TRANSPARENCY INTERNATIONAL ITALIA
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TRANSPARENCY INTERNATIONAL ITALIA
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Transparency International (TI) is a global movement with one vision: a world in which government, business, civil society and the daily lives of people are free of corruption. With more than 100 chapters worldwide and an international secretariat in Berlin, TI is leading the fight against corruption to turn this vision into reality.

Transparency International Italy (TI-It) is the Italian Chapter of TI. TI-It works with the government, businesses, and civil society to put effective measures in place to tackle corruption and promote integrity.

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INTRODUCTION

Money laundering is the set of activities aimed at transforming illegally-gained capital into an ostensibly 'legitimate' asset, making its identification and potential recovery more difficult.

According to several international bodies, including the FATF (the Financial Action Task Force), the **money laundering-corruption-terrorism triptych** is one of the greatest dangers to our society. In fact, money laundering, corruption and the financing of international terrorism are crimes that have a distinguishing feature in common: the transfer of money or, more generally, of resources, to achieve a goal, such as private profit (money laundering and corruption) or a terrorist attack.

Money laundering, just like corruption, is difficult to detect because there are apparently no victims and transactions are carried out in an opaque manner.

For this reason it is impossible to give a precise economic assessment of the crime; in any case, to have an idea of what we are talking about, suffice it to consider that in 2015 the US non-governmental organisation Global Financial Integrity estimated that **illicit financial flows from developing countries had amounted to one thousand billion per year in 2013**[1]. According to the UN Economic Commission for Africa, the amount of money illegally transferred from African countries is higher than the aid received by the same countries as a result of international cooperation.

Money laundering and illicit financial flows are a painful scourge particularly for those countries which, more than others, need a clean and transparent economy, such as those in the developing world, and countries like Italy that are struggling to recover from nearly a decade of financial crisis. If it is true, as reported by the Ministry of Economy and Finance, that the **economic value of crime can be estimated to amount to no less than 12% of GDP**[2], it is all the more evident that appropriate measures are needed to strengthen preventive controls and punish lawbreakers.

Despite the fact that Italian anti-money laundering legislation, as we shall see below, may be considered quite appropriate and close to the highest international standards, there is still much to do in terms of enforcement of control measures, effective prosecution and adequate punishment of economic crimes and, above all, in terms of culture, where the idea of profiting "at any cost and by any means" still lingers on.

1 "Illicit financial flows from developing countries 2014-2013", Global Financial Integrity, December 2015

2 Macroeconomic estimation of money laundering in Italy between 1981 and 2001." Analysis of Italy's National Money-Laundering and Terrorist Financing Risks ", Ministry of Economy and Finance, 2014

EXECUTIVE SUMMARY

THE PROJECT

The "***Enhancing Beneficial Ownership Transparency* - EBOT**" project, involving the Italian Chapter of Transparency International, along with five other European chapters of the organisation (Portugal, the Netherlands, Slovenia, Czech Republic and Luxembourg), under the coordination of the Transparency International EU Office, intends to provide a comparative analysis regarding the transparency of beneficial owners, i.e. the people who have the ultimate control of companies, bank accounts or other economic entities moving money. Each partner involved in the project was thus asked to perform an assessment at national level, taking into account the policy framework with regard to beneficial ownership transparency. In particular, we analysed the extent to which Italian law is in line with international standards and is effectively enforced.

The main objectives of the project were, therefore, the **promotion of more effective legislation** providing for adequate data access, and the **prevention of the unlawful utilisation of companies, trusts and other legal entities** for the purpose of laundering 'dirty' money.

Recent scandals, including the most famous one, the 'Panama Papers' scandal, have highlighted the widespread practice of **exporting capital** to facilitate its re-use elsewhere, thus removing it from the field of action of national tax authorities and, therefore, tax-payers. In addition, consideration should also be given to the factors that facilitate the laundering of proceeds of several **illegal economic activities - drug trafficking, arms trafficking and human trafficking, prostitution - that are perpetrated in Italy**.

On this issue, the **Fourth Anti-Money Laundering Directive** (no. 849/2015) recently adopted by the European Union, which will be transposed into Member States' legal systems by the first half of 2017, is an important step in the definition of the key points that each Member State should follow when developing prevention measures. Moreover, following the Panama Papers, there is an ongoing debate at European level on the reform of the Fourth Directive, aimed at strengthening its provisions on the transparency of beneficial owners of companies and trusts. From a regulatory point of view, in 2007 Italy adopted **a national anti-money laundering regulation** (Legislative Decree 231/2007) which is currently being updated to fully include all the points of the Fourth Directive and anticipate some elements of the ongoing reform in Europe.

The analysis conducted for this project gives evidence of the **special attention paid by the Italian Parliament to combating money laundering**. Indeed, the current legislation is quite accurate and precise; however, it has **certain critical and vulnerable areas** from a practical point of view. These vulnerabilities are, partly, tackled in Italy by the **firm action of the competent authorities** (e.g. the Judiciary, Police, etc.) in charge of preventing and prosecuting "on the field" any misconducts that foster money laundering practices.

Finally, on the basis of the research carried out and thanks also to the precious collaboration of those interested by the drafting of money laundering legislation, Transparency International Italy has developed specific recommendations that may further stimulate the drafting of future legislation on money laundering and terrorism financing.

METHODOLOGY AND RESULTS IN BRIEF[3]

The analysis was conducted, firstly, by identifying the main anti-money laundering rules and laws and, secondly, by collecting evidence and opinions from key stakeholders, including public authorities and the subjects which the rules are mainly intended for, through interviews and assessments by third-party institutions such as the FATF, or civil society organisations and research centres, such as Access to Info and TRANSCRIME. To ensure an objective and comparable analysis of the information collected, we used a methodology developed by the Transparency International EU Office, comparing national laws and practice as well as the future commitments of governments with the international standards set by the G20, the FATF and the Fourth EU Anti-Money Laundering Directive. Transparency International EU Office will publish a cross-country comparative analysis in spring 2017, which will draw upon the results of the analysis conducted in the six countries involved in the project.

According to our analysis, **Italy fulfils most of the assessment criteria since it has worked hard in recent years to combat money laundering. Italy is also planning further regulatory updates which, even if it can potentially reduce the risk related to illegal money laundering practices, it could be more ambitious**.

More specifically, our analysis went into more detail and assessed the current legislation and reform plans according to ten indicators related to the transparency of beneficial owners and international financial flows: 1) Definition of beneficial ownership; 2) Identification and mitigation of the money laundering risk; 3) Acquisition of accurate beneficial ownership information; 4) Access to beneficial ownership information; 5) Acquisition of trust information; 6) Competent authorities' access to trust information; 7) Duties of Financial Institutions and other businesses and professions; 8) Domestic and international cooperation; 9) Tax authorities' access to beneficial ownership information; 10) Bearer shares and nominees.

Our overall opinion on the results obtained is definitely positive. A further explanation of each indicator is given below, in accordance with the following aspects: compliance of the current legislation with the standards of the G20, the FATF and the Fourth Anti-Money Laundering Directive; adequacy of reform plans to international standards.

RECOMMENDATIONS

Our research highlights some of the major challenges that our country will have to face in the short term to move in the right direction. In the light of this, we will seek to give further inputs to the legislator, suggesting the following best practices and recommendations to enhance the transparency of beneficial ownership.

1. The new register of beneficial owners of companies, established by the draft reform of anti-money laundering legislation, should be open to the public in general, and not only to those having a legitimate interest.
2. Stricter sanctions should be introduced for clients providing false beneficial ownership information in their self-declarations.
3. Further supporting, training and awareness-raising actions should be taken to strengthen the due diligence skills of professionals.
4. Public authorities should not be allowed to assign public services, works and supplies to companies whose beneficial ownership cannot be traced.
5. Italy should support the establishment at European level of a European Public Prosecutor endowed with the most effective and broadest powers, and, at international level, an increase in the transparency of offshore countries.

3 See Annex 1 for more details on the methodology

1. BENEFICIAL OWNERSHIP TRANSPARENCY IN ITALY

The core of our research project, namely the technical analysis and effectiveness assessment of Italian anti-money laundering regulations (Section 1.3), will now be introduced by a brief description of the national and European regulatory framework and of the main players in the field of anti-money laundering. In the last section (1.4) we will assess specific critical issues, related to three particularly exemplary cases:

- Insufficient international cooperation, especially with regard to foreign trusts and offshore countries, as in the IMI-SIR case
- Poor due diligence of professionals, as demonstrated by the alleged connivance between professionals and the Graziano clans in Sicily
- The possibility for public contractors to do business with opaque legal entities in non-transparent jurisdictions, as in the case of the Municipality of Milan and the Milan football team.

1.1 THE NATIONAL AND EUROPEAN LEGISLATIVE FRAMEWORK

The beneficial ownership of companies and trusts is an issue that falls within the scope of legislation combating money laundering and terrorism financing, which in Italy is represented by **Legislative Decree 231 of 2007**.

At European level, the latest legislation on this issue was adopted in May 2015, namely the **Fourth Anti-Money Laundering Directive**[4], which is to be transposed by Member States by June 2017.

Given the changing legislative context both at European and national levels, our assessment will now consider both the current rules and future developments.

In some respects, Legislative Decree 231/2007 anticipates specific provisions of the Fourth European Directive. However, some elements are missing. For this reason, the Government is currently engaged, based on the delegated powers granted thereto and published in the Official Journal in August 2016[5], in reviewing the Decree to fully implement the Fourth Directive by June 2017. In December 2016, the Treasury Department of the Ministry of Economy and Finance published the first draft of the text in order to disclose the new provisions and, above all, to allow everyone to send comments and further inputs on the draft provisions. In February 2017 the government has presented the draft of the legislative decree to the Parliament, for its opinion, and the draft is currently under discussion in the Parliamentarian Commissions.

Important changes can be inferred from the interviews conducted for this study and from the draft law as published by the Ministry, which will be detailed in the following pages. Even though Italian rules are essentially in line with what is required at EU level in terms of beneficial ownership transparency, a number of compliance and enforcement gaps still needs to be addressed.

The reform of the Fourth Anti-Money Laundering Directive is also being discussed at European level, which should be adopted in 2017 and which is designed to further adjust national regulations. The draft reform of the Italian anti-money laundering regulation seeks in itself to include some aspects highlighted by the current negotiations.

Italy is also a member of the FATF (Financial Action Task Force), an intergovernmental body set up in 1989 with the task of promoting the adoption and implementation of effective standards to combat money laundering, the financing of terrorism and other crimes against the international financial system. Italy has been subject to four evaluations by the FATF concerning the effectiveness of its anti-money laundering legislation and the latest evaluation, which gave an overall positive assessment of Italy and which was published in February 2016, is taken as a reference point in the effectiveness analyses reported in this study.

4 (EU) Directive 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing

5 Article 15 of Law no. 170 of 12 August 2016

1.2 MAPPING OF KEY STAKEHOLDERS INVOLVED IN THE FIGHT AGAINST MONEY LAUNDERING

In order to better understand how the anti-money laundering system established by Legislative Decree 231/2007 works, it is useful to list the stakeholders involved.

The following bodies and institutions are in charge of monitoring and supervising the entire regulatory system on anti-money laundering:

- **The Bank of Italy,**
- **The National Commission for Companies and the Stock Exchange (CONSOB)**
- **The Institute for the Supervision of Insurance (IVASS)**
- **The Ministry of Economy and Finance (MEF)**
- **The Financial Intelligence Unit (FIU).**

Judicial police activities to combat money laundering and criminal networks are carried out by:

- **The Finance Police (GdF)**
- **Anti-Mafia Investigative Directorate (DIA)**

The AML system involves, in different ways, several categories of entities operating in the business and professional world. Certain categories of stakeholders (**financial intermediaries, insurance companies, professionals**) contribute to preventive controls by gathering detailed information about their clients, ensuring the traceability of financial transactions and identifying and reporting suspicious transactions.

The extent of such controls depends on the subject to be identified and may be ordinary, simplified or enhanced. As a result of these controls, the identification process may prove to be impossible and suspicious transactions may also emerge, which must be reported to the FIU, the body responsible for receiving and handling "**suspicious transaction reports** (STR)". After receiving an STR, the FIU decides whether to dismiss it or to deal with it by sending the report to the Currency Police Unit of the Finance Police and/or the Anti-Mafia Investigative Directorate for the commencement of an investigation.

In order to ensure the consistency and effectiveness of the fight against money laundering, AML legislation specifically clarifies the roles and responsibilities of the competent authorities engaged in the fight against money laundering, as summarised below:

- The MEF is responsible for defining prevention policies on the use of the economic and financial system for money laundering purposes;
- The FIU is a fully autonomous and independent entity established by the Bank of Italy. In addition to managing and processing STRs, it mostly analyses financial flows in order to detect and prevent money laundering;
- The supervisory authorities of the different sectors carry out supervisory activities to ensure compliance with the obligations established by the anti-money laundering decree (e.g. CONSOB);
- The Ministry of Justice exercises a supervisory control over competent professional bodies and self-regulating entities in their respective sectors (e.g. Accountants, notaries and lawyers);
- Police bodies are involved, within their respective powers, in prevention activities. In particular, the DIA and GdF play a greater role as from the time when they conduct investigations on reports sent by the FIU.

With reference to the subjects which the decree is intended for, the latter establishes an extensive and specific range of parties required to fulfil specific requirements on client identification and registration, including:

- financial intermediaries (e.g. Banks, Poste Italiane S.p.A., real estate agents, asset management companies, insurance companies);
- trusts;
- professionals (accountants and auditors, lawyers, notaries);
- "other parties": this category includes numerous subjects in a variety of areas where there may be a higher risk of money laundering (i.e. debt collection companies acting on behalf of third parties, entities engaged in cash deposit and custody, casino management, betting centres including telecentres, "comproro" (businesses buying and selling gold).

1.3 TECHNICAL AND EFFECTIVENESS ANALYSIS ON BENEFICIAL OWNERSHIP TRANSPARENCY

In this section we present the detailed results of our technical and effectiveness analysis on beneficial ownership transparency in Italy. As detailed in Annex 1, the technical analysis is based on ten indicators, while the effectiveness analysis focuses on 5 aspects.

INDICATORS	TECHNICAL ANALYSIS		EFFECTIVENESS ANALYSIS
	CURRENT	FUTURE	
1. DEFINITION OF BENEFICIAL OWNERSHIP	63 % Strong	63 % Strong	N.A.
2. IDENTIFYING AND MITIGATING RISK	93 % Very strong	93 % Very strong	X
3. ACQUIRING ACCURATE BENEFICIAL OWNERSHIP INFORMATION	30 % Weak	90 % Very strong	X
4. ACCESS TO BENEFICIAL OWNERSHIP INFORMATION	56 % Average	66 % Strong	X
5. TRUSTS	50 % Average	100 % Very strong	N.A
6. COMPETENT AUTHORITIES' ACCESS TO TRUST INFORMATION	60 % Average	80 % Strong	N.A
7. DUTIES OF FINANCIAL INSTITUTIONS AND OTHER BUSINESSES AND PROFESSIONS	74 % Strong	87 % Very strong	X
8. DOMESTIC AND INTERNATIONAL COOPERATION	86 % Very strong	100 % Very strong	X
9. TAX AUTHORITIES	67 % Strong	100 % Very strong	N.A
10. BEARER SHARES AND NOMINEES	38 % Weak	63 % Strong	N.A

INDICATOR 1
DEFINITION OF BENEFICIAL OWNERSHIP

TECHNICAL ANALYSIS

INDICATOR 1 Beneficial Ownership Definition	CURRENT STATE 63 % Strong	FUTURE PLANS 63 % Strong	RISK medium-low

Italian law defines the **beneficial owner** as "***a natural person on whose behalf a transaction or activity is carried out or, in the case of legal persons, the natural person or natural persons whom ultimately own or control the entity, or are the beneficiaries thereof...*** "[6]. Criteria differ depending on whether reference is made to a company or another legal person (foundations or trusts) though, in both cases, the definition sets a 25% plus one threshold of ownership or control.

Article 2 of the Technical Annex of Legislative Decree 231/2007 says, for the companies' part:

Beneficial owner means:

a) in the case of companies:

1) the natural person or natural persons who ultimately own or control a legal person through direct or indirect ownership or control of a sufficient percentage of shareholdings or voting rights in that legal person, including through bearer shares, provided this is not a company listed on a regulated market that is subject to disclosure requirements in accordance with Community law or equivalent international standards; this criterion is satisfied where the percentage is equal to 25 percent plus one of the share capital;

2) the natural person or natural persons who otherwise exercise control over the management of a legal person;

The definition of BO of companies is clear and comprehensive; however, with respect to the methodology[7] adopted in this study, **the 25% threshold** (and not lower than that) **does not allow for the attribution of the highest score to Indicator 1** because it is too high and leaves a loophole that could be easily abused and circumvented by money launderers and corrupt individuals.

The draft text of the anti-money laundering reform tries to simplify the definition, especially in the light of the creation, as we shall see later, of a centralised register containing information on beneficial owners: the beneficial owner is "*the natural person or natural persons, other than the client, in the interest of whom, ultimately, a business relationship is introduced, a professional service is rendered or a transaction is performed. If the client is an entity other than a natural person, the beneficial owner is the natural person or natural persons who, ultimately, possess or exercise direct or indirect control over the client*"[8].

Although the criteria for the determination of the beneficial owner confirm the 25% threshold, the concept of beneficial ownership changes and gives way to a kind of qualitative interpretation, for it refers to those who have the actual availability and control of the company regardless of the percentage figure. As stated by the MEF, "*if the capital is divided under the above-mentioned threshold, the largest shareholding becomes indicative*"[9].

In the light of the aforesaid points, **the indicator falls within a medium to low risk area**.

6 Legislative Decree 231/2007, Article 1 "Definitions"

7 See Methodology Annex 1

8 "Legislative decree scheme for the implementation of the Directive (EU) 2015/849", Government Act submitted to Parliament's opinion, Article 1 "Definitions",

9 Interview with the Ministry of Economy and Finance on 21/9/16, 26/9/16 and 27/10/16.

INDICATOR 2
IDENTIFYING AND MITIGATING RISK

TECHNICAL ANALYSIS

Italy appears to be virtuous regarding the identification and mitigation of risks, following the publication in December 2014 of the "Analysis of Italy's National Money-Laundering and Terrorist Financing Risks"[10] by the Financial Security Committee of the Ministry of Economy and Finance, carried out during the implementation of the FATF's recommendations.

The analysis is available online and was presented in November 2014 at a special event for the private sector at the MEF[11].

The study identifies specific high risk areas – such as the use of cash – and the ensuing mitigation measures. The money laundering risk is assessed as being very significant and 13 Italian provinces are identified as being at high risk, particularly in southern Italy, where organised crime is more rooted and cash payments are more popular.

The analysis also shows how risk is perceived and understood by the major players in the anti-money laundering system (administrative, investigative and judicial bodies). The study was in fact performed by consulting different players: *"authorities participating in the Financial Security Committee (ministries, supervisors, the Financial Intelligence Unit-FIU, Police Forces)", "other authorities with specific expertise on issues of interest", "representatives of the Presidency of the Council of Ministers", "scholars and representatives from academia and the private sector", "several industry associations and private institutions"*[12]. Civil society is not mentioned or involved.

The reform currently under discussion goes even further and expressly introduces the duty for the Financial Security Committee to draft the national risk analysis at least once every three years[13], which is not required by the law currently in force.

A weak point, according to the parameters adopted, is the non-publication of the analysis in its entirety: in fact, only a brief version of it is available online, due to the sensitive nature of certain information it contains, which is a "challenge to overcome" according to the FATF[14].

In addition to the "Analysis of Italy's National Money-Laundering and Terrorist Financing Risks", the second indicator also assesses the legislative obligations established for financial intermediaries and non-financial professionals (notaries, lawyers, chartered accountants and accountants) to identify, effectively assess and address money laundering risks. In relation to these categories, Italian law establishes an obligation to verify clients via a "*risk-based approach*", i.e. proportionate "*to the risk associated with the type of client, business relationship, professional performance, operation, product or transaction*"[15]. In the light of this, the legislation in place can be considered adequate.

The risk level for the Indicator regarding the identification and mitigation of risks is summarised below.

10 "Analysis of Italy's National Money-Laundering and Terrorist Financing Risks", Ministry of Economy and Finance, 2014

11 Interview with the Ministry of Economy and Finance on 21/9/16, 26/9/16 and 27/10/16.

12 "Analysis of Italy's National Money-Laundering and Terrorist Financing Risks", Ministry of Economy and Finance, 2014, page 3 "Introduction"

13 "Legislative decree scheme for the implementation of the Directive (EU) 2015/849", Government Act submitted to Parliament's opinion, Article 14 "National risk analysis"

14 "National Money Laundering and Terrorist Risk Assessment", FATF, February 2013, page 30

15 Legislative Decree 231/2007, Article 20 "Risk-based approach"

EFFECTIVENESS ASSESSMENT

The positive opinion on the above-mentioned risk assessment is confirmed also in relation to its effectiveness, as it can also be inferred from the FATF's Mutual Evaluation Report Italy of 2016[16].

This evaluation confirms that the national risk analysis appears to be "*robust*" and that "*Italy has a good understanding of the risks of money laundering and terrorist financing, and generally good policy cooperation and coordination to address these risks*"[17]. It completed a robust NRA in 2014. The FATF also highlights that the authorities are aware of money laundering risks relating in particular to the field of organised crime, though less in other areas, such as tax evasion (with the exception of the Finance Police) and corruption. In addition, it is highlighted that, notwithstanding the authorities' **good understanding of the risks involved, tools and actions are not fully adapted to those risks**. In particular, the decriminalization of self-laundering[18], reintroduced in 2015, has weakened the fight against money laundering.

According to the MEF, the risk analysis is to be updated every three years, so that the next one would be in 2017, and similarly later, with the reform, an analysis would be carried out every three years, though this "*could also be conducted in case of emerging threats or particularly significant vulnerability*"[19].

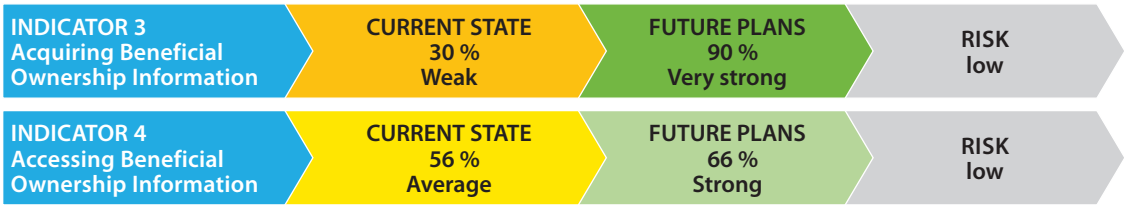
According to the FATF's analysis, financial institutions appear to be aware of the risks linked to money laundering, while non-financial businesses and professions seems to be less aware.

This latter criticality, which is also observed in subsequent indicators, is mainly attributed to the disalignment between the regulations on professions and money laundering legislation.

In general, we confirm the opinion of the FATF about the risk analysis of Italy, which has been assessed as **significantly effective**.

INDICATORS 3 AND 4 ACQUIRING AND ACCESSING BENEFICIAL OWNERSHIP INFORMATION

TECHNICAL ANALYSIS



Indicators 3 and 4 go to the core of the matter, assessing the acquisition of BO information by legal entities themselves and access to such information by public authorities, the entities which are subject to obligations in this field and the public at large, respectively. The two aspects are kept separate since the former (acquisition of accurate beneficial ownership information) is aimed at understanding the presence or absence, in law, of specific obligations on the possession of such information, while the latter (access to beneficial ownership information) investigates the types of entities that may access the information, how it can be accessed and the presence or absence of a register.

In the current situation, indicator 3 is weak since **the law does not establish any clear obligation for legal persons, both Italian and foreign, to keep information on beneficial owners**, and merely establishes the obligation for clients of financial institutions and professionals to provide "*for the purpose of the identification of the beneficial owner, ..., in writing, under their own responsibility, all necessary and updated information which they are aware of*"[20].

16 "Anti-money laundering and counter-terrorist financing measures-Italy-Mutual Evaluation Report", FATF, February 2016

17 "Anti-money laundering and counter-terrorist financing measures-Italy-Mutual Evaluation Report", FATF, February 2016, page 7.

18 It refers to the practice of using, in "clean" activities, money or property coming from crimes committed by the person itself.

19 Interview with the Ministry of Economy and Finance on 21/09/16, 09/26/16 and 10/27/16.

20 Legislative Decree 231/2007, Article 21 "Client Obligations."

However, the situation should improve with the reform currently under discussion, which aims to introduce the specific obligation to acquire beneficial ownership information, thus bringing Italy to the highest international standards and thereby reducing the corresponding risk.

Indicator 3 also includes two other aspects: the obligation on the part of shareholders to declare the shares held on behalf of third parties, which in Italy exists only for listed companies[21], and the obligation for beneficial owners and shareholders to inform the companies in the event of share ownership changes, in relation to which Italy is fully compliant[22].

The **Register of Companies** managed by Infocamere, an IT consortium of the Chamber of Commerce, is taken into account in the evaluation of access to information (Indicator 4). The Register of Companies is the database which, since 1993, has been collecting information on all Italian companies, foreign companies with a branch in Italy and all other entities performing economic activities in Italy, excluding professionals. The Register of Companies includes entries for 6 million companies and 10 million people; in 2015, it produced 19 million online company profiles.

As noted by a TRANSCRIME research project in 2013, further registers are used in Italy, two of which belong to public institutions and nine to private institutions[23]. However, for the purpose of this analysis, we considered the Register of Companies of the Chambers of Commerce.

Currently, also through internet access to the Register of Companies, it is possible to identify the beneficial owner of a company: this is not expressly indicated, but can be inferred from the shares held (starting from 25%) as required by the current decree. This is because, as it will be further explained in the effectiveness section, the legal ownership and the beneficial ownership coincide in the majority of cases.

The information available in the Register of Companies has all the relevant characteristics according to the reference standards of this analysis: the person's name, tax code and VAT number, the address of the registered office, nationality, country of residence and details on the composition of the shares and control.

Access to these records is guaranteed not only to competent authorities, such as the Finance Police or D.I.A., but to anyone that addresses a request to the Chamber of Commerce and pay a certain fee. In fact, the Register of Companies, being managed by a company not connected to the public authorities, requires payment of a fee for each access, to cover secretarial and register keeping costs.

In the reform currently under discussion, access to BO information appears to be simplified: a **specific register of beneficial owners** will be created in a special section of the Register of Companies, and this register will include a broader definition of beneficial ownership, as stated in the new draft law. The new rules provide clear instructions on reporting and accessing information on the beneficial ownership of legal entities and trusts as well as technical guidance on the electronic communication of data to the Register of Companies. However, access to the register will be limited when compared to the current register. **In fact, if the current version of the draft reform is approved, the new beneficial ownership register will not be accessible to all, rather only to those who have a legitimate interest therein**: the "competent authorities" ("*Ministry of the Economy and Finance, ... Sector Supervisory Authorities, ... Financial Information Unit for Italy, ... Anti-Mafia Investigation Unit,...Finance Police,…National Antimafia and Counter-Terrorism Directorate and ... the judicial authority*"), the "*authorities responsible for combating tax evasion*" , the "*obligated parties,…upon accreditation and payment of administrative fees*" and, "*upon payment of administrative fees…private persons, including those representing common interests, holders of juridical relevant and differentiate interest*". In the latter case *"the interest must be direct, real and current"*[24] *and* access is only allowed in case "*beneficial ownership knowledge is necessary to manage and defend, in the course of judicial proceedings, an interest corresponding to a legally protected situation, when there are concrete and documented reasons to believe that beneficial ownership is different from legal ownership*"[25]. In other words, in case of

21 The shareholders of a listed issuer must inform the investee company and CONSOB of the percentages of their shares, whether held directly or through subsidiaries (CONSOB Regulation No. 11971/1999, Article 117 bis). In addition, shares held indirectly must be considered when calculating shareholdings (Consolidated Law on Financial intermediation, Legislative Decree 58/1998, Article 15)

22 CONSOB must be informed of shareholding changes where these are at or above a certain threshold (CONSOB Regulation No. 11971/1999, Article 117). In addition, the Civil Code provides for limitations on the circulation of shares, such as the right of first refusal and option clauses, which effectively establish an obligation to provide information about the identity of the new owner (Article 2355 and 2355-bis of the Civil Code).

23 "The identification of beneficial owners in the fight against money laundering" TRANSCRIME, University Cattolica del Sacro Cuore, Trento University, 2013

24 "Legislative decree scheme for the implementation of the Directive (EU) 2015/849", Government Act submitted to Parliament's opinion, Article 21, "Communication and access to information on the beneficial ownership of legal entities and trusts".

25 "Legislative decree scheme for the implementation of the Directive (EU) 2015/849", Government Act submitted to Parliament's opinion, Article 21 "Communication and Access to information on effective ownership of legal entities and trusts".

private individuals, the register will be accessible only by those individuals who are involved in a trial and are able to give evidence of doubts about beneficial ownership, a condition that can be difficult to check without accessing the register.

For this reason, the **future register of beneficial ownership**, if the draft reform of the anti-money laundering law remains unchanged, **will be much less accessible to a private entity** (such as a company, a civil society association or a journalist), since it introduces a very restrictive concept of "legitimate interest".

Indicator 4 itself highlights other shortcomings in Italian law: nothing is said about the timeliness with which the competent authorities must be granted access to the Register, although the mandate given to the Government to transpose the 2015 Directive states that the information must be "*promptly*"[26] available; likewise, the law includes no details on the timing with which information in the register must be updated (updates are usually every year only for joint-stock companies, in line with their financial reporting obligations[27], but this timeframe is too extensive and 30 days would be the best option); however, **what is most striking is the lack of further controls by the Register's operators over the accuracy of information declared by companies**. According to the law, the information entered in the register is based on **self-declarations**, certified by a notary, not subject to further specific checks unless in case of suspicious transactions and subsequent investigations by the competent authorities. That weakness persists in the reform and therefore requires the introduction of compensatory measures, as outlined in the recommendations.

In short, the risk both of the Indicator on the Acquisition and of the Indicator on Access to beneficial ownership information is low, especially as a result of the provisions established in the draft reform of the AML regulation.

EFFECTIVENESS ASSESSMENT

The effectiveness assessment of these indicators shows, above all, the weakness resulting from the self-declaration made by legal entities, confirmed by the FATF and other experts[28]. The FATF underlines an "*undue reliance on registry information, and customers' self-declarations*"[29] for entities subject to obligations in this field, and a lack of checks on the beneficial ownership declarations submitted by companies entered in the Register. Further discussion on this point will be developed under Indicator 7.

The FATF assessment makes a distinction between basic information on legal persons, which is accurate, easily accessible and up-to-date, and beneficial ownership information, which is more difficult to access and less reliable. This is particularly evident when dealing with shareholders whose share is under the 25% threshold and when the owner is not Italian. However, the MEF[30] reports that in 90% of cases, legal ownership coincides with beneficial ownership, since Italy's system is based almost entirely on small or medium-sized enterprises. Also, the Analysis of Italy's Risks establishes that "**the problem of access to beneficial ownership information exists for 1% of the 6 million registered enterprises**"[31], and the risk increases, as observed in Mafia cases, when complex corporate structures are used, such as trusts (see Indicators 5 and 6) and foreign corporate entities (see the IMI-SIR case).

The FATF emphasises that information on beneficial owners to which the authorities have access through additional sources and databases that allow for such information to be cross-checked, is much more reliable and readily accessible: in particular, the Finance Police and the DNA have joint access to several databases and may also resort to international cooperation. The timeliness of the authorities' access to BO information is deemed adequate by the FATF (from "*a few minutes to a few days, depending on the complexity of the case and the corporate vehicle involved*"[32]). However, it is stressed that the process of beneficial ownership identification by the authorities could be facilitated by enhanced due diligence on the part of notaries, an issue discussed in more detail in Indicator 7. Also in the case of trusts, discussed in detail in Indicator 5, the FATF believes that the authorities have adequate powers to promptly access information held by trustees (especially where these are financial intermediaries and professionals) on the beneficial owners of the trust they manage.

26 Law no. 170 of 12 August 2016, Art.15

27 Civil Code, Article 2435 "Publication of the financial statements and of the list of shareholders and holders of rights on shares". The obligation to draw up formal financial statements is imposed upon joint-stock companies by Articles 2423 and 2423-bis; this obligation does not apply to partnerships, which are only required to draft an annual report, without any type of registration or publication thereof since its drafting does not respond to the need to protect third parties or the community which, instead, the financial statements of a joint-stock company are subject to.3

28 Interventions Monte dei Paschi di Siena (15/12/16) and Kroll Italia (16/12/16)

29 "Anti-money laundering and counter-terrorist financing measures-Italy-Mutual Evaluation Report", FATF, February 2016, page 79

30 Interview with the Ministry of Economy and Finance on 21/09/16, 09/26/16 and 10/27/16.

31 "Analysis of Italy's National Money-Laundering and Terrorist Financing Risks", 2014, page 26

32 "Anti-money laundering and counter-terrorist financing measures-Italy-Mutual Evaluation Report", FATF, February 2016, page 116

The **Italian Register of Companies seems to be quite advanced:** it contains very detailed and quantitatively high information and the system of consultation seems to be very advanced and differentiated. Access conditions vary significantly depending on the type of search, whether by company or individual – in which case payment of a fee, though no subscription to the service, is required– or in "bulk", in relation to lists of aggregated enterprises based, for example, on their geographic location, legal status or business sector. Special systems are available for public authorities, with specific information on all enterprises, accessible through customised agreements to be signed with Infocamere and the Chambers of Commerce. Economic operators may also stipulate contracts that grant them access to the entire database and allow them to connect their internal systems to the information entered in the Register. Also the data formats vary according to the system used: generally, data are produced in non-modifiable formats (PDF, HTLM), though more advanced access can also be granted, referred to as open (XML and XBRL). Furthermore, according to research conducted by *Access to info* and OCCRP (*Organised Crime and Corruption Reporting Project*) in 2016[33], the Italian register is 1 of 9 registers (out of a total of 32) that allows for searches by name.

The completeness of the register is one of the reasons why access has a cost to the user. The aforesaid research project by *Access to info* and OCCRP shows that, in Italy, the cost of a company search is EUR 3.50, a not excessive yet higher price than that charged in other European countries: out of 32 company registers, the price for access to the information sheet of a single company ranges from EUR 0.03 in the Netherlands to EUR 757.86 in Russia. **The Register of Companies is public; yet, from a practical point of view, it can also be very expensive for a civil society organisation or a journalist to conduct a large-scale search without having free access to the entire register.**

INDICATORS 5 AND 6 TRUSTS

TECHNICAL ANALYSIS

INDICATOR 5 Trusts	CURRENT STATE 50 % Average	FUTURE PLANS 100 % Very strong	RISK low
INDICATOR 6 Competent Authorities' Access to Trust Information	CURRENT STATE 60 % Average	FUTURE PLANS 80 % Strong	RISK low

Indicators 5 and 6 are dedicated to the challenging issue of trusts, specifically to the obligations of trusts to keep beneficial ownership information (Indicator 5) and to access to such information by the competent authorities (Indicator 6), respectively. **It is precisely in regard to the issue of trusts that the new anti-money laundering reform should fill the most significant gaps**.

Trusts are typical institutions of the Anglo-Saxon legal tradition for which **there is no equivalent in Italian law**[34]; however, our country recognises foreign trusts, which, through the Hague Convention[35], are subject to the regulations of the country in which they were created and are related to the Italian legal-economic system.

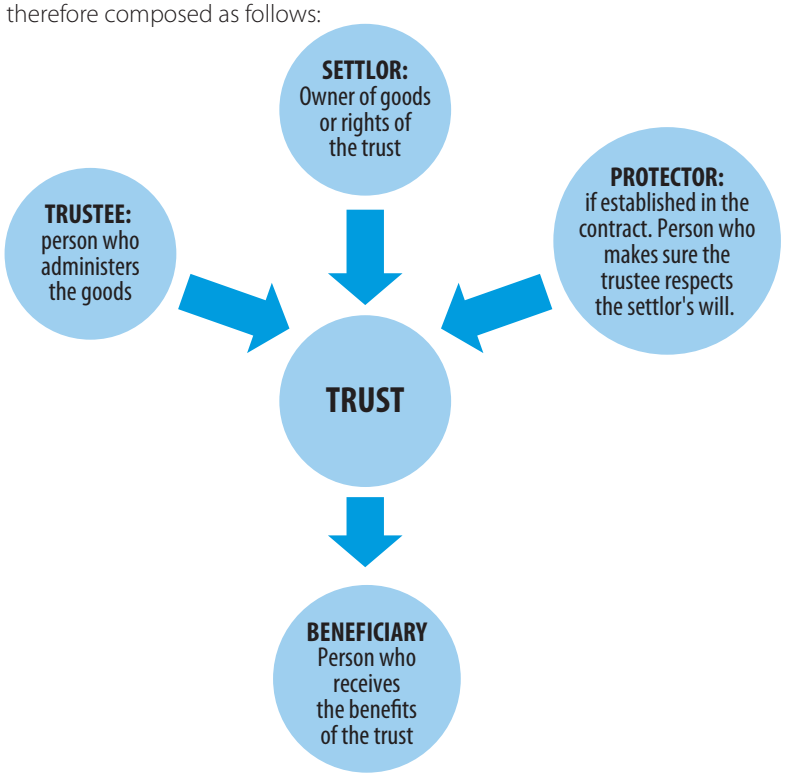
A trust is a legal arrangement in which one or more persons (the "settlors") transfer the availability of goods and/or rights to another person, the trustee, who assumes the obligation to administer them in the interest of one or more recipients (the "beneficiaries") or for a particular purpose. There can also be a protector of the trust, who monitors the trustee's conduct. Essentially, a trust is established to protect assets or property. The peculiarity of this legal institution derives from the fact that the parties concerned can transfer their property, despite remaining the owner thereof, and entrust it to a third party, the trustee, who manages the property on behalf of its owners. The beneficiary of the trust may be the settlor or a different party.

33 "It's none of your business!", Access to info and OCCRP (Organised Crime and Corruption Reporting Project), 2016

34 Fiduciaries (less than 300 in Italy) are not comparable to trusts, although the FATF defines them as "dynamic trust companies."

35 Hague Convention of 1 July 1985, ratified by Law no. 364 of 16 October 1989

The trust structure is therefore composed as follows:



The relationships between the above-mentioned entities are defined by contracts that establish the parties' powers and obligations, including the trustee's management limits, for example, for transactions regarding the sale of property.

The beneficial owner of a trust, namely the subject analysed in this section, may be any of the parties involved in a trust and is difficult to define *ex ante*. Ownership, in fact, varies according to the provisions contained in the contract which, for example, can relate to the share of capital generated by the trust or a veto on rights or decisions to be taken. According to the FATF, Italian law does not, however, expressly refer to the founder (settlor) as the beneficial owner, while it includes the other parties, and therefore this definition is not fully compliant with global standards.

According to the current anti-money laundering law, the BO of a trust is:

1) where the future beneficiaries have already been determined, the natural person or natural persons holding 25 percent or more of the assets of a legal person;

2) where the individuals that benefit from the legal person have not yet been determined, the category of persons in whose main interest the legal person was established or acts;

3) the natural person or natural persons who exercise control over 25 percent or more of the assets of a legal person[36]

The definition is not complete: it does not comply with global standards and, in particular, it does not include the settlor. Effective control and ownership are hard to identify in the case of a trust; therefore all parties to a trust shall be identified as BOs.

At present, trusts (foreign trusts in our case) are not expressly required to keep information on beneficial ownership. This negatively affects the score of Indicator 5 on the legislation currently in force. However, financial institutions and professionals have an obligation to request beneficial ownership information for the purpose of establishing a relationship with a client, also when this is a trust, and competent authorities have the right to access information collected by these parties. In particular, financial institutions and professionals are increasingly appointed as trustees of foreign trusts. In this case, although not declaring they are trustees, financial institutions and professionals are nonetheless required by the anti-money laundering law to provide beneficial ownership information. CONSOB[37] also requires additional information from trustees holding significant shares in listed companies, including the beneficiaries and all those involved in the trust (including the settlor), although the number of Italian companies whose shareholders are trusts, or other similar legal arrangements, is limited (0.47%[38]).

36 Technical Annex of Legislative Decree 231/2007, Article 2 "Beneficial owner"

37 CONSOB communication no. 0066209 of 2.8.2013.

38 "Anti-money laundering and counter-terrorist financing measures-Italy-Mutual Evaluation Report", FATF, February 2016, page 112

The anti-money laundering draft reform, instead, introduces the obligation for trusts subject to tax liabilities in Italy to hold information on beneficial ownership and, what is **most innovative, it introduces the creation of a register to be integrated as a separate section** into the Register of Companies. Specifically, trusts will be required to register information on the "*identity of the settlor, the trustee or trustees, any other person acting on behalf of the trustee, if any, the beneficiary or class of beneficiaries and other individuals who exercise control over the trust and any other natural person ultimately exercising control*"[39]. The register will be accessible, without any restrictions, to competent authorities (except for Tax authorities, unlike the BO register), as well as to the entities having obligations in this respect, though only upon accreditation and payment of a fee[40]. There will be no public access to the register.

The establishment of a register of trusts goes beyond the provisions of the 4th European Directive on money laundering and anticipates the discussion at European level on the amendments to the 4th Directive.

To conclude, the **current legislation is lacking, and there is an average level of risk as to indicators regarding trusts** (obligations of trusts to keep beneficial ownership information and access to such information by competent authorities). The future situation should improve **due to the provisions of the draft reform of the anti-money laundering legislation, and thus the risk levels should be lower.**

INDICATOR 7
OBLIGATIONS OF FINANCIAL INSTITUTIONS AND PROFESSIONALS

TECHNICAL ANALYSIS

The responsibilities and role of financial institutions and professionals in regard to the transparency of beneficial owners is crucial, and that is why Indicator 7 is dedicated to the evaluation of their obligations. Italian law is very detailed as to the verification obligations of financial institutions and professionals (lawyers, auditors, accountants), though also of the other parties examined in this analysis, such as real estate agents, dealers in precious metals. Explicit duties of identifying the beneficial owners are missing instead for dealers in luxury or valuable goods (above 10.000 euro).

In general, both financial intermediaries and professionals and other non-financial entities are required to check beneficial ownership when establishing a relationship with a client, especially in case of suspected money laundering or terrorist financing activities, when there are doubts about the truthfulness or adequacy of the data provided and when the payments made by the client (in the case of financial intermediaries) or for professional fees (for professionals) or occasional transactions (for other entities, namely estate agents, betting companies, managers of gambling entities)[41] reach or exceed 15,000 Euros. The law also establishes "*enhanced obligations*" of adequate client verification in the presence of a higher risk "*of money laundering and terrorist financing*", "*when the client is not physically present*", "*in case of correspondent banking relationships with extra-EU respondent institutions*" and in case of "*continuous relationships or professional services with politically exposed persons*", but only if they are "*living in another member state or non-EU country*". The control in relation to Politically Exposed Persons (PEP), to which the methodology dedicates a specific question, is further reinforced in the case of banks and insurance companies, with an extension to domestic PEPs, by means of sector-specific legislation[42]. The anti-money laundering reform establishes this extension for all entities subject to obligations in this field. The latter are required to refrain from engaging in transactions where they are unable to comply (objectively) with the required obligations in terms of proper client verification, and therefore identification of beneficial ownership. However,

39 "Legislative decree scheme for the implementation of the Directive (EU) 2015/849", Government Act submitted to Parliament's opinion", Article 20 "Criteria for determining the actual ownership of clients other than individuals".

40 "Legislative decree scheme for the implementation of the Directive (EU) 2015/849", Government Act submitted to Parliament's opinion, ", Article 21 "Communication and access to information on the beneficial ownership of legal entities and trusts".

41 Legislative Decree 231/2007, Article 15 "Obligations of client verification by financial intermediaries and other entities carrying out financial activities" and Article 16 "Obligations of client verification on the part of professionals and auditors"

42 "Measure enforcing the provisions on adequate client verification, in accordance with Article 7(2) of Legislative Decree 231 of 21 November 2007", the Bank of Italy, 3 April 2013 and" Instructions on how to fulfil the obligation of adequate client verification and registration by insurance companies and insurance intermediaries. Adequate client verification", IVASS, 21 July 2014

there is no automatic obligation to inform the FIU of transactions where the beneficial owners have not been identified; rather, such communication is required only "*when the entities know, suspect or have reasonable grounds to suspect that money laundering or terrorist financing has been committed or attempted*"[43].

This indicator also examines access to beneficial ownership information by financial institutions and professionals, which, as already shown in Indicator 4, is possible upon payment of a fee, in case of the Register of Companies. The current law does not specify the timeliness with which access must be granted, although the mandate given to the Government to transpose the 2015 Directive states that the information, as already seen for competent authorities (Indicator 4), must be "promptly"[44] available. As for access to information on trusts by financial institutions and professionals, financial institutions and professionals do not currently have easy access to this information even though they are required, as we have already seen in Indicator 5, to verify their clients. The situation should change with the reform of the Anti-Money Laundering Act, which will introduce a register of trusts, open also to the entities subject to obligations in this field, and thus to financial institutions and professionals[45].

Finally, Indicator 7 takes into account the penalties applicable to financial institutions and professionals in case of failure to fulfil their supervisory duties. The anti-money laundering law establishes criminal punishments that are applicable to any entity that fails to fulfil the identification obligations imposed by legislation. If there is no direct liability for money laundering established by the criminal code, the law provides for a penalty from EUR 5.000 to 30.000 for obligated parties that fail to comply with identification obligations, that increases from EUR 10.000 to 50.000 in case of fraudulent conduct[46]. Executives if they are directly responsible for reporting under internal company regulations, when they violate the provisions relating to the client identification requirement, are also subject to those sanctions.

To summarise, the current law is in line with international standards, and the level of risk is low for this indicator. From a practical point of view, the assessment varies, as it is clear from the effectiveness assessment below.

EFFECTIVENESS ASSESSMENT

Regarding the effectiveness, there are differences between the financial sector and non-financial professionals.

The **process of identification of the actual beneficiary in the financial sector** is considered as **good**, although the FATF underlines a lack of consistency, especially when trying to trace the 25% shareholding in very complex ownership chains.

To assess the effectiveness of beneficial ownership identification by the parties subject to this obligation, it is interesting to consider the statistics on "suspicious transaction reports" (STR).

In 2015, the FIU received 82,152 suspicious transaction reports regarding money laundering, a significant increase compared to 2014 (71,661), partly due to voluntary disclosure but also in line with a trend that has been increasing in recent years[47]. The reports come mainly from Financial Institutions and, to a lesser extent, from professionals, mostly notaries.

The figure confirms **good cooperation on the part of financial institutions**, although, as reported by the FATF and reiterated by the FIU, the reports are not timely (only 40% of suspicion reports from the banks reaches the FIU within 15 days[48]).

In general, the due diligence activity appears to be properly implemented by the financial sector[49], even if it shows an "*over-reliance by some sectors (e.g. insurance, asset managers, and payment institutions) on the due diligence undertaken by the banks*"[50] However, when considering the weaknesses observed by the Bank of Italy in relation to client verification activities performed by Banks from 2012 to 2014, 25% of identified deficiencies related to the identification of beneficial owners[51].

43 Legislative Decree 231/2007, Article 41 "Reporting of suspicious transactions"

44 Article 15 of Law no. 170 of 12 August 2016

45 "Legislative decree scheme for the implementation of the Directive (EU) 2015/849", Government Act submitted to Parliament's opinion", Article 21 "Communication and access to information on the beneficial ownership of legal entities and trusts", the Ministry of Economy and Finance website

46 Legislative Decree 231/2007. Article 55 "Criminal penalties", modified by the Legislative Decree 8/2016

47 "Financial Intelligence Unit Annual Report", FIU and the Bank of Italy, May 2016

48 "Financial Intelligence Unit Annual Report", FIU and the Bank of Italy, May 2016, page 37

49 Interview with Banca Etica 27/09/2016 and interventions by Banca Popolare Milano (12/01/2016), Banca Prossima (01/12/2016) and Banca Monte dei Paschi di Siena (12/15/16)

50 "Anti-money laundering and counter-terrorist financing measures-Italy-Mutual Evaluation Report", FATF, February 2016, page 9

51 "Anti-money laundering and counter-terrorist financing measures-Italy-Mutual Evaluation Report", FATF, February 2016, page 83

This does not appear to be the case in relation to the cooperation of **non-financial professionals**: according to the FIU, "***reports*** *form chartered accountants, accountants, employment consultants, associated firms, inter-company lawyers and partnerships between lawyers, have increased in absolute terms but continue to be* ***marginal and not proportional to the potential in terms of active cooperation***"[52]; reporting by non-financial professionals is considered by the FATF to be "poor, especially among lawyers and accountants, but is improving in the case of notaries"[53] (even if not sufficiently, in the latter).

In addition, according to the FATF, **the work of the authorities in the identification of beneficial owners could be improved, including by strengthening due diligence by notaries[54]**.

Furthermore, the aforementioned increase in the number of parties performing trustee functions **is not matched by clear awareness about their anti-money laundering obligations when performing such role**, even if this is required by law.

In general, the FATF recommends providing greater support and training to the entities subject to obligations in this field, informing them of the steps to be taken for the identification and verification of beneficial owners, but also addressing the weaknesses related to self-declarations.

Self-declaration is, in fact, a major shortcoming of the current system, as already emerged in Indicators 3 and 4: according to the FATF, financial institutions that have access to less sophisticated systems, and most financial professionals demonstrate an "***over-reliance on the customer's self-declaration*** *when the ownership chain starts to become complicated*"[55].

The reform of money laundering legislation does not change the self-declaration system, although the penalties established in case of failure to report accurate information, if properly enforced, might act as a strong deterrent against false self-declarations. In fact, self-declarations include a statement on the responsibilities and penalties in case of false declarations.

Apart from the above-mentioned penalties established for the parties subject to obligations in this field, clients who do not provide the necessary information or who give false information may be punished with imprisonment from 6 to 12 months and a fine ranging from EUR 500 up to 5,000. There have been cases of penalties applied by the Finance Police although details are not available and it is therefore difficult to assess their true effectiveness. However, currently, according to the FATF the **penalties** "***do not appear to be implemented in a particularly dissuasive and proportionate manner***"[56].

According to the MEF[57], the **penalties will be strengthened** by the reform: for clients, the maximum term of imprisonment rises to 3 years (instead of 1 year), while the fine rises from mimimum EUR 10.000 to maximum EUR 30,000 (instead of 500/5,000); the parties subject to obligations in this field that falsify data and information relating to beneficial owners or acquire false or untrue information on beneficial owners will be punished with imprisonment from six months to three years and a fine of EUR 10,000 to 30,000[58] (instead of the only fine of EUR 5.000/30.000).

At present the threat of criminal consequences certainly does not scare off parties determined to profit from money-laundering operations, since it can easily be circumvented: in fact, money laundering is committed before the falsity of declarations is alleged. Moreover, this situation is made difficult by the fact that, in order to allege money laundering, Italian criminal law requires the identification of "what money" has passed through "those particular transactions"; this condition raises many concerns, other than presenting obvious difficulties, since money is a so-called fungible asset and thus cannot be directly determined.

52 "Financial Intelligence Unit Annual Report", FIU and the Bank of Italy, May 2016, page 29

53 "Anti-money laundering and counter-terrorist financing measures-Italy-Mutual Evaluation Report", FATF, February 2016, page 79

54 "Anti-money laundering and counter-terrorist financing measures-Italy-Mutual Evaluation Report", FATF, February 2016, Page 10

55 "Anti-money laundering and counter-terrorist financing measures-Italy-Mutual Evaluation Report", FATF, February 2016, Page 84

56 "Anti-money laundering and counter-terrorist financing measures-Italy-Mutual Evaluation Report", FATF, February 2016, Page 114

57 Interview with the Ministry of Economy and Finance on 21/09/16, 09/26/16 and 10/27/16.

58 "Legislative decree scheme for the implementation of the Directive (EU) 2015/849", Government Act submitted to Parliament's opinion", Article 21 "Communication and access to information on the beneficial ownership of legal entities and trusts", the Ministry of Economy and Finance website, Article 55 "Penalties"

INDICATOR 8
DOMESTIC AND INTERNATIONAL COOPERATION

TECHNICAL ANALYSIS

As regards domestic and international cooperation between authorities, **Italian legislation places no special restrictions on the exchange of information between national authorities and their foreign counterparts, except for professional secrecy and the principle of reciprocity**. Professional secrecy applies to relationships with the judicial authority when the information requested is necessary for investigations or proceedings relating to criminal law violations. The professional secrecy obligation is also expressly waived both in the domestic cooperation between specific supervisory authorities and the FIU, the Finance Police and the DIA, and in the international cooperation between the FIU and its foreign counterparts. In the latter case, the exchange can take place in conditions of reciprocity also in relation to confidentiality matters, and also by means of memorandums of understanding[59]. Furthermore, in relation to international cooperation, the FIU may also acquire and share information held by the DIA and the Special Currency Police Unit of the Finance Police[60].

However, beneficial ownership information is always accessed by foreign authorities via their national counterparts that have access to national registers (primarily the Register of Companies), **while in the future, with the introduction of centralised registers of beneficial owners, it should be possible, at least in Europe, to directly access records held in other countries**. In addition, with the introduction of the Trusts Register, access by foreign authorities to information on trusts operating in Italy, and vice versa, which is currently very limited, should be possible.

In short, the national and international cooperation indicator has a **low level of risk.**

EFFECTIVENESS ASSESSMENT

The analysis of the effectiveness of domestic cooperation confirms, according to the FATF report, the existence of good channels for the exchange of information between the FIU and other authorities, through specific agreements. However, it highlights the **need to improve coordination between authorities in general as well as the authorities' feedback to the FIU**, mainly due to the absence of a national coordination plan: in particular, it highlights that the FIU's technical reports are not shared with other authorities, such as the Finance Police, the Inland revenue and the National Anti-Corruption authority, and that no feedback is given by the Finance Police and the Anti-Mafia Investigative Directorate to the FIU on follow-up actions based on reports of suspicious transactions[61].

At international level, the FATF acknowledges the existence of bilateral and multilateral agreements for the exchange of information. It is confirmed that, while foreign counterparts have direct access to basic information about Italian legal persons, **access to information about beneficial owners must,** instead, **pass through Italian authorities**. According to the 2015 Financial Information Unit Annual Report[62], in 2015 the FIU provided 1,223 responses out of a total of 1,213 applications received from foreign counterparts (a number that has been increasing in recent years), confirming a positive response rate in line with previous years. However, the FATF underlines a lack of detailed statistics on requests made by Italian authorities and on those received from foreign counterparts, which prevents a due assessment of the level of effectiveness of cooperative actions. The FATF also highlights effectiveness gaps related to a **lack of prioritization mechanisms** in the processing of requests[63].

59 Legislative Decree 231/2007, Article 9 "Information exchange and cooperation between the Authority and Police Forces"

60 Legislative Decree 231/2007, Article 9 "Information exchange and cooperation between the Authority and Police Forces"

61 "Anti-money laundering and counter-terrorist financing measures-Italy-Mutual Evaluation Report", FATF, February 2016, page 44 and page 46

62 "Financial Intelligence Unit Annual Report", FIU and the Bank of Italy, May 2016

63 "Anti-money laundering and counter-terrorist financing measures-Italy-Mutual Evaluation Report", FATF, February 2016, page 117

INDICATOR 9
TAX AUTHORITIES

TECHNICAL ANALYSIS

A specific focus is dedicated to **tax authorities**, whose access to information on beneficial owners contained in the Register of Companies is not expressly regulated, yet is part of specific agreements that provide for a registration and payment process. **Access will be made easier with the introduction of the new register of beneficial ownership**, which expressly establishes "*access [...] without any restrictions [...] by anti-tax evasion authorities*"[64]. It specifies, however, that the means of access will be governed by a specific ministerial decree. The exchange of information on beneficial owners between Italian and foreign tax authorities and their counterparts is promoted by Italy's adherence to the OECD Global Forum on Transparency and Exchange of Information for Tax Purposes and by numerous treaties on the exchange of information[65]. In fact, in 2017 Italy will start implementing the automatic exchange of information on tax matters with foreign counterparts which shall also include BO information.

The risk for this indicator is low especially in the light of the rules to be introduced by the reform.

INDICATOR 10
BEARER SHARES AND NOMINEES

TECHNICAL ANALYSIS

Our evaluation will conclude with an analysis of the transparency obligations relating to bearer shares, nominee shareholders and directors.

Bearer shares are allowed in Italy only in two cases: savings shares (therefore with no voting rights) that can be issued in a registered format (thus also in the name of a bearer) by companies whose ordinary shares are listed on Italian regulated markets or those of other EU countries[66]; shares issued by companies with variable capital, which may be registered or in bearer format at the shareholder's discretion[67], but which are not currently used in Italy. In any case, the risk is **low since bearer shares have a "dematerialization" obligation[68]**, in other words they must be deposited with a financial intermediary and since 2012, bank or postal savings accounts must be closed, or their balance must be reduced below EUR 1,000 and, since 2017, the transfer of booklets may not exceed EUR 3,000.

As for nominees, although there are no nominee directors in our country, **nominee shareholders**, including professionals (notaries and accountants) are allowed though are **subject to utmost transparency standards**: they must declare the identity of the holder to the company and have a valid authorisation, and keep record of the person they have been appointed by.

In short, the current law, together with the obligation to cancel bearer shares, is sufficient to ensure transparency and thus there is a **low risk for indicator 10.**

64 "Legislative decree scheme for the implementation of the Directive (EU) 2015/849", Government Act submitted to Parliament's opinion", Article 21 "Communication and access to information on the beneficial ownership of legal entities and trusts", the Ministry of Economy and Finance website

65 Active information exchanges: 49 from Italy and 55 to Italy, as of 2 January 2016 http://www.oecd.org/tax/automatic-exchange/international-framework-for-the-crs/exchange-relationships/

66 Legislative Decree 58/1998, Article 145

67 Legislative Decree 58/1998, Article 45

68 Legislative Decree 213/1998.

1.4 FOCUS AND CASE STUDIES

1.4.1 INTERNATIONAL COOPERATION, TRUSTS AND OFFSHORE COMPANIES: THE IMI-SIR CASE[69]

The case commonly known as the "IMI-SIR" case gives evidence of the difficulties in recovering the proceeds of a crime (the payment of a bribe) and in proving the perpetration of crimes (corruption and money-laundering) due to the use of complex financial structures, such as trusts, off-shore companies and due to the limits of international cooperation.

The entire legal case lasted 23 years, from 1986 to 2009, and involved three main proceedings: the first one (concluded in 1993) sentenced a bank (IMI) to pay compensation to a company (SIR, of the Rovelli family); the second case (concluded in 2006) declared that the first proceedings were null because the Judge was corrupt; the third case (concluded in 2009) demonstrated that corruption had been perpetrated through money laundering and authorised the recovery of the proceeds of crime.

The dispute originally involved a big Italian chemistry firm, Società Italiana Resine (SIR) (which was subsequently sold off) owned by the Rovelli-Battistella family and the San Paolo IMI banking group. It concerned a request by SIR for compensation from IMI, since the latter was accused of not having duly fulfilled its role to support the company, thereby contributing to its collapse.

The court case began in 1986 with the first-instance judgement issued by the Court of Rome, confirmed later in 1990 by the Court of Appeal in Rome (whose judges included Judge Metta) and by the Supreme Court in 1993: IMI was sentenced to pay **over 980 billion Lira** as compensation, which was paid to the owners of SIR (a state-owned bank at that time) in 1994. SIR's attorneys transferred this sum directly into a Swiss account, with the currency exchange rate at the time corresponding to a total value of about 590 million Swiss francs (CHF).

Subsequently, the Milan prosecutor's office advanced suspicions regarding the unlawful interference by the lawyers of the Rovelli family with Judge Metta's final judgment. This interference, which was confirmed in the subsequent criminal proceedings that were concluded in 2006, was perpetrated through corruption, since it was demonstrated that Judge Metta had received **one billion Lira** to pass a judgment in favour of SIR. The corruption case thus became known as "the biggest corruption case in Italian history", as declared by the first appeal Judges. Although Judge Metta and the intermediaries were condemned, the "agents" (Ravelli family members) were acquitted as the case had become statute barred.

However, the case went on. The sentence demonstrated that the Rovelli family had unlawfully received compensation from IMI as a result of the Judge's corruption. However neither the amount of such compensation nor the source of the bribe could be traced. In fact, such compensation, considered as proceeds of an illegal activity (corrupt sentence), had been immediately transfered by the Rovelli family into foreign bank accounts to allow for such money to be reused (i.e. **money laundering)** through the establishment of shell companies **and foreign trusts.**

It was only with the emergence of the complex network of companies that the Rovelli family was convicted of money-laundering in 2009 and that the proceeds of crime were recovered by the State. The compensation (wrongfully) paid by the IMI bank to SIR came in fact from public resources, since the bank was state-owned. Moreover the State had to pay for the Judge's wrongdoing since the latter was insolvent.

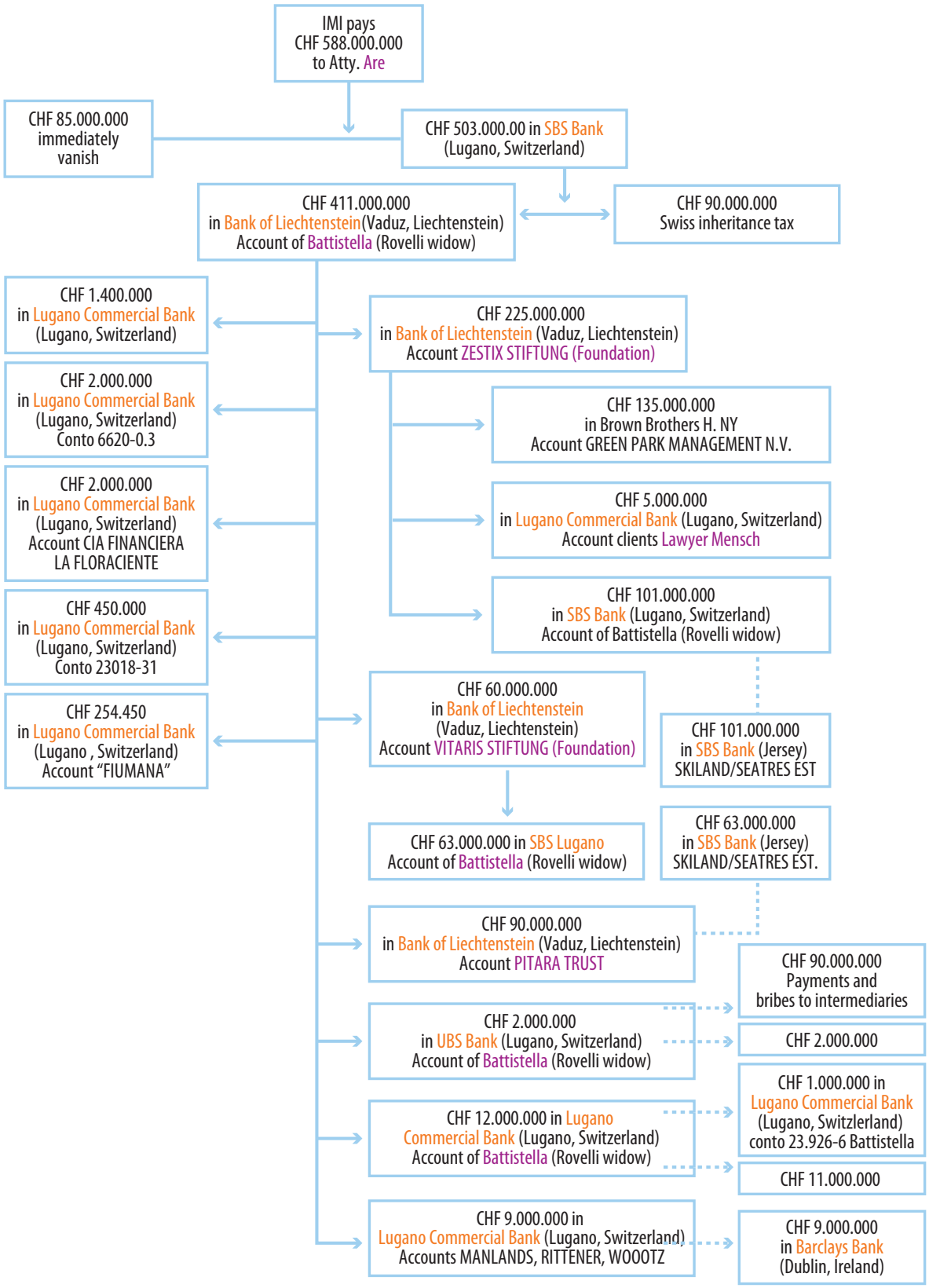
What emerged from the reconstruction of the case by the Monza prosecutors and the Finance Police, which were in charge of investigating the money-laundering case in 2006, was a real spider network, specifically planned by the Rovelli family and their lawyers and consultants for years through a large number of financial transactions. Just like it happens in most large-scale money-laundering cases, the aforesaid transactions were aimed not only at rendering the illicit money chain invisible, but above all **at concealing the identity of the beneficial owners** of the money channelled through several layers of **offshore companies** and banking institutions.

Upon IMI's payment of compensation to SIR, approximately 700 billion Lira (980 billion less taxes) were transferred to the Italian current account of the Rovelli family's attorney (Atty. Are). The latter immediately arranged a money transfer to the SBS Bank in Lugano and, shortly after, to the Bank of Liechtenstein in Vaduz. As a result of these first transactions, **100 billion Lira (around 85 million CHF) immediately vanished and 90 million CHF were paid to Switzerland for inheritance taxes**.

69 All information is taken from the book "La democrazia dei corrotti", Walter Mapelli and Gianni Santucci, BUR Rizzoli, 2012, from the "Final relation on the criminal case n.5341/06 at the Monza Prosecutor Office – IMI-SIR", 29/1/2008, and from interviews to the prosecutor Walter Mapelli, a member of the Advisory Board of the project.

Subsequently, the money passed through various financial operations summarised in the following diagram:

THE INITIAL MONEY-LAUNDERING CHAIN



The first phase described above was characterised by **over 20 financial transactions carried out as from the time of the initial payment, between several banks residing in foreign countries, owned by companies created for that purpose on an ad-hoc basis, which in turn financed other companies.**

The investigations conducted by the judicial authorities traced a network of:

- 4 macro economic and financial structure, identified by 4 different temporal periods;
- 15 substructures;
- 54 companies;
- 42 banks and financial institutions;
- 17 trusts;
- 31 states involved around the world.

Tracing the money, the Italian investigators, in cooperation with foreign authorities, were able to identify **various members of the Rovelli family** as the **main actors** of the money laundering system.

As reported by Prosecutor Mapelli, a crucial role was played by trusts. One of them was the Pitara trust, based in Vaduz (Liechtenstein). The economic beneficiary was the widow of the head of the Rovelli family (who died in 1990) and a lawyer (Rubino Mensch) acting as solicitor. At the beginning of 1994, 90 million CHF were deposited into the trust. 58 million were then transferred into bank accounts in Switzerland, linked to the Italian intermediaries who corrupted Judge Metta (including Previti, the former MP and Defence Minister under the Berlusconi government). The remaining 30 million CHF were used to pay "regular" invoices of the lawyers who had advised the Rovelli family during the proceedings. The trust was thus used to pay both legal and illegal services.

In the following years, other trusts were created in other continents to conceal the remaining funds, all named with the initial letters of the heirs of the Rovelli family (Oscar, Felice, Angela, Rita): 4 trusts were created with city names in the Bahamas (the "city" trusts: Oslo, Frankfurt, Antwerp and Rio), the "mountain" trusts were opened in the Cook islands (Andes, Fuji, Olympus and Rainer), while the "animal" trusts were created in another off-shore country (antelope, fox, ram and otter). The Rovelli widow was often the settlor and the beneficiary of the trust while accountant Munari was often the protector and solicitor, and controlled the trustees. These were not independent and were asked to sign "blank" suspension letters to be removed at any time. Each trust owned, in turn, other investment funds or companies in other off-shore countries through, at times, nominee shares, thus making it very difficult to reveal their connections with the beneficial owners.

Legal scholars often discuss about the potential **elusive or abusive use of trusts**.

According to the aforesaid Analysis of Italy's National Money-Laundering and Terrorist Financing Risks[70] by the Ministry of Finance, trusts are growing in popularity and are frequently used "*for illegal purposes, especially to commit tax crimes, money laundering, bankruptcy, market abuse and to shield the illegal assets of organised crime*"[71]. For this reason, the said Analysis assigns **maximum vulnerability** levels to trusts.

It should be noted that foreign trusts are often incorporated / based in non-cooperative jurisdictions, in order to hinder the identification of beneficial owners. This possibility opens the way for criminal networks that, together with the establishment of offshore companies, give rise to a solid structure for the protection and re-use of money and "dirty" assets they wish to protect.

Offshore companies established in certain countries (e.g. Cayman Islands, Switzerland, San Marino, etc.) ensure that data relating to the BO are not disclosed. Consequently, money that passes through these companies and their connected banks becomes difficult to trace. Although the so-called "international washing machine" is still operative, it has recently encountered some problems: indeed, it is becoming increasingly difficult to return laundered money to the beneficial owners' countries of residence.

International cooperation is crucial in this regard, as shown by the investigations on the IMI-SIR money laundering case. Difficulties were encountered at times even in a country that was supposed to be collaborative.

In particular, the Italian prosecutors encountered obstacles and resistance from foreign authorities in the United Kingdom: they made a request to the foreign Judicial Police to proceed with the identification and seizure of assets deposited in a bank located in the UK. The Judicial Police officer was simply asked to perform a routine action, since the Italian prosecutor was absolutely sure, based on his investigations, that the assets were held at the financial institution. Yet, the officer's response was negative. The main obstacle encountered by the Italian prosecutor right from the beginning was the foreign police officer's superficiality and lack of direct coordination "on site". In fact, the banking institution, when

70 Analysis of Italy's National Money-Laundering and Terrorist Financing Risks, Ministry of Finance, Committee on Financial Security, 2014, page 26 http://www.dt.tesoro.it/export/sites/sitodt/modules/documenti_it/prevenzione_reati_finanziari/prevenzione_reati_finanziari/Sintesi_NRA_divulgabile_a_soggetti_obbligati_2_dicembre_2014.pdf

71 "Analysis of Italy's National Money-Laundering and Terrorist Financing Risks", 2014, page 26

asked by the officer for information on an individual holding an account with the bank, stated that the person had no open position therewith. The foreign police officer did not deem it necessary to further investigate the matter and reported his feedback to the Italian prosecutor. Although this was correct from a formal point of view, in practice the Italian prosecutor decided to go further and send an Italian representative to assist the London police. It was only in this way that the relevant person and corresponding assets were identified[72].

This simple example shows that international cooperation is useful in identifying criminal schemes only where there is genuine, timely and practical cooperation on the other side. The main obstacle is the lack of sensitivity and dedication to the issue. If the Italian prosecutor had not insisted with the investigation and thus appointed internal staff, he would not have achieved his objective, thereby leaving money laundering organisations free to operate. Quite obviously, we may now ask ourselves how many cases are actually missed and not pursued because of similar events. Is it possible that superficiality or reduced communications between the parties allow illegal structures to operate freely, so that the corresponding price is ultimately paid, as always, by ordinary citizens?

From this point of view, the establishment of a European Public Prosecutor (EPPO - European Public Prosecutor's Office), which has been discussed at EU level since 2013, might significantly improve coordination between judicial bodies from different EU countries. The European Public Prosecutor would be required to investigate, prosecute and bring to Court the crimes linked to the EU's financial interests, and, if the current proposal is reviewed by the EU Council, the Public Prosecutor would also be involved in the most serious transnational cases.

1.4.2 PROFESSIONALS AND THE EXPORT OF CAPITAL

The role of professionals in the anti-money laundering system, discussed in detail in Indicator 7, is functional to both the prevention of money laundering operations and to the export of capital abroad.

According to staff at MEF[73], Italy has a higher percentage of exports of capital for money laundering and evasion purposes than that of imports. Therefore, quite simply, Italy appears to be a country that needs to launder money.

This aspect deserves attention because professionals are always involved, regardless of their intention to favour or hinder this crime, in the planning of economic and business situations that turn out to be criminal in nature.

The role of professionals is well regulated by anti-money laundering legislation, which establishes severe penalties in case of non-compliant or fraudulent conduct.

As we have seen in Indicator 7, the professionals identified by law are required to fulfil detailed obligations when meeting potential new clients and must ask detailed questions. Moreover, once a suspicion of money laundering or the impossibility of identifying the beneficial owner is established, they are required to refrain from performing their service and to report the situation to the relevant bodies. In this respect, professionals face a dilemma as to the reconciliation between their obligations in this field with, *inter alia*, the client-attorney privilege/professional secrecy. Therefore, this obligation is in conflict with the ethical obligations that these professionals, belonging to a regulated category, must fulfil in the performance of their services.

Given the diversity of the interests at stake and the balances to respect, the issue remains controversial, leaving many opportunities for money launderers. In such a delicate phase, where the ethical sensitivity and professional rigour of professionals play a crucial role, **their cultural education** and the **support given by the professional associations they belong to, are very important**. Indeed, the latter should establish, on the one hand, a suitable methodology to identify and communicate risk situations and, on the other hand, they should provide security and guarantees to professionals reporting suspicious dealings, since the latter might often be involved in situations of high risk, including to their personal safety[74].

72 Interview with Advisory Board of 21.09.2016

73 Event "Follow the Money" held in Milan on 16/11/2016, https://www.radioradicale.it/scheda/492195/follow-the-money-trasparenza-dei-beneficiari-effettivi-per-contrastare-corruzione-e

74 Interview with professional associations, particularly of lawyers and accountants in October 2016. For reasons of confidentiality the identities of the interlocutors are not given.

THE ROLE OF PROFESSIONALS AND THE GRAZIANO CLAN

The recent case discussed below, which is still being investigated, gives evidence of the alleged involvement of a number of professionals and of a banker in money laundering by organised crime entities.

In January 2016, a civil lawyer, Marcello Marcatajo, was arrested together with other 8 people in Palermo, by the Currency Police Unit of the Finance Police, following an investigation by the Anti-Mafia Prosecutor of the Court of Palermo. He was mainly charged with the offence of laundering mafia money: by fraudulently registering assets in his name, the lawyer laundered money for the Graziano family, a mafia clan from the Palermo districts of Acquasanta and Resuttana. According to the prosecutors, the lawyer acted as a "*piggy bank*" and "*was generally willing to engage, in his professional and personal capacity, in activities serving the illegal interests of the Graziano family*"[75]. Money was concealed and "cleaned" through banking operations and activities performed by several companies, of which Marcatajo himself was the nominee, including Sicinvest srl, a supermarket company based in Messina.

The press gave an example of how Sicinvest srl is believed to have been used to launder money: the company was allegedly used to sell garages and the corresponding proceeds were used to buy dynamite for the failed attempt to assassinate the anti-Mafia prosecutor Nino Matteo, currently the President of the National Association of Palermo Judges[76].

Investigations then continued and revealed, in December 2016, the alleged involvement of three other professionals: another lawyer, a notary and a bank manager. The lawyer Nicolò Riccobene was disqualified on charges of "*having knowingly and actively contributed to supporting and strengthening mafia activities*"[77], acting as the "messenger" between the boss and the people who managed the mafia family's dealings, including Atty. Marcatajo. The lawyer would even take orders from the boss Vincenzo Graziano, held under strict regime prison (the so-called 41-bis in Italian).

The other professional allegedly involved, the notary Tommaso Drago, received a warning warrant for forgery, having allegedly signed documents for the sale of properties (villas, houses, land, warehouses) on behalf of the boss's collaborators[78]. In particular, he certified an agreement for the purchase of an apartment by a woman who had received a grant from the Bank of Rome. Yet, the woman did not exist, her identity document was false, as well as all other documents[79].

The third party who received a warning warranty was the former manager of a branch of Banca di Roma, Massimo Sarzana, who allegedly granted, as a bank manager, fraudulent mortgages for the purchase of real estate by the bosses' relatives and their nominees and which were used, in turn, to obtain other mortgages. Around 3 million euros and 14 financial operations have been traced so far in favour of the Graziano family, based on a network of fictitious sales designed to hide the illicit origin of mafia money[80].

The case, although still in the preliminary phase of the investigations, is a typical example of the collusion between organised crime and professionals. Even where bosses are in prison, mafia resources continue to survive and operate through more or less witting professional collaborators.

If the accusations are confirmed, the case will reveal evident gaps in professionals' due diligence activities though also in the institutions and professional firms they are part of. Whether or not intentionally, the professionals involved in this case are accused to fail to collect proper information on their clients, who were members of a mafia family, to fail to re-

75 Public Prosecutors' statements as reported by the article of Corriere della sera of 12/01/16 "Palermo: 'Civil lawyer laundered mafia bosses' money', arrested in Palermo" http://www.corriere.it/cronache/16_gennaio_12/riciclava-soldi-boss-avvocato -arrestato-palermo-b0cc80a0-b911-11e5-85a5-46ffd263e960.shtml

76 Article by Corriere della sera online of 12/01/16 "Palermo: 'Civil lawyer laundered mafia bosses' money', arrested in Palermo" http://www.corriere.it/cronache/16_gennaio_12/riciclava-soldi-boss-avvocato -arrestato-palermo-b0cc80a0-b911-11e5-85a5-46ffd263e960.shtml

77 Article of BlogSicilia.it of 16/12/16 "A lawyer, a notary and a bank manager facilitated the Graziano boss, notices of investigation and seizures for EUR 2 million at Acquasanta" http://palermo.blogsicilia.it/un-avvocato-un -notaio-and-a-director-of-bank-facilitators-the-boss-graziano-kidnapped-the-heritage-allacquasanta / 369293 /

78 Artcle of Repubblica Palermo online of 16/12/2016 "Lawyer Nicolò Riccobene suspended. He alerted the mafia about informers "This will act as Galatolo 2" http://palermo.repubblica.it/cronaca/2016/12/16/news/_e_un_messaggero_dei_costruttori_boss_graziano_sospeso_l_avvocato_nicolo_riccobene-154197982/

79 Article LiveSicilia of 16/12/16 "He will have you arrested, he will consume you. The lawyer and the boss's money" http://livesicilia.it/2016/12/16/questo-ti-fa-arrestare-ti-consuma-lavvocato-e-il-denaro-dei-boss_810065/

80 Article of BlogSicilia.it of 16/12/16 "A lawyer, a notary and a bank manager facilitated the Graziano boss, notices of investigation and seizures for EUR 2 million at Acquasanta" http://palermo.blogsicilia.it/un-avvocato-un-notaio-e-un-direttore-di-banca-favoreggiatori-dei-boss-graziano-sequestrato-il-patrimonio-allacquasanta/369293/. Article LiveSicilia of 16/12/16 "He will have you arrested, he will consume you. The lawyer and the boss's money" http://livesicilia.it/2016/12/16/questo-ti-fa-arrestare-ti-consuma-lavvocato-e-il-denaro-dei-boss_810065/. Article Osservatorio d'Italia of 17/12/16 "Palermo, a blow to mafia: 2 million euro in assets seized from the clan Graziano in Acquasanta" http://www.osservatoreitalia.it/2016/12/17/palermo-colpo-alla-mafia-sequestrati-beni-per-2-mln-di-euro-ai-boss-dellacquasanta-graziano/8803-8-2

port suspicious transactions to the FIU or to refrain from engaging in the corresponding transactions. It should be said that they acted in areas where mafia is deeply rooted and where reports against mafia members can be highly risky. In these cases, the support of professional associations and institutions is particularly important for the reporting of suspicious transactions related to criminal organisations.

1.4.3 BENEFICIAL OWNERSHIP TRANSPARENCY IN PUBLIC CONTRACTS: THE PURCHASE OF THE AC MILAN FOOTBALL CLUB AND THE ANTI-MONEY LAUNDERING OBLIGATION OF THE MILAN MUNICIPALITY

The public sector, on the one hand, is required to combat money laundering through its competent authorities; on the other hand, it is required to meet the obligations established by anti-money laundering rules. According to the aforesaid Legislative Decree 231/2007, "public administration offices"[81] have the obligation to report suspicious transactions to the FIU.

According to the data reported by the FIU, most suspicious transaction reports (STRs) concern the private sector[82], while public institutions submit such a small number of reports that the Bank of Italy has described public authorities as being insensitive to laundering[83]. Out of the 82,152 reports received by the FIU in 2015, only 21 were received from public authorities (compared with 18 in 2014 and 23 in 2013)[84].

To cope with this inertia, the Ministry of Interior has developed anomaly indicators[85] to establish when a report must be sent to the FIU. The number of scenarios eligible for FIU reporting by public administrations (e.g. schools, Universities, companies and autonomous administrations, local authorities, companies and national health authorities) has been expanded and defined in detail.

General categories of indicators include:

1. anomaly indicators related to the identity or behaviour of the party involved in the operation (with the public administration);
2. anomaly indicators related to the (request or executive) methods of operations;
3. specific indicators by business sector

Specific scenarios are then specified within these categories of indicators.

In particular, with regard to the identity of the company concerned, one of the indicators is an unclear corporate structure or complex companies chains which involve, for example, trusts, foundations, international business companies.

As for business sectors and, in particular, companies participating in tenders for public works, services and supplies, the indicators include:

- *intake of significant private resources of uncertain origin or resources that are incompatible with the economic and financial profile of the company*
- *absence of any economic benefit from contract execution*
- *temporary consortium, made up of an entirely disproportionate number of participants in relation to the economic value and activity covered by the contract*
- *parties who, in the performance of the tender or its subsequent execution, perform operations regarding the sale or leasing of a company or one of its business units, or the transformation, merger or demerger of the company, without any justification"*[86].

81 Legislative Decree 231/2007, Article 10 "Recipients"

82 "Financial Intelligence Unit Annual Report", FIU and the Bank of Italy, May 2016

83 Article in La Repubblica (newspaper) 07/13/15 "Bankitalia: "Public authorities insensitive to laundering, so they are vulnerable "http://www.repubblica.it/economia/2015/07/13/news/riciclaggio_banca_d_italia-118968036/

84 "Financial Information Unit Annual Report", FIU and the Bank of Italy, in May 2016, page 31 and "Financial Information Unit Annual Report", FIU and the Bank of Italy, in May 2015, page 22.

85 Ministerial Decree published in the Official Gazette no. 233 of 25 September 2015

86 Ministerial Decree published in the Official Gazette no. 233 of 25 September 2015. As for "fiduciaria" see note 35

Moreover, the new contract code states that contracting authorities must exclude from participation in a tender process, any economic operators (and subcontractors) that violate the prohibition to transfer ownership to a non recognised "fiduciaria"[87].

All these provisions are useful to understand the concerns surrounding the sale of the famous Milan football team, A.C. Milan S.p.A..

The company is the concessionaire (together with the other Milan football team, Inter) of the Milan municipality for the use of the Meazza San Siro stadium. The license of the two teams is worth EUR 13 million, was renewed in September 2012 and will expire in 2030.

In 2016, news began circulating about the purchase of A.C. Milan S.p.A. by several Chinese investors, yet their identity was not clearly known, not even to the Municipality[88]. In October 2016, the member of the Milan Municipality Council and Chairman of the Milan Municipality Anti-Mafia Commission, David Gentili, thus raised a question, shared by Transparency International Italy: he asked whether a public administration could do business (a license in this case) with a company with a dubious BO and where, furthermore, the use of a trust could not be ruled out.

The reconstruction of the purchase negotiations helps us understand the lack of transparency in the deal.

The company that undertook to purchase A.C. Milan S.p.A. from Fininvest (owned by the Berlusconi family) was the Chinese consortium Sino-Europe Sports Investment (SES) composed of a consortium of banks and financial organisations, most of which already known, such as Li Yonghong (Chinese entrepreneur and Chairman of SES), Haixia Capital and Huarong International - a fund and financial institution of the Chinese government, respectively - Industrial Bank, the Bank of Guangzhou, China Zheshang Bank and others[89].

SES planned to use a holding company for the operation, Rossoneri Sport Investment Co., established in Hong Kong in June 2016[90], which in turn was owned by Rossoneri Changxing Sports Investment Management Ltd located in China. Rossoneri Champion Co. Limited, with a sole shareholder and with a capital of only $ 1, was also created in Hong Kong for this operation.

The closing of the sale was scheduled for December 2016 but was postponed to 3 March 2017, due to "*government permits for the export of capital from China*"[91]. Meanwhile, SES made a down payment of EUR 200 million, 100 million in August 2016 and 100 million in December, after the agreement was postponed.

It was publicly revealed[92] that Rossoneri Sports Investment had obtained a loan for the down payment from Willy Shine International Holdings Limited, headquartered in the British Virgin Islands. This loan was apparently granted by using as collateral the entire capital of another vehicle company, Rossoneri Champion, based in Hong Kong and controlled by Rossoneri Sports Investment. The "pledge agreement" was signed, on behalf of Rossoneri Sport, by Chen Huashan, connected to Yonghong Li, the Chairman of the consortium. Thus, according to sources interviewed by the newspaper, the funds used for the down payment came entirely from Sino-Europe Sports Investment.

In the meantime, in December 2016, another entity was created in Luxembourg, Rossoneri Sport Investment Luxembourg S.r.l., a new holding established to take over the Milan club, owned by Orangefield (Luxembourg) S.A, which was bought by Rossoneri Sport Investment Co. [93].

87 New Contract Code - Legislative Decree 50/2016, art.80 "Reasons for exclusion"

88 Calcio & Finanza article 22.11.16 "Rossoneri Sport Investment Co, here's the "Chinese vehicle" to take over AC Milan". The issue arose in the course of an interview to the member of the Milan Council David Gentili on 25 October 2016 and the statements made on 16 November 2016.

89 Il Sole 24 Ore article of 12/12/16 "Milan, expected 100 million transfer. Here are the names of the group" the other shareholders mentioned are: Jilin Yongda Group, Investment Management Jinge Changxing Enterprise Partnership and Rentai Changxing Investment Partnership Enterprise, Huangshi Zhongbang Sports Development, China Industrial Bank Asset Management, China Huarong Asset Management Source: Article of 17.12.16 the newspaper "New Milan, here are the names of the Chinese consortium"

90 Calcio e Finanza article 22.11.16 "Rossoneri Sport Investment Co, here's the "Chinese vehicle" to take over AC Milan"

91 Calcio e Finanza article 4.1.2017 "AC Milan, the Chinese and the funds from the British Virgin Islands used for the down payment"

92 Calcio e Finanza Article 4.1.2017 "AC Milan, the Chinese and the funds from the British Virgin Islands used for the down payment"

93 Calcio e Finanza Article 6/1/2017 "Rossoneri Sport Investment Luxembourg, here's the holding in Luxembourg for the Milan football club" http://www.calcioefinanza.it/2017/01/06/rossoneri-sport-investment-luxembourg-holding-milan/

In March 2017, it was publicly revealed[94] that the closing had been further postponed to 14 April 2017[95] and that a third down payment had been made (100 million euro). This was done through the resources of Rossoneri Advanced Company Limited, which had been specifically created in the British Virgin Islands. Moreover, Rossoneri Sport Investment Luxembourg S.r.l., created in December 2016, definitely replaced the Chinese consortium Sino-Europe Sports Investment (SES) for the purchase of the Milan club. Yonghong Li is now the only owner[96] while all the other investors have pulled back.

Finally, on April 13th, the ownership of the Milan club was transferred from the Fininvest group to Rossoneri Sport Investment Lux, after the last instalment was paid. The payment was possible thanks to a loan to the Chinese group of 303 million euros from Elliott advisors, the European branch of Elliott management, New York-based group defined by the Financial Times as an "aggressive activist hedge fund". The money came to Rossoneri Sport Investment through another Luxembourg company, Project Redblack, which was set up in early April to fund the new AC Milan holding company by changing the name to another "empty box" based in the Grand Duchy[97].

The description of the complexity of the corporate structures connected to the purchase of A. C. Milan S.p.A., including the involvement of well-known tax havens like the Virgin Islands and Hong Kong, is not meant to raise allegations of wrongdoing or corruption in the deal. Rather, it is meant to highlight the need for the Milan Municipality to require more transparency from the new owners of AC Milan, since it is a concessionaire of a public asset. In case of unclear corporate structures or complex corporate chains, the public administration should send a suspicious transaction report to the FIU. The Milan Municipality should consider sending a report, unless it has already done so. Finally, a general concern is the lack of an express obligation on the part of a public company to refrain from doing business with companies located in tax havens where the BO cannot clearly be identified. The obligation exists, instead, for private entities subject to obligations in this field, as seen for Indicator 7: they are required to refrain from engaging in transactions where they are unable to comply (objectively) with the required obligations in terms of proper client verification, and therefore identification of the beneficial ownership.

94 Corriere dello sport Article 24/3/17 "Milan, 30 million euro payment: the closing on 14 April" http://www.corrieredellosport.it/news/calcio/serie-a/milan/2017/03/24-23357358/milan_versamento_da_30_milioni_di_euro_si_chiude_il_14_aprile/?cookieAccept

95 94 Calcio e Finanza 24/3/17 "Rossoneri Sport Investment Co, here's the "Chinese vehicle" to take over AC Milan" http://www.calcioefinanza.it/2017/03/24/milan-la-terza-caparra-pagata-con-fondi-delle-british-virgin-island/

96 Gazzetta dello sport Article 25/3/17 "Milan: Ses closes, Mr Li alone goes to the closing. New offshore company is established" http://www.gazzetta.it/Calcio/Serie-A/Milan/25-03-2017/milan-ses-chiude-mr-li-solo-il-closing-nasce-nuova-entita-offshore-190289297877.shtml

97 L'Espresso Article 24/04/17 "Milan, quanti dubbi dietro il closing: ecco sei cose che forse non sapete" http://espresso.repubblica.it/affari/2017/04/21/news/milan-quanti-dubbi-dietro-il-closing-ecco-sei-cose-che-forse-non-sapete-1.299995

2. RECOMMENDATIONS

In the light of our findings and of the critical issues we identified in the cases we examined, Transparency International Italia makes the following recommendations:

1) PUBLIC ACCESS TO THE REGISTER OF BENEFICIAL OWNERS

The draft reform of the anti-money laundering law excludes public access to the register of beneficial owners.

The Italian Government should ensure public access to the new register of beneficial owners of companies since the publication of information on beneficial owners meets the objective to combat money laundering and to promote transparency in the private sector. In particular, the legitimate interest condition should be removed from the new law, since we believe it is very restrictive.

Data quality could be guaranteed, first and foremost, by having "more eyes" controlling information. This does not stem from a lack of trust in the services performed by the authorities, rather from the belief that their work could become more effective and efficient. This is well demonstrated by the Panama Papers case: after the publication of information about the beneficial owners of the companies created by Mossack Fonseca, in April this year, no less than 150 investigations, audits or assessments were initiated in 79 countries around the world; Governments are currently analysing information on more than 6,500 taxpayers and businesses, and have so far recovered at least 110 million dollars lost through tax evasion.

With a public register of beneficial owners, companies would also be able to acquire important information about the entities they deal with and avoid making deals with companies of questionable ownership.

Some countries in Europe have already introduced a public register of beneficial owners: Britain, Ukraine, Slovenia (recently), while the Netherlands is currently introducing it.

In the light of these general considerations, we believe that access should be granted at the same conditions as those that currently regulate access to the Register of Companies, thus public access should be allowed on payment of service fees. To limit public access to the new register of beneficial owners is a step backwards for Italy compared with the current status of the Register of Companies.

2) PENALTIES APPLICABLE IN CASE OF FALSE DATA

Information on beneficial owners is acquired via **self-declarations** issued by companies, whose weakness has been highlighted above. To prevent the spreading of **false information**, **more severe penalties should be laid down,** also increasing the fines applied in case of failure to report accurate information, and, at the same time, these sanctions should be effectively enforced. This might deter money launderers from declaring false information about the identity of beneficial owners.

3) MORE EFFECTIVE DUE DILIGENCE BY PROFESSIONALS

The FATF's evaluation and the opinions given by professionals show that due diligence on the part of this category of workers is not performed adequately, and there is a lack of effective guidelines and safeguards.

As suggested also by the FATF, the parties obliged in this field should be further guided, trained and made aware of these issues. The regulations that apply to professions should be aligned with anti-money laundering rules, and professionals should be duly trained on risks and on the most appropriate methodology for the identification of beneficial owners; awareness-raising initiatives should be promoted for these categories on the issues of anti-corruption, transparency and professional ethics, going also beyond purely regulatory aspects; finally, whistleblower protection should be strengthened, ensuring the safety and protection of individuals from the moment they personally expose themselves to risks in situations that might jeopardise their profession or even their personal safety.

4) CLEARER REGULATIONS AND LIMITS WHEN ASSIGNING PUBLIC TENDERS TO NON-TRANSPARENT LEGAL ENTITIES

In case of groups of companies, essentially foreign ones, operating in Italy and involved in contracting with the public authorities, it is often complicated, if not impossible, to identify their beneficial owner/natural person. This is due to multiple, complicated intercompany ties which, structured as a spider's web, represent a successful strategy to circumvent the identification of the ultimate beneficiary.

Greater clarity should be made as to the obligations pertaining to the identification of beneficial owners by public authorities, expressly excluding collaborations with a public body where the beneficial owner cannot be traced.

5) STRENGTHENED INTERNATIONAL COOPERATION IN THE LEGAL FIELD AND IN THE FIGHT AGAINST TAX HAVENS

Italy has a well-structured international cooperation system, thanks to a number of bilateral and multilateral agreements that speed up cooperation procedures. Nevertheless, at European level, significant data (160 billion/year) reveal considerable VAT evasion and money laundering activities.

The establishment of a European Public Prosecutor (EPPO - European Public Prosecutor Office), which has been discussed in Europe since 2013, might significantly improve coordination between judicial bodies from different EU countries. The European Public Prosecutor would be required to investigate, prosecute and bring to Court the crimes linked to the EU's financial interests, and, if the current proposal is reviewed by the EU Council, the Public Prosecutor would also be involved in the most serious transnational cases.

Therefore, **the Italian institutions at European level should promote a definition of the European Public Prosecutor that is as wide as possible in terms of expertise, and, as a future step, they should promote a strong synergy between the internal bodies and the developing EPPO in relation to anti-money laundering.**

Italy should also take steps at international level to increase the transparency of offshore countries, promoting greater cooperation on tax and anti-money laundering issues. In 2013, the G8 countries expressly undertook to require the identification of beneficial owners in tax havens, and Italy, which this year will assume presidency of the G7, may relaunch this challenge.

ANNEXES

A. METHODOLOGY

METHODOLOGY

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?

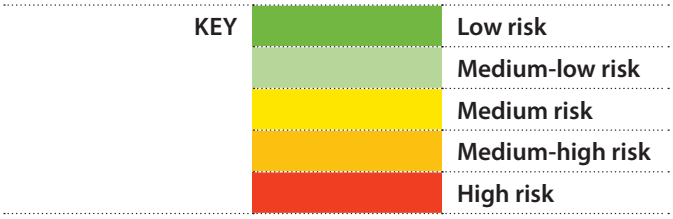
4	The country's legal framework will be fully in line with the principle/standard.
3	The country's legal framework will be generally in line with the principle/standard but with shortcomings.
2	There are some areas in which the country will be in line with the principle/standard, but significant shortcomings 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					



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 methodology98, 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. 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.

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.

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 DFNBPs 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

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

B. INTERVIEWS AND ADVISORY BOARD

For our study, we conducted several interviews, both verbal, by phone and in person, and in writing, and statements were collected from experts during public events. The project also included the establishment of an Advisory Board of experts in the sector who provided their contributions and feedback on the technical questionnaire.

INSTITUTIONS AND COMPANIES INTERVIEWED OR ATTENDING PUBLIC EVENTS:

- Ministry of Economy and Finance, Fifth Directorate - Preventing the use of the financial system for illegal purposes, telephone interview conducted on 21/9/2016, received in writing on 26/9/16 and live on 27/10/16.
- Banca Etica, Compliance and Anti-Money Laundering Office, telephone interview conducted on 27/9/2016
- Unioncamere, Register of Companies Office, telephone interview conducted on 21/9/2016, received in writing on 26/9/16 and live on 27/10/16.
- Banca Prossima, intervention by the MD Marco Morganti, at the event "Bank and legality. How to create social value in an ethical manner" organised by Themis & Metis association on 1/12/2016, at Banca Prossima, Milan
- Banca Popolare di Milano, intervention by the Chairman Umberto Ambrosoli, at the event "Bank and legality. How to create social value in an ethical manner" organised by Themis & Metis association on 1/12/2016, at Banca Prossima, Milan
- Banca Monte dei Paschi di Siena, intervention by the Head of the Anti-Money Laundering Function Gianluca Tortora, at the event "Assessing the risk of money laundering in Europe: research and practical implications", organised by TRANSCCRIME 15/12/16 at Cattolica University, Milan
- Association of Chartered and Certified Accountants, intervention by the Anti-Money Laundering Commission Chairman Andrea Bignami at the event "Assessing the risk of money laundering in Europe: research and practical implications", organised by TRANSCCRIME on 15/12/16 at Cattolica University, Milan
- Edison, interview received in writing on 2/8/2016
- SNAM, interview received in writing on 2/8/2016
- Enel, interview received in writing on 30/9/2016
- Pirelli, interview received in writing on 9/8/2016

ADVISORY BOARD MEMBERS

- Carlo Cottarelli, Executive Director of the IMF Board, which includes Italy, Greece, Portugal, Albania, Malta and San Marino
- Mario Carlo Ferrario, lawyer and venture capitalist, one of the founders of Schroder Ventures, now called Permira.
- Walter Mapelli, Public Prosecutor in Bergamo.
- Pia Saraceno, Co-Founder and President of REF-E, Professor of Energy Economics and Management of Environmental Assets at Cattolica University, Milan.
- Leo Sisti, collaborator of Espresso magazine, executive director of IRPI (Investigative Reporting Project Italy), member of the American network ICIJ (International Consortium of Investigative Journalists).
- Marianna Vintiadis, Managing Director of Kroll and head of operations in Southern Europe.

C. QUESTIONNAIRE

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 (DNFPBs), 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?

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.

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.

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 INSTITUIONS & 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 (TCSPs) 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 DNFPBs?

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.

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