

Proposed Amendments to the EU AML Package

Improving Beneficial
Ownership
Transparency

March 2022

Andres Knobel

This report contains the Tax Justice Network's proposed amendments to improve the EU's draft [Anti-Money Laundering \(AML\) Package](#).

Introduction

On 20 July 2021, the European Commission presented a [package of legislative proposals](#) to strengthen the EU's rules to tackle money laundering and to counter the financing of terrorism (AML/CFT)¹. The package is now being discussed, so here are the Tax Justice Network's proposals on how to improve the current draft Regulation and Directive.

Our comments concern

- i) The definition of a beneficial owner (BO);
- ii) The scope of legal vehicles subject to registration;
- iii) The conditions that should trigger beneficial ownership registration;
- iv) The details to be registered on each BO;
- v) Access to information;
- vi) How to verify information
- vii) Sanctions for non-compliance.

This report offers a brief point-by-point explanation of what should be improved, and why.

1) The beneficial owner (BO) definition

In short: It may not be clear who owns an asset. The legal owner of a yacht, for instance, may be a company based in a tax haven. Yet we want to know who the true owner is. This can be tricky to nail down, so the EU package needs clear and effective definitions. The beneficial ownership definition should refer to any natural person (ie a human) with direct or indirect ownership of, control of, or benefit from a legal vehicle, without thresholds. Control should include any means of control or influence to appoint at least one director or manager or make any relevant decision on assets or activities of the legal vehicle, and should extend to anyone having a power of attorney to manage the entity or its assets (e.g. a bank account) or being a party to a contract (e.g. rights to all of a companies' profits) or financial instrument (e.g. a call or a put option, futures, convertible stock, etc.) related to shares, votes, income, assets or benefits of a legal vehicle.

Long explanation:

As explained [here](#), there is usually a contradiction between the way most regulations, including the Financial Action Task Force (FATF) Recommendations, define beneficial ownership. For example, the FATF Glossary talks of "*a natural*

¹ The package includes, among others, a proposal for a regulation on AML/CFT and a proposal for a new AML Directive (AMLD 6) which would replace the current applicable AMLD 5

person who ultimately owns or controls an entity") while the FATF's customer due diligence section of Recommendation 10, determines that identification of a beneficial owner requires determining "*anyone with more than 25 per cent of shares*"). Unfortunately, in practice it is usually the restrictive and narrow criteria to determine a beneficial owner that get to trump the broader criteria.

The reason why the definitions are different is because of the differing approaches or goals of the definitions. Traditionally, the criteria were meant for financial institutions such as banks and lawyers, notaries or service providers (which the FATF calls "designated non-financial businesses and professions" or DNFBP) who would likely meet their customers and had to determine who was really calling the shots behind a corporate customer, and had to check the legal origin of the funds and comply with other requirements imposed by customer due diligence or know-your-customer provisions. This approach, however, is rather "reactive". If the bank determined that the beneficial owner was John, and John already appeared on a sanctions list (or newspapers already called him a drug smuggler), then the bank should have rejected the customer. Or, if authorities later found out that some Company A was involved in any wrongdoing (eg money laundering, tax evasion), they would need to know that John was calling the shots, to prosecute him.

This nitty-gritty approach of determining who is really in control would in theory work fine for financial institutions and lawyers meeting customers and taking the time to analyse all corporate documents. (Of course, the likes of [Suisse leaks](#) or [Panama Papers](#) show that reality is much sleazier than the theory).

However, when dealing with beneficial ownership registration in central registries, where incorporation can be done online and remotely, and where thousands of companies can be created in a single day, there is simply no time, resources or even access to supporting documentation to determine who the beneficial owner is, before a company gets to be set up. In this case, implementation is much easier if there is a mechanical rule such as "identify as a beneficial owner any natural person with at least one share or vote". Rather than having to take endless time to understand all corporate or trust documents (many of which could be secret), the staff at the beneficial ownership registry or directly the registry's system can check that the applicable thresholds (eg every share or 1 per cent) have been accounted for.

There's another reason why central beneficial ownership registries should move away from the "reactive" approach which focuses only on "control"- rather than also on any ownership, however small. Based on what we consider to be a [wrong interpretation of the Financial Action Task Force's Recommendations](#), most countries consider de facto that only an ownership above 25 per cent is an indication of control and thus of being a beneficial owner. The problem with this infamous threshold is that it is too easy to avoid. It allows a company with four shareholders with 25 per cent each, to avoid disclosing any beneficial owner, and appointing instead a senior manager who may just be a nominee director.

The problem with thresholds is that no matter how low, it will always be possible to circumvent them, especially given how easy and cheap it is to create companies or find de facto nominees. Al Jazeera published an [investigation](#) into an enabler proposing a structure with at least 21 companies with equal shareholdings, to avoid the 5 per cent threshold of reporting that applied in that case. If the threshold were 1 per cent, then one could propose creating 101 nominee companies, and so on.

Taking this argument further, one can conclude that no threshold should be imposed, similar to the regulations available in [Argentina, Ecuador or Botswana](#) which already require any natural person with at least one share to be identified as a beneficial owner. Likewise, in the case of beneficial owners of trusts, both the Financial Action Task Force and the EU have already established no thresholds in the beneficial ownership definition so all settlors, trustees, protectors and beneficiaries have to be registered.

This “no threshold” definition is positive for two reasons. First, it’s very easy to implement. Instead of determining who is really in control by taking the time to look at all corporate documents or understand family relationships, authorities need to ensure that all shareholdings of votes are account for. If Company A says that beneficial owner John has 80 per cent of the shares and beneficial owner Mary has 19 per cent of the shares, it’s easy to spot that something is missing. Either someone else has the other 1 per cent, or John or Mary reported the wrong shareholdings.

The second positive aspect is that this leads to a “preventive” (rather than “reactive”) approach. By having information is as many individuals as possible related to a company (eg “John has 80 per cent of the shares, Mary has 19 per cent and Paul has 1 per cent”), authorities may start running analysis to detect unrelated connections or hidden facts before any suspicions have arisen. While this may sound time-consuming for a human, a digitalised central register with sufficient computer power could calculate this in just a few minutes or hours. For instance, Paul, with only 1 per cent, may share an address or lawyer, or may be the sole beneficial owner of a company blacklisted for sanctions or money laundering. This piece of information may be very relevant and the only way to have a red-flag over a company, which would have otherwise gone undetected.

Likewise, a preventive approach requiring all holders of at least one share to be disclosed allows for compliance checks. Suppose instead that Country A implements the “reactive” approach with high thresholds trying to find only those in control. Company 1 discloses John as the beneficial owner with 60 per cent of the shares. It’s impossible for the central register to know if the company has another beneficial owner who wasn’t disclosed (eg Mary with 40 per cent of the shares), or if the remaining 40 per cent of shares are held by 10 individuals so the company truly has no more beneficial owners than John (all the other shareholders would merely have 4 per cent). On the contrary, Country B requires every individual holding at least one share to be registered as a beneficial owner. This way, if the

central register knows that the Company has issued 100 shares but beneficial owners have been identified for only 90 shares it is possible to know that there is a case of non-compliance.

One could argue that the “preventive” approach undermines the “reactive” approach because it creates noise. The argument goes that, if a country implements the preventive approach and requires all individuals related to a company (eg anyone holding one share) to be registered as beneficial owners, then too many people will be listed and authorities won’t be able to know who is calling the shots. However, this would only create noise in theory, for instance if a country required something like “register in alphabetical order any person related to company A”. Instead, most (if not all) countries require the nature of the beneficial ownership to be disclosed (eg number of share or votes under control, or way in which influence is exercised). This way, by having sufficient details on each beneficial owner, there is no noise created. For instance, if authorities know the nature of each beneficial ownership, they may well decide to start investigating John because he has 80% compared to Mary who only has 19%. In this case, it’s hard to see how merely having information that “John has 80 per cent of the shares” (the “reactive approach” implemented by most countries) would put authorities in any better situation than the preventive approach: “John has 80 per cent, Mary 19 per cent and Paul one per cent of shares”.

Moreover, given that there are so many sophisticated ways to exercise [control unrelated to ownership](#), countries should identify as a beneficial owner anyone who has a power of attorney to manage the entity or its assets (e.g. bank account) or is a party to a contract (e.g. rights to all of a companies’ profits) or a financial instrument (eg a call option, put option, futures, convertible stock, etc) related to shares, votes, income, assets or benefits of a legal vehicle. The US beneficial ownership proposed laws² cover financial instruments (such as call options or convertible stock) within the meaning of “ownership” to determine who is a beneficial owner”.

Finally, regardless if countries adopt the preventive or reactive approach, [complex ownership structures](#) (eg many layers of entities from tax havens up to the beneficial owner) may hinder the identification of the beneficial owner or its

² Proposed 31 CFR 1010.380(d)(3)(i): (3) *Ownership interests.* (i) *The term “ownership interest” means: (A) Any equity, stock, or similar instrument, certificate of interest or participation in any profit sharing agreement, preorganization certificate or subscription, transferable share, voting trust certificate or certificate of deposit for an equity security, interest in a joint venture, or certificate of interest in a business trust, without regard to whether any such instrument is transferable, is classified as stock or anything similar, or represents voting or non-voting shares; (B) Any capital or profit interest in a limited liability company or partnership, including limited and general partnership interests; (C) Any proprietorship interest; (D) Any instrument convertible, with or without consideration, into any instrument described in paragraph (d)(3)(i)(A), (B), or (C) of this section, any future on any such instrument, or any warrant or right to purchase, sell, or subscribe to a share or interest described in paragraph (d)(3)(i)(A), (B), or (C) of this section, regardless of whether characterized as debt; or (E) Any put, call, straddle, or other option or privilege of buying or selling any of the items described in paragraph (d)(3)(i)(A), (B), (C), or (D) of this section without being bound to do so.*

verification. In other words, it may be impossible to determine who ultimately has one share (or 25 per cent of shares), if a company is owned by many layers of entities, ending in tax havens or companies which issued bearer shares. For this reason, the AML Package should call for an analysis of risks of complex structures in each country to properly address the risks, while proposing immediate measures, including: preventing entities which issued (or could issue) bearer shares or warrants from integrating into the ownership chain of any legal vehicle subject to beneficial ownership registration in the EU. Similar measures should apply by prohibiting the ownership chain from including a legal vehicle where rights or status of a beneficial owner (eg a beneficiary of a trust) depend on the discretion of a person (eg a discretionary trust), which could easily be [abused](#) to prevent identifying beneficial owners or shielding assets from the rest of society. In addition, a qualitative measure would be to only allow non-EU legal vehicles to integrate into the ownership chain of EU legal vehicles subject to beneficial ownership registration, as long as they were registered in countries with public access to legal and beneficial ownership registration. (Non-compliant companies, eg a company owned by an entity from a tax haven, should not be allowed to incorporate in the EU or should be de-registered if they already exist).

The following table presents our proposals on partial improvements (given the political context) versus the most transparent scenario, regarding the beneficial ownership definition.

Partial improvement	Most transparent scenario
<p>Proposal for a REGULATION- Art. 2 Definitions</p> <p>(22)'beneficial owner' means any natural person who ultimately owns, or controls or benefits from a legal entity or express trust or similar legal arrangement, as well as any natural person on whose behalf or for the benefit of whom a transaction or activity is being conducted;</p> <p>Article 42 Identification of Beneficial Owners for corporate and other legal entities 1. In case of corporate entities, the beneficial owner(s) as defined in Article 2(22) shall be the natural person(s) who owns, control(s) or benefits from, directly or indirectly, the corporate entity, either through an ownership interest or through control via other means.</p> <p>For the purpose of this Article, 'control through an ownership interest' shall mean an ownership of 25 [as low as possible,</p>	<p>Proposal for a REGULATION- Art. 2 Definitions</p> <p>(22)'beneficial owner' means any natural person who ultimately owns, or controls or benefits from a legal entity or express trust or similar legal arrangement, as well as any natural person on whose behalf or for the benefit of whom a transaction or activity is being conducted;</p> <p>Article 42 Identification of Beneficial Owners for corporate and other legal entities 1. In case of corporate entities, the beneficial owner(s) as defined in Article 2(22) shall be the natural person(s) who owns, control(s) or benefits from, directly or indirectly, the corporate entity, either through an ownership interest or through control via other means.</p> <p>For the purpose of this Article, 'control through control through an ownership interest' shall mean an ownership of at least 25% plus one of</p>

eg 1% or 5%] ~~plus one~~ of the shares or voting rights or other ownership interest in the corporate entity, ~~including through bearer shareholdings~~, on every level of ownership. [Optional: the percentage may be lowered depending on the risk of the corporate entity, eg participation by a PEP or involvement in the Extractive Sector]

For the purpose of this Article, 'control via other means' shall include at least one of the following:

- (a) the right to appoint or remove **any more than half of the** members of the board or similar officers of the corporate entity;
- (b) the ability to exert a significant influence on the decisions taken by the corporate entity, including veto rights, decision rights and any decisions regarding profit distributions or leading to a shift in assets;
- (c) control, whether shared or not, through formal or informal agreements with owners, members or the corporate entities, provisions in the articles of association, partnership agreements, syndication agreements, or equivalent documents depending on the specific characteristics of the legal entity, as well as voting arrangements;
- (d) links with family members of managers or directors/those owning or controlling the corporate entity;
- (e) use of formal or informal nominee arrangements.

~~the shares or voting rights or other ownership interest in the corporate entity, including through bearer shareholdings~~, on every level of ownership, including being party to a contract or financial instrument related to the shares, votes, assets or income of the corporate entity.

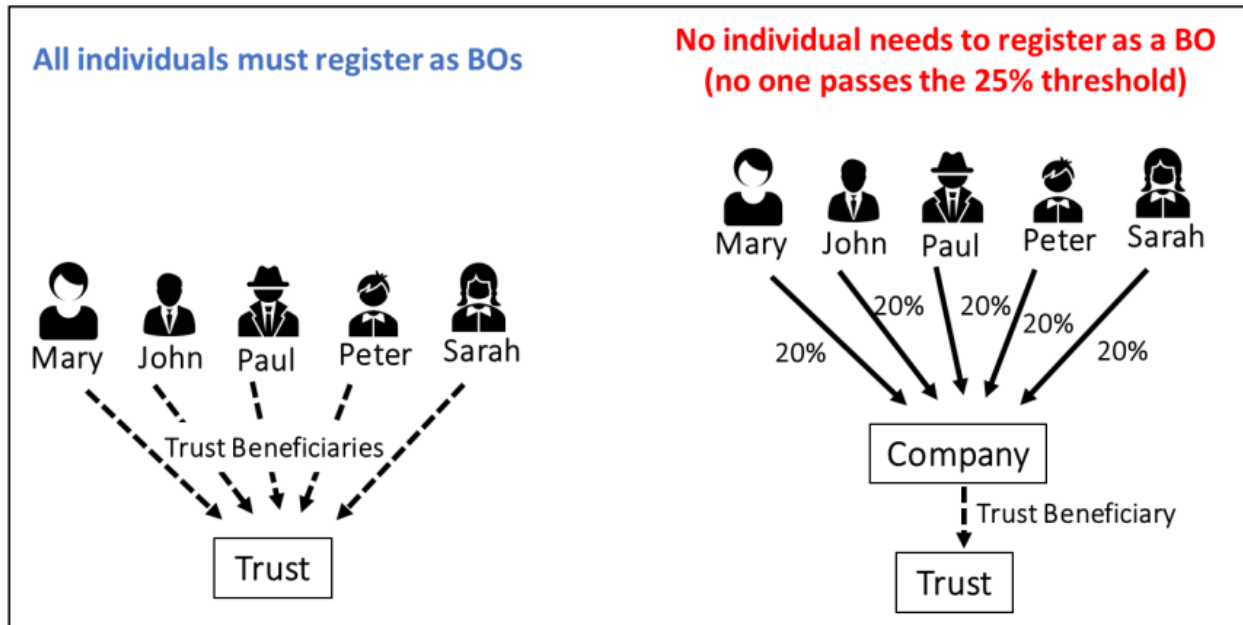
The ownership chain of a corporate entity cannot include bearer shareholdings, warrants, discretionary trusts or vehicles where the rights or status of a beneficial owner depend on a party's discretion. The ownership chain of a corporate entity may include foreign entities if their legal and beneficial ownership information is registered and publicly accessible in their country of incorporation or governing law.

For the purpose of this Article, 'control via other means' shall include at least one of the following:

- (a) the right to appoint or remove **any more than half of the** members of the board or similar officers of the corporate entity;
- (b) the ability to exert a significant influence on the decisions taken by the corporate entity, including veto rights, decision rights and any decisions regarding profit distributions or leading to a shift in assets;
- (c) control, whether shared or not, through formal or informal agreements with owners, members or the corporate entities, provisions in the articles of association, partnership agreements, syndication agreements, or equivalent documents depending on the specific characteristics of the legal entity, as well as voting arrangements;
- (d) links with family members of managers or directors/those owning or controlling the corporate entity;
- (e) use of formal or informal nominee arrangements;
- (f) a power of attorney to manage or dispose of the entity's assets or income, particularly its bank or financial accounts.**

Trusts

In the case of trusts, the EU's and Financial Action Task Force's regulations are already more advanced because they require the identification of all parties to the trust, without any thresholds. However, it is possible to artificially create thresholds by appointing a company as a party to the trust, which can enjoy the 25 per cent threshold:



In addition, parties to a trust (eg a settlor), may be natural persons or legal persons, and even if they are natural persons, they may be mere nominees (eg legal or nominee settlor) rather than the real person who transferred the assets into the trust (eg economic settlor). The regulation should cover all parties of the trust, both as natural or legal persons.

For this reason, until the no-threshold definition applies to all cases as proposed above, it should at least apply when a party to the trust is a legal person. This way, even if a company is added as a trust beneficiary, all natural persons who own, control or benefit from the corporate beneficiary will have to be registered as beneficial owners of the trust, even if they own less than 25 per cent of the corporate beneficiary (this should apply also if a chain of entities owns the corporate beneficiary until every individual is identified as a beneficial owner). Finally, discretionary trusts should be prevented from existing because they allow a trustee to decide at any given time, who is a beneficiary. To put this in perspective, this is like allowing a company where the CEO decides at any given time who is a shareholder and who gets to receive dividends. It undermines the whole purpose of bringing transparency to the ownership and control of legal vehicles).

Partial improvement	Most transparent scenario
<p>Proposal for a REGULATION</p> <p>Article 43 Identification of beneficial owners for express trusts and similar legal entities or arrangements</p> <p>1. In case of express trusts, the beneficial owners shall be all the following natural persons:</p> <p>(a) the economic and legal settlor(s);</p> <p>(b) the trustee(s);</p> <p>(c) the protector(s), if any;</p> <p>(d) the beneficiaries or where there is a class of beneficiaries, the individuals within that class that receive a benefit from the legal arrangement or entity, irrespective of any threshold, as well as the class of beneficiaries. However, in the case of pension schemes within the scope of Directive (EU) 2016/2341 of the European Parliament and of the Council 56 and which provide for a class of beneficiaries, only the class of beneficiaries shall be the beneficiary;</p> <p>(e) in case any of the parties in (a), (b), (c) or (d) are legal vehicles or nominee natural persons, the beneficial owners of each party shall be identified applying the corresponding rules but without thresholds (eg any natural person with 1 share over the corporate trustee)</p> <p>(f) any other natural person exercising ultimate control over the express trust by means of direct or indirect ownership or by other means, including through a chain of control or ownership. In this case, no thresholds should apply in the beneficial ownership definition of any legal person integrating into the ownership chain.</p>	<p>Proposal for a REGULATION</p> <p>Article 43 Identification of beneficial owners for express trusts and similar legal entities or arrangements</p> <p>1. In case of express trusts, the beneficial owners shall be all the following natural persons:</p> <p>(a) the economic and legal settlor(s);</p> <p>(b) the trustee(s);</p> <p>(c) the protector(s), if any;</p> <p>(d) the beneficiaries or where there is a class of beneficiaries, the individuals within that class that receive a benefit from the legal arrangement or entity, irrespective of any threshold, as well as the class of beneficiaries. However, in the case of pension schemes within the scope of Directive (EU) 2016/2341 of the European Parliament and of the Council 56 and which provide for a class of beneficiaries, only the class of beneficiaries shall be the beneficiary;</p> <p>(e) in case any of the parties in (a), (b), (c) or (d) are legal vehicles or nominee natural persons, the beneficial owners of each party shall be identified applying the corresponding rules but without thresholds (eg any natural person with 1 share over the corporate trustee)</p> <p>(f) any other natural person exercising ultimate control over the express trust by means of direct or indirect ownership or by other means, including through a chain of control or ownership. In this case, no thresholds should apply in the beneficial ownership definition of any legal person integrating into the ownership chain.</p> <p>(g) discretionary trusts or any trust where a party may have discretion to choose who is to become a beneficiary or receive a distribution should not be allowed in the EU. Any person, in order to receive a distribution, must first be registered as a beneficial owner.</p>

2) Scope of entities

In short: all legal vehicles should be covered, without exceptions. If thresholds are kept (against our recommendations), then lower thresholds should apply to listed companies and investment funds and special provisions should apply for state-owned enterprises.

Long explanation:

As proposed [here](#) and argued [here](#), any legal vehicle (any structure different from a natural person), such as trusts or similar legal arrangements, or any other vehicle considered not to have a separate legal personality, eg a limited partnership) must be required to register all its beneficial owners as a pre-condition of being granted legal validity, of holding or changing rights over assets, of enjoying any limitation of liability³ or of entering into contracts or operate in any other way.

There should be no exceptions for any legal vehicle, unless the same level of beneficial ownership information is already publicly available somewhere else. In such cases, beneficial ownership registries should be interconnected or include the link to the source where beneficial ownership information is already publicly available.

There are three types of legal vehicles which are prone to high risk of being abused for illicit financial flows and thus should be subject to beneficial ownership registration, with appropriate provisions: companies listed on the stock exchange, investment funds, and state-owned enterprises.

- **Listed companies and investment funds.** As explained [here](#) and [here](#), listed companies and investment funds are usually exempted from general beneficial ownership registration because they are supposed to already be regulated and more transparent than normal companies. [Investment funds may also be de facto exempted if they are organised as trusts or limited partnerships, and these are not covered by the beneficial ownership registration regulations]. However, the regulation of listed companies and investment funds (eg publication of accounts, relevant facts, etc) is usually about the protection of minority shareholders or investors. That's why, while there may be reporting of the top shareholders using a threshold of 5 per cent, this does not mean that a (natural person) beneficial owner must always be identified. Moreover, given the value of some listed companies or investment funds (in the billions or trillions of dollars), a mere 0.01 per cent may be worth millions or even tens of millions. Information on these investors, however little control they have over the listed company or fund, may be relevant for money laundering, tax evasion and asset recovery purposes. In this case, the threshold to disclose end-investors at the beneficial ownership level should be based on holding an interest or

³ In relation to this, we propose that the whole liability system [should be subject to reform](#).

investment, either at book value or current market price of at least \$1,000, whichever is lowest. Finally, investment funds may be organised as through complex legal vehicles including protected cell companies, series limited liability companies (Series LLCs) or funds with sub-funds. In all these cases, each sub cell, sub fund or sub LLC should be subject to full beneficial ownership registration as if it were an independent and separate entity.

- **State-owned enterprises.** Given the corruption of risks of state-owned enterprises, they should not be exempted from registration, especially if it's not a 100 per cent state-owned enterprise. Even in such case, information on the representatives, directors, managers, decision makers of the enterprise and anyone else with control (eg power of attorney, etc) should be disclosed with their corresponding powers and responsibilities.

Partial improvement	Most transparent scenario
<p>Proposal for a REGULATION</p> <p>Article 42 (...) 3.Member States shall notify to the Commission by [3 months from the date of application of this Regulation] a list of the types of corporate and other legal entities existing under their national laws with beneficial owner(s) identified in accordance with paragraph 1. The notification shall include the specific categories of entities, description of characteristics, names and, where applicable, legal basis under the national laws of the Member States. It shall also include an indication of whether, due to the specific form and structures of legal entities other than corporate entities. the mechanism under Article 45(3) applies, accompanied by a detailed justification of the reasons for that. Member States shall also notify any type of legal vehicle which is explicitly excluded from registration (eg unit trust) or if the exemption is implicit for instance because the legal vehicle is not considered a legal person (eg an England limited partnership). 4.The Commission shall make recommendations to Member States on the specific rules and criteria to identify the beneficial owner(s) of legal entities other than corporate entities by [1 year from the date of application of this Regulation].</p>	<p>Proposal for a REGULATION</p> <p>Article 42 (...) 3.Member States shall notify to the Commission by [3 months from the date of application of this Regulation] a list of the types of corporate and other legal entities existing under their national laws with beneficial owner(s) identified in accordance with paragraph 1. The notification shall include the specific categories of entities, description of characteristics, names and, where applicable, legal basis under the national laws of the Member States. It shall also include an indication of whether, due to the specific form, risk and structures of legal entities other than corporate entities, special rules must be applied (eg the beneficial ownership registration of each cell of a protected cell company, sub-fund of a fund or LLC of a series LLCs for any legal vehicle integrating into the ownership chain of local entities). The mechanism under Article 45(3) applies, accompanied by a detailed justification of the reasons for that. Member States shall also notify any type of legal vehicle which is explicitly excluded from registration (eg unit trust) or if the exemption is implicit for instance because the legal vehicle is not considered a legal person (eg an England limited partnership).</p>

<p>In the event that Member States decide not to apply any of the recommendations, they shall notify the Commission thereof and provide a justification for such a decision.</p> <p>5.The provisions of this Chapter shall not apply to:</p> <p>(a)companies listed on a regulated market that is subject to disclosure requirements consistent with Union legislation or subject to equivalent international standards unless the same level of beneficial ownership information required in this Directive is already available with a financial regulator; and</p> <p>(b)bodies governed by public law as defined under Article 2(1), point (4) of Directive 2014/24/EU of the European Parliament and of the Council 55 .</p>	<p>4.The Commission shall make recommendations to Member States on the specific rules and criteria to identify the beneficial owner(s) of legal entities other than corporate entities by [1 year from the date of application of this Regulation] and to address the risks created by complex ownership structures.</p> <p>In the event that Member States decide not to apply any of the recommendations, they shall notify the Commission thereof and provide a justification for such a decision.</p> <p>5. The provisions of this Chapter shall not There should be special provisions for reporting, updating and registration applied to:</p> <p>(a)companies listed on a regulated market that is subject to disclosure requirements consistent with Union legislation or subject to equivalent international standards and investment funds, where the beneficial ownership definition should refer to an end-investor who ultimately owns, holds, controls or benefits from an interest or investment in the listed company or investment fund of at least 1,000 Euro. The EU Commission should study the best alternative to report changes of holdings especially in case of high-frequency trading and the use of omnibus accounts; and</p> <p>(b)bodies governed by public law as defined under Article 2(1), point (4) of Directive 2014/24/EU of the European Parliament and of the Council 55. Special provisions in this case should only refer to the percentage of interests held by a government entity and should include the list of public officials with decision making power and power to manage or dispose of the entity’s assets and income.</p>
---	---

3) Conditions that trigger beneficial ownership registration

In short: legal vehicles should be required to register their beneficial owners whenever they are incorporated or governed according to domestic laws, or when they hold assets or operations in an EU country, or when they have a participant

(eg beneficial owner, shareholder, director, settlor, etc) who is resident in an EU country. Just as is already practiced with most legal persons (eg companies), trusts and similar legal arrangements should be required to “incorporate” or register in order to obtain legal validity.

Long explanation:

As explained [here](#) and in the following chart, beneficial ownership registration requirements under the 5th AML Directive vary depending on the type of legal vehicle, either legal person or trust. This means that information on many relevant legal vehicles (eg a foreign company owning a multi-million dollar yacht) are exempted from beneficial ownership registration.

	Company/Legal Entity	Trusts
Triggers for Beneficial Ownership Registration		
It’s incorporated, created or governed by the laws of an EU country	✓	✗
It’s managed/administered in the EU	✗	✓
It enters into a business relationship or acquires real estate in the EU	✗	✓
Any of its parties (e.g. shareholder, settlor, protector, beneficiary, etc.), other than the manager, administrator or trustee, is resident in the EU	✗	✗

While the AML Package proposes improving matters by expanding registration to cover foreign legal persons that acquire real estate or enter into a business relationship, it still exempts legal persons or trust which already hold real estate. It also lets other registrable assets, e.g. yachts, private jets, luxury cars, art, etc. off the hook. Moreover, it misses requiring registration of any trust governed by local laws. As explained [here](#), this means that in many cases there is no information on the number of trusts that exist, let alone their beneficial owners or assets. However, it is not enough just to require beneficial-ownership registration of trusts: a much better approach is to require them to incorporate or register in order to obtain legal validity. Otherwise, beneficial ownership registration becomes voluntary, because authorities have no way of knowing that a trust exists in the first place (countries like Czech Republic require this “incorporation” of trusts for them to be valid).

Finally, as proposed [here](#), in order not to depend on leaks such as Panama Papers or Pandora Papers, Member States should require their residents who are in any

way related to a foreign legal vehicle, either as settlor, beneficiary, shareholder, director, beneficial owner, etc. to register such foreign legal vehicle and its beneficial owners.

Partial improvement	Most transparent scenario
<p>Proposal for a REGULATION Article 48</p> <p>Foreign legal entities and arrangements</p> <p>1. Beneficial ownership information of legal entities incorporated outside the Union or of express trusts or similar legal arrangements administered outside the Union shall be held in the central register referred to in Article 10 of Directive [please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final] set up by the Member State where such entities or trustees of express trusts or persons holding equivalent positions in similar legal arrangements:</p> <p>(a) enter into or hold a business relationship with an obliged entity;</p> <p>(b) acquire or hold real estate in their territory.</p>	<p>Proposal for a REGULATION Article 48</p> <p>Foreign legal entities and domestic or foreign arrangements</p> <p>1. Beneficial ownership information of legal entities incorporated outside the Union or of express trusts or similar legal arrangements created according to or governed by the laws of a Member State or administered outside the Union shall be held in the central register referred to in Article 10 of Directive [please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final] set up by the Member State where such entities or trustees of express trusts or persons holding equivalent positions in similar legal arrangements:</p> <p>(a) enter into or hold a business relationship with an obliged entity or enters into any contract or economic relationship with a local legal vehicle;</p> <p>(b) acquire or hold real estate or any other registrable asset including vessels, aircrafts, cars, or art in their territory.</p> <p>For a domestic or foreign trust to obtain legal validity in the EU it should be registered in a Member State’s beneficial ownership registry.</p>

4) Details to be registered for each beneficial owner

In short

In addition to all current details to be registered, the full ownership structure should be registered and beneficial owners should disclose their citizenship, place of birth, any additional residency or citizenship, whether they hold a status of politically exposed person (PEP) in any country, and the value of each transaction (eg acquisition of shares) to become a beneficial owner, or in the case of free

transactions (eg a donation), the reason for the transaction and relationship to the former owner of the interests or votes.

Long explanation

To save time for investigations, it is necessary to have as many details as possible on owners to determine who they are, and not to confuse them with others who may share the same name, address or date of birth. Identification details based on numbers (eg passport number, tax Id.) are easier to determine than names of persons or streets which could be written in many different ways (especially if they are based on another language or script). Some details indicate risk factors, such as an individual being a high-ranking official or someone with many residencies or nationalities.

In addition, to detect fake transactions to hide a beneficial owner, information should identify from whom the legal vehicle was acquired (in the case of a transfer) or the nature of the change (eg the issuance of new shares, a merger, the appointment of a new beneficiary, etc). It should also identify any family relation between the seller and purchaser, if applicable. This would help identify or investigate cases in which persons transfer shares to their children or to unrelated individuals (who may be nominees). Finally, to make sense of the information provided, the value of the transaction should be also be filed as part of beneficial ownership registration. If it was a free transaction, such as a donation or an appointment of a new beneficiary, the reason for the transaction should be included. For instance, in a transaction between unrelated parties, recording the value ensures it will be possible to check whether the new acquirer has declared income or wealth to justify the purchase of shares. For another example, it may be logical for a parent to donate shares to a child (perhaps for succession planning), but it would make less sense for a person to donate shares to an unrelated individual or appoint them as the beneficiary of a trust.

Partial improvement	Most transparent scenario
<p>Proposal for a REGULATION</p> <p>Article 44- Beneficial ownership information 1.For the purpose of this Regulation, beneficial ownership information shall be adequate, accurate, and current and include the following: (a)the first name and surname, full place and date of birth, residential address, country(ies) of residence and nationality or nationalities of the beneficial owner, national identification number and source of it, such as passport or national identity document, and, where applicable, the tax identification number or other equivalent number assigned to the person by his or her country of usual residence;</p>	<p>Proposal for a REGULATION</p> <p>Article 44- Beneficial ownership information 1.For the purpose of this Regulation, beneficial ownership information shall be adequate, accurate, and current and include the following: (a)the first name and surname, full place and date of birth, residential address country(ies) of residence and nationality or nationalities of the beneficial owner, national identification number and source of it, such as passport or national identity document, and, where applicable, the tax identification number or other equivalent number assigned to the person by his or her country of usual residence; (b)the nature and extent of the beneficial interest held in the legal entity or legal</p>

<p>(b)the nature and extent of the beneficial interest held in the legal entity or legal arrangement, whether through ownership interest or control via other means, as well as the date of acquisition of the beneficial interest held;</p> <p>(c)information on the legal entity or legal arrangement of which the natural person is the beneficial owner in accordance with Article 16(1) point (b), as well as the description of the control and ownership structure.</p> <p>(d) the full ownership chain up to the beneficial owner</p> <p>2.Beneficial ownership information shall be obtained within 14 calendar days from the creation of legal entities or legal arrangements. It shall be updated promptly, and in any case no later than 14 calendar days following any change of the beneficial owner(s), and on an annual basis.</p>	<p>arrangement, whether through ownership interest or control via other means, as well as the date of acquisition of the beneficial interest held, the value or reason of the acquisition (if free), the relationship with the former beneficial owner and the origin of the beneficial ownership (eg appointment of new beneficiary, issuance of new shares, etc);</p> <p>(c)information on the legal entity or legal arrangement of which the natural person is the beneficial owner in accordance with Article 16(1) point (b), as well as the description of the control and ownership structure.</p> <p>(d) the full ownership chain up to the beneficial owner</p> <p>2.Beneficial ownership information shall be obtained within 14 calendar days from before the creation of legal entities or legal arrangements. It shall be updated promptly, and in any case no later than 14 calendar days following any change of the beneficial owner(s), and on an annual basis.</p>
---	--

5) Access to beneficial ownership information

In short: Legal and beneficial ownership data should be available to the public for free. Ownership registries should be available online in open data format.

Long explanation:

All ownership information should be accessible through a single central registry (or platform), available online for free to any local or foreign public. It should be presented in open data format, or at least in copyable text and in a structured/tabular format. Eventually, all EU registries and those of accepted countries (eg the US, the UK) should be interconnected to allow for automated cross-checks.

The online platform's search capability should allow free text searches (no requirements for exact match) and Boolean searches (eg AND, OR, NOT, "") for any data field (eg company name, beneficial owner name, etc), offering advanced filters to select type of legal vehicle, residency of beneficial owners, date of incorporation, etc.

Available data should include all identity details as well as the nature of the beneficial ownership (eg John has 80% of shares, Mary is the settlor, etc). All information should be downloadable and reusable. In the most transparent

scenario, a history of all transactions, including the values of the transactions, their nature, and any relationships involved, should be accessible (eg John acquired 100 shares from Mary, an unrelated party, for \$1000, or Paul appointed his son Mike as a beneficiary of the trust for succession planning). The full ownership chain should be readily available. As well as links to all legal vehicles related to a beneficial owner or to another legal vehicle (eg shared address or director). The country should have a red-flag system, which should warn users (eg “this company has failed to update its information”).

Any cases to restrict access, say on humanitarian grounds, should be decided by an authority (eg a judge) on a case-by-case basis and should be reserved for extraordinary circumstances.

Partial improvement	Most transparent scenario
<p>Proposal for a Directive</p> <p>Art. 12- Specific access rules to beneficial ownership registers for the public</p> <p>1.Member States shall ensure that any member of the general public has access to the following information held in the interconnected central registers referred to in Article 10:</p> <p>(a)in the case of legal entities, 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, the date since they became beneficial owners, their status as a local or foreign politically exposed person (PEP), and the full ownership chain;</p> <p>(b)in case of express trusts or similar legal arrangements, 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, provided that a legitimate interest can be demonstrated.</p>	<p>Proposal for a Directive</p> <p>Art. 12- Specific access rules to beneficial ownership registers for the public</p> <p>1.Member States shall ensure that any member of the general public has access to the following information held in the interconnected central registers referred to in Article 10:</p> <p>(a)in the case of legal entities or legal arrangements, 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 the date since they became beneficial owners, their status as a local or foreign politically exposed person (PEP), the full ownership chain, the value or reason of the acquisition (if free), the relationship with the former beneficial owner, the origin of the beneficial ownership (eg appointment of new beneficiary, issuance of new shares, etc), and the links to any other legal vehicle related to the same beneficial owner, shareholder, etc;</p> <p>(b)in case of express trusts or similar legal arrangements, 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</p>

<p>In addition to the information listed in the first subparagraph, point (a), Member States may, under conditions to be determined in national law, provide for access to additional information necessary for the identification of the beneficial owner. That additional information shall include at least the date of birth or contact details in accordance with Union and Member State data protection rules.</p> <p>2. Member States may choose to make beneficial ownership information held in their central registers available to the public online and for free, without any registration requirement.</p> <p>on the condition of authentication using electronic identification means and relevant trust services as set out in Regulation (EU) 910/2014 of the European Parliament and of the Council 46 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>interest held, provided that a legitimate interest can be demonstrated.</p> <p>In addition to the information listed in the first subparagraph, point (a), Member States may, under conditions to be determined in national law, provide for access to additional information necessary for the identification of the beneficial owner. That additional information shall include at least the date of birth or contact details in accordance with Union and Member State data protection rules.</p> <p>2. Member States may choose to make beneficial ownership information held in their central registers available to the public online and for free in open data format, without any registration requirement and no tracking of the legal vehicles whose information was accessed (to prevent tipping them off) on the condition of authentication using electronic identification means and relevant trust services as set out in Regulation (EU) 910/2014 of the European Parliament and of the Council 46 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>
---	---

6) Verification of beneficial ownership information and red flagging

In short: Beneficial ownership registries should conduct automated analysis to check for consistency with other databases (eg to confirm that all registered beneficial owners are living persons). The online registry should introduce red flagging based on outliers and suspicious characteristics (eg a single person as a beneficial owner of thousands of companies).

Long explanation:

All registered data should be verified and confirmed by complying with the following steps:

1) Automation (rather than verification by humans): Verification should be automated to the extent possible to allow for several extra checks, to save resources, and to automate sanctions (eg the system could automatically penalise

or flag entities that fail to file an annual return on time, noting on the registry that the information is outdated).

2) Performing multiple types of checks: The following checks should be performed:

a. Consistency: The registered data (eg name, address, tax ID number) should be verified to confirm that it matches other government databases as well as data held by financial institutions and other entities obligated to perform customer due diligence. This information should also be checked against lists of people under sanctions.

b. Plausibility and legality: Information should be verified to confirm that the registered person is still alive and eg a director is not a minor. The address should be verified as well to ensure it exists and corresponds to a building, rather than to a park, for example.

5) Red flagging: Verification should involve an exploration of the data to determine what a typical company looks like in terms of layers, number of shareholders, etc. This should then be combined with additional government databases (eg declared income, credit card consumption, beneficiary of poverty pension, etc) to allow for red flagging based on the following:

a. Being an outlier (eg a small company with little declared income having an ownership chain of 20 layers of companies from secrecy jurisdictions up to the beneficial owner)

b. Suspicious characteristics (eg one beneficial owner appearing as the owner of thousands of companies, or an individual with no declared income appearing as the sole owner of a very profitable company, etc).

6) Checking foreigners without local data: For cases of foreign beneficial owners on whom the country has no data to cross-check, zero-proof checks should take place in which the beneficial owner registry of Country A would automatically query the civil registry of Country B regarding whether the registered data of John (a Country B resident) perfectly matches Country B's records. Country B would respond either "yes, his declared name, address, birth date, and tax ID number match our records" or "no, it doesn't" (without revealing the real data of John). If there is a mismatch, Country A should not allow John to register as a beneficial owner. Countries willing to engage in zero-proof checks could establish an "Alliance for Ownership Integrity" that defines and implements data formats and secure channels.

Partial improvement	Most transparent scenario
Proposal for a Directive 5. Member States shall require that the beneficial ownership information held in the central registers is adequate, accurate and up-to-date. For that purpose, Member State	Proposal for a Directive 5. Member States shall require that the beneficial ownership information held in the central registers is adequate, accurate and up-to-date. For that purpose, Member State

<p>shall apply at least the following requirements:</p> <p>(a) consistency based on cross-checks against other government databases as well as international sanctions lists and accessible private databases;</p> <p>(b) analysis and publication of the ownership structures of local legal vehicles (eg number of layers, nationality, number of beneficial owners, etc) to allow outliers to be audited;</p> <p>(c) obliged entities shall report to the entity in charge of the central registers any discrepancies they find between the beneficial ownership information available in the central registers and the beneficial ownership information available to them pursuant to Article 18 of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation].</p>	<p>shall apply at least the following requirements:</p> <p>(a) consistency based on cross-checks against other government databases as well as international sanction lists and accessible private databases; and legality-plausibility checks (eg confirming that an address exists in the city map and corresponds to a building rather than a park);</p> <p>(b) analysis and publication of the ownership structures of local legal vehicles (eg number of layers, nationality, number of beneficial owners, etc) to allow outliers to be audited;</p> <p>and analysis of the profile of beneficial owners based on tax authorities’ data on income, assets, credit card consumptions, etc, to detect outliers and de facto nominees</p> <p>(c) zero-knowledge proof checks on non-resident beneficial owners against the personal databases of foreign countries to ensure that the declared information perfectly matches the foreign country’s records.</p> <p>(d) obliged entities shall report to the entity in charge of the central registers any discrepancies they find between the beneficial ownership information available in the central registers and the beneficial ownership information available to them pursuant to Article 18 of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation].</p> <p>Obliged entities should assess their whole customer base to find unknown and undeclared connections among customers (eg those sharing the same director, beneficial owner, address, etc).</p>
--	---

7) Sanctions for non-compliance

In short: in addition to any criminal and/or monetary sanctions, administrative sanctions should be applied to remove non-complying legal vehicles from the registry and to revoke any rights from non-complying beneficial owners (eg votes or dividends).

Long explanation:

As proposed [here](#), administrative sanctions should apply in the following scenarios:

- a) **New legal vehicles** that failed to register all their legal and beneficial ownership information: These entities should not be allowed to incorporate or have any legal validity. Therefore, they would have no possibility to hold assets, enter contracts, etc.
- b) **Existing legal vehicles** that failed to comply or update their information: These entities should be suspended and ultimately removed from the registry. During the time of the suspension, financial institutions should not be allowed to open accounts for these entities or transfer money. Any contract entered should be considered void.

The registry should have a “constitutive effect” wherein ownership rights come into effect upon registration and become void upon failure to comply with registration update requirements. An unregistered beneficial owner would have no rights to dividends or votes until they are registered. If the unregistered beneficial owner has a secret agreement with a nominee who is registered, the nominee will be considered the sole and absolute owner by the law. A resigned director would still be liable until their name is deregistered.

Beneficial owners who fail to identify themselves to their legal vehicles should lose all their rights to the legal vehicle (eg right to vote, receive dividends, etc).

To enforce these provisions, financial institutions and businesspersons should be required to check the beneficial ownership registry before engaging in any transaction with a legal vehicle to make sure that it is still considered “compliant”.

Partial improvement	Most transparent scenario
<p>Proposal for a REGULATION</p> <p>Article 49- Sanctions Member States shall lay down the rules on sanctions applicable to infringements of the provisions of this Chapter and shall take all measures necessary to ensure that they are implemented. The sanctions provided for must be effective, proportionate and dissuasive. In addition to any civil or criminal sanctions, Member States must suspend the tax identification number of and eventually de-register (or prevent incorporation of) any legal vehicle that fails to register its</p>	<p>Proposal for a REGULATION</p> <p>Article 49- Sanctions Member States shall lay down the rules on sanctions applicable to infringements of the provisions of this Chapter and shall take all measures necessary to ensure that they are implemented. The sanctions provided for must be effective, proportionate and dissuasive. In addition to any civil or criminal sanctions, Member States must suspend the tax identification number of and eventually de-register (or prevent incorporation of) any legal vehicle that fails to register its</p>

<p>beneficial owners or update information. During suspension and after de-registration, non-compliant legal vehicles should be prevented from holding, disposing, transferring, managing, changing or in any way benefitting from any asset or bank account, and should be prevented from entering or executing any contract. Non-compliant beneficial owners who fail to disclose, update or correct their identities shall lose all rights to dividends, voting and power to transfer or acquire interests in the legal vehicle.</p> <p>Member States shall notify those rules on sanctions by [6 months after the entry into force of this Regulation] to the Commission together with their legal basis and shall notify it without delay of any subsequent amendment affecting them.</p>	<p>beneficial owners or update information. During suspension and after de-registration, non-compliant legal vehicles should be prevented from holding, disposing, transferring, managing, changing or in any way benefitting from any asset or bank account, and should be prevented from entering or executing any contract. Non-compliant beneficial owners who fail to disclose, update or correct their identities shall lose all rights to dividends, voting and power to transfer or acquire interests in the legal vehicle.</p> <p>The beneficial ownership register shall have a “constitutive effect” where rights and obligations exist since and during registration. No vote, dividend, or any other right or benefit shall be exercised until a beneficial owner is registered.</p> <p>Member States shall notify those rules on sanctions by [6 months after the entry into force of this Regulation] to the Commission together with their legal basis and shall notify it without delay of any subsequent amendment affecting them.</p>
---	--

8) Miscellaneous: preventing registrations of no beneficial owner, trustees and nominees

In short: There should be no situation where a legal vehicle does not have beneficial owners (such entities should not be allowed to register, and thus should not have legal validity). Either: at least one beneficial owner will always be identified (eg if the beneficial ownership definition has no thresholds) or, if thresholds are applied, then the top 10 shareholders should be identified up to a natural person. Nominee shareholders should be prohibited. When a trustee owns or holds an asset, eg in the real estate register, there should be an indication that this is just a trustee plus a disclosure of the trust and the trust’s beneficial owners (all settlors, trustees, protectors, beneficiaries and any other person with control over the trust).

Partial improvement	Most transparent scenario
Proposal for a REGULATION	Proposal for a REGULATION
Article 45- Obligations of legal entities (...)	Article 45 Obligations of legal entities

2. Where, after having exhausted all possible means of identification pursuant to Articles 42 and 43, no person is identified as beneficial owner, or where there is any doubt that the person(s) identified is the beneficial owner(s), the corporate or other legal entities shall **identify the top 10 beneficial owners (eg based on their shareholdings or voting rights)** ~~keep records of the actions taken in order to identify their beneficial owner(s):~~

~~3. In the cases referred to in paragraph 2, when providing beneficial ownership information in accordance with Article 16 of this Regulation and Article 10 of Directive [please insert reference— proposal for 6th Anti-Money Laundering Directive— COM/2021/423 final], corporate or other legal entities shall provide the following:~~

- ~~(a) a statement, accompanied by a justification, that there is no beneficial owner or that the beneficial owner(s) could not be identified and verified;~~
- ~~(b) the details on the natural person(s) who hold the position of senior managing official(s) in the corporate or legal entity equivalent to the information required under Article 44(1), point (a):~~

Article 46- Trustees obligations

(...)

2. The persons referred to in paragraph 1 shall disclose their status and provide the information on the beneficial owner(s) to obliged entities **and to any asset or beneficial ownership register (eg the real estate register), disclosing the trust for which they act as trustees as well as all of the trusts' beneficial owners when the obliged entities are taking customer due diligence measures in accordance with Chapter III.**

(...)

2. Where, after having exhausted all possible means of identification pursuant to Articles 42 and 43, no person is identified as beneficial owner, or where there is any doubt that the person(s) identified is the beneficial owner(s), the corporate or other legal entities shall **not be allowed to register until the doubts have been cleared, with all their rights and legal status suspended and eventually cancelled based on the (proposed) provision on sanctions**

~~keep records of the actions taken in order to identify their beneficial owner(s):~~

~~3. In the cases referred to in paragraph 2, when providing beneficial ownership information in accordance with Article 16 of this Regulation and Article 10 of Directive [please insert reference— proposal for 6th Anti-Money Laundering Directive— COM/2021/423 final], corporate or other legal entities shall provide the following:~~

- ~~(a) a statement, accompanied by a justification, that there is no beneficial owner or that the beneficial owner(s) could not be identified and verified;~~
- ~~(b) the details on the natural person(s) who hold the position of senior managing official(s) in the corporate or legal entity equivalent to the information required under Article 44(1), point (a):~~

Article 46- Trustees obligations

(...)

2. The persons referred to in paragraph 1 shall disclose their status and provide the information on the beneficial owner(s) to obliged entities **and to any asset or beneficial ownership register (eg the real estate register), disclosing the trust for which they act as trustees as well as all of the trusts' beneficial owners when the obliged entities are taking customer due diligence measures in accordance with Chapter III.**

<p>Article 47- Nominees obligations</p> <p>Nominee shareholders and nominee directors of a corporate or other legal entities shall maintain adequate, accurate and current information on the identity of their nominator and the nominator’s beneficial owner(s) and disclose them, as well as their status, to the corporate or other legal entities. Corporate or other legal entities shall report this information to the registers set up pursuant to Article 10 of Directive [please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final].</p> <p>Corporate and other legal entities shall also report this information to obliged entities when the obliged entities are taking customer due diligence measures in accordance with Chapter III.</p>	<p>Article 47- Nominees obligations</p> <p>Nominee shareholders and nominee directors of a corporate or other legal entities shall be prohibited. maintain adequate, accurate and current information on the identity of their nominator and the nominator’s beneficial owner(s) and disclose them, as well as their status, to the corporate or other legal entities. Corporate or other legal entities shall report this information to the registers set up pursuant to Article 10 of Directive [please insert reference – proposal for 6th Anti-Money Laundering Directive – COM/2021/423 final].</p> <p>Corporate and other legal entities shall also report this information to obliged entities when the obliged entities are taking customer due diligence measures in accordance with Chapter III.</p>
--	---

Consistency changes to the proposed Directive

For consistency reasons, given that the draft AML Package contains provisions on beneficial ownership registration both in the draft EU Regulation as well as in the draft EU Directive (AMLD 6), the explanations and proposed amendments mentioned above for the draft EU Regulation should be implemented in the draft Directive (AMLD 6), as proposed in the next table.

Partial improvement	Most transparent scenario
<p>Proposal for a Directive Article 10 -Beneficial ownership registries</p> <p>1. Member States shall ensure that beneficial ownership information referred to in Article 44 of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final] and information on nominee arrangements referred to in Article 47 of that Regulation</p> <p>is held in a central register in the Member State where the legal entity is incorporated or where the trustee or person holding an</p>	<p>Proposal for a Directive Article 10 -Beneficial ownership registries</p> <p>1. Member States shall ensure that beneficial ownership information referred to in Article 44 of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final] and information on nominee arrangements referred to in Article 47 of that Regulation</p> <p>is held in a central register in the Member State where the legal entity is incorporated or where a trust or similar legal arrangement is created according to or</p>

equivalent position in a similar legal arrangement is established or resides.

~~Such requirement shall not apply to companies listed on a regulated market that are subject to disclosure requirements equivalent to the requirements laid down in this Directive or subject to equivalent international standards.~~

The beneficial ownership information contained in the central registers may be collected in accordance with national systems.

2. Where there are reasons to doubt the accuracy of the beneficial ownership information held by the central registers, Member States shall ensure that legal entities and legal arrangements **identify the top 10 beneficial owners, eg based on their shareholdings or voting rights.**

~~are required to provide additional information on a risk sensitive basis, including resolutions of the board of directors and minutes of their meetings, partnership agreements, trust deeds, power of attorney or other~~

governed by local laws, or where any foreign legal person or arrangement holds registrable assets or operations or has a participant (eg beneficial owner, shareholder, director, trustee, settlor, beneficiary, etc) who is locally resident. in the trustee or person holding an equivalent position in a similar legal arrangement is established or resides.

Such requirement shall **not** apply to companies listed on a regulated market ; ~~that are subject to disclosure requirements equivalent to the requirements laid down in this Directive or subject to equivalent international standards.~~ and investment funds, where the beneficial ownership definition should refer to an end-investor who ultimately owns, holds, controls or benefits from an interest or investment in the listed company or investment fund of at least 1,000 Euro. The EU Commission should study the best alternative to report changes of holdings especially in case of high-frequency trading and the use of omnibus accounts; and for legal persons owned by government entities, special provisions should only refer to the percentage of interests held by a government entity and should include the list of public officials with decision making power and power to manage or dispose of the entity's assets and income.

The beneficial ownership information contained in the central registers may be collected in accordance with national systems.

2. Where there are reasons to doubt the accuracy of the beneficial ownership information held by the central registers, Member States shall ensure that legal entities and legal arrangements **shall not be allowed to register until the doubts have been cleared, with all their rights and legal status suspended and**

~~contractual agreements and documentation.~~

~~3. Where no person is identified as beneficial owner pursuant to Article 45(2) and (3) of Regulation [please insert reference—proposal for Anti-Money Laundering Regulation—COM/2021/420 final], the central register shall include:~~

~~(a) a statement accompanied by a justification, that there is no beneficial owner or that the beneficial owner(s) could not be identified and verified;~~

~~(b) the details of the natural person(s) who hold the position of senior managing official(s) in the corporate or legal entity equivalent to the information required under Article 44(1), point (a), of Regulation [please insert reference—proposal for Anti-Money Laundering Regulation—COM/2021/420 final].~~

eventually cancelled based on the (proposed) provision on sanctions.

~~are required to provide additional information on a risk-sensitive basis, including resolutions of the board of directors and minutes of their meetings, partnership agreements, trust deeds, power of attorney or other contractual agreements and documentation.~~

~~3. Where no person is identified as beneficial owner pursuant to Article 45(2) and (3) of Regulation [please insert reference—proposal for Anti-Money Laundering Regulation—COM/2021/420 final], the central register shall include:~~

~~(a) a statement accompanied by a justification, that there is no beneficial owner or that the beneficial owner(s) could not be identified and verified;~~

~~(b) the details of the natural person(s) who hold the position of senior managing official(s) in the corporate or legal entity equivalent to the information required under Article 44(1), point (a), of Regulation [please insert reference—proposal for Anti-Money Laundering Regulation—COM/2021/420 final].~~