shall ensure that this Article applies to trusts and other types of legal arrangements, such as, inter alia, fiducie, certain types of Treuhand or fideicomiso, where such arrangements have a structure or functions similar to trusts. Member States shall identify the characteristics to determine where legal arrangements have a structure or functions similar to trusts with regard to such legal arrangements governed under their law.</p> <p>Each Member State shall require that trustees of any express trust administered in that Member State obtain and hold adequate, accurate and up-to-date information on beneficial ownership regarding the trust. That information shall include the identity of:</p> <ul style="list-style-type: none"> <li>(a) the settlor(s);</li> <li>(b) the trustee(s);</li> <li>(c) the protector(s) (if any);</li> <li>(d) the beneficiaries or class of beneficiaries;</li> <li>(e) any other natural person exercising effective control of the trust.</li> </ul> <p>Member States shall ensure that breaches of this Article are subject to effective, proportionate and dissuasive measures or sanctions.</p>
<p>2. Member States shall ensure that trustees disclose their status and provide the information referred to in paragraph 1 to obliged entities in a timely manner where, as a trustee, the trustee forms a business relationship or carries out an occasional transaction above the thresholds set out in points (b), (c) and (d) of Article 11.</p>	<p>Paragraph 2 is replaced by the following:</p> <p>2. Member States shall ensure that trustees or persons holding equivalent positions in similar legal arrangements as referred to in paragraph 1 of this Article, disclose their status and provide the information referred to in paragraph 1 of this Article to obliged entities in a timely manner, where, as a trustee or as person holding an equivalent position in a similar legal arrangement, they form a business relationship or carry out an occasional transaction above the thresholds set out in points (b), (c) and (d) of Article 11.</p>
<p>3. Member States shall require that the information referred to in paragraph 1 can be accessed in a timely manner by competent authorities and FIUs.</p>	<p>Unchanged</p>

	<p>New paragraph 3(a) is added:</p> <p>3a. Member States shall require that the beneficial ownership information of express trusts and similar legal arrangements as referred to in paragraph 1 shall be held in a central beneficial ownership register set up by the Member State where the trustee of the trust or person holding an equivalent position in a similar legal arrangement is established or resides.</p> <p>Where the place of establishment or residence of the trustee of the trust or person holding an equivalent position in similar legal arrangement is outside the Union, the information referred to in paragraph 1 shall be held in a central register set up by the Member State where the trustee of the trust or person holding an equivalent position in a similar legal arrangement enters into a business relationship or acquires real estate in the name of the trust or similar legal arrangement.</p> <p>Where the trustees of a trust or persons holding equivalent positions in a similar legal arrangement are established or reside in different Member States, or where the trustee of the trust or person holding an equivalent position in a similar legal arrangement enters into multiple business relationships in the name of the trust or similar legal arrangement in different Member States, a certificate of proof of registration or an excerpt of the beneficial ownership information held in a register by one Member State may be considered as sufficient to consider the registration obligation fulfilled.</p>
<p>4. Member States shall require that the information referred to in paragraph 1 is held in a central register when the trust generates tax consequences. The central register shall ensure timely and unrestricted access by competent authorities and FIUs, without alerting the parties to the trust concerned. It may also allow timely access by obliged entities, within the framework of customer due diligence in accordance with Chapter II. Member States shall notify to the Commission the characteristics of those national mechanisms.</p>	<p>Paragraph 4 is replaced by the following:</p> <p>4. Member States shall ensure that the information on the beneficial ownership of a trust or a similar legal arrangement is accessible in all cases to:</p> <ul style="list-style-type: none"> <li>(a) competent authorities and FIUs, without any restriction;</li> <li>(b) obliged entities, within the framework of customer due diligence in accordance with Chapter II;</li> <li>(c) any natural or legal person that can demonstrate a legitimate interest;</li> <li>(d) any natural or legal person that files a written request in relation to a trust or similar legal arrangement which holds or owns a controlling interest in any corporate or other legal entity other than those referred to in Article 30(1), through direct or indirect ownership, including through bearer shareholdings, or through control via other means.</li> </ul> <p>The information accessible to natural or legal persons referred to in points (c) and (d) of the first subparagraph shall consist of the name, the month and year of birth and the country of residence and nationality of the beneficial owner, as well as nature and extent of beneficial interest held.</p> <p>Member States may, under conditions to be determined in national law, provide for access of additional information enabling the identification of the beneficial owner. That additional information shall include at least the date of birth or contact details, in accordance with data protection rules. Member States may allow for wider access to the information held in the register in accordance with their national law.</p> <p>Competent authorities granted access to the central register referred to in paragraph 3a shall be public authorities with designated responsibilities for combating money laundering or terrorist financing, as well as tax authorities, supervisors of obliged entities and authorities that have the function of investigating or prosecuting money laundering, associated predicate offences and terrorist financing, tracing, and seizing or freezing and confiscating criminal assets.</p>

	<p>New paragraph 4(a) is added:</p> <p>4a. Member States may choose to make the information held in their national registers referred to in paragraph 3a available on the condition of online registration and the payment of a fee, which shall not exceed the administrative costs of making the information available, including costs of maintenance and developments of the register.</p>
<p>5. Member States shall require that the information held in the central register referred to in paragraph 4 is adequate, accurate and up-to-date.</p>	<p>Paragraph 5 is replaced by the following:</p> <p>5. Member States shall require that the information held in the central register referred to in paragraph 3a is adequate, accurate and current, and shall put in place mechanisms to this effect. Such mechanisms shall include requiring obliged entities and, if appropriate and to the extent that this requirement does not interfere unnecessarily with their functions, competent authorities to report any discrepancies they find between the beneficial ownership information available in the central registers and the beneficial ownership information available to them. In the case of reported discrepancies Member States shall ensure that appropriate actions be taken to resolve the discrepancies in a timely manner and, if appropriate, a specific mention be included in the central register in the meantime.</p>
<p>6. Member States shall ensure that obliged entities do not rely exclusively on the central register referred to in paragraph 4 to fulfil their customer due diligence requirements as laid down in Chapter II. Those requirements shall be fulfilled by using a risk-based approach.</p>	<p>Unchanged</p>
<p>7. Member States shall ensure that competent authorities and FIUs are able to provide the information referred to in paragraphs 1 and 4 to the competent authorities and to the FIUs of other Member States in a timely manner.</p>	<p>Paragraph 7 is replaced by the following:</p> <p>7. Member States shall ensure that competent authorities and FIUs are able to provide the information referred to in paragraphs 1 and 3 to the competent authorities and to the FIUs of other Member States in a timely manner and free of charge.</p>
	<p>New paragraph 7(a) is added:</p> <p>7a. In exceptional circumstances to be laid down in national law, where the access referred to in points (b), (c) and (d) of the first subparagraph of paragraph 4 would expose the beneficial owner to disproportionate risk, risk of fraud, kidnapping, blackmail, extortion, harassment, violence or intimidation, or where the beneficial owner is a minor or otherwise legally incapable, Member States may provide for an exemption from such access to all or part of the information on the beneficial ownership on a case-by-case basis. Member States shall ensure that these exemptions are granted upon a detailed evaluation of the exceptional nature of the circumstances. Rights to an administrative review of the exemption decision and to an effective judicial remedy shall be guaranteed. A Member State that has granted exemptions shall publish annual statistical data on the number of exemptions granted and reasons stated and report the data to the Commission.</p> <p>Exemptions granted pursuant to the first subparagraph shall not apply to the credit institutions and financial institutions, and to obliged entities referred to in point (3)(b) of Article 2(1) that are public officials.</p> <p>Where a Member State decides to establish an exemption in accordance with the first subparagraph, it shall not restrict access to information by competent authorities and FIUs.</p>

<p>8. Member States shall ensure that the measures provided for in this Article apply to other types of legal arrangements having a structure or functions similar to trusts.</p>	<p>Paragraph 8 is deleted.</p>
<p>9. By 26 June 2019, the Commission shall submit a report to the European Parliament and to the Council assessing the conditions and the technical specifications and procedures for ensuring safe and efficient interconnection of the central registers. Where appropriate, that report shall be accompanied by a legislative proposal.</p>	<p>Paragraph 9 is replaced by the following:</p> <p>9. Member States shall ensure that the central registers referred to in paragraph 3a of this Article are interconnected via the European Central Platform established by Article 22(1) of Directive (EU) 2017/1132. The connection of the Member States' central registers to the platform shall be set up in accordance with the technical specifications and procedures established by implementing acts adopted by the Commission in accordance with Article 24 of Directive (EU) 2017/1132 and with Article 31a of this Directive.</p> <p>Member States shall ensure that the information referred to in paragraph 1 of this Article is available through the system of interconnection of registers established by Article 22(2) of Directive (EU) 2017/1132, in accordance with Member States' national laws implementing paragraphs 4 and 5 of this Article.</p> <p>Member States shall take adequate measures to ensure that only the information referred to in paragraph 1 that is up to date and corresponds to the actual beneficial ownership is made available through their national registers and through the system of interconnection of registers, and the access to that information shall be in accordance with data protection rules.</p> <p>The information referred to in paragraph 1 shall be available through the national registers and through the system of interconnection of registers for at least five years and no more than 10 years after the grounds for registering the beneficial ownership information as referred to in paragraph 3a have ceased to exist. Member States shall cooperate with the Commission in order to implement the different types of access in accordance with paragraphs 4 and 4a.</p>
	<p>New paragraph 10 is added:</p> <p>10. Member States shall notify to the Commission the categories, description of the characteristics, names and, where applicable, legal basis of the trusts and similar legal arrangements referred to in paragraph 1 by 10 July 2019. The Commission shall publish the consolidated list of such trusts and similar legal arrangements in the Official Journal of the European Union by 10 September 2019.</p> <p>By 26 June 2020, the Commission shall submit a report to the European Parliament and to the Council assessing whether all trusts and similar legal arrangements as referred to in paragraph 1 governed under the law of Member States were duly identified and made subject to the obligations as set out in this Directive. Where appropriate, the Commission shall take the necessary steps to act upon the findings of that report.</p>

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## Endnotes

- 1 European Commission (2016), 'Commission strengthens transparency rules to tackle terrorism financing, tax avoidance and money laundering', Press release, 5 July 2016, [https://ec.europa.eu/commission/presscorner/detail/en/IP\\_16\\_2380](https://ec.europa.eu/commission/presscorner/detail/en/IP_16_2380)
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This publication was produced through Eurodad's membership of the Financial Transparency Coalition, FTC, a global civil society network working to curtail illicit financial flows through the promotion of a transparent, accountable and sustainable financial system that works for everyone. This publication reflects the views of Eurodad and is not intended to represent the positions of other members of the FTC.

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