

GLOBAL FORUM ON  
**TRANSPARENCY AND EXCHANGE OF  
INFORMATION FOR TAX PURPOSES**

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**REGIONAL WORKSHOP ON ADVANCING BENEFICIAL  
OWNERSHIP IN ASIA AND PACIFIC REGION**

**POLICY APPROACHES FOR BENEFICIAL  
OWNERSHIP IMPLEMENTATION**

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# Beneficial ownership in the international standards

## International Focus on Beneficial Ownership

Financial Action Task Force  
(FATF)

Combatting money laundering  
and terrorism financing

AML/CFT standard

Global Forum (GF)

Combatting tax evasion

Tax transparency standards

Extractive Industry  
Transparency Initiative (EITI)

Combatting corruption in the  
extractive industry

EITI standard

# Exchange of information and FATF beneficial ownership standard

- The Global Forum has integrated into the EOI standards the concept of beneficial ownership as defined by the Financial Action Task Force (FATF).
- The Exchange of Information on Request (EOIR) standard refers to six FATF Recommendations that are directly related to the concept of beneficial ownership (BO):
  - Rec.10: Customer due diligence (CDD)
  - Rec.11: record keeping
  - Rec.17: reliance on third parties
  - Rec.22: duty of care of designated non-financial businesses and professions (DNFBPs)
  - Rec.24: transparency and beneficial ownership of legal persons
  - Rec.25: transparency and beneficial ownership of legal arrangements



# EOIR standard on beneficial ownership

## Element A.1

Availability of beneficial ownership information for legal persons and legal arrangements

## Element A.3

Availability of beneficial ownership information on bank account holders

## Element B.1

Access to beneficial ownership information by the competent authority for EOI for tax purposes

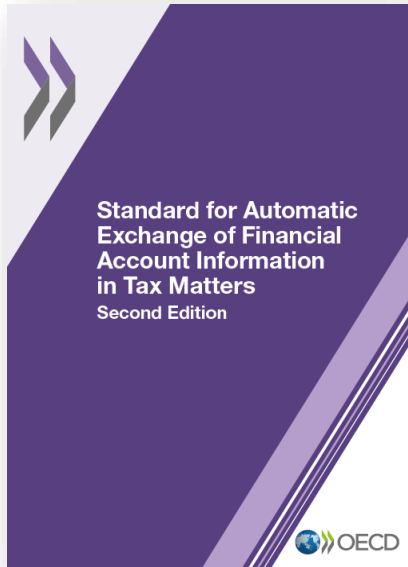
## Principles

- FATF definition of "beneficial owner"
- FATF due diligence/customer knowledge requirements

## Assessment

- Reference, where appropriate, to the FATF recommendations
- Evaluation of legal aspects and their practical implementation

# Automatic Exchange of Financial Account Information (AEOI) Standard on beneficial ownership



- The term “controlling person” corresponds to “beneficial owner” as described in *Recommendation 10 and the Interpretative Note on Recommendation 10 of the FATF Recommendations*, and must be interpreted in a manner consistent with such Recommendations, with the aim of protecting the international financial system from misuse including with respect to tax crimes.
- Relying on AML/KYC procedures for determining the Controlling Persons:
  - **New Entity Accounts:** such AML/KYC procedures must be consistent with *Recommendations 10 and 25 of the FATF Recommendations*

# Key elements for the implementation of a BO framework

## Legal Aspects

- **Complete coverage** of all relevant legal persons and arrangements
- **Regular information collection and reporting:**
  - Ideally annually and every time there is a change
  - Collect at least: name, date of birth, address, nationality, ID or passport number, tax identification number, nature of ownership control or controlling interest, date of acquisition and cessation
- **Retention and updating requirements:** BO information must be updated regularly, and be kept for a minimum of 5 years from the date of the transaction or after the entity ceases to exist, as appropriate, depending on the nature of the information holder.  
**Access to BO information** by relevant authorities, including competent authorities for EOIR purposes

## Operational Aspects

- **Adequate supervision and enforcement** of BO obligations, including effective sanctions for non-compliance
- **Define access requirements** to BO information
- **Ensure awareness and educate** obliged persons on their BO obligations
- Ideally, maintain information in a **secure IT platform** to:
  - facilitate the reporting of information
  - lower transactional costs
  - ensure the integrity of the information
  - facilitate cross-checking of information
  - Ensure timely access by authorities

# Approaches for ensuring availability of BO information under the EOIR standard

1. AML/CFT approach: BO information is maintained by FIs and DNFBPs pursuant to CDD obligations

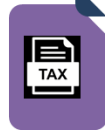


2. Entity approach: BO information is kept by the entities themselves



Availability of  
BO  
information

3. Central register approach: a register of BOs is held by a public authority



4. Tax authority approach: BO information is kept by the tax authority



# AML/CFT approach – Caution elements to take into consideration

## Insufficient coverage of entities

- No obligation for all domestic legal persons and arrangements to have a continuous relationship with an AML/CFT obliged person such as a DNFBP or FIs (e.g. bank account, accountant).
- Relationship with the AML/CFT obliged person is not continuous (e.g. notary)

## No regular updating of information or record-keeping

- Different approaches for updating information, e.g. it depends on the risk of the client without minimum requirements for low risk clients
- Simplified CDD allows for the ease of requirement in the identification of BOs
- Record-keeping is not ensured when the AML/CFT person ceases its activity

## Insufficient coverage of supervision

- Particularly in relation of universe of DNFBPs

## Difficulties in access to information by authorities

- Broad professional secrecy and privilege
- Difficulty to identify the information holder of the BO information



# Entity approach – Caution elements to take into consideration

## Insufficient coverage of entities

- Large number of unsupervised inactive entities.
- Absence of registration with authorities of administrators of legal arrangements, particularly of foreign trusts

## Obligated entities fail to accurately identify their BOs and collect information on them

- Beneficial ownership can be a new requirement for most legal persons and arrangements: insufficient experience for BO identification in line with the standard, particularly in complex chains of ownership
- Deficiencies in the obligation to identify, verify, update and keep records
- Insufficient training and guidance

## Inadequate supervisory authority

- Authorities without adequate powers, knowledge, experience and/or resources to regularly supervise and enforce compliance among universe of entities, including administrators of legal arrangements and inactive entities

## Difficulties in access to information by authorities

- Difficulty to identify the information holder of the BO information: e.g. where the administrator of a legal arrangement is not registered with a public authority, or a legal entity has ceased to exist

# Central register approach – Caution elements to take into consideration

## Insufficient coverage of entities

- Large number of unsupervised inactive entities.
- Absence of registration with authorities of administrators of legal arrangements, particularly of foreign trusts

## Obligated entities fail to accurately identify their BOs and collect information on them

- Beneficial ownership can be a new requirement for most legal persons and arrangements: insufficient experience for BO identification in line with the standard, particularly in complex chains of ownership. Insufficient training and guidance

## Reliance on supervision by authorities without adequate mandates

- The central register is not supervised by an authority with the legal and institutional capacity to monitor and enforce obligations
- Reliance on supervision by existing registrars without strong monitoring functions, powers and resources, e.g. commercial registrar

## Access to information by authorities – Public registers

- Access to tax authorities and other relevant competent authorities should be ensured. Reporting or discrepancies with BO register should be ensured
- Depending on the scope, extent, criteria and modalities defined for the access to beneficial ownership information maintained by the registrar, compliance with data protection and privacy issues should be ensured, in particular in the context of public central registers

# Tax authority approach – Caution elements to take into consideration

## Insufficient coverage of entities

- Existence of non-taxable legal persons and arrangements (e.g. non-regulated trusts), companies exempted from tax-filing obligations or under simplified tax regimes are not subject to reporting to the tax authority
- Inactive entities not reporting to the tax authority

## Updating of information

- Obligation to file beneficial ownership information annually with tax returns, regardless of tax status

## Take advantage of supervisory experience of the tax administration

- Supervision can be “easier”: full use the tax authority’s inspection and enforcement powers (audits, investigations, etc.) to compel legal persons and arrangements to comply with their beneficial ownership obligations

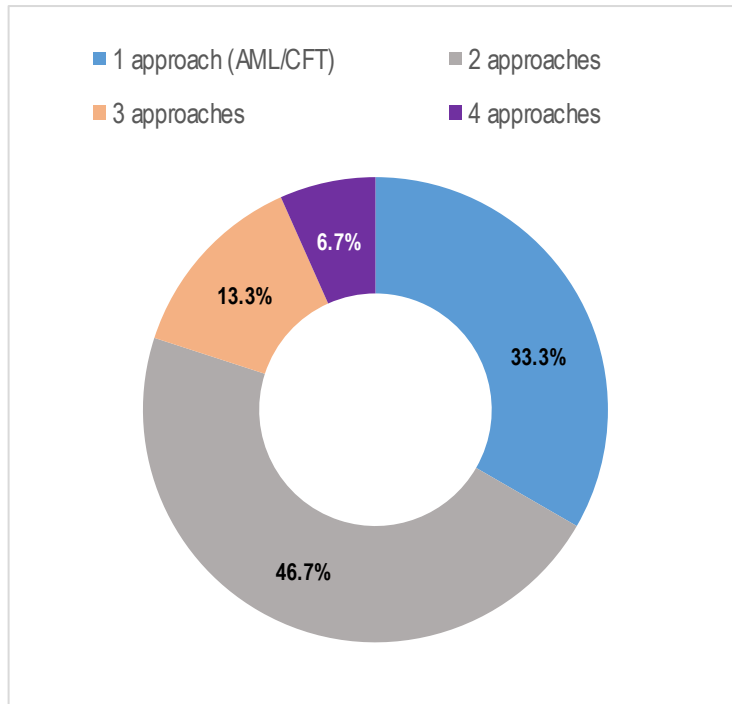
## Difficulties in access to information by non-tax authorities

- Other law enforcement authorities should have access to BO information maintained by the tax authority
- Cross-checking of information

# Lessons learned from Global Forum EOIR peer-reviews

- **The use of various approaches and thus more sources of information generally leads to a more solid BO system**
  - In particular, the use of the AML/CFT framework combined with one or more other approaches
  - However, the overall number of jurisdictions using such multi-pronged approach is still limited
- **The use of a multi-pronged approach does not automatically lead to efficient BO systems**
  - The legal framework, regardless of the number of approaches used, needs to be aligned with the standard and be effectively enforced with strong monitoring and supervision
- **The use of central BO registers is a growing trend and has the benefit of centralising the information with one authority and has other advantages**
  - Combined synergies with the AML/CFT and entity approaches
  - Real-time access to BO information can be ensured, subject to conditions and criteria, to other persons (e.g. AML/CFT obliged persons, any person with legitimate interest or even general public).
  - Improvement of the quality of the information and the supervision of the obligations, in particular where:
    - the persons having access to the register must report discrepancies
    - law enforcement authorities supervise compliance of AML/CFT obliged persons and entities with their BO obligations
    - the authority responsible for the register carries out at least formal control of declaration and identify non-filers

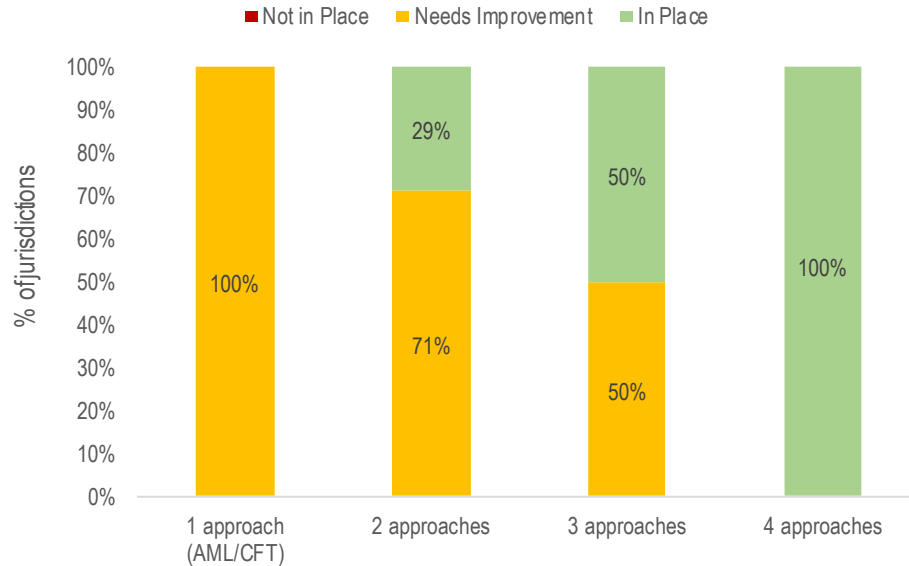
# BO policy approaches used by Asia-Pacific countries reviewed under the EOIR standard



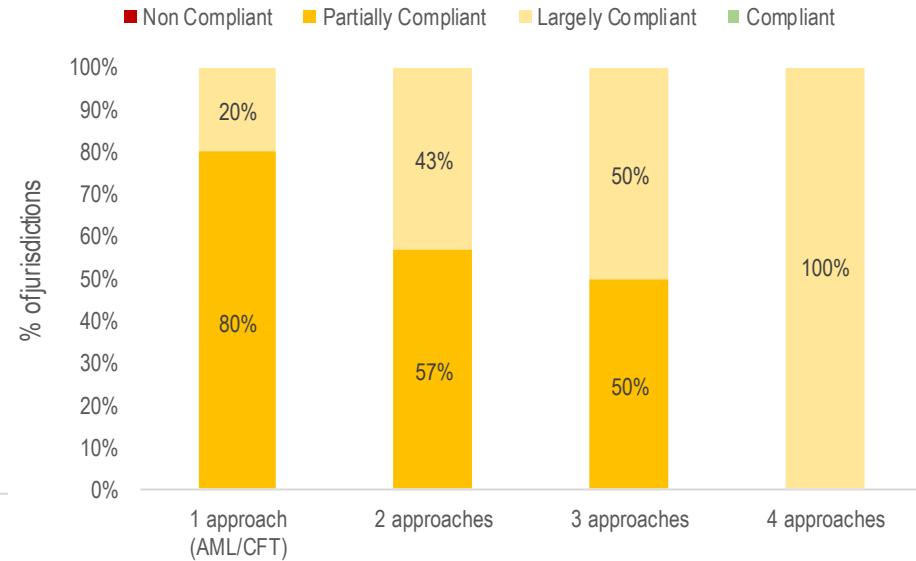
- 15 Asia-Pacific countries reviewed by the Global Forum :
  - The majority (10 countries, equivalent to 66.7%) uses two or more approaches for the availability of BO information
  - 33.3% (5 countries) use only one approach (AML/CFT approach)
- Countries reviewed: Brunei, China, India, Indonesia, Japan, Kazakhstan, Malaysia, Marshall Islands, Micronesia, Nauru, Papua New Guinea, Philippines, Samoa, Singapore, Vanuatu

# 15 Asia-Pacific countries - determinations and ratings received per number of approaches used – Element A.1 of the ToR

## Determination of the legal framework



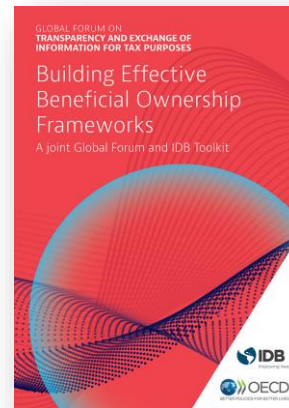
## Rating of the practical implementation



# Tools available on beneficial ownership

- **Building Effective Beneficial Ownership Frameworks – A joint Global Forum and IDB Toolkit (2021)**
  - Beneficial ownership standard.
  - Lessons learned from Global Forum peer reviews.
  - Implementation options to ensure the availability of BO information
    - Conclusions and lessons learned

Available at: [https://www.oecd.org/tax/transparency/documents/effective-beneficial-ownership-frameworks-toolkit\\_en.pdf](https://www.oecd.org/tax/transparency/documents/effective-beneficial-ownership-frameworks-toolkit_en.pdf)



- **E-learning course on Beneficial Ownership of the Global Forum and the Asian Development Bank (2020)**
  - Available on KSP – more information on <https://www.oecd.org/tax/transparency/resources/global-forum-e-learning.htm>



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# Thank you

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