

Leaks and the end of opaque structures

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After 2009, the end of banking secrecy for accounts in a client's own name did not immediately end the use of more complex structures. Many clients held their assets through offshore companies, foundations or trusts, which were in turn administered by Swiss banks, trustees and lawyers. The European Savings Tax Agreement did not apply to such entities, and the early exchange of information on request required the requesting state to know whom it was looking for. Opaque structures in jurisdictions such as Panama and the British Virgin Islands therefore remained attractive for a time.

The publication of the Panama Papers in April 2016 changed this situation. An international consortium of investigative journalists published information from the internal files of a Panamanian law firm that had incorporated and administered offshore companies for clients around the world, often through intermediaries in Switzerland and other financial centres. The publication revealed the names of politicians, public officials and wealthy individuals and was followed by investigations in many countries. Swiss intermediaries, among them banks and law firms, were reported to have been among the most active users of the law firm's services.¹

Further leaks followed, among them the Paradise Papers of 2017, the Pandora Papers of 2021 and the Suisse Secrets of 2022. Each publication confirmed that the files of intermediaries could no longer be considered safe. Since a structure could be revealed at any time through a leak, the confidentiality of structures based on nominees and offshore companies lost much of its value. At the same time, the Common Reporting Standard required financial institutions to identify the controlling persons of passive entities and to report them to their countries of residence, so that interposed companies no longer prevented the exchange of information.²

The leaks also accelerated the introduction of registers of beneficial owners. The European Union required its member states to establish central registers of beneficial owners, and Switzerland, after long resistance, has moved towards a federal register of beneficial owners of legal entities. The combined effect of these instruments is that the beneficial owner of a structure is now known to the bank, reported to the tax authorities and, in many jurisdictions, recorded in a register accessible to authorities. Structures still serve legitimate purposes of succession planning, asset protection and governance, although their usefulness as a means of concealment has largely disappeared. The previous chapter discusses these developments in detail.³

1 Notes

1. On the Panama Papers published in April 2016 by the International Consortium of Investigative Journalists on the basis of data from the law firm Mossack Fonseca, and the reported role of Swiss intermediaries, see the publications of the ICIJ and the press reports. To be verified. ↩
2. On the Paradise Papers (2017), the Pandora Papers (2021) and the Suisse Secrets (2022), and the rules of the Common Reporting Standard on the identification of controlling persons of passive non-financial entities, see the publications of the ICIJ, the OECD and the press reports. To be verified. ↩
3. On the registers of beneficial owners under the EU anti-money laundering directives and the Swiss Federal Act on the Transparency of Legal Entities (federal register of beneficial owners), see the relevant legislation. Status to be verified. ↩

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