



The Nature of Beneficial Ownership- focus on legal persons

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What is Beneficial Ownership (BO)?



“Beneficial Owner” refers:

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

Source: <https://www.fatf-gafi.org/glossary/>

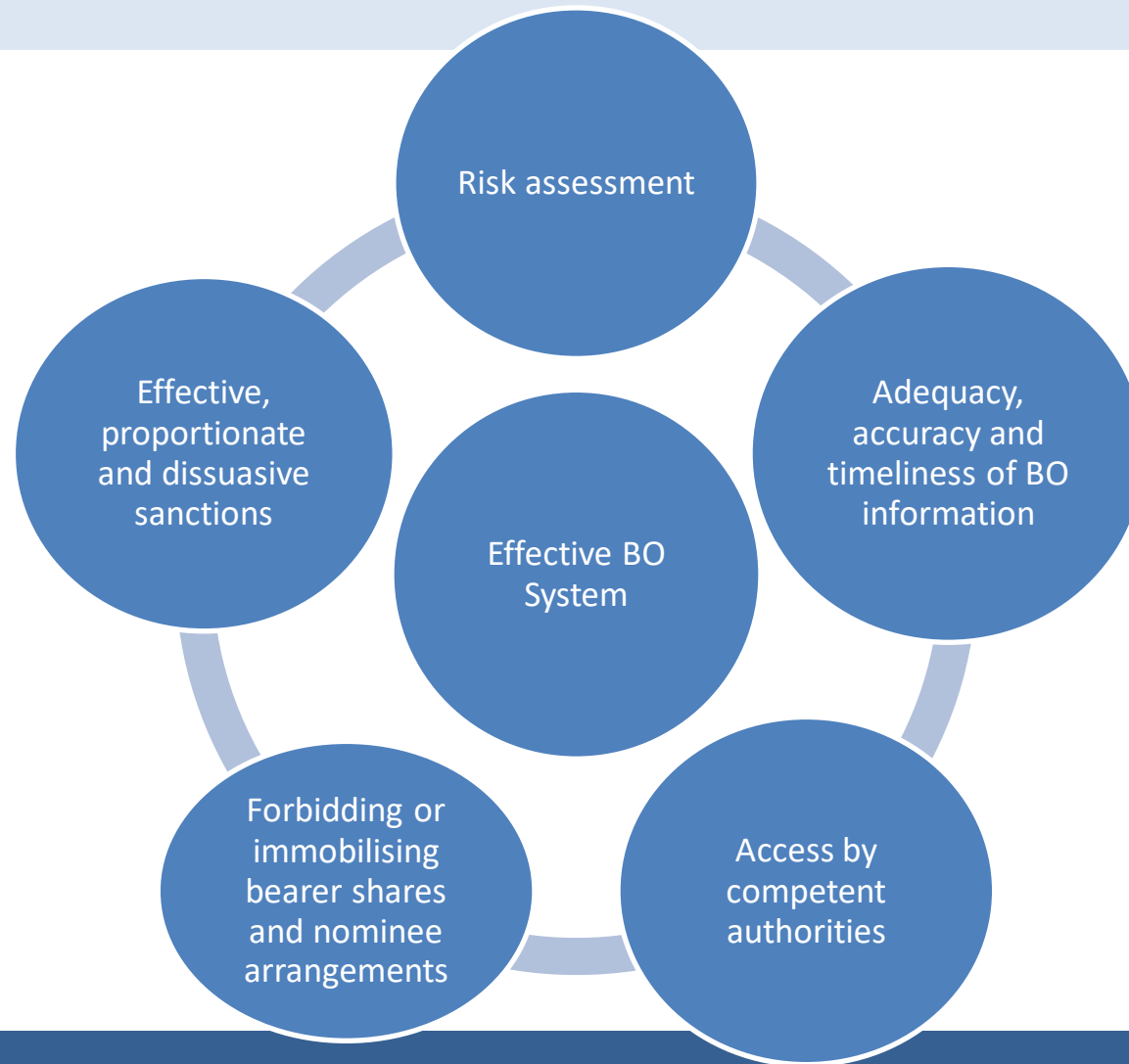


Why is BO important?

- For Money Laundering (ML):
 - To take the profit out of crime by identifying & prosecuting the persons behind the crimes and/or facilitating the crimes
 - Protect and ensure the security of financial systems & economies
- For Terrorism Financing (TF):
 - To Detect, Disrupt and Deter TF and Terrorism



Key Features of an Effective BO system

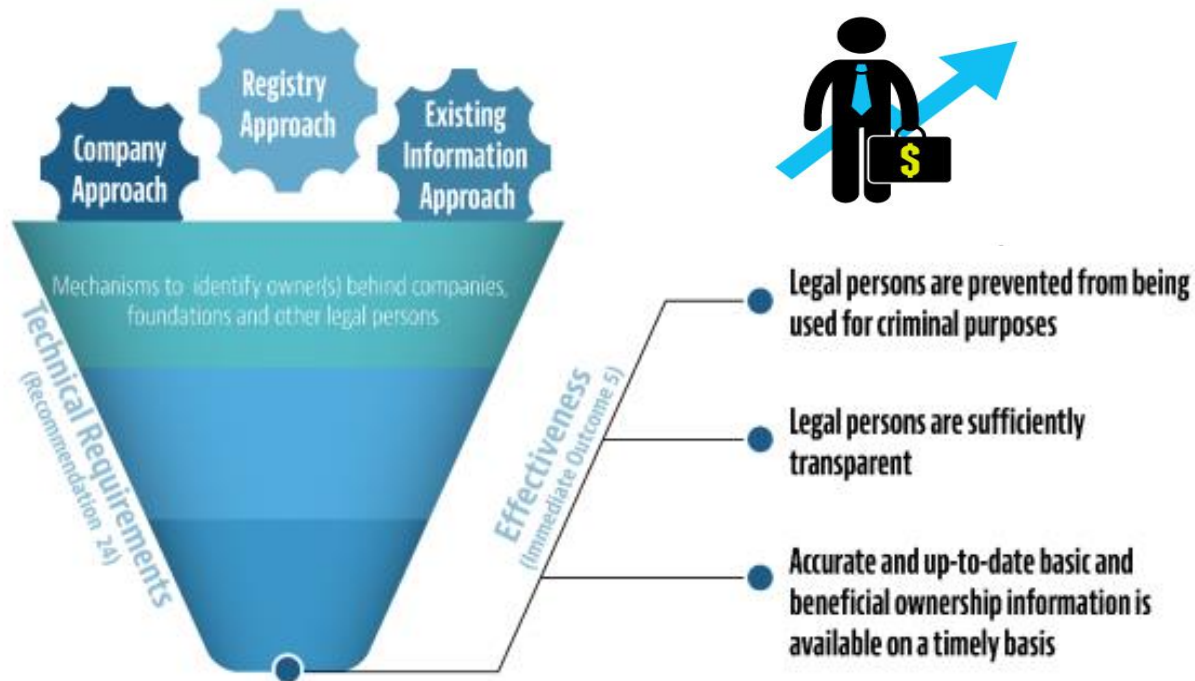




R. 24 FATF requirements- Multi pronged approach

FATF Requirements

to identify the beneficial owner(s) behind legal persons, such as companies and foundations



Countries should use one or more of these mechanisms (the Registry Approach, the Company Approach and the Existing Information Approach) to ensure that BO information is obtained by that company and available at a specified location in their country; or can be otherwise determined in a timely manner by a competent authority.

For example, the Global Forum on Transparency and EOI (the GF)'s project on beneficial ownership, developed based on the FATF standard, encourages jurisdictions to develop complementary frameworks and enforcement programmes for tax transparency purposes. In March 2019, the GF's Beneficial Ownership Toolkit was launched, which contains policy considerations that jurisdictions can use to implement legal and supervisory frameworks to identify and collect beneficial ownership information.

Source: [FATF Best practices on Beneficial Ownership](#)



R. 24 FATF requirements continued



- **Technical Compliance-** Under R.24, countries should take measures to prevent the misuse of legal persons for ML/TF. Countries should ensure that there is *adequate, accurate and timely information* on the beneficial ownership and control of legal persons that can be obtained or accessed in a *timely fashion* by competent authorities.
- Countries should consider measures to facilitate access to beneficial ownership and control information by FIs and DNFBPs undertaking the requirements as set out in R.10 and 22
- **Effectiveness in the context of Immediate Outcome 5** – Legal persons and arrangements are prevented from misuse for ML or TF, and information on their beneficial ownership is available to competent authorities without impediments.”



Challenges in implementation of BO Measures

Common challenges in implementing beneficial ownership measures



Mutual Evaluation results have shown that some CFATF member jurisdictions needed to enhance their ML/TF risk assessment of legal persons and legal arrangements.

With regard to the availability of basic ownership and BO information, some jurisdictions needed the requirements to establish a framework for identifying the different types of legal persons and legal arrangements. There were also issues of having no process for obtaining basic and BO information on legal arrangements and access to BO information.

There were general challenges regarding the adequacy of measures in place to address the accuracy of BO information, for example strengthening the supervision of CSPs to ensure the consistent application of CDD measures for BO information while there were uncertainties about the accuracy of the BO information maintained. There were also no specific requirements to promote transparency of BO information for trusts and foundations in one country.

Some countries have either implemented or drafted measures to facilitate access and exchange of information of BO information to prevent ML/TF.

Source: [FATF Best practices on Beneficial Ownership](#)



CFATF Member experiences

Jurisdiction	IO5	Rec 24
Antigua & Barbuda	ME	LC
Bahamas	ME	PC
Barbados	ME	PC
Bermuda	SE	LC
Cayman Islands	ME	PC
Haiti	LE	NC
Jamaica	LE	PC
Trinidad and Tobago *	ME	C
Turks & Caicos Islands	ME	LC

*** Trinidad and Tobago was re-rated in June 2019 from Partially Compliant to Compliant**



Best Practices for BO

- Each jurisdiction will have to carry out its own internal assessment of the best methods for implementation, taking into account the unique legal, policy, and structural frameworks already in place.
- The [FATF BEST PRACTICES ON BENEFICIAL OWNERSHIP FOR LEGAL PERSONS](#) considered case studies of various countries in the Global Network who utilized different approaches based on their individual framework which members may find useful in creating a bespoke system for their jurisdiction.