

BENEFICIAL OWNERSHIP TRANSPARENCY: CASE STUDY

EU ISSUES 5TH ANTI-MONEY LAUNDERING DIRECTIVE

This case study is part of a retrospective evaluation sponsored by [TAI](#) to assess the roles and contributions of TAI funder members & grantee partners in achieving select policy outcomes advancing global beneficial ownership transparency (BOT) from 2016-2021. See full report for insights across outcomes.

WHAT WAS THE OUTCOME?



On June 19th, 2018, the 5th Anti-Money Laundering Directive (5AMLD), which amended the 4th Anti-Money Laundering Directive (4AMLD), was published in the Official Journal of the European Union. The Directive requires public disclosure of beneficial ownership for all companies in EU countries by 2020.

WHO CONTRIBUTED TO THE OUTCOME?

TAI FUNDERS

OSF, Hewlett, Luminate, Ford, FDCO (DFID)

GRANTEE PARTNERS

- B-Team
- European Network on Debt and Development (Eurodad)
- Financial Transparency Coalition
- Global Witness
- Glopolis
- ONE Campaign
- Open Corporates
- Open Government Partnerships
- OSEPI
- Publish What You Pay
- Tax Justice Europe
- Tax Justice Network
- Transparency International
- Transparency International UK

The adoption of 5AMLD required support from both European Parliament and Member States (“the Council”). To achieve the outcome, grantee partners focused their campaign efforts on changing the position of Member States (the “Council”) to support BOT in AMLD5, as the European Parliament had already voted in favor of the inclusion in 4AMLD.

Civil society organizations and advocates spent years campaigning for the 4th AMLD and were disappointed with the 2015 outcome. The major turning point was the release of the Panama Papers, which forced the EU Commission to immediately revisit the 4th AMLD less than one year after it was enacted. The UK’s adoption of public registers in 2016 also created momentum and provided an example for EU Member States to do the same.

After a concerted campaign across EU member states, civil society organizations and coalitions were prepared to mobilize and leverage political will after the Panama Papers scandal to gain the support from Member States to require public registers. The European Network on Debt and Development played a major role in coordinating 59 civil society organizations from 28 European countries to implement public education campaigns, build relationships with investigative journalists and the media, and negotiate on legislation, engage in direct advocacy with EU Parliament and Council Members.

HOW WAS THE OUTCOME ACHIEVED?

The 5th Anti-Money Laundering Directive (5AMLD) built upon the 4th AMLD, which allowed member states to make beneficial ownership information public, but did not provide any recommendations regarding whether or not member states should publish BOT registers. Civil society efforts started in 2013 during negotiations for the EU’s 4AMLD, and increased in 2016 in the wake of terrorist attacks and the revelations of the Panama Papers scandal, and as part of the Commission’s Action plan to strengthen the fight against terrorist financing.

MOST CRITICAL ENABLING FACTORS

GLOBAL EVENTS WITH LOCAL IMPLICATIONS

- Global movement towards anti-corruption and tax justice
- UK's G8 leadership and launch of public BO registry
- Dignity Revolution in Ukraine
- Release of the Panama Papers played a major role in revising the previous Anti-Money Laundering Directive to include a beneficial ownership requirement.

MEDIA COVERAGE

- Grantee partners built relationships with journalists, and were prepared with resources and arguments to respond quickly to major news stories (e.g., Offshore Leaks in 2013, Panama Papers, Deutsche Bank laundering money).

ROLE OF CIVIL SOCIETY

- Civil society organizations brought together legal and technical experts to dismantle arguments and combat misinformation.
- There was coordinated civil society efforts through joint research, joint communications, and joint campaigning across member states and organizations.
- CSOs engaged in campaigning with members of Parliament, Council, and Commission; providing policy analysis to prepare for dialogue negotiations.

INDIVIDUAL CHAMPIONS

- European Parliament rapporteur appointed to the AMLD5 really understood BOT and worked closely with civil society.
- Senior member of the German Finance Ministry, who was strongly against BOT, retired; allowing for Germany to change their position on BOT.
- Eurodad members and allies played a role in identifying champion governments that were ready to play a lead on BOT registers.

GLOBAL STANDARDS AND NORMS

- EITI standard requirement helped build the case for the EU directive.

BIGGEST BARRIERS TO PROGRESS

- Grantee partner efforts started in 2013 during negotiations for the EU's 4th Anti-Money Laundering Directive. Grantee partners explained that there was political gridlock for a long time, and policymakers were stuck in their trenches.
- The final legislation does not include public BO registers for trusts, which was one of the major goals for civil society organizations. Nonetheless, they were able to secure centralized BO registers for trusts with access for law enforcement, obligated entities, and those with "legitimate interests" as defined by member states.
- Lack of clarity for policy implementation at the national level.

DIRECT FUNDING OUTCOMES

- Funders, such as OSF, Hewlett, Luminate, Ford, FDCO (DFID), were supportive in funding coordination and specific activities in key countries, which is critical for EU-level change.
- Early funding from NORAD and the European Commission created the pan-European coalition, Tax Justice Europe, across organizations working on BOT.
- OSF funding was critical after the EU Commission grants ended during the final stage of negotiations for the 5th AMLD. OSF bridged the funding gap that allowed grantee partners to maintain pressure needed until the end of negotiations.

ADDITIONAL OR UNINTENDED OUTCOMES

- UK leadership on BOT and launch of public registry spurred global attention and led 11 countries to make commitments at the London Anti-Corruption Summit.
- Funding has shifted out of advocacy donors into multi-laterals as it has moved from a niche issue to global norm.
- Early success from groups like Global Witness attracted additional funding.
- There are still unknown implications. However, a follow-up case study is currently being conducted to assess actual impacts since the registry.

SIGNIFICANCE OF OUTCOME

Members of the European Parliament voted in favor of the legislation with guidance from the OECD, dramatically expanding the number of countries mandated to publish beneficial ownership registries. This outcome played a major role strengthening the global norm of beneficial ownership transparency by demonstrating commitment across an entire region. However, policy implementation now faces lack of clarity at the national level.

BIGGEST LESSON LEARNED

Grantee partners emphasized that the most important lesson is to never give up. Although the 4th Anti-Money Laundering Directive did not include BOT, grantee partners stayed committed to the cause and were prepared to mobilize in response to the Panama Papers. The sustained effort leading up to the 4th AMLD made it possible to quickly achieve the 5th AMLD.