



TI(EU) EBOT METHODOLOGY APPROACH

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National Risk Assessment of Beneficial Ownership Transparency – methodology framework

The issues and risks relating to transparency of beneficial ownership

A wide variety of corporate vehicles, such as companies, partnerships (collectively known as **legal persons**), and **legal arrangements**, such as trusts, are used in ordinary commerce for entirely legitimate reasons. However, experience over the years has shown that these structures are also used to facilitate illicit purposes, including money laundering and terrorist finance, bribery, corruption and fraud. Criminals find their use attractive because of the opportunities they give to hide the real identity of people involved in transactions or holding assets. They can establish complicated corporate structures, with companies owning companies who in turn own other companies (often in several jurisdictions), which frustrate efforts to identify the controlling minds and those who benefit from the activity of the companies.

Even if the legal ownership of a company is declared, for example in a company register, there may be other real people hiding in the background who actually control the underlying activity. The legal owners may own shares on behalf of others, or others may be able to direct the activity of the company in some way other than through owning shares in it. There are complicated definitions of what beneficial ownership is enshrined in international standards, laws and regulations, but keep in mind this ultimate end – who is controlling, directing and benefiting from the activities of the legal persons (companies of various sorts) or legal arrangements (trusts)?

The idea of having transparency of beneficial ownership is to make it easier for the authorities, other businesses and the public to identify these people. In particular, the ‘competent authorities’ (e.g. those charged with enforcing the law, such as police or other investigators, or the Financial Intelligence Unit, which is central to anti-money laundering systems) must be able to access beneficial ownership. Banks, other financial institutions and firms in other sectors charged with carrying out due diligence on their customers for anti-money laundering must collect beneficial ownership information, so that they know with whom they are actually doing business. As set out below there are various international standards on the topic, which EU Member States have to implement. They are doing so in a variety of ways, according to their culture and institutional frameworks. The requirements may be implemented in company law or anti-money laundering laws. As can be seen from the detailed explanations below, the standards allow some variance in exactly how implementation is done.

That is why this methodology will have two parts. First of all, to assess technical implementation – are the relevant standards transposed into law or regulation or are there plans to do so? But secondly, how effective has the implementation been, bearing in mind the reasons for the standards in the first place? Do the laws and arrangements round transparency of beneficial ownership allow the competent authorities or banks to get access to beneficial ownership information? Can they be sure it is accurate and up-to-date?

Introduction to the methodology

This methodology is designed to allow TI national chapters engaged in the Enhancing Beneficial Ownership Transparency Project to produce a risk assessment of the national frameworks in their jurisdictions. It does so by using techniques to assess both technical implantation and effectiveness of implementation against the Anti-Money Laundering/Combating the Financing of Terrorism (AML/CFT) standards in this field, as set out by the Financial Action Task Force (FATF) in their 2012 40

Recommendations¹, and the specific EU requirements contained in the adopted text of the 4th Anti-Money Laundering Directive (4MLD)², which was agreed in May 2015 and which Member States are required to implement by June 2017. The European Commission has recently produced proposed amendments to the text of 4MLD, including in relation to transparency and beneficial ownership³. These proposals also include bringing forward the implementation date of 4MLD to 1 January 2017.

These standards are also reflected in the G20 High Level Principles on Beneficial Ownership, agreed in November 2014 (see Appendix B). In order to allow comparison with previous TI work on the G20 High Level Principles, the methodology will be ordered to correspond with them.

The international AML/CFT standards deal with the issues of beneficial ownership transparency broadly in two ways. Directly, they require countries to take specific measures concerning the availability of information relating to the ownership and control of legal persons or arrangements, as a minimum to the competent authorities in the jurisdiction where the legal person or arrangements is formed, and that it is made available to similar authorities in other jurisdictions when required. Indirectly, the Customer Due Diligence requirements placed on financial institutions and designated non-financial businesses and professions (DNFBPs) as part of the AML/CFT framework require them to obtain and verify the identification of beneficial owners of their customers in certain circumstances and to make that information available to competent authorities as required.

A comparison of the G20 Principles, FATF Recommendations and 4MLD standards in these areas is included at Appendix A of this Methodology for reference. It is recommended that researchers familiarise themselves with the international standards and also the 2014 FATF Guidance on Transparency and Beneficial Ownership⁴, which set out detailed steps for implementing the FATF Standards. The Stolen Asset Recovery Initiative (a joint enterprise by the World Bank and UNODC) maintain a useful webpage, Transparency / Beneficial Ownership Resource Center⁵, with links to many other resources.

Evaluation of the AML/CFT Standards

FATF Standards are evaluated through a process of Mutual Evaluation of national AML/CFT frameworks. This is an exhaustive process and is not carried out on a frequent or regular basis for each jurisdiction – it is not uncommon for there to be a gap of up to 10 years between evaluations. A new evaluation methodology was adopted in 2013, following the 2012 revision of the FATF Standards. The new FATF methodology has a twin track approach, assessing both technical compliance and effectiveness of implementation (which focuses on outcomes of the system).

The technical compliance evaluation checks to see that the building blocks are in place; the focus of the effectiveness assessment is on the extent to which the legal and institutional framework is producing the expected results. The methodology for this project will adopt a similar approach. However, relatively few Mutual Evaluation Reports have been published under the new twin-track approach as yet, although in the context of this project it is useful to note that Italy was evaluated in 2015 under the 2013 methodology and the Report was published in February 2016.⁶ Chapter 7 of the evaluation report covers issues relating to transparency and beneficial ownership - sections such as

¹ <http://www.fatf-gafi.org/publications/fatfrecommendations/documents/fatf-recommendations.html>

² <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32015L0849>

³ <http://ec.europa.eu/transparency/regdoc/rep/1/2016/EN/1-2016-450-EN-F1-1.PDF>

⁴ <http://www.fatf-gafi.org/publications/fatfrecommendations/documents/transparency-and-beneficial-ownership.html>

⁵ <https://star.worldbank.org/star/about-us/transparency-beneficial-ownership-resource-center>

⁶ <http://www.fatf-gafi.org/media/fatf/documents/reports/mer4/MER-Italy-2016.pdf>

paragraphs 255-7 on beneficial ownership due diligence by obliged entities and paragraphs 333-5 on timely access to information on legal persons show the value of interview work with competent authorities, financial institutions and DFNBPs (see Appendix E) from which lessons can be learned for reporting in this project.

The 4MLD requires the European Commission to report on implementation to the Parliament and Council, but not until 2019. A report on the application of the previous Anti-Money Laundering Directive was prepared on behalf of the Commission by Deloitte⁷ – the approach to beneficial ownership has been considered in preparing this methodology and the report itself, whilst dated, contains useful base line data.

At their June 2016 plenary meeting, the FATF further considered the issue of Improving transparency and beneficial ownership.⁸ In particular, they carried out a review of the implementation challenges found during the 3rd and 4th round of Mutual Evaluations, which found a series of common challenges. This led the FATF to conclude that there was a need to focus on effective implementation of the existing requirements, rather than further refine the Standards at this stage.

The challenges identified by the FATF, which chapters should bear in mind when carrying out effectiveness evaluations as part of this methodology were:

- a) Basic information relating to company registration is not always sufficiently accurate and accessible in the country.
- b) CDD requirements, including requirements to identify and verify beneficial owners, are often well-implemented by banks, but much less so by other key gatekeepers (e.g., company formation agents, lawyers, and trust-and-company-service providers). This problem is exacerbated because supervision of these sectors for compliance with these requirements is often less robust than it is in the banking sector.
- c) Companies are required to maintain registers of their shareholders or members. However, often registries do not verify the information received. This means that the information contained in registries is not always accurate or up-to-date.
- d) Companies are often not subject to sanctions for failing to keep their shareholder registry accurate and up-to-date as required.
- e) Data protection and privacy laws and other obstacles to information sharing, often impede the competent authorities from getting timely access to adequate, accurate and up-to-date basic and beneficial ownership information. For example, even at the domestic level, tax authorities are often unable to share information with law enforcement authorities. These problems are amplified in the context of information sharing at the international level.
- f) Even where basic and beneficial ownership information is shared in a timely way (domestically or with foreign authorities), such exchange is of little value if the information is not accurate or up-to-date.

⁷ http://ec.europa.eu/internal_market/company/docs/financial-crime/20110124_study_amld_en.pdf

⁸ <http://www.fatf-gafi.org/publications/fatfgeneral/documents/plenary-outcomes-june-2016.html#transparency>

Methodology framework for EBOT Study

Assessment of the legislative and institutional framework relating to legal persons and arrangements

In accordance with the TI proposal the methodology for this study will examine the legal and institutional frameworks on beneficial ownership and transparency, with a particular focus on existing legal provisions and their actual enforcement, the role of key stakeholders, high-risk sectors and cross-border cooperation. Given the changing environment (e.g. the requirement to implement 4MLD, global political initiatives on transparency, particularly in light of the reaction to the 'Panama Papers') the study will also examine proposals and plans to enhance transparency in national frameworks, by assessing future plans (both in terms of commitment and anticipated outcome).

Technical compliance – current state

The first stage would be in FATF terms a technical assessment of the arrangements currently in place. This would use existing standards as a basis, in particular the overlapping and complementary standards in the G20 Principles, the FATF standards and the EU 4MLD. Where there are differences in detail, data collection will differentiate between the standards. As TI has already carried out an assessment of the implementation of G20 Principles in the G20 countries, it is proposed to repeat that exercise with a view to allowing for inserting the 6 covered countries into the existing ranking. Thus the **Technical Questionnaire** is based extensively on the questionnaire used in the previous TI study. Additional questions have been added to the methodology in order to capture details from either FATF Standards or EU 4MLD (including the European Commission's recent proposals to amend the Directive in this area) not assessed to be adequately covered by the original questionnaire. These additional questions can be excluded in order to produce scores directly analogous to the previous study, as well as producing scores based on the fuller set of questions.

In line with the previous methodology, points are awarded on a 4-point scale for each answer, with the general scoring principle being:

- 4 The country's legal/institutional framework is fully in line with the principle/standard.
- 3 The country's legal/institutional framework is generally in line with the principle/standard but with shortcomings.
- 2 There are some areas in which the country is in line with the principle/standard, but significant shortcomings remain.
- 1 The country's legal/institutional framework is not in line with the principle/standard, apart from some minor areas.
- 0 The country's legal/institutional framework is not at all in line with the principle/standard.

The scores will be averaged across each Principle, both with and without the additional questions and converted to percentage scores to illustrate the strength of the system, both per principle and overall:

Scores between 81% and 100%	Very strong
Scores between 61% and 80%	Strong
Scores between 41% and 60%	Average
Scores between 21% and 40%	Weak
Scores between 0% and 20%	Very weak

The scores from the original questions will be directly comparable with the previous work; those with the additional questions may present a more nuanced look at compliance with the FATF/EU standards.

This section will primarily be completed by desk research looking at published sources – see the section on data collection below. Although the questions are answered simply by choosing a score, clearly the information gathered during the research should also be used to provide a narrative description of the system in place, and to highlight any novel or disappointing features.

Technical compliance – future plans

The second stage of this part of the evaluation would be to identify a ‘direction of travel’; that is to take account of forthcoming changes, such as implementation of recently adopted laws, plans to adopt new laws and so forth. This would give credit to countries with existing gaps who have advanced and credible plans to address them, and less credit to those who are long on rhetoric, but short on action. The analysis would consist of two parts – how advanced plans are to address gaps and how adequate the proposals appear to be. These data would be captured by a parallel set of questions to the technical assessments above; where gaps or shortcomings against the highest standard are identified additional questions would be posed:

Qxx Commitments: If the score on Qxx is less than 4, are there any commitments to address the shortcomings?

- 4 Legislation is drafted and under consideration for this issue
- 3 There is a consultation exercise underway on this issue
- 2 There are firm proposals, e.g. in an AML/CFT Action Plan, to address this issue in the next year
- 1 There has been a commitment, e.g. in a AML/CFT Strategy, to address this issue at some point
- 0 There are no current plans to address this issue

This question seeks to measure the strength of the commitment – i.e. how likely is that changes will be made and in what sort of timescale.

Qxx Adequacy: If the plans identified above are implemented what would the score on Qxx be post-implementation?

- 4 The country’s legal framework will be fully in line with the principle/standard.
- 3 The country’s legal framework will be generally in line with the principle/standard but with shortcomings.
- 2 There are some areas in which the country will be in line with the principle/standard, but significant shortcomings will remain.
- 1 The country’s legal framework will not be in line with the principle/standard, apart from some minor areas.
- 0 The country’s legal framework will not be at all in line with the principle/standard.

This question looks forward to when the changes have been implemented and attempts to assess how well the changes will meet the standards.

As they stand, these questions can be answered through published sources, as with the rest of this part of the evaluation and the previous TI exercise. A further refinement could be to survey the relevant policy departments for each area (likely to be FIU, other AML/CFT supervisor, finance or justice ministries) to ask if there are plans under development, that have not yet been made public.

As with the previous TI G20 Principles methodology, the answers would be scored and averaged using the same bands (Very Strong to Very Weak), to give direction of travel risk scores alongside the scores

of the adequacy of the current framework – so a country may be scored weak currently with an average score on adopting plans which would result in a strong score ultimately. The two scores will be combined to provide an overall risk rating, as follows:

Commitment Adequacy	Very Strong	Strong	Average	Weak	Very Weak
Very Strong					
Strong					
Average					
Weak					
Very Weak					

Key

	Low risk
	Medium-low risk
	Medium risk
	Medium-high risk
	High risk

Effectiveness evaluation – how well do current national arrangements work?

There are outcomes that are expected of the legislative and institutional framework relating to transparency of beneficial ownership. In the context of an overall AML/CFT framework, the outcomes are expressed in the FATF 2013 methodology⁹, which uses a cascade of a high level objective for the AML/CFT regime, 3 intermediate outcomes and 11 immediate outcomes. It is the immediate outcomes (IOs) that form the basis for FATF evaluation work, as they most closely describe what evaluators will be able to measure. How well those outcomes are being achieved is a measure of the effectiveness of the system. This is essentially subjective judgement and will require coordination across the different evaluations to ensure consistency.

Effectiveness is assessed in a fundamentally different way to technical compliance. It seeks to come to an overall understanding of the degree to which the country is achieving the outcome. Inevitably this does depend to some extent on technical implementation, but goes beyond the existence of legal and institutional structures, to look at how well they are working, producing the outputs required and achieving the desired outcome. As a purely illustrative example, a register of beneficial ownership may have been established, but if in practice it is not populated in an accurate and timely fashion, the output will be poor (inaccurate, out of date information) and this will frustrate the outcome of knowing who is behind a particular company or benefits from certain legal arrangements. This is the kind of analysis, based on evidence, that is required for an effectiveness evaluation.

⁹ <http://www.fatf-gafi.org/media/fatf/documents/methodology/FATF%20Methodology%2022%20Feb%202013.pdf>

The FATF immediate outcomes are shown in the diagram below. In the context of this study, relevant sections would include parts of IO1 (Risk, Policy and Coordination), IO2 (International Cooperation), IO3 (Supervision), IO4 (Preventive measures), and all of IO5 (Legal persons and arrangements).

For each of these IOs, the FATF Methodology identifies Characteristics of an Effective System and then Core Issues to be considered in determining if the Outcome is being achieved; Examples of Information that could support the conclusions on Core Issues; and Examples of Specific Factors that could support the conclusions on Core Issues.

Immediate outcomes



1 | Risk, Policy and Coordination

Money laundering and terrorist financing risks are understood and, where appropriate, actions coordinated domestically to combat money laundering and the financing of terrorism and proliferation.

2 | International cooperation

International cooperation delivers appropriate information, financial intelligence, and evidence, and facilitates action against criminals and their assets.

3 | Supervision

Supervisors appropriately supervise, monitor and regulate financial institutions and DNFBPs for compliance with AML/CFT requirements commensurate with their risks



4 | Preventive measures

Financial institutions and DNFBPs adequately apply AML/CFT preventive measures commensurate with their risks, and report suspicious transactions.

5 | Legal persons and arrangements

Legal persons and arrangements are prevented from misuse for money laundering or terrorist financing, and information on their beneficial ownership is available to competent authorities without impediments

6 | Financial intelligence

Financial intelligence and all other relevant information are appropriately used by competent authorities for money laundering and terrorist financing investigations.

7 | Money laundering investigation & prosecution

Money laundering offences and activities are investigated and offenders are prosecuted and subject to effective, proportionate and dissuasive sanctions.

8 | Confiscation

Proceeds and instrumentalities of crime are confiscated.

9 | Terrorist financing investigation & prosecution

Terrorist financing offences and activities are investigated and persons who finance terrorism are prosecuted and subject to effective, proportionate and dissuasive sanctions.



10 | Terrorist financing preventive measures & financial sanctions

Terrorists, terrorist organisations and terrorist financiers are prevented from raising, moving and using funds, and from abusing the NPO sector.

11 | Proliferation financial sanctions

Persons and entities involved in the proliferation of weapons of mass destruction are prevented from raising, moving and using funds, consistent with the relevant UNSCRs.

For example, FATF IO1 relating to risk states “Money laundering and terrorist financing risks are understood and, where appropriate, actions co-ordinated domestically to combat money laundering and the financing of terrorism and proliferation.”

Characteristics of an effective system for this IO are:

A country properly identifies, assesses and understands its money laundering and terrorist financing risks, and co-ordinates domestically to put in place actions to mitigate these risks. This includes the involvement of competent authorities and other relevant authorities; using a wide range of reliable information sources; using the assessment(s) of risks as a basis for developing and prioritising AML/CFT policies and activities; and communicating and implementing those policies and activities in a co-ordinated way across appropriate channels. The relevant competent authorities also co-operate, and co-ordinate policies and activities to combat the financing of proliferation.

This formulation of an effective AML/CFT regime in relation to risk can be adapted to focus specifically on risks relating to legal persons and arrangements. In common with previous TI work and the technical compliance assessments described above, it is proposed to identify the characteristics of an effective implementation of the G20 High Level Principles, FATF standards and EU 4MLD (from outcomes based on the G20 Principles), and listing core issues and examples of information and specific factors that will help form an opinion of the effectiveness of the system.

Using this approach, the evaluation will be based on the FATF methodology (and can thus be regarded as similarly robust), but will focus very specifically on issues relating to legal persons and arrangements. The Outcomes will be more granular and therefore the assessment of effectiveness more specific – matters the FATF consider under one overarching Outcome (IO5 - Legal persons and arrangements) will be broken out into several Outcomes based on the approach of the G20 Principles. Carrying out this very focused and specific evaluation across several jurisdictions at once will allow for coordination and moderation to ensure that effectiveness is being considered in similar ways, thus providing a good comparative analysis that looking at the results of FATF IO5 evaluations carried out over several years would not permit.

Drawing on the FATF methodology, to measure the effectiveness of each Outcome outlined in the Effectiveness Evaluation paper, it will be necessary to answer two questions:

To what extent is the outcome being achieved? An assessment should be made of whether the country is effective in relation to that outcome (*i.e.* whether the country is achieving the results expected).

What can be done to improve effectiveness? An assessment should be made of why the country may not have reached a high level of effectiveness and, where possible, make recommendations to improve its ability to achieve the specific outcome.

In our adaptation of the FATF Methodology, the Outcomes are described using the characteristics of an effective system. This sets out the situation in which a country is effective at implementing the Principles, Standards and 4MLD, and provides the benchmark for the assessment.

Core Issues to be considered in determining whether the Outcome is being achieved

The core issues set out the basis for judging if, and to what extent, the outcome is being achieved. The *core issues* are the mandatory questions which should be answered, in order to get an overview about how effective a country is under each outcome.

Examples of Information that could support the conclusions on Core Issues

The *Examples of Information* sets out the types and sources of information which are most relevant to understanding the extent to which the outcome is achieved.

As with the FATF approach, the supporting information and data listed are not exhaustive and not mandatory. The data, statistics, and other material which are available will vary considerably from country to country, and use should be made of whatever information the can be obtained in order to assist in reaching a judgement on effectiveness.

Conclusions on the level of effectiveness should be primarily descriptive and reflect the extent to which it is believed that the outcome is being achieved overall, noting any variation, such as particular areas where effectiveness is higher or lower. The FATF rating system is to assign one of four effectiveness ratings:

High level of effectiveness	The Outcome is achieved to a very large extent. Minor improvements needed.
Substantial level of effectiveness	The Outcome is achieved to a large extent. Moderate improvements needed.
Moderate level of effectiveness	The Outcome is achieved to some extent. Major improvements needed.
Low level of effectiveness	The Outcome is not achieved or achieved to a negligible extent. Fundamental improvements needed.

Such a scoring system is inevitably subjective, but should be backed up with evidence and real examples. The scores and the evidence base on which they are allocated across each jurisdiction can be compared in a final synthesis, to ensure internal consistency of the final report.

Identification of high-risk sectors and associated case studies

Through the analysis of effectiveness, and particularly the outcomes relating to risk, those sectors considered high risk for laundering the proceeds of corruption and the abuse of legal persons and arrangements will naturally be identified (either on the basis of published material or data gathered through interview or both). Significant case studies should be identified that highlight areas of weakness identified through both the technical and effectiveness evaluations.

High risk sectors are likely to include a subset of DFNBP defined under the FATF Recommendations – in this context they will include wealth management/private banking, real estate, high value goods (luxury items such as art, jewellery or cars, for example) and gambling. More detailed analysis of the risks and mitigation through implementation of AML/CFT requirements and other factors such as effective supervision for these sectors can be carried out, along the lines of the TI(UK) analysis in their report ‘Don’t Look, Won’t Find) looking particularly at:

- the specific risks in these sectors
- the nature (and strengths/weakness) of supervision of the sector
- application of CDD and reporting of ML suspicions by the sector
- good quality case studies illustrating the crystallised risks

Much of the required underlying data will have been gathered during the previous phase – in particular it may be found in supervisor reports or guidance, evaluations of the AML/CFT regime or in national or sector risk assessments.

Policy recommendations

The relatively structured approach to data gathering and analysis proposed in this methodology should identify:

- gaps in the legislative, regulatory and institutional framework, compared to international standards
- where poor implementation is resulting in lack of effectiveness
- vulnerabilities in high risk sectors

Policy recommendations can be drawn from this understanding and prioritised against the risks arising from abuse of legal persons and arrangements, and transparency of beneficial ownership, discovered through the process.

Implementing the Methodology

Contextual data collection

The first requirement for successful implementation of the Methodology will be a review and collection of available contextual data on the subject of transparency and beneficial ownership. This can be achieved by desk-based review of law, regulations, policy statements and news items, as well as consultation with appropriate experts and officials, where possible and in particular where information in the public domain does not provide a full picture. Reference to the questions in the technical questionnaire will allow researchers to refine their information collection plans.

The use of requests under ‘access to information’ laws should be considered at an early stage (such requests can take some time to be actioned). Reviews or reports of AML/CFT arrangements, or specifically relating to beneficial ownership, either carried out by the national authorities, international bodies such as FATF/FATF Style Regional Body (such as MONEYVAL) or the International Monetary Fund, or by other actors (e.g. civil society organisations) can be valuable sources, as can guidance issued by AML/CFT supervisors, trade associations for financial institutions or professional advisors, such as lawyers. Information relating to future plans, which may be found in AML/CFT strategies, action plans or other policy documents/announcements will also be required to inform the future plans assessment.

The data required will include:

- how beneficial ownership is defined in the jurisdiction under AML/CFT provisions or other relevant legislation, such as company law
- risks that have been identified relating transparency and beneficial ownership, e.g. through a National Risk Assessment on money laundering/terrorist finance or other similar official exercise (e.g. threat assessments relating to serious and organised crime or tax evasion) and how these risks have been published or otherwise provided to authorities and financial institutions/DNFBPs

- the requirements for financial institutions/DNFBPs to carry out risk assessments relating to the risks posed by money laundering/terrorist finance and customers, in particular risks relating to beneficial ownership and transparency
- the nature of legal persons (such as companies) allowed under the national legislation; how such legal persons are formed and by whom (e.g. directly with a company register; by use of lawyers; use of specialist company service providers)
- the nature of legal arrangements (such as trusts) allowed under the national legislation; how such legal arrangements are formed/administered and by whom (e.g. directly with a register or tax authorities; by use of lawyers; use of specialist company service providers)
- the requirements placed on both legal persons and legal arrangements to keep records of their legal and beneficial owners and to make that available (e.g. to a central register; to competent authorities such as law enforcement or the tax authorities; to other parties, including financial institutions and relevant designated non-financial bodies and professions (DNFBPs¹⁰))
- if these requirements extend to legal persons incorporated in other jurisdictions, but carrying out economic activity in the jurisdiction being assessed – e.g. holding assets or involved in public procurement activity – or legal arrangements formed in another jurisdiction but administered or serviced within the jurisdiction being assessed
- the requirements placed on legal and beneficial owners to provide information about themselves and their ownership/control to the legal person or arrangement
- the requirements relating to any register of beneficial ownership of legal persons or arrangements, including the data required in the registry and from whom; access requirements, e.g. who can access the data and how (on what grounds and by what methods)
- the requirements placed on financial institutions and relevant designated non-financial bodies and professions under the AML/CFT law or regulation to identify (and verify) legal and beneficial owners of legal persons and legal arrangements when carrying out Customer Due Diligence and how this varies with risk and if the legal person or arrangement is from another jurisdiction
- the arrangements for sharing of information between domestic authorities and internationally, including the types of information relating to beneficial ownership available and how it is accessed, and any legal restrictions on sharing (such as privacy laws)
- laws and arrangements relating to bearer shares and nominee shareholders and directors

Information on effectiveness

For each Outcome identified in the Effectiveness Evaluation, there are suggested types of information that may inform the evaluation. It is difficult to be too prescriptive, as the data required will to an extent be predicated on the mechanisms used to implement the standards in each jurisdiction. Useful sources will include those identified in contextual data above, as well as survey and interview. In the first instance, the following potential sources should be identified:

- the relevant policy departments including those responsible for AML/CFT policy and company law
- the Financial Intelligence Unit
- relevant law enforcement bodies involved in financial crime (in particular AML/CFT, corruption and fraud investigation)

¹⁰ At a minimum, those mentioned in the FATF Recommendations and 4MLD – there are separate questions in the Technical Evaluation for each relevant sector

- other competent authorities for international sharing of information, such as those handling requests for legal assistance
- AML/CFT supervisors for financial institutions and DNFBPs
- academics and other commentators
- representative bodies for financial institutions and DNFBPs (who may have data already or be willing to survey their members on behalf of the study)
- lists of financial institutions and DNFBP
- professional advisors and consultants
- other advocacy groups
- press reporting

Existing reports from any of the above on the effectiveness of the arrangements in relation to beneficial ownership will be useful sources and may identify high priority interview targets.

The most detailed information can be gathered through interview of these sources, however given the timescales of this study and the resources available, numbers of interviews are likely to be quite limited. Surveying other bodies on their experiences and perception of the arrangements relating to beneficial ownership will hopefully provide more data, albeit of a shallower nature. Suggested survey questions are included against each Outcome in the Effectiveness Evaluation paper.

Where it is possible, direct testing should be considered – for example, if a registry is open to the public, accessing sample data to assess how efficient and effective the mechanisms are (such as ease of search, timeliness and accuracy of results, costs etc.) Such perceptions may be available through the experience of previous research or investigations carried out by TI or other advocacy groups. ‘Mystery shopping’, involving deceptive techniques, has been ruled out of this study.

Reporting

The national reports should follow the structure of this section of the methodology, with the inclusion of a summary section and key points.

Technical evaluation – current state: a section detailing the overall scores per section and key highlights (strengths and weaknesses) identified in the system. A detailed version of the questionnaire, with supporting evidence in narrative text should be completed and included as an Appendix.

Technical evaluation – future plans: a section detailing the overall scores for both commitments and potential future compliance with standards per section, with key highlights (strengths and weaknesses) identified in the future plans. A detailed version of the additional questions in the questionnaire, with supporting evidence in narrative text should be completed and included as an Appendix.

Effectiveness: for each outcome a narrative of effectiveness, identifying where the regime does or does not produce the desired outcomes, in particular focusing on areas where there is very good effectiveness (useful for overall good practice) or very poor effectiveness (priority for policy recommendations).

High risk sectors and case studies: A review of the areas posing particularly high risk in the national system (a combination of threat, i.e. abuse of the sector by criminals, and vulnerabilities, i.e. weak effectiveness in achieving the outcomes for some reason, such as lack of legal requirements, inadequate supervision) and case studies demonstrating the issues raised.

Policy recommendations: covering the technical and effectiveness gaps or weaknesses identified throughout the report, prioritised on the basis of risk (e.g. if supervision is generally poor, prioritise resource to high risk sectors). For credibility, policy recommendations should be SMART:

- Specific
- Measurable
- Achievable
- Relevant
- Time-bound

Appendix A – Comparison of the Standards

A comparative table of the various provisions of the G20 High Level Principles, the FATF standards and the EU 4MLD is provided for ease of reference at the end of this section.

In July 2016, the European Commission produced proposals to amend the 4MLD, including significant changes to the sections on beneficial ownership and transparency of both companies and trusts. These proposals have to pass through the usual EU legislative process, so they are not yet adopted as a Directive, although it is likely that they will be in some form. The proposed changes are shown in a separate table at the end of this section and are noted throughout this section where appropriate.

Direct measures relating to transparency and beneficial ownership

Definitions

The issue of definition is captured in G20 Principle 1 - *Countries should have a definition of 'beneficial owner' that captures the natural person(s) who ultimately owns or controls the legal person or legal arrangement.*

Both the FATF Standards and 4MLD define beneficial ownership in similar ways. The FATF takes the approach of understanding ultimate control, although the Interpretative Notes do accept that a threshold method may be used:

Beneficial owner refers to the natural person(s) who controls a customer and/or the natural person on whose behalf a transaction is being conducted. It also includes those persons who exercise ultimate effective control over a legal person or arrangement.

The 4MLD approach uses the same notion of ultimate control, but includes a minimum set of thresholds that indicate beneficial ownership, namely a shareholding or ownership interest of 25% plus one share, directly or indirectly (i.e. through other companies that hold shares in the company), which is noted as a possible approach in a footnote to the Interpretative Note to Recommendation 10 (Customer Due Diligence) in the FATF Standards.

The proposed amendments to 4MLD change this definition by reducing the threshold to 10% when the company concerned is a "Passive Non-Financial Entity", i.e. companies that function as intermediary structures, do not create income on their own, but mostly channel income from other sources (which are regarded as higher risk for money laundering).

Identifying and mitigating the risks

G20 Principle 2 relates to risk. It states that countries should assess the existing and emerging risks associated with different types of legal persons and arrangements, which should be addressed from a domestic and international perspective. Information on risks should be shared with competent authorities, financial institutions and designated non-financial businesses and professions and, as appropriate, other jurisdictions. Once risks have been identified, measures to address them that are effective and proportionate should be taken to mitigate them. These could include Enhanced Due Diligence for high-risk sectors.

Both the FATF (which includes issues of risk in its Recommendation 1) and the EU (under 4MLD) require countries to identify, assess, and understand the money laundering and terrorist financing risks for the country and to apply a risk-based approach (RBA) to ensure that measures to prevent or mitigate money laundering and terrorist financing are commensurate with the risks identified. Clearly this should include issues relating to corruption, a predicate crime for money laundering, and the risks relating to legal persons and arrangements (including transparency of beneficial ownership). The

requirements for this are covered in relevant sections in the FATF Guidance on Transparency and Beneficial Ownership. Similarly, obliged entities under the Recommendation and Directive are also obliged to understand their own risks and apply suitable countermeasures.

Access to beneficial ownership information

G20 Principles on access to beneficial ownership information

Principles 3 & 4 require that countries should ensure that legal persons maintain beneficial ownership information onshore and that information is adequate, accurate, and current (Principle 3) and that competent authorities (including law enforcement and prosecutorial authorities, supervisory authorities, tax authorities and financial intelligence units) have timely access to such information (Principle 4). Similar requirements relating to legal arrangements, in particular express trusts, are found in Principles 5 & 6.

These Principles are also outlined in the provisions of the FATF Recommendations and the EU 4MLD as described below.

FATF Standards on access to beneficial ownership information

FATF Recommendations 24 and 25 deal with Transparency and Beneficial Ownership of Legal Persons (R.24) and Arrangements (R.25). The Recommendations require countries to take measures to prevent the misuse of legal persons and arrangements for money laundering or terrorist financing. In particular, they require:

R. 24: Legal persons	R.25 Legal arrangements
adequate, accurate and timely information on the beneficial ownership and control of legal persons that can be obtained or accessed in a timely fashion by competent authorities	adequate, accurate and timely information on express trusts, including information on the settlor, trustee and beneficiaries, that can be obtained or accessed in a timely fashion by competent authorities.
countries that have legal persons that are able to issue bearer shares or bearer share warrants, or which allow nominee shareholders or nominee directors, should take effective measures to ensure that they are not misused for money laundering or terrorist financing.	
countries should consider measures to facilitate access to beneficial ownership and control information by financial institutions and DNFBPs	countries should consider measures to facilitate access to beneficial ownership and control information by financial institutions and DNFBPs

Broadly speaking it can be seen that the requirements are similar for both legal persons and arrangements. The requirements are broadly drawn and in common with other FATF Recommendation they are explained in more detail in Interpretive Notes, which are reproduced at Appendix C.

These diagrams taken from the FATF Guidance on Transparency and Beneficial Ownership set out in simple form the requirements under Recommendations 24 and 25, including the various options that countries may choose to take:

Recommendation 24

Initial obligations (INR.24.2)		
<ul style="list-style-type: none"> Understand what types of legal persons are in the country, and describe processes for creating them and obtaining basic and beneficial ownership information - Make this information publicly available Understand and assess the ML/TF risks associated with the various types of legal persons 		
Implement measures to enhance transparency of companies (INR.24.3-10, 13-15)		
Basic information of companies		
Countries should: <ul style="list-style-type: none"> Establish a company registry 	Companies should: <ul style="list-style-type: none"> Record basic information about the company Maintain an up-to-date shareholder register 	Company registries should: <ul style="list-style-type: none"> Record basic information about the company
Beneficial ownership information on companies		
Countries should use <i>one or more</i> of the following mechanisms:		
Mechanism #1 – Company Registries <ul style="list-style-type: none"> Obtain and hold up-to-date information on the beneficial ownership of companies 	Mechanism #2a - Companies <ul style="list-style-type: none"> Obtain and hold up-to-date information on their beneficial ownership, or Mechanism #2b - Companies <ul style="list-style-type: none"> Take reasonable measures to identify their beneficial owners 	Mechanism #3 – Rely on existing information held by <ul style="list-style-type: none"> <i>Registries</i> <i>FIs and DNFBPs</i>, including CDD information (R.10/22) <i>Companies</i> <i>Other competent authorities</i> (e.g. supervisors, tax authorities) <i>Stock exchanges</i>
Other measures to enhance transparency of companies (regardless of which mechanism was chosen)		
<ul style="list-style-type: none"> Require companies to <i>cooperate with authorities</i>, including requiring either a natural person and/or DNFBP in the country who is authorised to cooperate with authorities on behalf of the company, and/or other comparable measures. Require companies and other to <i>retain records for at least 5 years</i>. 		
Implement measures to overcome specific obstacles to the transparency of companies		
Bearer shares & bearer share warrants – either: <ul style="list-style-type: none"> Prohibit them Convert them into registered shares/warrants Immobilise them, or Require controlling shareholders to notify the company, so it can update its records 	Nominee shareholders and directors – either: <ul style="list-style-type: none"> Require nominees to disclose to the company registry that they are nominees, and the identity of the person who nominated them License nominees, and requiring them to retain records of who has nominated them 	

Recommendation 25:

Implement measures to enhance transparency of trusts (INR.25.1-3, 5)
Trust law countries
<ul style="list-style-type: none"> Require the <i>trustee to hold beneficial ownership information</i> about the parties to the trust (including the settlor, trustee(s), protector, beneficiaries or class of beneficiaries, and any other person exercising effective ultimate control over a trust) Require the <i>trustee to hold basic information on other regulated agents of, and service providers</i> to the trust
All countries
<ul style="list-style-type: none"> Require <i>trustees to disclose their status</i> to any financial institution or DNFBP with whom they do business Require <i>professional trustees to maintain information</i> on the trust for at least 5 years
Other possible measures
Countries are encouraged to ensure that other authorities and entities which are likely to do business with trusts, record information about the trust. Sources of information include: <ul style="list-style-type: none"> <i>Registries</i> such as a trust registry, or asset registries for land or other assets. <i>Other competent authorities</i> such as tax authorities <i>Other agents of, and service providers to the trust</i> such as investment advisors, managers, lawyers or TSCPs
<i>Consider facilitating the access of financial institutions/DNFBP to information held by others</i>
Implement measures to enhance transparency of similar legal arrangements (fiducie, treuhand, fideicomiso) (INR.25.9)
Take similar measures as those required for trusts, with a view to achieving similar levels of transparency <ul style="list-style-type: none"> At a minimum, <i>similar information should be recorded, kept accurate and current, and be accessible</i> in a timely way to the competent authorities
Fundamental requirements to be implemented for all legal arrangements (INR.25.6-8, 11)
<ul style="list-style-type: none"> Ensure that basic and beneficial ownership information is <i>accurate and up-to-date</i>. Establish effective, proportionate and dissuasive <i>sanctions</i> for non-compliance.
Powers of law enforcement and other competent authorities (INR.25.4)
Ensure that law enforcement and other competent authorities have <i>all the powers necessary</i> to obtain timely access to basic and beneficial ownership information on legal arrangements, regardless of which party holds it
International cooperation (INR.25.10)
Provide international cooperation relating to basic and beneficial ownership information (R.37-40).

EU 4AMLD provisions on access to beneficial ownership information

Chapter 3 of 4MLD deals with beneficial ownership Information, with Article 30 addressing legal persons and Article 31 with legal arrangements, in particular express trusts. These Articles are reproduced at Appendix D.

The articles reflect the requirements of the FATF standards, but goes on to specify methods by which Member States should achieve them. It requires a central register of beneficial ownership, although this register need not be a public register. For legal persons there is a requirement for access to a defined set of actors, and the interpretation of 'legitimate interest', for example, is likely to lead to some diversion amongst Member States:

Member States shall ensure that the information on the beneficial ownership is accessible in all cases to:

- (a) competent authorities and FIUs, without any restriction;*
- (b) obliged entities, within the framework of customer due diligence in accordance with Chapter II;*
- (c) any person or organisation that can demonstrate a legitimate interest.*

The proposed amendments by the European Commission open up some beneficial ownership information to public scrutiny, by including a compulsory disclosure provision. This is not contained in the revised text of 4MLD, but rather (via amendment) in a Directive on company law (Directive 2009/101/EC)¹¹. These amendments require disclosure of to a limited set of information on beneficial owners of firms and legal entities engaging in profit-making activities. As this compulsory disclosure has the purpose of enabling third parties and civil society at large to know who are the beneficial owners, thus contributing to prevent the misuse of legal entities and legal arrangements through enhanced public scrutiny, the 4MLD requirements relating to ‘legitimate interest’ are removed.

For legal arrangements, there is a requirement to make beneficial ownership information available to competent authorities and Financial Intelligence Units only, unless the trust generates tax consequences, when the information must be in a central register available to competent authorities and Financial Intelligence Units, with an option to make it available to obliged entities, within the framework of customer due diligence. Again, this is likely to be an area where implementation in Member States diverges.

The proposed amendments to 4MLD change the definition the types of trusts caught by this article, makes clear that trusts should be registered where they are administered, and opens up access to the beneficial ownership information to obliged entities in connection with customer due diligence and to the general public for “business-type” trusts, i.e. those that engage in economic activities with a view to gain profit. Access to beneficial ownership for other trusts, such as family trusts, is only required to be granted to persons and organisations that can demonstrate a legitimate interest.

Indirect measures relating to collection of beneficial ownership information by financial institutions and DNFBPs

Collection of beneficial ownership information by financial institutions and DNFBPs

G20 High Level Principle on collection of beneficial ownership

G20 Principle 7 sets out the need for requirements for collecting beneficial ownership information during customer due diligence processes by financial institutions and DNFBPs.

It states that countries should require financial institutions and DNFBPs, including trust and company service providers, to identify and take reasonable measures, including taking into account country risks, to verify the beneficial ownership of their customers.

- a. Countries should consider facilitating access to beneficial ownership information by financial institutions and DNFBPs.
- b. Countries should ensure effective supervision of these obligations, including the establishment and enforcement of effective, proportionate and dissuasive sanctions for non-compliance.

These requirements are again set out in detail in the FATF standards and 4MLD as described below. The issue of effective, proportionate and dissuasive sanctions for non-compliance applies more generally to the AML/CFT requirements on financial institutions and DNFBPs, so may not be found specifically in the clauses relating to beneficial ownership (see, for example, FATF Recommendation 34). This should make no difference to the evaluation, as the general sanctions regime for non-compliance can, of course, be used for non-compliance with provisions relating to CDD and beneficial ownership.

¹¹ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:258:0011:0019:EN:PDF>

FATF Standards on collecting beneficial ownership – Recommendation 10: Financial Institutions

FATF Recommendation 10 deals with Customer Due Diligence (CDD) for financial institutions (and is accompanied by an extensive interpretative note). CDD must be carried out in certain circumstances, where the risk of money laundering or terrorist finance is sufficiently high, namely when:

- (i) establishing business relations;*
- (ii) carrying out occasional transactions: (i) above the applicable designated threshold (USD/EUR 15,000); or (ii) that are wire transfers in the circumstances covered by the Interpretive Note to Recommendation 16;*
- (iii) there is a suspicion of money laundering or terrorist financing; or*
- (iv) the financial institution has doubts about the veracity or adequacy of previously obtained customer identification data.*

In terms of beneficial ownership information, Recommendation 10 states that the CDD measures to be taken include:

Identifying the beneficial owner, and taking reasonable measures to verify the identity of the beneficial owner, such that the financial institution is satisfied that it knows who the beneficial owner is. For legal persons and arrangements this should include financial institutions understanding the ownership and control structure of the customer.

Financial institutions should be required to take CDD measures, but may vary the extent of them on the basis of the risk based approach. The Interpretative Note to Recommendation 10 expands on the requirement to collect beneficial ownership, noting that financial institutions should carry out a series of cascading measures to attempt to identify the natural person(s) who ultimately exert control over the legal person or arrangement. The relevant identification data may be obtained from a public register, from the customer or from other reliable sources.

As the Interpretative Note states, financial institutions should be required to:

(b) Identify the beneficial owners of the customer and take reasonable measures¹² to verify the identity of such persons, through the following information:

(i) For legal persons¹³:

(i.i) The identity of the natural persons (if any – as ownership interests can be so diversified that there are no natural persons (whether acting alone or together) exercising control of the legal person or arrangement through ownership) who ultimately have a controlling ownership interest¹⁴ in a legal person; and

(i.ii) to the extent that there is doubt under (i.i) as to whether the person(s) with the controlling ownership interest are the beneficial owner(s) or where no natural person exerts control through ownership interests, the identity of the natural persons (if any) exercising control of the legal person or arrangement through other means.

(i.iii) Where no natural person is identified under (i.i) or (i.ii) above, financial institutions should identify and take reasonable measures to verify the identity of the relevant natural person who holds the position of senior managing official.

¹² ²⁸ In determining the reasonableness of the identity verification measures, regard should be had to the money laundering and terrorist financing risks posed by the customer and the business relationship.

¹³ ²⁹ Measures (i.i) to (i.iii) are not alternative options, but are cascading measures, with each to be used where the previous measure has been applied and has not identified a beneficial owner.

¹⁴ ³⁰ A controlling ownership interest depends on the ownership structure of the company. It may be based on a threshold, e.g. any person owning more than a certain percentage of the company (e.g. 25%).

(ii) *For legal arrangements:*

(ii.i) Trusts – the identity of the settlor, the trustee(s), the protector (if any), the beneficiaries or class of beneficiaries¹⁵, and any other natural person exercising ultimate effective control over the trust (including through a chain of control/ownership);

(ii.ii) Other types of legal arrangements – the identity of persons in equivalent or similar positions.

Exemption for suitably listed companies

The Interpretative Note goes on to state that it is not necessary to identify and verify the identity of any shareholder or beneficial owner where the customer or the owner of the controlling interest is a company listed on a stock exchange, or is a majority-owned subsidiary of such a company, and subject to disclosure requirements (either by stock exchange rules or through law or enforceable means) which impose requirements to ensure adequate transparency of beneficial ownership. This exemption exists because ownership of such companies is a matter of public record.

FATF Standards on collecting beneficial ownership – Recommendation 22: DNFBPs

These CDD requirements also apply to DNFBPs in certain circumstances, as explained by Recommendation 22:

(a) Casinos – when customers engage in financial transactions equal to or above the applicable designated threshold.

(b) Real estate agents – when they are involved in transactions for their client concerning the buying and selling of real estate.

(c) Dealers in precious metals and dealers in precious stones – when they engage in any cash transaction with a customer equal to or above the applicable designated threshold.

(d) Lawyers, notaries, other independent legal professionals and accountants – when they prepare for or carry out transactions for their client concerning the following activities:

- buying and selling of real estate;
- managing of client money, securities or other assets;
- management of bank, savings or securities accounts;
- organisation of contributions for the creation, operation or management of companies;
- creation, operation or management of legal persons or arrangements, and buying and selling of business entities.

(e) Trust and company service providers – when they prepare for or carry out transactions for a client concerning the following activities:

- acting as a formation agent of legal persons;
- acting as (or arranging for another person to act as) a director or secretary of a company, a partner of a partnership, or a similar position in relation to other legal persons;
- providing a registered office, business address or accommodation, correspondence or administrative address for a company, a partnership or any other legal person or arrangement;

¹⁵ ³¹For beneficiary(ies) of trusts that are designated by characteristics or by class, financial institutions should obtain sufficient information concerning the beneficiary to satisfy the financial institution that it will be able to establish the identity of the beneficiary at the time of the payout or when the beneficiary intends to exercise vested rights.

- acting as (or arranging for another person to act as) a trustee of an express trust or performing the equivalent function for another form of legal arrangement;
- acting as (or arranging for another person to act as) a nominee shareholder for another person.

Most of these circumstances are generally accepted as posing a higher risk relating to transparency of beneficial ownership in relation to the laundering of the proceeds of corruption; indeed, this is one of the reasons why they are included in the list. As such, the evaluation methodology will specifically include these sectors, namely lawyers and accountants, real estate dealers and trust and company service providers.

EU 4MLD provisions on collecting beneficial ownership information: Financial Institutions & DNFBPs

Customer Due Diligence is dealt with in Chapter II of 4MLD. According to Article 11, obliged entities should be required to carry out CDD in the following circumstances:

- (a) when establishing a business relationship;
- (b) when carrying out an occasional transaction that: (i) amounts to EUR 15 000 or more, whether that transaction is carried out in a single operation or in several operations which appear to be linked; or (ii) constitutes a transfer of funds, as defined in point (9) of Article 3 of Regulation (EU) 2015/847 of the European Parliament and of the Council (1), exceeding EUR 1 000;
- (c) in the case of persons trading in goods, when carrying out occasional transactions in cash amounting to EUR 10 000 or more, whether the transaction is carried out in a single operation or in several operations which appear to be linked;
- (d) for providers of gambling services, upon the collection of winnings, the wagering of a stake, or both, when carrying out transactions amounting to EUR 2 000 or more, whether the transaction is carried out in a single operation or in several operations which appear to be linked;
- (e) when there is a suspicion of money laundering or terrorist financing, regardless of any derogation, exemption or threshold;
- (f) when there are doubts about the veracity or adequacy of previously obtained customer identification data.

This is a wider list than the FATF requirement, but includes all the circumstances foreseen by the FATF. The requirement applies to obliged entities – broadly speaking this is equivalent to financial institutions and DNFBPs, but includes any persons trading in goods (not just dealers in precious metals and stones) carrying out cash transactions over EUR 15,000 and providers of gambling services (a wider sector than just casinos).

The CDD provision includes gathering beneficial ownership information by virtue of Article 13 of 4MLD, which requires that customer due diligence measures shall comprise, amongst other things, “identifying the beneficial owner and taking reasonable measures to verify that person's identity so that the obliged entity is satisfied that it knows who the beneficial owner is, including, as regards legal persons, trusts, companies, foundations and similar legal arrangements, taking reasonable measures to understand the ownership and control structure of the customer.” This provision on beneficial ownership information is equivalent to the FATF standard.

Miscellaneous other provisions

National and international cooperation

G20 Principle on cooperation

G20 Principle 8 requires countries to ensure that their national authorities cooperate effectively domestically and internationally. Countries should also ensure that their competent authorities participate in information exchange on beneficial ownership with international counterparts in a timely and effective manner.

FATF Standards on cooperation

FATF Recommendation 2 requires countries to ensure that their competent authorities, at the policymaking and operational levels, have effective mechanisms in place which enable them to cooperate, and, where appropriate, coordinate domestically with each other concerning the development and implementation of policies and activities to combat money laundering, terrorist financing and the financing of proliferation of weapons of mass destruction.

Recommendation 40 deals with international cooperation. It states that Countries should ensure that their competent authorities can rapidly, constructively and effectively provide the widest range of international cooperation in relation to money laundering, associated predicate offences and terrorist financing. Countries should do so both spontaneously and upon request, and there should be a lawful basis for providing cooperation.

The Interpretive Notes (IR) to Recommendations 24 and 25 have some specifics on information sharing relating to both legal persons and arrangements:

R24 IR: Countries should rapidly, constructively and effectively provide international cooperation in relation to basic and beneficial ownership information, on the basis set out in Recommendations 37 and 40. This should include (a) facilitating access by foreign competent authorities to basic information held by company registries; (b) exchanging information on shareholders; and (c) using their powers, in accordance with their domestic law, to obtain beneficial ownership information on behalf of foreign counterparts.

Rec 25 IR: Countries should rapidly, constructively and effectively provide international cooperation in relation to information, including beneficial ownership information, on trusts and other legal arrangements on the basis set out in Recommendations 37 and 40. This should include (a) facilitating access by foreign competent authorities to any information held by registries or other domestic authorities; (b) exchanging domestically available information on the trusts or other legal arrangement; and (c) using their competent authorities' powers, in accordance with domestic law, in order to obtain beneficial ownership information on behalf of foreign counterparts.

EU 4MLD provisions on cooperation

4MLD takes a similar approach to the FATF Recommendations on cooperation, which is dealt with in Section 3 of Chapter VI. Article 49 is a wide ranging article on domestic cooperation that requires Member States to ensure that policy makers, the FIUs, supervisors and other competent authorities involved in AML/CFT have effective mechanisms to enable them to cooperate and coordinate domestically concerning the development and implementation of policies and activities to combat money laundering and terrorist financing.

4MLD puts relationships between FIUs at the heart of international cooperation. Article 53 provides that Member States shall ensure that FIUs exchange, spontaneously or upon request, any information

that may be relevant for the processing or analysis of information by the FIU related to money laundering or terrorist financing and the natural or legal person involved and Article 55 deals with onward transmission to other authorities.

There are specific mentions of information sharing relating to information on legal persons and arrangements in Articles 30 & 31, to the effect that Member States shall ensure that competent authorities and FIUs are able to provide the information to the competent authorities and to the FIUs of other Member States in a timely manner.

Tax matters

G20 Principle 9 specifically relates to tax evasion and the access to, and sharing of, beneficial ownership information by tax authorities.

FATF Standards on tax matters

The FATF Standards include 'tax crimes' as a predicate offence for money laundering.

EU 4MLD provisions on tax crimes

Tax crimes are clearly included as predicate crimes for money laundering in 4MLD - see for example preamble (11) text, *"It is important expressly to highlight that 'tax crimes' relating to direct and indirect taxes are included in the broad definition of 'criminal activity' in this Directive, in line with the revised FATF Recommendations."* The definition of criminal activity in this context under the Directive is found at Article 3(4)(f) and limits criminal activity by way of maximum (more than a year) or minimum (more than six months) thresholds of imprisonment:

all offences, including tax crimes relating to direct taxes and indirect taxes and as defined in the national law of the Member States, which are punishable by deprivation of liberty or a detention order for a maximum of more than one year or, as regards Member States that have a minimum threshold for offences in their legal system, all offences punishable by deprivation of liberty or a detention order for a minimum of more than six months;

Thus certain tax crimes will be covered by the requirements of the Directive, including those relating to beneficial ownership and the tax authorities would be competent authorities in relation to beneficial ownership information. However, there is no direct equivalent of Principle 9 in the AML standards.

Prohibition of bearer shares and abuse of nominees.

G20 Principle on Bearer Shares and Nominees

G20 Principle 10 relates to bearer shares and the abuse of nominee directors. The former should be prohibited and there should be effective measures to prevent the latter:

- a. prohibiting the ongoing use of bearer shares and the creation of new bearer shares, or taking other effective measures to ensure that bearer shares and bearer share warrants are not misused; and
- b. taking effective measures to ensure that legal persons which allow nominee shareholders or nominee directors are not misused.

FATF standards on Bearer Shares and Nominees

The FATF Recommendation (24) is slightly weaker in that it states that countries that have legal persons that are able to issue bearer shares or bearer share warrants, or which allow nominee shareholders or nominee directors, should take effective measures to ensure that they are not

misused for money laundering or terrorist financing. The Interpretative Note goes into more detail on what such measures might be. On bearer shares those are:

(a) prohibiting them; (b) converting them into registered shares or share warrants (for example through dematerialisation); (c) immobilising them by requiring them to be held with a regulated financial institution or professional intermediary; or (d) requiring shareholders with a controlling interest to notify the company, and the company to record their identity.

In relation to nominees the suggestions are:

(a) requiring nominee shareholders and directors to disclose the identity of their nominator to the company and to any relevant registry, and for this information to be included in the relevant register; or (b) requiring nominee shareholders and directors to be licensed, for their nominee status to be recorded in company registries, and for them to maintain information identifying their nominator, and make this information available to the competent authorities upon request.

EU 4MLD provisions on Bearer Shares and Nominees

4MLD has a brief reference to bearer shares in Article 2:

Member States shall take measures to prevent misuse of bearer shares and bearer share warrants.

There is no exposition of what such measures might be. 4MLD has no provision relating to the abuse of nominee shareholders.

Comparative table of international standards on transparency of beneficial ownership

This table sets out against the G20 High Level Principles the relevant extracts from FATF Recommendations (including the Interpretive Notes) and the FATF Guidance on Transparency and Beneficial Ownership, as well as the relevant Article and extracts from the preamble to the EU 4th Anti-Money Laundering Directive.

It should be kept in mind that this is a complicated topic. Reference to the full source documents may be required to fully establish compliance with a particular point, and in particular effective implementation. The TI(EU) consultant is available throughout the course of the project for advice.

G20 High Level Principle 1: Countries should have a definition of ‘beneficial owner’ that captures the natural person(s) who ultimately owns or controls the legal person or legal arrangement.	
FATF Standards	EU 4 th Anti-Money Laundering Directive
<p><i>General glossary, FATF Recommendations:</i></p> <p>Beneficial owner refers to the natural person(s) who ultimately owns or controls a customer and/or the natural person on whose behalf a transaction is being conducted. It also includes those persons who exercise ultimate effective control over a legal person or arrangement.</p> <p><i>Interpretive Note to Rec. 10</i></p> <p>(i) For legal persons: (i.i) The identity of the natural persons (if any – as ownership interests can be so diversified that there are no natural persons (whether acting alone or together) exercising control of the legal person or arrangement through ownership) who ultimately have a controlling ownership interest³⁰ in a legal person; and (i.ii) to the extent that there is doubt under (i.i) as to whether the person(s) with the controlling ownership interest are the beneficial owner(s) or where no natural person exerts control through ownership interests, the identity of the natural persons (if any) exercising control of the legal person or arrangement through other means.</p>	<p><i>Article 3(6)</i></p> <p>‘beneficial owner’ means any natural person(s) who ultimately owns or controls the customer and/or the natural person(s) on whose behalf a transaction or activity is being conducted and includes at least:</p> <p>(a) in the case of corporate entities:</p> <p>(i) the natural person(s) who ultimately owns or controls a legal entity through direct or indirect ownership of a sufficient percentage of the shares or voting rights or ownership interest in that entity, including through bearer shareholdings, or through control via other means, other than a company listed on a regulated market that is subject to disclosure requirements consistent with Union law or subject to equivalent international standards which ensure adequate transparency of ownership information. A shareholding of 25 % plus one share or an ownership interest of more than 25 % in the customer held by a natural person shall be an indication of direct ownership. A shareholding of 25 % plus one share or an ownership interest of more than 25 % in the customer held</p>

<p>(i.iii) Where no natural person is identified under (i.i) or (i.ii) above, financial institutions should identify and take reasonable measures to verify the identity of the relevant natural person who holds the position of senior managing official.</p> <p>(ii) For legal arrangements:</p> <p>(ii.i) Trusts – the identity of the settlor, the trustee(s), the protector (if any), the beneficiaries or class of beneficiaries, and any other natural person exercising ultimate effective control over the trust (including through a chain of control/ownership);</p> <p>(ii.ii) Other types of legal arrangements – the identity of persons in equivalent or similar positions.</p>	<p>by a corporate entity, which is under the control of a natural person(s), or by multiple corporate entities, which are under the control of the same natural person(s), shall be an indication of indirect ownership. This applies without prejudice to the right of Member States to decide that a lower percentage may be an indication of ownership or control. Control through other means may be determined, inter alia, in accordance with the criteria in Article 22(1) to (5) of Directive 2013/34/EU of the European Parliament and of the Council (3);</p> <p>(ii) if, after having exhausted all possible means and provided there are no grounds for suspicion, no person under point (i) is identified, or if there is any doubt that the person(s) identified are the beneficial owner(s), the natural person(s) who hold the position of senior managing official(s), the obliged entities shall keep records of the actions taken in order to identify the beneficial ownership under point (i) and this point;</p> <p>(b) in the case of trusts:</p> <p>(i) the settlor;</p> <p>(iii) the trustee(s);</p> <p>(i) the protector, if any;</p> <p>(ii) the beneficiaries, or where the individuals benefiting from the legal arrangement or entity have yet to be determined, the class of persons in whose main interest the legal arrangement or entity is set up or operates;</p> <p>(iii) any other natural person exercising ultimate control over the trust by means of direct or indirect ownership or by other means;</p>
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<p>G20 High Level Principle 2: Countries should assess the existing and emerging risks associated with different types of legal persons and arrangements, which should be addressed from a domestic and international perspective.</p> <ul style="list-style-type: none"> a. Appropriate information on the results of the risk assessments should be shared with competent authorities, financial institutions and designated non-financial businesses and professions (DNFBPs) and, as appropriate, other jurisdictions. b. Effective and proportionate measures should be taken to mitigate the risks identified. c. Countries should identify high-risk sectors, and enhanced due diligence could be appropriately considered for such sectors. 	
FATF Standards	EU 4 th Anti-Money Laundering Directive
<p><i>Recommendation 1:</i> Countries should identify, assess, and understand the money laundering and terrorist financing risks for the country, and should take action, including designating an authority or mechanism to coordinate actions to assess risks, and apply resources, aimed at ensuring the risks are mitigated effectively.</p> <p><i>FATF Guidance on Transparency and Beneficial Ownership:</i> 28. Countries should conduct a comprehensive risk assessment of legal persons, and this should form part of the broader assessment of the ML/TF risks in the country.</p> <p>58. Countries should conduct a comprehensive risk assessment of legal arrangements, and this should form part of the broader assessment of the ML/TF risks in the country.</p>	<p><i>Article 7</i> Each Member State shall take appropriate steps to identify, assess, understand and mitigate the risks of money laundering and terrorist financing affecting it, as well as any data protection concerns in that regard. It shall keep that risk assessment up to date.</p>
<p>G20 High Level Principle 3: Countries should ensure that legal persons maintain beneficial ownership information onshore and that information is adequate, accurate, and current.</p>	
FATF Standards	EU 4 th Anti-Money Laundering Directive
<p><i>FATF Guidance on Transparency and Beneficial Ownership</i></p> <p>34 (a): Keep information accurate and up to date: Basic and beneficial ownership information on all legal persons (including information provided to a company registry) should be accurate and updated on a timely basis. This requirement may be explained in two parts. First, this information</p>	<p><i>Article 30</i> (para 1) Member States shall ensure that corporate and other legal entities incorporated within their territory are required to obtain and hold adequate, accurate and current information on their beneficial ownership, including the details of the beneficial interests held.</p>

<p>should be current and accurate at the time the legal person is created. Second, over time, the information must be kept accurate, and as current as possible meaning that, when changes occur, the information is updated promptly.</p>	
<p>G20 High Level Principle 4: Countries should ensure that competent authorities (including law enforcement and prosecutorial authorities, supervisory authorities, tax authorities and financial intelligence units) have timely access to adequate, accurate and current information regarding the beneficial ownership of legal persons. Countries could implement this, for example, through central registries of beneficial ownership of legal persons or other appropriate mechanisms</p>	
FATF Standards	EU 4 th Anti-Money Laundering Directive
<p><i>Rec. 24</i></p> <p>adequate, accurate and timely information on the beneficial ownership and control of legal persons that can be obtained or accessed in a timely fashion by competent authorities</p> <p><i>FATF Guidance on Transparency and Beneficial Ownership</i></p> <p>40: Countries may choose the mechanisms they rely on to ensure the availability of beneficial ownership information on companies. In particular, countries should use one or more of the following mechanisms:</p> <ul style="list-style-type: none"> a) requiring companies or company registries to obtain and hold up-to-date information on the companies' beneficial ownership b) requiring companies to take reasonable measures to obtain and hold up-to-date information on the companies' beneficial ownership, and/or c) using existing information, including: (i) information obtained by financial institutions and/or DNFBPs, in accordance with Recommendations 10 and 22; (ii) information held by other competent authorities on the legal and beneficial ownership of 	<p><i>Article 30</i></p> <p>Member States shall require that the information referred to in paragraph 1 can be accessed in a timely manner by competent authorities and FIUs. Member States shall ensure that the information referred to in paragraph 1 is held in a central register in each Member State, for example a commercial register, companies register ..., or a public register.</p> <p>Member States shall ensure that the information on the beneficial ownership is accessible in all cases to: (a) competent authorities and FIUs, without any restriction;</p>

companies; (iii) the basic information held by the company; and (iv) available information on companies listed on a stock exchange, where disclosure requirements ensure adequate transparency of beneficial ownership.	
G20 High Level Principle 5: Countries should ensure that trustees of express trusts maintain adequate, accurate and current beneficial ownership information, including information of settlors, the protector (if any) trustees and beneficiaries. These measures should also apply to other legal arrangements with a structure or function similar to express trusts.	
FATF Standards	EU 4 th Anti-Money Laundering Directive
<p><i>FATF Guidance on Transparency and Beneficial Ownership</i></p> <p>59: Trust law countries should require the trustees of any express trust governed under their law to obtain and hold adequate, accurate, and current beneficial ownership information regarding the trust. This information should be kept as accurate, current and up-to-date as possible by updating it within a reasonable period following any change. In this context, beneficial ownership information includes:</p> <p>a) information on the identity of the settlor, trustee(s), protector (if any), beneficiary or class of beneficiaries, and any other natural person exercising ultimate effective control over the trust, and</p> <p>b) basic information on other regulated agents of, and service providers to the trust, including investment advisors or managers, accountants, and tax advisors.</p>	<p><i>Article 31</i></p> <p>Member States shall require that trustees of any express trust governed under their law obtain and hold adequate, accurate and up-to-date information on beneficial ownership regarding the trust. That information shall include the identity of: (a) the settlor; (b) the trustee(s); (c) the protector (if any); d) the beneficiaries or class of beneficiaries; and (e) any other natural person exercising effective control over the trust.</p>
G20 High Level Principle 6: Countries should ensure that competent authorities (including law enforcement and prosecutorial authorities, supervisory authorities, tax authorities and financial intelligence units) have timely access to adequate, accurate and current information regarding the beneficial ownership of legal arrangements.	
FATF Standards	EU 4 th Anti-Money Laundering Directive
Rec 25:	<i>Article 31</i>

adequate, accurate and timely information on express trusts, including information on the settlor, trustee and beneficiaries, that can be obtained or accessed in a timely fashion by competent authorities.	Member States shall require that the information referred to in paragraph 1 can be accessed in a timely manner by competent authorities and FIUs.
<p>G20 High Level Principle 7: Countries should require financial institutions and DNFBPs, including trust and company service providers, to identify and take reasonable measures, including taking into account country risks, to verify the beneficial ownership of their customers.</p> <p>c. Countries should consider facilitating access to beneficial ownership information by financial institutions and DNFBPs.</p> <p>d. Countries should ensure effective supervision of these obligations, including the establishment and enforcement of effective, proportionate and dissuasive sanctions for non-compliance.</p>	
FATF Standards	EU 4 th Anti-Money Laundering Directive
<p><i>Recommendation 10, Customer Due Diligence:</i></p> <p>Identifying the beneficial owner, and taking reasonable measures to verify the identity of the beneficial owner, such that the financial institution is satisfied that it knows who the beneficial owner is. For legal persons and arrangements this should include financial institutions understanding the ownership and control structure of the customer.</p> <p>Interpretative Note to Recommendation 10:</p> <p>(b) Identify the beneficial owners of the customer and take reasonable measures to verify the identity of such persons, through the following information:</p> <p>(i) For legal persons:</p> <p>(i.i) The identity of the natural persons (if any – as ownership interests can be so diversified that there are no natural persons (whether acting alone or together) exercising control of the legal person or arrangement through ownership) who ultimately have a controlling ownership interest in a legal person; and</p> <p>(i.ii) to the extent that there is doubt under (i.i) as to whether the person(s) with the controlling ownership interest are the beneficial owner(s) or where no natural person exerts control through</p>	<p><i>Article 13</i></p> <p>Customer due diligence measures shall comprise: (b) identifying the beneficial owner and taking reasonable measures to verify that person's identity so that the obliged entity is satisfied that it knows who the beneficial owner is, including, as regards legal persons, trusts, companies, foundations and similar legal arrangements, taking reasonable measures to understand the ownership and control structure of the customer;</p>

<p>ownership interests, the identity of the natural persons (if any) exercising control of the legal person or arrangement through other means.</p> <p>(i.iii) Where no natural person is identified under (i.i) or (i.ii) above, financial institutions should identify and take reasonable measures to verify the identity of the relevant natural person who holds the position of senior managing official.</p> <p>(ii) For legal arrangements:</p> <p>(ii.i) Trusts – the identity of the settlor, the trustee(s), the protector (if any), the beneficiaries or class of beneficiaries, and any other natural person exercising ultimate effective control over the trust (including through a chain of control/ownership);</p> <p>(ii.ii) Other types of legal arrangements – the identity of persons in equivalent or similar positions.</p>	
<p>G20 High Level Principle 8: Countries should ensure that their national authorities cooperate effectively domestically and internationally. Countries should also ensure that their competent authorities participate in information exchange on beneficial ownership with international counterparts in a timely and effective manner.</p>	
FATF Standards	EU 4 th Anti-Money Laundering Directive
<p><i>Interpretive Note to Rec 24</i></p> <p>Countries should rapidly, constructively and effectively provide international cooperation in relation to basic and beneficial ownership information, on the basis set out in Recommendations 37 and 40. This should include (a) facilitating access by foreign competent authorities to basic information held by company registries; (b) exchanging information on shareholders; and (c) using their powers, in accordance with their domestic law, to obtain beneficial ownership information on behalf of foreign counterparts.</p> <p><i>Interpretive Note to Rec 25</i></p>	<p><i>Article 30</i></p> <p>6. The central register...shall ensure timely and unrestricted access by competent authorities and FIUs, without alerting the entity concerned. It shall also allow timely access by obliged entities when taking customer due diligence measures.</p> <p>7. Member States shall ensure that competent authorities and FIUs are able to provide the information referred to in paragraphs 1 and 3 to the competent authorities and to the FIUs of other Member States in a timely manner.</p> <p><i>Article 31 (trusts)</i></p>

<p>Countries should rapidly, constructively and effectively provide international cooperation in relation to information, including beneficial ownership information, on trusts and other legal arrangements on the basis set out in Recommendations 37 and 40. This should include (a) facilitating access by foreign competent authorities to any information held by registries or other domestic authorities; (b) exchanging domestically available information on the trusts or other legal arrangement; and (c) using their competent authorities' powers, in accordance with domestic law, in order to obtain beneficial ownership information on behalf of foreign counterparts.</p>	<p>Member States shall ensure that competent authorities and FIUs are able to provide the information referred to in paragraphs 1 and 4 to the competent authorities and to the FIUs of other Member States in a timely manner.</p>
<p>G20 High Level Principle 9: Countries should support G20 efforts to combat tax evasion by ensuring that beneficial ownership information is accessible to their tax authorities and can be exchanged with relevant international counterparts in a timely and effective manner.</p>	
FATF Standards	EU 4 th Anti-Money Laundering Directive
No specific measures on access by tax authorities, although tax crimes are listed as predicate crimes for money laundering	No direct equivalent, although certain tax crimes are covered by the Directive
<p>G20 High Level Principle 10: Countries should address the misuse of legal persons and legal arrangements which may obstruct transparency, including:</p> <ul style="list-style-type: none"> c. prohibiting the ongoing use of bearer shares and the creation of new bearer shares, or taking other effective measures to ensure that bearer shares and bearer share warrants are not misused; and d. taking effective measures to ensure that legal persons which allow nominee shareholders or nominee directors are not misused. 	
FATF Standards	EU 4 th Anti-Money Laundering Directive
<p><i>Rec. 25</i></p> <p>Countries that have legal persons that are able to issue bearer shares or bearer share warrants, or which allow nominee shareholders or nominee directors, should take effective measures to ensure that they are not misused for money laundering or terrorist financing.</p>	<p><i>Article 2</i></p> <p>Member States shall take measures to prevent misuse of bearer shares and bearer share warrants.</p>

Interpretative Note to Recommendation 25

14. Countries should take measures to prevent the misuse of bearer shares and bearer share

warrants, for example by applying one or more of the following mechanisms: (a) prohibiting them; (b) converting them into registered shares or share warrants (for example through dematerialisation); (c) immobilising them by requiring them to be held with a regulated financial institution or professional intermediary; or (d) requiring shareholders with a controlling interest to notify the company, and the company to record their identity.

15. Countries should take measures to prevent the misuse of nominee shares and nominee directors, for example by applying one or more of the following mechanisms: (a) requiring nominee shareholders and directors to disclose the identity of their nominator to the company and to any relevant registry, and for this information to be included in the relevant register; or (b) requiring nominee shareholders and directors to be licensed, for their nominee status to be recorded in company registries, and for them to maintain information identifying their nominator, and make this information available to the competent authorities upon request.

Comparison of provisions of agreed text of 4MLD with proposed amendments issued by the European Commission

4MLD text	Proposed amendments
Percentage threshold indicating ownership	
<p>Article 3(6)</p> <p>(a) in the case of corporate entities:</p> <p>(i) ... A shareholding of 25 % plus one share or an ownership interest of more than 25 % in the customer held by a natural person shall be an indication of direct ownership. A shareholding of 25 % plus one share or an ownership interest of more than 25 % in the customer held by a corporate entity, which is under the control of a natural person(s), or by multiple corporate entities, which are under the control of the same natural person(s), shall be an indication of indirect ownership.</p>	<p>"For the purposes of Article 13(1)(b) and Article 30 of this Directive, the indication of ownership or control set out in the second paragraph is reduced to 10% whenever the legal entity is a Passive Non-Financial Entity as defined in Directive 2011/16/EU.</p>
Disclosure of beneficial ownership – companies (article 30)	
<p>5.Member States shall ensure that the information on the beneficial ownership is accessible in all cases to:</p> <p>(a) competent authorities and FIUs, without any restriction;</p> <p>(b) obliged entities, within the framework of customer due diligence in accordance with Chapter II;</p> <p>(c) any person or organisation that can demonstrate a legitimate interest.</p>	<p>5.Member States shall ensure that the information on the beneficial ownership is accessible in all cases to:</p> <p>(a) competent authorities and FIUs, without any restriction;</p> <p>(b) obliged entities, within the framework of customer due diligence in accordance with Chapter II</p> <p>Public access via Directive 2009/101/EC</p> <p>Member States shall take the measures required to ensure compulsory disclosure by the entities referred to in Article 1a(a) and (b) of this Directive [i.e. profit-making companies] of adequate, accurate and current information on their beneficial ownership, in accordance with Articles 30 and 31 of Directive 2015/849. The information shall consist of the name, the month and year of birth, the nationality and the country of residence of the</p>

	beneficial owner as well as the nature and extent of the beneficial interest held.
Disclosure of beneficial ownership – trusts (Article 31)	
<p>1. Member States shall require that trustees of any express trust governed under their law obtain and hold adequate, accurate and up-to-date information on beneficial ownership regarding the trust.</p> <p>That information shall include the identity of: (a) the settlor; (b) the trustee(s); (c) the protector (if any); d) the beneficiaries or class of beneficiaries; and (e) any other natural person exercising effective control over the trust.</p> <p>3. Member States shall require that the information referred to in paragraph 1 can be accessed in a timely manner by competent authorities and FIUs.</p>	<p>"1. Member States shall ensure that this Article applies to trusts and other types of legal arrangements having a structure or functions similar to trusts, such as, inter alia, fiducie, Treuhand or fideicomiso.</p> <p>Each Member State shall require that trustees of any express trust administered in that Member State obtain and hold adequate, accurate and up-to-date information on beneficial ownership regarding the trust.</p> <p>That information shall include the identity of: (a) the settlor; (b) the trustee; (c) the protector (if any); (d) the beneficiaries or class of beneficiaries; (e) any other natural person exercising effective control of the trust.";</p> <p>3. Member States shall require that the information referred to in paragraph 1 can be accessed in a timely manner by competent authorities and FIUs.</p> <p>3a. The information referred to in paragraph 1 shall be held in a central register set up by the Member State where the trust is administered.</p> <p>4. Member States shall ensure that the information held in the register referred to in paragraph 3a is accessible in a timely and unrestricted manner by competent authorities and FIUs, without alerting the parties to the trust concerned. They shall also ensure that obliged entities are allowed timely access to that information, pursuant to the provisions on customer due diligence laid down in Chapter II.</p> <p>4a. The information held in the register referred to in paragraph 3a of this Article with respect to any other trusts than those referred to in Article 7b (b) of Directive (EC) 2009/101 [i.e. this provision applies to “business-type” trusts] shall be accessible to any person or organisation that can demonstrate a legitimate interest. The information accessible to persons</p>

	and organisations that can demonstrate a legitimate interest shall consist of the name, the month and year of birth, the nationality and the country of residence of the beneficial owner as defined in Article 3(6)(b).
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Appendix B – G20 High Level Principles on Beneficial Ownership

1. Countries should have a definition of ‘beneficial owner’ that captures the natural person(s) who ultimately owns or controls the legal person or legal arrangement.
2. Countries should assess the existing and emerging risks associated with different types of legal persons and arrangements, which should be addressed from a domestic and international perspective.
 - d. Appropriate information on the results of the risk assessments should be shared with competent authorities, financial institutions and designated non-financial businesses and professions (DNFBPs¹⁶) and, as appropriate, other jurisdictions.
 - e. Effective and proportionate measures should be taken to mitigate the risks identified.
 - f. Countries should identify high-risk sectors, and enhanced due diligence could be appropriately considered for such sectors.
3. Countries should ensure that legal persons maintain beneficial ownership information onshore and that information is adequate, accurate, and current.
4. Countries should ensure that competent authorities (including law enforcement and prosecutorial authorities, supervisory authorities, tax authorities and financial intelligence units) have timely access to adequate, accurate and current information regarding the beneficial ownership of legal persons. Countries could implement this, for example, through central registries of beneficial ownership of legal persons or other appropriate mechanisms.
5. Countries should ensure that trustees of express trusts maintain adequate, accurate and current beneficial ownership information, including information of settlors, the protector (if any) trustees and beneficiaries. These measures should also apply to other legal arrangements with a structure or function similar to express trusts.
6. Countries should ensure that competent authorities (including law enforcement and prosecutorial authorities, supervisory authorities, tax authorities and financial intelligence units) have timely access to adequate, accurate and current information regarding the beneficial ownership of legal arrangements.
7. Countries should require financial institutions and DNFBPs, including trust and company service providers, to identify and take reasonable measures, including taking into account country risks, to verify the beneficial ownership of their customers.
 - e. Countries should consider facilitating access to beneficial ownership information by financial institutions and DNFBPs.
 - f. Countries should ensure effective supervision of these obligations, including the establishment and enforcement of effective, proportionate and dissuasive sanctions for non-compliance.
8. Countries should ensure that their national authorities cooperate effectively domestically and internationally. Countries should also ensure that their competent authorities participate in information exchange on beneficial ownership with international counterparts in a timely and effective manner.

¹⁶ As identified by the Financial Action Task-Force

9. Countries should support G20 efforts to combat tax evasion by ensuring that beneficial ownership information is accessible to their tax authorities and can be exchanged with relevant international counterparts in a timely and effective manner.

10. Countries should address the misuse of legal persons and legal arrangements which may obstruct transparency, including:

- e. prohibiting the ongoing use of bearer shares and the creation of new bearer shares, or taking other effective measures to ensure that bearer shares and bearer share warrants are not misused; and
- f. taking effective measures to ensure that legal persons which allow nominee shareholders or nominee directors are not misused.

Appendix C – FATF Interpretive Notes

INTERPRETIVE NOTE TO RECOMMENDATION 24 (TRANSPARENCY AND BENEFICIAL OWNERSHIP OF LEGAL PERSONS)

1. Competent authorities should be able to obtain, or have access in a timely fashion to, adequate, accurate and current information on the beneficial ownership and control of companies and other legal persons (beneficial ownership information¹⁷) that are created¹⁸ in the country. Countries may choose the mechanisms they rely on to achieve this objective, although they should also comply with the minimum requirements set out below. It is also very likely that countries will need to utilise a combination of mechanisms to achieve the objective.
2. As part of the process of ensuring that there is adequate transparency regarding legal persons, countries should have mechanisms that:
 - (a) identify and describe the different types, forms and basic features of legal persons in the country.
 - (b) identify and describe the processes for: (i) the creation of those legal persons; and (ii) the obtaining and recording of basic and beneficial ownership information;
 - (c) make the above information publicly available; and
 - (d) assess the money laundering and terrorist financing risks associated with different types of legal persons created in the country.

A. BASIC INFORMATION

3. In order to determine who the beneficial owners of a company are, competent authorities will require certain basic information about the company, which, at a minimum, would include information about the legal ownership and control structure of the company. This would include information about the status and powers of the company, its shareholders and its directors.
4. All companies created in a country should be registered in a company registry.¹⁹ Whichever combination of mechanisms is used to obtain and record beneficial ownership information (see section B), there is a set of basic information on a company that needs to be obtained and recorded by the company²⁰ as a necessary prerequisite. The minimum basic information to be obtained and recorded by a company should be:
 - (a) company name, proof of incorporation, legal form and status, the address of the registered office, basic regulating powers (e.g. memorandum & articles of association), a list of directors; and
 - (b) a register of its shareholders or members, containing the names of the shareholders and members and number of shares held by each shareholder²¹ and categories of

¹⁷ ³⁸ Beneficial ownership information for legal persons is the information referred to in the interpretive note to Recommendation 10, paragraph 5(b)(i). Controlling shareholders as referred to in, paragraph 5(b)(i) of the interpretive note to Recommendation 10 may be based on a threshold, e.g. any persons owning more than a certain percentage of the company (e.g. 25%).

¹⁸ ³⁹ References to creating a legal person, include incorporation of companies or any other mechanism that is used.

¹⁹ ⁴⁰ “Company registry” refers to a register in the country of companies incorporated or licensed in that country and normally maintained by or for the incorporating authority. It does not refer to information held by or for the company itself.

²⁰ ⁴¹ The information can be recorded by the company itself or by a third person under the company’s responsibility.

²¹ ⁴² This is applicable to the nominal owner of all registered shares.

shares (including the nature of the associated voting rights).

5. The company registry should record all the basic information set out in paragraph 4(a) above.

6. The company should maintain the basic information set out in paragraph 4(b) within the country, either at its registered office or at another location notified to the company registry. However, if the company or company registry holds beneficial ownership information within the country, then the register of shareholders need not be in the country, provided that the company can provide this information promptly on request.

B. BENEFICIAL OWNERSHIP INFORMATION

7. Countries should ensure that either: (a) information on the beneficial ownership of a company is obtained by that company and available at a specified location in their country; or (b) there are mechanisms in place so that the beneficial ownership of a company can be determined in a timely manner by a competent authority.

8. In order to meet the requirements in paragraph 7, countries should use one or more of the following mechanisms:

- (a) Requiring companies or company registries to obtain and hold up-to-date information on the companies' beneficial ownership;
- (b) Requiring companies to take reasonable measures²² to obtain and hold up-to-date information on the companies' beneficial ownership;
- (c) Using existing information, including: (i) information obtained by financial institutions and/or DNFBPs, in accordance with Recommendations 10 and 22²³; (ii) information held by other competent authorities on the legal and beneficial ownership of companies (e.g. company registries, tax authorities or financial or other regulators); (iii) information held by the company as required above in Section A; and (iv) available information on companies listed on a stock exchange, where disclosure requirements (either by stock exchange rules or through law or enforceable means) impose requirements to ensure adequate transparency of beneficial ownership.

9. Regardless of which of the above mechanisms are used, countries should ensure that companies cooperate with competent authorities to the fullest extent possible in determining the beneficial owner. This should include:

- (a) Requiring that one or more natural persons resident in the country is authorised by the company²⁴, and accountable to competent authorities, for providing all basic information and available beneficial ownership information, and giving further assistance to the authorities; and/or
- (b) Requiring that a DNFBP in the country is authorised by the company, and accountable to competent authorities, for providing all basic information and available beneficial ownership information, and giving further assistance to the authorities; and/or
- (c) Other comparable measures, specifically identified by the country, which can effectively ensure cooperation.

10. All the persons, authorities and entities mentioned above, and the company itself (or its administrators, liquidators or other persons involved in the dissolution of the company), should maintain the information and records referred to for at least five years after the date

²² ⁴³ Measures taken should be proportionate to the level of risk or complexity induced by the ownership structure of the company or the nature of the controlling shareholders.

²³ ⁴⁴ Countries should be able to determine in a timely manner whether a company has an account with a financial institution within the country.

²⁴ ⁴⁵ Members of the company's board or senior management may not require specific authorisation by the company.

on which the company is dissolved or otherwise ceases to exist, or five years after the date on which the company ceases to be a customer of the professional intermediary or the financial institution.

C. TIMELY ACCESS TO CURRENT AND ACCURATE INFORMATION

11. Countries should have mechanisms that ensure that basic information, including information provided to the company registry, is accurate and updated on a timely basis. Countries should require that any available information referred to in paragraph 7 is accurate and is kept as current and up-to-date as possible, and the information should be updated within a reasonable period following any change.

12. Competent authorities, and in particular law enforcement authorities, should have all the powers necessary to be able to obtain timely access to the basic and beneficial ownership information held by the relevant parties.

13. Countries should require their company registry to facilitate timely access by financial institutions, DNFBPs and other countries' competent authorities to the public information they hold, and, at a minimum to the information referred to in paragraph 4(a) above.

Countries should also consider facilitating timely access by financial institutions and DNFBPs to information referred to in paragraph 4(b) above.

D. OBSTACLES TO TRANSPARENCY

14. Countries should take measures to prevent the misuse of bearer shares and bearer share warrants, for example by applying one or more of the following mechanisms: (a) prohibiting them; (b) converting them into registered shares or share warrants (for example through dematerialisation); (c) immobilising them by requiring them to be held with a regulated financial institution or professional intermediary; or (d) requiring shareholders with a controlling interest to notify the company, and the company to record their identity.

15. Countries should take measures to prevent the misuse of nominee shares and nominee directors, for example by applying one or more of the following mechanisms: (a) requiring nominee shareholders and directors to disclose the identity of their nominator to the company and to any relevant registry, and for this information to be included in the relevant register; or (b) requiring nominee shareholders and directors to be licensed, for their nominee status to be recorded in company registries, and for them to maintain information identifying their nominator, and make this information available to the competent authorities upon request.

E. OTHER LEGAL PERSONS

16. In relation to foundations, Anstalt, and limited liability partnerships, countries should take similar measures and impose similar requirements, as those required for companies, taking into account their different forms and structures.

17. As regards other types of legal persons, countries should take into account the different forms and structures of those other legal persons, and the levels of money laundering and terrorist financing risks associated with each type of legal person, with a view to achieving appropriate levels of transparency. At a minimum, countries should ensure that similar types of basic information should be recorded and kept accurate and current by such legal persons, and that such information is accessible in a timely way by competent authorities. Countries should review the money laundering and terrorist financing risks associated with such other legal persons, and, based on the level of risk, determine the measures that should be taken to ensure that competent authorities have timely access to adequate, accurate and current beneficial ownership information for such legal persons.

F. LIABILITY AND SANCTIONS

18. There should be a clearly stated responsibility to comply with the requirements in this

Interpretive Note, as well as liability and effective, proportionate and dissuasive sanctions, as appropriate for any legal or natural person that fails to properly comply with the requirements.

G. INTERNATIONAL COOPERATION

19. Countries should rapidly, constructively and effectively provide international cooperation in relation to basic and beneficial ownership information, on the basis set out in Recommendations 37 and 40. This should include (a) facilitating access by foreign competent authorities to basic information held by company registries; (b) exchanging information on shareholders; and (c) using their powers, in accordance with their domestic law, to obtain beneficial ownership information on behalf of foreign counterparts. Countries should monitor the quality of assistance they receive from other countries in response to requests for basic and beneficial ownership information or requests for assistance in locating beneficial owners residing abroad.

INTERPRETIVE NOTE TO RECOMMENDATION 25 (TRANSPARENCY AND BENEFICIAL OWNERSHIP OF LEGAL ARRANGEMENTS)

1. Countries should require trustees of any express trust governed under their law to obtain and hold adequate, accurate, and current beneficial ownership information regarding the trust. This should include information on the identity of the settlor, the trustee(s), the protector (if any), the beneficiaries or class of beneficiaries, and any other natural person exercising ultimate effective control over the trust. Countries should also require trustees of any trust governed under their law to hold basic information on other regulated agents of, and service providers to, the trust, including investment advisors or managers, accountants, and tax advisors.

2. All countries should take measures to ensure that trustees disclose their status to financial institutions and DNFBPs when, as a trustee, forming a business relationship or carrying out an occasional transaction above the threshold. Trustees should not be prevented by law or enforceable means from providing competent authorities with any information relating to the trust²⁵; or from providing financial institutions and DNFBPs, upon request, with information on the beneficial ownership and the assets of the trust to be held or managed under the terms of the business relationship.

3. Countries are encouraged to ensure that other relevant authorities, persons and entities hold information on all trusts with which they have a relationship. Potential sources of information on trusts, trustees, and trust assets are:

(a) Registries (e.g. a central registry of trusts or trust assets), or asset registries for land, property, vehicles, shares or other assets.

(b) Other competent authorities that hold information on trusts and trustees (e.g. tax authorities which collect information on assets and income relating to trusts).

(c) Other agents and service providers to the trust, including investment advisors or managers, lawyers, or trust and company service providers.

4. Competent authorities, and in particular law enforcement authorities, should have all the powers necessary to obtain timely access to the information held by trustees and other parties, in particular information held by financial institutions and DNFBPs on: (a) the beneficial ownership; (b) the residence of the trustee; and (c) any assets held or managed by the financial institution or DNFBP, in relation to any trustees with which they have a business relationship, or for which they undertake an occasional transaction.

5. Professional trustees should be required to maintain the information referred to in paragraph 1 for at least five years after their involvement with the trust ceases. Countries are encouraged to require non-professional trustees and the other authorities, persons and entities mentioned in paragraph 3 above to maintain the information for at least five years.

6. Countries should require that any information held pursuant to paragraph 1 above should be kept accurate and be as current and up-to-date as possible, and the information should be updated within a reasonable period following any change.

7. Countries should consider measures to facilitate access to any information on trusts that is held by the other authorities, persons and entities referred to in paragraph 3, by financial institutions and DNFBPs undertaking the requirements set out in Recommendations 10 and 22.

8. In the context of this Recommendation, countries are not required to give legal recognition to trusts. Countries need not include the requirements of paragraphs 1, 2 and 6 in legislation, provided that appropriate obligations to such effect exist for trustees (e.g. through common law or case law).

²⁵ ⁴⁶ Domestic competent authorities or the relevant competent authorities of another country pursuant to an appropriate international cooperation request.

Other Legal Arrangements

9. As regards other types of legal arrangement with a similar structure or function, countries should take similar measures to those required for trusts, with a view to achieving similar levels of transparency. At a minimum, countries should ensure that information similar to that specified above in respect of trusts should be recorded and kept accurate and current, and that such information is accessible in a timely way by competent authorities.

International Cooperation

10. Countries should rapidly, constructively and effectively provide international cooperation in relation to information, including beneficial ownership information, on trusts and other legal arrangements on the basis set out in Recommendations 37 and 40. This should include (a) facilitating access by foreign competent authorities to any information held by registries or other domestic authorities; (b) exchanging domestically available information on the trusts or other legal arrangement; and (c) using their competent authorities' powers, in accordance with domestic law, in order to obtain beneficial ownership information on behalf of foreign counterparts.

Liability and Sanctions

11. Countries should ensure that there are clear responsibilities to comply with the requirements in this Interpretive Note; and that trustees are either legally liable for any failure to perform the duties relevant to meeting the obligations in paragraphs 1, 2, 6 and (where applicable) 5; or that there are effective, proportionate and dissuasive sanctions, whether criminal, civil or administrative, for failing to comply.²⁶ Countries should ensure that there are effective, proportionate and dissuasive sanctions, whether criminal, civil or administrative, for failing to grant to competent authorities timely access to information regarding the trust referred to in paragraphs 1 and 5.

²⁶ ⁴⁷ This does not affect the requirements for effective, proportionate, and dissuasive sanctions for failure to comply with requirements elsewhere in the Recommendations.

CHAPTER III

BENEFICIAL OWNERSHIP INFORMATION

Article 30

1. Member States shall ensure that corporate and other legal entities incorporated within their territory are required to obtain and hold adequate, accurate and current information on their beneficial ownership, including the details of the beneficial interests held.

Member States shall ensure that those entities are required to provide, in addition to information about their legal owner, information on the beneficial owner to obliged entities when the obliged entities are taking customer due diligence measures in accordance with Chapter II.

2. Member States shall require that the information referred to in paragraph 1 can be accessed in a timely manner by competent authorities and FIUs.

3. Member States shall ensure that the information referred to in paragraph 1 is held in a central register in each Member State, for example a commercial register, companies register as referred to in Article 3 of Directive 2009/101/EC of the European Parliament and of the Council ^[31], or a public register. Member States shall notify to the Commission the characteristics of those national mechanisms. The information on beneficial ownership contained in that database may be collected in accordance with national systems.

4. Member States shall require that the information held in the central register referred to in paragraph 3 is adequate, accurate and current.

5. Member States shall ensure that the information on the beneficial ownership is accessible in all cases to:

- (a) competent authorities and FIUs, without any restriction;
- (b) obliged entities, within the framework of customer due diligence in accordance with Chapter II;
- (c) any person or organisation that can demonstrate a legitimate interest.

The persons or organisations referred to in point (c) shall access at least the name, the month and year of birth, the nationality and the country of residence of the beneficial owner as well as the nature and extent of the beneficial interest held.

For the purposes of this paragraph, access to the information on beneficial ownership shall be in accordance with data protection rules and may be subject to online registration and to the payment of a fee. The fees charged for obtaining the information shall not exceed the administrative costs thereof.

6. The central register referred to in paragraph 3 shall ensure timely and unrestricted access by competent authorities and FIUs, without alerting the entity concerned. It shall also allow timely access by obliged entities when taking customer due diligence measures.

7. Member States shall ensure that competent authorities and FIUs are able to provide the information referred to in paragraphs 1 and 3 to the competent authorities and to the FIUs of other Member States in a timely manner.

8. Member States shall require that obliged entities do not rely exclusively on the central register referred to in paragraph 3 to fulfil their customer due diligence requirements in accordance with Chapter II. Those requirements shall be fulfilled by using a risk-based approach.

9. Member States may provide for an exemption to the access referred to in points (b) and (c) of paragraph 5 to all or part of the information on the beneficial ownership on a case-by-case basis in exceptional circumstances, where such access would expose the beneficial owner to the risk of fraud, kidnapping, blackmail, violence or intimidation, or where the beneficial owner is a minor or otherwise incapable. Exemptions granted pursuant to this paragraph shall not apply to the credit institutions and financial institutions, and to obliged entities referred to in point (3)(b) of Article 2(1) that are public officials.

10. By 26 June 2019, the Commission shall submit a report to the European Parliament and to the Council assessing the conditions and the technical specifications and procedures for ensuring the safe and efficient interconnection of the central registers referred to in paragraph 3 via the European central platform established by Article 4a(1) of Directive 2009/101/EC. Where appropriate, that report shall be accompanied by a legislative proposal.

Article 31

1. Member States shall require that trustees of any express trust governed under their law obtain and hold adequate, accurate and up-to-date information on beneficial ownership regarding the trust. That information shall include the identity of:

- (a) the settlor;
- (b) the trustee(s);
- (c) the protector (if any);
- (d) the beneficiaries or class of beneficiaries; and
- (e) any other natural person exercising effective control over the trust.

2. Member States shall ensure that trustees disclose their status and provide the information referred to in paragraph 1 to obliged entities in a timely manner where, as a trustee, the trustee forms a business relationship or carries out an occasional transaction above the thresholds set out in points (b), (c) and (d) of Article 11.

3. Member States shall require that the information referred to in paragraph 1 can be accessed in a timely manner by competent authorities and FIUs.

4. Member States shall require that the information referred to in paragraph 1 is held in a central register when the trust generates tax consequences. The central register shall ensure timely and unrestricted access by competent authorities and FIUs, without alerting the parties to the trust concerned. It may also allow timely access by obliged entities, within the framework of customer due

diligence in accordance with Chapter II. Member States shall notify to the Commission the characteristics of those national mechanisms.

5. Member States shall require that the information held in the central register referred to in paragraph 4 is adequate, accurate and up-to-date.

6. Member States shall ensure that obliged entities do not rely exclusively on the central register referred to in paragraph 4 to fulfil their customer due diligence requirements as laid down in Chapter II. Those requirements shall be fulfilled by using a risk-based approach.

7. Member States shall ensure that competent authorities and FIUs are able to provide the information referred to in paragraphs 1 and 4 to the competent authorities and to the FIUs of other Member States in a timely manner.

8. Member States shall ensure that the measures provided for in this Article apply to other types of legal arrangements having a structure or functions similar to trusts.

9. By 26 June 2019, the Commission shall submit a report to the European Parliament and to the Council assessing the conditions and the technical specifications and procedures for ensuring safe and efficient interconnection of the central registers. Where appropriate, that report shall be accompanied by a legislative proposal.

Appendix E – extracts from Italy Mutual Evaluation Report 2016

FI and DNFBPs application of beneficial ownership

255. Interviews with a cross-section of FIs and DNFBPs revealed different perceptions of what the law requires with respect to the identification of beneficial ownership. First, there is a lack of consistency in applying the principle that any legal or natural person that holds 25% or more of the shares at each level of the ownership chain should be regarded as a potential beneficial owner. Second, the distinction between beneficial ownership and shareholding is not always fully appreciated. The financial regulators have recognised both these issues, and clearer statements than exist in the primary law have been included in the BoI and IVASS regulations that came into force on January 1, 2014, and January 1, 2015, respectively. No similar regulations or guidance have been issued for the DNFBP sectors, with the exception of the PIE auditors who are addressed by CONSOB secondary regulations, and notaries who have received guidelines from their professional body. It is understood that the implementation, in due course, of the EU's 4th Money Laundering Directive may help to address these issues.

256. Many institutions place undue reliance on the Chambers of Commerce database (Infocamere) when seeking to identify the ultimate natural person who controls a customer. Some institutions indicated that, where the ownership chain is comprised purely of Italian-incorporated companies, they can rely intrinsically on the database to track the ultimate beneficial owner. However, the Infocamere holds only shareholding interests, and is not able to indicate whether the ultimate shareholder of record is also the beneficial owner. Although notaries, when processing the paperwork for company formations, are required to identify and record the true beneficial ownership, this information does not form part of the Infocamere database, and cannot, therefore, be accessed by users.

257. There also appears to be an over-reliance on the customer's self-declaration when the ownership chain starts to become complicated. This is particularly the case for those FIs that have less sophisticated systems, and for most DNFBPs. Some institutions seemed to regard the declaration as a safe-harbour statement for them, thereby avoiding the need to spend time and energy on their own independent checks. It is an offense under the AML Law for a customer to provide incomplete or false information on beneficial ownership, and the authorities have provided some examples of where prosecutions have been brought, but the practice of placing ultimate reliance on the completeness and accuracy of the self-declaration is questionable.

Timely Access to Adequate, Accurate and Current Basic and Beneficial Ownership Information on Legal Persons

331. Basic information is easily accessible through online consultation of the information contained in the Business Register. The NRA as well as the authorities met concluded that while that information is easily accessible, accurate and up-to-date, information on the beneficial owners does not encounter the same level of accuracy and speed of access, especially when it pertains to foreign owners, and/or the use—in Italy or abroad—of front men to mask the ultimate beneficial owner. Information on shareholders who hold more than 25% of an SRL and on beneficial owners of listed companies may be easily be found (respectively in the Business Register and a the CONSOB), but beyond these specific cases, access to and the reliability of beneficial ownership information vary, as they depend mainly on the information collected by reporting entities and the use, by some LEAs, of different databases.

332. The UIF and LEAs may access information on the beneficial owner held by reporting entities (as soon as the reporting entity that holds the information has been identified). This applies across the range of FIs and DNFBPs, but, in practice, most frequently concerns banks, and notaries. Provided that

a specific legal person is in a business relationship with an Italian bank, that bank can easily be identified by the authorities through a consultation of the database of accounts and other financial business relationships (the Archivio dei rapporti finanziari) held by the AdE. This then enables the authorities to retrieve the CDD information collected by the bank in application of the AML/CFT law and collected in the Archivio Unico Informatico. A consultation of the Business Register enables the identification of the notary that filed the information into the register (although some of the authorities mentioned that, in practice, this may nevertheless prove challenging in some instances considering the organised crime groups' noted practice of consulting different notaries at different points in time).

333. The quality of the information collected by banks and notaries is considered to be generally adequate by LEAs, although the 2014 NRA concluded that beneficial ownership information was generally less reliable than basic information, and that the process for the identification of the beneficial owner needed to be strengthened. As mentioned above, the use of front men in the creation of companies has been established as one of organised crime's longstanding practices; this would tend to indicate that insufficient attention may be given to the identification of the real beneficial owner, especially by notaries. This factor and the discussions with reporting entities, including notaries, led the assessment team to conclude that the identification by notaries of beneficial owners of legal persons is not as rigorous as it should be, and that the reliability of the information that they collect is not optimal. This is of concern, particularly in light of (i) the role played by notaries in Italy, (ii) the fact that most of the information contained in the Business Register (which is often the starting point of the authorities' enquiries is filed by them) and (iii) the misuse of legal persons, notably by organised crime groups.

Technical Questionnaire on Beneficial Ownership Transparency

This technical questionnaire is based on the methodology used in previous Transparency International research relating to the implementation of the G20 High Level Principles in G20 countries. Additional questions have been added to capture more granular information relating to the FATF Recommendations and 4MLD (including recent proposals by the European Commission for amending the text).

The scores can be entered on the attached grid and a spreadsheet tool will be supplied to produce the ratings described below. However, the questionnaire should be completed in narrative form, with a description of the data relied on to produce each score, including references to legislation, regulation, policies and other relevant information.

Scoring:

Points are awarded on a 4-point scale for each answer, with the general scoring principle being:

- 4 The country's legal/institutional framework is fully in line with the principle/standard.
- 3 The country's legal/institutional framework is generally in line with the principle/standard but with shortcomings.
- 2 There are some areas in which the country is in line with the principle/standard, but significant shortcomings remain.
- 1 The country's legal/institutional framework is not in line with the principle/standard, apart from some minor areas.
- 0 The country's legal/institutional framework is not at all in line with the principle/standard.

The scores will be averaged across each Principle, and adjusted for comparison against the standards (e.g. a provision may fully meet a FATF standard, but fall short of the proposed regime under 4MLD amendments), and converted to percentage scores to illustrate the strength of the system, both per principle and overall:

Scores between 81% and 100%	Very strong
Scores between 61% and 80%	Strong
Scores between 41% and 60%	Average
Scores between 21% and 40%	Weak
Scores between 0% and 20%	Very weak

The rating without the additional questions can be used for direct comparison with the G20 countries in the previous TI research.

Evaluation of plans for improving the system

For each of the questions where the score is less than 4, i.e. where there are some shortcomings in the national requirements, two additional questions should be answered on the basis of available information:

Qxx Commitments: If the score on Qxx is less than 4, are there any commitments to address the shortcomings?

- 4 Legislation is drafted and under consideration for this issue
- 3 There is a consultation exercise underway on this issue
- 2 There are firm proposals, e.g. in an AML/CFT Action Plan, to address this issue in the next year
- 1 There has been a commitment, e.g. in a AML/CFT Strategy, to address this issue at some point
- 0 There are no current plans to address this issue

Qxx Adequacy: If the plans identified above are implemented what would the score on Qxx be post-implementation?

- 4 The country's legal framework will be fully in line with the principle/standard.
- 3 The country's legal framework will be generally in line with the principle/standard but with shortcomings.
- 2 There are some areas in which the country will be in line with the principle/standard, but significant shortcomings will remain.
- 1 The country's legal framework will not be in line with the principle/standard, apart from some minor areas.
- 0 The country's legal framework will not be at all in line with the principle/standard.

The scores on these questions will be averaged in the same manner to give ratings relating to level of commitment to change and an anticipated future level of adequacy of compliance with the standards.

The two scores will be combined to provide an overall risk rating, as follows:

Commitment Adequacy	Very Strong	Strong	Average	Weak	Very Weak
Very Strong					
Strong					
Average					
Weak					
Very Weak					

Key

	Low risk
	Medium-low risk
	Medium risk
	Medium-high risk
	High risk

PRINCIPLE 1: BENEFICIAL OWNERSHIP DEFINITION

Guidance: The beneficial owner should always be a natural (physical) person and never another legal entity. The beneficial owner(s) is the person who ultimately exercises control through legal ownership or through other means.

Q1. To what extent does the law in your country clearly define beneficial ownership?

Scoring criteria:

4: Beneficial owner is defined as a natural person who directly or indirectly exercises ultimate control over a legal entity or arrangement, and the definition of ownership covers control through other means, in addition to legal ownership.

1: Beneficial owner is defined as a natural person [who owns a certain percentage of shares] but there is no mention of whether control is exercised directly or indirectly, or if control is limited to a percentage of share ownership.

0: There is no definition of beneficial ownership or the control element is not included.

Q2. If thresholds are used to define beneficial ownership, what are they?

Scoring criteria:

4: Any shareholding is regarded as a beneficial ownership

3: 10% for all companies is regarded as beneficial ownership

2: 10% is regarded as beneficial ownership for profit-making companies only

1: 25% is the threshold for beneficial ownership

PRINCIPLE 2: IDENTIFYING AND MITIGATING RISK

Guidance: Countries should conduct assessments of cases in which domestic and foreign corporate vehicles are being used for criminal purposes within their jurisdictions to determine typologies that indicate higher risks. Relevant authorities and external stakeholders, including financial institutions, DNFBPs, and non-governmental organisations, should be consulted during the risk assessments and the results published. The results of the assessment should also be used to inform and monitor the country's anti-corruption and anti-money laundering policies, laws, regulations and enforcement strategies.

Countries should require financial institutions and designated non-financial businesses and professions (DNFBPs) to identify, assess and take effective action to mitigate their money laundering and terrorist financing risks.

Q3: Has the government during the last three years conducted an assessment of the money laundering risks related to legal persons and arrangements?

4: Yes

0: No

Q4: Were external stakeholders (e.g. financial institutions, designated non-financial businesses or professions (DNFBPs), non-governmental organisations) consulted during the assessment?

4: Yes, external stakeholders were consulted.

0: No, external stakeholders were not consulted or the risk assessment has not been conducted.

Q5: Were the results of the risk assessment communicated to financial institutions and relevant DNFBPs?

4: Yes, financial institutions and DNFBPs received information regarding high-risks areas and other findings of the assessment.

0: No, the results have not been communicated.

Q6: Has the final risk assessment been published?

4: Yes, the final risk assessment is available to the public.

2: Only an executive summary of the risk assessment has been published.

0: No, the risk assessment has not been published or conducted.

Q7: Did the risk assessment identify specific sectors / areas as high-risk, requiring enhanced due diligence?

4: Yes, the risk assessment identifies areas considered as high-risk where additional measures should be taken to prevent money laundering.

0: No, the risk assessment does not identify high-risk sectors / areas.

Q8: Are financial institutions required to identify, assess and take effective action to mitigate their money laundering and terrorist financing risks, relating to legal persons and arrangements.

4: Yes, financial institutions are required to carry out an enterprise wide AML/CFT risk assessment and risk-rate their customer.

2: Financial institutions are only required risk-rate their customers.

0: There are no obligations on financial institutions to carry out their own risk assessment.

Q9: Are DNFBPs required to identify, assess and take effective action to mitigate their money laundering and terrorist financing risks, relating to legal persons and arrangements.

4: Yes, DNFBPs are required to carry out an enterprise wide AML/CFT risk assessment and risk-rate their customer.

2: DNFBPs are only required risk-rate their customers.

0: There are no obligations on DNFBPs to carry out their own risk assessment.

PRINCIPLE 3: ACQUIRING ACCURATE BENEFICIAL OWNERSHIP INFORMATION

Guidance: Legal entities should be required to maintain accurate, current, and adequate information on beneficial ownership within the jurisdiction in which they were incorporated. Companies should be able to request information from shareholders to ensure that the information held is accurate and up-to-date, and shareholders should be required to inform changes to beneficial ownership.

Q10: Are legal entities required to maintain beneficial ownership information?

4: Yes, legal entities are required to maintain information on all natural persons who exercise ownership of control of the legal entity.

3: Yes, legal entities are required to maintain information on all natural persons who own a certain percentage of shares or exercise control in any other form.

0: There is no requirement to hold beneficial ownership information, or the law does not make any distinction between legal ownership and control.

Q11: Does the law require that information on beneficial ownership has to be maintained within the country of incorporation of the legal entity?

4: Yes, the law establishes that the information needs to be maintained within the country of incorporation regardless whether the legal entity has or not physical presence in the country.

0: There is no requirement to hold beneficial ownership information in the country of incorporation or there is no requirement to hold beneficial ownership information at all.

Q12: Does the law require shareholders to declare to the company if they own shares on behalf of a third person?

4: Yes, shareholders need to declare if control is exercised by a third person.

2: Only in certain cases do shareholders need to declare if control is exercised by a third person.

0: No, there is no such requirement.

Q13: Does the law require beneficial owners / shareholders to inform the company regarding changes in share ownership?

4: Yes, there is a requirement for beneficial owners / shareholders to inform the company regarding changes in share ownership.

0: No, there is no requirement for beneficial owners or shareholder to inform the company regarding changes in share ownership.

Q14: Does the law require that information on beneficial ownership be maintained by foreign legal entities that are carrying out economic activity or otherwise subject to tax requirements?

foreign legal entities, but carrying out economic activity or otherwise subject to tax requirements?

4: Yes, in all circumstances

2: Yes, but only in some circumstances (e.g. owning property, participating in public procurement)

0: No, there are no requirements on foreign legal persons or arrangements

PRINCIPLE 4: ACCESS TO BENEFICIAL OWNERSHIP INFORMATION

Guidance: All relevant competent authorities, including all bodies responsible for anti-money laundering, control of corruption and tax evasion / avoidance, should have timely (that is within 24 hours) access to adequate (sufficient), accurate (legitimate and verified), and current (up-to-date) information on beneficial ownership. Ideally, this should be through a central register (and this will be required under 4MLD), but may be through other mechanisms – see Question 14.

Countries should establish a central (unified) beneficial ownership registry that is freely accessible to the public. As a minimum, beneficial ownership registries should be open to competent authorities, financial institutions and DNFBPs.

Beneficial ownership registries should have the mandate and resources to collect, verify and maintain information on beneficial ownership. Information in the registry should be up-to-date and the registry should contain the name of the beneficial owner(s), date of birth, address, nationality and a description of how control is exercised.

Access by competent authorities

Q15: Does the law specify which competent authorities (e.g. financial intelligence unit, tax authorities, public prosecutors, anti-corruption agencies, asset recovery offices etc.) are allowed to have access to beneficial ownership information?

- 4: Yes, the law specifies that all law enforcement bodies, asset recovery offices, tax agencies and the financial intelligence unit should have access to beneficial ownership information
- 2: Only some competent authorities are explicitly mentioned in the law.
- 1: The law does not specify which authorities should have access to beneficial ownership information.
- 0: The law does not allow for access by competent authorities at all.

Q16: Which information sources are competent authorities allowed to access for beneficial ownership information?

- 4: Information is available through a central beneficial ownership registry/company registry.
- 3: information is available through decentralised beneficial ownership registries/ company registries.
- 1: Authorities have access to information maintained by legal entities / or information recorded by tax agencies/ or information obtained by financial institutions and DNFBPs.
- 0: Information on beneficial ownership is not available.

Q17: Does the law specify a timeframe (e.g. 24 hours) within which competent authorities can gain access to beneficial ownership?

- 4: Yes, immediately /24 hours.
- 3: 15 days.
- 2: 30 days or in a timely manner.
- 1: Longer period.
- 0: No specification.

Q18: What information on beneficial ownership is recorded in the central company registry?

In countries where there are sub-national registries, please respond to the question using the state/province registry that contains the largest number of incorporated companies.

- 4: All relevant information is recorded: name of the beneficial owner(s), month and year of birth, identification or tax number, personal or business address, nationality, country of residence and description of how control is exercised.
- 3: Some relevant information is recorded: name, the month and year of birth, the nationality and the country of residence of the beneficial owner as well as the nature and extent of the beneficial interest held
- 2: Information is more partially recorded.
- 1: Only the name of the beneficial owner is recorded.
- 0: No information is recorded.

Q19: What information on beneficial ownership is made available to the public?

- 4: All recorded information is published online: name of the beneficial owner(s), identification or tax number, personal or business address, nationality, country of residence and description of how control is exercised.
- 3: Information is partially published online, but some data is omitted (e.g. tax number).
- 2: Only the name of the beneficial owner is published/ or information is only made available on paper / physically.
- 1: Only parties with a 'legitimate interest' are allowed access to the information.
- 0: No information is made available.

Q20: Does the law mandate the registry authority to verify the beneficial ownership information or other relevant information such as shareholders / directors submitted by legal entities against independent and reliable sources (e.g. other government databases, use of software, on-site inspections, among others)?

4: Yes, the registry authority is obliged to conduct independent verification of the information provided by legal entities regarding ownership of control.

2: Only in suspicious cases.

0: No, the information is registered as declared by the legal entity.

Q21: Does the law require legal entities to update information on beneficial ownership, shareholders and directors provided in the company registry?

4: Yes, legal entities are required by law to update information on beneficial ownership or information relevant to identifying the beneficial owner (directors/ shareholders) immediately or within 24 hours after the change.

3: Yes, legal entities are required to update the information on beneficial ownership or directors shareholders within 30 days after the change.

2: Yes, legal entities are required to update the information on the beneficial owner or directors/ shareholders on an annual basis.

1: Yes, but the law does not specify a specific timeframe.

0: No, the law does not require legal entities to update the information on control and ownership.

Q22: Do the requirements on access to beneficial ownership information also apply to foreign legal entities carrying out economic activity for profit or otherwise subject to tax requirements?

4: Yes, in all circumstances

2: Yes, but only in some circumstances (e.g. owning property, participating in public procurement)

0: No, there are no requirements on foreign legal persons or arrangements

PRINCIPLE 5: TRUSTS

Guidance: Trustees should be required to collect information on the beneficiaries and settlors of the trusts they administer. In countries where domestic trusts are not allowed but the administration of trusts is possible, trustees should be required to proactively disclose beneficial ownership information when forming business relationship with financial institutions and DNFBPs. Countries should create registries to capture information about trusts, such as trust registries or asset registries, to be consulted by competent authorities exclusively or open to financial institutions and DNFBPs and / or the public.

Q23: Does the law require trustees to hold beneficial information about the parties to the trust, including information on settlors, the protector, trustees and beneficiaries?

4: Yes, the law requires trustees to maintain all relevant information about the parties to the trust, including on settlors, the protector, trustees and beneficiaries.

2: Yes, but the law does not require that the information maintained should cover all parties to the trust (e.g. settlors are not covered).

1: Yes, but only professional trusts are covered by the law.

0: Trustees are not required by law to maintain information on the parties to the trust.

Q24: In the case of foreign trusts, are trustees required to proactively disclose to financial institutions / DNFBPs or others information about the parties to the trust?

4: Yes, the law requires trustees to disclose information about the parties to the trust, including about settlors, the protector, trustees and beneficiaries in all circumstances.

2: Yes, the law requires trustees to disclose information about the parties to the trust, including about settlors, the protector, trustees and beneficiaries, but only in some circumstances.

0: Trustees are not required by disclose information on the parties to the trust.

PRINCIPLE 6: COMPETENT AUTHORITIES' ACCESS TO TRUST INFORMATION

Guidance: Trustees should be required to share with legal authorities all information deemed relevant to identify the beneficial owner in a timely manner, preferably within 24 hours of the request. Competent authorities should have the necessary powers and prerogatives to access information about trusts held by trustees, financial institutions and DNFBPs.

Q25: Is there a registry which collects information on trusts?

- 4: Yes, information on trusts is maintained in a registry.
- 2: Yes, there is a registry which collects information on trusts but registration is not mandatory or information registered is not sufficiently complete to make it possible to identify the real beneficial owner.
- 0: No, there is no registry.

Q26: Does the law allow competent authorities to request / access information on trusts held by trustees, financial institutions, or DNFBPs?

- 4: Yes, competent authorities are able to access beneficial ownership information held by trustees and financial institutions, or access information collected in the registry.
- 2: Competent authorities have to request information or only have access to information collected by financial institutions.
- 0: No.

Q27: Does the law specify which competent authorities (e.g. financial intelligence unit, tax authorities, public prosecutors, anti-corruption agencies, asset recovery offices etc.) should have timely access to beneficial ownership information held by trustees?

- 4: Yes, the law specifies that all law enforcement bodies, asset recovery offices, tax agencies and the financial intelligence unit should have access to beneficial ownership information
- 2: Only some competent authorities are explicitly mentioned in the law.
- 1: The law does not specify which authorities should have access to beneficial ownership information.
- 0: The law does not allow for access by competent authorities at all.

Q28: Do these requirements also extend to foreign trusts being administered in the jurisdiction?

- 4: All trusts established anywhere with any connection to the country concerned
- 3: Trusts from other Member States with a connection to the country concerned
- 1: Only trusts established in the country concerned
- 0: No requirement

Q29: What information on beneficial ownership of trusts is made available to the public?

- 4: All relevant information is published online: name of the beneficial owner(s), identification or tax number, personal or business address, nationality, country of residence and description of how control is exercised.
- 3: Information is partially published online, but some data is omitted (e.g. tax number).
- 2: Only the name of the beneficial owner is published/ or information is only made available on paper / physically/Only information on "business-type" trusts is made available
- 1: Only parties with a 'legitimate interest' are allowed access to the information.
- 0: No information is made available.

PRINCIPLE 7: DUTIES OF FINANCIAL INSTITUTIONS & OTHER BUSINESSES AND PROFESSIONS

Guidance: Financial institutions and DNFBPs should be required by law to identify the beneficial owner of their customers. DNFBPs that should be regulated include, at a minimum, casinos, real estate agents, dealers in precious metals and stones, lawyers, notaries and other independent legal professions when acting on behalf of the legal entity, as well as trust or company service providers (TCSs) when they provide services to legal entities. The list should be expanded to include other business and professions according to identified money laundering risks. In high-risk cases, financial institutions and DNFBPs should be required to verify – that is, to conduct an independent evaluation of – the beneficial ownership information provided by the customer.

Enhanced due diligence, including ongoing monitoring of the business relationship and provenance of funds, should be conducted when the customer is a politically exposed person (PEP) or a close associate of a PEP. The failure to identify the beneficial owner should inhibit the continuation of the business transaction and / or require the submission of a suspicious transaction report to the oversight body. Moreover, administrative, civil and criminal sanctions for non-compliance should be applicable for financial institutions and DNFBPs, as well as for their senior management.

Finally, they should have access to beneficial ownership information collected by the government. According to 4MLD, financial institutions and DNFBPs should have access to the central registry of beneficial ownership when carrying out customer due diligence as required by the Directive.

FINANCIAL INSTITUTIONS

Q30: Does the law require that financial institutions have procedures for identifying the beneficial owner(s) when establishing a business relationship with a client?

4: Yes, financial institutions are always required to identify the beneficial owners of their clients when establishing a business relationship.

2: Financial institutions are required to identify the beneficial owners only in cases considered as high-risk or the requirement does not cover the identification of the beneficial owners of both natural and legal customers.

0: No, there is no requirement to identify the beneficial owners.

Q31: Does the law require financial institutions to also verify the identity of beneficial owners identified?

4: Yes, the identity of the beneficial owner should always be verified through, for instance, a valid document containing a photo, an in-person meeting, or other mechanism.

0: No, there is no requirement to verify the identity of the beneficial owner.

Q32: In what cases does the law require financial institutions to conduct independent verification of the information on the identity of the beneficial owner(s) provided by clients?

4: Yes, independent verification is always required or required in cases considered as high-risk (higher-risk business relationships, cash transactions above a certain threshold, foreign business relationships).

0: No, there is no legal requirement to conduct independent verification of the information provided by clients.

Q33: Does the law require financial institutions to conduct enhanced due diligence in cases where the customer or the beneficial owner is a PEP or a family member or close associate of a PEP?

4: Yes, financial institutions are required to conduct enhanced due diligence in cases where their client is a foreign or a domestic PEP, or a family member or close associate of a PEP.

2: Yes, but the law does not cover both foreign and domestic PEPs, and their close family and associates.

0: No, there is no requirement for enhanced due diligence in the case of PEPs and associates.

Q34: Does the law allow financial institutions to proceed with a business transaction if the beneficial owner has not been identified?

4: No, financial institutions are not allowed to proceed with transaction if the beneficial owner has not been identified.

0: Yes, financial institutions may proceed with business transactions regardless of whether or not the beneficial owner has been identified.

Q35: Does the law require financial institutions to submit suspicious transaction reports if the beneficial owner cannot be identified?

- 4: Yes.
- 2: Only if there is enough evidence of wrongdoing.
- 0: No.

Q36: Do financial institutions have access to beneficial ownership information collected by the government?

- 4: Yes, online for free through, for instance, a beneficial ownership registry.
- 3: Online, upon registration.
- 2: Online, upon registration and payment of fee.
- 1: Upon request or in person.
- 0: There is no access to beneficial ownership information collected by the government.

Q37: Does the law specify a timeframe (e.g. 24 hours) within which financial institutions carrying out CDD can gain access to beneficial ownership collected by the government?

- 4: Yes, immediately /24 hours.
- 3: 15 days.
- 2: 30 days or in a timely manner.
- 1: Longer period.
- 0: No specification.

Q38: What information on beneficial ownership of companies is made available to the financial institutions?

- 4: All relevant information is published online: name of the beneficial owner(s), identification or tax number, personal or business address, nationality, country of residence and description of how control is exercised.
- 2: Information is partially published online, but some data is omitted (e.g. tax number).
- 1: Only the name of the beneficial owner is published/ or information is only made available on paper / physically.
- 0: No information is made available.

Q39: What information on beneficial ownership of trusts is made available to the financial institutions?

- 4: All relevant information is published online: name of the beneficial owner(s), identification or tax number, personal or business address, nationality, country of residence and description of how control is exercised.
- 2: Information is partially published online, but some data is omitted (e.g. tax number).
- 1: Only the name of the beneficial owner is published/ or information is only made available on paper / physically.
- 0: No information is made available.

Q40: Does the law allow the application of sanctions to financial institutions' directors and senior management?

- 4: Yes, the law envisages sanctions for both legal entities and senior management.
- 0: No, senior management cannot be held responsible or there is no criminal liability for legal entities.

DNFBPS

Q41: Are TCSPs required by law to identify the beneficial owner of the customers?

- 4: Yes, TCSPs are required by law to identify the beneficial owner of their customer when performing transactions on behalf of their clients.
- 2: TCSPs are partially covered by the law.
- 0: No, TCSPs are not covered by the law and do not have anti-money laundering obligations.

Q42: Do these obligations extend to foreign trusts being administered or provided with other services, rather than being arranged?

- 4: Yes, in all circumstances
- 2: Yes, but only in some circumstances
- 0: There are no requirements relating to foreign trusts

Q43: Are lawyers, when carrying out certain transactions on behalf of clients (e.g. management of assets), required by law to identify the beneficial owner of the customers?

- 4: Yes, lawyers are required by law to identify the beneficial owner of their customer when performing transactions on behalf of their clients.
- 0: No, lawyers are not covered by the law and do not have anti-money laundering obligations.

Q44: Are accountants required by law to identify the beneficial owner of the customers?

4: Yes, accountants are required by law to identify the beneficial owner of their customer when performing transactions on behalf of their clients.

0: No, accountants are not covered by the law and do not have anti-money laundering obligations.

Q45: Are real estate agents required by law to identify the beneficial owner of the customers?

4: Yes, real estate agents are required to identify the beneficial owner of their clients buying or selling property.

2: Real estate agents are partially covered by the law.

0: No, real estate agents are not covered by the law and do not have anti-money laundering obligations.

Q46: Are casinos required by law to identify the beneficial owners of the customers?

4: Yes, casinos are required by law to identify the beneficial owners of their customers or casinos are prohibited by law.

0: No, casinos are not covered by the law and do not have anti-money laundering obligations.

Q47: Are providers of gambling services required by law to identify the beneficial owners of the customers when collection of winnings or wagering of a stake exceeds EUR 2,000?

4: Yes, providers of gambling services are required by law to identify the beneficial owners of their customers or providers of gambling services are prohibited by law.

0: No, providers of gambling services are not covered by the law and do not have anti-money laundering obligations.

Q48: Are dealers in precious metals and stones required by law to identify the beneficial owner of the customers?

4: Yes, dealers in precious metals and stones are required to identify the beneficial owner of clients in all transactions or in transactions above a certain threshold.

0: No, dealers in precious metals and stones are not covered by the law and do not have anti-money laundering obligations.

Q49: Are dealers in luxury goods required by law to identify the beneficial owner of the customers?

4: Yes, dealers in luxury goods are required to identify the beneficial owner of their customer.

0: No, dealers in luxury goods are not covered by the law and do not have anti-money laundering obligations.

Q50: Are persons trading in goods required by law to identify the beneficial owner of the customers when carrying out cash transactions over EUR 10,000?

4: Yes, persons trading in goods are required to identify the beneficial owner of their customer.

0: No, persons trading in goods are not covered by the law and do not have anti-money laundering obligations.

Q51: Does the law require relevant DNFBPs to also verify the identity of beneficial owners identified?

4: Yes, the identity of the beneficial owner should always be verified through, for instance, a valid document containing a photo, an in-person meeting, or other mechanism.

0: No, there is no requirement to verify the identity of the beneficial owner.

Q52: Does the law require DNFBPs to conduct independent verification of the information on the identity of the beneficial owner(s) provided by clients?

4: Yes, independent verification is always required or required in cases considered as high-risk (higher-risk business relationships, cash transactions above a certain threshold, foreign business relationships).

0: No, there is no legal requirement to conduct independent verification of the information provided by clients.

Q53: Does the law require enhanced due diligence by DNFBPs in cases where the customer or the beneficial owner is a PEP or a family member or close associate of the PEP?

4: Yes, DNFBPs are required to conduct enhanced due diligence in cases where their client is a foreign or a domestic PEP, or a family member or close associate of a PEP.

2: Yes, but the law does not cover both foreign and domestic PEPs and their close family and associates.

0: No, there is no requirement for enhanced due diligence in the case of PEPs and their associates.

Q54: Does the law allow DNFBPs to proceed with a business transaction if the beneficial owner has not been identified?

4: No, a business transaction may only proceed if the beneficial owner of the client has been identified.

0: Yes, relevant DNFBPs are allowed to proceed with a business transaction regardless of whether or not the beneficial ownership has been identified.

Q55: Does the law require DNFBPs to submit a suspicious transaction report if the beneficial owner cannot be identified?

4: Yes, the law establishes that relevant DNFBPs have to submit a suspicious transaction report if they cannot identify the beneficial owner of their clients.

2: The law establishes that suspicious transaction reports should be submitted only if there is enough evidence of wrongdoing.

0: No, a business transaction may only proceed if the beneficial owner of the client has been identified.

Q56: Does the law allow the application of sanctions to DNFBPs' directors and senior management?

4: Yes, the law envisages sanctions for both legal entities and senior management.

0: No, senior management cannot be held responsible or there is no criminal liability for legal entities.

Q57: Do DNFBPs have access to beneficial ownership information collected by the government?

4: Yes, online for free through, for instance, a beneficial ownership registry.

3: Online, upon registration.

2: Online, upon registration and payment of fee.

1: Upon request or in person.

0: There is no access to beneficial ownership information collected by the government.

Q58: Does the law specify a timeframe (e.g. 24 hours) within which DNFBPs carrying out CDD can gain access to beneficial ownership collected by the government?

4: Yes, immediately /24 hours.

3: 15 days.

2: 30 days or in a timely manner.

1: Longer period.

0: No specification.

Q59: What information on beneficial ownership is made available to DNFBPs?

4: All relevant information is published online: name of the beneficial owner(s), identification or tax number, personal or business address, nationality, country of residence and description of how control is exercised.

2: Information is partially published online, but some data is omitted (e.g. tax number).

1: Only the name of the beneficial owner is published/ or information is only made available on paper / physically.

0: No information is published.

Q60: Does access to beneficial ownership for DNFBPs include any information provided by foreign trusts or companies?

4: Yes, all information is provided

2: More limited information is provided on foreign than domestic arrangements

0: No information is provided on foreign trusts or companies

PRINCIPLE 8: DOMESTIC AND INTERNATIONAL COOPERATION

Guidance: Domestic and foreign authorities should be able to access beneficial ownership information held by other authorities in the country in a timely manner, though, for instance, access to central beneficial ownership registries. Domestic authorities should also have the power to obtain beneficial ownership information from third parties on behalf of foreign authorities or to share information without the consent of affected parties in a timely manner.

Governments should publish guidelines explaining what type of information is available and how it can be accessed.

DOMESTIC SHARING OF INFORMATION

Q61: Does the law impose any restriction on information sharing (e.g. confidential information) across in-country authorities?

4: No, there are no restrictions in place.

2: There are some restrictions on sharing information across in-country authorities.

0: Yes, there are significant restrictions on sharing information across in-country authorities.

Q62: How is information on beneficial ownership held by domestic authorities shared with other authorities in the country?

4: Information on beneficial ownership is shared through a centralised database, such as a beneficial ownership registry.

3: There are several online databases managed by different authorities that contain relevant beneficial ownership information (e.g. company registry, tax registry, etc.) that can be accessed.

2: Domestic authorities can access beneficial ownership information through written requests or memoranda of understanding.

1: Domestic authorities may only access beneficial ownership maintained by another authority if there is a court order.

0: Information on beneficial ownership is not shared.

INTERNATIONAL SHARING OF INFORMATION

Q63: Are there clear procedural requirements for a foreign jurisdiction to request beneficial ownership information?

4: Yes, information on how to proceed with a request for accessing beneficial ownership information is made available through, for instance, the domestic authority's website or guidelines.

0: No, information on how to proceed with a request is not easily available.

Q64: Does the law allow competent authorities in your country to use their powers and investigative techniques to respond to a request from foreign judicial or law enforcement authorities?

4: Yes, domestic authorities may use their investigative powers to respond to foreign requests.

0: No, the law does not allow domestic competent authorities to act on behalf of foreign authorities.

Q65: Does the law in your country restrict the provision or exchange of information or assistance with foreign authorities (e.g. it is impossible to share information related to fiscal matters; restrictions related to bank secrecy; restrictions related to the nature or status of the requesting counterpart, among others)?

4: No, the law does not impose any restriction.

2: There are some restrictions that hamper the timely exchange of information.

0: Yes, there are significant restrictions in the law.

Q66: Do foreign competent authorities have access to beneficial ownership information maintained by domestic authorities?

4: Yes, online for free through, for instance, a beneficial ownership registry.

3: Yes, online upon registration.

2: Yes, online upon the payment of a fee and registration.

1: Beneficial ownership information can be accessed only upon motivated request.

0: No.

Q67: Do the information sharing requirements extend to any beneficial ownership information provided by foreign companies and trusts?

4: Yes, in all circumstances

2: Yes, but in limited circumstances

0: Information on foreign trusts or companies cannot be shared or is not collected

PRINCIPLE 9: TAX AUTHORITIES

Guidance: Tax authorities should have access to beneficial ownership registries or, at a minimum, have access to company registries and be empowered to request information from other government bodies, legal entities, financial institutions and DNFBPs. There should be mechanisms in place, such as memoranda of understanding or treaties, to ensure that information held by domestic tax authorities is exchanged with foreign counterparts.

Q68: Do tax authorities have access to beneficial ownership information maintained by domestic authorities?

4: Yes, online for free through, for instance, a beneficial ownership registry.

3: Yes, online upon registration.

2: Yes, online upon the payment of a fee and registration.

1: Beneficial ownership information can be accessed only upon motivated request.

0: No.

Q69: Does the law impose any restriction on sharing beneficial ownership information with domestic tax authorities (e.g. confidential information)?

4: No, the law does not impose restrictions.

2: The law does not impose significant restrictions, but exchange of information is still limited or cumbersome (e.g. a court order is necessary)

0: Yes, there are significant restrictions in place.

Q70: Is there a mechanism to facilitate the exchange of information between tax authorities and foreign counterparts?

4: Yes. The country is a member of the OECD tax information exchange and has signed tax information exchange agreements with several countries.

2: There is a mechanism available, but improvements are needed.

0: No.

PRINCIPLE 10: BEARER SHARES AND NOMINEES

Guidance: Bearer shares should be prohibited and until they are phased out they should be converted into registered shares or required to be held with a regulated financial institution or professional intermediary. Nominee shareholders and directors should be required to disclose to company or beneficial ownership registries that they are nominees. Nominees must not be permitted to be registered as the beneficial owner in such registries. Professional nominees should be obliged to be licensed in order to operate and to keep records of the person(s) who nominated them.

Q71: Does the law allow the use of bearer shares in your country?

4: No, bearer shares are prohibited by law.

0: Yes, bearer shares are allowed by law.

Q72: If the use of bearer shares is allowed, is there any other measure in place to prevent them being misused?

2: Yes, bearer shares must be converted into registered shares or share warrants (dematerialisation) or bearer shares have to be held with a regulated financial institution or professional intermediary (immobilisation).

1: Bearer share holders have to notify the company and the company is obliged to record their identity or there are other preventive measures in place.

0: No, there are no measures in place.

Q73: Does the law allow the incorporation of companies using nominee shareholders and directors?

4: No, nominee shareholders and directors are not allowed.

0: Yes, nominee shareholders and directors are allowed.

Q74: Does the law require nominee shareholders and directors to disclose, upon registering the company, the identity of the beneficial owner?

2: Yes, nominees need to disclose the identity of the beneficial owner.

0: No, nominees do not need to disclose the identity of the beneficial owner or nominees are not allowed.

Q75: Does the law require professional nominees to be licensed?

0.5: Yes, professional nominees need to be licensed.

0: No, professional nominees do not need to be licensed.

Q76: Does the law require professional nominees to keep records of the person who nominated them?

0.5: Yes, professional nominees need to keep records of their clients for a certain period of time.

0: No, professional nominees do not need to keep records.

Question	Current score	Commitments score (NB 4 if Current 4)	Future adequacy score (NB 4 if Current 4)
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Effectiveness Methodology

This Methodology draws on the 2103 FATF effectiveness methodology. It is formulated around five Outcomes, based on the G20 High Level Principles, that describe how an effective system of beneficial ownership transparency should operate. To measure the effectiveness of each Outcome outlined in the Effectiveness Evaluation paper, it will be necessary to answer two questions:

To what extent is the outcome being achieved? An assessment should be made of whether the country is effective in relation to that outcome (*i.e.* whether the country is achieving the results expected).

What can be done to improve effectiveness? An assessment should be made of why the country may not have reached a high level of effectiveness and, where possible, make recommendations to improve its ability to achieve the specific outcome.

The five Outcomes are described using the characteristics of an effective system. This sets out the situation in which a country is effective at implementing the Principles, FATF Standards and EU 4MLD, and provides the benchmark for the assessment.

Core Issues to be considered in determining whether the Outcome is being achieved

The core issues set out the basis for judging if, and to what extent, the outcome is being achieved. The *core issues* are the mandatory questions which should be answered, in order to get an overview about how effective a country is under each outcome.

Examples of Information that could support the conclusions on Core Issues

The *Examples of Information* sets out the types and sources of information which are most relevant to understanding the extent to which the outcome is achieved. As with the FATF approach, the supporting information and data listed are not exhaustive and not mandatory. The data, statistics, and other material which are available will vary considerably from country to country, and use should be made of whatever information the can be obtained in order to assist in reaching a judgement on effectiveness.

Conclusions on the level of effectiveness should be primarily descriptive and reflect the extent to which it is believed that the outcome is being achieved overall, noting any variation, such as particular areas where effectiveness is higher or lower. The FATF rating system is to assign one of four effectiveness ratings:

High level of effectiveness	The Outcome is achieved to a very large extent. Minor improvements needed.
Substantial level of effectiveness	The Outcome is achieved to a large extent. Moderate improvements needed.
Moderate level of effectiveness	The Outcome is achieved to some extent. Major improvements needed.
Low level of effectiveness	The Outcome is not achieved or achieved to a negligible extent. Fundamental improvements needed.

Such a scoring system is inevitably subjective, but should be backed up with evidence and real examples. The scores and the evidence base on which they are allocated across each jurisdiction can be compared in a final synthesis, to ensure internal consistency of the final report.

The methodology sets out the five Outcomes, along with the relevant core issues and examples of information. Possible sources of information are outlined, as are questions to be included in survey work of various bodies.

As explained in the main Methodology paper, the contextual information and other data gathered under the Technical Implementation phase will inform the Effectiveness work as well. However, Effectiveness is assessed in a fundamentally different way to technical compliance. It seeks to come to an overall understanding of the degree to which the country is achieving the outcome. Inevitably this does depend to some extent on technical implementation, but goes beyond the existence of legal and institutional structures, to look at how well they are working, producing the outputs required and achieving the desired outcome.

Some of the relevant information will be perceptions and experiences of those involved in the AML/CFT who are required to collect beneficial ownership, including those in the private sector and competent public authorities. Examples of these types of bodies are outlined in the main methodology paper – an early activity should be to identify lists of those who may be surveyed or interviewed.

The FATF has recently published what it sees as the main implementation challenges in relation to transparency and beneficial ownership, which are listed below. Within the relevant outcomes, these challenges should be considered as significant areas for assessment, given their importance to the international standard setter.

The challenges identified by the FATF, which chapters should bear in mind when carrying out effectiveness evaluations as part of this methodology were:

- a) Basic information relating to company registration is not always sufficiently accurate and accessible in the country. [our Outcome 3]
- b) CDD requirements, including requirements to identify and verify beneficial owners, are often well-implemented by banks, but much less so by other key gatekeepers (e.g., company formation agents, lawyers, and trust-and-company-service providers). This problem is exacerbated because supervision of these sectors for compliance with these requirements is often less robust than it is in the banking sector. [our Outcome 4]
- c) Companies are required to maintain registers of their shareholders or members. However, often registries do not verify the information received. This means that the information contained in registries is not always accurate or up-to-date. [our Outcome 2]
- d) Companies are often not subject to sanctions for failing to keep their shareholder registry accurate and up-to-date as required. [our Outcome 2]
- e) Data protection and privacy laws and other obstacles to information sharing, often impede the competent authorities from getting timely access to adequate, accurate and up-to-date basic and beneficial ownership information. For example, even at the domestic level, tax authorities are often unable to share information with law enforcement authorities. These problems are amplified in the context of information sharing at the international level. [our Outcome 3]

- f) Even where basic and beneficial ownership information is shared in a timely way (domestically or with foreign authorities), such exchange is of little value if the information is not accurate or up-to-date. [our Outcome 5]

Outcome 1 based on G20 Principle 2 (Understanding Risks):

Outcome: *The country properly identifies, assesses and understands the risks associated with different types of legal persons and arrangements, from both a domestic and international perspective and co-ordinates domestically to put in place actions to mitigate these risks. This includes the involvement of competent authorities and other relevant authorities; using a wide range of reliable information sources; using the assessment(s) of risks as a basis for developing and prioritising policies and activities on transparency and beneficial ownership of legal persons and arrangements; communicating and implementing those policies and activities in a co-ordinated way across appropriate channels; sharing the outcomes of the risk assessment with financial institutions and DNFBPs; and identifying high risk sectors, for which enhanced due diligence measures are considered.*

Core Issues to be considered in determining if the Outcome is being achieved

1. How well does the country understand its risks associated with different types of legal persons and arrangements?
2. How well are the risks addressed by national AML/CFT and other policies and activities?
3. To what extent are the results of the assessment(s) of risks properly used to support the application of enhanced measures for higher risk scenarios?
4. To what extent are the objectives and activities of the competent authorities consistent with the evolving national AML/CFT and other policies and with the risks identified?
5. To what extent do the competent authorities co-operate and co-ordinate the development and implementation of policies and activities to mitigate these risks?
6. To what extent does the country ensure that respective financial institutions and DNFBPs are aware of the relevant results of the national risk assessment(s)?

Examples of Information that could support the conclusions on Core Issues

1. The country's assessment(s) of the risks (e.g., types of assessment(s) produced; types of assessment(s) published / communicated).
2. AML/CFT and other policies and strategies relating to transparency (e.g., AML/CFT policies, company information policies, strategies and statements communicated/published; engagement and commitment at the senior officials and political level).
3. Outreach activities to private sector and relevant authorities (e.g., briefings and guidance on relevant conclusions from risk assessment(s); frequency and relevancy of consultation on policies and legislation, input to develop risk assessment(s) and other policy products).

Examples of Specific Factors that could support the conclusions on Core Issues

1. What are the methods, tools, and information used to develop, review and evaluate the conclusions of the assessment(s) of risks? How comprehensive are the information and data used?
2. How useful are strategic financial intelligence, analysis, typologies, and guidance on beneficial ownership?
3. Which competent authorities and relevant stakeholders (including financial institutions and DNFBPs) are involved in the assessment(s) of risks? How do they provide inputs to the national level assessment(s) of risks, and at what stage?
4. Is the assessment(s) of risks kept up-to-date, reviewed regularly and responsive to significant events or developments (including new threats and trends)?

5. To what extent is the assessment(s) of risks reasonable and consistent with the corruption threats, vulnerabilities and specificities faced by the country? Where appropriate, does it take into account risks identified by other credible sources?
6. Do the policies of competent authorities respond to changing risks?
7. What mechanism(s) or body do the authorities use to ensure proper and regular co-operation and co-ordination of the national framework and development and implementation of policies to enhance transparency and combat the risks of abuse of legal persons and arrangements, at both policymaking and operational levels. Does the mechanism or body include all relevant authorities?
8. Are there adequate resources and expertise involved in conducting the assessment(s) of risks, and for domestic co-operation and co-ordination?

Survey questions:

For financial institutions and DNFBPs:

How often do you assess your ML/TF risks, and specifically the risks associated with beneficial ownership?

How important (scale 1-5) are issues relating to beneficial ownership in your customer risk assessment?

What sources do you rely on to assist you in the assessment of these risks? (Please rank in order of importance.)

NRA; FIU material such as typology reports; Supervisory Guidance; Trade/Representative Body Guidance; FATF Evaluations; FATF guidance; Open source data such as press reporting;

Do you find engagement with the FIU or other competent authorities (please specify) on risk assessment (scale 1-5)

Are your views sought in preparation of (yes/no):

National Risk Assessment; guidance and typologies; new policy developments;

For competent authorities (e.g. law enforcement, FIU, supervisors, asset recovery offices, tax authorities)

Are you involved in or your views/information sought in preparation of (yes/no):

National Risk Assessment; guidance and typologies; new policy developments;

How important is the understanding of risk in prioritising your work? (scale 1-5)

How accurate do you believe the current understanding of risk relating to legal persons and arrangements is? (Scale 1-5)

Outcome 2 based on G20 Principles 3 & 5 (Legal persons and arrangements maintain adequate, accurate and current beneficial ownership information)

Outcome: *Legal persons and arrangements incorporated/arranged in the country maintain accurate, current, and adequate information on beneficial ownership within the jurisdiction. Companies request information from shareholders to ensure that the information held is accurate and up-to-date, and shareholders inform changes to beneficial ownership. Foreign trusts being administered or serviced and foreign companies holding assets or carrying out other activity in the jurisdiction also maintain such information.*

Core Issues to be considered in determining if the Outcome is being achieved

1. To what extent do legal person maintain accurate beneficial ownership information, and is it held in the jurisdiction?
2. To what extent do shareholders declare beneficial ownership of the shares they legally hold to the company?
3. Do shareholders/beneficial owners report changes to the company?
4. To what extent do trustees have accurate information on settlors, the protector (if any) trustees and beneficiaries (or similar persons, depending on the structure of legal arrangements in the jurisdiction).
5. How are these requirements extended to other legal arrangements with a structure or function similar to express trusts.?
6. How are these requirements extended to foreign companies and trusts?

Examples of Information that could support the conclusions on Core Issues

Legal persons

1. Contextual information on the types, forms and basic features of legal persons in the jurisdiction.
2. Information on how legal persons seek to obtain information from shareholders and how quickly it is provided.
3. Information on how legal persons record their beneficial ownership information.
4. Information on shareholder/beneficial owner declarations to legal persons.

Legal arrangements

1. Contextual information on the types, forms and basic features of legal arrangements in the jurisdiction.
2. Information on how trustees, or equivalent persons, obtain information from settlors, the protector (if any) trustees and beneficiaries (or similar persons, depending on the structure).
3. Information on how trustees record the beneficial ownership information.
4. Information on the services provided to foreign trusts, particularly by TCSPs

Examples of Specific Factors that could support the conclusions on Core Issues

How do relevant authorities ensure that accurate and up-to-date basic and beneficial ownership information on legal persons is maintained by the entities themselves? Is the presence and accuracy of information monitored, tested/certified or verified? Has action been taken in cases of non-compliance?

To what extent is the time taken for legal persons to register changes to the required basic and beneficial ownership information adequate to ensure that the information is accurate and up to date?

Survey questions:

For financial institutions and DNFBPs:

Do you provide services for foreign companies and trusts? (Yes/no)

If so, do you find more difficulty obtaining beneficial ownership on these companies and trusts than with domestic ones? (Yes/no)

For competent authorities (e.g. law enforcement, FIU, supervisors, asset recovery offices, tax authorities)

How accurate (scale 1-5) do you believe that beneficial ownership information held by legal persons and arrangements is:

- For those within the jurisdiction
- For foreign legal persons and arrangements

Outcome 3 based on G20 Principles 4 & 6 (Access to beneficial ownership information on legal persons and arrangements)

Outcome: Competent authorities (including law enforcement and prosecutorial authorities, supervisory authorities, tax authorities and financial intelligence units) have timely access to adequate, accurate and current information regarding the beneficial ownership of legal persons and arrangements, both domestic and foreign; financial institutions and DFNBP have access to beneficial ownership information when carrying out CDD; other interested parties, such as journalists, have access to beneficial ownership information on legal persons when they have a legitimate interest; beneficial ownership information on legal persons is available generally to the public.

Core Issues to be considered in determining if the Outcome is being achieved

1. Is there a central registry of beneficial ownership information of legal persons and is it accessible to competent authorities, financial institutions and DFNBP, other persons with legitimate interest and the public generally?
2. Is there a central registry of beneficial ownership information of legal arrangements and is it accessible to competent authorities, financial institutions and DFNBP?
3. To what extent is the information on the register verified for accuracy, completeness and timeliness.
4. Are there other methods for the entities described above to access beneficial ownership information (e.g. access to information held by legal persons and trustees of legal arrangements; business registers; other commercial providers)?

Examples of Information that could support the conclusions on Core Issues

1. Contextual information on registers and other providers of information
2. Sources of beneficial ownership information available.
3. Experiences of competent authorities, financial institutions and DFNBP, other persons with legitimate interest and the public generally in accessing beneficial ownership

Examples of Specific Factors that could support the conclusions on Core Issues

1. Costs and delays in accessing beneficial ownership information
2. Accuracy, extent and timeliness of information obtained

Survey questions:

For financial institutions and DFNBP:

What sources do you use to obtain beneficial ownership of domestic firms and trusts? Please rank in order of most to least useful:
Central register maintained by the authorities; other official source of information such as tax or police records Information supplied directly by customers; Information published by customers (e.g. company reports); information supplied by other obliged entities, such as banks or other intermediaries; business registers maintained by commercial providers; due diligence reports by external providers; news and other media sources; social media monitoring;

What sources do you use to obtain beneficial ownership of foreign firms and trusts? Please rank in order of most to least useful:
Central register maintained by the authorities domestically; Central register maintained by the foreign authorities; other official domestic sources of information such as tax or police records; other official

foreign sources of information such as tax or police records Information supplied directly by customers; Information published by customers (e.g. company reports); information supplied by other obliged entities, such as banks or other intermediaries; foreign business registers maintained by commercial providers; due diligence reports by external providers; news and other media sources; social media monitoring;

For competent authorities (e.g. law enforcement, FIU, supervisors, asset recovery offices, tax authorities)

As above.

If and when you access beneficial ownership information how:

- Accurate is it?
- Timely is it provided?
- How expensive is it to obtain?

What are the main challenges you face in obtaining beneficial ownership information? (open question)

Outcome 4 based on G20 Principle 7 (Financial institutions and DNFBPs to identify and verify beneficial ownership of their customers)

Outcome: *Financial institutions and DNFBPs, including trust and company service providers, accurately identify and take reasonable measures to verify the beneficial ownership of their customers in accordance with CDD requirements. These obligations are supervised and effective, proportionate and dissuasive sanctions apply to non-compliance.*

Core Issues to be considered in determining if the Outcome is being achieved

1. To what extent do financial institutions and DNFBPs identify beneficial ownership of their customers?
2. To what extent, and on what risk basis, is beneficial ownership verified?
3. To what extent do AML/CFT supervisors examine the requirements relating to beneficial ownership identification and impose sanctions for non-compliance?

Examples of Information that could support the conclusions on Core Issues

1. Contextual information on the financial and DNFBP sectors captured by the CDD requirements and their AML/CFT supervision (including sanctions)
2. Examples of compliance failure relating to identification of beneficial ownership (e.g. case studies, typologies on misuse of legal persons and arrangements involving beneficial ownership)
3. Experiences of financial institutions and DNFBPs in identifying and verifying beneficial ownership
4. Experiences of law enforcement and other competent authorities in relation to beneficial ownership (e.g. cases where beneficial ownership was not obtained; cases involving misuse of legal arrangements)

Examples of Specific Factors that could support the conclusions on Core Issues

1. Policies and procedures on obtaining beneficial ownership information by financial institutions and DNFBPs
2. Information on supervision and numbers of enforcement cases

Survey questions:

For financial institutions and DNFBPs:

How difficult (scale 1-5) is the overall process of identifying and verifying beneficial owners of:

- Domestic companies
- Foreign companies
- Domestic trusts or similar arrangements
- Foreign trusts or similar arrangements

What are the main problems you face? (please rank in order of importance):

Obtaining information from central sources; obtaining information from firms and trusts themselves; accuracy and utility of information supplied; timeliness of obtaining data; language difficulties; cost of obtaining data from commercial sources; cooperation with law enforcement and other competent authorities;

For competent authorities (e.g. law enforcement, FIU, supervisors, asset recovery offices, tax authorities)

In your experience how well do the following institutions collect accurate beneficial ownership information during customer due diligence (scale 1-5):

- Banks
- Other financial institutions
- Trust and company service providers
- Real estate dealers
- Gambling operators
- Other DNFBPs

In AML/CFT enforcement cases, how often does lack of beneficial ownership information feature (scale 1-5)

In criminal cases of predicate crimes where corporate structures are used, how often do you assess beneficial ownership is used to hide illicit activity? (scale 1-5)

Outcome 5 based on G20 Principle 8 (International and domestic cooperation)

Outcome: *National authorities cooperate and share information on beneficial ownership of legal persons and arrangements domestically and with their counterparts internationally. Information shared is the fullest available and is passed in a timely fashion.*

Core Issues to be considered in determining if the Outcome is being achieved

1. To what extent do domestic authorities cooperate on matters relating to beneficial ownership?
2. Are there restrictions that hinder their sharing of information domestically and internationally?
3. To what extent do the authorities seek from, and are able to provide information to, counterparts abroad in relation to beneficial ownership of legal persons and arrangements?
4. How well do the authorities respond to requests for information – how full is the information passed, how are requests fulfilled in a timely manner?

Examples of Information that could support the conclusions on Core Issues

1. Contextual information on information sharing domestically and internationally (e.g. legal frameworks, institutional structures, existence of registers, public or otherwise)
2. Experiences of competent authorities both domestic and international in sharing and seeking beneficial ownership information
3. Information on cases where information sharing featured, either as a success or a hindrance

Examples of Specific Factors that could support the conclusions on Core Issues

1. Mechanisms used to receive, assess and prioritise requests for information
2. Operational measures in place to manage safeguards and ensure that accurate and timely information is passed
3. Any aspect of legal, operational or judicial process that impede or hinder international co-operations
4. Statistics on information sharing requests

Survey questions:

For financial institutions and DNFBPs:

Not applicable for this Outcome

For competent authorities (e.g. law enforcement, FIU, supervisors, asset recovery offices, tax authorities)

How frequently are:

- You asked for beneficial ownership by counterparts overseas?
- Do you make requests for beneficial ownership to counterparts overseas?

What are the constraints on sharing information you most often find?

How accurate and complete do you assess is the information you receive? (scale 1-5)

How timely are requests met? (scale 1-5)

