Walder Wyss Newsletter | **231**

Identification of Beneficial Owners: New Obligations and Implications for Criminal and Civil Proceedings in the context of the new Transparency Register

Since 1 October 2026, legal entities subject to the Transparency Act are required to identify their beneficial owners and report them to the new Transparency Register. The Transparency Act increases transparency in relation to participation and control structures and makes it easier for the authorities to access relevant information. This newsletter explains who is regarded as a beneficial owner as well as the implications of the Transparency Act for criminal and civil proceedings.

The Beneficial Owner under the new Transparency Act and its Impact on Criminal and Civil Proceedings

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Under the new Swiss Federal Act on the Transparency of Legal Entities and the Identification of Beneficial Owners (the **Transparency Act**), which entered into force on 1 October 2026, Swiss companies and certain foreign legal entities subject to the Transparency Act (the **Reporting Legal Entities**) are required to identify their beneficial owners (the **BOs**) and report their identity to the newly created transparency register (the **Transparency Register**).

The Transparency Register is not publicly accessible. However, many authorities, among others, will be able to access stored data online and thereby locate the persons behind a Reporting Legal Entity who were previously unknown (i.e. the BOs).

1. The Purpose of the Transparency Act

The objective of the Transparency Act is to increase transparency in relation to legal entities and to strengthen anti-money laundering measures. The aim of the Transparency Register is to enable the authorities to identify who is behind a legal structure more efficiently, quickly and reliably. Ultimately, this new transparency is intended to prevent control structures from being misused for money laundering, terrorist financing, corruption, or the circumvention of sanctions.

The Transparency Act and the associated Ordinance on the Transparency of Legal Entities and the Identification of Beneficial Owners (the **Transparency Ordinance**) implement the recommendations of the international *Financial Action Task Force*. The Transparency Act imposes numerous obligations on Reporting Legal Entities as well as their holders of participations (the **Shareholders**) and BOs (see also the overview in Dario Galli and Alex Nikitine, WW Newsletter No. 215, September 2025).

2. Identifying the BO

A BO within the meaning of the Transparency Act is any **natural person** who controls a Reporting Legal Entity in the following way:

- *Direct participation*: control through direct participation occurs when a natural person is **themselves** a Shareholder and holds at least **25% of the capital or voting rights of the Reporting Legal Entity** (see Figure A).
- *Indirect participation*: participation is indirect if one or more legal entities or trusts are **interposed between** the entity and the ultimate owner. Here, a Reporting Legal Entity can be controlled if the BO holds more than **50%** of the capital or voting rights of one or more **intermediary legal entities**, which directly or indirectly hold at least **25%** of the capital or voting rights **of the Reporting Legal Entity** (see Figure B).
- *By other means*: a BO is also deemed to be a person who – irrespective of the capital or voting rights held – has the **right or the actual ability** to control the Reporting Legal Entity (see Figure C). Specifically, this includes the right or ability: (1) to appoint or remove more than half of the members of the management or administrative body; (2) to veto key decisions regarding the Reporting Legal Entity's purpose, management appointments, strategy, budget, investments, or equity or debt financing; or (3) to procure distributions of profits or other disposals of assets of the Reporting

Legal Entity. In addition, control may also be exercised "by other means", in particular through: (1) agreements with shareholders or members; (2) capital instruments such as options, debt instruments, convertible bonds or profit-linked loans; (3) provisions in the incorporation deed or the articles of association of the Reporting Legal Entity; (4) legal representation arrangements, in particular representation arrangements under family law or voluntary representation arrangements established on a permanent footing; (5) fiduciary relationships; or (6) relationships between related parties. Control by other means – analogous to the control through participation – may be exercised directly or indirectly through one or more intermediary legal entities or trusts.

- *Joint control*: Joint control exists where shareholders **coordinate** their **conduct** in order to exercise control over a Reporting Legal Entity. Such joint control may result from a direct or indirect participation or occur by other means. Again, it is necessary for the parties to reach the threshold of 25% of the capital or voting rights of the Reporting Legal Entity on the basis of their aggregate holdings (see Figure D) or to control the Reporting Legal Entity by other means.

If no natural person meets these criteria (e.g. if no person holds a stake of 25% and no person exercises control "by other means"), the highest-ranking member of the management or administrative body of the Reporting Legal Entity is deemed to be the BO on a subsidiary basis. Legal entities cannot themselves be BOs.

3. Identification and Notification Obligations

On the one hand, the **Reporting Legal Entity** is responsible for identifying and reporting its BOs. It must identify its BOs, obtain the necessary information and report the identity of the BOs to the Transparency Register (so-called *front-end* notification obligation).

On the other hand, **Shareholders** must provide the Reporting Legal Entity with the information concerning their BOs within one month of the time when control arises (so-called *back-end* notification obligation) so that the Reporting Legal Entity can comply with its front-end notification obligation (see also, for the notification system and the transitional periods under the Transparency Act, Dario Galli, Letizia Schlegel, Kevin Laurent and Fabian Akeret, WW Newsletter No. 230, September 2026).

In addition, the **BO** is also subject to a notification obligation: The BO must provide the Shareholder with the information required for the Shareholder to fulfil its back-end notification obligation towards the Reporting Legal Entity. If there is a "control chain", i.e. if a trust, a fiduciary relationship or at least two natural persons, legal entities or trusts are interposed between the BO and the Reporting Legal Entity, the BO must submit the relevant information **directly** to the Reporting Legal Entity (so-called direct notification; *Sprungmeldung*). The same applies if the BO controls the Reporting Legal Entity by other means. This gives rise to particular **duties of care** for the BO to ensure that the BO can comply with its notification obligation in a timely manner where it acquires control over a Reporting Legal Entity indirectly through one or more intermediary legal entities.

The Reporting Legal Entity, the Shareholders and the BOs are also subject to an ongoing obligation to report any changes (known as *front-end change notification* by the Reporting Legal Entity to the Transparency Register or back-end change notification by the Shareholders or the BOs).

Any willful breach of a notification obligation is punishable by a fine of up to CHF 500,000.

Figure A:

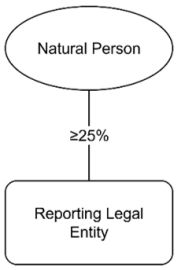


Figure B:

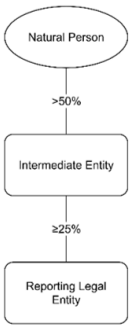


Figure C:

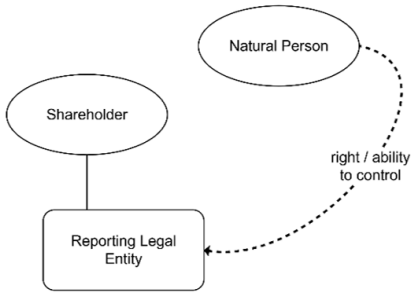
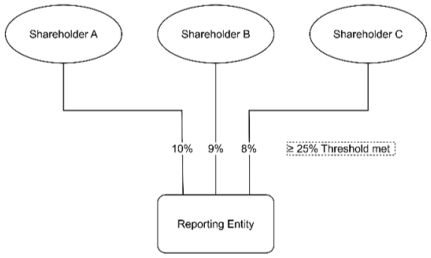


Figure D:



4. The Transparency Register

The Transparency Register is an officially maintained electronic register of the BOs reported by the Reporting Legal Entities. Notifications to the Transparency Register must generally be made electronically via the Swiss Confederation's EasyGov.swiss platform.

A Reporting Legal Entity must report the following information concerning BOs to the Transparency Register:

- personal data, i.e. surname and first name, date of birth, nationality, municipality and country of residence;
- type of control exercised, i.e. whether control is exercised alone or jointly, directly or indirectly, as well as through participation or by other means;
- level of participation, for which the Transparency Ordinance defines

three thresholds: 25–50%, >50–75% and >75%; the relevant figure is in all instances the direct interest in the Reporting Legal Entity, even if there is indirect control;

- where applicable, the existence of a control chain, including the corresponding information concerning any natural person, legal entity or trust that is part of the control chain.

If the BO cannot be identified or if a person's identity or status as a BO cannot be satisfactorily verified, the Reporting Legal Entity must state this in the notification to the Transparency Register and provide all relevant information at its disposal, including the name of the highest-ranking member of the management or administrative body of the Reporting Legal Entity as contact person.

The data contained in the Transparency Register are **not publicly accessible**. However, a Reporting Legal Entity may request confirmation concerning the entry in the Transparency Register as well as an extract of the data recorded. Furthermore, financial intermediaries and advisors subject to the Swiss Anti-Money Laundering Act (AMLA) can access certain data from the Transparency Register online in order to fulfill their due diligence obligations under the AMLA. In addition, the Federal Department of Finance (FDF) as the supervisory body and third parties commissioned by the FDF, as well as the numerous **authorities** listed in the Transparency Act, may access all data recorded in the Transparency Register online. This will enable law enforcement authorities, for the first time, to **quickly and reliably determine the BO of a Reporting Legal Entity**.

5. Implications for Criminal and Civil Proceedings

The introduction of the Transparency Register is not only relevant in terms of the new notification obligations. For the first time, it creates a **central source of information** enabling competent authorities with access rights to quickly determine which natural persons are behind a legal entity and how it is controlled. This can be particularly important in criminal proceedings and – albeit to a lesser extent – civil disputes.

Law enforcement authorities can access the information contained in the Transparency Register and thus **understand participation and control structures more quickly**. This can make investigations considerably easier, in particular in cases involving complex or cross-border structures. Access to the Transparency Register is likely to be of practical importance, particularly when investigating money laundering, offenses against property, corruption and sanctions evasion.

The information contained in the Register can provide indications as to the persons actually behind a Reporting Legal Entity as well as the legal entities controlled by them. This may be of particular significance for law enforcement authorities, especially in the case of complex control chains. It is expected that law enforcement authorities will regularly use the Transparency Register in the future as an additional source of information and will compare the information contained in it with other information, such as bank and KYC records or Commercial Register data.

Any deviations or contradictions in this information may give rise to further clarifications by law enforcement authorities and reinforce an existing suspicion, or even give rise to an initial suspicion. This will occur irrespective of whether the inconsistency identified is actually due to the provision of incorrect information or merely the fact that changes were inadvertently not reported, or were not reported on time. Such inconsistencies can thus represent the starting point for further investigative measures in criminal proceedings or coercive measures, such as the seizure of assets.

The effects will be less direct for civil proceedings as the Transparency Register is not publicly available. As a general rule, therefore, private creditors and parties to proceedings will be unable to access the data contained in the Transparency Register. However, if that information is introduced into proceedings in a legally permissible manner (e.g. through the use of files from criminal proceedings), it may be relevant in particular in the event of disputes relating to ownership and control.

6. Conclusion

With the entry into force of the Transparency Act on 1 October 2026, Reporting Legal Entities are required to identify their BOs and submit various information concerning them to the Transparency Register.

In particular, the Transparency Register will make it easier for law enforcement authorities (including tax law enforcement authorities) to gain insights into participation and control structures that were previously difficult to identify. For Reporting Legal Entities, Shareholders and BOs, it is therefore becoming increasingly important not only to correctly comply with the new notification obligations, but also to document their ownership and control in a comprehensible and consistent manner.

Further information on the new Transparency Act:

- Dario Galli, Letizia Schlegel, Kevin Laurent and Fabian Akeret The Swiss State Transparency Register goes live on 1 October 2026, WW Newsletter no. 230, September 2026
- Kevin Laurent and Olivier van den Brand Transparency Act: A Practical Roadmap for Trustees with a Swiss Nexus, WW Newsletter No. 229, September 2026
- Dario Galli and Alex Nikitine, New Swiss Federal Act on the Transparency of Legal Entities and the Identification of Beneficial Owners, WW Newsletter No. 215, September 2025

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