

Transparency: automatic exchange of information and registers

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The structures discussed in this chapter were long valued for their discretion. Over the past decade, transparency obligations have transformed them. The automatic exchange of financial account information (AEOI), which Switzerland introduced with effect from 1 January 2017 and under which it first exchanged data in 2018, applies to trusts in two ways. Part G of this book described the end of banking secrecy for foreign clients and the introduction of AEOI in general terms. For trusts the details matter. A trust whose trustee is itself a financial institution, typically a professional trust company, is treated as a financial institution in its own right. It must then report its settlors, beneficiaries, protectors and other controlling persons as account holders. A trust with a non-professional trustee is usually treated as a passive non-financial entity, and the bank at which it holds its account reports the controlling persons of the trust.¹ Either way, the tax authorities of the countries where the settlor and beneficiaries reside receive information about the trust. The OECD Common Reporting Standard thus ended the practical anonymity of trusts vis-à-vis the tax authorities of participating states.

Registers of beneficial owners form the second element of transparency. Liechtenstein, Jersey and the member states of the European Union have introduced such registers in recent years, with access rights that differ from one jurisdiction to another. Switzerland has for a long time relied on the obligations of financial intermediaries to identify the beneficial owners of their clients, together with the obligation of shareholders to report beneficial owners of bearer and registered shares to the company. In 2024 the Federal Council submitted to Parliament a bill for a Federal Act on the Transparency of Legal Entities, which provides for a central register of beneficial owners kept by the Confederation. Parliament adopted the Act in 2025, and the register and the associated new reporting and due diligence obligations are scheduled to apply from 1 October 2026.² The

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register covers legal entities under Swiss law, including foundations, and certain foreign entities with a Swiss connection. Trusts, which are not legal entities, are reached indirectly through the obligations of trustees as financial intermediaries and through the entities they hold.

For families and their advisers, the practical consequences of transparency are considerable. Structures that relied on confidentiality alone have lost their *raison d'être*, and many were dissolved in the years after 2017. Those that remain must be defensible on their merits: for succession, governance, asset protection or philanthropy, and in a manner consistent with the tax laws of every country concerned. This has shifted the work of Zurich practitioners from the design of discreet structures towards the design of compliant and robust ones. The shift has favoured larger and better organised firms, which can combine legal, tax and regulatory expertise across several jurisdictions.

1 Notes

1. ESTV, “Automatic exchange of information (AEOI)”, stating that the legal basis entered into force on 1 January 2017 and that the first exchange took place in 2018, <https://www.estv.admin.ch/estv/en/home/international-fiscal-law/automatic-exchange-information-aeoi.html>. On the classification of trusts according to professional administration by a financial institution, see Bär & Karrer, briefing on the automatic exchange of information (November 2016), https://media.baerkarrer.ch/karmarun/image/upload/baer-karrer/BK_Briefing_Automatic_Exchange_of_Information.pdf. ↩
2. Mondaq, “Act On The Transparency Of Legal Entities And Revised Anti-Money Laundering Act – Entry Into Force Confirmed For 1 October 2026”, <https://www.mondaq.com/corporate-and-company-law/1802206/act-on-the-transparency-of-legal-entities-and-revised-anti-money-laundering-act-entry-into-force-confirmed-for-1-october-2026>. The register is kept by the Federal Office of Justice and is not public. Part I of this book deals with the register and the related amendments of the Anti-Money Laundering Act. ↩

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