

Comments on FATF consultation on revisions to recommendation 24 and its Interpretive Note

Multipronged approach to collection of Beneficial Ownership information

The requirement in paragraph 7 includes a compulsory company approach, a requirement for a public authority or body to hold beneficial ownership information (a beneficial ownership registry or another body) or an alternative mechanism, and the supplementary measures. Countries should decide, on the basis of risk, context and materiality, what form of registry or alternative mechanisms they will use to enable efficient access to information by competent authorities and should document their decision. Do you agree with the approach set out in paragraph 7 of the Interpretive Note?

GFIA takes the view that provisions of Point 7 a) (compulsory company approach) and 7 b) (the requirement for a public authority or body to hold beneficial ownership information in a beneficial ownership registry or another body) are both essential to ensure an efficient approach:

- It is the responsibility of legal persons to obtain and maintain accurate and up-to-date information on their beneficial owners and to make information available to competent authorities and financial institutions in particular. Beneficial owners must transmit the necessary information to the legal person.
- Official registries are the best solution (ie the requirement for a public authority or body to hold beneficial ownership information by means of a beneficial ownership registry). They allow for a comprehensive approach (ie the centralisation of all legal persons' data) and a high quality of information (ie to ensure that beneficial ownership information is adequate, accurate and up to date).
- An approach other than that of an official register would be less effective because it would not allow the same quality and reliability of information. The provision of beneficial ownership information by regulated persons would be dependent on the information-handling procedures of each regulated person.
- Besides, GFIA wishes to highlight the fact that authorities in charge of the beneficial ownership register should ensure the quality of the data contained in the register (ie verification that the beneficial ownership information is adequate, accurate and up-to-date). Any further requirement on insurers to verify the information in a registry would be counterproductive and could result in confusion.

Bearer shares and Nominee arrangements

Should bearer shares and bearer share warrants without any traceability be subject to additional controls as set out in amendments to paragraph 14 of the Interpretive Note? Is the draft glossary definition sufficiently clear to avoid inadvertently applying excessive controls to traceable and legitimate uses of such instruments? If there remains undue controls, how should this be mitigated?



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Should nominee arrangements be subject to the disclosure requirements as set out in amendments to paragraph 15 of the Interpretive Note? Will the proposed rules and the new glossary definitions create undue restrictions for institutional investors or other legitimate uses of such instruments, and if so, how should this be mitigated?

Are there other specific mechanisms that should be permitted, in addition to those proposed, which could ensure their transparency?

Bearer shares without any traceability should be prohibited. GFIA notes that in some countries they are already prohibited.

Transparency on bearer shares without traceability or nominee arrangements is important.

Risk-Based Approach

Should countries be required to assess the ML and TF risks associated with foreign-created legal persons and take appropriate steps to manage and mitigate them? What constitutes a sufficient link with the country?

The diversity of situations does not seem to make it possible to define the concept of sufficient link effectively.

In some jurisdictions, such as the European Union, persons subject to AML/CFT rules are already obligated to identify the beneficial owner (both within or outside the national territory), and to take reasonable steps to verify the identity of the beneficial owner. If an insurer cannot identify a beneficial owner or does not understand the structure of the legal person, it will not do business with them.

The establishment of official registers at national level is the best solution, but it could be difficult for a state to keep a register of foreign legal persons. Each country should hold an official registry concerning the beneficial ownership and control of companies and other legal persons (beneficial ownership information) that are created in its territory. National registers could be linked, allowing competent authorities and obliged entities to have access to the information on beneficial owners held in other countries. For instance, a European project will eventually lead to a compilation of all national beneficial ownership registers (BORIS Regulation published in the EU OFFICIAL JOURNAL on 2 March 2021).

Should a risk-based approach be applied to verification of beneficial ownership information?

The effectiveness of a centralised register of beneficial owners depends on its completeness and reliability. Therefore, it is important to ensure that the register is comprehensive and that the information it contains is reliable. Verification of the data contained in beneficial ownership registers using a risk-based approach would only result in degrading the quality of the data contained in those registers. Authorities in charge of central registers of beneficial owners should be responsible for verifying the information contained in those registers and make sure that the information is adequate, accurate and up to date.

Nevertheless, when obliged entities apply diligence measures it strictly respects a risk-based approach principle.

Access to information

Taking into account needs of competent authorities and other stakeholders, and concerns relating to privacy, security and other potential misuse of BO information, do you agree with the requirements on access to information as set out in paragraphs 12 and 13?

It is important to allow access to information for authorities that have a legitimate interest in obtaining beneficial ownership information for a AML/CFT purpose. Equally, obliged entities subject to AML/CFT rules should be able to obtain timely, rapid and efficient access to basic and beneficial ownership information held by relevant parties.

This access should be:

- Free of charges, as part of the implementation of AML/CFT vigilance.
- Automated (and suitable for mass consultations).
- Carried out by means of homogenised/standardised technical solutions (ie it must have a single IT solution).
- Consulted by means of a standardised identification key for legal persons (international identification number).

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About GFIA

The Global Federation of Insurance Associations (GFIA), established in October 2012, represents through its 43 member associations and 1 observer association the interests of insurers and reinsurers in 66 countries. These companies account for 89% of total insurance premiums worldwide, amounting to more than \$4 trillion. GFIA is incorporated in Switzerland and its secretariat is based in Brussels.