

# OPEN DATA FORMAT FOR BENEFICIAL OWNERSHIP INFORMATION



## AMLD IV

The fourth Anti-Money Laundering Directive (AMLD IV) was adopted on 20 May 2015. One of the most important developments to increase transparency in the AMLD IV was the introduction of centralised national registers of beneficial ownership (BO). However, the adopted Directive has a number of caveats that can have an impact on its real benefit to people in the European Union and elsewhere. As always with Directives, it only sets a minimum standard, leaving some leeway as it is transposed by EU member states (within two years of its adoption).

Now that the implementation period is nearing its halfway mark, each member state has a great opportunity to make the registers reach their fullest potential; sharing public and easily accessible information about the true owners of European companies. However, these are make-or-break decisions; short-sighted implementation might risk the continuation of money laundering and terrorism financing practices.

The main issues causing uncertainty regarding the registers are 1) 'legitimate interest' to access the register, 2) privacy protection regimes used in the register, and 3) the data format of the registers. This is the third of a series of three papers addressing these issues, and the focus here will be on the register's open data format.

## Why Open Data

Public access to data does not automatically mean that it would be 'open data', data has to be freely used, modified and shared by anyone in order to be open. As the Open Knowledge Foundation reminds: "Transparency isn't just about access, it is also about sharing and reuse."<sup>1</sup> Thus in order to make the most of the public BO registers, the public authorities should ensure that the information in the registers will be disseminated in an open data format (and not in, e.g., single PDF reports). This ensures that all stakeholders benefit from the registers: businesses, researchers, journalists and tax administrations, as well as the public in general.

Open data leads to a more supportive business environment and a better functioning economy. The UK Companies House has had very good experiences with using open datasets; the use of data by all stakeholders increases when it is disseminated for free. According to the Director of Companies House, "This can only be good for the economy as it encourages people to use the data in new and innovative ways, carry out more analysis on companies,

and make better decisions."<sup>2</sup> Open data format would also enhance the cross-border activities of European businesses. In an ideal situation BO data would be registered and shared in a similar open data format all over Europe, minimising compliance costs for entrepreneurs working in several member states and making



it easier to vet potential business partners across the continent. Open data is also crucial for civil society, journalists and academia. Open data format gives journalists and civil society organisations (CSOs) a very cost-effective way to monitor corrupt and tax avoidance practices; sharing the work burden of tax administrations for doing so in the process. The access to data is equally important for the academic community. Being able to use and combine several datasets across different member states makes these actors' work more efficient.

## Free Access to Datasets is Cost-effective

Collecting fees on individual searches on the data would hinder its applications in research and investigations that are aiming to support people and companies in making better informed decisions. Ability to use all of the dataset freely increases its use and brings public benefits. As an open data expert working for Open Knowledge and Global Witness puts it, "No single public dataset is likely to unearth substantial corruption on its own. The real value tends to come when these data-

<sup>1</sup> See definitions for open data: <http://opendefinition.org/>; Open Government Data website: <http://opengovernmentdata.org/>

<sup>2</sup> Companies House video: <https://www.youtube.com/watch?v=27CT4m4-DJk>. Companies House makes the data available through an API which enables thirdparty actors to ingest, analyse and re-publish this information.

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sets are combined in ways not anticipated by the publisher.”<sup>3</sup> Public authorities might stand to gain the most out of open data. As mentioned above, their workload becomes lighter when more stakeholders can scrutinise the data. What is even more significant, open data format maximizes the deterrent effect of the BO registers; for example tax administrations do not have to engage in costly back-tax disputes when the use of aggressive tax planning structures is diminished in the first place. The directive explicitly states that the fees on data access cannot exceed the administrative costs of maintaining and sharing them. Thus, these fees wouldn't provide any income for the public authorities since they are only permitted to offset the costs that can be eliminated almost entirely by using open data – there would be no need for responding to individual data requests and packaging and repackaging the collected information to send it around to other European public authorities. Cooperation between European registers is indeed very important already in this first implementation phase, since the Commission will propose a plan for interconnecting the European BO registers by 2019.<sup>4</sup> Future adjustment costs can all be avoided by adopting a similar open data format across all European registers now.

## Open Data Elsewhere

Principles of open data standards have become more and more prominent amongst governments. Twenty out of 28 EU member states<sup>5</sup> are members in the Open Government Partnership, an initiative that “aims to secure concrete commitments

from governments to promote transparency, empower citizens, fight corruption, and harness new technologies to strengthen governance.”<sup>6</sup> In addition, the UK, France and Italy recently signed the International Open Data Charter which mandates that data released by governments comply with these principles:<sup>7</sup>

- o Open by Default
- o Timely and Comprehensive
- o Accessible and Usable
- o Comparable and Interoperable
- o For Improved Governance and Citizen Engagement
- o For Inclusive Development and Innovation

The UK has already designed their BO register to be based on open data format and it is likely that other member states committed to the principles of open government follow their lead. This is an opportune moment for the national registers to cooperate in establishing an open data format that works the best for the European public.<sup>8</sup>

<sup>3</sup> <https://www.globalwitness.org/en-gb/blog/open-data-can-make-world-better-place-only-if-we-know-how-use-it/>

<sup>4</sup> 4th AML Directive, Articles 30(10) and 31(9).

<sup>5</sup> The UK, Greece, Bulgaria, Romania, Italy, Croatia, Czech Republic, Slovakia, Latvia, Lithuania, Estonia, Sweden, Denmark, Spain, Hungary, The Netherlands, Finland, France, Ireland, Malta. From <http://www.opengovpartnership.org/countries>

<sup>6</sup> <http://www.opengovpartnership.org/about#sthash.WiUWPtY8.dpuf>

<sup>7</sup> In total 18 national and local governments signed the charter in November 2015: <http://opendatacharter.net/principles/>

<sup>8</sup> European national registers are meeting to discuss these issues on March 10th and May 9-13th this year: <http://www.ecrforum.org/>

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