

Roadmap for the implementation of requirement 2.5 of the EITI standard 2016 regarding the disclosure of beneficial owners (updated 27.12.2016)

Since the adoption of the new standard in February 2016, EITI-implementing countries will be obliged to disclose information on natural persons as “beneficial owners” of domestic extractive projects and to make such information available to the public from 2020 (cf. EITI Standard 2016 Requirement 2.5).

The Government stakeholder group informed the MSG that key legal developments regarding the issue of the disclosure of beneficial owners are pending at EU level, even after the completion of the amendment of the 4th Money Laundering Directive (EU) 2015/849 and its forthcoming implementation into national law. On July 5th, 2016, the European Commission presented a proposal to revise the 4th Money Laundering Directive (which has not yet been implemented on national level). The proposal in question included a revision of the legal regulations concerning beneficial owners. The following resolution was then unanimously passed on September 21st, 2016 during the 7th MSG meeting:

“The multi-stakeholder group has decided to postpone the decision on how to deal with the issue of beneficial ownership and to await the decision that is made regarding the German implementation law on the amended EU Money Laundering Directive. Following the adoption of the implementation law, a decision will be made by the MSG on how to deal with the issue of beneficial ownership in the D-EITI. In the case of congruence between the EITI and the EU Money Laundering Directive/German Implementation Law, the publication of information will take place automatically, following the idea for mainstreaming EITI requirements; in the case of non-congruence, however, the MSG must develop a strategy for implementing the mandatory requirement. This procedure will be explained in the context report of the 1st D-EITI report.”

Both the amended 4th Money Laundering Directive (EU) 2015/849 (cf. Annex 1 inter alia, Chapter 1, Article 3, Item 6 and Chapter 3, Articles 30 and 31) and the Commission's proposal contain very detailed definitions of the beneficial owner and associated terms, requirements concerning the information to be published and the corresponding register, plus a roadmap for implementation at the member states level. The roadmap schedules the implementation of the directive into the national law of the EU Member States by the 26th of June 2017. Depending on the valid legal situation at European level, a German implementation law will adopt these requirements and include further guidelines for implementation at national level where required.

From the viewpoint of the D-EITI MSG, the decision taken offers significant advantages with respect to the desired coherence and the mainstreaming of the data. In view of the ongoing implementation process of the 4th Money Laundering Directive (EU) 2015/849 in Germany and the current negotiations for a new revision of the European Directive, the representatives of the government will update the MSG about the future course of developments on a regular basis. The MSG conclusively and unanimously agreed to adapt the present roadmap where required.

Annex 1: 4th Money Laundering Directive (EU) 2015/849