

COMPLIANCE FOCUS

REVISIONS TO FATF RECOMMENDATION 24

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Introduction

One (1) of the key amendments to the Financial Action Task Force's (FATF's) Recommendation 24 is the mandatory application of the multi-pronged approach for beneficial ownership (BO) information. Prior to the amendments, countries had the option of a single pronged approach where they could have used one (1) mechanism for BO information. For example, a country could rely on companies to be repositories of BO information, or rely on the information from Financial Institutions (FIs) and Designated Non Financial Businesses and Professions (DNFBPs). A country also had the option to rely on information maintained by competent authorities such as registries, tax authorities or other regulators. **A single pronged approach is no longer acceptable by the FATF.**

What is the Multi-pronged Approach?

This approach combines the use of information maintained and/or supplied by companies themselves and information held by, or on behalf of, public authorities in a registry or similarly effective mechanism (once it ensures rapid and efficient access to BO information for competent authorities). **The BO information MUST continue to be adequate, accurate and up-to-date.**

The Company Approach

Companies are required to obtain and hold accurate, adequate and up-to-date information on the company's own BO. They are also required to cooperate with competent authorities in determining the BO by providing timely information. Companies must cooperate with FIs and DNFBPs to provide accurate, adequate and up-to-date information on the company's own BO.

The Registry Approach

The implementation of a BO Registry may face challenges such as the powers of the Registrar to collect BO information, the adequacy of resources and the implementation of proportionate, and dissuasive sanctions for non-compliance.

Other approaches to BO registers include the integration of existing databases such as company registers, registers held by legal persons, FIs and DNFBPs, notaries, tax authorities and other competent authorities. Their authority and powers must be clearly defined as well as they must have the requisite expertise and resources to carry out their duties.

Alternative Mechanisms



There are several factors to consider when establishing an alternative mechanism for BO information. These include a legal framework for having access to information, a scope of mechanism to cover all domestic and foreign legal persons, quality information, oversight and supervisory measures for efficient access while having data protection safeguards.

Alternative mechanisms rather than a BO registry can be used, once competent authorities can have efficient access to adequate, accurate and up-to-date BO information. These mechanisms can rely on existing sources of information for which supervision and verification measures should be implemented.

Additionally, countries must ensure that there is a mechanism that provides efficient access to reliable information such as through a secure electronic portal or website.

Countries may utilize existing information sharing arrangements with financial regulators and/or other supervisory bodies to assess and enhance their own BO information.

Open sources of information may provide competent authorities with further means of obtaining and verifying information. Countries can consider using information on a company listed on a stock exchange where that company is subject to BO information requirements and obligations.

Information obtained from FIs and DNFBPs

Under FATF Recommendation 10, FIs are required to understand the ownership and control structure of the customer as well as the nature of the business and risk profile. DNFBPs (lawyers, notaries and service providers) are also required to hold BO information in accordance with FATF Recommendation 22. Regulation 4 of the AML/CFT/CPF Regulations outlines this requirement.

FIs and DNFBPs should be effectively monitored to ensure that they are complying with customer due diligence (CDD) obligations. An effective sanctions regime should be implemented for failing to update information in a timely manner as well as submitting inaccurate information.