

Stockholm, April 23, 2013

Dear Ministers Anders Borg, Peter Norman and Gunilla Carlsson

We are writing to you regarding the upcoming exchange of views on the Anti-Money Laundering Directive (AMLD) on 24 April.

As Europe is struggling financially and its citizens are suffering from severe budget cuts, EU Member States lose around €860 billion annually to illicit financial flows, €1 trillion if adding tax avoidance.¹ The review of the AMLD presents an opportunity to curb such illicit flows. **We urge you to take the following recommendations into account when developing your initial positions:**

Make it your priority to ensure national public registries of real owners of companies, trusts and foundations.

Companies and other legal structures that are anonymously owned and controlled are a key mechanism of laundering money, illegally evading and legally avoiding tax payments. The recent de-masking of leaked information of hidden company structures and ownership shows how *“a well-paid industry of accountants, middlemen and other operatives has helped offshore patrons shroud their identities and business interests, providing shelter in many cases to money laundering or other misconduct.”*² Some governments, including the French, Belgian³ and German⁴ have immediately demanded access to the leaked data. This triggers the question: Why do not governments collect this information themselves?

The European Commission (EC) draft proposal includes a positive yet minor measure towards greater transparency of company ownership. It proposes that all companies must internally hold their own beneficial ownership information and make this available to relevant government authorities and financial institutions. This is not an efficient way of proceeding as the EC proposal implies that law enforcers should already know about infractions and would have to pro-actively approach a company for its ownership information. This is a highly inefficient system, and importantly it will signal to wrongdoers that they are being checked.

To help Member States be efficient in identifying criminals, the AMLD must be clear on requesting public government registries of beneficial owners of companies, trusts and foundations. Public information will increase the use by third parties, including developing countries, researchers, media and non-governmental organisations who can shed light on illegal practices, giving Member States the public support they need to clamp down on economic crime. Government registers also save money. Three cost benefit analyses carried out by the UK government⁵, the European Commission⁶ and Global Witness⁷ all conclude that the benefits of public registries outweigh the costs.

1 EC DG Taxation and Customs Union: http://ec.europa.eu/taxation_customs/taxation/tax_fraud_evasion/index_en.htm

2 The International Consortium of Investigative Journalists: <http://www.icij.org/offshore>

3 Le Soir, <http://www.lesoir.be/222354/article/economie/2013-04-09/offshoreleaks-france-demande-presse-lui-remettre-fichiers>

4 Süddeutsche Zeitung, <http://www.sueddeutsche.de/kolumne/in-eigener-sache-warum-die-sz-die-offshore-daten-nicht-dem-staat-geben-wird-1.1641240>

5 http://webarchive.nationalarchives.gov.uk/+http://www.hm-treasury.gov.uk/media/9/9/ownership_long.pdf

6 http://transcrime.cs.unitn.it/tc/fso/pubblicazioni/AP/CBA-Study_Final_Report_revised_version.pdf

7 http://www.globalwitness.org/sites/default/files/library/GraveSecrecy_singlepagefinal.pdf

Other necessary measures to get illegal money back into the tax net:

Make tax crimes fully qualify for money laundering offences: Money laundering is by its very nature a secondary crime. It is the process of concealing and using the proceeds of a “predicate offence”, such as corruption, drug trafficking or terrorism.

The EC proposal only includes tax crimes as a predicate offence in its block definition of “serious crimes”. This is a problem because some Member States’ definition of “serious crimes” does not cover even serious tax evasion.⁸ It is therefore important that the EU AMLD explicitly lists tax crimes as a predicate offence for money laundering, as recommended by the Financial Action Task Force (FATF). This would imply that all financial intermediaries and banks must look out for transactions that could be tax evasion. Improved due diligence will make it harder for tax evaders whether from another member state or a developing country to get their money into the EU banking system.

Automatic information exchange: Money laundering, including tax crimes, is often a crime that crosses many borders and it is crucial that national authorities share information among themselves. The EC proposal expands the cooperation expected between financial intelligence units within the EU, but maintains information exchange on a spontaneous or on request basis. To ensure efficient implementation, information exchange should be automatic. This is more efficient, particularly because information exchange paradoxically requires the requesting entity to already know what information it should request (information that it is not likely to have).

Collaboration with non-EU countries: The EC acknowledges the importance of global coordination and cooperation, but the proposal does not address the question of sharing information with non-EU countries. We believe that this does not make sense given that the legislation applies to laundering the proceeds of crimes regardless of where they happen in the world. Not only does this abrogate moral responsibility for vast amounts of developing countries’ money which ends up in the global north, this also misses an opportunity to plan for mutually beneficial cooperation between the EU and third countries.

If Sweden is serious about EU commitments to combating tax crimes, we believe you should use the review of the AMLD to put words into practice.⁹ If effectively implemented, the above recommendations would help bring trillions of dollars of offshore wealth back into the tax net. If countries could start to recover this untaxed wealth, it could have an enormous impact on people’s lives in the EU and beyond. Moreover it would show the EU as a global leader in the fight against illicit financial flows.

We look forward to hearing your views on the above mentioned issues and would welcome an opportunity to discuss further.

Sincerely yours,



Annica Sohlström
Secretary General, Forum Syd



Magnus Falklöf
Director, Concord Sweden

⁸ See Eurodad: Secret structures, hidden crimes for more information and recommendations: <http://eurodad.org/1544288/>

⁹ See EU Council Conclusions, 1-2 March 2012: http://europa.eu/rapid/press-release_DOC-12-4_en.htm