Shruti Shah on the Panama Papers: A year of gains for transparency, but gaps remain

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This month is the one year anniversary of the **Panama Papers**, a leak of 11 million documents from the Mossack Fonseca law firm that showed how easy it is for corrupt public officials, money launderers, drug traffickers and other criminals to hide behind anonymous companies and access the global financial system.

Let's look at progress toward transparency that's been made in the past year and at some gaps still remaining.

The United Kingdom published the world's first fully open **register** of beneficial ownership. The UK has also **committed** to introducing by April 2018 a register of overseas companies that own UK property.

The European Union member states are moving towards **central registers** listing information on the ultimate beneficial owners of corporate and other legal entities, as well as trusts.

Several governments -- including **Norway**, **Netherlands**, **France**, **Afghanistan**, **Ghana**, and **several others** -- have committed to set up public registers of the real, beneficial owners of companies.

The Prime Minister of Iceland resigned and several more political figures around the world are under investigation. In fact, according to the **International Consortium of Investigative Journalists**, investigations or inquiries have been launched into the activities of 6,520 companies and individuals in 79 countries.

The ICIJ launched a **searchable database** that used the Panama Papers, the Offshore Leaks, and the Bahama Leaks to index almost 500,000 offshore companies, foundations, and trusts and the people behind them.

Leading transparency NGOs, including Transparency International, launched the world's first public, open data, global **database of company ownership information** which provides information about who owns 1.9 million companies in 24 countries, across all sectors (including construction, legal, real estate, and extractives).

Panama **arrested** the two principle partners of the Mossack Fonseca law firm for their alleged connection to Brazil's Car Wash investigation.

Despite the arrests, progress in Panama remains elusive. The government appointed two international experts, Mark Pieth and Joseph Stiglitz, to investigate the use of anonymous offshore companies. But Pieth and Stiglitzt quit because of government interference and published their own **report**.

In the United States, the Department of Treasury finalized the **Customer Due Diligence rules** which aim to enhance transparency by requiring financial institutions to identify those who own the companies that use their services.

The Financial Crimes Enforcement Network (FinCEN) issued and renewed **Geographic Targeting Orders** (GTOs) that temporarily require U.S. title insurance companies to identify the natural persons behind shell companies that pay "all cash" for high-end residential real estate in six major metropolitan areas. FinCEN found that about 30 percent of the transactions covered by the GTOs involve a beneficial owner or purchaser representative that is also the subject of a previous suspicious activity report.

Still, much remains to be done in the U.S. In December 2016, the global anti-money laundering body known as the Financial Action Task Force or FATF issued a **report** on the United States. While the report had a number of positive findings, it also highlighted **significant weaknesses**, with the most important one related to gaps in access to information on the ultimate owners of companies (beneficial owners).

FATF was also critical of the weak supervision and limited anti-money laundering program requirements for gatekeepers such as company service providers and the real estate sector.

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The Panama Papers leak exposed the harm caused by anonymous companies and spurred global reform efforts. For their work ICIJ, McClatchy, and the *Miami Herald* were recently awarded a prestigious Pulitzer Prize.

But reform shouldn't be driven by scandals and leaks. The lesson from the Panama Papers is that the gaps and loopholes that allow anonymous actors to abuse the system need to be closed.

In the U.S. that means:

- Requiring states to collect information about the beneficial owners of companies upon incorporation and at a minimum, making that ownership information available to law enforcement.
- Requiring gatekeepers such as the real estate industry to carry out adequate background checks to determine where the money used to purchase luxury property comes from and to identify the individual(s) with the ultimate beneficial interest in the property.
- Collecting and disclosing beneficial ownership information of corporate bidders and subcontractors for U.S. federal procurements, grants and awards.

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*Shruti J. Shah is a contributing editor of the FCPA Blog. She's the Vice President of Programs and Operations at **Coalition for Integrity** (formerly Transparency International-USA). She can be contacted **here**.*