
Anti-money laundering regimes and beneficial ownership transparency

Presentation for ParlAmericas

4th Gathering of the ParlAmericas Open Parliament Network

Beyond the Walls of Parliament: Strengthening Parliamentary Oversight

Quito, Ecuador | March 12-14, 2019





Index

- IMF current policies
- Key aspects of AML regimes
- International Standards on BO
- Key considerations to ensure that relevant legislation is implemented effectively
- Implementation issues



IMF policies on anti-corruption and anti-money laundering

- Recently IMF approved the 2018 Governance paper
- AML/CFT covered in IMF policies since 2012
- Synergies between AML and AC



Key aspects of an anti-money laundering regimes

1. Risk, Policy and Coordination
2. International Cooperation
3. Supervision
4. Preventive Measures
5. Legal persons and arrangements
6. Financial Intelligence Unit
7. ML Investigation and Prosecution
8. Confiscation
9. TF Investigation and Prosecution
10. TF Preventive Measures and Financial Sanctions
11. PF Financial Sanctions



Key aspects of an anti-money laundering regimes

4. Preventive Measures

Politically Exposed Persons - PEPs

Foreign PEPs are individuals who are or have been entrusted with prominent public functions by a national or a foreign country, for example Heads of State or of government, senior politicians, senior government, judicial or military officials, senior executives of state owned corporations, important political party officials.

The definition of PEPs is not intended to cover middle ranking or more junior individuals in the foregoing categories.



International Standards on BO

Beneficial owner

Glossary

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

Assess the ML/TF risks associated with corporate vehicles.

Take measures to prevent the misuse of corporate vehicles for ML/TF.

Ensure that adequate, accurate and timely BO information can be accessed by authorities.

Key considerations to ensure that relevant legislation is implemented effectively



- **Objective**—The legal framework mitigate the risk of misuse of legal persons and legal arrangements from misuse and information on their beneficial ownership is available to competent authorities without impediments
- Accurate and up-to-date BO info available to authorities.
- Basic info available publicly.
- Effective, proportionate and dissuasive sanctions.
- Possibility to exchange information domestic & international.
- Sufficient powers for timely access BO info
- Bearer shares & bearer share warrants /Nominee shareholders & directors

Different types of information and possible mechanisms to hold BO information



Countries should have one or more in place:

- #1: Company Registry - Company registry to obtain and hold up-to-date BO information
- #2: Companies - Companies obtain and hold up-to-date BO information or take reasonable measures to identify Bos
- #3 Existing Information - Registry information - FIs & DNFBPs –Companies- Other authorities

Similar for Express Trusts -Trustee to hold Basic & BO information on parties
Other authorities & entities may record information about the trust: Trust registries



Implementation Issues

| Issue | Comment |
|---|--|
| Limited assessment of risk | Some countries had not assessed comprehensively assessed the ML/TF risks associated with corporate vehicles. |
| Reliance on existing information | Reliance on FIs is impacted by deficient CDD or limited compliance / supervision. Reliance on DNFBPs is impacted by lack of regulation or low compliance levels. |
| Limited sanctions and monitoring | Limited sanctions may be applied for non-compliance with laws established to enhance transparency whichever mechanism is used. |
| Limited verification of registry information | The collection of BO information by registries may not include verification. A registry may not be well funded to identify and sanction non-compliance and to ensure that the data is accessible in a timely fashion |
| Timely and up-to-date information is a challenge | Competent authorities may not have timely access to BO information held by either authorities, companies themselves or FIs / DNFBPs. May be limited controls to ensure that BO information is kept up to date. |
| No one-size fits all Approach | Effective mechanisms will vary significantly between jurisdictions. It must be tailored to the specific country circumstances. |

Countries need to focus on all mechanisms. System has to be implemented effectively.



Implementation issues (cont)

- Countries need to have an effective system on BO information in order to provide good international cooperation
- An infective system may affect other areas:
 - Preventive measures (CDD)
 - TFS
 - Supervision
 - Criminal investigations



Some results form FATF Assessments.

| Jurisdiction (click on the country name to go to the report on www.fatf-gafi.org) | Report Type | Report Date | Assessment body/bodies | IO5 |
|---|---------------------|------------------------|-------------------------|--------------------|
| Antigua & Barbuda | MER | Jul-18 | CFATF | ME |
| Bahamas | MER+FUR | Dec-18 | CFATF | ME |
| Barbados | MER | Feb-18 | CFATF | ME |
| Canada | MER | Sep-16 | IMF/FATF/APG | LE |
| Colombia | MER | Nov-18 | GAFILAT | ME |
| Costa Rica | MER+FUR | Oct-18 | GAFILAT | LE |
| Dominican Republic | MER | Sep-18 | GAFILAT | ME |
| Guatemala | MER+FUR | Oct-18 | CFATF/ GAFILAT | ME |
| Honduras | MER | Jan-17 | GAFILAT | LE |
| Jamaica | MER | Jan-17 | CFATF | LE |
| Mexico | MER | Jan-18 | IMF/FATF/GAFILAT | ME |
| Nicaragua | MER+FUR | Jan-19 | GAFILAT | LE |
| Panama | MER+FUR | Jan-19 | GAFILAT | LE |
| Peru | MER | Feb-19 | GAFILAT | LE |
| Trinidad and Tobago | MER | Jun-16 | CFATF | ME |
| United States | MER | Dec-16 | FATF/APG | LE |

Thank You!

Presentation for ParlAmericas
4th Gathering of the ParlAmericas Open Parliament Network
Beyond the Walls of Parliament: Strengthening Parliamentary Oversight
Quito, Ecuador | March 12-14, 2019

