

# BENEFICIAL OWNER REGISTERS

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How beneficial are they?

# What will they look like?

- BO information in a central register in each Member State
- information must be adequate, accurate and current
- access must be possible without alerting the entity concerned
- register shall allow timely access

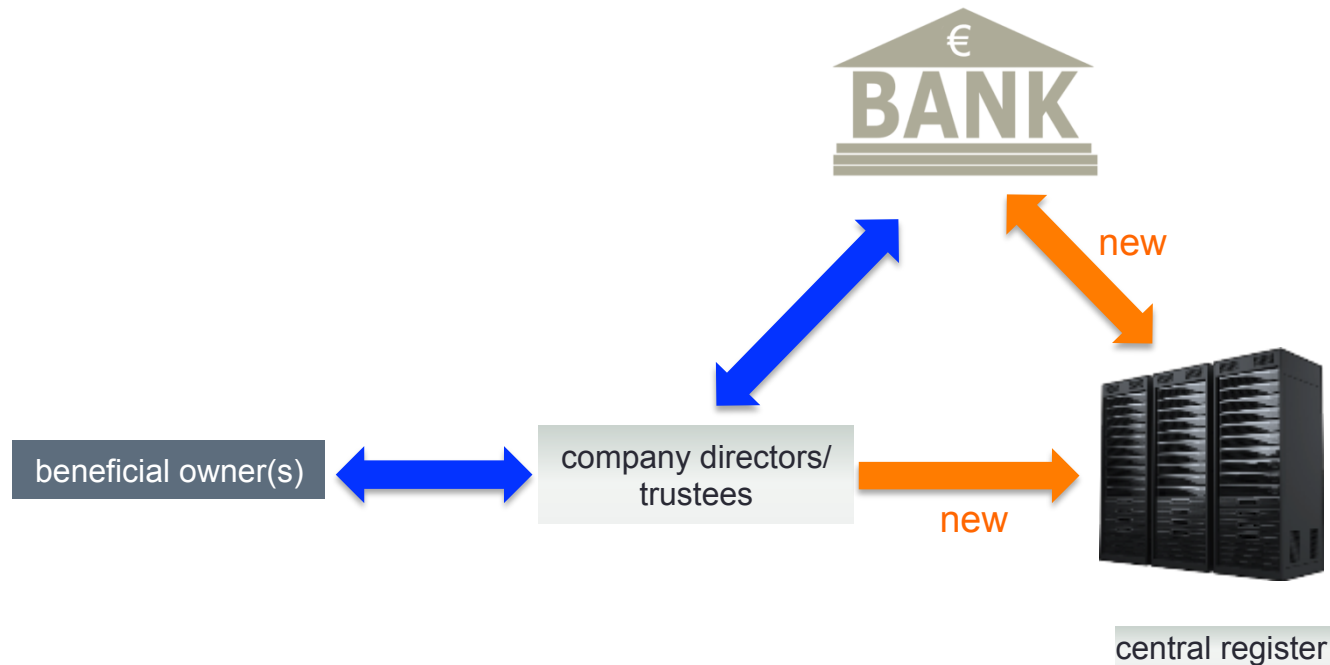


# Who will have access?

Legal persons	Legal arrangements
competent authorities and FIUs	competent authorities and FIUs
obliged entities within the framework of CDD	obliged entities within the framework of CDD (optional)
any person or organisation that can demonstrate a legitimate interest*	

\* a legitimate interest with respect to money laundering, terrorist financing, and the associated predicate offences, such as corruption, tax crimes and fraud

# Will CDD be more efficient?



- AMLD: “may not rely exclusively on the central register to fulfil their CDD requirements”
- low risk situations?
- added value of consulting register? doubling the work?

# Will BO information be accurate?

- AMLD: information held in the central register must be accurate
- new obligation placed on legal entities to obtain and hold BO information
- monitoring and enforcement of these obligations will be key
- unlikely that (substantial) verification will be done by the registrars
- limited resources and limited verification possibilities
- legal ownership can be verified to some extent
- control through other means difficult to establish without on-going business relationship with the legal entity concerned
- financial institutions are important source for identification of inaccurate information – reporting?
- third parties are another important source (public scrutiny)

“...the more eyes that look  
at the information the  
more accurate it will be.”

PM David Cameron in October 2013, when  
announcing that the UK BO register will be  
public



# Will there be public scrutiny?

## Trusts

- no public scrutiny on trusts - the second most important vehicle used for corruption purposes
- trusts that do not generate tax consequences will not be registered at all

## Legal persons

- access restrictions on a case-by-case basis (risk of fraud, kidnapping, blackmail, violence or intimidation, or where the beneficial owner is a minor or otherwise incapable).
- might regularly apply to personal asset holding vehicles (FATF high-risk example)

# Downsides to public scrutiny?

- serious risk of achieving the exact opposite of transparency
- beneficial owners might try to avoid transparency (third parties)
- including for legitimate reasons
- potential results:
  - relocation to Non-EEA-jurisdictions
  - more complex structures to disguise ownership





# Downsides to public scrutiny?

FT

FINANCIAL TIMES

June 5, 2015 7:37 pm

## Wealthy clients told of loopholes in new UK transparency law

Vanessa Houlder

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David Cameron

A leading law firm has told wealthy clients they can avoid “unwanted public scrutiny” from new transparency laws, in a sign of widely criticised loopholes in the legislation championed by David Cameron.

Charles Russell Speechlys, a law firm with a big private wealth practice, said “help is at hand” for individuals worried about the new public register aimed at removing the secrecy around the ownership of companies.

# Will BO information be up-to-date?

- AMLD: information held in the central register must be current
- UK BO register foresees annual updates (listing of all changes that have occurred during that year)
- up-to-date CDD information provided by the legal entity to a financial institution might differ from registered information between declaration days
- added value of consulting the register?

# How much will it cost?

- Costs to businesses are estimated in the UK to be
  - £417.4m set up cost (familiarisation, identification, collation, storage of data and responding to a request for information)
  - £77.7m per year on-going costs for updating information and providing returns to the register
- moderate in the light of 3.19 million UK companies
- moderate in the light of the costs caused by the misuse of anonymous companies

# Conclusion - are they beneficial?

- a courageous project – EU/ EEA at the global forefront
- will be able to see outcome of two different approaches (fully- vs. semi-public registers)
- registers probably more beneficial to work of competent authorities than to financial institutions
- prerequisites for usability:
  - monitoring and enforcement of obligations placed on companies
  - scrutiny through financial institutions and third parties with “legitimate interest”
  - authorities to analyse BO data (identification of potential undisclosed nominees; risk assessment)
- main concern: register might cause further complexity of company structures

# Thank you for your attention.

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