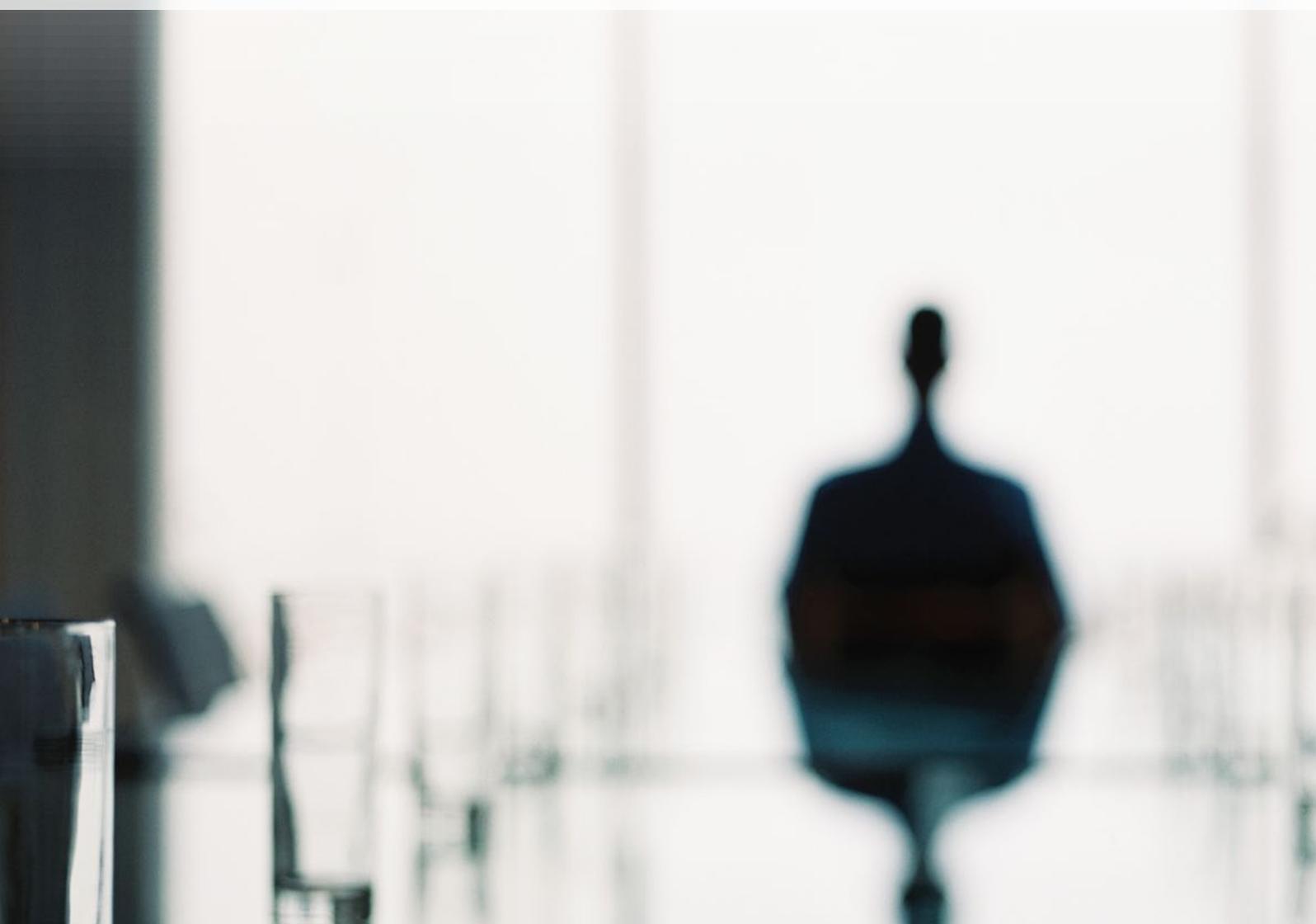


# Concealment of Beneficial Ownership

July 2018





The Financial Action Task Force (FATF) is an independent inter-governmental body that develops and promotes policies to protect the global financial system against money laundering, terrorist financing and the financing of proliferation of weapons of mass destruction. The FATF Recommendations are recognised as the global anti-money laundering (AML) and counter-terrorist financing (CFT) standard.

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## ACRONYMS

ACRA	Singapore Accounting and Corporate Regulatory Authority
AEOI	Automatic Exchange of Information for Tax Purposes
AML/CFT	Anti-money laundering and counter-terrorist financing
APG	Asia Pacific Group
ATM	Automatic teller machine
BVI	British Virgin Islands
CDD	Customer due diligence
CFTC	United States Commodity Futures Trading Commission
CSP	Corporate service provider
DNFBPs	Designated non-financial businesses and professions
DOJ	United States Department of Justice
EOIR	Standards on exchange of information for tax purposes: the Exchange of Information on Request
EUR	Euro
FATCA	United States Foreign Account Tax Compliance Act
FATF	Financial Action Task Force
FATF TREIN	FATF Training and Research Institute
FinTech	Financial technology
FIU	Financial intelligence unit
GIFCS	Group of International Finance Centre Supervisors
IMF	International Monetary Fund
IP	Internet protocol
KYC	Know your customer
LLC	Limited liability companies
LPP	Legal professional privilege
LTD	Private company limited by shares
MLRO	Money Laundering Reporting Officer

ML/TF	Money laundering and terrorist financing
MSB	Money service business
OCCRP	Organised Crime and Corruption Reporting Project
OECD	Organisation for Economic Co-operation and Development
OFC	Offshore financial centres
PEP	Politically exposed person
RegTech	Regulatory technology
SRBs	Self-regulating bodies
STR	Suspicious transaction report
TBML	Trade-based money laundering
TCSP	Trust and company service provider
US	United States of America
USD	United States dollars
VPN	Virtual private network

## EXECUTIVE SUMMARY

1. Criminals employ a range of techniques and mechanisms to obscure their ownership and control of illicitly obtained assets. Identifying the true beneficial owner(s) or individual(s) exercising control represents a significant challenge for prosecutors, law enforcement agencies, and intelligence practitioners across the globe. **Schemes designed to obscure beneficial ownership often employ a “hide-in-plain sight”**

**strategy**, leveraging global trade and commerce infrastructures to appear legitimate. However, visibility does not equate to transparency, and many of the tools that were designed to encourage business growth and development, such as limited liability corporations and nominee directorship services, can be used to facilitate money laundering, tax evasion, and corruption. The globalisation of trade and communications has only increased this threat, and countries now face the challenge of enforcing national laws in a borderless commercial environment.

2. This joint FATF Egmont Group report takes a global view assessing how legal persons, legal arrangements and professional intermediaries can help criminals conceal wealth and illicit assets. The purpose of the report is to help national authorities including FIUs, financial institutions and other professional service providers in understanding the nature of the risks that they face.

3. Analysis of 106 case studies demonstrates that **legal persons, principally shell companies, are a key feature in schemes designed to disguise beneficial ownership**, while **front companies and bearer shares** are less frequently exploited.

4. **Individuals and groups seeking to conceal the ownership of assets are most likely to exercise control over those assets via a combination of direct and indirect control**, rather than strictly one or the other.

In a majority of cases, the beneficial owner used a combination of layering and direct ownership chains, as well as professional intermediaries and third parties exercising control on their behalf. In a limited number of cases, the beneficial owner exercised *only* indirect control and rarely retained direct control through a complicated structure without involving an intermediary. This demonstrates that, in many cases, the beneficial owner will maintain some level of direct control in a scheme, but will rarely do so without also involving an intermediary or “straw man” (informal

**Legal arrangements** – refers to express trusts or other similar legal arrangements.

**Legal persons** – refers to any entities other than natural persons that can establish a permanent customer relationship with a financial institution or otherwise own property.

**Shell company** – incorporated company with no independent operations, significant assets, ongoing business activities, or employees.

**Front company** – fully functioning company with the characteristics of a legitimate business, serving to disguise and obscure illicit financial activity.

**Shelf company** – incorporated company with inactive shareholders, directors, and secretary and is left dormant for a longer period even if a customer relationship has already been established.

nominee shareholders and directors, such as spouses, children, extended family, and other personal or business associates).

5. **Nominee directors and shareholders, particularly informal nominees (or “straw men”), are a key vulnerability**, and were identified in a large majority of case studies assessed for this report. The role of the nominee, in many cases, is to protect or conceal the identity of the beneficial owner and controller of a company or asset. A nominee can help overcome jurisdictional controls on company ownership and circumvent directorship bans imposed by courts and government authorities. While the appointment of nominees is lawful in most countries, the ongoing merits of this practice are questionable in the context of the significant money laundering and terrorist financing vulnerabilities associated with their use.

### Specialist and professional intermediaries

6. **The use of specialists and professional intermediaries is a key feature** of schemes designed to conceal beneficial ownership, particularly in cases where the proceeds of crime are significant. The majority of the case studies involved professional intermediaries. While it was not always explicitly stated in the case studies, approximately half of all intermediaries involved were assessed as having been complicit in their involvement. This demonstrates that complicity is not necessary to facilitate a scheme designed to obscure beneficial ownership, and that **professionals can be unwitting or negligent in their involvement**. This serves to highlight the importance of effective regulation of designated non-financial businesses and professions, and the need for increased awareness amongst professional service sectors. Nevertheless, law enforcement experience in some jurisdictions indicates that professional intermediaries are more likely to be complicit than unwittingly involved in money laundering cases.

- In the case study sample available for this report, **trust and company service providers (TCSPs)** represented the highest proportion of professional intermediaries involved in the establishment of legal persons, legal arrangements, and bank accounts. The TCSP sector was also significantly more likely to provide nominee, directorship, and other company management services to their clients, provide services to other professionals on behalf of third-party clients, and provide services to clients based internationally. However, despite their significant involvement in the establishment and management of these arrangements, TCSPs appear less likely to be the architect of schemes designed to obscure beneficial ownership. TCSPs that were assessed as having been complicit in their involvement were more likely to have been wilfully blind than fully complicit, or may have also provided legal, accounting, or other financial services. This suggests that the role of TCSPs is more likely to be transactional in nature, operating at the behest of a client or other intermediary, who are often based in another country. It also demonstrates that, **while TCSPs appear to be less likely to be the masterminds of schemes designed to obscure beneficial ownership, the services provided by TCSPs are vulnerable to exploitation by criminals and other professional intermediaries involved in these schemes**.

- **Accounting professionals** were the least represented sector in the cases analysed for this report; however, they were significantly more likely to be complicit in their involvement when compared to legal professionals and TCSPs. The accounting profession demonstrated the least direct involvement in the establishment of legal persons, legal arrangements, or banking relationships, which suggests that the key role of the accounting profession in the construction of schemes designed to disguise beneficial ownership is the provision of expert advice. Accounting professionals represented the highest proportion of scheme designers and promoters in the case studies, and were more likely to promote their own scheme to prospective clients than to simply facilitate a scheme designed by their client. They were also the only professional sector that was not identified as having provided services to another professional intermediary on behalf of a third-party client. **It is likely that the financial acumen of the accounting profession, and the ease with which accountants can identify suspicious financial activities, limit their vulnerability to being unwittingly exploited to facilitate the concealment of beneficial ownership.** It also suggests that criminals and complicit professionals may be unwilling to involve an accounting professional unless their complicity can be assured in advance.
  - In comparison to other professional intermediary sectors, **the role of legal professionals in the facilitation of schemes designed to disguise beneficial ownership, varies depending on the situation.**
    - Legal professionals were more involved in the establishment of legal persons, legal arrangements, and bank accounts when compared with accountants, but less so when compared to TCSPs. The same was also true for the provision of nominee and directorship services.
    - Lawyers were the most likely of the three professions to be involved in the acquisition of real estate as a means of laundering the proceeds of crime and obscuring beneficial ownership.
    - Legal trust accounts and client accounts were also more frequently used as a means of disguising beneficial ownership, although the accounting profession also exhibited a similar proportion of this concealment technique. Legal professional privilege was also identified as a barrier to the successful recovery of beneficial ownership information.
    - In the case studies analysed for this report, where legal professionals were involved, there were a number of cases where legal professionals appeared to be unwitting or negligent in their involvement. This suggests that, despite their reasonably high level of involvement in the establishment of legal persons and arrangements, **legal professionals are not sufficiently aware of their inherent money laundering and terrorism financing vulnerabilities.** It is likely that this is exacerbated by the low level of regulation imposed on legal professionals in many countries.
7. Analysis indicates that **the services of both lawyers and accountants are rarely required to facilitate the same money laundering scheme – the involvement of one is typically sufficient.** TCSPs were present in almost all cases

that involved intermediaries from multiple sectors, and few cases demonstrated the use of both a lawyer and an accountant. Of the cases that involved multiple intermediaries from the same sector, the TCSP sector represented the overwhelming majority of these instances. When multiple TCSPs were exploited in a single scheme, almost all of the cases involved TCSPs in multiple jurisdictions. This reflects the role of TCSPs in establishing and managing local companies on behalf of foreign clients. Conversely, in instances where multiple legal or accounting professionals were used, most cases involved the use of multiple lawyers/accountants in the same jurisdiction, and most of these intermediaries were unwittingly involved. This suggests that, in instances where multiple lawyers or accountants are utilised to facilitate a scheme, criminal clients may be attempting to avoid suspicion by limiting their engagements with any single professional.

8. A lack of awareness and education of money laundering (ML)/ terrorist financing (TF) risks among professionals inhibits the identification of ML/TF red flags. This increases their vulnerability to being exploited by clients seeking to misuse otherwise legitimate services for ML/TF purposes. The case studies for this report identified that only four intermediaries involved in these schemes identified and reported suspicious activity in line with the FATF Standards. All of these cases were from countries that regulate designated non-financial businesses and professions (DNFBPs) under an anti-money laundering/counter-terrorist financing (AML/CFT) legal framework.

### Anti-money laundering obligations and supervision

9. Seventeen per cent of jurisdictions that participated in the FATF's Horizontal Study of supervision and enforcement of beneficial ownership obligations do not impose any AML/CFT obligations or AML/CFT supervision on any DNFBPs whatsoever, despite this being a requirement of the FATF Standards. In some cases, this is the result of resistance to regulation from the relevant sectors or professions; in other cases, it may represent an "unfinished" aspect of the AML/CFT system which has not yet been implemented. The lack of supervision in these countries is a major vulnerability, and **professionals operating in countries that have not implemented appropriate regulations for DNFBPs represent an unregulated "back-door" into the global financial system.**

10. A country with a weak AML/CFT regime will exacerbate the vulnerabilities of legal persons, legal arrangements, and professional intermediaries. Key requirements of the FATF Standards, such as Immediate Outcomes 4 and 5, and Recommendations 10, 11, 12, 22, 23, 24, 25 and 28, amongst others, all relate to the risk profile of legal persons, arrangements, and intermediaries in a given jurisdiction. However, other inter-jurisdictional variables, such as trade and finance routes, are also influential with respect to the vulnerabilities and challenges associated with beneficial ownership. These vulnerabilities differ across jurisdictions and therefore cannot be definitively assessed at a global level. Competent authorities, financial institutions and DNFBPs should be mindful of the jurisdictional vulnerabilities that affect their country/business when assessing risk.

11. Schemes designed to obscure beneficial ownership often rely on a "hide in-plain-sight" strategy. This significantly impairs the ability of financial institutions, professional intermediaries, and competent authorities to identify suspicious

activities designed to obscure beneficial ownership and facilitate crime. At the same time, the FATF Standards and, by extension, much of the global AML/CFT infrastructure, centre upon the identification and reporting of suspicious activities by financial institutions and DNFBPs. Many of the case studies analysed for this report identified that information held by financial institutions was invaluable to the investigation of crime, and those countries that require the reporting of other transactions (such as threshold and cross-border transactions) indicated that these threshold-based reports were instrumental to the identification of irregular financial activities.

12. As the global economy becomes increasingly interconnected, and the sovereignty of financial borders dissipates, it is important to ensure that authorities have access to the appropriate information required to effectively deliver their mandate, whether it be suspicious transaction reporting submitted by reporting entities or other types of information, such as threshold and cross-border reporting. Furthermore, the FATF standards provide scope for countries to use several mechanisms to enable timely access to beneficial ownership information, and some countries have recently implemented, or are currently implementing, registers of beneficial ownership information as a mechanism to enable them to do so. Systems combining one or more approaches to ensure availability and accuracy of basic and beneficial ownership information may be more effective than systems that rely on a single approach. Some jurisdictions consider the availability of beneficial ownership registers assist competent authorities access up-to-date and accurate information, including for verifying information obtained from other sources.

### Issues for consideration

13. As a result of the analysis and consultations that underpin it, this report identifies a number of issues to help address the vulnerabilities associated with the concealment of beneficial ownership, including:

- Consideration of the role of nominees including measures that may limit their misuse.
- The need for regulation of professional intermediaries in line with the FATF Standards, and the importance of efforts to educate professionals on ML and TF vulnerabilities to enhance awareness and help mitigate the vulnerabilities associated with the concealment of beneficial ownership.
- Further work to identify possible solutions or measures to prevent the misuse of legal professional privilege (LPP) to conceal beneficial ownership information, including through the provision of enhanced training and guidance material for legal professionals.
- Ensuring financial intelligence units have access to the widest possible range of financial information.
- Increased sharing of relevant information and transaction records to support global efforts to improve the transparency of beneficial ownership.
- Further work to understand what can be done to improve the quality and timeliness of the cross-border sharing of information, including through mutual legal assistance.

- Ensuring, for countries that make use of registers of beneficial ownership, and for all countries' company registers, that there is sufficient resource and expertise associated with their maintenance. This is to ensure that the information recorded in the register is adequate, accurate, and up-to-date, and can be accessed in a timely manner.
- The need for countries to consider and articulate the vulnerabilities and threats relating to domestic and foreign legal persons and arrangements, the domestic and foreign intermediaries involved in their establishment, and the means by which criminals may exploit them to facilitate ML and other criminality.

14. A broad theme underlying all of these issues is information, including possible ways to improve the reliability, access and mechanisms to share that information more effectively at domestic and international levels. In some instances, these issues aim to inform responses by individual governments in taking further action; other issues identify areas for further research and engagement.

## INTRODUCTION

15. Over the past three decades, the dramatic convergence of international trade and global financial systems, as well as the rise of the internet and other forms of communication technologies, has opened new opportunities for criminals to misuse company and business structures to conceal anomalous financial flows and criminality. Far from operating in a shady, hidden criminal economy, criminals disguise their activities as legitimate corporate trade to hide illicit funds within the enormous volume of transactions that cross the globe every day. However, visibility does not equate to transparency, and criminals use a multitude of tools, including shell companies<sup>1</sup>, trusts, other legal arrangements, nominees, and professional intermediaries, to conceal the true intent of their activities and beneficial ownership<sup>2</sup> associated with them.

16. The ownership and control of illicit assets, and the use of legal structures to conceal them, has been the subject of increased global attention in recent years. The leak of confidential information from two large international law firms responsible for the establishment of complex international corporate structures in 2015 and 2017<sup>3</sup> has increased public awareness of the way in which legal structures can be used to conceal wealth and illicit assets.

17. The ability of countries to prevent the misuse of legal persons and legal arrangements, and the ways in which they are being misused, have been the subject of numerous discussion papers and research projects over the last decade or longer. Studies have been published by international bodies, including the Organisation for Economic Co-operation and Development (OECD), the World Bank, the United Nations Office on Drugs and Crime, and the Financial Action Task Force (FATF). Collectively, these reports provide a wealth of knowledge on the abuse of corporate structures

**Legal arrangements** – refers to express trusts or other similar legal arrangements.  
**Legal persons** – refers to any entities other than natural persons that can establish a permanent customer relationship with a financial institution or otherwise own property.

*See also Section 1.*

to facilitate corruption and money laundering; however, the FATF and Egmont Group of Financial Intelligence Units (Egmont Group) identified the need for further analysis of the vulnerabilities associated with beneficial ownership, with a particular

<sup>1</sup> For the purpose of this paper, “shell companies” are considered to be companies that are incorporated but which have no independent operations, significant assets, ongoing business activities, or employees.

<sup>2</sup> ‘Beneficial ownership’ or ‘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. See also the section ‘Definition of Beneficial Owner’.

<sup>3</sup> From Panama-based law firm Mossack Fonseca, in 2015, and Bermuda-based law firm, Appleby, in 2017.

focus on the involvement of professional intermediaries, to guide global responses. This report attempts to address that need.

18. The publication takes a macro-level, global view of inherent vulnerabilities and is designed to support further risk analysis by governments, financial institutions, and other professional service providers. In undertaking further risk analysis, countries and private sector professionals should consider how the geopolitical and economic environment, as well as their own risk mitigation strategies, will affect the vulnerabilities associated with legal structures and the intermediary sectors that facilitate their formation and management.

## METHODOLOGY

19. This project was co-sponsored by the FATF and Egmont Group. The project drew upon the unique and complementary capabilities of the FATF and Egmont Group to try to better understand the vulnerabilities linked to the concealment of beneficial ownership and the misuse of professional service providers. Led by Australia, Germany and France, the project team included experts from: Argentina, Canada, India, Israel, Italy, the Netherlands, New Zealand, the Russian Federation, Singapore, Switzerland, the United Kingdom, the United States, the Asia Pacific Group (APG) members, Bangladesh and Nepal, the Secretariat of the Inter-Governmental Action Group Against Money Laundering in West Africa (GIABA), the Group of International Finance Centre Supervisors (GIFCS), the Middle East and North Africa FATF-style regional body (MENAFATF) member, Egypt, the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL), the International Monetary Fund (IMF), the OECD Global Forum on Transparency and Exchange of Information for Tax Purposes (OECD Global Forum), the World Bank, and the FATF Training and Research Institute (FATF TREIN).

20. In preparing this report, the project team analysed typologies studies, intelligence assessments, mutual evaluation reports, and academic reports published by a range of academics, international bodies, and governments. A detailed list of the public sources used is included in Annex A. In addition to these public reports, the project leads analysed intelligence reports produced by financial intelligence units (FIUs), criminal intelligence and law enforcement agencies, and other competent authorities to identify emerging trends and methods being exploited by criminals. In many cases, these reports are not available publicly, and only desensitised information has been used in this report.

21. An intelligence exchange workshop was conducted during the FATF Joint Experts Meeting, which was hosted by the Russian Federation in Moscow in April 2017, during which 13 delegations<sup>4</sup> presented case studies and intelligence insights relating to the concealment of beneficial ownership. A session was also held with the private sector, including representatives from banks, law societies, and TCSPs, which helped the project team to better understand their practices and challenges with regard to issues of beneficial ownership.

22. As part of a process of targeted private sector consultation, the project team sought comments from 12 international organisations and associations representing a spectrum of the private sector with a particular interest in the topic. The organisations represented global financial institutions, DNFbps, data providers, FinTech and RegTech firms, and non-government organisations. The project team received comments from the Financial Transparency Coalition; the Institute of International Finance; the International Banking Federation; the International Federation of Accountants; the International RegTech Association; the International

<sup>4</sup> These 13 were Indonesia, Italy, Israel, Kyrgyz Republic, the Netherlands, Poland, Russia, Spain, Sudan, Switzerland, Venezuela, Europol, and the European Commission.

Union of Notaries; the Society of Trust and Estate Practitioners; the Wolfsberg Group; and from the International Bar Association's Anti-Money Laundering and Sanctions Expert Working Group. These comments included additional information on vulnerabilities, additional risk indicators, and methods for identifying beneficial ownership.

23. The primary sources of information for this report were the case studies<sup>5</sup> provided by FATF, the Egmont Group, and FSRB members. FATF TREIN undertook an analysis of the 106 case studies and typologies submitted by 34 jurisdictions. This is a relatively small sample of countries, and is weighted towards a few jurisdictions that provided a larger number of cases<sup>6</sup>. FATF TREIN's analysis was limited to the information known to the competent authorities and the information then communicated in the case summaries. In some cases, information relating to the money laundering scheme (the predicate offence or the location of the ultimate beneficial owner) was apparently not known by the competent authorities. In other cases, the information was not communicated in the case summary (for example, the type of legal person) or was anonymised (for example, the jurisdiction from which services were provided).

24. Despite these inherent limitations in the data, the case descriptions are substantially more detailed than those that can be found in recently published Mutual Evaluation Reports (MERs). Additionally, the cases, where the dates were identified, were generally recent, ranging from 2010 to 2017. The average sum of money laundered in each case, across all cases reviewed for this report, was in excess of USD 500 million.

25. This report has focused on the vulnerabilities and techniques of misuse associated with the concealment of beneficial ownership posed by legal persons, legal arrangements, and the professional intermediaries commonly involved in their establishment. It does not cover the threats posed by criminals and how these may differ among predicate offences, how different predicate offences may affect the methods used to obscure the beneficial owner, or the consequences associated with the residual risk. The report considers common techniques used by criminals to conceal beneficial ownership, and the environmental characteristics that contribute to the vulnerabilities posed by these legal structures and intermediaries. No effort has been made to provide a definitive list of high-risk jurisdictions based on these environmental risks, as numerous variables specific to particular jurisdictions make such a task untenable on a global level.

### Horizontal Study of Enforcement and Supervision

26. In 2016-17, the FATF undertook a horizontal study on the enforcement and supervision of beneficial ownership obligations. The purpose of the study was to understand how beneficial ownership requirements were being supervised, in

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<sup>5</sup> The case studies provided by law enforcement agencies and FIUs are focused on the various techniques, trends and methods used by criminals to conceal beneficial ownership.

<sup>6</sup> For example, the Netherlands submitted 19 cases for analysis, while Egypt submitted eight and Australia and the United States both submitted seven.

particular among key gatekeeper professions such as lawyers and TCSPs, as well as the role of registries in establishing and managing companies. The Horizontal Study was based on a survey of 64 jurisdictions, including 23 FATF members, who volunteered to provide information. The results of this analysis are attached at Annex B to this report and, where relevant, references to that study are provided throughout the publication.

## DEFINITION OF BENEFICIAL OWNER

27. The FATF standards define “beneficial owner” as the “*natural person(s) who ultimately<sup>7</sup> own(s) or control(s) 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*”<sup>8 9</sup>. This definition differs from the definitions of “beneficiary” and “beneficiaries”, which can include both natural and legal persons and arrangements, and often relate to:

- the recipients of charitable, humanitarian, or other types of assistance through the services of an NPO<sup>10</sup>, or
- the person(s) entitled to the benefit of a trust arrangement<sup>11</sup> or insurance policy<sup>12</sup>.

28. The distinction between “beneficial owner” and “beneficiary” relies on the concept of “ultimate” control or benefit, which refers to the *natural person* who ultimately controls or benefits from an asset or transaction through direct or indirect means. Importantly, a “beneficial owner” must always be a natural person, as a legal person cannot exert “ultimate” control over an asset. This is due to the fact that legal persons are always controlled, directly or indirectly, by natural persons. Therefore, while a legal person or arrangement can be the beneficiary of an asset or transaction, determining the beneficial owner requires the discovery of the natural person(s) who ultimately control or benefit from the legal person or arrangement.

29. The concept of ultimate benefit and control is also central to distinguishing “beneficial” ownership from “legal” ownership. The legal owner of an asset is the natural or legal person or arrangement that holds the legal title of that asset; however, legal ownership is not always essential in order to exert control over, or benefit from, an asset, particularly when the asset is held in trust or owned by a legal person. It is therefore essential to determine the natural person who controls an asset, rather than the legal owner of that asset.

30. Determining ultimate control can be problematic, and is often the principal challenge of determining beneficial ownership. In the context of a company, control can be exerted by shareholders, directors, and senior management. While shareholders are generally considered to exert the greatest level of control over a

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<sup>7</sup> Reference to “ultimately owns or controls” and “ultimate effective control” indicates situations in which ownership/control is exercised through a chain of ownership or by means of control other than direct control.

<sup>8</sup> This definition should also apply to beneficial owner of a beneficiary under a life or other investment-linked insurance policy.

<sup>9</sup> FATF, 2012a: p. 113.

<sup>10</sup> *Ibid*, p. 59.

<sup>11</sup> *Ibid*, p. 113.

<sup>12</sup> *Ibid*, p. 62.

company, due to their ability to dismiss directors and other senior staff and because they stand to benefit from the profits of the company, the role of directors and senior management cannot be overlooked. In the context of trusts, the trustee exerts control over an asset but is legally bound to act in the interests of the beneficiary, who generally cannot exercise any control over the trust. The settlor and protector of the trust may also continue to exert some level of control or influence over the trust, despite having relinquished legal ownership of the asset to the trustee for the benefit of the beneficiary. This can complicate any efforts to determine who should be considered the beneficial owner and can necessitate further efforts to determine the true nature of the trust relationship.

31. Control can also be exerted via third parties, including professional intermediaries, family members, associates, nominees, and other natural persons who have been recruited or coerced to act on behalf of the ultimate beneficial owner. The use of nominees and other third parties can complicate efforts to identify the ultimate beneficial owner of an asset or transaction, as the beneficial owner may not be recorded in formal company or trust records in many jurisdictions. While it is important for competent authorities to have the ability to understand the identity of the natural person controlling an asset, it is also important for competent authorities to understand who benefits from it.

32. Further guidance on the definition of “beneficial owner” is available in the *FATF Guidance on Transparency and Beneficial Ownership*<sup>13</sup>.

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<sup>13</sup> FATF, 2014: p. 8.

## STRUCTURE OF THE REPORT

33. The report is divided into four sections, which are designed to analyse the separate aspects that contribute to the concealment of beneficial ownership. The sections are arranged as follows:

- **Section 1** briefly outlines the **main characteristics of various legal persons and arrangements**. By analysing the case studies provided in support of this report, as well as the experiences of law enforcement agencies and FIUs in various countries, this section of the report provides an overview of the general features and functions of legal persons and arrangements that make them vulnerable to misuse for the purposes of concealing beneficial ownership.
- **Section 2** provides an overview of the **methods and techniques** commonly used to conceal beneficial ownership. The purpose of this section is to analyse how beneficial ownership is disguised using a range of legal structures, intermediaries, and fraudulent activities. The following three key methods are assessed in this section: generating complex ownership and control structures, obscuring the relationship between the asset and the beneficial owner, and falsifying activities. These methods can involve a range of techniques, the assessment of which will form a foundation for the assessment of vulnerabilities associated with legal persons, arrangements, and intermediaries in later sections of the report.
- **Section 3** analyses key **professional intermediary sectors** involved in the establishment and management of legal persons and arrangements, namely the legal, accounting, and TCSP sectors, and is the focus of this report. This section provides an overview of the principal role of these intermediary sectors in the establishment of legal structures, the services they provide that are commonly exploited by criminals, and other features which make these professionals vulnerable to exploitation. The purpose of this assessment is to determine how professional intermediaries are being exploited, wittingly and unwittingly, to affect schemes and methods designed to obscure beneficial ownership in order to inform risk assessments and mitigation strategies.
- **Section 4** provides an overview of key **environmental vulnerabilities**, including jurisdictional vulnerabilities and vulnerable business practices, which contribute to the vulnerabilities associated with the legal persons, legal arrangements, and professional intermediaries assessed in the rest of the report. The section does not attempt to provide a definitive list of high-risk jurisdictions, as jurisdictional risks will differ from country to country. Rather, the purpose of this section is to support risk analysis activities performed by FIUs, financial services providers, and professional intermediaries.

34. In analysing the main characteristics leading to misuse of legal persons and legal arrangements, the inherent vulnerabilities associated with professional intermediaries, and the environmental vulnerabilities that may facilitate their

appearance, this report identifies a number of issues for consideration. A broad theme underlying these issues is information, including possible ways to improve the reliability, access and mechanisms to share that information more effectively at domestic and international levels. In some instances, these issues for consideration aim to inform responses by individual governments in taking further action; other issues identify areas for further research and engagement.

## SECTION 1 — MISUSE OF LEGAL PERSONS AND ARRANGEMENTS

35. Legal persons and arrangements play an important role in global commerce and trade, and are the cornerstone of modern economies. For the most part, legal persons and arrangements serve legitimate, lawful, and meaningful purposes. However, the unique legal status of legal persons and arrangements also lend themselves to complex schemes designed to conceal the true beneficial owners and, in many respects, concealing the real reason for holding assets and conducting related transactions. Legal persons can lend legitimacy to unlawful activities, hide the involvement of key stakeholders and controlling parties, and generally frustrate criminal investigations domestically and internationally. Whilst acknowledging the legitimate role of legal persons and arrangements, this section will briefly introduce the characteristics of various types of legal persons and arrangements, and how they are exploited to facilitate crime and conceal beneficial ownership.

36. It is important to note that the information in this section is designed to assist financial institutions and professional intermediaries in analysing risk. It is not intended to suggest that any particular form of legal person or arrangement to be considered high-risk or low-risk by default. Private sector entities are encouraged to apply a risk-based approach to customers and transactions on a case-by-case basis.

### Legal persons

37. Seen from a global perspective, there are numerous different kinds of legal persons that exist under a multitude of different company laws, making it difficult for law enforcement to trace assets held by legal persons across numerous countries. Legal persons, specifically companies, are prominent features of most schemes and structures designed to obscure beneficial ownership. Almost all of the cases analysed for this report involved at least one company. The separation of legal and natural personalities offered by companies is a key feature influencing this popularity.

38. Given the broad range of legal persons in existence across the globe, an analysis of the similarities and differences among forms of legal persons would have exceeded the scope of this project. Furthermore, most of the case studies did not provide specific insights into the types and legal peculiarities of the legal persons used in the money laundering schemes. As such, the report has focused on broader characteristics of legal persons, and has not endeavoured to assess all of the specific forms available. One of the factors that might contribute to a higher frequency of misuse of a particular type of legal person is the absence of accurate and up-to-date information on its ownership and management, which, as evidenced by the Horizontal Study<sup>14</sup>, remains a challenge in many jurisdictions.

39. A categorization of legal persons must differentiate between partnerships on the one hand and corporations or capital companies, in the sense of trading

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<sup>14</sup> See, in particular, Question 3 of the Horizontal Study at Annex B.

companies, on the other. In a general **partnership**, ownership and control are exercised by all partners specified in the partnership contract. In that regard, the ability to misuse a general partnership to disguise beneficial ownership is significantly reduced, as management is exercised immediately by the partners and there is no legal segregation between the natural persons and an independent legal person. The same can be said of general partners of a limited partnership; however, limited partners can benefit from a certain degree of anonymity by acting solely as an investing partner regardless of their actual role in the partnership. However, due to their limited liability, limited partners generally have only limited control over the partnership.

40. In contrast to partnerships, the capital participation of shareholders is the focus of **capital companies**, not their "personality". Unlike partnerships, capital companies are always a separate legal entity, and are often controlled and owned through shares, which can be transferred and sold regularly without affecting the existence of the capital company itself. The hybrid construction of limited liability companies (LLCs) (or private company limited by shares (LTD)) and foundations differ from capital companies and are outlined in further detail below.

41. The main feature of a company is the strict separation of the natural person investing in and owning the company by shares and the legal personality of the company itself. A company's legal personality allows it to conduct business and own assets under its own name, assuming all rights and being liable for all debts and obligations it enters into. This legal structure allows a natural person to take part in business without disclosure of their personal identity<sup>15</sup>. Even though shareholders own the company, usually they are not actively involved in management functions, but instead elect or appoint a board of directors to manage the company in a fiduciary capacity<sup>16</sup>.

42. Private companies, such as **limited liability companies** (LLC)<sup>17</sup>, are restricted in different ways (they may have a limited number of shareholders, require notarization for the transfer of shares, etc.) depending on the jurisdiction in which they are established. LLCs combine elements of partnerships and companies. While differing slightly from country to country, the primary concepts are the same. Unlike publicly traded companies, they do not offer their interests to the public, and are therefore generally subject to less stringent reporting and oversight regimes. Shares in a limited liability company cannot be publicly offered and traded, and

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<sup>15</sup> Securities laws may provide for transparency to a certain degree, such as through notification requirements for stock-listed companies if the shareholder exceeds a certain amounts of shares.

<sup>16</sup> Van der Does de Willebois, E. et al. (2011: p. 162) claim that companies are the most misused corporate vehicle documented in the study. While the study focuses on corruption, it discusses in detail how corporate vehicles can be used to disguise of ownership and control.

<sup>17</sup> The term "limited liability company" here is intended to encompass the various forms of this kind of company in several jurisdictions (e.g. LLC in US; Pvt Ltd. in UK, Ireland, India, Hong Kong; GmbH in Germany, Austria, Liechtenstein; BV in the Netherlands; SARL in France).

often some limitations apply to the transfer of shares. While members can manage a LLC directly, this function is usually performed by managers or directors. The governing rules on ownership and control rights are determined by a contract, which may not be publicly available. The contract gives the members a high degree of freedom in determining the division of ownership and control among the members,<sup>18</sup> thus allowing latitude to exploit nominees and obscure true ownership and control arrangements in order to obscure beneficial ownership.

43. **Foundations** are separate legal entities with no owners or shareholders and are generally managed by a board of directors. Foundations are generally restricted to the provision of a service for public benefit, although several jurisdictions allow foundations to be established to fulfil private purposes (private foundations<sup>19</sup>). Safeguards usually exist to ensure that a foundation is sufficiently independent from its founder; however, foundations are vulnerable to exploitation for money laundering purposes, particularly when laws allow the founder to exert control over the foundation. Only a small number of the cases analysed for this report involved the use of a foundation.

44. As previously stated, this report has not drawn any specific conclusions on the vulnerabilities of specific forms of legal person, as cases provided did not contain sufficient information on the types of legal persons used in financial crimes to allow conclusions to be drawn. However, it can be stated that almost all of the cases analysed for this report involved the use of a company, which indicates that these vehicles are significantly attractive for misuse. Furthermore, only a small number of cases involved a foundation, and a very small number of the case studies involved a partnership to obscure beneficial ownership.

45. A range of characteristics have been identified which allow legal persons to be exploited by criminals to conceal beneficial ownership. Many of these – including the use of shell, shelf<sup>20 21</sup>, and front companies<sup>22</sup>, the construction of complex chains

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<sup>18</sup> Van der Does de Willebois, E. et al., 2011: p. 164.

<sup>19</sup> Private foundations pursue not-for-profit activities on behalf of their members or founders. The structure can be found in many countries including Germany, Bulgaria, Panama, the Netherlands, and Sweden. A private foundation is usually funded by an individual or small group of individuals. It has legal personality by virtue of a written act and through recognition of its status by the supervisory authority. The initial registration of a foundation established to fulfil private purposes is usually faster and less demanding than the process required for a public foundation. Accounting requirements are also more straightforward, and maintenance and administration costs also tend to be lower.

<sup>20</sup> For the purpose of this paper, a “shelf company” is considered to be an incorporated company that has inactive shareholders, directors, and secretary and is left dormant for a longer period even if a customer relationship has already been established.

<sup>21</sup> As *shelf companies* can also be considered a type of *shell company*, particularly following their sale or transfer of ownership, it is possible that jurisdictions referred to former shelf companies as shell companies when providing case studies.

<sup>22</sup> For the purpose of this paper, a “front company” is considered to be a fully functioning company with all the characteristics of a legitimate business, which ultimately serves to disguise and obscure the illicit financial activity being conducted. Front companies are often cash intensive businesses.

of ownership using multiple legal persons, the splitting of assets and company administration across different countries, and the use of formal and informal nominees – have been analysed in Sections 2 and 4 of this report.

### Legal arrangements

46. One way to translate a fiduciary relationship into a legal agreement, especially in common law countries, is the settlement of a trust. Although there is no universal definition, from a functional point a view a trust can be said to separate the legal property, administration, and economic benefit of an asset<sup>23</sup>.

47. **Trusts** can be used to achieve varying objectives, including:

- transferring the administration of an asset to a third party to organise an inheritance
- protecting assets for children, classes of family members or vulnerable adults
- managing in common an asset for a pool of corporations (like syndicated loans in corporate banking, where a lead lender originates and administrates the loan for the other secondary lenders, who are only signing the loan agreement)
- financing charity through an intermediary gathering funds
- investing money with the view to finance an important expense in the future (e.g. education fees or retirement).

48. While trusts are sometimes a source of misunderstanding between common law and civil law experts, they have spread across countries of both legal traditions. Although they have a long and established history under common law, they are a more ambiguous concept in civil law countries; however, it is worth noting that similar “trust-like” legal arrangements exist in some civil law countries, presenting the same structure or functions, like the “*fiducie*” in some civil law countries (although this latter type of legal arrangement cannot be used to facilitate a legacy)<sup>24</sup>.

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<sup>23</sup> The FATF Recommendations makes use of Article 2 of the Hague Convention on the Law Applicable to Trusts and on their Recognition (the Hague Trust Convention) when considering how to define a trust. Key characteristics of a trust according to the Hague Trust Convention include the separation of the assets from the trustee’s estate, the title of the assets stand in the name of the trustee or in the name of another person on behalf of the trustee, and the provision of power to the trustee to manage the assets in accordance the terms of the trust.

<sup>24</sup> Trusts developed in common law countries, but it is important to note that civil law countries which do not recognize trusts have often put in place different mechanisms to fulfil the same functions as trusts. For instance, from a European perspective, one can consider that the widely developed “life insurance” contract uses the same principles as a trust, where a settlor asks a trustee to administer funds on behalf of a third party (the beneficiary).

49. The Horizontal Study found that 60% of responding jurisdictions provided for the creation of trusts or other similar legal arrangements under their domestic laws<sup>25</sup>. A further 21% of responses were from jurisdictions which are not the source of law for legal arrangements, but which give some recognition to foreign legal arrangements and permit foreign legal arrangements to be created or administered by gatekeepers or others within their jurisdiction (e.g. under the Hague Trust Convention). Finally, 19% of responses indicated they do not recognise (e.g. in courts or in their tax system) any legal arrangements, whether based on domestic or foreign law.

50. Apart from the intent to separate legal and beneficial ownership, it is not clear precisely why criminals exploit trusts in money laundering schemes. There may be a multiplicity of reasons which will vary on a case-by-case basis. Criminals may exploit the secrecy provisions inherent in certain legal arrangements to prevent competent authorities from exerting authority to unravel the true ownership structure. This is particularly likely when schemes involve a foreign trust. Indeed, the use of foreign trusts might convey risks of unlawful practices owing to criminals making the most of the differing treatment of these legal arrangements by tax authorities and of the potential lack of coordination between them. From the cases analysed for this report, criminals used foreign jurisdictions in broadly the same proportions when establishing legal persons and legal arrangements.

51. The complexity and expense of establishing legal arrangements may limit their use when compared to the prolific exploitation of legal persons by criminals. The benefits associated with the use of legal arrangements, principally the separation of legal and beneficial ownership, might not be sufficiently significant to merit the additional investment when compared to the cost, availability and characteristics of legal persons. The relative frequency of the use of legal arrangements in the cases analysed for this report (approximately one-quarter of all cases) may be due to the fact that many of the cases involved sophisticated predicate offences that yielded significant proceeds and thus warranted the additional investment.

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<sup>25</sup> See, in particular, Question 2 of the Horizontal Study at Annex B.

## SECTION 2 — TECHNIQUES USED TO OBSCURE BENEFICIAL OWNERSHIP

52. Criminals employ a range of techniques and mechanisms to obscure the beneficial ownership of assets and transactions. Many of the common mechanisms/techniques have been compiled by FATF in previous studies, including the 2014 *FATF Guidance on Transparency and Beneficial Ownership*. According to the FATF guidance report<sup>26</sup> beneficial ownership information is commonly obscured through the use of:

- shell companies<sup>27</sup>, especially in cases where foreign ownership is spread across jurisdictions
- complex ownership and control structures
- bearer shares and bearer share warrants
- unrestricted use of legal persons as directors
- formal nominee shareholders and directors where the identity of the nominator is undisclosed
- informal nominee shareholders and directors, such as close associates and family
- trusts and other legal arrangements which enable a separation of legal ownership and beneficial ownership of assets
- intermediaries in forming legal persons, including professional intermediaries.

53. Additional techniques and mechanisms which were not explored in the FATF's previous guidance include the use of shelf companies<sup>28</sup> and front companies<sup>29</sup>, misleading naming conventions, false loans and invoices, and declaring numerous beneficiaries. Overall, the key techniques used by criminals to obscure beneficial ownership can be categorised within three broad methods:

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<sup>26</sup> FATF, 2014: p. 6.

<sup>27</sup> For the purpose of this paper, "shell companies" are considered to be companies that are incorporated but which have no independent operations, significant assets, ongoing business activities, or employees.

<sup>28</sup> For the purpose of this paper, a "shelf company" is considered to be an incorporated company that has inactive shareholders, directors, and secretary and is left dormant for a longer period even if a customer relationship has already been established.

<sup>29</sup> For the purpose of this paper, a "front company" is considered to be a fully functioning company with all characteristics of a legitimate business that is usually cash intensive.

- **generating complex ownership and control structures** through the use of legal persons and legal arrangements, particularly when established across multiple jurisdictions
  - **using individuals and financial instruments to obscure the relationship between the beneficial owner and the asset**, including bearer shares, nominees, and professional intermediaries, and
  - **falsifying activities** through the use of false loans, false invoices, and misleading naming conventions.
54. These methods and techniques are outlined in greater detail below in order to contextualise the role of legal persons, arrangements, and professional intermediaries in disguising beneficial ownership.

### Generating complex ownership and control structures

55. A key method used to disguise beneficial ownership involves the use of legal persons and arrangements to distance the beneficial owner from an asset through complex chains of ownership. Adding numerous layers of ownership between an asset and the beneficial owner in different jurisdictions, and using different types of legal structures, can prevent detection and frustrate investigations.

56. More than half of the case studies submitted in support of this report made use of complicated ownership structures, whereby control was affected through a combination of direct and indirect control. These complex structures were achieved through the establishment of chains of ownership, which often involved a number of legal persons and arrangements across multiple countries, distancing the beneficial owner from the assets of the primary corporate vehicle. In only a small number of cases did the beneficial owner retain legal ownership through a complicated structure without using an intermediary. The Russian case study below (Case Study 88) demonstrates how complex ownership structures, involving numerous foreign companies and bank accounts, were used to disguise the beneficial ownership of embezzled public funds and other proceeds of crime.

57. There are few restrictions on the establishment of chains of ownership within and across jurisdictions.<sup>30</sup> Legal persons are allowed to own shares in companies established in any country, while many countries also allow legal persons to be registered as the directors of companies. Shell companies and front companies feature prominently in most complex structures identified by FIUs and other competent authorities, while trusts and other legal arrangements are less frequently identified.

58. Complex ownership and control structures are not, in and of themselves, unlawful. Often, these corporate structures serve legitimate purposes and facilitate a wide range of commercial activities, entrepreneurial ventures, and the management of personal finances. Advances in communications technology, ease of travel, and other effects of globalisation are increasing the accessibility of global finance and business centres to all population segments, beyond large corporations and high net

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<sup>30</sup> Van der Does de Willebois, E. et al., 2011: p. 53.

worth individuals. Complex ownership structures can simplify business transactions for companies that regularly trade transnationally, provide services to international clients, or conduct parts of a company's operations (such as manufacturing or research and development) in another country. Often complex control structures are used by family businesses, by government-owned or operated public or commercial business ventures, and by publicly traded companies to structure their affairs. In these instances, a financial institution, legal/accounting professional, or other service provider will be in a position to readily ascertain the beneficial ownership of the structure. These structures are generally transparent to relevant authorities and present minimal vulnerabilities for disguising beneficial ownership.

59. Despite the legitimacy of many complex ownership and control structures, these structures can also be used to obscure beneficial ownership, avoid taxation obligations, conceal wealth, and launder the proceeds of crime. Complex structures are also used in fraudulent investment schemes, phoenix activity<sup>31</sup>, false invoicing, and other types of fraud. The majority of case studies that involved tax evasion, fraudulent investment schemes and fraud as predicate offences also utilised complex structures to conceal beneficial ownership.

60. The use of numerous legal persons or arrangements within a single legal structure, as well as the use of numerous bank accounts and nominee directors, can significantly impair efforts by FIUs, other competent authorities, and financial institutions to identify and verify the beneficial owner. This is further frustrated when legal ownership structures span numerous jurisdictions. Despite concerted efforts by many countries to improve the sharing of financial intelligence and company information, mutual legal assistance and other forms of bilateral or multilateral information requests are often slow to action or complicated by various legal hurdles. Law enforcement agencies and FIUs report that, following lengthy information-sharing processes with international counterparts, the information received often demonstrates that the company of interest is owned by another legal person or arrangement in another country. The Horizontal Study demonstrated that there are considerable challenges in ensuring accurate and up-to-date information on legal persons in many jurisdictions<sup>32</sup>. As a result, the greater the number of companies and countries involved in a corporate structure, the greater the challenges associated with discovering the ultimate beneficial owner in a timely manner.

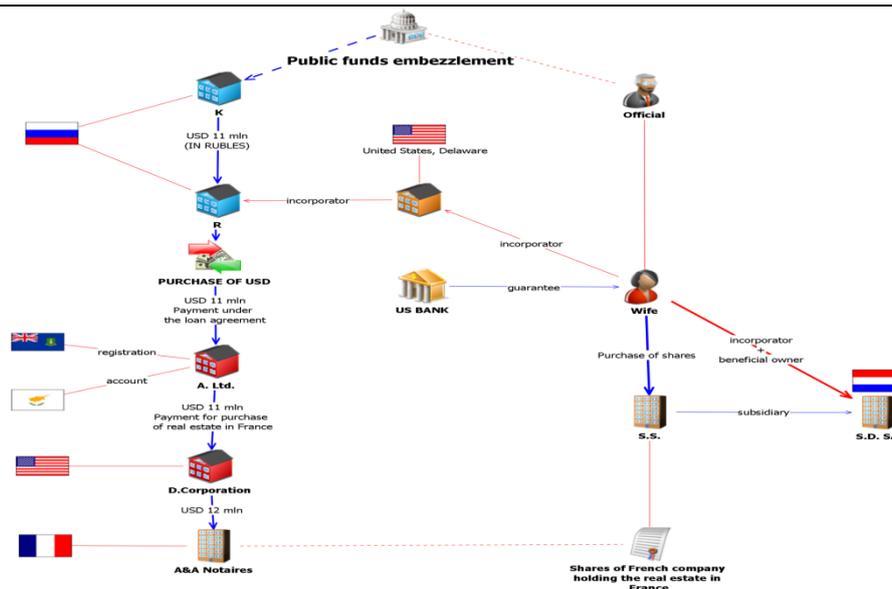
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<sup>31</sup> Illegal phoenix activity is the creation of a new company to continue the business of a company that has been deliberately liquidated to avoid paying its debts, including taxes, creditors and employee entitlements.

<sup>32</sup> See, in particular, Question 3 of the Horizontal Study at Annex B.

### Case Study 88 – Russia

Embezzled public funds worth RUB 300 million (Russian rubles) (USD 11 million) were transferred from the account of Company K to the account of Company R. Company R, a Delaware corporation, was owned and managed by the Russian wife of the suspect, a state official. The same day, Company R transferred USD 11 million as a loan to an account of Company A (BVI) held by a Cypriot bank. Company A then transferred more than USD 11 million to the Company D (US) to purchase real estate in France. Company D transferred more than USD 12 million to a French Notaries Bureau. Information from the FIU of Luxembourg showed that one of the US banks acted as a guarantor for the suspect's wife in a transaction to purchase of shares of a French company – and the holder of the real estate. The transaction was conducted via an S.S. company – a French subsidiary of a Luxembourg S.D. SA., incorporated and owned by the same individual. Analysis showed that these two chains were interrelated and the real estate was purchased with the proceeds of public funds embezzled for the benefit of the state official's wife.



### Shell and Shelf Companies

61. The 2014 *FATF Guidance on Transparency and Beneficial Ownership* defined **shell companies** to be “companies that are incorporated but which have no significant operations or related assets”<sup>33</sup>. The FATF’s 2013 report, *Money Laundering and Terrorist Financing Vulnerabilities of Legal Professionals*, used a similar definition<sup>34</sup> in its description of the use of shell companies as a technique to place or layer illicit funds. As outlined in the 2013 report, shell companies can serve

<sup>33</sup> FATF, 2014: p. 6.

<sup>34</sup> FATF, 2013: p. 55.

legitimate purposes, such as serving as a transaction vehicle for company mergers or protecting a corporate name from being used by another party.

62. Despite their legitimate uses, shell companies are the most common type of legal person used in schemes and structures designed to obscure beneficial ownership. Of the case studies analysed for this report, more than half specifically referred to the use of shell companies; however, it is likely that the actual figure is higher, as many countries are likely to have referred to legal persons in a general sense, rather than specifying the nature of the company involved. Shell companies can be used in complex structures involving the distribution of assets across multiple companies in multiple jurisdictions. When these structures are used for illicit purposes, money may flow through multiple layers of shell companies before finally being withdrawn in cash or transferred to its final destination internationally. Of the cases that included shell companies, the majority included a corporation located in a foreign jurisdiction.

63. Shell companies can be difficult to detect, as their incorporation is often no different from companies formed for other purposes; however, there are a number of characteristics and indicators that may indicate that a company is a shell, including the use of only a post-box address, a lack of personnel (or only a single person as a staff member), and a lack of payments in taxes and/or social benefit payments. Furthermore, many shell companies do not have a physical presence, and are geographically anchored through the use of TCSPs and nominee directors whose role in the management and direction of the shell company is limited. This is a particular problem with shell companies and presents a meaningful vulnerability that should be considered when doing business with companies that exhibit characteristics of being a shell company.

64. The use of shell companies in complex corporate structures designed to disguise beneficial ownership is a consistent and enduring technique used by criminal groups, corrupt individuals, and complicit professionals. The increased availability of shell companies to foreign nationals, which has been made possible by the growth of global communications and the convergence of international trade markets, has exacerbated this issue.

65. As with shell companies, **shelf companies** serve legitimate purposes. In theory, shelf companies allow investors, or people planning a new undertaking, the possibility of securing a company structure within hours to serve a time-sensitive need. Where shelf companies have already been in operation for a number of years, the new owner can use this history to help secure business relationships or lines of credit; some shelf companies may already have established customer relationships with financial institutions, facilitating access to the international financial system.

66. When the shelf company is sold, the inactive shareholders transfer their shares to the purchaser, and the directors submit their resignations. As part of the transfer, the purchaser may receive the company's credit history, if it is available. Occasionally, the company directors will continue to function as nominees, particularly when the shelf company is established and sold by a TCSP. In these cases, the only apparent change in the company is a change of ownership. However, the change of ownership will only be apparent if it is properly recorded in company registries. This is often "overlooked" in cases where shelf companies are used to disguise beneficial ownership. Law enforcement agencies and FIUs have reported

that the failure to properly record the change of ownership following the sale of a shelf company is a concern.

67. Despite the theoretical use of shelf companies in the concealment of beneficial ownership, only two of the case studies analysed for this report included specific references to the use of shelf companies. The prevalence of shelf companies in schemes designed to obscure beneficial ownership is, therefore, unknown. It is possible that the use of shelf companies to obscure beneficial ownership is higher than demonstrated in the case studies in this report, as some shelf companies are likely to have been referred to as “shell companies” in the case studies. It is also likely that the value of shelf companies resides predominantly in the pre-existence of nominee directors and shareholders. Though convenient, many TCSPs will offer nominee services to newly established shell companies, making shelf companies less necessary.

#### Case Study 19 – Ecuador

Public officials in Ecuador, along with relatives and individuals connected to law firms, created a series of shelf companies in several countries for the purpose of receiving bribe payments. The bribe payments were effected through individuals with links to companies that provide goods and services to a public institution in the oil sector. To send the payments, and to hide the real beneficiaries of the transfers, the suppliers created companies in Panama, Hong Kong, British Virgin Islands, Bahamas, Uruguay, and the US.

#### Case Study 26 – Egypt

The accused created six British Virgin Island shell companies and used the bank accounts of these shell companies to launder the proceeds of crime of a total amount of more than EGP 1 billion (Egyptian pounds). The predicate offence was “illegal earning”. The six shell companies all had a nominee shareholder.

#### **Front company**

68. A “front company” is a fully functioning company, with assets, income, expenses. It also exhibits other characteristics associated with the operation of a legitimate business. Any functioning company can be a front company, but the most common form of front company is one that operates in the customer service industry (such as a restaurant, night club, or salon) as these businesses commonly handle cash. Front companies can be exploited to launder the proceeds of crime through the integration of illegitimate funds with legitimate income, often by disguising the illegitimate funds as cash sales made during the course of business. When this is done, these funds can then be deposited into the company’s bank account and used by the beneficial owner (if the beneficial owner is also the business owner) or they may pay false expenses in order to transfer the money to the true beneficial owner. Unlike many money laundering operations, where criminals attempt to conceal their illicit wealth and may also attempt to avoid paying

tax on that wealth, criminals who use front companies will occasionally pay company tax on the illicit income to further legitimise the wealth. One case study from Australia (Case Study 2) demonstrates how a front company was used to disguise the proceeds of crime as employee salary payments through the use of a transport company and a third-party salary payment service provider.

69. While front companies have obvious applications to the concealment of illicit wealth more generally, they also conceal the beneficial ownership of that wealth at the placement stage of the laundering process. In the normal course of business, company income is essentially the transfer of money and value from one beneficial owner (the customer) to a second beneficial owner (the business owner). When a front company is used to launder illicit wealth, the “customer” is often the business owner or a close associate. However, company records will record the transfer as having originated from a customer interaction, thereby concealing the business owner or associate as the originating beneficial owner. Over a quarter of the case studies submitted in support of this report involved the use of front companies.

70. Front companies are not always cash-intensive businesses. With today’s digitised and transnational economy, front companies can take the form of anything that is expected to generate income from multiple sources. Front companies can also be established to commit fraud, where the company appears to offer a service or perform a function that it does not offer or perform in order to defraud investors and embezzle public funds, or to obscure the beneficial owner of an asset as part of a complex ownership structure, as demonstrated by one case from the US (Case Study 99 below).

71. Financial institutions have also identified instances where informal nominees are solicited by crime groups to establish front companies as a means of circumventing due diligence, money laundering controls or sanctions<sup>35</sup>. This situation arises when a crime group, which is already operating a company, seeks to access the financial system by arranging for an employee to set up an otherwise legitimate operating company in another jurisdiction, where that employee may or may not be an owner of the new company, but does control it typically as an officer. In this situation, the due diligence performed on the new company would not typically identify the indirect connection to the original company, which is hidden, and the new company would act as a front company by engaging in transactions and accessing the financial system in a way that the hidden company could not.

72. While front companies were less prevalent than shell companies in the case studies, it does appear that the use of front companies is a popular technique for the concealment of beneficial ownership and illicit wealth<sup>36</sup>. Although front companies are occasionally directly owned and operated by the beneficial owner, their steady stream of legitimate income serves to conceal the beneficiary of the income itself. For this reason, criminals will continue to exploit front companies to conceal beneficial ownership and integrate illicit wealth.

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<sup>35</sup> See section 3 for further information.

<sup>36</sup> Over a quarter of the case studies submitted in support of this report involved the use of front companies.

### Case Study 2 – Australia

An Australian drug syndicate used multiple money laundering methods to launder more than AUD 1 million worth of proceeds of crime. Trust accounts, a front company, high-value goods and real estate were used to launder the profits from cannabis sales. The syndicate also misused the services of two professional facilitators (an accountant and solicitor) to facilitate its criminal activity.

One of the four money laundering methods utilised by the syndicate involved the transfer of illicit wealth to syndicate members in the guise of legitimate wage earnings. The syndicate members employed a company that specialised in processing wages to pay them a wage from their new transport company. Members of the syndicate deposited the cash proceeds of the cannabis sales into the transport company’s account. From this account the funds were transferred to the wage processing company. The wage processing company then paid these funds to the syndicate members, seemingly as legitimate wages. Syndicate members were paid an annual wage of around AUD 100 000.

### Case Study 99 – United States

U.S. authorities identified front companies used to conceal the ownership of certain U.S. assets by Bank Melli, which was previously designated by US authorities for providing financial services to entities involved in Iran’s nuclear and ballistic missile program. Bank Melli was also subject to a call for enhanced vigilance in UNSCR 1803. The Department of Justice (DOJ) obtained the forfeiture of substantial assets controlled by the Government of Iran. These assets included a 36-story office tower in Manhattan at 650 5th Avenue having an appraised value of more than USD 500 million, other properties, and several million dollars in cash. The ownership of the office tower was split between Bank Melli (40%) and the Alavi Foundation (60%), which provided services to the Iranian government, such as transferring funds from the office tower to Bank Melli.

### ***Splitting company incorporation and asset administration over different countries***

73. The ability of legal persons to establish and administer banking relationships in different countries is another vulnerability commonly exploited to obscure beneficial ownership. Keeping accounts abroad is an important and legitimate aspect of conducting business in an international market; however it is often difficult for banks to conduct robust customer due diligence on foreign companies. Moreover, the splitting of assets and company incorporation can impede investigation of the business objective of the company and its ownership and control structure, the purpose of transactions, and, most notably, the clarification of the company’s beneficial owner.

74. A large number of cases involved the splitting of company incorporation and asset administration over different countries. In most cases, shell companies were

used to open bank accounts in foreign jurisdictions. In some instances, several accounts were opened in different countries for companies incorporated in foreign jurisdictions, enabling rapid movement of funds over numerous frontiers. This impedes law enforcement efforts to trace the assets.

#### Case Study 76 - Netherlands

International company A headquartered in The Netherlands paid corruption funds to a government employee via letter box companies. An international company was registered in an international jurisdiction, with a government employee listed as the beneficial owner but with nominee shareholders and directors. Payments were made via a Dutch bank account of a subsidiary of the international company to an account of the international company in Estonia and via an enterprise registered in Hong Kong, after which these funds were paid into bank accounts in a foreign jurisdiction and from there to a Luxembourg bank account of the international company. Bribes were also paid to charities that were directly associated with government employees. In order to account for the bribes, false invoices were entered in the accounting records.

#### **Trusts and other legal arrangements**

75. Trusts and other legal arrangements can be used to enhance anonymity by adding an additional layer of complexity through the separation of the legal and beneficial ownership of an asset. In a trust, the legal title and control of an asset are separated from the equitable interests in the asset. This means that different persons might own, benefit from, and control the trust, depending on the applicable trust law and the provisions of the document establishing the trust (for example, the trust deed). In some countries, trust law allows for the settlor and beneficiary (and sometimes even the trustee) to be the same person. Trust deeds also vary and may contain provisions that affect where ultimate control over the trust assets lies, including clauses under which the settlor reserves certain powers - such as the power to revoke the trust and have the trust assets returned, as was possibly the initial intention of the corrupt individual in the Cayman Islands case below (Case Study 14). Other vulnerable features include directed trust arrangements, general or special powers of appointment exercisable by the settlor, and loans repayable on demand to the trust (by the settlor or others). Trusts and other legal arrangements were identified in approximately one-quarter of the case studies analysed for this report. Most of the examples involved common law express trusts, with two making use of a civil law *fiducie*.

76. The enhanced anonymity offered by trusts and trust-like legal arrangements can provide significant benefits to a criminal operation, and can present challenges to financial transparency. The ability to separate legal ownership from beneficial ownership presents a range of challenges for authorities and service providers seeking to determine beneficial ownership; it can also pose a number of risks to the criminals who utilise them. Legal arrangements require the criminal to relinquish legal ownership and control of the asset to a trustee to manage the benefit (or title) of the asset. The introduction of a trustee may pose a vulnerability to the criminal

operation, for instance if the trustee is not complicit, or if control over the trustee is not guaranteed.

77. Whereas the situation of criminals setting up a complex structure involving multiple trusts seems relatively rare (Case Study 42, below, provides one rare circumstance), the combination of a trust interacting with at least one company appears more frequently in the case studies. Almost all of the cases that involved the use of a legal arrangement also involved a company or other legal person. This demonstrates that trusts and similar legal arrangement are rarely used in isolation to hold assets and obscure beneficial ownership, but generally form part of a wider scheme; it might also show that schemes that only involve a trust may be more difficult for authorities to identify. The interaction of the trust with other legal persons adds an additional layer of complexity and helps frustrate efforts to discover beneficial ownership. As further demonstrated by the outcomes of the Horizontal Study<sup>37</sup>, information on legal arrangements is rarely available, or is subject to significant challenges with regard to its relevance and accuracy. Case Study 13 from the Cayman Islands (included below), is a good example of this method being used to generate complexity through transfers between a company and a trust.

78. In the cases analysed for this report, legal arrangements were rarely found to hold the actual proceeds of crime. Their role in most schemes was to build additional layers of complexity and further anonymise transactions. When chosen as part of a multi-level ownership structure, trusts appear to enter a company's shareholder register in place of the beneficial owner, thereby disguising the beneficial owner of the shares. Approximately half of the cases that involved a legal arrangement also involved shares, which was proportionally higher when compared to the entire sample population. One case study from Australia (Case Study 2) involved a crime syndicate that created bank accounts held in trust, as well as investment companies, as part of its money laundering scheme, and instructed an accountant to use cash from the proceeds of cannabis sales to purchase shares in the name of the trust accounts and investment companies. The purpose of the trust in this arrangement was to further distance the assets (the shares) from the beneficial owners.

79. Although not as common as the use of legal persons, the frequency of the use of trusts and other legal arrangements is not insignificant. It is possible that, despite the benefits associated with trusts and other legal arrangements, which offer significant opportunities to enhance anonymity by providing a partition between the legal and beneficial ownership of the property, the complexity and expenses associated with establishing and managing a legal arrangement may make them less attractive to criminals. It is also possible that the use of legal arrangements may increase the difficulty of investigating and identifying the beneficial owner, thereby explaining their relatively low prevalence in the case study sample.

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<sup>37</sup> See, in particular, Questions 2 and 3 of the Horizontal Study.

#### Case Study 42 – Italy

The Nucleo Polizia of Milan conducted a preventive seizure of funds traceable to a single family, which were held in the Channel Islands, for a total value of EUR 1.3 billion. The assets were concealed through a complex network of trusts. Multiple trust accounts hid the beneficiaries of assets consisting of public debt securities and cash. The investigation established that between 1996 and 2006 the subjects placed their assets in Dutch and Luxembourg companies through complex corporate operations and by transferring them to different trusts in the Channel Islands. Subsequently, the funds were legally repatriated through a tax amnesty in December 2009. The investigation identified chartered accountants who had, over time, facilitated the concealment of funds through trusts with the aim of facilitating laundering and reinvestment.

#### Case Study 13 – Cayman Islands

Mr. A established a Cayman Islands revocable trust, with himself as settlor and a local TCSP acting as trustee. Mr. A also arranged for the incorporation of a Cayman Islands company known as 'Company B', with the local TCSP also acting as the registered office.

The TCSP became aware of allegations relating to Mr. A and his involvement in an oil and gas contract scam which also involved members of a foreign government. Over a two-year period, the TCSP reported that the trust and underlying company had received numerous transfers of funds and property from what was now deemed to be questionable sources, which in turn heightened its suspicions and prompted an STR. An analysis of the trust accounts revealed outgoing funds to individuals named in numerous media reports who allegedly took part in the kickback scandal. In response to a request, the foreign jurisdiction confirmed that Mr. A was being investigated for money laundering and corruption of government officials.

### Using individuals and financial instruments to obscure the relationship between the beneficial owner and the asset

80. In addition to the generation of complex ownership and control structures, criminals often employ additional techniques to further obscure the relationship between them and their assets. As a methodology, obscuring the relationship between the beneficial owner and an asset differs from the generation of complex ownership and control structures in that, rather than aiming to create distance via legal complexity, it attempts to create a false or misleading picture of the true ownership and control structure. Techniques most often used to achieve this include the use of formal and informal nominees and professional intermediaries. Other techniques, such as the use of bearer shares and the declaration of numerous beneficiaries, have also been identified, but appear to be less common.

***Bearer shares and bearer share warrants***

81. Bearer shares are company shares that exist in certificate form and are legally owned by the person that has physical possession of the bearer share certificate at any given time. Ownership and control of bearer shares can be exchanged anonymously between parties by way of physical exchange alone, as no record of the exchange needs to be documented or reported.

82. Due to the inability to accurately ascertain and monitor the owner of a bearer share at any given time, determining beneficial ownership of legal persons controlled by bearer shares is nearly impossible. For this reason, bearer shares and bearer share warrants have historically been recognised as posing a significant money laundering risk, particularly in relation to the concealment of beneficial ownership. This risk is reflected in Recommendation 24 of the FATF Standards, which requires member countries to take measures to prevent the misuse of bearer shares and bearer share warrants.

83. In most jurisdictions, bearer shares have been reformed or eliminated altogether through the dematerialisation of the bearer share certificate into a computerised register or ledger of shares. Even in jurisdictions where bearer shares are still permitted by law, the financial sector has taken measures to limit their effectiveness, often by requiring them to be placed into trust prior to the commencement of a client relationship. Other jurisdictions have implemented measures that require an intermediary to facilitate the transfer of bearer shares to make the transfer lawful<sup>38</sup>. As a result, the prevalence and use of bearer shares and bearer share warrants have markedly declined in recent years. Of the case studies submitted in support of this report, only four involved the use of bearer shares. However, this may also be due to the immense challenge of identifying the beneficial owner of bearer shares, the near impossibility of which may limit the number of cases involving their use.

***Formal nominee shareholders and directors***

84. A nominee shareholder is the registered owner of shares held for the benefit of another person. A nominee director is a director appointed to the board of a company to represent the interests of his/her appointer on that board. Legally, nominees are responsible for the operation of the company, and accept the legal

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<sup>38</sup> Of the 50 jurisdictions assessed against the 2012 FATF Recommendations at April 2018, 45 jurisdictions either do not have bearer shares or bearer share warrants in circulation, or do not have them in existence. Five jurisdictions do not have restrictions on bearer shares but it is unclear whether there are bearer shares and/or bearer share warrants in circulation. Among the 45 jurisdictions, 17 prohibit bearer shares and/or bearer share warrants, 15 require existing bearer shares and/or share warrants to be converted into registered shares where they exist, five require them to be held with a regulated financial institution or professional intermediary, two require shareholders with a controlling interest to notify the company and the company to record their identity, one country has a range of the previously mentioned options and five do not have bearer shares and/or bearer share warrants.

obligations associated with company directorship or ownership in the country in which the company is incorporated. However, in some cases a nominee may hold the position of director or shareholder in name only on behalf of someone else. These arrangements may be controlled by a trust arrangement or civil contract between the nominee and actual director or shareholder.

85. The use of nominee shareholders and directors is a common phenomenon that occurs in most countries. In some countries there is also formal recognition in law of certain scenarios in which nominee arrangements are permitted (such as in relation to publicly traded companies). Nominees are utilised in a number of scenarios, including to shield the nominator from public disclosure requirements or to meet legal requirements of the country in which the company is incorporated (such as requirements for companies to have a director residing domestically). A range of service providers are known to offer **formal nominee services**, including legal and accounting professionals, TCSPs, and professional nominees (people who rent their identification information to companies for nominee purposes only, but provide no additional services to the company). The vulnerabilities associated with the provision of nominee services by lawyers, accountants and TCSPs are outlined in greater detail in Section 3 of this report. One New Zealand case study (Case Study 81 below) demonstrates how a TCSP provided nominee directorship services for over 1 000 companies registered in New Zealand on behalf of foreign clients. Authorities suspect that at least 73 of these companies facilitated crimes in foreign jurisdictions, including the smuggling of illegal goods, arms smuggling, tax fraud, investment fraud and money laundering.

86. While the use of nominees is lawful (or at least not unlawful) in most jurisdictions, nominees have been used to disguise ownership and control, or to circumvent laws designed to manage foreign business ownership and foreign trade. FIUs and law enforcement agencies also report the use of nominee services by known criminals and individuals who have been prohibited from serving as a director of a company due to previous malfeasance. As a result, the availability and use of formal nominee services are vulnerable to exploitation for the purposes of disguising beneficial ownership. Of the case studies analysed for this report, just under half of the cases involved formal nominees. The presence of nominee directors and shareholders in company records can also affect law enforcement investigations by delaying the identification of the beneficial owner, or by creating false links between companies that share nominees.

87. These vulnerabilities are reflected in Recommendation 24 of the FATF standards, which states that countries should take measures to prevent the misuse of nominee shares and nominee directors.

### Case Study 81 – New Zealand

Companies registered in New Zealand by a Vanuatu-based TCSP operated by New Zealand citizens were suspected of acting as shell companies that facilitated crime in foreign jurisdictions. The TCSP acted as nominee shareholders and provided nominee directors who resided in jurisdictions such as Vanuatu, Panama and the Seychelles.

The TCSP also provided a New Zealand-based nominee director to satisfy the legal requirement to have a New Zealand resident director and address. In the case of Company A, the employee recruited to act as a director likely had no knowledge of the activities taking place, as they had no previous involvement in any of the TCSP activities.

By 2010, the TCSP had registered approximately 2 000 companies in New Zealand on behalf of clients in foreign jurisdictions. The address, in Auckland, was used as the registered office for most of the companies. Authorities suspect that at least 73 of these companies facilitated crimes in foreign jurisdictions, included the smuggling of illegal goods, arms smuggling, tax fraud, investment fraud and money laundering.

#### *Informal Nominee Shareholders and Directors*

88. Informal nominee shareholders and directors perform the same function as formal nominee service providers; however, their connection with the true director, shareholder, or beneficial owner is often of a personal, rather than of a professional, nature. Informal nominees identified by law enforcement commonly include spouses, children, extended family, business associates (who are being controlled by the actual owner or controller of the company), and other personal associates otherwise unrelated to the beneficial owner’s business interests. Indeed, the relationship between an informal nominee and the actual owner or controller of a company or shares can vary significantly. Law enforcement agencies and FIUs have reported instances where foreign students and tourists have been convinced or coerced into establishing companies on behalf of third parties, sometimes in exchange for nominal payments or other personal benefits. These individuals are recorded as directors or controlling shareholders of these companies; however, they are rarely involved in the operation of the company post-formation. Of the case studies analysed for this report, just under half involved informal nominees.

89. Unlike formal nominee arrangements, informal nominee arrangements will rarely be governed by a contractual agreement. Furthermore, while formal nominees will always seek to insulate themselves from the activities of the legal person or arrangement, informal nominees are more likely to profess to be the beneficial owner of the legal person or arrangement in an effort to maintain the fiction created by the true beneficial owner. For this reason, informal nominees are often referred to as “straw” or “front” men. One Russian case study (Case Study 87 below) demonstrates how the ownership of companies used to facilitate fraud against a government contract was passed from the suspect (Mr. X.) to a number of different “straw men”, including Mr. X’s daughter. At least one of the informal

nominees received a salary in return; however, they did not perform the role of a professional nominee and were unaware of the activities of the company. The purpose of passing ownership of the companies to informal nominees was to further distance the companies from Mr. X, who was related to the man responsible for the project in the public department.

90. There are significant risks associated with acting as an informal nominee, as they are ultimately legally responsible for the activities of the company and will often lack the resources or expertise required to distance themselves from any legal obligations or repercussions. Furthermore, informal nominees are unable to utilise protections such as client confidentiality or legal professional privilege, which are available to some formal service providers. As a result, informal nominees are more susceptible to law enforcement investigations. That being said, informal nominees who have never previously come to law enforcement attention or whose association with the true beneficial owner or controller is indirect (e.g. not a relative or business associate) are often difficult to identify by financial institutions and some competent authorities.

91. A related phenomenon reported by some law enforcement agencies is the use of stolen identities to establish legal persons. In these instances, the victim of the identity theft is ostensibly an informal nominee for the legal person, albeit without their knowledge or consent. Law enforcement agencies have also identified situations where companies have been registered to informal nominees who have previously sold their identification details to a third party. These informal nominees are often incentivised to sell their identification details due to financial hardship. In these instances, the informal nominee also has no visibility of the company their details are recorded against; however, they may not necessarily be *victims* of identity fraud. One New Zealand case study (Case Study 80 below) demonstrates how bank accounts held in the names of students were used to receive laundered funds from foreign bank accounts to purchase properties. Another New Zealand case (Case Study 77) demonstrates how lower-income individuals can be manipulated into selling their identification information to professional money launderers, who then use them to establish companies and bank accounts.

92. While the cases analysed for this report demonstrated an approximately equal distribution between the use of formal and informal nominees, law enforcement and FIU experience indicates that criminals, particularly those with limited resources, will favour the use of informal nominees rather than formal nominee service providers. Often these informal nominees are family members, particularly spouses, who are frequently complicit with the beneficial owner's criminal activities. The reliance on familial nominees may stem from the ease with which the true beneficial owner can control and manage their activities.

### Case Study 77 – New Zealand

A New Zealand shell company was set up by a New Zealand TCSP based in Vanuatu. The shell company was registered on behalf of an unknown overseas client and nominees were used to hide the identity of the beneficial owners. The actual business of the shell company was not apparent and was not indicated by the company name. The address listed on the companies' register was the same virtual office in Auckland as the TCSP. The nominee director resided in Seychelles, and the nominee shareholder was a nominee shareholding company owned by the TCSP. The nominee shareholding company was itself substantially a shell company and had been used as the nominee shareholder for hundreds of other shell companies registered by the TCSP.

News reports indicated that a power of attorney document transferred the directorship to a Russian national who had sold his passport details, with a bank account opened in Latvia. When journalists from the Organised Crime and Corruption Reporting Project (OCCRP) made contact with the Russian national, the man revealed he was unaware of the New Zealand company or its bank accounts. His identity, which he had sold, had been used without his knowledge. Furthermore, a former officer of the Russian tax police told journalists that hundreds of law firms specialise in establishing ready-made shell companies for their clients, who want to remain anonymous. Usually, these law firms rely on disadvantaged individuals who sell them passport details for approximately USD 100–300.

Trade transactions were conducted with several Ukrainian companies including a state-owned weapons trader. The contracts were then cancelled after the funds had been transferred and refunds were made to different third-party international companies. Transactions were also made with three other New Zealand shell companies registered by the same TCSP, using the same nominee director, nominee shareholder and virtual office address as the shell company. News reports indicated that all four shell companies had been involved in laundering USD 40 million for the Sinaloa drug cartel based in Mexico.

### Case Study 80 – New Zealand

Shell companies based in Panama, Belize, and the UK with nominee shareholders and directors were used to open Latvian bank accounts to conduct hundreds of millions of dollars' worth of international payments. The majority of transactions were payments being made on behalf of Vietnamese entities for imported goods, or payments to Vietnamese expats living overseas on behalf of purportedly Vietnam-based senders. This distinct Vietnamese connection indicated the accounts might have been controlled or administered from within Vietnam. New Zealand bank accounts, which were held by students or by fruit wholesalers and exporters, were used to receive funds

transferred from bank accounts in Latvia, Cambodia and China. More than 15 New Zealand properties were purchased with the funds, all of which were facilitated through New Zealand law firms. Information suggested that the Latvian accounts were also being “topped up” by other shell company bank accounts based in international jurisdictions, indicating a co-ordinated layering process being undertaken.

### Case Study 87 – Russia

A state customer concluded contracts on research work and the development of a special software with Contractor #1 and Contractor #2. Analysis of financial transactions showed that these contractors did not conduct any research activities themselves, but transferred budgetary funds to subcontractors with real scientific laboratories among them. The majority of funds from Contractor #1 was sent to its subcontractor, who channelled funds to a shadow financial scheme consisting of multiple layers of shell companies. The funds were finally withdrawn in cash. The majority of funds from Contractor #2 was sent to a real estate company that invested these funds into its business activity, acquired luxury cars and granted zero-interest rate loans to a number of individuals.

Analysis of ownership data, address registry information, an air tickets booking database, financial transactions and law enforcement data showed that Contractor #2 was previously owned by Mr. X, before the ownership was passed to straw men uninvolved with the scheme. The real estate company was formerly owned by Mr. X, before the ownership was transferred to his daughter. Contractor #1 was owned by straw men who had no idea about the company’s business activities and received instructions from Mr. X. These straw men received a “salary” from the company’s account. The director of the state customer’s department responsible for research activities was a brother of Mr. X. A daughter of the state customer department’s director acquired expensive real estate using cash that was deposited in advance in her account. The woman who had joint flights with Mr. X acquired expensive real estate using cash that was in advance deposited into her account in advance.

### ***Declaring Numerous Beneficiaries***

93. In some instances, the declaration of numerous beneficiaries on one account is used to confuse financial institutions and conceal the true nature of transactions undertaken through that account. FIUs and financial institutions have reported cases where large numbers of customers have been declared as beneficiaries on a single bank account in such a way that the bank has difficulty establishing which transaction was made on behalf of which beneficiary. In the instances where this has occurred, it is unclear whether the controller of the transactions was listed as a beneficiary. Regardless, the use of a single account to co-mingle transactions from a large number of beneficiaries poses a challenge when determining the ultimate

beneficial owner, and when attempting to follow the chain of suspicious transactions.

#### Case Study 38 – Israel

This scheme was used to hide funds from social engineering fraud and other criminal offenses. The cover story for the criminal offenses was international trade – funds from merchants in Europe and the US that were sending payments to suppliers in East Asia. The suspect, the owner of a registered MSB, operated a second, unregistered MSB. The suspect used several natural persons as his contact points in East Asia, who in turn contacted local TCSPs for the purpose of setting up international companies and opening bank accounts. Local straw-men were registered as the shareholders of the new international companies established for the scheme. In addition, shareholders were registered based on passports provided by the suspect's contact persons mentioned above. The registered addresses of the companies were in East Asia. Bank accounts were opened in the same East Asia countries where the offices were located.

Some of the funds were transferred to Israel to an account opened by the suspect. More than 60 beneficiaries were declared to the bank as beneficiaries, in such a way that the bank had difficulty in establishing which transaction was made on behalf of which beneficiary. The funds were sent from the companies set up by the suspect but the receiving bank did not know that these companies were actually under the suspects' control.

#### ***Use of Professional Intermediaries in Forming and Managing Legal Persons and Arrangements***

94. The use of specialists and professional intermediaries, including lawyers, accountants, and TCSPs, is a key feature of the money laundering and broader organised crime environment. Professional service providers significantly enhance the capacity of criminals to engage in sophisticated money laundering schemes to conceal, accumulate and move volumes of illicit wealth. As a result, professional intermediaries have been assessed as posing a high money laundering risk in most countries.

95. The vulnerabilities posed by professional intermediaries are outlined in greater detail in Section 3 of this report.

#### **Falsifying activities**

96. Unlike the generation of complex ownership and control structures and the concealment of the relationship between the beneficial owner and an asset, which can serve both legitimate and illicit purposes, some techniques used to hide beneficial ownership are purely criminal. These techniques are designed to falsify activities to commit a crime via deception. The use of false loans and invoices to fraudulently disguise the beneficial ownership of a transaction is the most common

of these techniques, but others, such as the manipulation of company prospectuses and annual reports, have also been identified, though infrequently.

### ***Use of False Loans and Invoices***

97. A common means of disguising the beneficial owner of wealth and assets is through the use of false loans. This method, which is often referred to as a “loan-back” or “round-robin” scheme, principally involves money being sent to companies which are owned or controlled by, or on behalf of, the same individual, and returned in the guise of a loan. These schemes generally operate following two key steps:

- *Payment of business invoices:* the individual or business pays an invoice or series of invoices to a company (which is often located in another country) that is controlled/beneficially owned by them, or to an associate or professional intermediary operating on their behalf. The funds may be sent via numerous legal persons in the guise of legitimate business transactions, but will ultimately pool in the account of an international company that is operating in the interests of the beneficial owner of the company that paid the initial invoice. The purpose of this stage is to reduce the taxable income of the originating company or individual by increasing their (seemingly legitimate) business expenses.
- *Third-party loan:* once the funds have been pooled in the accounts of the international company, they are returned to the original company/individual, or a close family relation (commonly a spouse or child) or associate, in the form of a private loan. Occasionally these loans will be accompanied by false loan documents, but often the loan is recorded only in the description of the bank transfer. The purpose of this step is to return the wealth to the beneficial owner in a manner that is exempt from income taxation.

98. Loan-back schemes can involve the payment of interest, which may be used as a further means of channelling money into international bank accounts and reducing domestic tax obligations (as demonstrated in Case Study 7 from Australia). These schemes do not have to involve interest payments – there may be no actual obligation for the beneficial owner to repay the false loan. Regardless of the mechanics of the loan arrangement, the scheme serves the purpose of disguising the fact that the lender and borrower are beneficially owned by the same natural person.

99. Loan-back schemes are sometimes promoted and facilitated by professional service providers. In these instances, the international company used in the loan structure is controlled by the scheme promoter, who receives a portion of the laundered funds as payment for facilitating the scheme. This also serves the purpose of separating the beneficial ownership of the funds and decreasing the likelihood of detection. One case study from Australia (Case Study 6 below) demonstrates one such scheme operated by an Australian accountant via companies controlled by him or his associates in Hong Kong and the BVI.

### Case Study 6 – Australia

Investigating authorities identified that suspect A operated an import business in Australia and was a participant in a tax evasion scheme operated by an accountant. Suspect A and his wife were directors and shareholders of an Australian company (company 1). Suspect A was also a director and shareholder of another Australian company (company 2). An associate of suspect A was the co-director of company 2. Authorities identified that the accountant controlled company 3, which was registered in Hong Kong and operated a bank account in Australia. This company was used to issue false invoices to companies 1 and 2. Over a five-and-a-half-year period company 3 issued false invoices to companies 1 and 2 for supposed “brokering services.” Suspect A paid the false invoices, which totalled more than AUD 2 million, by directing companies 1 and 2 to pay company 3. The funds paid to company 3, less the accountant's 10% fee, were returned to suspect A and individuals associated with him.

### *Manipulation of a company’s prospectus, annual report etc.*

100. While identity fraud is a common typology for natural persons to disguise their true identity, it is also possible to disguise the true activity and purpose of legal persons. One of the cases analysed for this report (Case Study 14) demonstrated how the manipulation of the financial status of a company through the inclusion of false and misleading information in the company prospectus and annual report allowed it to qualify for a listing on the stock exchange in the country of registration. While this measure was intended to improve the reputation and the economic activities of the company, it also led to a situation in which that company may have been subject to reduced customer due diligence obligations. Many AML/CFT regimes allow simplified due diligence measures for corporate entities that are listed on organised and regulated markets, since they are already subject to certain transparency requirements. Therefore, the ability for criminals to list a company on a stock exchange in a manipulative way can support future activities designed to obscure beneficial ownership, including the use of the company as a “front company”.

### Case Study 14 – Cayman Islands

The managing director of an overseas company issued a prospectus which contained misleading and false information within the company’s annual report. He overstated the company’s group revenue by 275%. This information was provided to that country’s securities commission as part of the company’s proposal for listing on their stock exchange. The managing director established a revocable trust and underlying company in the Cayman Islands. He then opened an overseas bank account in the name of the Cayman Islands company for which he held the power of attorney, allowing him to trade in the account. This

structure was devised to hide the managing director's trading in the overseas company and to hide assets derived from his illegal activities. The Cayman Islands company held over USD 1 million in this bank account. The Financial Reporting Authority (FRA) made an onward disclosure to the FIU of the foreign national's home country. The foreign national has been charged in his home country with three counts of providing misleading and false information.

## SECTION 3 — VULNERABILITIES OF PROFESSIONAL INTERMEDIARIES

101. Professional intermediaries, including lawyers, accountants, and TCSPs, play an important role in modern society. For the most part, these professionals operate with integrity and in accordance with national and international laws. However, the reputation of these professional intermediaries also makes them the target of criminals and corrupt actors, and may result in some professionals becoming involved in the concealment of beneficial ownership for criminal purposes, either through coercion or corruption, or through negligence or a failure to identify suspicious activities. This section provides an overview of the vulnerabilities of professional intermediaries, and how they are exploited to conceal beneficial ownership.

102. The use of specialists and professional intermediaries, including lawyers, accountants, and TCSPs, is a key feature of the money laundering and broader organised crime environment. Criminals use professionals to obtain specialist advice and skills in complex financial, business, company, and tax matters to disguise the true ownership or source of their assets. Operating through or behind a professional adviser provides a veneer of legitimacy to criminal activities and, where complex structures are established, creates distance between criminal entities and their illicit wealth. The majority of the case studies analysed for this report involved a professional intermediary.

103. Although there are unique elements to each jurisdiction's legal system, the broad description of the role of professional intermediaries can be divided into four general categories<sup>39</sup>:

- systems in which legal persons can be established without the involvement of professional intermediaries
- systems in which professional intermediaries (other than notaries) are required
- notarial systems
- systems in which the company registrar tests the accuracy of filings or takes on the CDD obligations of the professional intermediary.<sup>40</sup>

104. Criminals may employ the services of numerous professional intermediaries simultaneously, with each professional playing a separate but crucial role in the criminal enterprise. Of the case studies submitted in support of this report, more than one-third involved the use of more than one professional services sector, and a similar number of cases involved multiple intermediaries in the same sector. Of the cases that involved more than one professional intermediary, TCSPs represented the

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<sup>39</sup> As assessed in the Horizontal Study at Annex B; see in particular Question 1.

<sup>40</sup> Hybrids of these systems are also possible.

large majority of cases, while legal professionals (including civil notaries) were also common; however, the representation of accounting professionals in cases involving numerous professional intermediaries was rare.

105. Of the cases that involved multiple intermediaries from the same sector, the TCSP sector represented the overwhelming majority of these instances. When multiple TCSPs were exploited in a single scheme, almost all of the cases involved TCSPs in multiple jurisdictions. This is reflective of the role of TCSPs in establishing and managing local companies on behalf of foreign clients. Conversely, in instances where multiple legal or accounting professionals were used, the majority of cases involved the use of multiple lawyers/accountants in the same jurisdiction. Additionally, approximately half of the cases involved unwitting or negligent intermediaries. This indicates that, in instances where multiple lawyers or accountants are utilised to facilitate a scheme, it is likely that the criminal clients are attempting to avoid suspicion by limiting their engagements with any single professional. However, the small number of cases available makes it difficult to make a definitive assessment.

106. The increasingly global nature of organised crime and the finance sector has driven demand for the advice and services of professional intermediaries who can operate across, or have professional connections within, numerous international jurisdictions. As a result, criminal groups have been known to be connected with multiple intermediaries across multiple countries. Analysis of the case studies identified that a majority of intermediaries were operating on behalf of international clients.

107. The FATF Standards require DNFBPs, including lawyers, notaries, accountants, and TCSPs, to perform CDD, maintain CDD and transaction records, and submit suspicious transaction reports. These obligations came into effect when the standards were revised in 2003; however, many countries have not yet implemented them in law<sup>41</sup>. Of those countries that have implemented obligations on DNFBPs, many have not implemented those obligations effectively via appropriate supervision and monitoring<sup>42</sup>. This was also confirmed by the findings of the Horizontal Study<sup>43</sup>. As such, professional intermediaries are often subject to limited AML/CFT obligations.

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<sup>41</sup> Of the 50 jurisdictions that have been assessed against the 2012 FATF Recommendations at April 2018, 34 jurisdictions have major or moderate shortcomings in their measures for Recommendation 22 on DNFBPs' applying customer due diligence, and 30 have major or moderate shortcomings for Recommendation 23 on the other measures that DNFBPs need to take, including the reporting of suspicious transactions. 36 jurisdictions have major or moderate shortcomings in their mechanisms for regulating and supervising DNFBPs under Recommendation 28.

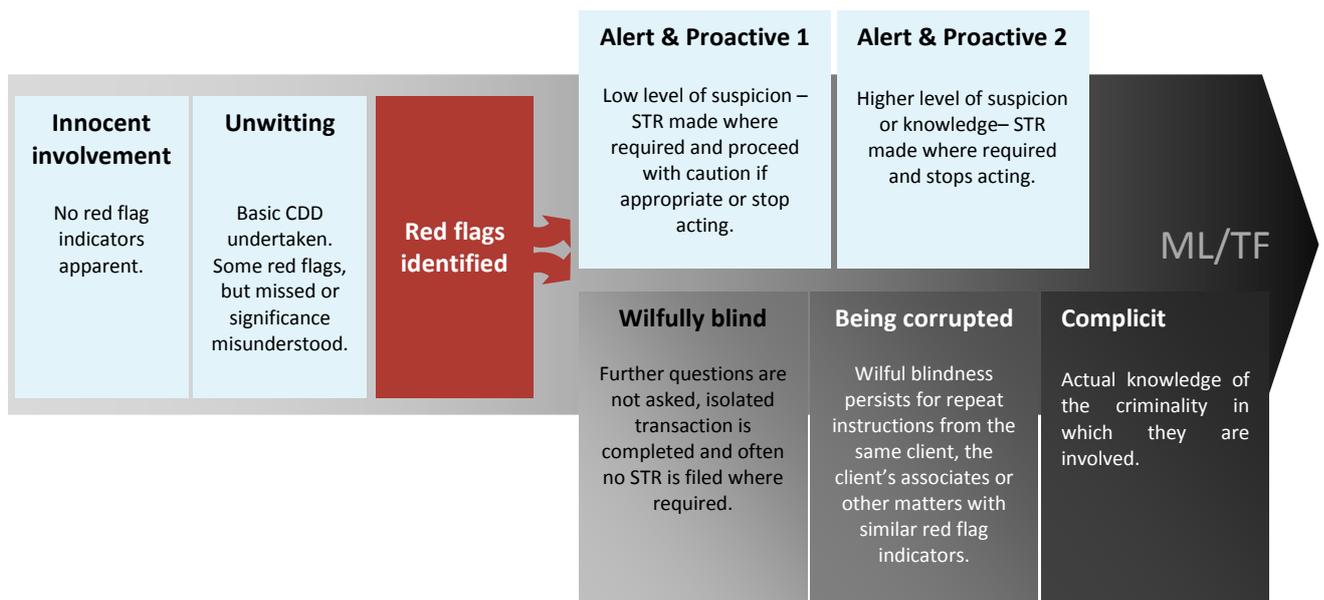
<sup>42</sup> Of the 11 jurisdictions that have been assessed as having minor or no shortcomings in their mechanisms for regulating and supervising DNFBPs, 8 are not supervising, monitoring and regulating DNFBPs appropriately.

<sup>43</sup> See, in particular, Questions 4-6 of the Horizontal Study at Annex B.

## Continuum of complicity

108. In its 2013 report, *Money Laundering and Terrorist Financing Vulnerabilities of Legal Professionals*, the FATF assessed that the involvement of legal professionals in money laundering could not be described simply as either “complicit” or “unwitting”, but tended to follow a continuum from “innocent involvement” to “complicit” (see Figure 1, below).<sup>44</sup>

Figure 1. FATF Assessment of the Involvement of Legal Professional in ML/TF<sup>45</sup>



109. This “**continuum of complicity**” can be equally applied to all professional intermediary sectors, and is not unique to the legal profession.

110. While it is widely acknowledged<sup>46 47 48</sup> that professional intermediaries can act as enablers of money laundering and terrorism financing, little is understood about how these intermediaries are sourced or recruited, and the degree to which intermediaries are innocently, negligently or complicity involved. It is likely that this intelligence gap is exacerbated by various factors, including:

<sup>44</sup> FATF, 2013: p. 5.

<sup>45</sup> Of the 11 jurisdictions that have been assessed as having minor or no shortcomings in their mechanisms for regulating and supervising DNFBPs, 8 are not supervising, monitoring and regulating DNFBPs appropriately.

<sup>46</sup> Van der Does de Willebois, E. et al., 2011.

<sup>47</sup> ACIC, 2017.

<sup>48</sup> OECD, 2001.

- The limited AML/CFT obligations imposed on DNFBPs in many countries due to partial compliance or non-compliance with Recommendations 22 and 23, as well as the ineffective implementation of AML/CFT obligations in some countries.
- A reluctance by professional intermediaries to comply with their AML/CFT obligations due to perceived conflicts with their duty to their client, or their obligations to protect client confidentiality and legal professional privilege.
- The fact that professional intermediaries are often not the primary targets of law enforcement investigations, and details pertaining to their activities are not universally recorded on law enforcement indices.

111. This means that, despite the role of professional facilitators in enabling serious and organised crime, it is not possible to accurately quantify the degree to which they are involved, or their level of complicity, with any certainty. This report has analysed the case studies provided by 34 participating countries, and has attempted to draw conclusions on the complicity of professional intermediaries based on the information provided.

112. Approximately one-third of all cases were assessed as involving a complicit professional intermediary. Of the cases where intermediaries were assessed as being complicit, the majority were assessed as having designed the scheme themselves and promoted it to potential clients (predominantly as an effective tax minimisation method). In these instances, the professional intermediary was often the subject of the primary investigation.

113. Of the three professional sectors analysed, the accounting profession was most likely to be complicit in their involvement in schemes designed to conceal beneficial ownership. Moreover, both legal and accounting professionals were more likely to be the designer of the scheme, rather than simply a complicit intermediary in a scheme designed by another party or the client themselves. However, unlike accounting professionals, legal professionals were more likely to be unwittingly or wilfully blind in their involvement in the scheme. It is likely that the financial acumen of the accounting profession, and the ease with which accountants can identify suspicious activities indicative of money laundering or other financial criminality, may limit their unwitting involvement in these schemes. It may also be indicative of the nature of the case studies provided, which often involved the predicate offences of tax evasion and fraud, many of which were orchestrated by corrupt professionals.

114. The value and utility of an intermediary's professional services to a money laundering scheme is not strictly contingent on the complicity of the intermediary. An innocent, unwitting or negligent intermediary can be as valuable as a complicit intermediary if their services result in a desirable outcome for their criminal client. This is particularly true in the context of disguising beneficial ownership, as many of the services offered by professional intermediaries, such as the establishment of legal persons and arrangements, are commonplace and not necessarily indicative of corruption or criminality. Law enforcement agencies in some jurisdictions observed that more money laundering related investigations involved complicit professional intermediaries relative to unwitting intermediaries.

## OVERVIEW OF COMMONLY EXPLOITED INTERMEDIARIES

115. This section provides an overview of the legal, accounting, and TCSP sectors. The purpose of this information is to contextualise the sectors commonly exploited by criminals to establish complex ownership structures and otherwise assist in the concealment of beneficial ownership information.

### Legal Professionals

116. The legal sector is a large and multifaceted industry that provides a range of services to a broad spectrum of clients. Despite the presence of large domestic and multinational law firms in some countries, the legal sector is principally characterised by small business enterprises. Sole practitioners or partnerships with minimal additional non-partner staff represent the majority of the legal sector in most countries. This low level of market share concentration is in contrast to the banking sector, which is often dominated by a smaller number of large domestic and international banks.

117. While large and medium-sized law firms will offer a broad range of services, most law firms specialise in only one service segment, such as commercial law, personal legal services, or criminal law. Often, law firms that specialise in large-scale and international commercial law will employ a higher number of non-partner staff due to the complexity and resource intensive nature of large corporate issues. However, the choice to offer specialised services often does not preclude a law firm from providing services in other areas of law<sup>49</sup>. As such, firms which specialise in personal and family law matters may also be involved in commercial law matters and the establishment of companies and businesses.

118. The legal sector has historically demonstrated a low level of industry globalisation, with a majority of law firms servicing local clientele. This reflects the small-business nature of the sector and the desire of clients to deal with a local law firm. However, greater access to information and communication technologies, as well as an increasing market for transnational legal services has prompted large law firms to expand into the global market to pursue growth opportunities. Many major law firms are actively pursuing strategies to merge or establish relationships with international law firms to increase their presence in key international markets.

119. The legal sector in most countries is required to maintain a membership with a professional body, such as a law society or bar association. These professional bodies impose strict rules and codes of conduct on their members, and often serve as self-regulating bodies in countries where legal professionals are subject to AML/CFT oversight. Rules imposed by professional bodies operate in addition to

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<sup>49</sup> Some exceptions exist in countries where lawyers are subject to more than one model of licencing or industry oversight.

overarching legislative obligations, and can result in severe financial or professional sanctions if breached.

120. The notarial sector differs from the legal sector in many countries, particularly civil law countries. In some civil law countries, notaries do not represent parties to a contract and are not intermediaries in the same sense as legal professionals. Many notaries do not maintain long-term client relationships, and instead are obliged to be impartial and independent, advising the parties of a contract on equal terms. Unlike legal professionals in private practice, many notaries carry duties as public office holders. These obligations of fairness and the public office duties will influence the scope of what the notary must do to assess the risk of money laundering.

### ***Role in the Establishment and Management of Legal Persons and Arrangements***

121. Legal representation is commonly sought in most countries to facilitate the establishment of companies and other legal persons and arrangements. In cases where legal representation is not strictly required, their legal expertise will often be engaged as a precautionary measure to ensure the lawful establishment of a legal person or arrangement, particularly in instances where a foreign jurisdiction is involved.

122. Large law firms that operate across numerous jurisdictions play an important role in the establishment of legal persons in one country of operation on behalf of a client in another country of operation. Often, multinational law firms will seek to establish branches, merge with existing firms, or establish agent relationships with smaller firms in financial hubs and trade centres. As such, they offer opportunities to facilitate the development of transnational company structures in support of legitimate global business ventures. It is also possible for their expertise in setting up cross-border structures to be utilised to conceal the beneficial ownership of illicit assets.

123. In the absence of an international presence, law firms will utilise professional associations and global alliance networks to effectively operate across international borders. These networks of otherwise independent law firms enable clients to seamlessly access the services of affiliated law firms in international markets. While formal membership-based alliances often operate under an association code of conduct, this does not necessarily include a compulsory AML/CFT compliance program, and not every member firm will be subject to AML/CFT regulation (see footnote 40 and 41).

124. Of the case studies analysed for this report, one-third specifically referred to the involvement of legal professionals (including notaries)<sup>50</sup>. It is likely that some of the case studies involving TCSPs actually involved lawyers or TCSPs with legal

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<sup>50</sup> Of the cases that involved legal professionals, 25 cases referred to the involvement of lawyers, five referred to the involvement of notaries, and four referred to the involvement of both.

qualifications. The use of the term TCSP as a catch-all term for professionals involved in company establishment has been identified as a possible reporting issue throughout this project.

125. Where the involvement and activities of legal professionals could be assessed, the majority were found to have been working on behalf of a direct client. A small number were assessed as providing services to another professional intermediary on behalf of a third-party client.

### Accountants

126. Like the legal sector, the accounting sector is a large industry that provides services and advice to a range of clients. The range of services offered by the accounting sector is more focused in comparison to the legal sector, with audit, tax, and advisory services representing the vast majority of business.

127. The accountancy sector has a moderate level of industry globalisation due to the presence of large multinational accounting firms. The level of globalisation is increasing through the acquisition of smaller firms by larger multinationals. However, despite the industry globalisation being more pronounced than the legal sector, and the larger market share held by large multinational accounting firms, the accounting sector, like the legal service sector, is characterised by small enterprises and sole proprietors.

128. The majority of accounting enterprises, including sole proprietors and enterprises employing fewer than 20 people, typically service individuals or small businesses, while the large multinational firms tend to service large companies and public sector authorities.

129. Much like the legal sector, accounting professionals who join an accredited accounting body are governed by a code of ethics. However, unlike the legal sector, accounting professionals in many countries are not required to maintain a membership to any independent oversight body<sup>51</sup>. As a result of this dynamic, and the significant number of sole proprietors in operation, it is difficult to monitor the accounting sector's awareness of AML/CFT risks and its adherence to AML/CFT obligations. Like the legal sector, FIUs and regulatory bodies where they perform a supervisory function face a number of challenges in accurately and effectively supervising the sector.

### ***Role in the Establishment and Management of Legal Persons and Arrangements***

130. The primary role of accounting professionals in the establishment of legal persons and arrangements is the provision of expert advice on business structures, asset management, and taxation obligations domestically and internationally. In many countries, accountants are the first professional consulted by small businesses

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<sup>51</sup> For example see the Mutual Evaluation reports of Andorra, Bahamas, Bhutan, Denmark, Ireland, Mexico and Slovenia, available from [www.fatf-gafi.org](http://www.fatf-gafi.org).

and individuals when seeking general business advice and advice on regulatory and compliance matters. Where services are not within their competence, accountants advise on an appropriate source of further assistance, or procure the services of an appropriate professional on behalf of their client.

131. In most countries, accountants are authorised to establish companies on behalf of their clients; however, the majority of accounting firms only provide services to established businesses, or advise on proposed business structures, and will not become directly involved in the establishment of legal persons themselves. This is largely due to the small nature of most accounting firms, and the low level of globalisation that these firms exhibit. Those accounting firms that do offer company establishment services are also likely to maintain a significant financial management role in the company, including being a signatory on accounts held by that company. Analysis of the role of accounting professionals in the case studies identified that only one was involved in the establishment of legal persons or arrangements in their own country of operation, and three were involved in the establishment of legal persons in a foreign jurisdiction.

132. As with the legal sector, accounting firms that operate across multiple jurisdictions generally leverage their global presence to offer company establishment and management services. However, the number of accounting firms with a global footprint is low in comparison to the legal sector, and, as a result, smaller firms often rely on professional associations and alliance networks to service transnational clients. Alternatively, small firms will act as an intermediary between clients and service providers based in overseas jurisdictions, including accountants, lawyers, and TCSPs. The majority of accounting professionals identified in the case studies were assessed as having facilitated international activities on behalf of their client.

133. Due to the contractual nature of trusts and other legal arrangements, accountancy professionals are rarely relied upon to establish a trust. Accounting professionals will advise clients on trust arrangements and may assist clients by acting as a settlor, trustee, or protector of a trust arrangement. Unlike the legal sector, the accounting sector places few restrictions on accountants maintaining these positions in a legal arrangement. However, in the case studies provided in support of this project, only one accountant offered directorship/trustee services to their client.

134. The accounting profession was the least represented sector in the cases analysed for this report. It is likely that some case studies referred to accountants as a TCSP, or that only the TCSP was recorded in the case study despite the involvement of other intermediaries, which has been identified as a possible reporting issue throughout this project. In cases where an accounting professional was identified, almost half involved both accounting professionals and professionals from another intermediary sector (such as the legal and TCSP sectors); a small number involved multiple accounting professionals in one scheme.

135. All accounting professionals identified in the case studies were assessed as working on behalf of a direct client. This indicates that accounting professionals are

less likely to be approached by other intermediaries to fulfil a scheme designed to conceal beneficial ownership.

136. The expertise of accounting professionals means that most practitioners will be capable of identifying suspicious and high-risk activities conducted by their clients. As a result, accounting professionals are less susceptible to innocent and unwitting exploitation relative to legal professionals and TCSPs. Law enforcement agencies, FIUs, and other competent authorities have identified numerous instances in which accounting professionals have been complicit in criminality, or have orchestrated fraudulent investment or tax avoidance schemes. Analysis of the case studies identified that a significant majority of accounting professionals were complicit in their involvement, and over half were responsible for designing and promoting the scheme as a means of minimising their clients' taxation obligations.

### Trust and Company Service Providers

137. In comparison to the legal and accounting sectors, the TCSP sector (excluding legal and accounting professionals who provide company formation and management services) is difficult to describe or quantify. The TCSP sector varies significantly across jurisdictions. In some countries, the TCSP sector is robust and well-established, exhibiting some of the characteristics of other highly regulated industry sectors, including government registration, professional body oversight, and AML/CFT regulation. In other countries, the role of TCSPs is less clearly defined, and government and industry oversight is less robust. Company formation and trust services are provided by a range of market participants from numerous sectors, including the finance, legal, and accounting sectors, as well as stand-alone service providers that specialise in these services, but that do not offer financial, legal, or accounting services.

138. The FATF standards defines "*trust and company services providers*" to include any service provider that carries out transactions for a client concerning the following activities:

- acting as a formation agent of legal persons
- acting as (or arranging for another person to act as) a director or secretary of a company, a partner of a partnership, or a similar position in relation to other legal persons
- providing a registered office, business address or accommodation, correspondence, or administrative address for a company, a partnership or any other legal person or arrangement
- acting as (or arranging for another person to act as) a trustee of an express trust or performing the equivalent function for another form of legal arrangement
- acting as (or arranging for another person to act as) a nominee shareholder for another person.

139. Much of the literature available on TCSPs encapsulates all service providers who provide the above services, regardless of whether they represent their core

business or an ancillary service only. For the purposes of this report, the terms “TCSP” and “TCSP sector” exclude professionals operating in the legal and accounting sectors. Input provided to this report by the Group of International Finance Centre Supervisors (GIFCS) demonstrates that, in countries with a highly active and well-established TCSP sector, the market is dominated by a large number of small businesses with no significantly large players dominating the sector. A relatively small proportion of TCSPs operating in these jurisdictions are accounting or legal firms or subsidiaries of an accounting or legal firm.

140. As a sector, TCSPs are particularly well established and defined in low-tax jurisdictions, such as those that are members of GIFCS, where they play a far more active role in company establishment and management. The majority of GIFCS members require their TCSPs and underlying shareholder controllers and key persons (director, partner, Money Laundering Reporting Officer (MLRO), and compliance officer) to be fit and proper. In determining this, authorities consider integrity, competence (including mandatory requirements for key persons occupying executive roles in the TCSP to hold a relevant professional qualification and undertake continuous personal development) and financial soundness. Other GIFCS members strongly encourage key persons occupying executive roles to hold relevant qualifications. The requirement to hold a professional qualification does not generally apply to a shareholder controller unless they are occupying a director, manager or compliance role in the TCSP, although they would be subject to all other aspects of the aforementioned fit and proper test. These requirements mirror some of the requirements imposed on other professional intermediary sectors, such as the legal and accounting sectors, and could serve as a valuable model for professionalising the TCSP sector in countries where the sector is less clearly defined.

### ***Role in the Establishment and Management of Legal Persons and Arrangements***

141. Due to the varying nature of the international TCSP sector, the degree of involvement of TCSPs in the establishment of legal persons and arrangements differs across jurisdictions. In most countries, the role of TCSPs is limited to the incorporation and registration of a company or other legal person and does not extend to the provision of strategic business or financial advice. TCSPs were identified in over one-third of the case studies analysed for this report, and represented the largest proportion of professional intermediaries involved in the cases. TCSPs were also more likely to be involved in cases involving multiple professional intermediaries. However, it is likely that this number includes other professionals (legal and accounting) which have been referred to broadly as TCSPs.

142. TCSPs provide a low-cost means of engaging in international business sectors, often providing services to international clients or other international professional service providers on behalf of foreign nationals. While legal and accounting professionals also offer these services, the lower fees associated with TCSPs make them a useful resource for small to medium-sized businesses. In comparison to other sectors, the TCSP sector appears to exhibit a very low level of market globalisation, with most TCSPs providing services only in the country in which they operate. The majority of TCSPs involved in the case studies were

assessed as providing services to customers based in an overseas jurisdiction, and were involved in establishing legal persons and/or arrangements locally.

143. In addition to establishing legal persons and arrangements, some TCSPs offer complete company packages, which include company incorporation and registration, as well as bank accounts in the country of incorporation. More than half of TCSPs were assessed as having opened bank accounts on behalf of their clients, most of whom resided overseas. In these instances, TCSPs perform an intermediary service between the client and a financial institution, and will be responsible for facilitating CDD activities. Most TCSPs also offer trustee, protector, directorship, and virtual/registered office services, particularly in jurisdictions that require companies to appoint a domestic resident as a director. Almost all of the TCSPs identified in the case studies provided directorship, trustee, nominee, or virtual office services to their client.

144. In recent years, TCSPs have taken advantage of the online environment to offer services to clients virtually, without the need for face-to-face engagement. While some of these TCSPs require clients to meet with an intermediary in their country of residence to complete CDD obligations, many others rely only on documentation provided virtually by the client. The provision of online and virtual services makes the effectiveness of AML/CFT activities more challenging, in particular the ability for TCSPs to accurately perform CDD to identify the ultimate beneficial owner of the legal person or arrangement.

145. TCSPs are also commonly involved in the establishment or administration of legal persons and arrangements on behalf of other professional service providers, particularly those operating in another jurisdiction or on behalf of foreign clients. One-third of the case studies specifically referred to TCSPs providing services to other professional intermediaries (lawyers and accountants) on behalf of third-party clients. Furthermore, analysis of the cases identified that approximately half of the TCSPs involved were unwitting in their involvement. This suggests that the role of TCSPs is more likely to be transactional in nature, operating at the behest of a client or other intermediary, and that TCSPs are less likely to be the masterminds of schemes designed to obscure beneficial ownership. TCSPs that were assessed as having been complicit in their involvement were more likely to have been wilfully blind than fully complicit, or may have been wrongly classified as a TCSP.

### Other Intermediaries

146. Due to its focus on legal persons and arrangements, this report has predominantly analysed the services offered by lawyers, accountants, and TCSPs; however, other intermediaries are also known to be involved in activities designed to obscure beneficial ownership. Law enforcement and private sector representatives reported the existence of “full service” real estate firms, which provide a full range of intermediary functions, including creating shell and shelf companies, providing corporate officers, closing transactions with lawyers, and identifying properties (price range, risk profiles, etc.). These firms reportedly work with developers to enable fraud where strong early sales are essential to generating additional financing. Detailed analysis of this phenomenon was not possible in this

report; however, real estate professionals who provide any of the services covered in section XI of this report would face similar vulnerabilities as other professional intermediaries.

147. In addition to the professional intermediaries listed above, FIUs and law enforcement authorities have identified other intermediaries who are not professional service providers, and who do not perform services as described in recommendation 22 of the FATF Standards, but who are nonetheless involved in assisting clients with the establishment of complex legal structures. These individuals, who are sometimes referred to as “business finders”, are often responsible for finding other professional intermediaries capable of (and willing to) establish the legal persons and arrangements necessary to achieve their client’s desired legal structure. Due to their role as an intermediary between a client and a third-party professional, they are not actively involved in the formation of a legal person, and are therefore outside of the regulated population as described under Recommendation 22 of the FATF standards.

148. The role of these “business finders” is not well understood. Law enforcement experience of these business finders relates principally to individuals who cater specifically to criminal clients – in other words, professional money laundering facilitators whose role in the establishment of legal structures is specifically designed to facilitate criminality. Whether business finders (excluding the professional intermediaries referenced above) play a role in legitimate corporate activities is unknown; however, experience indicates that it is unlikely or questionable at best. Of the case studies analysed for this report, approximately 20% were assessed as having involved a professional money launderer who performed tasks similar to a professional intermediary (see Case Study 38 for one particular example).

149. This report has not sought to assess the vulnerabilities of these other intermediaries due to the lack of available information; however, it is assessed that these *non-professional* intermediaries pose a vulnerability to other professional intermediaries who may be engaged by them to perform services on behalf of a client. This vulnerability is heightened in national systems where such non-professional intermediaries have the ability to create legal persons and arrangements without the involvement of a professional intermediary.

## OVERVIEW OF VULNERABILITIES

150. This section provides an overview of the vulnerabilities associated with the practices and services offered by professional intermediaries which are commonly exploited by criminals to conceal beneficial ownership. The vulnerabilities assessed in this section have been drawn from the case studies analysed for this report and from the experiences of FIUs, law enforcement agencies, and regulatory authorities. The key vulnerabilities that are assessed in this section are:

- establishing legal persons and arrangements
- establishing and selling shelf companies
- providing directorship, trustee, virtual office, and mailbox services
- facilitating transactions through trust accounts or client accounts
- facilitating the purchase or sale of real property
- client advocacy and brokerage services
- providing services to clients and intermediaries domiciled internationally
- providing advice on tax compliance and tax minimisation
- legal professional privilege and client confidentiality
- limited AML/CFT obligations or insufficient awareness and compliance.

151. The list of vulnerabilities assessed in this report is not intended to be exhaustive, and represents the more commonly exploited vulnerabilities exhibited by professional intermediaries.

### Establishing legal persons and arrangements

152. It is common practice for professional intermediaries to advise clients on company formation, corporate structures, and asset management. The purpose of this advice will often centre on protecting wealth and assets from high-risk business activities, and minimising taxation obligations to the greatest extent lawfully possible. These services are particularly attractive to criminals, who are known to actively seek the advice of complicit and unwitting professionals to protect illicit assets and evade taxation obligations through the concealment of beneficial ownership.

153. Some countries require legal professionals (principally notaries) to incorporate and register companies. However, many jurisdictions do not have such a requirement, and companies can be established by engaging directly with the relevant public authority. In countries where legal representation is not necessary, professional intermediaries are often employed to:

- provide expert advice on the most appropriate company structure to meet the needs of the client

- explain and/or facilitate the process, which can be confusing for most small to medium business owners
- enhance respectability and perceptions of legitimacy and trustworthiness.

154. The case example (Case Study 100) below demonstrates how the services of a legal professional were exploited to enhance the apparent legitimacy of a corporate structure used to facilitate a loan-fraud pyramid scheme. In this case, the legal representative was likely to have been complicit.

155. As a result of their expertise and role in the establishment of companies and other legal persons, professional intermediaries are vulnerable to being involved, knowingly or unwittingly, in facilitating complex money laundering schemes. The majority of cases that involved companies and other legal persons were facilitated by a professional intermediary. Professional service providers who offer company establishment services in major global trade and finance hubs are vulnerable to exploitation from international clients or professionals seeking company establishment services in that country.

156. Professional service providers will often be involved in the establishment of trusts and other legal arrangements due to the legal nature of the contracts between settlor, trustee, and beneficiary. Of the cases that involved legal arrangements, almost all involved professional intermediaries. Noting the manner in which trusts can be established using legal persons as trustees in place of a natural person, it is possible for trust arrangements to be established in such a way that the professional service provider never engages directly with the ultimate beneficial owner of the assets held in trust. This, in conjunction with strict confidentiality laws that can be applied to trust arrangements<sup>52</sup>, makes professional service providers who offer trust establishment services vulnerable to exploitation for the purpose of disguising the beneficial ownership information of laundered proceeds of crime.

**Case Study 100 – United States**

In this case, an individual organised a loan-fraud pyramid scheme to falsely inflate the sales and revenues of his company. His company served as a front to generate loans. The scheme involved his wife and son. The defendants created numerous legal entities, including trusts, corporations, and LLCs to open bank accounts to manage the illicit funds and conceal the ownership and involvement in the scheme. The defendants used the help of a legal professional (attorney) to create a number of legal entities, and diverted loans for the company for private benefit, including gems and jewellery.

The attorney also set up trusts on behalf of the individual and their family, and helped to sell jewellery held in those trusts. The individual provided false documents purporting to show that the jewellery was a gift of deed into the trust. The trusts provided an air of legitimacy and a cover story to explain the

<sup>52</sup> Van der Does de Willebois, E. et al., 2011: p. 168.

fraud, and as a result, USD 2.8 million from the sale of the jewellery was wired into the trust's brokerage account. Subsequently, USD 200 000 was later moved from the trust checking account into an account opened for a different trust. This transfer was facilitated using the address of the attorney, who was by this time deceased.

### Establishing and selling shelf companies

157. Professional intermediaries, such as corporate law practices and TCSPs, will occasionally establish and hold shelf companies in anticipation of a future need. In these instances, the professional intermediary or its employees are recorded as nominee directors or shareholders of the company. While the ease and speed with which companies can be incorporated has, to a large degree, limited the need for legal and accounting professionals to establish and hold shelf companies for future use, TCSPs continue to sell shelf companies. This is particularly true for online TCSPs and TCSPs in major international finance and business hubs. The simplicity associated with purchasing an established shelf company suits virtual transactions and small- to medium-sized business clients with less complex corporate and financial structures. However, shelf companies can be used for any purpose, and can form part of large and complex business structures.

158. In addition to offering readymade legal persons, many TCSPs will establish bank accounts registered to the shelf company, which are retained by the shelf company following its sale. This practice can complicate CDD activities performed by the financial institutions. Approximately one-third of professional intermediaries identified in the case studies were assessed as opening bank accounts on behalf of their clients, most of whom were located in a foreign jurisdiction.

159. The case study below demonstrates how criminals specifically targeted shelf companies to facilitate their fraudulent scheme. It is likely that the corporate history of the shelf companies was desired by the criminal to lend legitimacy to the fraud, which may have been diminished if newly created companies had been used. The case also demonstrates the manner in which the shelf companies were sold by nominee directors along with pre-established bank accounts.

#### Case Study 104 - United States

The defendants engineered a conspiracy to sell fraudulent renewable energy credits through the use of shell and shelf companies in the US in order to fraudulently receive renewable energy tax credits from the US government for renewable fuels never produced, and to launder those illicit proceeds for their own benefit. Among their ill-gotten gains from these proceeds were real estate, boats, cars, watches, and gold. During the course of their investigation, law enforcement determined that the defendant directed a network of his professional contacts to purchase shelf companies throughout the US, to serve as purported purchasers of renewable fuel and purported sellers of feedstock. The use of shelf companies was discovered by interviewing the

nominees who had opened bank accounts on behalf of those companies and through search warrants executed on a number of the businesses.

### Directorship, trustee, virtual office, and mailbox services

160. In addition to establishing legal persons on behalf of clients, many professional service providers, particularly TCSPs, offer directorship, virtual office and mailbox services. These services allow the legal person to maintain a physical footprint in a country, and can distance the legal person from other assets and activities controlled by the beneficial owner. As a result, these services are vulnerable to exploitation for the purpose of disguising the true controllers and beneficial owners of a legal person, its assets, and its transactions. Nominee directors and virtual offices are common features in many complex legal structures that FIUs and other competent authorities have identified as being involved in money laundering, tax evasion, investment fraud, and other criminality. Analysis of the case studies used for this report identified that approximately half of the professional intermediaries provided directorship services to their clients. TCSPs represented the large majority of intermediaries involved in the provision of these services, and were often assessed as providing services to other professional intermediaries on behalf of third-party clients.

161. Nominee directors can be formal or informal, and criminals have been known to recruit people with no criminal history to perform these roles, or who agree for their details to be recorded in these positions. Instances of identity theft for the purposes of filling nominee director roles have also been identified; however, these activities pose a risk to criminal groups, and professional service providers that offer these services are an attractive and low-risk alternative.

162. By providing directorship and virtual office services, professional intermediaries may unwittingly facilitate money laundering services and deal in the proceeds and instruments of crime. Even in instances where the professional service provider does not take an active role in the company, which is often the case, the nominee director is at risk of prosecution or other penalty as a result of crimes performed by the legal entity. A majority of professional intermediaries who provided directorship services in the case studies were assessed as being unwittingly involved.

163. Some countries require legal persons to maintain an active presence in the country where they are registered. This is generally achieved through a requirement for a resident of the country to be appointed as a director of the company, or for the company to maintain a physical presence in the country, or both. Professionals operating within these jurisdictions, that offer directorship and virtual office services will be more vulnerable to exploitation from overseas clients than those operating in countries without these requirements. A large majority of professional intermediaries who provided directorship services in the assessed cases were providing services to clients based overseas. One case study (Case Study 78), included below, demonstrates how a foreign client of a TCSP appointed a domestic-based national as a nominee director to meet the country's requirements to have a

resident as director. The nominee director had little knowledge of the activities of the companies.

164. In addition to offering directorship and nominee services, some professional service providers offer **trustee services** to domestic and international clients for trusts established under domestic law. In some countries, professional rules prohibit legal professionals from acting as a trustee. In these countries, the role of the legal profession would be limited to providing professional advice on the contract that underpins the trust arrangement.

165. In most countries trustees are not required to register the existence of, or beneficiary of, a trust arrangement, while in other countries they are expressly prohibited from doing so under law. Trustees are also required to act on behalf of the interests of the beneficiaries. This means that, when dealing with matters relating to the trust, they must consider the interests of the beneficiary over their own.

166. Professional service providers who offer trustee services are at risk of becoming the effective legal owner of criminal assets<sup>53</sup>, and of dealing with the proceeds of crime. Only strict due diligence measures, for the settlor, the beneficiary, and the asset in trust, can assist professionals in avoiding this form of exploitation.

#### Case Study 78 - New Zealand

A New Zealand law firm was linked to clients who had been implicated, arrested or convicted of a myriad of offences including embezzlement, bribery, corruption, tax evasion, and money laundering. This law firm set up its business basis in New Zealand, and worked for overseas clients using its in-depth knowledge of New Zealand tax, trust and company law.

The companies and partnerships were set up by this New Zealand law firm, who routinely used its employees as nominee directors and shareholders, with the beneficial owners (who were sometimes offenders and their associates) not publicly named. Furthermore, often a chain of companies was established, with one company the shareholder of another, which was the shareholder of another, which added complexity to the structure, and further removed the beneficial owner from the assets. Sometimes a New Zealand (shell) company was used as a trustee of the trust.

The companies involved were usually all shell companies with nominee directors, shareholders, and addresses. The companies, partnerships and trusts comprised the complex structures established by this New Zealand law firm, which can be used to hide and protect wealth. Furthermore, sometimes entities were set up

<sup>53</sup> In a trust, the title of assets stands in the name of the trustee (or in the name of a person acting on behalf of the trustee), although they constitute a separate fund and are not part of the trustee's own estate (see Article 2 of the Hague Convention).

internationally by this New Zealand law firm's business associates in other countries, which were added to the structures, further increasing the complexity and decreasing the ability and efficiency of detecting crime and hidden wealth. If suspicions did arise and a person with such a structure was investigated, there was a convoluted audit trail that would have been arduous to trace. There were strong indications that criminals have had structures set up by this New Zealand law firm with evidence that some of these structures have been used by criminals to hide assets.

A NZ-based employee was also named as a director to satisfy the legal requirement to have a New Zealand resident director and address; however, the beneficial owner of the company was not identified in every instance.

### Facilitating transactions through trust accounts or client accounts

167. Professional service providers, particularly law firms and larger accounting firms, often maintain and operate a trust account to facilitate financial transactions on behalf of clients, hold funds in escrow, or receive payment for services rendered. In most countries, these trust accounts are highly regulated to prevent misappropriation of client funds; however, this oversight often falls short of AML/CFT considerations, and professional trust accounts continue to pose a money laundering vulnerability globally.

168. It is not uncommon for some professionals to facilitate transactions, including cash transactions, on behalf of their client. Analysis of the case studies identified where this had occurred. This service is attractive to criminals seeking to obscure the beneficiary of cash transactions, as it places the burden of integrating the cash into the regulated finance sector on the legal professional (via the law firm's trust or client account). This has the dual effect of:

- leveraging the credibility and reputation of the legal profession to reduce any potential suspicion associated with the cash deposit
- distancing the client and any associates or third parties from the AML/CFT controls of the financial sector.

169. Furthermore, the involvement of an intermediary in a financial transaction between two parties can disrupt a chain of transactions and obscure the relationship between the two parties. As a result, it can be difficult to ascertain the beneficial owner of funds that are transferred through trust or client accounts, especially if the transaction involves a clustering or structuring of transactions, or the transaction occurs over a protracted period of time. This vulnerability is increased when a lawyer allows funds to be placed in the firm's trust or client account when no legal services are performed or expected to be performed. The cases below demonstrate how the trust accounts of law firms and accounting practices were used to achieve this aim.

### Case Study 102 – United States

Individual 1, a U.S. citizen and resident of Belize, incorporated more than 5 000 shell companies in Belize and the West Indies to facilitate numerous securities and tax fraud schemes. Individual 2, a dual U.S. and Canadian citizen, was the secret owner of an international broker-dealer and investment management company based in Panama City, Panama, and Belize City, Belize. There were 3 interrelated schemes: 1) fraudulent stock promotion and price manipulation; 2) circumventing capital gains taxes under the Foreign Account Tax Compliance Act (FATCA); 3) laundering more than USD 250 million in profits through unidentifiable debit cards and attorney escrow accounts.

Individual 2 used the services of a US-based lawyer to launder the more than USD 250 million generated through his stock manipulation of a number of U.S. companies – directing the fraud proceeds to five law firm accounts and transmitting them back to members of the scheme and its co-conspirators. These concealment schemes also enabled Individual 2 to evade reporting requirements to tax authorities.

### Case Study 3 – Australia

Managers at a university and directors of construction companies were complicit in a fraudulent invoice scheme. The managers approved inflated invoices for maintenance work to be carried out by the construction companies, as well as invoices for work that was never undertaken. The profits from the fraud were used to purchase racehorses and property. The managers at the university were repaid with kickbacks or direct shares in racehorses. Accounting firms, which were undertaking international transfers on behalf of the suspects, sent money to many countries, including New Zealand, Canada, Hong Kong and the US. A large proportion of the funds were sent to companies linked to the horse racing industry. The accounting firms also received international transfers from various overseas entities that were similar in value to the amounts the firms had sent overseas initially. The majority of these transfers originated from Hong Kong. The authorities suspected that the accounting firms were laundering the funds on behalf of the suspects as part of a professional money laundering syndicate.

## Facilitating the purchase or sale of real property

170. Real estate property is a highly attractive medium for laundering the proceeds of crime. Unlike other high-value assets, the real estate market in most countries has demonstrated a strong resilience to economic fluctuations, and has generally appreciated in value in most high-density cities. Real estate generally represents a relatively safe medium for storing illicit wealth, and the sale of the asset offers a legitimate rationale for the receipt of large volumes of wealth. Furthermore, the purchase of real estate property offers a convenient and legitimate excuse for acquiring mortgage loans, including from private lenders, and for the receipt of

regular and ongoing payments in the guise of rental income. Both of these are common money laundering methods (refer to Section 2 for further analysis on the use of false loans to obscure beneficial ownership). Approximately one-third of the case studies analysed for this report involved the acquisition of real estate, and most of these cases involved the use of a professional intermediary to execute the purchase.

171. In some jurisdictions, legal professionals are required to facilitate real estate transactions. In countries where legal representation is not required by law, it is common practice for professional service providers to be employed to assist in the conveyancing of the property as a precaution due to the high value of the asset. As a result, professionals will often be responsible for identifying and reporting the vendor and/or purchaser of the land and property titles to relevant government authorities. This makes the professional intermediary vulnerable to exploitation by individuals seeking to disguise the beneficial owner of the real estate asset. Cases analysed for this report demonstrated the following methods used to conceal the beneficial owner of real estate assets:

- purchase of assets through intermediaries, such as companies, trusts, family members, associates, or other complicit third parties who have no criminal record (Case Study 2)
- use of a false name or fraudulent identification information (Case Study 101).

172. In some instances, the beneficial owner of the real estate asset will not be involved in its purchase at all, and will instead direct a third party to make the purchase. This method is difficult to detect, and requires the professional intermediary to be vigilant and aware of their ML/TF risks in order for them to detect the activity. One Australian case study (Case Study 2) demonstrates how an individual suspect to an investigation purchased a property in the name of a family member and used the proceeds of crime to pay down a mortgage loan. The solicitor involved provided conveyancing services in relation to the property, and was thereby responsible for registering the purchase with the relevant government authorities. Furthermore, the solicitor acted as an intermediary for loan repayments, which further distanced the beneficial owner from the asset and associated loan.

**Case Study 2 - Australia**

An Australian drug syndicate used multiple money laundering methods to launder more than AUD1 million worth of proceeds of crime. One method involved a syndicate member purchasing a property worth more than AUD700 000 in a family member’s name. The property purchase was financed using a mortgage. Over a two-month period the syndicate member paid more than AUD320 000 in 16 cash deposits to their solicitor (who provided conveyancing services and acted on behalf of the syndicate member in the transaction) to pay off the mortgage on the property. These cash payments were the proceeds of crime.

### Client advocacy and brokerage services

173. In addition to providing business advice to clients and facilitating the formation of legal persons and arrangements, professionals will often offer client advocacy and brokerage services. This can include introducing clients to banks and other financial service providers, and opening accounts and seeking loans on their clients' behalf. As a result, the professional becomes an intermediary between the client and the regulated finance sector, and takes on the responsibility of providing banks with the requisite information to meet their CDD obligations. Analysis of the case studies used in this report identified that, in these particular examples, many professional intermediaries facilitated the establishment of banking relationships on behalf of their clients.

174. In countries where financial institutions are permitted to rely on third parties to perform CDD on the customer<sup>54</sup>, professional intermediaries are vulnerable to exploitation for the purposes of disguising beneficial ownership and control. While the ultimate responsibility for conducting CDD should remain with a financial institution during a third-party reliance arrangement, criminals will still seek to use the reputation of professional intermediaries to convince the financial institution of the legitimacy of a false or misleading identity or ownership and control structure. One US case study (Case Study 101 below) demonstrates how a complicit professional used their role as a professional intermediary to frustrate and overcome the CDD activities of financial institutions to attain fraudulent loans.

175. Occasionally, professional service providers maintain some level of control over some or all of their clients' banking accounts. This allows them to manage the financial affairs of their clients in a timely manner, perform accurate bookkeeping, and facilitate transactions on their clients' behalf. To achieve this, professionals are listed as signatories to their clients' accounts, thereby allowing them to act in their clients' interests, but without their clients' direct involvement. This is standard practice for in-house accountants and lawyers (those who work solely for a company or public sector authority), but also occurs when professionals service a number of small to medium-sized businesses as an outsourced professional on an ongoing and regular basis. It is not common for professionals who offer only occasional services to a client to maintain control over the clients' accounts.

176. Managing a client's accounts places the professional at a heightened risk of facilitating money laundering or terrorism financing; however, the service presents a lower risk of obscuring beneficial ownership, provided the transaction is not conducted through an account opened in the name of the professional or their firm and appropriate CDD measures are conducted by the professional and subsequently by the financial institution.

177. In addition to introducing clients to financial institutions, professional service providers will, when necessary, introduce their client to other professional service providers, including other lawyers, accountants, TCSPs, real estate agents,

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<sup>54</sup> See Recommendation 17 of the FATF Standards.

mortgage brokers and financial advisers. Occasionally, the professional will act on their client’s behalf and seek specialist advice or services for their client. This is especially true for those legal professionals who have professional relationships with professionals in other countries. This poses the same risks as those associated with being a client advocate or intermediary. Analysis of the case studies identified that a number of professional intermediaries performed services for another intermediary on behalf of a third-party client.

178. Professionals who receive facilitation requests from international professionals working on behalf of international clients are at a heightened risk of facilitating money laundering and obscuring beneficial ownership information due to the challenges associated with properly verifying the identity and motives of the client and beneficial owner. One Israeli case study (Case Study 39 below) demonstrates how law firms contacted foreign TCSPs to establish companies and bank accounts on behalf of local clients. In this case, the CDD activities of the foreign bank, and the TCSP, would have been inhibited by the numerous layers of professional intermediaries between the client and end service provider and increased the likelihood of incorrectly identifying the true beneficial owner.

179. Furthermore, an unwitting professional may not be in a position to judge the complicity of a corrupt international professional, and may naively trust the legitimacy of the request based on their own professional ethics and morality. This may place them at risk of unwittingly committing a domestic crime on behalf of an international criminal syndicate and may compromise their domestic reputation and professional standing.

**Case Study 39 – Israel**

This scheme was used to hide the proceeds of fraud conducted through foreign exchange and binary options trades. Local companies attracted foreign investors and presented themselves as legitimate foreign exchange and binary trading platforms. Private companies, Israeli representatives of foreign banks and law firms set up foreign companies abroad by contacting TCSPs located in international jurisdictions. The latter established shell companies in the international jurisdictions. The service provided by the foreign TCSPs also included opening bank accounts in favour of the shell companies in other countries. After the companies were established, the TCSPs were not involved in their management nor in any related activity. In some cases, the suspects used the companies as a vehicle to launder money and in other cases they sold the companies to third parties for a profit.

**Case Study 101 – United States**

The defendant operated a mortgage broker business and several other companies that owned and managed real estate. He used nominee accounts, shell corporations and other schemes to conceal his ownership. The scheme involved

the purchase of properties owned by entities that the defendant controlled through an employee. The purchases were financed through loans. In connection with the loan applications, the defendant and others submitted fraudulent information related to the financial position of the borrower/purchaser, fraudulent appraisals that overstated the value of the collateral, and other documents that contained other material misrepresentations. The subject would “sell” commercial property owned by an entity he controlled to another entity that he controlled at highly elevated prices. The purchases were financed through fraudulent loan applications and through the submission of fraudulent documents. Also, the defendant altered invoices directed to one of the entities by inflating the cost of the work listed on the original invoices to make it falsely appear as though improvements had been made to the properties serving as collateral for the loans.

### Providing services to clients and intermediaries domiciled internationally

180. Professional service providers are vulnerable to exploitation from clients and intermediaries domiciled internationally. As most professionals specialise in establishing and managing legal persons and arrangements within their own country of operation, it is common for international clients and intermediaries to seek their services to facilitate activities in that country. Analysis of the case studies identified that the majority of professional intermediaries were providing services to clients based in another country. In some cases, the relationship between a professional service provider and an international client will be short-term and transactional in nature; however, some professionals, particularly TCSPs, will provide ongoing company and trust management services, particularly if domestic laws require resident directors or trustees. The majority of professional intermediaries who provided services to clients based overseas were also providing directorship, trustee, nominee, or virtual office services.

181. Due to the transnational nature of these customer relationships, professionals that service international clients are vulnerable to deception and fraud perpetrated by criminal clients, complicit foreign professionals, or unwitting intermediaries. This vulnerability is common to all service providers that interact with international clients, and professional intermediaries and financial institutions require sophisticated CDD capabilities to accurately identify beneficial ownership, particularly in the absence of face-to-face engagement with clients. Most professional intermediaries who provided services to clients based overseas were assessed as being unwittingly or negligently involved in the scheme. One Panamanian case study (Case Study 85 below) demonstrates how a smaller TCSP failed to conduct enhanced due diligence on their overseas client and relied on the due diligence performed by the financial institution that referred the customer to them. The trust, managed by the TCSP, was used to collect the proceeds of corruption and illicit enrichment.

182. Criminals will seek to use the services of professionals with domestic and international contacts and associates in order to facilitate international business activity, including the establishment of companies and bank accounts in other countries. Some professionals, particularly in countries that apply strict regulations

to DNFBP sectors, have developed international networks of trusted intermediaries on whom they rely for CDD activities. Although these measures are likely to mitigate some of the vulnerabilities associated with transnational client relationships, they rely on the trusted intermediary having the capabilities necessary to perform accurate CDD to discover the ultimate beneficial owner, and remaining honest throughout the transaction (i.e. not being complicit or wilfully negligent when dealing with suspicious clients). As the professional only has limited control or oversight of the activities of their trusted intermediaries, and retains the risk associated with their activities, the vulnerability to the professional remains.<sup>55</sup>

183. One Guernsey case study (Case Study 36 below) demonstrates how a Guernsey TCSP was exploited by a foreign client to administer a company used to facilitate market manipulation. Over the five-year period of their involvement, the TCSP was unaware of the fraudulent nature of the business' operations, and had not raised any suspicious matters with Guernsey authorities.

#### Case Study 36 – Guernsey

During a two-year investigation (2014-2016), the US Commodity Futures Trading Commission (CFTC) launched an investigation into UK national Mr. X Doe for market manipulation. It came to the attention of Guernsey Financial Services Commission that a TCSP provider (TCSP B) administered a corporate structure for the benefit of Mr. X Doe. Over a five-year-period Mr. X Doe made approximately GBP 32 million (British pounds). The purported legitimate business was futures dealing. Prior to Guernsey TCSP B's involvement, it was administered by a Cayman Island Company. The Guernsey TCSP, which was licensed for AML/CFT, identified that Mr. X Doe was under investigation and co-operated with the Guernsey AML/CFT authorities.

#### Case Study 85 – Panama

The purported legitimate purpose of the scheme was the development and construction of real estate, based on small investors who injected capital. The funds provided by the settlor or third-party adherents were derived from illegal activities (corruption of public servants and illicit enrichment). The scheme involved a BVI company with nominee directors, ultimately controlled by a PEP, who was a client of a bank that had a relationship with the TCSP. The TCSP set up a real estate trust to receive money and assets that come from the business of the settlor and "investors." The assets received were invested in a real estate project, with the same assets given as a warranty to the bank that was financing 60% of the real estate project. The ultimate beneficial owner of the real estate project was the son of the PEP.

<sup>55</sup> See also Recommendation 22 (FATF, 2012a)

The trustee did not conduct extensive due diligence and relied on the due diligence performed by the bank that referred the client, since both the client and the trustee maintained a business relationship with the bank.

### Providing advice on tax compliance

184. A key role of many professional service providers, particularly accounting and legal professionals, is to provide advice to individuals and businesses on how to maximise profits and minimise costs. This often includes advising clients on lawful means of minimising their taxable liabilities.

185. This service and professional expertise in this area is vulnerable to exploitation from individuals and legal persons seeking to disguise beneficial ownership to avoid taxation obligations - otherwise referred to as revenue and taxation fraud or tax evasion. However, due to their knowledge of tax law, the risk of innocently or unwittingly providing advice on, or facilitating of tax evasion schemes is reduced.

186. The experiences of law enforcement agencies, FIUs, and other competent authorities have identified a high level of involvement from professionals in tax evasion schemes. These schemes have often involved complex transnational company structures, fraudulent trade and false invoicing, and *phoenixing activities* to disguise beneficial ownership of assets and income. Many case studies involved tax evasion as a predicate offence, most of which involved professional intermediaries – principally legal or accounting professionals – the majority of whom were assessed as being complicit in their involvement. Criminals actively target complicit professionals to assist with tax evasion, and are willing to pay lucrative fees as motivation for their complicity.

187. Furthermore, almost all complicit intermediaries involved in tax evasion cases were also assessed as being the designer and/or promoter of the scheme. In situations where the professional intermediary has designed and promoted an illegal tax minimisation scheme to prospective clients, it is possible that the beneficial owner will not be aware of the illegality of the scheme. This poses a significant vulnerability to unwitting beneficial owners as well as the broader reputation of professional services sectors. While no cases specifically identified the involvement of unwitting beneficial owners, a number of cases focused on the corrupt activities of professional service providers themselves, rather than their clients (the beneficial owners). The Australian case study below demonstrates how a complicit accountant exploited their knowledge of tax laws in multiple jurisdictions to facilitate tax evasion on behalf of their clients.

#### Case Study 5 - Australia

This “round robin” scheme aimed to make funds movements appear as payments to other parties while, in reality, the funds ultimately returned to the original beneficiary. The suspects transferred funds from their companies’ accounts to the bank accounts of companies in New Zealand. The New Zealand companies

and bank accounts were controlled by a Vanuatu-based accountant, who was a signatory to the bank accounts. The payments were falsely described in the companies' records as "management and consultancy fees," with false invoices that matched amounts paid to the New Zealand bank accounts. No evidence was available to show that any consulting work had been carried out. The false expense payments were claimed as deductible expenses in the tax returns of companies X, Y and Z, thereby fraudulently reducing the companies' taxable income and taxes owed. The accountant then transferred the funds under the guise of international "loans" through a series of round-robin international transactions, through accounts held in the name of companies owned and operated by the accountant. The accountant transferred the funds into the personal bank accounts of the suspects in Australia. The funds were transferred via an overseas company controlled by the accountant, separate to the companies in New Zealand that received the funds originally. In order to disguise the funds being transferred back into Australia as loans, false documents were created purporting to be international loan agreements with a foreign lender, which are not assessed as income and have no tax liability.

### Legal professional privilege and client confidentiality

188. Legal professionals are subject to a range of ethical obligations, which differ from country to country, but which generally adhere to a core set of professional rules. These include: independence from the State; acting with honesty, integrity and fairness; duty to act in the client's interest; and the maintenance of client confidentiality and legal professional privilege (LPP).<sup>56</sup> These ethical obligations are aimed at ensuring fair and equitable access to justice, and ensuring probity and integrity across the profession. Some law societies and regulatory bodies consider that these codes of conduct and professional rules prevent legal professionals from being knowingly involved in money laundering or terrorism financing; however, some of these obligations can be vulnerable to criminal exploitation. FIUs and other competent authorities have reported the use of LPP and client confidentiality to protect the disclosure of the identity of the beneficial owner of assets, which frustrates criminal investigations.

189. LPP generally does not extend to all communications between a lawyer and their client, and often stops short of commercial advice (although this can differ between countries). Communications that do not meet the relevant national definition of LPP (if available) are considered to be protected by legal confidentiality, which is not absolute and is limited in certain key areas.

190. LPP and client confidentiality play an important role in the legal system; however, the initial application of these protections often rests with the legal professional rather than an independent third party. Subsequently, there is no clear and consistent interpretation or application of these protections amongst legal professionals, despite case law and the release of guidance and interpretive notes by

<sup>56</sup> International Bar Association. (2011). IBA International Principles on Conduct for the Legal Profession.

regulatory bodies. Furthermore, LPP is considered to belong to the client, and can only be waived at the direction of the client or if the legal professional is being used to commit a criminal offence. It is an offence in many countries for a legal professional to breach LPP, often punishable by professional sanctions or a criminal charge. Due to varying interpretations, the protections afforded to LPP, and the significant personal and professional consequences for breaching LPP, legal professionals can take a conservative approach to the application of LPP.

191. LPP and client confidentiality can be exploited by complicit legal professionals who are seeking to delay an investigation. However, the general caution with which legal professionals deal with LPP means that any legal professional can unwittingly conceal criminality using it. The case study below involves a Dutch investigation into the activities of a TCSP and civil-law notary involved in establishing structures designed by an international law firm known to be involved in the establishment of structures designed to obscure beneficial ownership. Multiple legal professionals from numerous countries were involved in the establishment of these structures, and have asserted privilege in order to delay or frustrate the investigation. Dutch authorities were required to verify the rights of these legal professionals via mutual legal assistance requests, which can be a time-consuming process.

192. Law enforcement agencies and FIUs have reported that LPP is regularly exploited by complicit legal professionals to frustrate and hinder investigations. Due to the nature of LPP, claims of privilege need to be reviewed prior to being overturned, even if the grounds for LPP are questionable from the beginning. Regardless of the rules associated with LPP in most countries, the subjective nature of LPP will continue to pose a challenge. Other challenges associated with LPP and gathering evidence in relation to legal professionals have previously been reported by the FATF<sup>57</sup>. These challenges may explain a lower proportion of case studies involving legal professionals submitted for this report, and the lack of evidence of complicity cited in those case studies.

193. During the consultation phase with key private sector stakeholders, some private sector representatives highlighted that LPP training offered to legal professionals can often be inadequate unless the legal professional specialises in litigation where LPP is frequently considered. It is likely that legal professionals involved in tax, private client, corporate, or estate planning matters may rarely be required to consider or employ LPP. It has been suggested that the low level of training, coupled with a lack of practical application by some lawyers, leads to the development of broad and conservative approaches to LPP. Enhanced training and guidance in this area may assist to reduce this vulnerability over time.

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<sup>57</sup> Obtaining records held by DNFBPs, the uncertainty of the scope of privilege, difficult and time-consuming processes for seizing legal documents, and a lack of access to client account information can present challenges in the evidence-gathering process. Law enforcement agencies are required by law to have strong evidence from the outset to demonstrate that LPP/secretcy should be removed. Claims of LPP could impede and delay the investigation (FATF, 2013: pp. 30–33).

194. While client confidentiality is a common principle among accounting professionals, it generally does not prohibit the disclosure of information that is permitted to be, or required to be, disclosed under law. As a result, it is less vulnerable to exploitation. However, in some countries, accounting professionals afford their clients LPP, or a form of privilege that closely resembles LPP. Additionally, some accounting professionals also hold legal qualifications, and operate as solicitors in law firms to provide expert advice on taxation and company law. Accounting professionals working at the behest of lawyers may also be subject to LPP. Accounting professionals who are subject to LPP obligations face similar vulnerabilities as their counterparts in the legal sector.

#### Case Study 71 – Netherlands

A criminal investigation into a Dutch TCSP was instigated on account of the systematic failure to notify unusual transactions and money laundering. This was presumed to involve the facilitation of fake transactions on behalf of foreign clients to ensure, for example, the assets or property of those clients were scarcely taxed, or funds parked were transferred by means of fake transactions to another jurisdiction. This was carried out by means of complicated well-considered structures with companies and trusts in various countries for which instructions were given by a financial service provider and were also discussed in this way by the suspect with the Dutch civil-law notary. Dutch entities were part of these complicated structures. The same applied for the Dutch foundations registered at an international address. The structure sometimes consisted of eight different entities, in various countries. The suspect reportedly did not know in several cases the identity of the actual beneficiaries of the companies that he incorporated.

#### Limited AML/CFT obligations or insufficient awareness and compliance

195. Internationally, there has generally been an increase in the effective application of risk-based measures by financial institutions to prevent ML and TF<sup>58</sup>. As a result, the risk of detection for those seeking to exploit financial institutions for ML and TF purposes has increased. In contrast, the implementation of AML/CFT obligations to DNFBPs has been slower, with many jurisdictions yet to fully implement Recommendations 22 and 23<sup>59</sup>.

196. FIUs, law enforcement agencies, and other competent authorities report that the primary environmental vulnerability that continues to effect the concealment of beneficial ownership is the lack of regulatory obligations to collect, disclose, and make available information regarding beneficial ownership across the globe.

<sup>58</sup> See the outcomes of the latest round of Mutual Evaluation Reports conducted by the FATF available at [www.fatf-gafi.org](http://www.fatf-gafi.org).

<sup>59</sup> *Ibid.*

197. One of the most significant findings of the FATF's Horizontal Study is that 17% of jurisdictions that responded do not impose any AML obligations or AML supervision on professional intermediaries whatsoever, despite this being a requirement of FATF Recommendations 22, 23 and 28. In some cases, this is partly the result of resistance to regulation from the relevant sectors or professions (e.g. these groups work to prevent the enactment of laws or regulations which would impose such obligations or to mount constitutional challenges to such laws once passed). In other cases, it may represent an "unfinished" aspect of the AML/CFT system which has not yet been implemented. See Section 4 for further analysis of jurisdictional vulnerabilities associated with the lack of AML/CFT obligations for DNFBPs.

198. Combatting ML and TF requires an awareness of established and emerging ML/TF risks and typologies. Professionals who are not subject to AML/CFT obligations are more vulnerable to ML/TF exploitation than their regulated counterparts in other countries due to the lower level of awareness and understanding of ML/TF threats.<sup>60</sup> Analysis of the case studies identified that less than 10% of intermediaries involved in these schemes identified and reported a suspicious matter to a supervisory body. All of these cases were from countries that regulate DNFBPs, suggesting that the effectiveness of supervision of DNFBPs in the countries where they are regulated needs improvement.

199. In many countries, the authority to submit a suspicious transaction report is limited to businesses and professional service providers who are expressly regulated under that country's AML/CFT legislation. In these instances, the inability for unregulated professionals to voluntarily report a suspicious matter to the FIU or self-regulating body (SRB)<sup>61</sup> is an additional vulnerability, as it may limit how an unregulated professional can respond to a suspicious request.

200. The vulnerability posed by reduced AML/CFT obligations is greater for small professional firms and firms that do not operate in international markets. Larger multinational firms are more likely to be attuned to money laundering vulnerabilities and may have robust AML/CFT measures in place, particularly if they are subject to AML/CFT regulation in one or more of their countries of operation.

201. In countries where AML/CFT legislation has been applied to DNFBPs, FIUs and supervisory bodies have expressed concern regarding the standard of compliance exhibited by the sector, and the level of reporting, which sometimes appears low in comparison to the size and activities of the sector. One Dutch case

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<sup>60</sup> ACC, 2015: p. 83.

<sup>61</sup> A self-regulatory body is a body that represents a profession (e.g. lawyers, notaries, other independent legal professionals, or accountants), and which is made up of members from the profession. It also plays a role in regulating the persons that are qualified to enter and who practice in the profession, and performs certain supervisory or monitoring type functions. Such bodies should enforce rules to ensure that high ethical and moral standards are maintained by those practicing in the profession. See, in particular, Question 5 of the Horizontal Study at Annex B.

study (Case Study 71 above) provides an example of systematic non-compliance by a Dutch TCSP, which was exploited by foreign clients to facilitate tax evasion. Whether the level of compliance exhibited by legal professionals in some countries is indicative of an unwillingness to comply, or a limited understanding of their AML/CFT risks, has not been assessed. However, compliance and awareness of AML/CFT risks within some professions is considered by FIUs and other competent authorities to be a vulnerability<sup>62</sup>. Another Dutch case study (Case Study 66 below) demonstrate how a lack of awareness of ML and TF risks amongst professional service providers facilitated money laundering and other criminality. In both cases, professionals involved in managing companies and promoting investment schemes on behalf of their clients failed to identify indicators of criminality or conduct sufficient due diligence on their customers. These failures were not due to a lack of regulatory obligations, but rather insufficient awareness within the TCSPs of their risks and/or inadequate measures to detect high-risk activities. The effectiveness of supervision of DNFBPs and the extent to which DNFBPs are applying their obligations (where they exist) has been a consistent challenge for countries throughout the current round of FATF Mutual Evaluations<sup>63</sup>.

#### Case Study 66 – Netherlands

The case involves funds derived from extortion. The suspect created legal constructs made up of parent companies registered in a low tax jurisdiction with few or no or scarcely any obligations to keep administrative and accounting records. The suspect used a coded bank account in Switzerland to further conceal the money laundering activity. TCSPs managed the companies.

According to the public prosecutor: *“the refinement also included the use of persons and trust companies who/which from the nature of their profession should have noticed what was going on and should have had alarm bells going off in their heads. However, no one saw reason to flag any concerns.”*

<sup>62</sup> HM Treasury, 2015.

<sup>63</sup> See [www.fatf-gafi.org](http://www.fatf-gafi.org).

## SECTION 4 — ENVIRONMENTAL VULNERABILITIES

202. Aside from the main characteristics leading to the misuse of legal persons and legal arrangements, and the inherent vulnerabilities associated with the professional intermediaries involved in their establishment, a number of environmental vulnerabilities can affect the overall risks posed by these legal structures and the service providers that support their creation and operation. These environmental vulnerabilities include jurisdiction-specific vulnerabilities, such as AML/CFT regulations and trade and commercial trends, and vulnerable business practices, including online client interactions. These vulnerabilities are outlined in greater detail below.

### Jurisdictional vulnerabilities

203. The availability of beneficial ownership information varies significantly between different countries. Despite a renewed focus on the importance of timely and accurate beneficial ownership information by key bodies such as the FATF, Egmont Group, and OECD Global Forum, as well as the G20 and UK Anti-Corruption Summit, many countries have not taken sufficient steps to enhance the transparency of beneficial ownership through the effective implementation of the FATF Standards. This is reflected in the aggregated results for the fourth-round of mutual evaluations completed to date, which demonstrate that most countries assessed at the time of the drafting of this report had demonstrated low or moderate levels of effectiveness and technical compliance against key recommendations relevant to beneficial ownership.<sup>64</sup> This increases the difficulties and costs associated with conducting due diligence, particularly for small businesses (such as the majority of professional intermediaries), and makes it harder for professionals and financial institutions to identify patterns and indicators of criminality.

204. In parallel, the FATF has undertaken a Horizontal Study of enforcement and supervision of beneficial ownership obligations of FATF and FSRB members. The Horizontal Study demonstrated that, even where professional intermediaries are subject to AML/CFT requirements, supervisory mechanisms remain weak due to capacity issues and the lack of a consistent approach for different types of professions. Enforcement actions are also rare<sup>65</sup>. The results of the Horizontal Study are located at Annex B of this report.

205. Aside from considerations of the effectiveness of regulatory, enforcement, and supervisory measures in a given country, consideration should also be given to whether the country in which the legal person or arrangement is established, or the country in which the legal person or arrangement has an active bank accounts, is a common international trade or financial centre and/or a low-tax jurisdiction. These geographic vulnerabilities are outlined in greater detail below.

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<sup>64</sup> FATF (2018).

<sup>65</sup> See, in particular, Questions 5 and 6 of the Horizontal Study.

### **Trade and Financial Centres**

206. As this report has demonstrated, there are a number of reasons why criminals seek to exploit legal persons and arrangements to disguise beneficial ownership. One of the primary benefits offered by legal persons is the opportunity to disguise transactions as legitimate business and trade activities. In particular, legal persons can facilitate trade-based money laundering (TBML) typologies, including those that do not result in the actual movement of goods, or which purport to involve the provision and/or acquisition of services to or from other international businesses. The Israeli case study below (Case Study 40) demonstrates how companies in international jurisdictions (including one in a major South-East Asian trading hub) were used to facilitate TBML through false invoicing.

207. In order to leverage domestic and international trade and finance trends, criminals will often establish legal persons and bank accounts in cities that are considered to be major regional and global trade and financial centres. These trade and financial centres can be loosely defined as any city which:

- can be considered an epicentre of regional or international trade
- is known to accommodate regional headquarters of major international businesses, consultancy firms, and/or financial institutions
- is home to a cluster of national and internationally significant financial services providers, such as banks, investment managers, or stock exchanges.

208. Establishing legal persons in these trade and financial centres serves to:

- legitimise the legal person as a seemingly high-functioning and active business
- legitimise the transactions between two or more legal persons as lawful trade
- conceal the unlawful transactions made by, or to, the legal persons behind the vast number and value of genuine transactions occurring across the same trade and finance channel.

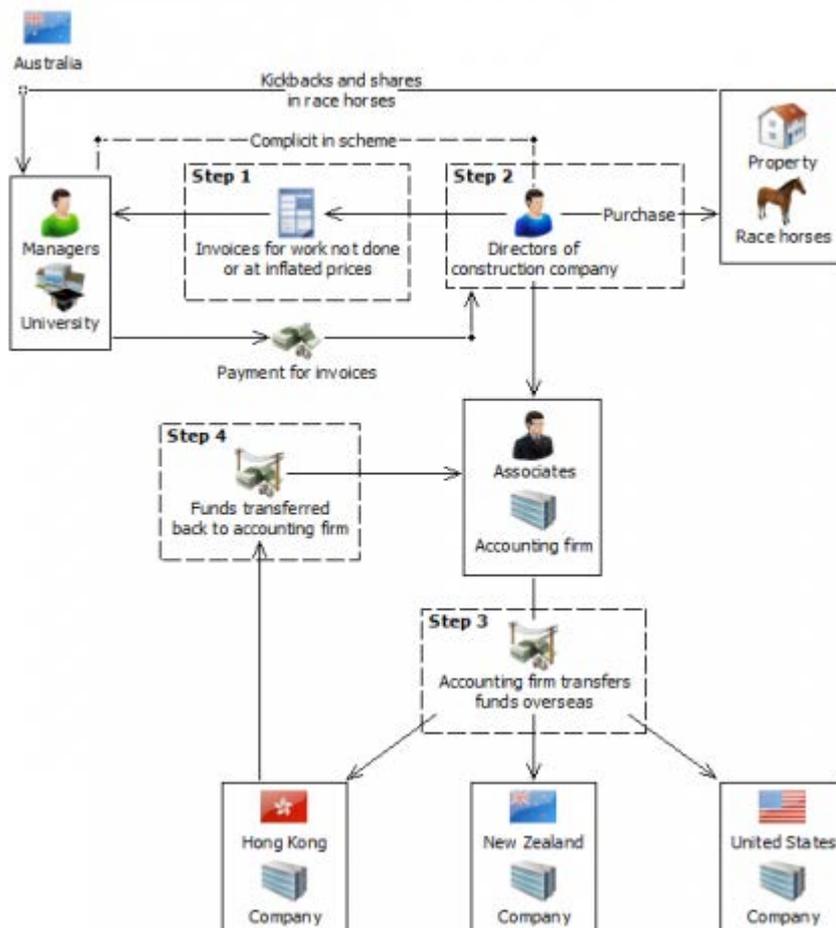
209. As a result of the value and popularity of legal persons incorporated in global and regional trade and financial centres to facilitate criminality and the concealment of beneficial ownership, these entities are likely to represent a greater vulnerability compared to legal persons established in other countries or cities. This jurisdictional vulnerability is unique for each country, and is based on the trade and finance corridors that most affect the economy and society of that country. In the Australian case below (Case Study 3), the accounting firm that facilitated the fraud on behalf of the two university managers utilised companies in Hong Kong, the US, and Canada to launder the proceeds under the guise of legitimate business transactions. These countries represent major trading and finance hubs in the Australian context.

210. Due to the unique nature of this jurisdictional vulnerability, this report has not sought to list highly-vulnerable cities or countries. FIUs, other competent authorities, and financial institutions are best placed to identify high-risk money laundering corridors specific to their economy, and should use this information to assess the vulnerability posed by legal persons operating or transacting along these corridors. Furthermore, countries and cities that are themselves major trade and

finance centres should be aware of their vulnerabilities as possible jurisdictions of choice for international criminals.

**Case Study 3 – Australia**

Managers at a university and directors of construction companies were complicit in a fraudulent invoice scheme. The managers approved inflated invoices for maintenance work to be carried out by the construction companies, as well as invoices for work that was never undertaken. The profits from the fraud were used to purchase racehorses and property. The managers at the university were repaid with kickbacks or direct shares in racehorses. Accounting firms, which were undertaking international transfers on behalf of the suspects, sent money to many countries including New Zealand, Canada, Hong Kong, and the USA. A large proportion of the funds were sent to companies linked to the horse racing industry. The accounting firms also received international transfers from various overseas entities that were similar in value to the amounts the firms had sent overseas initially. The majority of these transfers originated from Hong Kong. The authorities suspected that the accounting firms were laundering the funds on behalf of the suspects as part of a professional money laundering syndicate.



### Case Study 40 – Israel

This case involved a fraudulent tax scheme designed to evade paying tax generated from international trade and a ML infrastructure that was used to hide the illegally gained funds. The suspects used a TCSP to register and operate two international shell companies (Company A and Company B) to create the false appearance that the revenues from their international trading did not belong to the local Israeli company which they controlled, to avoid tax. The two companies traded with each other exclusively and did not have any other source of income. Company A (foreign shell company) transferred significant funds to company C (local company) using the cover of a "consulted fee"/ "service commission". Only this commission, which was less than half of the real income, was reported to the tax authority in Israel. Thus, ultimately, the suspects paid taxes only on a small part of their income.

#### Low-Tax Jurisdictions

211. A number of jurisdictions across the globe have implemented favourable tax conditions, including very low or even nil corporate or income tax rates, or other tax incentives designed to appeal to foreign investors.<sup>66</sup> These are characteristics associated with many offshore financial centres (OFCs)<sup>67</sup>. International research has demonstrated that the decision by a jurisdiction to offer favourable tax concessions, even marginal concessions, can stimulate investment and result in overall benefits to the jurisdiction (despite the obvious reduction in direct corporate taxes).<sup>68</sup> These low-tax jurisdictions attract foreign investment, not only because income earned locally is taxed at favourable rates, but also because it makes it possible to facilitate the avoidance of taxes that might otherwise have to be paid to other countries.<sup>69</sup>

212. FIUs, law enforcement, and other competent authorities regularly identify criminals using legal persons and bank accounts established in low-tax jurisdictions. Many of the case studies included in this report demonstrated this trend, and over half of the cases analysed involved a transfer of funds via companies or accounts held in low-tax jurisdictions. Many case studies, however, were not specific when referring to international jurisdictions (many simply referred to "offshore jurisdictions" to refer to jurisdictions outside of the reporting country's national boundaries). This prevalence may also be a result of selection bias, whereby

<sup>66</sup> Dharmapala, D. & Hines, J., 2009: p. 1058.

<sup>67</sup> Defined as countries or jurisdictions with financial centres that contain financial institutions that deal primarily with non-residents, in foreign currency on a scale out of proportion to the size of the host economy, jurisdictions where non-resident owned or controlled institutions play a significant role within the centre and where the institutions in the centre may gain from tax benefits not available to those outside the centre. See the OECD Glossary on Statistics ([www.stats.oecd.org](http://www.stats.oecd.org)).

<sup>68</sup> Dharmapala, D. & Hines, J., 2009: pp. 1058-1068.

<sup>69</sup> *Ibid*: p. 1060.

participating countries chose cases for submission based on the involvement of certain jurisdictions. Regardless, it is likely that criminals will continue to target low-tax jurisdictions due to the favourable return on investment made possible by tax concessions and the ease with which companies and bank accounts can be established in some of these jurisdictions by foreign nationals.

213. It is important to note that many OFCs are actively involved in global efforts to combat money laundering and tax evasion, including via the FATF, Egmont Group, and the OECD Global Forum. Many of the jurisdictions that are members of the OECD Global Forum are signatories to the two internationally agreed standards on the exchange of information for tax purposes: the *Exchange of Information on Request* (EOIR) and *Automatic Exchange of Information for Tax Purposes* (AEOI). Some OFCs commenced the automatic exchange of information in 2017, while others are expected to commence the exchange of information by September 2018.

214. Due to the degree to which OFCs are exploited by criminals to conceal wealth and beneficial ownership, legal persons established in these jurisdictions, particularly those indicative of being shell companies, can pose a vulnerability to other jurisdictions. Whilst OFCs are vulnerable, they should not be viewed as a collective, but on an individual basis.

#### Case Study 43 – Italy

This case related to an investigation into a transnational criminal organisation active in money-laundering and that perpetrated crimes in Italy. It was triggered by STRs concerning financial flows from a company in the British Virgin Islands channelled through a Swiss bank and sent to an Italian legal person to be used for a refurbishment of a real estate unit which had a value of EUR 9 million. The investigation resulted in the charging of a chartered account for money laundering. The search of the individual's office resulted in the seizure of documents pertaining to a high number of off-shore vehicles which were established on behalf of wealthy national clients. The subsequent investigations led to the discovery that around EUR 800 million had been moved between Italy and international accounts.

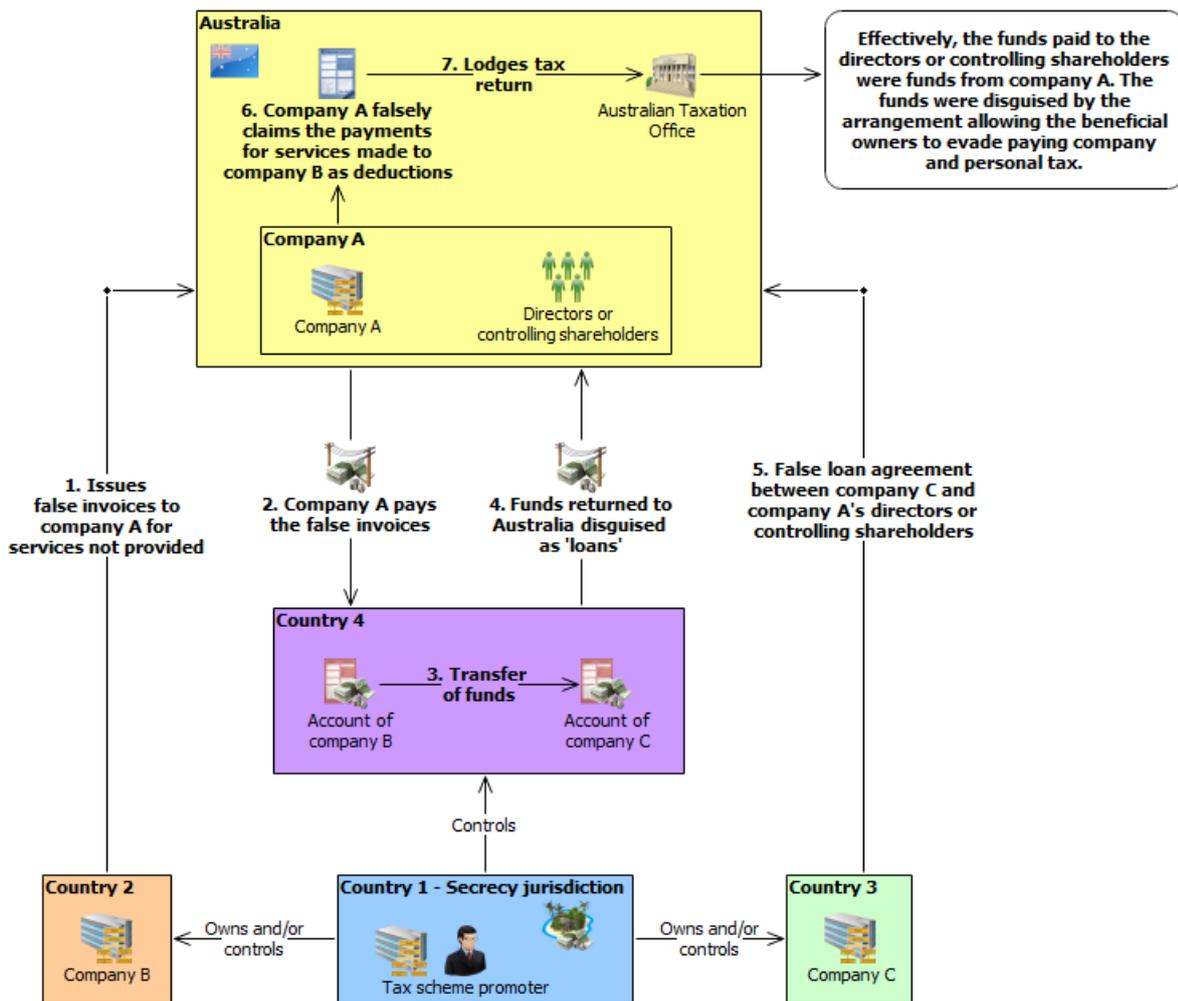
#### Case Study 68 – Netherlands

This case was an investigation into Dutch suspects for filing incorrect tax returns, money laundering and forgery. During the investigation, it was identified that funds had been transferred through a numbered account in Switzerland in the name of a financial service provider in Panama. Shortly thereafter, very similar amounts were debited from the account, under a false description, to the credit of the Dutch suspects.

A financial service provider facilitated this by providing the Dutch suspects with the opportunity to conceal these cash flows from third parties. The invoices for the services provided were paid to the financial service provider via the account in Switzerland.

**Case Study 8 – Australia**

Project Wickenby identified the use of false invoices and loans in illegal international arrangements. The scheme involved an Australian company (company A) which entered into an agreement with a tax scheme promoter based in a tax secrecy jurisdiction (country 1). The promoter benefited from the confidentiality and privacy offered in the tax secrecy jurisdiction. The tax scheme promoter owned and/or controlled two international companies (company B and C). Control may have involved the use of a trust or the use of third parties; for example, a relative or associate may act as the director of the international companies. Company B provided consultancy and/or management services and is incorporated in country 2. Company C provided a financial service (as a lender of money, for example) and was incorporated in country 3. Companies B and C held bank accounts in country 4. The promoter controls and operates these accounts.



## Vulnerable business practices

215. In analysing the role of professional intermediaries in the concealment of beneficial ownership, this report has focused on a range of business practices that make these professional intermediaries more vulnerable to exploitation. These vulnerable business practices are most commonly performed by professional intermediaries, and contribute to the risks posed to, and by, those professions. Of these vulnerable business practices, the provision of online and virtual services is one exhibited by many businesses across a wide range of industry sectors, including the professional intermediary and finance and banking sectors. Due to its ubiquitous nature, it has been addressed separately as an environmental vulnerability below.

### *Online and Virtual Services*

216. The ability to disguise beneficial ownership is exacerbated by the provision of online and virtual services to clients and banking customers. Many professional service providers and financial institutions have implemented business practices and client tools designed to simplify client interactions by reducing or removing the need for face-to-face interactions. These services leverage the pervasive nature of the online marketplace and meet the expectations of modern consumers, who largely expect that everything can be purchased, sold, or otherwise transacted online. Online services are therefore likely to become more prevalent over the course of the digital age.

217. The ability to establish companies, business banking relationships and move money virtually in the absence of direct face-to-face contact with a professional service provider or financial institution can increase the risk of these entities facilitating illicit activity; whether identity fraud or common money laundering typologies such as smurfing<sup>70</sup> and cuckoo smurfing<sup>71</sup>. Similarly, the ability to establish companies and move funds in this way can help facilitate the concealment of beneficial ownership information. Many financial institutions have implemented measures to verify the identity of clients in the absence of face-to-face engagement, and governments are establishing or exploring tools and resources to support these efforts, including document verification services and formal virtual identities. However, despite these measures, reliance on documentation provided by a customer in the absence of face-to-face engagement can enable the use of fraudulent documentation or help enable informal nominees to act as representatives without the knowledge of professionals or financial institutions. As a result, online and virtual services are vulnerable to exploitation by criminals, and financial institutions

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<sup>70</sup> The term “Smurfing” is given to the practice of using multiple individuals or accounts to perform transactions so as to avoid suspicion or currency reporting requirements.

<sup>71</sup> The term “cuckoo smurfing” originated in Europe because of similarities between this typology and the activities of the cuckoo bird. Cuckoo birds lay their eggs in the nests of other species of birds which then unwittingly take care of the eggs believing them to be their own. In a similar manner, the perpetrators of this money laundering typology seek to transfer wealth through the bank accounts of innocent third parties. (AUSTRAC Website: [www.austrac.gov.au/typologies-2008-methodologies](http://www.austrac.gov.au/typologies-2008-methodologies), cited 25 January 2018).

and professional service providers need to be conscious of individuals and intermediaries that may be manipulating these facilities.

218. In addition to the challenges of conducting CDD in a virtual environment, the use of internet banking services to facilitate transactions further exacerbates these issues by allowing unknown individuals to control bank accounts anonymously. FIUs and other competent authorities have reported that criminals will often coerce “straw men” to establish bank accounts for use by the criminal at a later time. Once accounts are established, and following the CDD activities conducted by the financial institution, these “straw men” will hand over the account details, including internet banking login details and passwords to the criminal. This effectively disguises the beneficial owner of the account and allows the controller to circumvent CDD obligations altogether.

219. The Israeli case study below demonstrates how the provision of online services allowed a suspect to establish companies and open bank accounts abroad using identification information provided by third-party straw men. It also demonstrates how the availability of foreign online banking platforms allows unknown third parties (in this case, the suspect) to circumvent the due diligence measures of financial institutions located abroad and actively control foreign accounts opened by unrelated individuals. The case study also shows that authentic identification documents, such as a lawful passport, can be easily used in foreign jurisdictions by third parties in the absence of face-to-face interaction, as document verification controls are only designed to verify the authenticity of the document, and not whether the document belongs to the person opening the account.

220. Some financial institutions and RegTech firms have implemented, or are developing, CDD measures that harness modern technologies to enhance customer identification in a virtual environment. These measures include:

- capturing metadata from client interactions, such as internet protocol (IP) addresses and geolocation data
- using in-built cameras from mobile phones, tablets, laptops, and automatic teller machines (ATMs) to capture the customer’s image (with the customer’s knowledge and consent) for verification against other identity documents, and
- utilising biometric identifiers, including facial recognition and fingerprint scanning technologies.

221. These developments have the potential to significantly reduce the vulnerabilities associated with the provision of online and virtual services. However, the expense and sophistication of these CDD systems is likely to limit their implementation in the short term, and the vast majority of professional service providers and smaller financial institutions will continue to be vulnerable to exploitation and the challenges associated with identifying beneficial ownership in a virtual environment.

**Case Study 38 - Israel**

This scheme was used to hide funds from social engineering fraud and other criminal offenses. The cover story for the criminal offences was international trade – funds from merchants in Europe and the US sending payments to suppliers in East Asia. The suspect, an owner of a registered MSB, operated a second, unregistered MSB. The suspect used several natural persons as his contact points in East Asia which in turn contacted local company service providers for the purpose of setting up international companies and opening bank accounts. Local straw men were registered as the shareholders of the new international companies established for the scheme. Shareholders were registered based on passports provided by the suspect's contact persons mentioned above. The registered addresses of the companies were in East Asia. Bank accounts were opened in the same East-Asian countries where the offices were located.

Immediately after opening the bank accounts, the suspect received the sole means to control them, i.e. an electronic token with the passwords for online activities. In order to establish creditability and credit history, some accounts were activated as low-volume activity accounts, while others were used for high-volume transactions. In case the bank had questions about the nature of the transactions, the questions were sent to the suspect by the straw men and were returned to the bank by them.

***Use of Third-Party CDD and Identity Verification***

222. There are a range of third-party service providers who specialise in providing support to identity verification and customer due diligence services to corporate clients, such as sanctions lists and other adverse information, and information on company ownership. These services can be an important part of a robust and effective CDD program, and can improve the ability of a financial institution or DNFBP to assess customer risk and verify a customer's identity (although it should be noted that responsibility for CDD measures remains with the financial institution or DNFBP in context of outsourcing or agency relationships, in accordance with FATF Recommendation 17).

223. Despite the value of these services, some major financial institutions have reported, via the Wolfsberg Group, that the information provided by third-party service providers can be out-of-date or incomplete. This has the potential to frustrate CDD activities, including the verification of beneficial ownership and related ML/TF risk assessments due to the provision of inaccurate information. These major financial institutions have only been able to identify the deficiencies in the information provided by third-party service providers due to their own CDD and financial intelligence capabilities. However, if smaller financial institutions who do not have well established CDD mechanisms rely on third-party service providers to support their CDD efforts, they may not be aware of the inaccuracy of the

information being provided, resulting in a vulnerability in cases when the information is inaccurate.

224. Due to the expense of establishing and maintaining a robust and effective in-house CDD and financial intelligence capabilities, most financial institutions and professional service providers will continue to rely heavily on the services provided by third parties. The reason why the information stored by third-party service providers is sometimes deficient is not understood, and may be symptomatic of the enormous challenges associated with collecting relevant and contemporary information on a global scale. While the advent of virtual identities may improve this situation in the future, there may be opportunities for this information resource to be improved.

### ***Reliance on introduced business***

225. Financial institutions and DNFBPs can also rely on other regulated financial institutions and DNFBPs to carry out the CDD process in certain circumstances, which are set out in Recommendation 17. In many cases, this will involve a financial institution relying on a lawyer or TCSP, which is providing company formation services and also seeking to open bank accounts on behalf of the newly created company. If the requirements for reliance set out in Recommendation 17 are not properly applied, then a financial institution's CDD can be compromised by a negligent or complicit DNFBP which it relies on, undermining their ability to accurately identify beneficial ownership or suspicious activities indicative of efforts to disguise ownership and control.

## SECTION 5 — CONCLUSIONS AND ISSUES FOR CONSIDERATION

226. Schemes designed to obscure beneficial ownership often employ a “hide in-plain-sight” strategy, leveraging global trade and commercial infrastructures to appear legitimate. However, visibility does not equate to transparency, and many of the tools that were designed to encourage business growth and development, such as limited liability corporations and nominee directorship services, are now also being exploited to facilitate money laundering. The globalisation of trade and communications has only increased this threat, and countries now face the challenge of enforcing national laws in a borderless commercial environment.

227. This report has analysed open-source research, public intelligence reports, classified intelligence holdings, and public and private sector experience and expertise to compile a comprehensive overview of the main characteristics and vulnerabilities that lead to the misuse of legal persons and arrangements, and the exploitation of professional intermediaries, to conceal beneficial ownership. Much of what this report has identified confirms key principles and concepts reported in the canon of literature available on the subject of beneficial ownership. This suggests that the vulnerabilities associated with the concealment of beneficial ownership are enduring, or increasing, despite ongoing efforts to combat money laundering and terrorism financing. These key findings are outlined in detail in the Executive Summary.

228. The FATF Recommendations require competent authorities to have access to adequate, accurate and timely information on the beneficial ownership and control of legal persons (Recommendation 24). In addition, countries must take measures to prevent the misuse of legal arrangements for money laundering and terrorist financing - in particular ensuring that there is adequate, accurate and timely information on express trusts (Recommendation 25). Implementation of the FATF recommendations on beneficial ownership has proven challenging for countries. As a result, the FATF developed the *FATF Guidance on Transparency and Beneficial Ownership* to assist countries in their implementation of Recommendations 24 and 25, as well as Recommendation 1 as it relates to understanding the ML/TF risks of legal persons and legal arrangements.

229. This section includes a series of issues for consideration that may, alongside the conclusions of the study, support the effective implementation of these two FATF Recommendations including by outlining areas of further potential work to reduce the barriers faced by law enforcement and increase the accuracy and/or availability of beneficial ownership information.

230. This report shows that limited liability companies (and similar companies in various jurisdictions) are more vulnerable to misuse for the concealment of beneficial ownership than other types of legal persons. This is due to the ease with which they can be established, and the manner in which they are often used to generate complex legal ownership structures. Moreover, the availability and use of nominee directors and shareholders (both formal and informal) appear to exacerbate the risks despite the FATF Standards requiring measures to prevent their misuse. Nominees have been identified as a central enabler of indirect ownership chains. Given the vulnerabilities associated with the use of nominees,

further study into the role that professional nominees play is merited to better understand the costs and benefits associated with allowing the practice, and to identify the best means to tackle their misuse. Any further study in this area may benefit from also having the expertise of other international organisations that have a wider view of global economics than the FATF, which is focused on combatting money laundering and terrorist financing.

**Issue for Consideration 1**

Given the vulnerabilities associated with use of nominees, individual countries and the FATF, working with the broader global community may wish to consider measures to limit their misuse.

231. The use of specialists and professional intermediaries is a key feature of schemes designed to conceal beneficial ownership. The majority of case studies analysed for this report involved professional intermediaries. While it was not always explicitly stated in the case studies, approximately half of all cases were assessed as involving a complicit professional intermediary (gatekeepers were determined to be complicit if, on the basis of the case summary provided, they appeared to have had a role in designing the scheme, knew of the scheme’s illegal nature, or were charged with a crime). This demonstrates that although complicity may be a factor, it is not strictly necessary when facilitating a scheme designed to obscure beneficial ownership, and that some professionals are unwitting or negligent in their involvement. This also serves to highlight the importance of effective regulation and education of DNFBPs, and the need for increased AML/CFT awareness amongst professional services sectors. The FATF’s *Horizontal Study of Supervision and Enforcement of Beneficial Ownership Obligations* identified that a number of countries do not impose any AML/CFT obligations or supervision on any DNFBPs, despite this being a requirement of the FATF Standards. Professional intermediaries operating outside of an AML/CFT regulatory regime represent a “back-door” through which illicit wealth can enter the regulated banking and finance sector. This places the AML/CFT programs of financial institutions at risk and detracts from the overall effectiveness of national and international AML/CFT regimes, and should be addressed as a matter of priority through the effective implementation of relevant FATF standards.

232. A key part of ensuring effective implementation is the need for ongoing dialogue between competent authorities and DNFBPs. Government authorities should work closely with private sector bodies to educate professionals of their vulnerabilities to ML/TF activity, and the underlying threats that may seek to exploit these vulnerabilities, and allow professionals to share emerging risks drawing on their experience. Gateways have been established in many countries to enable the sharing of information between law enforcement and regulated entities, and countries could consider how these avenues of information exchange could be used to enhance risk awareness amongst professional intermediary sectors.

### Issue for Consideration 2

The regulation of professional intermediaries under AML/CFT law<sup>72</sup>, and efforts to educate professionals of their money laundering and terrorism financing threats and vulnerabilities<sup>73</sup>, will help mitigate the vulnerabilities associated with the concealment of beneficial ownership.

233. The Horizontal Study identified a lack of consistency in the approach to supervision when different types of professional intermediaries are supervised by different bodies (self-regulating bodies), even if the intermediaries are performing essentially similar functions (such as company formation). While many jurisdictions have established various forums to facilitate co-operation and risk awareness among SRBs and other competent authorities, the results of the Horizontal Study suggests that this does not necessarily lead to a coherent approach in supervision.

234. TCSPs play an important role in facilitating the establishment and management of legal persons, particularly in circumstances where the beneficial owner resides in a foreign jurisdiction. From a regulatory standpoint, the TCSP sector is less clearly defined or understood in many countries when compared to the legal and accounting sectors. As a result, authorities in many countries face challenges in regulating and educating TCSPs on their ML/TF risks. Conversely, some countries, particularly low-tax jurisdictions, have well-established and regulated TCSP sectors, and have implemented a range of measures to enhance the AML/CFT regulation of TCSPs, including integrity, competence, and financial soundness tests. These measures are a good means of professionalising the TCSP sector, and countries with TCSP sectors that are not as well-defined should consider implementing similar measures domestically.

235. Law enforcement and FIUs have reported that LPP can be exploited by complicit legal professionals to frustrate and hinder investigations. This issue has also been reported in previous FATF reports, including the 2013 report on *Money Laundering and Terrorism Financing Vulnerabilities of Legal Professionals*<sup>74</sup>, and the 2014 guidance on *Transparency and Beneficial Ownership*<sup>75</sup>. Due to the nature of LPP, claims of privilege need to be reviewed prior to being overturned, even if the grounds for LPP are questionable from the beginning. Regardless of the rules associated with LPP in most countries, the subjective nature of LPP will continue to pose a challenge due to the potential for its inconsistent application, and the difficulties that it can cause competent authorities undertaking financial investigations. Private sector representatives have highlighted that LPP training offered to legal professionals can often be inadequate unless the legal professional specialises in litigation where it is frequently considered. It has been suggested that the low level of training, coupled with a lack of practical application by some legal

<sup>72</sup> In accordance with Recommendations 22, 23, and 28 of the FATF Standards

<sup>73</sup> In accordance with Recommendation 34 of the FATF Standards

<sup>74</sup> FATF, 2013: p. 23.

<sup>75</sup> FATF, 2014: p. 38.

professionals leads to the development of broad and conservative approaches to LPP. Enhanced training and guidance in this area may assist to reduce this vulnerability over time; however, countries are encouraged to work with the legal profession to determine the best means of addressing this problem, and to provide greater clarity on the scope and parameters of LPP so as to limit the extent to which it is inadvertently misused resulting in the impediment of financial investigations. Further consideration of possible solutions is merited.

**Issue for Consideration 3**

Further work to identify possible solutions or measures to prevent the misuse of LPP to conceal beneficial ownership information, including through the provision of enhanced training and guidance material for legal professionals, could be considered.

236. When investigating cases involving a concealed beneficial owner, FIUs and other competent authorities confirmed that traditional financial institutions, namely banks, were the primary source of information required to identify and confirm beneficial ownership and control. The wealth of information held by the private sector is substantial, and crucial to the identification of money laundering and broader criminality. In comparison, the information held by many FIUs is limited to suspicious transaction reports, and many FIUs are not capable of independently analysing other sources of information such as cross-border financial flows, without requesting further information from financial institutions. Those FIUs that receive a broader set of reports, including cross-border wire transfer and threshold cash transaction reports, have reported the importance of those reports and their value in tracing money flows and identifying beneficial ownership information. Consideration should be given to possible measures to increase the breadth and depth of information available to FIUs.

**Issue for Consideration 4**

FIUs should have access to the widest possible range of financial information. Consideration of possible measures to increase the breadth and depth of information available to FIUs is merited.

237. Further to the need for FIUs to have greater independent access to account and transaction information, the direct sharing of information and intelligence, in real time, between competent authorities and private sector partners, cannot be understated. This includes the sharing of transaction records, as well as information collected through customer due diligence. The significant body of work conducted by the FATF, the Egmont Group, and other international bodies on information sharing already attests to the value of effective information sharing. Information sharing between public and private sectors is an essential means of enhancing the transparency of beneficial ownership. Additionally, the information that is exchanged through established mechanisms, such as the Automatic Exchange of Information (AEOI) and the Exchange of Information on Request (EOIR) for Tax

Purposes, has the potential to significantly enhance the law enforcement visibility of asset ownership in other jurisdictions. However, privacy protections may limit the extent to which this information can be used for law enforcement and financial intelligence purposes.

#### Issue for Consideration 5

Increased sharing of relevant information and transaction records would benefit global efforts to improve the transparency of beneficial ownership. Further consideration of possible ways to enhance this information sharing is merited.

238. As a result of the transnational nature of most schemes designed to disguise beneficial ownership, it is often not possible for FIUs and other competent authorities to have direct and independent access to the information necessary to discover and prove beneficial ownership. In addition to a range of information sharing mechanisms available to competent authorities, mutual legal assistance has been identified as a key tool in most major investigations that involve a transnational corporate structure or international financial flows. However, many law enforcement and intelligence practitioners have also reported that delays in mutual legal assistance requests are one of the issues that most significantly inhibits an investigation. While it is acknowledged that the ability of a country to respond to a mutual legal assistance request is dependent on the resources available in that country and the operational demands of its law enforcement agencies, it is evident that more can be done to improve the quality and timeliness of mutual legal assistance responses. FATF Recommendations 36-40 require countries to implement formal and informal mechanisms for sharing information on ML/TF and predicate offences. Further study to understand what can be done to improve international co-operation, including MLA, is merited.

#### Issue for Consideration 6

Further research should be undertaken to understand what can be done to improve the quality and timeliness of the cross-border sharing of information, including through mutual legal assistance.

239. In recent years, increased media attention given to the role of opaque ownership structures in tax evasion, money laundering, and corruption schemes<sup>76</sup> has prompted a range of responses from governments across the globe, including the consideration and development of centralised registers of beneficial ownership. Other registries, such as corporate registries (centralised or not) which hold information on beneficial ownership, are also being implemented or enhanced. These registries are among several mechanisms for countries to consider under the

<sup>76</sup> Principally as a result of the leak of confidential documents from two large law firms involved in the creation of complex international corporate structures: Panama-based law firm Mossack Fonseca (2015), and Bermuda-based law firm, Appleby (2017).

FATF standards to support the identification and verification of beneficial ownership. Multiple sources of information can be used simultaneously by competent authorities for intelligence and investigative activities, and the FATF Standards state that it is very likely that countries will need to utilise a combination of mechanisms to ensure law enforcement authorities have access to adequate, accurate and timely information on the beneficial owner of legal persons. It is also possible that, if correctly monitored and supervised, registers of beneficial ownership could support CDD efforts by financial institutions and professional intermediaries. However, in designing and implementing such repositories of beneficial ownership information, governments should be conscious of the need to ensure that beneficial ownership information is accurate, up-to-date and readily available to competent authorities and the private sector. A register of information, whether it contains beneficial ownership or any other type of company information, is only as valuable as the quality and accuracy of the information held. This report has outlined the myriad measures used by criminals to conceal beneficial ownership, including the use of formal and informal nominees, and it is expected that many of these techniques could be adapted to circumvent beneficial ownership registers or attempt to diminish their utility.

#### Issue for Consideration 7

Countries that make use of registers of beneficial ownership information should consider the resourcing and expertise requirements associated with their maintenance to ensure that the information recorded in the register is adequate, accurate, and up-to-date, and can be accessed in a timely manner. This is also true for the maintenance and supervision of company registries.

240. The ability to establish companies, open bank accounts, and move money virtually in the absence of direct face-to-face contact with a professional service provider or financial institution is a growing vulnerability. The Horizontal Study confirms that direct on-line incorporation of companies using various forms of digital identity is permitted by a number of jurisdictions<sup>77</sup>. Many financial institutions have implemented measures to verify the identity of clients in the absence of face-to-face engagement, and governments are establishing or exploring tools and resources to support these efforts; however, the provision of services in the absence of face-to-face engagement is a vulnerability commonly exploited by criminals. Technological innovations, particularly in the fields of digital identification and information sharing, will likely be an important element in future solutions to this challenge. The private sector has identified some emerging measures that may be highly valuable in conducting CDD, and countries may wish to consider how these initiatives might be harnessed to improve the transparency of business transactions. The FATF and Egmont Group are both increasingly engaged with the private sector and these engagements may lead to the identification of additional measures to improve transparency in the future.

<sup>77</sup> See, in particular, Question 1 of the Horizontal Study at Annex B.

241. To meet the challenges posed by opaque beneficial ownership arrangements, governments, financial institutions, and professional intermediaries need to clearly understand the vulnerabilities, threats, and overall risks associated with legal persons and arrangements. It is therefore essential for governments to maintain a robust, contemporary, and publicly accessible assessment of ML and TF risks affecting their jurisdiction. The FATF Standards require countries to understand the risks that they face, including having mechanisms to assess the money laundering and terrorist financing risks associated with different types of legal person created in their country. These national risk assessments should not be limited to the risks identified within a jurisdiction's borders, but should also carefully analyse transnational threats and vulnerabilities. By maintaining an ongoing and publicly accessible risk assessment, governments will nurture and inform risk assessments conducted by financial institutions and professional service providers operating in their jurisdiction. This report, and others like it, may be useful in informing these assessments.

#### Issue for Consideration 8

The FATF Recommendations require jurisdictions to assess the money laundering and terrorist financing risks associated with different types of legal persons created in their country. It would be beneficial for these assessments to carefully consider and articulate the vulnerabilities and threats relating to domestic and foreign legal persons and arrangements, the domestic and foreign intermediaries involved in their establishment, and the means by which criminals may exploit them to facilitate money laundering and other criminality.

242. The concealment of beneficial ownership is a significant vulnerability for money laundering activity in every country around the world. For this reason, it will continue to pose a major challenge to the FATF and Egmont communities. Continued globalisation, the digitisation of commerce, trade, and financial and professional services, and increased access to opaque legal vehicles, are all enduring challenges that will affect the availability of information on the beneficial owner. There is no one solution or panacea for this problem; rather, the global endeavour to enhance transparency will require numerous iterative and interrelated solutions, and the continued will of governments, private organisations and the public to implement them.

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## ANNEX B. HORIZONTAL STUDY: ENFORCEMENT AND SUPERVISION OF BENEFICIAL OWNERSHIP OBLIGATIONS

1. Two sets of questions were circulated to FATF delegations and delegations from the FATF-style regional bodies in seeking information on the creation and maintenance of legal persons and arrangements and the supervision and enforcement of maintenance and beneficial ownership requirements.

### **Question 1: What businesses or professions in your jurisdiction are engaged in the formation and/or maintenance of legal persons or legal arrangements?**

2. This question was meant to elicit information on the composition, size and importance of the gatekeeper sectors in each jurisdiction, as well as the roles gatekeepers play in formation of legal persons and arrangements. The information provided demonstrates that, generally speaking, many of the same types of gatekeepers can be involved in the formation of both legal persons and legal arrangements (to the extent legal arrangements are available).

3. Despite the involvement of the same types of intermediaries, the processes for forming legal persons and arrangements are, in most cases, quite different. Accordingly, this paper will address them separately. The following information will address company formation, while formation of legal arrangements will be addressed under Question 2.

4. The information provided by members describes a range of processes for company formation and the role of gatekeepers in those processes. Although there are unique elements to each jurisdiction's system, the descriptions could be divided into four general categories:

- systems where gatekeepers are not necessarily required
- systems in which gatekeepers (other than notaries) are required
- notarial systems
- systems in which the Registrar tests the accuracy of filings or takes on the customer due diligence (CDD) obligations of a gatekeeper.

5. Hybrids of these systems are also possible. Each main type of system is described below.

### ***Gatekeepers Optional***

6. In almost half (29 of 64) of the responses received to this question, jurisdictions indicate that gatekeepers are available, but not required for company formation. This includes a variety of systems: some jurisdictions clearly indicated that any member of the public may form a company, but that it is often facilitated by gatekeepers. The UK indicates that, while anyone may register a company, in practice, approximately 75% of companies are formed by gatekeepers. In some jurisdictions, gatekeepers are optional in most circumstances, but required for others, as noted in the next category. Six jurisdictions indicated that the services of a

gatekeeper were available, but did not indicate whether such services were required or how frequently they are used in practice.

### ***Gatekeepers Required***

7. In sixteen jurisdictions, intervention by a gatekeeper (other than a notary or government employee) is required to form a legal person in most, if not all, cases. This category includes some jurisdictions with unique characteristics. For example, four jurisdictions only require intervention by a gatekeeper to form “offshore” companies or corporate vehicles (companies or trusts) that were perceived as posing higher risk. The entities in question were designed specifically for the purposes of international activities targeting non-resident customers, in the first place, and as such were probably deemed by the legislators as requiring strengthened measures, such as mandatory involvement of a professional intermediary. In some instances, there is no oversight to make sure that the companies that are restricted to certain activities upon creation (e.g. international holding companies) do not subsequently conduct other activities. However, the main incentive to register them in the correct manner would be preferential tax treatment. Two jurisdictions require involvement of a gatekeeper only to form limited liability companies.

8. The concept of risk-based approach to company formation mechanisms could be subject to closer consideration in future, but the following is one such example.

#### **Box 1. Singapore’s Registered Filing Agents and Registered Qualified Individuals**

Since 2015, Singapore has had measures in place to ensure that an individual who wishes to form a legal entity on behalf of another person in the course of business must be registered with Accounting and Corporate Regulatory Authority (ACRA) as a Registered Qualified Individual (RQI). Firms or companies that provide such services must register as Registered Filing Agents (RFA) and act through at least one RQI. In this way, members of the public acting on their own behalf (generally considered to be lower risk) retain free access to company registration while gatekeepers are required to register and made subject to anti-money laundering / countering the financing of terrorism (AML/CFT) obligations - regardless of any professional status or registration which they may already hold. Since creation of legal persons is performed online via ACRA’s electronic transaction system, this system only allows RQIs of RFAs and individuals to create legal persons and file documents. An individual must use his SingPass, which is a personal access code issued to Singaporeans and permanent residents permitting entry to online government services, to access ACRA’s electronic transaction system. Foreigners who do not hold a SingPass have to engage the services of RFAs to create and register legal persons with ACRA. This approach prevents the creation of legal persons by people unauthorised to do so.

The approach taken by Singapore in imposing this requirement to register is in addition to the usual approach of applying AML/CFT obligations to specific

classes of designated non-financial businesses and professions (DNFBPs) (e.g. lawyers, accountants, etc.). For instance, lawyers and accountants who perform FATF defined activities remain to be supervised by the respective regulators/specialised regulatory bodies. At the same time, a firm, whether it is a corporate service provider (CSP) firm, law firm or accountancy firm, will need to be registered with ACRA. RFAs need to provide information on its entity name, registered office address, nature of business and the personal details of the professional Registered Qualified Individuals (RQI) they wish to appoint to assist it. RQIs, in turn, need to provide his or her personal details qualifications. A CSP firm will not be permitted to be registered as a RFA if any of its beneficial owners, directors, partners or managers has been convicted of criminal offences or if they are undischarged bankrupts. An individual will not be permitted to be registered as a RQI, if he has been convicted of a criminal offence (especially those related to fraud and dishonesty) or if he is an undischarged bankrupt. In addition to that, ACRA will also check background information on the legal owners, beneficial owners, directors, partners and managers of RFAs, and RQIs looking at their previous conduct and compliance history.

### **Notarial Systems**

9. Thirteen of the responding jurisdictions report use of a notarial system for company formation. Notarial systems generally entail an attestation of registry filings by a notary who is vested with public office and responsible directly to a government ministry. Such systems are found almost exclusively in civil law jurisdictions and entail a high degree of formality in the company formation process. Understandably, such an approach may not be appropriate for every jurisdiction; however, FATF members have assessed these systems as some of the most effective systems for implementation of beneficial ownership (BO) obligations.

#### **Box 2. Spain's and Italy's notarial system**

In their 4th Round mutual evaluations, Spain and Italy were both assessed as having systems that are substantially effective. In both jurisdictions, notaries are public officials, and are subject to AML/CFT obligations under each jurisdiction's AML/CFT legal framework. Duly executed notarial acts are presumed to be valid, self-authenticating, self-executing, and are considered probative. The involvement of a notary is required at the company formation stage, as well as subsequently to validate and ensure accuracy of information reflected in the business register and authenticate changes in ownership.

The effectiveness of Spain's notarial system is enhanced by the implementation of a Beneficial Ownership Database. The Beneficial Ownership Database became operational in March 2014, and was made available to competent authorities in April of the same year. It builds upon the information available in the Single Computerised Index by aggregating the information on beneficial ownership and on transfers of shares. For each company, the database offers two levels of information: (i) the beneficial ownership information obtained by the individual

notary in the conduct of the normal CDD requirements (i.e. the declaration of beneficial ownership which, if at least one risk indicator is met, includes a copy of the beneficial owner's ID document); and (ii) For private limited liability companies (*Sociedades de Responsabilidad Limitada*, which represent some 92% of all legal persons and 96% of new incorporations in Spain) the beneficial ownership information is obtained through aggregating the information on the successive transfers of shares. Since notaries are required to be involved in these transfers, this information is always verified and updated twice monthly.

### **Registry with Oversight Functions**

10. Findings from other FATF research suggest that systems combining one or more approaches to ensuring availability and accuracy of basic and beneficial ownership information are often more effective than systems that rely on a single approach. In 21 jurisdictions, one of the systems referred to above is complemented by a Registry with some level of oversight function, including verification of completeness or accuracy of filings, conducting CDD in certain cases, or cross-checking information against other government databases. Two of these jurisdictions have notarial systems, including Spain, as discussed above. In six jurisdictions, gatekeepers (other than notaries) are required. Thirteen of the jurisdictions fall into the category where gatekeepers are optional.

#### **Box 3. Guernsey's and Jersey's Registrars**

Guernsey and Jersey are both jurisdictions in which intervention by a fully regulated and supervised gatekeeper in company formation is mandatory for most company formations (although optional for local residents). However, in both jurisdictions, the Registrar performs the CDD functions of gatekeepers when there is no gatekeeper involved in company formation or administration.

#### **Box 4. UK's Companies House**

In the UK, Companies House is part of the Government Agencies Intelligence Network. Although Companies House does not conduct CDD or verify information, it does conduct data analysis to identify suspicious activity and patterns of behaviour, which it then shares with relevant law enforcement agencies. Suspicious activity and patterns of behaviour are identified through a variety of mechanisms. These include:

1. following receipt of a complaint from a third party informing the Registrar that their details (either name, date of birth and/or home address) has been used without consent,
2. contact from Law enforcement/Government agencies regarding suspicions over a single company, and

3. other intelligence that suggests suspicious activity. This could include a single credit card or email address being used to incorporate many companies, which on the surface are unconnected.

Internal investigations utilising non-public data (such as email address, IP address where available and credit/debit card details) can result in the linking of a single suspicious company to tens or hundreds of companies. It should be noted, that there is no automatic feed for this information which leads the Registrar to take action.

### ***Online registry systems***

11. Some jurisdictions permit their residents to use different forms of digital identity to incorporate companies directly online, without any intermediaries. Modalities of those digital identities vary: they can be based on tokens, passwords, SMS, or biometric authentication. The basic idea is that an in-person identification takes place only once, either through a government authority or an authorised agent, such as a bank or a post office, on the basis of valid ID papers and/or biometrical data. Once the digital identity is created, it is centrally stored and can be used to access services provided by various public and private sector entities. This information in some cases may not be updated after the initial issuance and the person may be held responsible for keeping the details of access to their digital identity confidential and bears responsibility for how it is used, e.g. use of another person's identify can be a criminal offence in and of itself. On one hand this system has advantages such as simplifying formalities and providing more security (it is almost impossible to falsify a digital ID). However, on the other hand it raises concerns relating to the higher risks of identity theft and misuse by straw men, particularly where insufficient safeguards are in place.

### ***Question 2: Describe the legal requirements for the formation of legal arrangements (whether under domestic or foreign law).***

12. In February 2017, the FATF decided that the scope of this project should be expanded to include trusts. Accordingly, this question sought information specific to the formation of trusts and other similar arrangements, whether those trusts or arrangements were created under domestic law or under foreign law. 60% of responses were from jurisdictions whose domestic law provides for the creation of trusts or other similar legal arrangements. A further 21% of responses were from jurisdictions which are not the source-of-law for legal arrangements, but which give some recognition to foreign legal arrangements and permit foreign legal arrangements to be created or administered by gatekeepers or others within their jurisdiction (e.g. under the Hague Trust Convention). Finally, 19% of responses indicate they do not recognise (e.g. in courts or in their tax system) any legal arrangements, whether based on domestic or foreign law.

13. Among the 52 jurisdictions that allow for creation of trusts or similar legal arrangements under domestic or foreign law, almost 54% did not provide any information as to whether registration is required. In the same group, 46% did not provide information regarding implementation of beneficial ownership obligations. Although the information received may be sufficient to recognize some general

patters, a sample this small may not be sufficient to draw any conclusions as to best practices.

14. Among those 24 jurisdictions that provided information on registration of legal arrangements, 29% require registration of trusts. Another 29% do not require registration. The largest percentage, 42% require registration of trusts only when certain criteria are met. Those criteria include generation of taxable income or making taxable distributions, real property included as a trust asset, or when the trust is a foreign trust. It should be noted that trusts might be registered as some other type of business entity if the jurisdiction does not allow for the creation of trusts under its legislation.

15. Regarding implementation of beneficial ownership requirements, 27 jurisdictions provided information. Of those, 52% impose beneficial ownership obligations by applicable statute. Another 26% rely on a combination of common law and statutory requirements, while 22% rely solely on common law trustee obligations for availability of beneficiary information.

#### Box 5. Jersey's requirements for professional trustees

An interesting example of imposing beneficial ownership obligations by statute was provided in information from Jersey. In Jersey, any person who, by way of business (regardless of underlying profession), acts as or fulfils or arranges for another to act as or fulfil the function of trustee of an express trust conducts a regulated activity and is subject to AML obligations. Similar to the formation of legal persons in Singapore, this system uses an activity-based approach which avoids reference to any particular profession and the unintended imposition of AML obligations on members of those professions whose day to day activities are not at risk for abuse for illicit purposes.

#### Box 6. New Zealand' regime for foreign trusts

Another example was provided by New Zealand. Since February 2017 it has been implementing a new regime whereby foreign trusts (defined as a trust to which a settlor has never been resident in New Zealand) with a New Zealand resident trustee must register with Inland Revenue Department. Trustees are required to update any changed details within 30 days of becoming aware of the change. Furthermore, the regime **requires annual returns to be filed, updating details, attaching financial statements** and providing details of new settlors and beneficiaries who receive a distribution from the trust. Where a New Zealand resident trustee fails to comply with their obligations they may cease to receive the tax exemption for foreign sourced income and may be subject to prosecution. The reason for this new regime was responding to the publications by international bodies and media reports which identified foreign trusts as being misused in criminal schemes. In order to address the risks, authorities took measures to enhance oversight of those entities.

16. Almost 20% of jurisdictions responding indicated that trusts of any kind are not allowed in the jurisdiction. Of those 12 jurisdictions, five are identified by either an OECD Global Forum Peer Review Report or other open source information as having a legal framework in place that specifically allows for legal arrangements. This raises several further questions, including the need to clarify what is meant when jurisdictions say that trusts are “not allowed” and exploring the potential reasons why tax authorities and AML/CFT authorities from the same jurisdiction might have a different understanding of the answer to that question.

17. As noted, very little information was provided regarding specific legal requirements to form trusts. This issue could be reviewed in more depth to consider whether any conclusions may be drawn as to best practices. In the information that was provided, some of the approaches to trust formation may potentially help to address common challenges in implementing effective measures to prevent the misuse of legal arrangements. These approaches could be reviewed in more depth, as a basis for more detailed description and analysis in the final Horizontal Study. These include in particular registration of trusts when certain criteria are met; Jersey’s approach to imposing beneficial ownership obligations on trustees; and the need to clarify what is meant when jurisdictions say that trusts are “not allowed” and issues related thereto.

***Question 3: What are the legal requirements for maintenance of legal persons and arrangements and how is compliance with those requirements monitored?***

18. Maintenance of legal persons and arrangements, i.e. requirements for annual returns, accounts, reporting changes in control or ownership, etc., is important to ensuring that basic and beneficial ownership information remains accurate and up-to-date. Information on monitoring compliance was originally sought as part of first questionnaire (question 2(e)). However, little information specific to this issue was received. In February 2017, the FATF expanded the scope of this project to seek information on the legal requirements for maintenance of legal persons and arrangements, as well as the systems in place for monitoring compliance.

19. Unfortunately, a gap in the information on these issues still exists. In 53% of responses received, no information was provided regarding requirements for maintenance of legal persons. For maintenance of legal arrangements, no information was provided in 46% of responses. Likewise, the majority of responses received (64%) did not provide any information on monitoring compliance with maintenance requirements. Nevertheless, a third round of information gathering would delay this study excessively, so we have sought to reach conclusions based on the incomplete responses received. This does mean the conclusions on this issue are less well-evidenced than on other questions. In the paragraphs that follow, statistics reflect only the responses that provided relevant information. Also, some jurisdictions may impose more than one of the following measures; the categories are not mutually exclusive.

### ***Legal Persons***

20. The most common requirement of maintenance of legal persons is filing of annual returns (other than tax returns), certification or accounts. This requirement

applies in 53% of responses received (17 of 32). Notification of changes is the next most common at 37.5% (12 of 32). In 1% of responses (3 of 32), jurisdictions indicated that there are no requirements for maintenance of legal persons other than those imposed by any applicable AML/CDD obligations.

### **Legal Arrangements**

21. In the case of legal arrangements, other than those to which common law obligations apply, there seem to be either no requirements or minimal requirements for maintenance. Only 9 of 23 responding jurisdictions impose any maintenance requirement for legal arrangements. Three of those require notification of changes in beneficial ownership or control. It is more often the case (in 14 of 23 jurisdictions) that there is no maintenance requirement at all. Based on these figures, availability of accurate and up-to-date information on legal arrangements depends almost entirely on the gatekeepers and non-professional trustees (or equivalent), with little or no role for public-sector registries. To the extent that gatekeepers are involved in the formation of legal arrangements, this finding underscores the importance of effective supervision to ensure compliance with CDD obligations.

### **Ongoing Monitoring of Compliance with Maintenance Requirements**

22. Twenty-five jurisdictions provided information regarding mechanisms to monitor compliance with requirements to maintain legal persons or arrangements. Among these jurisdictions, the most common mechanism for ongoing monitoring of compliance with those requirements is oversight by the registry. Some registries have automated systems to monitor deadlines for filing annual returns or certifications. In other cases, registries cross-check their information with data held by other authorities (e.g. with tax authorities) to ensure veracity. Finally, some registries conduct sample testing or targeted audits to verify the accuracy of information on selected legal persons (or arrangements). Such mechanisms are reported by 40% of jurisdictions responding to this question (10 of 25). Only slightly fewer, 9 of 25, report monitoring by the AML supervisor or prudential regulator as an element of compliance inspections. However, 24% of jurisdictions responding to this question report they do not monitor for compliance at all.

#### **Box 7. Belgium's beneficial ownership registry**

To address these and other issues, Belgium is implementing a beneficial ownership registry, which is expected to be operational by 2018. When this registry is in place, there will be two types of automated controls: one will cross check "obligated entities" against the entities that actually provide beneficial ownership information; the other will cross check the beneficial ownership database against other government databases (primarily within the Ministry of Finance) to verify data quality. These cross checking systems will be monitored by a dedicated data miner and compliance will be enforced by a special unit of the Treasury.

23. According to information gathered for this Study, ten of the responding jurisdictions (15.6%) either have, or will have by the end of 2018, a beneficial ownership registry system.

24. Although the information is incomplete, the responses provided indicate serious weaknesses in measures designed to ensure that basic and beneficial ownership information remains accurate and up-to-date.

*Question 4: Describe how agencies responsible for AML/CFT supervision of gatekeepers (whether government agency or SRB) assess compliance with beneficial ownership obligations.*

25. There is insufficient information - either from the questionnaire responses or from mutual evaluation reports - to set out a general picture of how authorities or SRBs are assessing compliance with these specific obligations. It is possible, nevertheless, to describe certain common elements that might not, however, be present in every case. In most cases, the supervision combines both desk-based reviews and on-site inspections. Desk-based reviews involve analysis of annual independent audit reports and other mandatory reports, identifying risky intermediaries (i.e. on the basis of the size of the firms, involvement in cross-border activities, or specific business sectors), automated scrutiny of registers to detect missing beneficial ownership information and identify the gatekeeper responsible for the filing. On-site inspections involve reviewing internal policies, controls and procedures, gatekeeper's own risk assessments, spot checking CDD documents and supporting evidence, sample testing of reporting obligations. Some national supervisors, as well as SRBs, mandate independent auditors to perform on-site inspections on their behalf.

26. Delegations could consider whether this is an issue on which more information is needed (e.g. in the course of any further projects following the Horizontal Study, or as part of a risk-based approach (RBA) guidance for gatekeeper professions).

*Question 5: How are the businesses or professions engaged in the formation and/or maintenance of legal persons or legal arrangements regulated and supervised?*

27. Pursuant to Recommendation (R.)28, the categories of DNFBPs who act as gatekeepers should be subject to effective systems for monitoring and ensuring compliance with AML/CFT requirements. In other words, they should be subject to effective supervision. This question was meant to elicit information on the types of supervisory regimes in place for gatekeepers and the roles played by those supervisors. The most startling finding is that 17% of jurisdictions that responded do not impose upon their gatekeepers any AML obligations or AML supervision whatsoever, despite this being a requirement of R.22, R.23 and R.28. In some cases, such as the US and Canada, this is the result of resistance to regulation from the relevant sectors or professions (e.g. to prevent the enactment of laws or regulations which would impose such obligations, or to mount constitutional

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**17% of jurisdictions that responded do not impose upon their gatekeepers any AML obligations or AML supervision whatsoever, despite this being a requirement of R.22, R.23 and R.28**

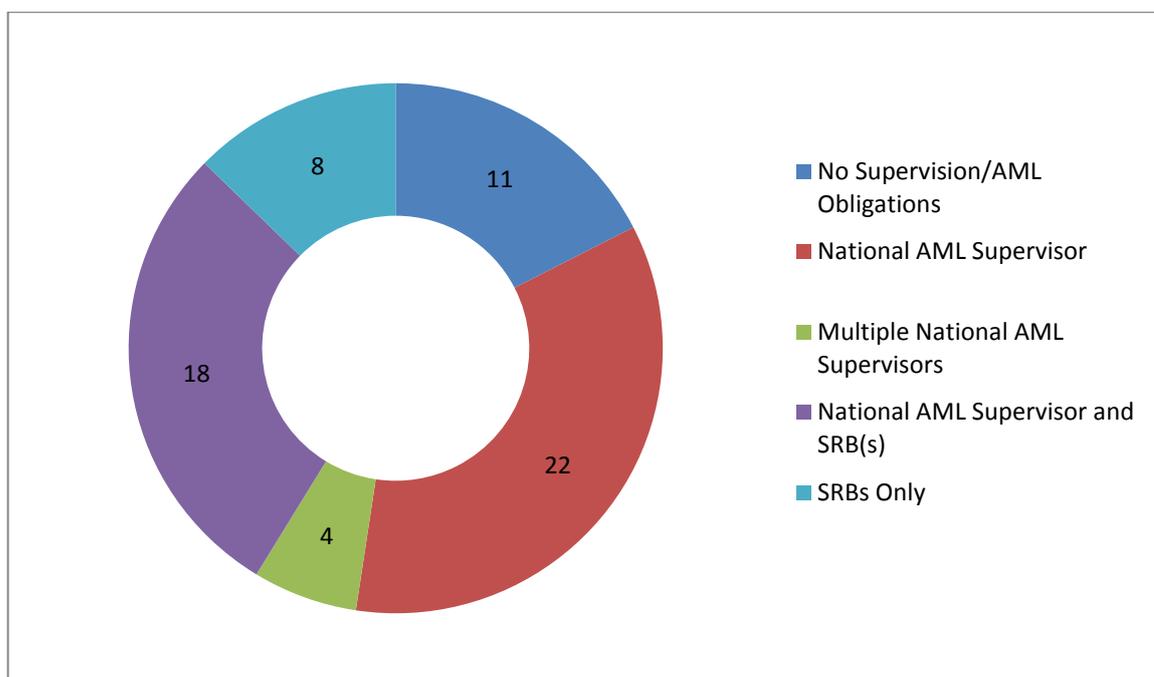
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challenges to such laws). In other cases, it may represent an “unfinished” aspect of the AML/CFT system which has not yet been implemented.

28. The information provided by members who do impose supervision describes a variety of arrangements for supervision of gatekeepers. Although there are variations in each category and unique elements to each jurisdiction’s system, the descriptions could be divided into the following four general categories:

- national AML supervisor
- multiple national AML supervisors
- a national supervisor for one or more gatekeeping sector and one or more Self-regulating bodies (SRBs) for others
- SRBs only for all gatekeepers.

**Figure 1. Gatekeeper Supervision Models**  
*Breakdown of responses by jurisdictions participating in the survey*



### **National AML Supervisor**

29. In 42% of the jurisdictions that responded (22 of 64), there is a single authority for supervision of AML/CFT obligations. These authorities are often a Central Bank or Monetary Authority, Financial intelligence unit (FIU), or Financial Services Commission. The majority of jurisdictions that report such a regime, (12 of 22) are considered by the IMF to be “offshore financial centres”.

30. Interestingly, 77% of jurisdictions using this supervisory model (17 of 22) reported cases of supervision or enforcement - the highest level of any other supervisory model. This fact, combined with the high number of offshore financial centres represented in this category is consistent with the findings of the Trust and

Company Service Provider Project conducted in connection with the book *The Puppet Masters*. This project entailed two audit studies involving the solicitation of offers for shell companies from a range of trusts and company service providers (TCSPs). The data were supplemented with in-depth interviews conducted with TCSPs. This approach was designed to test regulatory compliance in various jurisdictions. The project revealed that 94% of responses provided by gatekeepers in international financial centres, or tax havens, were compliant with the relevant AML/CFT framework, including collection of CDD information and refusal of suspicious business. Only 25.5% of gatekeepers in OECD countries provided compliant responses.

### ***Multiple National Supervisors***

31. In these jurisdictions, supervision of gatekeeper sectors is divided among government agencies such as FIUs, Central Banks, and Financial Services Authorities. The relatively small group (at 6% of respondents) makes it hard to conclude whether the fact that only two of the four jurisdictions report any enforcement action is a substantial concern. Nevertheless, the question of domestic co-operation where there are multiple government agencies tasked with AML supervision and presents an issue could be reviewed in more depth.

### ***National supervisor and one or more SRBs***

32. In 29% of participating jurisdictions (18 of 64), AML supervision of gatekeeper professions is divided between a government agency one or more self-regulating bodies (SRBs). In this supervisory model, 61% of jurisdictions (11 of 18) do not report any supervisory or enforcement action.

### ***SRBs only for all gatekeepers***

33. In this supervisory model, there is no national authority for AML oversight of gatekeepers – all the gatekeeper sectors are supervised by SRBs. Jurisdictions reporting this supervisory model comprise 13% of the sample. Five of the eight jurisdictions in this category (63%) do not report any supervision or enforcement action.

### ***Supervision by SRBs***

34. In the 26 jurisdictions where SRBs are tasked with supervision of AML/CFT obligations, lawyers are supervised only by SRBs in every jurisdiction but one. In 16 of those 26 jurisdictions (64%), no enforcement actions were reported. Seven jurisdictions reported active supervision of lawyers by an SRB.

35. For those jurisdictions, where gatekeepers are supervised by SRBs, no discernible patterns could be identified with regard to how this supervision is performed, due to a wide variety of approaches. It is even more difficult to draw conclusions which approach turns out to be more effective without a proper assessment. It is possible, however, to provide some general observations:

- There is a lack of consistent approach to supervision when different types of professional intermediaries are supervised by different bodies even if these intermediaries are performing essentially similar functions (e.g. company

formation). In other words, supervisory approach is often based on what type of profession intermediaries belong to, rather on what type of operations they perform in practice. Although many jurisdictions established various forums which facilitate co-operation and risk awareness among SRBs and competent authorities (especially FIUs), this does not seem to lead to coherent approach in supervision.

- Most of the SRBs especially those that cover lawyers and notaries are independent and do not seem to be subject to supervision/monitoring by a competent authority (as noted in the definition of “Supervisors” in the FATF Glossary), however in some cases competent authorities have a role, e.g. in appointing employees. There are two jurisdictions where SRBs are under direct supervision of competent authorities, and one jurisdiction where SRB is legally a governmental body. Another jurisdiction is in the process of creating of an umbrella organisation to oversee and facilitate activities of SRBs.

#### **Box 8. Switzerland’s national oversight of SRBs**

An example where SRBs are supervised by a single national AML/CFT supervisor was provided by Switzerland. The legislator has mandated responsibility to the SRBs for AML/CFT supervision and FINMA (national supervisor) is tasked with supervising implementation. SRBs are structures which must be recognised by FINMA. This requires that they issue regulations (approved by FINMA) specifying the due diligence obligations with which their affiliates must comply, that they oversee compliance with these rules and that they ensure that the persons and bodies they instruct to carry out controls are independent and professionally qualified. If an SRB fails to meet with these conditions, FINMA can issue a warning and then withdraw its recognition.

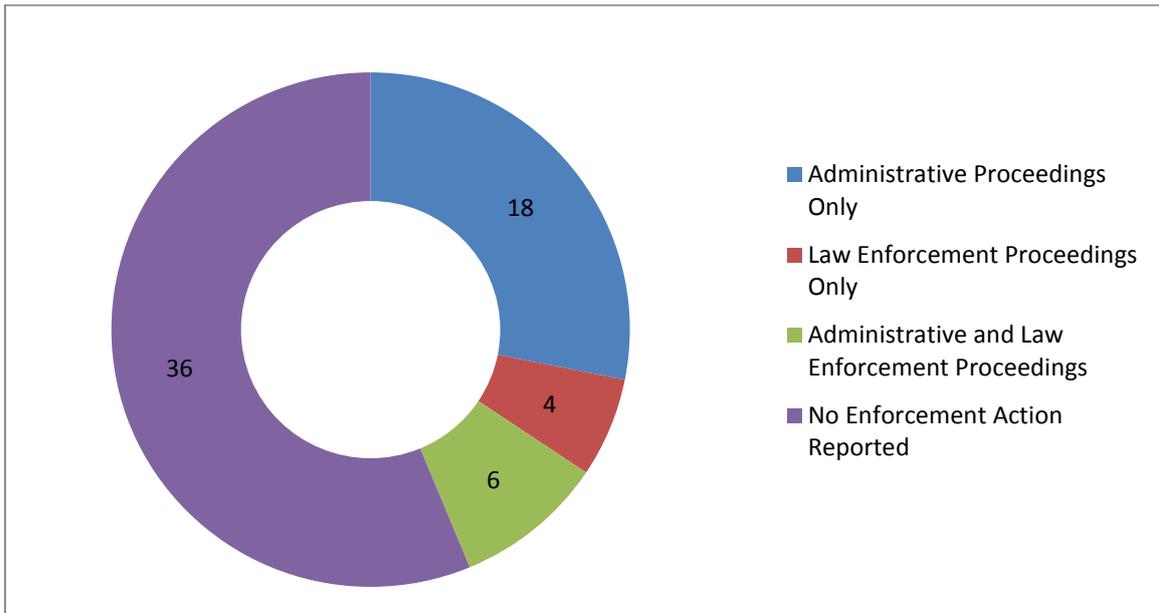
36. Resources available to SRBs for inspections are limited. There are different models to deal with that: eight SRBs indicated that they hire independent experts with appropriate professional background who work solely for the SRB, two SRB rely on the staff of the peer members to supervise each other, three SRBs outsource their inspection functions to established auditing companies, and there might be combinations of the above;

- Seven SRBs take proactive approach with regard to identifying breaches of compliance (i.e. during the on-site, and not after a complaint or a law enforcement investigation), however, that seems to be related to overall obligations, rather than those related to AML/CFT, or BO in particular.
- Application of RBA with regard to professional intermediaries is not widespread, and even in that case it is not always based on ML/TF risk factors. One jurisdiction indicated that all lawyers and notaries undergo an inspection on an annual basis, and auditors at least on a 6-years basis.

- Supervisory actions are very rare (as highlighted below), although most SRBs have the appropriate tools at their disposal (warnings, monetary penalties, disqualifications).

**Question 6: Cases of supervisory and enforcement actions.**

**Figure 2. Enforcement Models**  
*Breakdown of responses by jurisdictions participating in the survey*



37. This question was meant to elicit information regarding the approach to oversight taken in each jurisdiction – whether beneficial ownership obligations are enforced by administrative supervisory action, or by law enforcement authorities. It was hoped that, upon review of this information, some conclusions might be drawn as to best practices, but the information provided is not sufficient for that purpose. Nonetheless, some emerging issues may be considered for further targeted information gathering.

38. No supervisory or enforcement actions were reported in 56% of responding jurisdictions. In three jurisdictions, this is attributed to newly enacted legislation that had not yet been implemented. Some jurisdictions specified that AML enforcement action had been taken, but none specific to beneficial ownership obligations. As noted previously, 17% of respondents do not impose upon their gatekeepers any AML obligations or AML supervision. As such, there could be no enforcement action to report. Other jurisdictions may have found it difficult to provide meaningful information in the questionnaire format.

39. Among the responses that did provide information on enforcement mechanisms, the most commonly reported is administrative enforcement taken by AML supervisors. Eighteen of the 28 jurisdictions reporting enforcement action (64%) rely on supervisors to enforce beneficial ownership requirements. In many cases, information provided includes sanitized case studies.

**Box 9. BVI's list of sanctions imposed**

In the case of the British Virgin Islands (BVI), a table was provided which listing examples of AML/CFT breaches related to beneficial ownership and the sanctions imposed – administrative penalties ranging from USD 440 000 to USD 5 000. The BVI also included a link to the supervisor's website, where a comprehensive listing of enforcement actions and sanctions applied could be accessed by any member of the public.

**Box 10. Jersey's FSC and Registry**

Another interesting sample of enforcement actions was provided by Jersey, where both the AML supervisor and the Registry perform complementary functions. The Jersey Financial Services Commission (JFSC) reports using enforcement tools such as formal remediation plans with regular monitoring and reporting by the TCSP; issuing directions to safeguard assets, prevent the take on of new business or transfer of existing business, appointing independent co-signatories to review and approve certain business activities and transactions. Jersey also reports using its supervisory powers to issue public statements and ban individuals from working in the financial services industry. The Companies Registry will not incorporate or register an entity if it does not have sufficient information. Applications are placed on hold until such time as information is provided. Failure to provide information is noted and this information is shared by the Companies Registry with the supervision and enforcement units of the JFSC.

40. In ten of the 28 jurisdictions that reported enforcement action, law enforcement proceedings may be used to enforce beneficial ownership requirements. In four of the ten jurisdictions, law enforcement proceedings are the only available remedy; in the other six jurisdictions, authorities may take administrative or law enforcement proceedings.

**Box 11. Liechtenstein and Croatia**

In Liechtenstein and Croatia, the AML supervisor initiates legal proceedings when weaknesses are identified during compliance inspections. In Liechtenstein, the AML supervisor identified weaknesses in establishing and corroborating the source of wealth of the beneficial owner and the source of funds held by the legal person or arrangement in question and brought the matter to the attention of the courts. In some instances, monetary fines were imposed by the court upon the responsible senior management member. In Croatia, the AML supervisor filed misdemeanour proceedings for violation of beneficial ownership, CDD, and risk assessment obligations.

**Box 12. Latvia**

Latvia reports that, in the period from 2013 to 2015, five criminal cases were initiated on grounds of non-provision of information and provision of false information regarding ownership of resources and the true beneficiary. Of these five cases, two have been submitted for prosecution and one case is under review by the court. No information was provided regarding the outcome of these cases.

**Box 13. Spain and the US**

Information provided by Spain and the US describes cases where police followed illicit financial flows to gatekeepers who were complicit in setting up networks of shell companies to launder proceeds of drug trafficking, political corruption, fraud, and tax evasion.

41. Although the sample is quite small, there seems to be a pattern in the way law enforcement proceedings are taken. Some jurisdictions have AML supervisors who initiate court proceedings to penalize weaknesses found during compliance inspections. Other jurisdictions, like Spain and the US, do not use criminal proceedings to enforce preventative measures like beneficial ownership obligations. Rather, legal proceedings are limited to cases of complicit actors actively engaged in money laundering.

42. Some of the approaches to enforcement of beneficial ownership obligations noted above are interesting and may potentially help to address common challenges in implementing effective measures to prevent the misuse of legal persons. These could be reviewed in more depth, as a basis for more detailed description and analysis in the final Horizontal Study. These include in particular the exercise of administrative supervisory powers and its impact on compliance; Jersey's approach of using both the AML Supervisor and Companies Registry to enforce beneficial ownership obligations; and the role of law enforcement in enforcing preventative measures. The lack of reported information on enforcement gives rise to questions that should also be considered for further information gathering.

## ANNEX C. CASE SUMMARIES

Case Study 1 - Argentina	
<p>A complex corporate structure, with Company G 95% owned by Mr. A and 5% by Mr. B. Company G purchased a power generator from Company K, owned by Company R in the Cayman Islands. Company R was linked to Panamanian Foundation P, which had Mr. A and his spouse as beneficiaries. Company G leased the generator to Company E, receiving amounts cleared by Company L. The funds were drawn against Company K's bank account, and Company G made payments to K to settle a debt. The funds were credited to the accounts of Companies S, T and R. The simulation of commercial operations introduced funds of dubious origin to the financial system, hiding the true beneficiary.</p>	
Indicators	<ul style="list-style-type: none"> <li>• Declared income which is inconsistent with their assets, transactions or lifestyle</li> <li>• Legal person or arrangement incorporated/formed in a low-tax jurisdiction or international trade or financial centre</li> <li>• Legal person or arrangement regularly sends money to low-tax jurisdictions or international trade or finance centres</li> <li>• Legal person or arrangement conducts transactions with international companies without sufficient corporate or trade justification</li> <li>• Financial activities and transactions inconsistent with the corporate profile</li> <li>• False invoices created for services not carried out</li> <li>• Falsified paper trail</li> <li>• Family members with no role or involvement in the running of the business are listed as beneficial owners of legal persons or arrangements</li> <li>• Complex corporate structures that do not appear to legitimately require that level of complexity or which do not make commercial sense</li> <li>• Finance is provided by a lender, including either a natural or a legal person, other than a known credit institution, with no logical explanation or commercial justification</li> <li>• Loans are received from private third parties without any supporting loan agreements, collateral or regular interest repayments</li> <li>• Transaction is occurring between two or more parties that are connected without an apparent business or trade rationale</li> <li>• Transaction involves complicated transaction routings without sufficient explanation or trade records</li> <li>• Funds are sent to, or received from, a foreign country when there is no apparent connection between the country and the client</li> <li>• Funds involved in the transaction are sent to, or received from, a low-tax jurisdiction or international trade or finance centre</li> </ul>

<b>Case Study 2 - Australia</b>	
<p>An Australian drug syndicate used multiple money laundering methods to launder more than AUD1 million worth of proceeds of crime. Trust accounts, a “front” company, high-value goods and real estate were used to launder the profits from cannabis sales. The syndicate also misused the services of two “professional facilitators” (an accountant and solicitor) to facilitate its criminal activity. The syndicate made significant profits by purchasing bulk amounts of cannabis in one state and then selling the drugs in another state. As a cover for its illicit activities, the syndicate established what appeared to be a transport company. The syndicate purchased a truck and rented a warehouse in the name of the company and used these to traffic the cannabis interstate.</p>	
<b>Indicators</b>	<ul style="list-style-type: none"> <li>• No real business activities undertaken</li> <li>• Exclusively facilitates transit transactions and does not appear to generate wealth or income</li> <li>• Transaction is executed from a business account and involves a large sum of cash, either as a deposit or a withdrawal, which is anomalous, or inconsistent with the company’s profile</li> <li>• Transaction involves a professional intermediary without due cause or apparent justification</li> <li>• Transaction involves the use of multiple large cash payments to pay down a loan or mortgage</li> </ul>

<b>Case Study 3 - Australia</b>	
<p>Managers at a university and directors of construction companies were complicit in a fraudulent invoice scheme. The managers approved inflated invoices for maintenance work to be carried out by the construction companies, as well as invoices for work that was never undertaken.</p> <p>The fraud profits were used to purchase racehorses and property. The managers at the university were repaid with kickbacks or direct shares in racehorses. Accounting firms, which were undertaking international transfers on behalf of the suspects, sent money to many countries, including New Zealand, Canada, Hong Kong and the US. A large proportion of the funds were sent to companies linked to the horse racing industry.</p> <p>The accounting firms also received international transfers from various overseas entities that were similar in value to the amounts the firms had sent overseas initially. The majority of these transfers originated from Hong Kong. Authorities suspected that the accounting firms were laundering the funds on behalf of the suspects as part of a professional money laundering syndicate.</p>	
<b>Indicators</b>	<ul style="list-style-type: none"> <li>• Financial activities and transactions inconsistent with their customer profile</li> <li>• Declared income which is inconsistent with their assets, transactions or lifestyle</li> </ul>

- Transaction appears cyclical
- Transaction involves a professional intermediary without due cause or apparent justification

#### Case Study 4 - Australia

Suspect declared minimal income to the tax office while living a luxurious lifestyle, and was identified as having disguised income derived from securities trading. The criminal investigation revealed that the suspect created several international companies which, on paper, were owned by a stichting (a foundation in which the identity of the beneficial owner is not yet publicly available) in the Netherlands. The suspect sold securities below market value to the international companies to reduce Australian tax liability. The suspect later arranged for the shares to be sold via his international companies at market value. The proceeds of the sales were returned to the suspect in Australia disguised as loans from international companies. Over two years, the suspect arranged 15 international funds transfer to send funds from international companies under his control based in Switzerland to his Australia-based company.

#### Indicators

- Financial activities and transactions inconsistent with their customer profile
- Declared income which is inconsistent with their assets, transactions or lifestyle
- Legal person or arrangement incorporated/formed in a low-tax jurisdiction or international trade or financial centre
- No real business activities undertaken
- Exclusively facilitates transit transactions and does not appear to generate wealth or income
- Loans are received from private third parties without any supporting loan agreements, collateral or regular interest repayments
- Funds are unusual in the context of the client or customer's profile
- Funds involved in the transaction are sent to, or received from, a low-tax jurisdiction or international trade or finance centre

#### Case Study 5 - Australia

The "Round Robin" scheme aimed to make funds movements appear as payments to other parties while, in reality, the funds ultimately returned to the original beneficiary. The suspects transferred funds from their companies' accounts to the bank accounts of companies in New Zealand. The New Zealand companies and bank accounts were controlled by a Vanuatu-based accountant, who was a signatory to the bank accounts. The payments were falsely described in the companies' records as "management and consultancy fees," with false invoices that matched amounts paid to the New Zealand bank accounts. No evidence was available to show that any consulting work had been carried out. The false expense payments were claimed as deductible expenses in the tax returns of

companies X, Y and Z, thereby fraudulently reducing the companies' taxable income and taxes owed. The accountant then transferred the funds under the guise of international "loans" through a series of round robin international transactions, through accounts held in the name of companies owned and operated by the accountant. The accountant transferred the funds into the personal bank accounts of the suspects in Australia. The funds were transferred via an overseas company controlled by the accountant, separate to the companies in New Zealand that received the funds originally. In order to disguise the funds being transferred back into Australia as loans, false documents were created purporting to be international loan agreements with a foreign lender, which are not assessed as income and have no tax liability.

**Indicators**

- Legal person or arrangement incorporated/formed in a low-tax jurisdiction or international trade or financial centre
- False invoices created for services not carried out
- No real business activities undertaken
- Exclusively facilitates transit transactions and does not appear to generate wealth or income
- Legal Person pays no taxes, superannuation, retirement fund contributions or social benefits
- Loans are received from private third parties without any supporting loan agreements, collateral or regular interest repayments
- Transaction appears cyclical
- Transaction involves a professional intermediary without due cause or apparent justification
- Transaction involves complicated transaction routings without sufficient explanation or trade records
- Funds are sent to, or received from, a foreign country when there is no apparent connection between the country and the client
- Funds involved in the transaction are sent to, or received from, a low-tax jurisdiction or international trade or finance centre

**Case Study 6 - Australia**

Investigating authorities identified that suspect A operated an import business in Australia and was a participant in a tax evasion scheme operated by an accountant. Suspect A and his wife were directors and shareholders of an Australian company (company 1). Suspect A was also a director and shareholder of another Australian company (company 2). An associate of suspect A was the co-director of company 2. Authorities identified that the accountant controlled company 3, which was registered in Hong Kong and operated a bank account in Australia.

This company was used to issue false invoices to companies 1 and 2. Over a five-and-a-half-year period company 3 issued false invoices to companies 1 and 2 for supposed "brokering services." Suspect A paid the false invoices, which totalled more than AUD2 million, by directing companies 1 and 2 to pay company 3. The

funds paid to company 3, less the accountant's 10% fee, were returned to suspect A and individuals associated with him.

Indicators	<ul style="list-style-type: none"> <li>• Legal person or arrangement incorporated/formed in a low-tax jurisdiction or international trade or financial centre</li> <li>• False invoices created for services not carried out</li> <li>• Falsified paper trail</li> <li>• Family members with no role or involvement in the running of the business are listed as beneficial owners of legal persons or arrangements</li> <li>• Simple banking relationships are established using professional intermediaries</li> <li>• No real business activities undertaken</li> <li>• Exclusively facilitates transit transactions and does not appear to generate wealth or income</li> <li>• Client is both the ordering and beneficiary customer for multiple international funds transfers</li> <li>• Loans are received from private third parties without any supporting loan agreements, collateral or regular interest repayments</li> <li>• Transaction appears cyclical</li> <li>• Transaction involves the two-way transfer of funds between a client and a professional intermediary for similar sums of money</li> <li>• Transaction involves two legal persons with similar or identical directors, shareholders, or beneficial owners</li> <li>• Transaction involves a professional intermediary without due cause or apparent justification</li> <li>• Transaction involves complicated transaction routings without sufficient explanation or trade records</li> <li>• Funds are sent to, or received from, a foreign country when there is no apparent connection between the country and the client</li> <li>• Funds involved in the transaction are sent to, or received from, a low-tax jurisdiction or international trade or finance centre</li> </ul>
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#### Case Study 7 – Australia

Individuals A and B were family members who owned and controlled a group of Australia-based companies that undertook motor vehicle repairs and sold automotive products. Individuals A and B received advice from an accountant about the purported benefits of international superannuation funds, and as a result Individual A established a superannuation fund in Samoa with a Samoa-based company acting as fund trustee. Company 1, controlled by Individuals A and B, contributed AUD 200 000 to the fund, which was then returned back to Company 1 disguised as a loan. The superannuation contribution was claimed as a tax deduction. Individuals A and B also entered into a secondary loan agreement on behalf of company 1 with the Samoa-based private bank. This second loan arrangement remained in place for more than 10 years and was later transferred

to other companies in the group. Companies controlled by Individuals A and B made “interest payments” by way of international funds transfer, which were then returned back to the companies as further loans.

To further complicate the loan arrangement, another Australian organisation was introduced to the transaction activity. This organisation was unrelated to the main group of companies and was described as a charitable organisation. The organisation facilitated the transfer of funds between the bank’s New Zealand subsidiary and the Australian group of companies.

**Indicators**

- Legal person or arrangement incorporated/formed in a low-tax jurisdiction or international trade or financial centre
- Legal person or arrangement regularly sends money to low-tax jurisdictions or international trade or finance centres
- Legal person or arrangement conducts transactions with international companies without sufficient corporate or trade justification
- Focused on aggressive tax minimisation strategies
- Family members with no role or involvement in the running of the business are listed as beneficial owners of legal persons or arrangements
- Client is both the ordering and beneficiary customer for multiple international funds transfers
- Finance is provided by a lender, including either a natural or a legal person, other than a known credit institution, with no logical explanation or commercial justification
- Loans are received from private third parties without any supporting loan agreements, collateral or regular interest repayments
- Transaction is occurring between two or more parties that are connected without an apparent business or trade rationale
- Transaction appears cyclical
- Transaction involves complicated transaction routings without sufficient explanation or trade records
- Funds are sent to, or received from, a foreign country when there is no apparent connection between the country and the client
- Funds involved in the transaction are sent to, or received from, a low-tax jurisdiction or international trade or finance centre

**Case Study 8 – Australia**

Illegal international arrangements are an established way of evading tax, laundering funds and concealing beneficial ownership. Project Wickenby identified the use of false invoices and loans in illegal international arrangements. The scheme involved an Australian company (company A) which enters into an agreement with a tax scheme promoter based in a tax secrecy jurisdiction (country 1). The promoter benefits from the confidentiality and privacy offered in the tax secrecy jurisdiction. The tax scheme promoter owns and/or controls two international companies (company B and C). Control may involve the use of a trust

or the use of third parties; for example, a relative or associate may act as the director of the international companies. Company B provides consultancy and/or management services and is incorporated in country 2. Company C provides a financial service (as a lender of money, for example) and is incorporated in country 4. Companies B and C hold bank accounts in country 4. The promoter controls and operates these accounts.

Indicators	<ul style="list-style-type: none"> <li>• Legal person or arrangement incorporated/formed in a low-tax jurisdiction or international trade or financial centre</li> <li>• Legal person or arrangement regularly sends money to low-tax jurisdictions or international trade or finance centres</li> <li>• Legal person or arrangement conducts transactions with international companies without sufficient corporate or trade justification</li> <li>• False invoices created for services not carried out</li> <li>• Falsified paper trail</li> <li>• No real business activities undertaken</li> <li>• Exclusively facilitates transit transactions and does not appear to generate wealth or income</li> <li>• Finance is provided by a lender, including either a natural or a legal person, other than a known credit institution, with no logical explanation or commercial justification</li> <li>• Loans are received from private third parties without any supporting loan agreements, collateral or regular interest repayments</li> <li>• Transaction appears cyclical</li> <li>• Transaction involves a professional intermediary without due cause or apparent justification</li> <li>• Transaction involves complicated transaction routings without sufficient explanation or trade records</li> <li>• Funds are sent to, or received from, a foreign country when there is no apparent connection between the country and the client</li> <li>• Funds involved in the transaction are sent to, or received from, a low-tax jurisdiction or international trade or finance centre</li> </ul>
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#### Case Study 9 – Belgium

International transfer from the account of a foreign foundation to an account in Belgium of one of the ultimate beneficial owners of the foundation, followed by attempt to repatriate a significant amount. Limited tax adjustment declaration and remaining uncertainty about the origin of the assets gave rise to a suspicion of fiscal fraud, evasion of inheritance tax and attempted money laundering.

Indicators	<ul style="list-style-type: none"> <li>• Client is reluctant or unable to explain their source of wealth/funds</li> <li>• Legal person or arrangement incorporated/formed in a low-tax jurisdiction or international trade or financial centre</li> <li>• Focused on aggressive tax minimisation strategies</li> <li>• Correct documents not filed with the tax authority</li> </ul>
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	<ul style="list-style-type: none"> <li>• Falsified paper trail</li> <li>• Funds involved in the transaction are sent to, or received from, a low-tax jurisdiction or international trade or finance centre</li> </ul>
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**Case Study 10 - Belgium**

Natural persons repatriated to Belgium funds originating from accounts in a foreign jurisdiction in the name of two Stiftung and an AG corporation with address in that jurisdiction and a Ltd. corporation with its address in another jurisdiction, as well as in the name of trustees of a trust in that jurisdiction. The repatriated funds were used for various payments and purchases. Inadequate justification of the source of funds led to a suspicion of serious fiscal fraud.

Indicators	<ul style="list-style-type: none"> <li>• Client is reluctant or unable to explain their source of wealth/funds</li> <li>• Legal person or arrangement incorporated/formed in a low-tax jurisdiction or international trade or financial centre</li> <li>• Focused on aggressive tax minimisation strategies</li> <li>• Correct documents not filed with the tax authority</li> <li>• Funds involved in the transaction are sent to, or received from, a low-tax jurisdiction or international trade or finance centre</li> </ul>
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**Case Study 11 - Bolivia**

Multiple money orders originated from the same geographic area in Spain, sent by individuals and corporations to straw men nominees (often related) in the same geographic area in Bolivia. The purpose of the transfers was declared as the construction and purchase of properties through a local company. Funds were also sent to USD accounts in two financial institutions held by a money exchange house. The MSB's bank accounts also received international money orders from two companies with the same UK address. The straw men nominees and the MSB's bank accounts transferred money to a separate group of individuals, which included a partner in the MSB business. These individuals deposited the funds in case into local currency bank accounts before sending the funds on as electronic transfers to individuals residing in the Brazil-Bolivia border area.

Indicators	<ul style="list-style-type: none"> <li>• Registered at an address that is also listed against numerous other companies or legal arrangements</li> <li>• Legal person or arrangement conducts a large number of transactions with a small number of recipients</li> <li>• Bank balance of close to zero, despite frequent incoming and outgoing transactions</li> <li>• Family members with no role or involvement in the running of the business are listed as beneficial owners of legal persons or arrangements</li> <li>• No real business activities undertaken</li> <li>• Legal Person pays no taxes, superannuation, retirement fund contributions or</li> </ul>
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	<p>social benefits</p> <ul style="list-style-type: none"> <li>• The connections between the parties are questionable, or generate doubts that cannot be sufficiently explained by the client</li> <li>• Transaction is occurring between two or more parties that are connected without an apparent business or trade rationale</li> <li>• Transaction is executed from a business account and involves a large sum of cash, either as a deposit or withdrawal, which is anomalous, or inconsistent with the company’s profile</li> <li>• Funds are unusual in the context of the client or customer’s profile</li> <li>• Funds are sent to, or received from, a foreign country when there is no apparent connection between the country and the client</li> </ul>
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**Case Study 12 - Canada**

A publicly-listed company’s common stock was part of a fraud affecting the market price of their security that involved numerous stock promoters in Canada and elsewhere who manipulated the stock price by making misleading representations and/or omissions. It is alleged that the proceeds, of up to USD 20 million, were then laundered through offshore banks. The US SEC provided information that established the flow of shares from Serbian nominees, through intermediary international business companies. These shares were effectively in bearer form having been signed over by the seed shareholders at the time of issue. An opinion letter was written by a US based securities lawyer that allowed these shares to trade and a subsequent reverse merger was completed immediately after the free-trading shares were anonymised and immediately before a prolific series of paid promotions were carried out. Canadian investigators were unable to prove and confirm identities behind real owners of the international business companies, which held control of the free trading shares. Additional investigative challenges included the inability to access information from offshore jurisdictions with regards to pertinent documentation used to obscure beneficial ownership of intermediary international business companies. Canadian investigators encountered refusal from Serbian nominees to co-operate and provide witness statements on several occasions.

Indicators	<ul style="list-style-type: none"> <li>• Legal person or arrangement incorporated/formed in a low-tax jurisdiction or international trade or financial centre</li> <li>• Nominee owners and directors</li> <li>• Transaction involves the transfer of bearer shares in an off-market sale</li> </ul>
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**Case Study 13 – Cayman Islands**

Mr. A established a Cayman Islands revocable trust, with himself as settlor and a local TCSP acting as trustee. Mr. A also arranged for the incorporation of a Cayman Islands company known as ‘Company B’, with the local TCSP also acting as the

registered office.

The TCSP became aware of allegations relating to Mr. A and his involvement in an oil and gas contract scam which also involved members of a foreign government. Over a two-year period, the TCSP reported that the trust and underlying company had received numerous transfers of funds and property from what was now deemed to be questionable sources, which in turn heightened its suspicions and prompted an STR. An analysis of the trust accounts revealed outgoing funds to individuals named in numerous media reports who allegedly took part in the kickback scandal. In response a request, the foreign jurisdiction's confirmed that Mr. A was being investigated for money laundering and corruption of government officials.

Indicators	<ul style="list-style-type: none"> <li>• Politically exposed persons, or have familial or professional associations with a person who is politically exposed</li> <li>• Under investigation or have known connections with criminals</li> <li>• Legal person or arrangement incorporated/formed in a low-tax jurisdiction or international trade or financial centre</li> <li>• Complex corporate structures that do not appear to legitimately require that level of complexity or which do not make commercial sense</li> <li>• Funds are unusual in the context of the client or customer's profile</li> </ul>
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#### Case Study 14 – Cayman Islands

The managing director of an overseas company issued a prospectus which contained misleading and false information within the company's annual report. He overstated the company's group revenue by 275%. This information was provided to that country's securities commission as part of the company's proposal for listing on their stock exchange. The managing director established a revocable trust and underlying company in the Cayman Islands. He then opened an overseas bank account in the name of the Cayman Islands company for which he held the Power of Attorney, allowing him to trade in the account. This structure was devised to hide the managing director's trading in the overseas company and to hide assets derived from his illegal activities. The Cayman Islands company held over USD 1 million in this bank account. The Financial Reporting Authority (FRA) made an onward disclosure to the FIU of the foreign national's home country. The foreign national has been charged in his home country with three counts of providing misleading and false information.

Indicators	<ul style="list-style-type: none"> <li>• Falsified paper trail</li> <li>• Legal person or arrangement incorporated/formed in a low-tax jurisdiction or international trade or financial centre</li> <li>• Bank accounts in multiple international jurisdictions without good reason</li> <li>• Repeat transaction, and the executing customer is a signatory to the account, but is not listed as having a controlling interest in the company or assets</li> </ul>
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### Case Study 15 – China

The suspect used the identity of his close relatives and company employees to establish eight shell companies while maintaining actual control over these companies. He fabricated false documents and sales contracts to fraudulently obtain financing from six banks. Additionally, the suspect defrauded 3 state-owned enterprises through financing and false trading by utilizing illegal financial institutions such as underground banks. The suspect transferred the money into his private accounts for personal use and the repayment of personal debt.

#### Indicators

- False invoices created for services not carried out
- Falsified paper trail
- Family members with no role or involvement in running the business are listed as beneficial owners of legal persons or arrangements
- Nominee owners and directors including informal nominees, such as children, spouses, relatives or associates who do not appear to be involved in the running of the corporate enterprise
- The connections between the parties are questionable, or generate doubts that cannot be sufficiently explained by the client
- Finance is provided by a lender, including either a natural or a legal person, other than a known credit institution, with no logical explanation or commercial justification
- Transaction is executed from a business account but appears to fund personal purchases, including the purchase of assets or recreational activities that are inconsistent with the company's profile
- Transaction involves two legal persons with similar or identical directors, shareholders, or beneficial owners

### Case Study 16 – China

Suspect A used his influence as the manager of an enterprise to help Company X to win a tender bid and receive dividends in proportion to capital stock held. Company X was owned by Suspect A, B, and C. After Company X won the tender bid, Suspect B took over control of the company. Suspect A asked Suspect B to open an offshore account for him in Hong Kong, and transfer funds under the guise of a housing purchase. The offshore companies and accounts were opened in the name of Suspect B's wife and sisters, respectively. After depositing a portion of the funds, the accounts were transferred to Suspect A's control. Suspect A then fled and Suspect B asked the vice president of Company X to transfer funds to the Hong Kong accounts held in his family members' names. The money was then transferred back to China through underground banks and distributed to five new domestic bank accounts in the name of an employee of Company X.

#### Indicators

- Director or controlling shareholder(s) cannot be located or contacted
- Legal person or arrangement regularly sends money to low-tax jurisdictions

	<p>or international trade or finance centres or international trade or finance centres</p> <ul style="list-style-type: none"> <li>• Multiple bank accounts without good reason</li> <li>• Family members with no role or involvement in running the business are listed as beneficial owners of legal persons or arrangements</li> <li>• Nominee owners and directors including informal nominees, such as children, spouses, relatives or associates who do not appear to be involved in the running of the corporate enterprise</li> <li>• Transaction is occurring between two or more parties that are connected without an apparent business or trade rationale</li> <li>• Transaction is a business transaction that involves family members of one or more of the parties without a legitimate business rationale</li> <li>• Transaction appears cyclical</li> <li>• Transaction involves two legal persons with similar or identical directors, shareholders, or beneficial owners</li> <li>• Funds involved in the transaction are sent to, or received from, a low-tax jurisdiction or international trade or finance centre or international trade or finance centre</li> </ul>
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**Case Study 17 – China**

A low-ranking official A, who worked for a local government department, took advantage of his position to obtain privileges and contracts for CC Company, and received bribery payments from the manager of CC Company in return. A also arranged for his cousin to work for CC Company and for his sister and wife to keep the company books. A positioned himself as a dormant shareholder, claiming money from the principal as profit sharing. A also installed his daughter as a shareholder of CC Company without equity.

Indicators	<ul style="list-style-type: none"> <li>• Director or controlling shareholder(s) does not appear to have an activity role in the company</li> <li>• Family members with no role or involvement in running the business are listed as beneficial owners of legal persons or arrangements</li> <li>• The connections between the parties are questionable, or generate doubts that cannot be sufficiently explained by the client</li> <li>• Transaction is a business transaction that involves family members of one or more of the parties without a legitimate business rationale</li> <li>• Transaction involves the transfer of shares in an off-market sale</li> </ul>
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**Case Study 18 – Croatia**

Croatian Company A received funds from Company B (incorporated in a financial centre), which were used to invest in real estate on Croatian coast. The founder of

Company A was another Croatian company, the founders of which were citizens of Country D. The funds of foreign Citizen K (citizen of Country D) were suspected to originate from bribery in Country D, and were sent to the account of Company B, which then transferred funds as loan to the account of Company A. The ownership structure of Company A involved another Croatian company and 4 other citizens of Country D, but based on intelligence there is reason to suspect that beneficial owner of Company A is Citizen K.

Indicators	<ul style="list-style-type: none"> <li>• Legal person or arrangement incorporated/formed in a low-tax jurisdiction or international trade or financial centre</li> <li>• Complex corporate structures that do not appear to legitimately require that level of complexity or which do not make commercial sense</li> <li>• Finance is provided by a lender, including either a natural or a legal person, other than a known credit institution, with no logical explanation or commercial justification</li> </ul>
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#### Case Study 19 – Ecuador

Public officials along with relatives and individuals connected to law firms created a series of companies in several countries for the purpose of receiving bribe payments. The bribe payments were effected through individuals with links to companies that provide goods and services to a public institution in the oil sector. To send the payments, and to hide the real beneficiaries of the transfers, the suppliers created companies in Panama, Hong Kong, British Virgin Islands, Bahamas, Uruguay, and the US.

Indicators	<ul style="list-style-type: none"> <li>• Client is reluctant or unable to explain their source of wealth/funds</li> <li>• Politically exposed persons, or have familial or professional associations with a person who is politically exposed</li> <li>• Long period of inactivity following incorporation, followed by a sudden and unexplained increase in financial activities</li> <li>• Legal person or arrangement incorporated/formed in a low-tax jurisdiction or international trade or financial centre</li> <li>• Legal person or arrangement regularly sends money to low-tax jurisdictions or international trade or finance centres</li> <li>• Legal person or arrangement conducts transactions with international companies without sufficient corporate or trade justification</li> <li>• Relationships with foreign professional intermediaries in the absence of genuine business transactions in the professional's country of operation</li> <li>• There is a discrepancy between the supposed wealth of the settlor and the object of the settlement.</li> <li>• False invoices created for services not carried out</li> <li>• Employees of professional intermediary firms acting as nominee directors or shareholders</li> <li>• Complex corporate structures that do not appear to legitimately require that level of complexity or which do not make commercial sense</li> </ul>
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	<ul style="list-style-type: none"> <li>• Nominee owners and directors</li> <li>• Funds involved in the transaction are sent to, or received from, a low-tax jurisdiction or international trade or finance centre</li> </ul>
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**Case Study 20 - Egypt**

The scheme involved making investments in different fields through legal persons without clear economic purpose to launder funds obtained from the appropriation of public funds. It lasted 18 years and laundered EGP 300 million. It involved an Egyptian shareholding company and another company located abroad with unclear legal structure. The legal entity was managed by the primary suspect's sons, and the directors, shareholders and board of directors were nominees.

<b>Indicators</b>	<ul style="list-style-type: none"> <li>• There is a discrepancy between the supposed wealth of the settlor and the object of the settlement.</li> <li>• Family members with no role or involvement in the running of the business are listed as beneficial owners of legal persons or arrangements</li> <li>• Complex corporate structures that do not appear to legitimately require that level of complexity or which do not make commercial sense</li> <li>• Nominee owners and directors</li> </ul>
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**Case Study 21 - Egypt**

The scheme involved real estate investment, the management of securities and portfolios investment and real estate marketing. Over the course of 5 years, the suspects received EGP 50 million for the purposes of real estate investment but stole the funds. Money was transferred and cash deposits made across eight legal persons with nominee shareholders and boards of directors, and one sole proprietorship.

<b>Indicators</b>	<ul style="list-style-type: none"> <li>• There is a discrepancy between the supposed wealth of the settlor and the object of the settlement.</li> <li>• Nominee owners and directors</li> <li>• Transaction is executed from a business account and involves a large sum of cash, either as a deposit or withdrawal, which is anomalous, or inconsistent with the company's profile</li> </ul>
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**Case Study 22 - Egypt**

14 companies and 8 Egyptian persons working in the tourism sector laundered EGP 42 million over the course of 3 years. The suspect used his official position to embezzle funds and invested the proceeds to top-up the capital of his companies before transferring the money abroad. The suspect's family members acted as

front people.	
Indicators	<ul style="list-style-type: none"> <li>• Client is reluctant or unable to explain their source of wealth/funds</li> <li>• Politically exposed persons, or have familial or professional associations with a person who is politically exposed</li> <li>• Family members with no role or involvement in the running of the business are listed as beneficial owners of legal persons or arrangements</li> <li>• Nominee owners and directors including informal nominees, such as children, spouses, relatives or associates who do not appear to be involved in the running of the corporate enterprise</li> </ul>

#### Case Study 23 - Egypt

The scheme involved the reclamation of agriculture lands, trading, marketing and acting as agents for other brands, and trading in medical tools. It operated over the course of 15 years and involved four legal persons and 18 natural persons. EGP 17 million of funds originating from a foreign predicate offense were laundered by co-mingling in Egyptian joint-stock companies with the suspect's relatives used as front people. The shareholders and board members were nominees, and a lawyer was involved in the scheme.

Indicators	<ul style="list-style-type: none"> <li>• Family members with no role or involvement in the running of the business are listed as beneficial owners of legal persons or arrangements</li> <li>• Nominee owners and directors</li> <li>• funds are sent to, or received from, a foreign country when there is no apparent connection between the country and the client.</li> </ul>
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#### Case Study 24 - Egypt

A financial consultancy firm misappropriated investment funds. The funds were transferred using three companies to bank and securities accounts in overseas jurisdictions. Over the course of four years, the suspects laundered EGP 21 million, USD 4 million & EUR 68 thousand. The funds were collected by the firm for a declared purpose of investing them, yet they were actually misappropriated.

Indicators	<ul style="list-style-type: none"> <li>• There is a discrepancy between the supposed wealth of the settlor and the object of the settlement.</li> <li>• funds are sent to, or received from, a foreign country when there is no apparent connection between the country and the client.</li> </ul>
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<b>Case Study 25 - Egypt</b>	
<p>The scheme involved the misappropriation of a company's funds by one of its employees. The predicate offense took place in a foreign jurisdiction. The company operated in construction, real estate development and import-export activities in Egypt. The funds were laundered by co-mingling the proceeds of crime with the capital of 8 legal persons (partnerships and Egyptian joint-stock companies). The shareholders and some of the partners were nominees.</p>	
<b>Indicators</b>	<ul style="list-style-type: none"> <li>• Nominee owners and directors</li> <li>• funds are sent to, or received from, a foreign country when there is no apparent connection between the country and the client.</li> </ul>

<b>Case Study 26 - Egypt</b>	
<p>The accused created six British Virgin Island shell companies and used the bank accounts of these shell companies to launder the proceeds of crime of a total amount of more than EGP 1 billion. The predicate offence was "illegal earning". The six shell companies all had a nominee shareholder.</p>	
<b>Indicators</b>	<ul style="list-style-type: none"> <li>• Legal person or arrangement incorporated/formed in a low-tax jurisdiction or international trade or financial centre</li> <li>• Funds involved in the transaction are sent to, or received from, a low-tax jurisdiction or international trade or finance centre</li> <li>• Nominee owners and directors.</li> </ul>

<b>Case Study 27 - Egypt</b>	
<p>The scheme laundered the proceeds of illegal forex exchange through two exchange houses over the course of 10 years. The Chairmen and boards of directors of both legal persons were professional nominees. EGP 70 million originated from the predicted offence were laundered through establishing companies.</p>	
<b>Indicators</b>	<ul style="list-style-type: none"> <li>• Nominee owners and directors including formal nominees</li> </ul>

<b>Case Study 28 - Europol</b>	
<p>Complicit facilitators set up shell companies and bank accounts. Banks in two EU countries facilitated the formation of shell companies (in EU, Belize, BVI and Panama) and registered bank employees as fake directors. Those bank accounts were controlled via Internet banking by criminals. Independent agents acting as</p>	

company service providers registered and administered those companies. A variety of OCGs used this network, on some ad-hoc basis for specific periods of time.

Indicators	<ul style="list-style-type: none"> <li>• Under investigation or have known connections with criminals</li> <li>• Registered at an address that is also listed against numerous other companies or legal arrangements</li> <li>• Director, controlling shareholder(s) and/or beneficial owner(s) are listed against the accounts of other legal persons or arrangements</li> <li>• Legal person or arrangement incorporated/formed in a low-tax jurisdiction or international trade or financial centre</li> <li>• Bank balance of close to zero, despite frequent incoming and outgoing transactions</li> <li>• Bank accounts in multiple international jurisdictions without good reason</li> <li>• Employees of professional intermediary firms acting as nominee directors or shareholders</li> <li>• Complex corporate structures that do not appear to legitimately require that level of complexity or which do not make commercial sense</li> <li>• Nominee owners and directors including informal nominees, such as children, spouses, relatives or associates who do not appear to be involved in the running of the corporate enterprise</li> </ul>
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#### Case Study 29 – Europol

An organised crime group linked to the “Camorra” was involved in the transport of large amounts of drugs to Italy. Individuals from the crime group performed transactions on behalf of others, moving funds through company and foundation bank accounts. Those middlemen operated multiple bank accounts, exploiting products such as loans and stock market trading. Trade-based money laundering was also used to conceal the criminal funds by buying/selling companies, vehicles and jewellery.

Indicators	<ul style="list-style-type: none"> <li>• Under investigation or have known connections with criminals</li> <li>• Multiple bank accounts without good reason</li> <li>• Bank accounts in multiple international jurisdictions without good reason</li> <li>• Complex corporate structures that do not appear to legitimately require that level of complexity or which do not make commercial sense</li> </ul>
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#### Case Study 30 – Europol

A non-EU organised crime group used offshore shell companies, controlled by various professional straw men, offering substantial loans with high interest rates and deferred payment loans and mortgages for property investments. Companies investing in Spain belonged to the same crime group.

Indicators	<ul style="list-style-type: none"> <li>• Director, controlling shareholder(s) and/or beneficial owner(s) are listed against the accounts of other legal persons or arrangements</li> <li>• Legal person or arrangement incorporated/formed in a low-tax jurisdiction or international trade or financial centre</li> <li>• Multiple bank accounts without good reason</li> <li>• Bank accounts in multiple international jurisdictions without good reason</li> <li>• Nominee owners and directors including formal nominees</li> <li>• Finance is provided by a lender, including either a natural or a legal person, other than a known credit institution, with no logical explanation or commercial justification</li> <li>• Loans are received from private third parties without any supporting loan agreements, collateral, or regular interest repayments</li> </ul>
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**Case Study 31 - Fiji**

Mr. X used two shell companies to launder the money he had fraudulently obtained from his business partner Mr. Z. Mr. X set up a fake real estate company to facilitate the purchase and transferred the funds to another shell company and to his wife. The funds were then used to acquire property under their names.

Indicators	<ul style="list-style-type: none"> <li>• Legal person or arrangement receives large sums of capital funding quickly following incorporation/formation, which is spent or transferred elsewhere in a short period of time without commercial justification</li> <li>• False invoices created for services not carried out</li> <li>• Nominee owners and directors including informal nominees, such as children, spouses, relatives or associates who do not appear to be involved in the running of the corporate enterprise</li> <li>• Transaction is a business transaction that involves family members of one or more of the parties without a legitimate business rationale</li> </ul>
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**Case Study 32 - Fiji**

This case involved fraudulent activities conducted by Mr. X, an accountant at a Fijian resort. Mr. X altered the resort's cheques written to the resorts' creditors. A shell company was established to conceal the fraudulently converted funds. Some of the cheques that were fraudulently converted were altered and deposited into the bank account of the shell company. The remaining cheques were issued to other family members and associates of Mr. X. The laundered proceeds were used to purchase six motor vehicles, a private property and cash. The vehicles were registered under Mr. X's and others' names, whereas the property was registered under Mr. X's mother's name, and later transferred to one of his associates.

Indicators	<ul style="list-style-type: none"> <li>• Financial activities and transactions inconsistent with the corporate profile</li> <li>• Multiple bank accounts without good reason</li> <li>• Nominee owners and directors including informal nominees, such as children,</li> </ul>
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	<p>spouses, relatives or associates who do not appear to be involved in the running of the corporate enterprise</p> <ul style="list-style-type: none"> <li>• Transaction is a business transaction that involves family members of one or more of the parties without a legitimate business rationale</li> <li>• Transaction is executed from a business account but appears to fund personal purchases, including the purchase of assets or recreational activities that are inconsistent with the company's profile</li> <li>• Transaction is executed from a business account and involves a large sum of cash, either as a deposit or withdrawal, which is anomalous, or inconsistent with the company's profile</li> </ul>
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### Case Study 33 – Ghana

A charity (Charity A) undertaking humanitarian work for orphans, war victims and disasters began operation in Ghana in 2016, but had been working with other partners 15 years. Charity A received three remittances totalling over USD 1 million from Charity B. The economic purpose of the funds was not indicated. Enhanced due diligence by the financial institution identified that Charity B was a wing of an UN-designated terrorist group.

Indicators	<ul style="list-style-type: none"> <li>• There is a discrepancy between the supposed wealth of the settlor and the object of the settlement.</li> <li>• Designated persons or groups</li> </ul>
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### Case Study 34 – Gibraltar

Company X listed as a subsidiary of company Y which received funds from an energy company deal. Company Z (managed by a licensed TCSP) owned company X. The scheme involved two regulated TCSPs acting as nominee shareholders. The directors had also been provided by the TCSP, but resigned less than four years after incorporation. The underlying client had also been a director. The company secretary (also a licensed TCSP) incorporated and administered the company, and provided the registered office. The supervisor obtained information being sought by the LEA using formal powers and disclosed this under a statutory gateway as being necessary for the prevention and detection of crime.

Indicators	<ul style="list-style-type: none"> <li>• Legal person or arrangement incorporated/formed in a low-tax jurisdiction or international trade or financial centre</li> <li>• Resignation and replacement of directors or key shareholders shortly after incorporation</li> <li>• Nominee owners and directors including formal nominees</li> </ul>
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<b>Case Study 35 - Gibraltar</b>	
<p>Two companies used to present what was suspected to be misleading picture of the firm’s true financial position. The scheme used nominee shareholders (licensed TCSPs). Corporate director used for one director, company secretary for both, as well as provision of registered office facilities.</p>	
<b>Indicators</b>	<ul style="list-style-type: none"> <li>• Legal person or arrangement incorporated/formed in a low-tax jurisdiction or international trade or financial centre</li> <li>• Falsified records or counterfeited documentation</li> <li>• Nominee owners and directors including formal nominees</li> </ul>

<b>Case Study 36 - Guernsey</b>	
<p>During a two-year investigation (2014-2016), the US Commodity Futures Trading Commission (CFTC) launched an investigation into UK national Mr. X Doe for market manipulation. It came to the attention of Guernsey Financial Services Commission that a TCSP provider (TCSP B) administered a corporate structure for the benefit of Mr. X Doe. Over a five-year period Mr. X Doe made approximately GBP 32 million. The purported legitimate business was futures dealing. Prior to Guernsey TCSP B’s involvement, it was administered by a Cayman Island Company. The Guernsey TCSP, which was licensed for AML/CFT, identified that Mr. X Doe was under investigation and co-operated with the Guernsey AML/CFT authorities.</p>	
<b>Indicators</b>	<ul style="list-style-type: none"> <li>• Under investigation or have known connections with criminals</li> <li>• Legal person or arrangement incorporated/formed in a low-tax jurisdiction or international trade or financial centre</li> </ul>

<b>Case Study 37 - Guernsey</b>	
<p>Persons A and B were married residents of Guernsey, and purported to be TCSPs but were unregistered. Person A was the subject of an investigation by the IRS, while the TCSP’s Client C was under investigation by the FBI. It was identified that Client C was operating a “boiler room” fraud. Investigations suggested that Person A was providing nominee directors for the shell companies used by Client C in execution of his fraud. The FBI identified that significant funds of Client C had moved through an account that Person A’s company, Company D, held in Hong Kong. Company D was incorporated in Niue with Person A the sole registered Director and Person B the Secretary. Persons A and B were connected to organised crime groups via the “business facilities” they provided, including acting as nominee directors.</p>	
<b>Indicators</b>	<ul style="list-style-type: none"> <li>• Under investigation or have known connections with criminals</li> <li>• Prohibited from holding a directorship role in a company or operating a TCSP</li> </ul>

	<ul style="list-style-type: none"> <li>• Director, controlling shareholder(s) and/or beneficial owner(s) are listed against the accounts of other legal persons or arrangements</li> <li>• Legal person or arrangement incorporated/formed in a low-tax jurisdiction or international trade or financial centre</li> <li>• Falsified paper trail</li> <li>• Nominee owners and directors including formal nominees</li> <li>• Funds involved in the transaction are sent to, or received from, a low-tax jurisdiction or international trade or finance centre</li> </ul>
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**Case Study 38 – Israel**

This scheme was used to hide funds from social engineering fraud and other criminal offenses. The cover story for the criminal offenses was international trade – funds from merchants in Europe and the US that were sending payments to suppliers in East Asia. The suspect, the owner of a registered MSB, operated a second, unregistered MSB. The suspect used several natural persons as his contact points in East Asia, who in turn contacted local TCSPs for the purpose of setting up international companies and opening bank accounts. Local straw-men were registered as the shareholders of the new international companies established for the scheme. In addition, shareholders were registered based on passports provided by the suspect's contact persons mentioned above. The registered addresses of the companies were in East Asia. Bank accounts were opened in the same East Asia countries where the offices were located.

Some of the funds were transferred to Israel to an account opened by the suspect. More than 60 beneficiaries were declared to the bank as beneficiaries, in such a way that the bank had difficulty in establishing which transaction was made on behalf of which beneficiary. The funds were sent from the companies set up by the suspect but the receiving bank did not know that these companies were actually under the suspects' control.

Indicators	<ul style="list-style-type: none"> <li>• Legal person or arrangement incorporated/formed in a low-tax jurisdiction or international trade or financial centre</li> <li>• Legal person or arrangement conducts a small number of high-value transactions with a small number of recipients</li> <li>• Legal person or arrangement receives large sums of capital funding quickly following incorporation/formation, which is spent or transferred elsewhere in a short period of time without commercial justification</li> <li>• Simple banking relationships are established using professional intermediaries</li> <li>• Nominee owners and directors including informal nominees, such as children, spouses, relatives or associates who do not appear to be involved in the running of the corporate enterprise</li> <li>• Only a post-box address</li> <li>• Legal person does not have a physical presence</li> </ul>
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<b>Case Study 39 - Israel</b>	
<p>This scheme was used to hide the proceeds of fraud conducted through foreign exchange and binary options trades. Local companies attracted foreign investors and presented themselves as legitimate foreign exchange and binary trading platforms. Private companies, Israeli representatives of foreign banks and law firms set up foreign companies abroad by contacting TCSPs located in international jurisdictions. The latter established shell companies in the international jurisdictions. The service provided by the foreign TCSPs also included opening bank accounts in favour of the shell companies in other countries. After the companies were established, the TCSPs were not involved in their management nor in any related activity. In some cases, the suspects used the companies as a vehicle to launder money and in other cases they sold the companies to third parties for a profit.</p>	
<b>Indicators</b>	<ul style="list-style-type: none"> <li>• Legal person or arrangement incorporated/formed in a low-tax jurisdiction or international trade or financial centre</li> <li>• Multiple bank accounts without good reason</li> <li>• Bank accounts in multiple international jurisdictions without good reason</li> <li>• Simple banking relationships are established using professional intermediaries</li> <li>• Nominee owners and directors including informal nominees, such as children, spouses, relatives or associates who do not appear to be involved in the running of the corporate enterprise</li> </ul>

<b>Case Study 40 - Israel</b>	
<p>This case involved a fraudulent tax scheme designed to evade paying tax generated from international trade and a ML infrastructure that was used to hide the illegally gained funds. The suspects used a TCSP to register and operate two international shell companies (Company A and Company B) to create the false appearance that the revenues from their international trading did not belong to the local Israeli company which they controlled, to avoid tax. The two companies traded with each other exclusively and did not have any other source of income. Company A (foreign shell company) transferred significant funds to company C (local company) using the cover of a "consulted fee"/ "service commission". Only this commission, which was less than half of the real income, was reported to the tax authority in Israel. Thus, ultimately, the suspects paid taxes only on a small part of their income.</p>	
<b>Indicators</b>	<ul style="list-style-type: none"> <li>• Legal person or arrangement incorporated/formed in a low-tax jurisdiction or international trade or financial centre</li> <li>• Bank balance of close to zero, despite frequent incoming and outgoing transactions</li> <li>• Bank accounts in multiple international jurisdictions without good reason</li> <li>• Correct documents not filed with the tax authority</li> <li>• False invoices created for services not carried out</li> </ul>

	<ul style="list-style-type: none"> <li>• Nominee owners and directors including informal nominees, such as children, spouses, relatives or associates who do not appear to be involved in the running of the corporate enterprise</li> <li>• Corporation has no personnel</li> <li>• Transaction is a repeat transaction between parties over a contracted period of time</li> <li>• Transaction involves two legal persons with similar or identical directors, shareholders, or beneficial owners</li> </ul>
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#### Case Study 41 - Israel

The scheme involved underground banking - the suspects provided money services such as check clearing, currency exchange, international transfers and loans. These activities of the "bank" and its customers were unregistered and concealed.

The investigation showed that the "customers" of the "underground bank" provided illegally gained cash, then, depending on the type of service, the transfers were registered and declared as diamond export/import or the selling and buying of diamonds locally. The funds were laundered by the underground bank's "managers" through the guise of diamond trade using false declarations and fictitious export/import diamond documentation. The "customers" of the "underground bank" used the diamond dealers' accounts to transfer money without reporting it to the authorities. The total sums laundered amount to hundreds of millions of USD.

Indicators	<ul style="list-style-type: none"> <li>• Discrepancy between purchase and sales invoices</li> <li>• Falsified paper trail</li> </ul>
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#### Case Study 42 - Italy

The *Nucleo Polizia* of Milan conducted a preventive seizure of funds traceable to a single family, which were held in the Channel Islands, for a total value of EUR 1.3 billion. The assets were concealed through a complex network of trusts. Multiple trust accounts were hiding the beneficiaries of assets consisting in public debt securities and cash.

The investigation established that between 1996 and 2006 the subjects placed their assets in Dutch and Luxembourgian companies through complex corporate operations and by transferring them to different trusts in the Channel Islands. Subsequently, the funds were legally repatriated through a tax amnesty in December 2009. The investigation identified chartered accountants who had over time facilitated the concealing of funds through trusts with the aim of facilitating laundering and reinvestment.

Indicators	<ul style="list-style-type: none"> <li>• Legal person or arrangement incorporated/formed in a low-tax jurisdiction</li> </ul>
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	<p>or international trade or financial centre</p> <ul style="list-style-type: none"> <li>• Complex corporate structures that do not appear to legitimately require that level of complexity or which do not make commercial sense</li> </ul>
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**Case Study 43 - Italy**

This case related to an investigation into a transnational criminal organisation active in money-laundering and that perpetrated crimes in Italy. It was triggered by STRs concerning financial flows from a company in the British Virgin Islands channelled through a Swiss bank and sent to an Italian legal person to be used for a refurbishment of a real estate unit which had a value of EUR 9 million. The investigation resulted in the charging of a chartered account for money laundering. The search of the individual's office resulted in the seizure of documents pertaining to a high number of off-shore vehicles which were established on behalf of wealthy national clients. The subsequent investigations led to the discovery that around EUR 800 million had been moved between Italy and international accounts.

<b>Indicators</b>	<ul style="list-style-type: none"> <li>• Legal person or arrangement incorporated/formed in a low-tax jurisdiction or international trade or financial centre</li> </ul>
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**Case Study 44 - Italy**

The Nucleo Polizia Tributaria of Milan conducted a money laundering inspection at a professional office providing "chartered accountants services", aimed at verifying compliance with money laundering regulations. The investigation was conducted mainly through a series of databases/registries and enabled to establish how a joint stock company active in the real estate sector, owned by two companies based in Cyprus and Austria, had made a considerable investment in Milan (approx. EUR 8 million). Two years after the buyer had not proceeded to complete the works as planned. A money laundering inspection was carried out against the professional office and it was found to be the custodian of the books of accounts as well as the domicile of the joint stock company previously targeted. A senior partner was found to be borrowing considerable funds via credit institutions from a company based in a high-risk jurisdiction.

<b>Indicators</b>	<ul style="list-style-type: none"> <li>• Legal person or arrangement incorporated/formed in a jurisdiction that is considered to pose a high money laundering or terrorism financing risk</li> <li>• Legal person or arrangement incorporated/formed in a low-tax jurisdiction or international trade or financial centre</li> <li>• Multiple bank accounts without good reason</li> <li>• Bank accounts in multiple international jurisdictions without good reason</li> </ul>
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### Case Study 45 – Italy

An anti-money laundering inspection for compliance into a TCSP led to the investigation. The case involved the acquisition of a well-known Italian transport company. It involved a trustee mandated in the name of a foreign company with no specified ownership. Documents obtained showed that several files on trustee registrations indicated offenses committed by the legal representative. The TCSP served to screen the transfer of funds to Italy that were illegally generated and concealed abroad. The investigation into beneficial ownership of the foreign company helped to link investigated persons to considerable financial assets that were fraudulently transferred abroad and used to purchase the transport company.

Indicators	<ul style="list-style-type: none"> <li>• Client is reluctant or unable to explain the identity of the beneficial owner</li> <li>• Multiple bank accounts without good reason</li> <li>• Complex corporate structures that do not appear to legitimately require that level of complexity or which do not make commercial sense</li> </ul>
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### Case Study 46 – Italy

A trust structure was setup for the son of Mr. X, a client of a UK law firm. The trust structure was set up to hold funds illegally diverted from an Italian company run by Mr. X. The scheme consisted of a BVI company owned by an Irish company. The BVI company, in turn, owned 100% of a Luxembourg company. The Luxembourg company would receive money from the Italian company from fictitious sales. The director of the Irish company was a partner of the same UK law firm. The director of the BVI company was another partner of the same UK Law Firm. A close associate of Mr. X had a power of attorney in the BVI company. The shares of the Irish company were held in trust for Mr. X's son (beneficial owner of the trust) by a TCSP in Jersey connected to the same UK law firm.

Using such scheme there was no apparent link between the funds diverted from the Italian company and the beneficial owner of such funds. The only link was the trust.

Indicators	<ul style="list-style-type: none"> <li>• Legal person or arrangement incorporated/formed in a low-tax jurisdiction or international trade or financial centre</li> <li>• Employees of professional intermediary firms acting as nominee directors or shareholders</li> <li>• Complex corporate structures that do not appear to legitimately require that level of complexity or which do not make commercial sense.</li> <li>• Nominee owners and directors</li> </ul>
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**Case Study 47 – Italy**

Mr. D and Mr. S were involved in the top management of two Italian hospital corporations: the SR Foundation and the SM Foundation. These foundations were carrying out commercial operations outside their normal course of business to facilitate the illegal transfer of money from the Foundations to Mr. D and Mr. S to pay bribes to Mr. F, a PEP. The illegal commercial operations were carried out through various foreign corporate vehicles, which were managed by a Swiss trust fiduciary. The suspects were charged with conspiracy, money laundering, corruption and embezzlement.

**Indicators**

- Politically exposed persons, or have familial or professional associations with a person who is politically exposed
- Relationships with foreign professional intermediaries in the absence of genuine business transactions in the professional’s country of operation
- Financial activities and transactions inconsistent with the corporate profile
- False invoices created for services not carried out
- Complex corporate structures that do not appear to legitimately require that level of complexity or which do not make commercial sense or which do not make commercial sense
- No real business activities undertaken
- Exclusively facilitates transit transactions and does not appear to generate wealth or income
- The connections between the parties are questionable, or generate doubts that cannot be sufficiently explained by the client
- Transaction is occurring between two or more parties that are connected without an apparent business or trade rationale
- Transaction is a repeat transaction between parties over a contracted period of time
- Transaction is executed from a business account but appears to fund personal purchases, including the purchase of assets or recreational activities that are inconsistent with the company’s profile
- Transaction involves complicated transaction routings without sufficient explanation or trade records
- Funds involved in the transaction are sent to, or received from, a low-tax jurisdiction or international trade or finance centre or international trade or finance centre

**Case Study 48 – Italy**

A designated person was found to be in possession of assets and economic resources located in Italy. Bank records indicated the individual owned 100% of a Cyprus-based company and the tax register verified the date, place of birth and current tax residency in Italy. The Italian Official Register revealed the listed

individual owned 50% of a limited liability company based in Rome (whose corporate purpose is the purchase and construction of buildings and building complexes owned by the same company) through the aforementioned Cypriot company. The tax register revealed a 2012 tax return of the designated individual showing income from real estate, which exactly matched that of the Cypriot company, and a tax return for the Rome-based company showing a turnover of EUR 502 731 and taxable income totalling EUR 3 405. The designated individual owned shares or stakes in several companies based in Russia and Cyprus, including two banks and the mentioned Cypriot company. The designated individual, the Cypriot company and the Roman company were also found to own several properties located in various Italian provinces. As such, the designated individual was the holder of assets and economic resources in his own name or otherwise available through corporate vehicles that had been under freezing orders since 2014.

Indicators	<ul style="list-style-type: none"> <li>• Foreign nationals with no significant dealings in the country in which they are procuring professional or financial services</li> <li>• Politically exposed persons, or have familial or professional associations with a person who is politically exposed</li> <li>• Legal person or arrangement incorporated/formed in a low-tax jurisdiction or international trade or finance centre</li> <li>• Focused on aggressive tax minimisation strategies</li> <li>• Designated persons or groups</li> <li>• Complex corporate structures that do not appear to legitimately require that level of complexity or which do not make commercial sense or which do not make commercial sense</li> <li>• The connections between the parties are questionable, or generate doubts that cannot be sufficiently explained by the client</li> </ul>
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#### Case Study 49 – Jersey

The main fraudulent activity centred on a software business based in the suspect's home country. The business sold its intellectual property rights to an Irish company which in turn transferred them to a BVI company. The business then entered into license and distribution agreements with the BVI company, which enabled it to sell and distribute the software and accordingly it continued its business activities as before. The resulting license and distribution fees paid to the BVI company resulted in a significant reduction in its taxable income. All 3 entities were owned and controlled by same person ("X"). It is alleged that X operated a scheme whereby the company made fraudulent claims and omissions by claiming deductions resulting from "sham" license and distribution arrangements. X established a trust structure with underlying companies using a Jersey based financial service provider. It is alleged these entities were involved in the scheme as conduits for funds transfers or for holding assets derived from the scheme.

Indicators	<ul style="list-style-type: none"> <li>• Legal person or arrangement incorporated/formed in a low-tax jurisdiction or international trade or financial centre</li> </ul>
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	<ul style="list-style-type: none"> <li>• Complex corporate structures that do not appear to legitimately require that level of complexity or which do not make commercial sense.</li> <li>• Transaction involves licensing contracts between corporations owned by the same individual</li> </ul>
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**Case Study 50 – Latvia**

Foreign national Mrs V opened an account in a Latvian bank B, and received USD 3 827 000 and EUR 208 000 shortly thereafter from foreign Company M. Company M had received the funds from foreign Companies R and W. Public information revealed that Companies M and W had the same shareholder – an offshore legal entity, whereas the beneficiaries of Companies M and W presented at the bank were two other individuals, which raised concerns of a scheme to obscure beneficial ownership. Mrs V transferred USD 2 980 000 USD to Individuals E, O and A to accounts at foreign Bank F, stating the purpose of transaction as a gift to grandchildren.

At the same time Mrs V transferred USD 840 000 to her own account at foreign Bank F. All beneficiaries had the same address, which suggested that Mrs V was residing in a country different from that on bank CDD records. The sum of USD 220 000 was further received in Mrs V’s account from Individual L, and further transfers of USD 300 000 were initiated to Individuals A and E. Bank B made an EDD request, and according to documents received on behalf of Mrs V electronically, Mrs V had sold two paintings to Individual B for USD 220 000 using Individual L as an intermediary, but the signatures on the agreement appeared digitally embedded. Individual A presented himself at Bank B claiming to be a grandchild of Mrs V, who he claimed to be deceased but could not provide a death certificate.

The FIU confirmed with Mrs V’s country of residence that she was deceased and that transactions since the date of death had been performed by third parties. The FIU issued an order to freeze USD 350 000 in Mrs V’s accounts.

<b>Indicators</b>	<ul style="list-style-type: none"> <li>• Client is reluctant or unable to explain why they are conducting their activities in a certain manner</li> <li>• Foreign nationals with no significant dealings in the country in which they are procuring professional or financial services</li> <li>• Transactions which appear strange given an individual’s age</li> <li>• Director, controlling shareholder(s) and/or beneficial owner(s) are listed against the accounts of other legal persons or arrangements</li> <li>• Falsified paper trail</li> <li>• The connections between the parties are questionable, or generate doubts that cannot be sufficiently explained by the client</li> </ul>
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<b>Case Study 51 - Mexico</b>	
<p>A network of 42 shell companies with different lines of business was dismantled, with companies located in Mexico and others abroad. The network was created to offer money laundering services to criminal organizations through a group of independent agents who contact customers to offer the said services, charging a fee from between 1 and 5% the amount of the funds operated.</p>	
<b>Indicators</b>	<ul style="list-style-type: none"> <li>• Previous conviction for fraud, tax evasion, or serious crimes</li> <li>• Director, controlling shareholder(s) and/or beneficial owner(s) are listed against the accounts of other legal persons or arrangements</li> <li>• Financial activities and transactions inconsistent with the corporate profile</li> <li>• Fabricated corporate ownership records</li> <li>• False invoices created for services not carried out</li> <li>• Falsified paper trail</li> <li>• Complex corporate structures that do not appear to legitimately require that level of complexity or which do not make commercial sense</li> <li>• Nominee owners and directors including informal nominees, such as children, spouses, relatives or associates who do not appear to be involved in the running of the corporate enterprise</li> <li>• The connections between the parties are questionable, or generate doubts that cannot be sufficiently explained by the client</li> <li>• Transaction is occurring between two or more parties that are connected without an apparent business or trade rationale</li> <li>• Funds involved in the transaction are sent to, or received from, a low-tax jurisdiction or international trade or finance centre</li> </ul>

<b>Case Study 52 - Mexico</b>	
<p>Four shell companies requested from the Mexican Tax Administration Service (SAT) the refund of the Value Added Tax, from non-existent operations carried out in 2008 and 2009. In total, 26 companies participated in the simulation of transactions, and 48 individuals were part of the scheme as partners, administrators, and legal representatives. Part of the illegally obtained resources were sent to bank accounts in the U.S., and later used to make transfers to accounts in Las Vegas, Nevada. These accounts were held by Casinos and by individuals who carried out gambling activities.</p>	
<b>Indicators</b>	<ul style="list-style-type: none"> <li>• Financial activities and transactions inconsistent with the corporate profile</li> <li>• Bank accounts in multiple international jurisdictions without good reason</li> <li>• False invoices created for services not carried out</li> <li>• Falsified paper trail</li> <li>• No real business activities undertaken</li> <li>• Exclusively facilitates transit transactions and does not appear to generate</li> </ul>

	<p>wealth or income</p> <ul style="list-style-type: none"> <li>• The connections between the parties are questionable, or generate doubts that cannot be sufficiently explained by the client</li> <li>• Transaction is occurring between two or more parties that are connected without an apparent business or trade rationale</li> <li>• Funds are sent to, or received from, a foreign country when there is no apparent connection between the country and the client</li> </ul>
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**Case Study 53 – Namibia**

Namibian national A (as sole owner) registered two close corporations using false national identity documents. Subsequently, A opened bank accounts at two local banks for each of these corporations. The bank accounts at one bank were active, while those at the other bank remained dormant resulting in their closure. A authorised foreigners B and C to manage the said accounts. B and C used online banking channels to make huge inward and outward transfers on the two corporate accounts. Funds had been transferred from foreign jurisdiction SA to Namibia and then immediately re-routed to other foreign jurisdictions, including back to SA from where the funds had emanated. The transfers started with relatively small amounts quickly grew larger. The funds were generally withdrawn in less than 48 hours after deposit.

Indicators	<ul style="list-style-type: none"> <li>• Signatory to company accounts without sufficient explanation</li> <li>• Declared income which is inconsistent with their assets, transactions or lifestyle</li> <li>• Registered at an address that does not match the profile of the company</li> <li>• Legal person or arrangement conducts a large number of transactions with a small number of recipients</li> <li>• Legal person or arrangement conducts transactions with international companies without sufficient corporate or trade justification</li> <li>• Bank balance of close to zero, despite frequent incoming and outgoing transactions</li> <li>• Financial activities and transactions inconsistent with the corporate profile</li> <li>• Multiple bank accounts without good reason</li> <li>• Falsified records or counterfeited documentation</li> <li>• Fabricated corporate ownership records</li> <li>• Falsified paper trail</li> <li>• No real business activities undertaken</li> <li>• Exclusively facilitates transit transactions and does not appear to generate wealth or income</li> <li>• Transaction is a repeat transaction between parties over contracted period of time</li> <li>• Transaction appears cyclical</li> <li>• Transaction involves complicated transaction routings without sufficient explanation or trade records</li> </ul>
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### Case Study 54 – Namibia

The case involved two Namibians and three Chinese subjects. The subjects registered two Proprietary Limited companies as well as a Namibian close corporation. Subsequently they opened nine bank accounts at five local banks, with one Chinese and two Namibians directors/shareholders as signatories on the accounts. The entities and individuals received significant deposits and transfers derived from Namibian accounts and transferred to a foreign jurisdiction.

Indicators	<ul style="list-style-type: none"> <li>• Legal person or arrangement conducts a small number of high-value transactions with a small number of recipients</li> <li>• Legal person or arrangement receives large sums of capital funding quickly following incorporation/formation, which is spent or transferred elsewhere in a short period of time without commercial justification</li> <li>• Financial activities and transactions inconsistent with the corporate profile</li> <li>• Multiple bank accounts without good reason</li> <li>• Correct documents not filed with the tax authority</li> <li>• Legal Person pays no taxes, superannuation, retirement fund contributions or social benefits</li> <li>• Transaction is occurring between two or more parties that are connected without an apparent business or trade rationale</li> <li>• Funds are sent to, or received from, a foreign country when there is no apparent connection between the country and the client</li> </ul>
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### Case Study 55 – Namibia

Mr. X declared that he is involved in taxi business. Analysis confirmed that X made regular large cash deposits into two accounts, followed immediately by large cheque withdrawals to other businesses and accounts of his close corporations and relative. The corporate entity's activities, as registered with the registrar of close corporations, include retail, mining, construction and fishing. Withdrawals from this account were exclusively electronic transfers. The account also received monthly funds from various individuals, as well as large-value of electronic transfers from a company in South Africa in the account of a Namibian Registered Trust. Analysis established that X owns several high value properties in Namibia and South Africa, which were purchased in cash. Some of these properties were registered under legal entities. Mr. X was found guilty of drug dealing.

Indicators	<ul style="list-style-type: none"> <li>• Transactions which appear strange given an individual's age</li> <li>• Previous conviction for fraud, tax evasion, or serious crimes</li> <li>• Signatory to company accounts without sufficient explanation</li> <li>• Financial activities and transactions inconsistent with their customer profile</li> <li>• Legal person or arrangement conducts a large number of transactions with a small number of recipients</li> </ul>
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	<ul style="list-style-type: none"> <li>• Legal person or arrangement conducts transactions with international companies without sufficient corporate or trade justification</li> <li>• Bank balance of close to zero, despite frequent incoming and outgoing transactions</li> <li>• Multiple bank accounts without good reason</li> <li>• Transaction is a business transaction that involves family members of one or more of the parties without a legitimate business rationale</li> <li>• Transaction is executed from a business account but appears to fund personal purchases, including the purchase of assets or recreational activities that are inconsistent with the company’s profile</li> <li>• Transaction is executed from a business account and involves a large sum of cash, either as a deposit or withdrawal, which is anomalous, or inconsistent with the company’s profile</li> <li>• Funds are sent to, or received from, a foreign country when there is no apparent connection between the country and the client</li> </ul>
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**Case Study 56 – Namibia**

An STR was filed on Y on suspicion that he might be involved in illegal diamond dealing and using a business bank account to co-mingle proceeds of crime with legitimate income. Analysis revealed that Y is the sole member close corporation with its principle business “manufacturing, recycling and cleaning”. Substantial sums were deposited into the business account, with most deposits from electronic funds transfers originating from several individuals in America and in Asia. Y withdrew the funds in cash. Analysis revealed that Y presented himself as an authorized diamond dealer in Namibia to foreign buyers online.

Indicators	<ul style="list-style-type: none"> <li>• Long period of inactivity following incorporation, followed by a sudden and unexplained increase in financial activities</li> <li>• Bank balance of close to zero, despite frequent incoming and outgoing transactions</li> <li>• Financial activities and transactions inconsistent with the corporate profile</li> <li>• Transaction is executed from a business account and involves a large sum of cash, either as a deposit or withdrawal, which is anomalous, or inconsistent with the company’s profile</li> <li>• Funds are unusual in the context of the client or customer’s profile</li> </ul>
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**Case Study 57 – Namibia**

This case involves subjects and entities using the electronic banking system to channel proceeds of crime to foreign jurisdictions. Funds deposited into close corporations and subject’s personal account and then structurally withdrawn in the foreign jurisdiction under the pretext that it is business related funds.

Subject 1, a Chinese national, opened a personal bank account and registered a

close corporation (Entity 1) that also opened accounts with three different financial institutions. Subject 1 further “assisted” a Namibian woman 1 to open personal accounts at the same three financial institutions. He also “assisted” her to register four close corporations in her name (Entities 2-5) and opened accounts with one of the financial institutions. Subject 1 assisted other Namibian women 2 and 3 to open bank accounts with two of the financial institutions. Subject 1 controlled the ATM cards of Entities 1-5 and accounts in name of Namibian women 1 and 2, to the extent that he was transacting on them. Namibian woman 3 did not pick up her ATM cards and when requested by the bank to explain why she opened accounts, she disappeared and could not be traced.

The funds deposited or transferred into the accounts of Namibian women 1-3 and entities 2-5 were from Subject 1, whilst the funds into Subject 1’s accounts were from Chinese owned entities.

Indicators	<ul style="list-style-type: none"> <li>• Client is reluctant to provide personal information.</li> <li>• Client is reluctant or unable to explain their business activities and corporate history</li> <li>• Actively avoiding personal contact without sufficient justification</li> <li>• Refuse to co-operate or provide information, data, and documents usually required to facilitate a transaction</li> <li>• Transactions which appear strange given an individual’s age</li> <li>• Registered at an address that does not match the profile of the company</li> <li>• Director or controlling shareholder(s) does not appear to have an active role in the company</li> <li>• Director, controlling shareholder(s) and/or beneficial owner(s) are listed against the accounts of other legal persons or arrangements</li> <li>• Bank balance of close to zero, despite frequent incoming and outgoing transactions</li> <li>• Multiple bank accounts without good reason</li> <li>• Disinterested in the structure of a company they are establishing</li> <li>• No real business activities undertaken</li> <li>• Exclusively facilitates transit transactions and does not appear to generate wealth or income</li> <li>• The connections between the parties are questionable, or generate doubts that cannot be sufficiently explained by the client</li> <li>• Transaction is executed from a business account and involves a large sum of cash, either as a deposit or withdrawal, which is anomalous, or inconsistent with the company’s profile</li> </ul>
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#### Case Study 58 – Netherlands

Mr. B, a Dutch taxpayer, had put money in a Jersey trust and had not declared this to the tax authorities. Mr. B did not state in his income tax returns that he was involved in a trust and intentionally answered a tax questionnaire incorrectly or incompletely concerning his involvement in the trust. The court found that Mr. B

intentionally provided incorrect information to a public servant of the Netherlands Tax and Customs Administration, resulting in too little tax being levied.

Indicators	<ul style="list-style-type: none"> <li>• Legal person or arrangement incorporated/formed in a low-tax jurisdiction or international trade or financial centre</li> <li>• Focused on aggressive tax minimisation strategies</li> <li>• Correct documents not filed with the tax authority</li> <li>• Falsified records or counterfeited documentation</li> </ul>
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**Case Study 59 - Netherlands**

The Suspect, a doctor, received payments from the pharmaceutical industry with which he did business. The amount of this payment varied per contract. These payments, which can be considered income, were not paid into one of the suspect's Dutch bank accounts, but into Luxembourg numbered accounts in the name of a foundation. The suspect never declared the balances of these Luxembourg bank accounts in his income tax returns.

Indicators	<ul style="list-style-type: none"> <li>• Multiple bank accounts without good reason</li> <li>• Bank accounts in multiple international jurisdictions without good reason</li> <li>• Focused on aggressive tax minimisation strategies</li> <li>• Correct documents not filed with the tax authority</li> <li>• Transaction involves a numbered account</li> <li>• Funds are sent to, or received from, a foreign country when there is no apparent connection between the country and the client</li> <li>• Funds involved in the transaction are sent to, or received from, a low-tax jurisdiction or international trade or finance centre</li> </ul>
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**Case Study 60 - Netherlands**

This tax evasion scheme consisted of sending false invoices from a company incorporated by the suspect in the BVI to the Dutch company, to create the illusion that services have been provided to the Dutch company. The Dutch company pays this invoice to the company in the BVI which results in a reduction in the turnover and profit because more costs have been incurred. From the BVI the amounts received were paid into the private bank accounts of the suspect and co-suspect in Cyprus who were able to access those accounts in the Netherlands by means of a debit/credit card. Funds were used by the suspect to finance real estate.

Indicators	<ul style="list-style-type: none"> <li>• Legal person or arrangement incorporated/formed in a low-tax jurisdiction or international trade or financial centre</li> <li>• False invoices created for services not carried out.</li> <li>• No real business activities undertaken</li> <li>• Client is both the ordering and beneficiary customer for multiple</li> </ul>
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	<p>international funds transfers</p> <ul style="list-style-type: none"> <li>• Transaction is executed from a business account and involves a large sum of cash, either as a deposit or withdrawal, which is anomalous, or inconsistent with the company's profile</li> <li>• Funds are sent to, or received from, a foreign country when there is no apparent connection between the country and the client</li> <li>• Funds involved in the transaction are sent to, or received from, a low-tax jurisdiction or international trade or finance centre</li> </ul>
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#### Case Study 61 - Netherlands

The FIU received a notification from a financial institution in respect of an international transfer to a foreign company in Italy. The beneficial owner of this company appeared to be the ex-wife of the client. This client regularly transferred money from his private account but also from his business account to the account of his ex-wife and her businesses. By means of the "loan agreements" the money was deposited again into the bank account of the client. On the basis of this information the notification was declared suspicious and forwarded to the investigation teams.

Indicators	<ul style="list-style-type: none"> <li>• Legal person or arrangement conducts transactions with international companies without sufficient corporate or trade justification</li> <li>• Family members with no role or involvement in the running of the business are listed as beneficial owners of legal persons or arrangements</li> <li>• Finance is provided by a lender, including either a natural or a legal person, other than a known credit institution, with no logical explanation or commercial justification</li> <li>• Transaction is a business transaction that involves family members of one or more of the parties without a legitimate business rationale</li> </ul>
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#### Case Study 62 - Netherlands

A civil-law notary filed an STR that indicates a house purchase was financed with a loan from an Andorran company. The Netherlands FIU subsequently requested further information on this company from Andorra. The UBO of this company appeared to be the same person as the purchaser of the house. On the basis of this information, the notification was declared suspicious and forwarded to the investigation teams.

Indicators	<ul style="list-style-type: none"> <li>• Finance is provided by a lender, including either a natural or a legal person, other than a known credit institution, with no logical explanation or commercial justification</li> </ul>
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<b>Case Study 63 – Netherlands</b>	
<p>A Dutch target company received loans from a Swiss TCSP with a bank account in Montenegro, under the description of “repayment loan”. This Swiss TCSP is also the sole shareholder of the Dutch target company. The received money was subsequently re-loaned again via a subsidiary of the Swiss TCSP in Moldavia to the UBO in The Netherlands. The Dutch target company was also used by other clients of the Swiss TCSP. The Dutch target company received loans from the Swiss TCSP and subsequently re-loaned these funds to operational companies in Italy and England, which were managed by the UBOs. The account in Montenegro of the Swiss TCSP was topped up by a Swiss bank account in the name of the UBO of the Dutch target company. The FIU suspects that this manner of re-loaning one’s own money via this Swiss TCSP is also used by other persons.</p>	
<b>Indicators</b>	<ul style="list-style-type: none"> <li>• Legal person or arrangement incorporated/formed in a low-tax jurisdiction or international trade or financial centre</li> <li>• Legal person or arrangement conducts transactions with international companies without sufficient corporate or trade justification</li> <li>• Client is both the ordering and beneficiary customer for multiple international funds transfers</li> <li>• Finance is provided by a lender, including either a natural or a legal person, other than a known credit institution, with no logical explanation or commercial justification</li> </ul>

<b>Case Study 64 – Netherlands</b>	
<p>This case concerns a criminal investigation into money laundering and the purchase and financing of premises and apartment rights in the Netherlands by two Liechtenstein trusts. The ultimate beneficial owners and the source of funds for the purchase and financing of the real estate are shielded by the use of these trusts and by a number of facilitators. The purchase involves a total of almost EUR 2 million in purchase (costs) and financing of the real estate which is presumably derived from drug trafficking. The two trusts have their registered office in Liechtenstein and the persons who represent the trusts are family members of the suspects.</p>	
<b>Indicators</b>	<ul style="list-style-type: none"> <li>• Under investigation or have known connections with criminals</li> <li>• Registered at an address that is also listed against numerous other companies or legal arrangements</li> <li>• Financial activities and transactions inconsistent with the corporate profile</li> <li>• Correct documents not filed with the tax authority</li> <li>• Family members with no role or involvement in the running of the business are listed as beneficial owners of legal persons or arrangements</li> <li>• Client is both the ordering and beneficiary customer for multiple international funds transfers</li> </ul>

	<ul style="list-style-type: none"> <li>• Transaction is a business transaction that involves family members of one or more of the parties without a legitimate business rationale</li> <li>• Transaction involves two legal persons with similar or identical directors, shareholders, or beneficial owners</li> <li>• Transaction involves a professional intermediary without due cause or apparent justification</li> </ul>
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#### Case Study 65 – Netherlands

A Dutch investment fund invested money deposited by investors in foreign life insurance policies. The investors participated in a trust that had become owner of the life insurance policies. After the death of the insured (third parties), the insurance would pay out to the fund that in turn would pay out to the investors. The risk that the original holder of the life insurance policy would live longer than the agreed maturity (the longevity risk) was re-insured. The re-insurers took over the policy from the trust fund and the investors received from the re-insurer an amount that was equivalent to the death benefit value of the policy. All deposits, EUR 175 million, went through the foreign accounts of the trust companies. It appears that only a limited part was invested in the promised second-hand life insurance policies. A large part was immediately channelled to the bank accounts of the suspect and the trustee.

Indicators	<ul style="list-style-type: none"> <li>• Unusually large number of beneficiaries and other controlling interests</li> <li>• Bank accounts in multiple international jurisdictions without good reason</li> <li>• Funds are unusual in the context of the client or customer's profile</li> </ul>
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#### Case Study 66 – Netherlands

The case involves funds derived from extortion. The suspect created legal constructs made up of parent companies registered in a low tax jurisdiction with few or no or scarcely any obligations to keep administrative and accounting records. The suspect used coded bank account in Switzerland to further conceal the money laundering activity. TCSPs managed the companies.

Indicators	<ul style="list-style-type: none"> <li>• Legal person or arrangement incorporated/formed in a low-tax jurisdiction or international trade or financial centre</li> <li>• Bank accounts in multiple international jurisdictions without good reason</li> <li>• Transaction involves a numbered account</li> </ul>
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#### Case Study 67 – Netherlands

A medium-sized Dutch company sent double invoices - one invoice from the Dutch company to which payments were made in the Dutch account and are also properly declared to the Netherlands Tax and Customs Administration. The

second email/false invoice was to be paid into a numbered account in Switzerland that is in the name of a fictitious company. When Dutch and Swiss relations improved, the Swiss bank advised the client to incorporate a Panamanian company and deposit the funds into numbered accounts in Cyprus in the name of two Panamanian S.A.s over which the directors of the Dutch company exercise control.

Indicators	<ul style="list-style-type: none"> <li>• Legal person or arrangement incorporated/formed in a low-tax jurisdiction or international trade or financial centre</li> <li>• Multiple bank accounts without good reason</li> <li>• Bank accounts in multiple international jurisdictions without good reason</li> <li>• Falsified records or counterfeited documentation</li> <li>• Double invoicing between jurisdictions</li> <li>• False invoices created for services not carried out.</li> <li>• Transaction involves a numbered account</li> </ul>
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**Case Study 68 - Netherlands**

This case was an investigation into Dutch suspects for filing incorrect tax returns, money laundering and forgery. During the investigation, it was identified that funds had been transferred through a numbered account in Switzerland in the name of a financial service provider in Panama. Shortly thereafter, very similar amounts were debited from the account, under a false description, to the credit of the Dutch suspects.

A financial service provider facilitated this by providing the Dutch suspects with the opportunity to conceal these cash flows from third parties. The invoices for the services provided were paid to the financial service provider via the account in Switzerland.

Indicators	<ul style="list-style-type: none"> <li>• Legal person or arrangement incorporated/formed in a low-tax jurisdiction or international trade or financial centre</li> <li>• Transaction involves the two-way transfer of funds between a client and a professional intermediary for similar sums of money</li> <li>• Transaction involves a numbered account</li> <li>• Funds are sent to, or received from, a foreign country when there is no apparent connection between the country and the client</li> <li>• Funds involved in the transaction are sent to, or received from, a low-tax jurisdiction or international trade or finance centre</li> </ul>
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**Case Study 69 - Netherlands**

A Panamanian Private Foundation was founded by a Panamanian company which is affiliated to Mossack Fonseca. The Foundation Council is another corporation, and the beneficiary is Mr. E, the director and sales advisor of a Netherlands TCSP.

The registered agent is X Legal Services. The Panamanian Private Foundation has opened a bank account in Cyprus. This is a very large criminal investigation, which also includes an investigation into the persons who made use of the structure offered by the TCSP.

Indicators	<ul style="list-style-type: none"> <li>• Director, controlling shareholder(s) and/or beneficial owner(s) are listed against the accounts of other legal persons or arrangements</li> <li>• Legal person or arrangement incorporated/formed in a low-tax jurisdiction or international trade or financial centre</li> <li>• Focused on aggressive tax minimisation strategies</li> <li>• Complex corporate structures that do not appear to legitimately require that level of complexity or which do not make commercial sense</li> <li>• Nominee owners and directors including formal nominees</li> </ul>
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#### Case Study 70 - Netherlands

Mr. and Mrs. X acted as directors of a Dutch holding company and a Dutch operating company, as well as the founders of a Unit Foundation and the beneficial owners in an Offshore Investment Holding Company. It appears that agreements for the provision of directorship and/or nominee shareholder services have been drawn up. The invoices of the Offshore Investment Holding Company list several services performed for the corporation including the opening of a bank account. No amount is charged for management services. An employee of the Dutch TCSP has signing powers for the Offshore Investment Holding Company's bank account. Mr. and Mrs. X determine whether funds are paid from the underlying companies to the Offshore Investment Holding Company and on to the Unit Foundation. As a result, it can be argued that the employee in Cyprus only carried out the wishes of Mr. and Mrs. X and that they are the de facto managers of the Offshore Investment Holding Company.

Indicators	<ul style="list-style-type: none"> <li>• Requests the formation of complex company structure without sufficient business rationale</li> <li>• Agreements for nominee directors and shareholders</li> <li>• Employees of professional intermediary firms acting as nominee directors or shareholders</li> <li>• Complex corporate structures that do not appear to legitimately require that level of complexity or which do not make commercial sense</li> <li>• Nominee owners and directors including formal nominees</li> <li>• No real business activities undertaken</li> <li>• Transaction involves a professional intermediary without due cause or apparent justification</li> </ul>
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<b>Case Study 71 - Netherlands</b>	
<p>A criminal investigation into a Dutch TCSP was instigated on account of the systematic failure to notify unusual transactions and money laundering. This was presumed to involve the facilitation of fake transactions on behalf of foreign clients to ensure, for example, the assets or property of those clients were scarcely taxed, or funds parked were transferred by means of fake transactions to another jurisdiction. This was carried out by means of complicated well-considered structures with companies and trusts in various countries for which instructions were given by a financial service provider and were also discussed in this way by the suspect with the Dutch civil-law notary. Dutch entities were part of these complicated structures. The same applied for the Dutch foundations registered at an international address. The structure sometimes consisted of eight different entities, in various countries. The suspect reportedly did not know in several cases the identity of the actual beneficiaries of the companies that he incorporated.</p>	
<b>Indicators</b>	<ul style="list-style-type: none"> <li>• Legal person or arrangement incorporated/formed in a low-tax jurisdiction or international trade or financial centre</li> <li>• Relationships with foreign professional intermediaries in the absence of genuine business transactions in the professional’s country of operation</li> <li>• Focused on aggressive tax minimisation strategies</li> <li>• Requests the formation of complex company structure without sufficient business rationale</li> <li>• Complex corporate structures that do not appear to legitimately require that level of complexity or which do not make commercial sense</li> <li>• Transaction involves a professional intermediary without due cause or apparent justification</li> </ul>

<b>Case Study 72 - Netherlands</b>	
<p>The owner of a TCSP posed as a “Business Lawyer” but was not registered as a lawyer. The clients reportedly paid remuneration for the trust services, which were (partially) paid into the suspect’s account in three different international jurisdictions. A TCSP in an international jurisdiction was also reportedly used. The suspect evaded tax on these amounts for a number of years. The suspect also committed immigration fraud by putting clients on the payroll of one of his companies to draw up false employment contracts and/or salary slips. Ownership of the shares of the Dutch companies was often veiled by means of foundations and foreign company structures via a low tax jurisdiction. Dutch companies appear to have been mainly used as a means of channelling money. In addition, the suspect reportedly laundered money in the purchase of real estate intended for himself, his family or for clients of the TCSP.</p>	
<b>Indicators</b>	<ul style="list-style-type: none"> <li>• Legal person or arrangement incorporated/formed in a low-tax jurisdiction or international trade or financial centre</li> </ul>

	<ul style="list-style-type: none"> <li>• Legal person or arrangement regularly sends money to low-tax jurisdictions or international trade or finance centres</li> <li>• Frequent payments to foreign professional intermediaries.</li> <li>• Multiple bank accounts without good reason</li> <li>• Bank accounts in multiple international jurisdictions without good reason</li> <li>• Focused on aggressive tax minimisation strategies</li> <li>• Interested in foreign company formation, particularly in jurisdictions known to offer low-tax or secrecy incentives, without sufficient commercial explanation</li> <li>• Correct documents not filed with the tax authority</li> <li>• False invoices created for services not carried out</li> <li>• Falsified paper trail</li> </ul>
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**Case Study 73 – Netherlands**

A Dutch company has business transactions with two Ukrainian companies. On account of the strict rules in Ukraine, international legal constructs are created to continue doing business. The Dutch company delivers goods to the Ukrainian companies. However, the cash flow goes through a Panamanian entity with a bank account in Latvia. It subsequently appears that there is a discrepancy between the purchase and sales invoices and that this “surplus” remaining in the Latvian bank account.

Indicators	<ul style="list-style-type: none"> <li>• Legal person or arrangement incorporated/formed in a low-tax jurisdiction or international trade or financial centre</li> <li>• Discrepancy between purchase and sales invoices</li> <li>• Transaction involves complicated routings without sufficient explanation or trade records</li> </ul>
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**Case Study 74 – Netherlands**

A company registered in the BVI with an account in Switzerland transfers money via a Dutch bank account to a company registered in Cyprus with a Latvian bank account. The UBOs of both companies are Russian. STRs are submitted because of the use of (false) invoices which were not based on any fair consideration. This regularly occurs in what is referred to as the VAT carousel fraud.

Indicators	<ul style="list-style-type: none"> <li>• Legal person or arrangement incorporated/formed in a low-tax jurisdiction or international trade or financial centre</li> <li>• False invoices created for services not carried out</li> </ul>
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<b>Case Study 75 – Netherlands</b>	
<p>This South American investigation focused on persons whose tax profile did not correspond to the amounts paid into their accounts in foreign countries or their spending. Corruption funds were allegedly paid to the suspects via the Dutch company, which company was managed by a Legal Consultancy Agency registered in a low tax jurisdiction. The Dutch company was also reportedly registered in an international jurisdiction. The funds paid ended up in Luxembourg accounts in the name of the suspects which were later converted to numbered accounts.</p>	
<b>Indicators</b>	<ul style="list-style-type: none"> <li>• Politically exposed persons, or have familial or professional associations with a person who is politically exposed</li> <li>• Financial activities and transactions inconsistent with their customer profile</li> <li>• Bank accounts in multiple international jurisdictions without good reason</li> <li>• Transaction involves a numbered account</li> </ul>

<b>Case Study 76 – Netherlands</b>	
<p>International company A with its headquartered in The Netherlands paid corruption funds to a government employee via letter box companies. An international company was registered in an international jurisdiction, with a government employee registered as the beneficial owner but with nominee shareholders and directors. Payments were made via a Dutch bank account of a subsidiary of the international company to an account of the foreign company in Estonia and via an enterprise registered in Hong Kong, after which these funds were paid into bank accounts in an international jurisdiction and from there to a Luxembourg bank account of the international company. Bribes were also paid to charities that were directly associated with government employees. In order to account for the bribes, false invoices were entered in the accounting records.</p>	
<b>Indicators</b>	<ul style="list-style-type: none"> <li>• Politically exposed persons, or have familial or professional associations with a person who is politically exposed</li> <li>• Legal person or arrangement incorporated/formed in a low-tax jurisdiction or international trade or financial centre</li> <li>• Bank accounts in multiple international jurisdictions without good reason</li> <li>• False invoices created for services not carried out</li> <li>• Nominee owners and directors including formal nominees</li> <li>• Transaction involves complicated routings without sufficient explanation or trade records</li> </ul>

### Case Study 77 – New Zealand

A New Zealand shell company was set up by a New Zealand TCSP based in Vanuatu. The shell company was registered on behalf of an unknown overseas client and nominees were used to hide the identity of the beneficial owners. The actual business of the shell company was not apparent and was not indicated by the company name. The address listed on the companies' register was the same virtual office in Auckland as the TCSP. The nominee director resided in Seychelles, and the nominee shareholder was a nominee shareholding company owned by the TCSP. The nominee shareholding company was itself substantially a shell company and had been used as the nominee shareholder for hundreds of other shell companies registered by the TCSP.

News reports indicated that a power of attorney document transferred the directorship to a Russian national who had sold his passport details, with a bank account opened in Latvia. When journalists from the Organised Crime and Corruption Reporting Project (OCCRP) made contact with the Russian national, the man revealed he was unaware of the New Zealand company or its bank accounts. His identity, which he had sold, had been used without his knowledge. Furthermore, a former officer of the Russian tax police told journalists that hundreds of law firms specialise in establishing ready-made shell companies for their clients, who want to remain anonymous. Usually, these law firms rely on disadvantaged individuals who sell them passport details for approximately USD100-300.

Trade transactions were conducted with several Ukrainian companies including a state-owned weapons trader. The contracts were then cancelled after the funds had been transferred and refunds were made to different third-party international companies. Transactions were also made with three other New Zealand shell companies registered by the same TCSP, using the same nominee director, nominee shareholder and virtual office address as the shell company. News reports indicated that all four shell companies had been involved in laundering USD40 million for the Sinaloa drug cartel based in Mexico.

#### Indicators

- Foreign nationals with no significant dealings in the country in which they are procuring professional or financial services
- Registered under a name that does not indicate the activity of the company
- Registered at an address that does not match the profile of the company
- Registered at an address that is also listed against numerous other companies or legal arrangements
- Legal person or arrangement conducts transactions with international companies without sufficient corporate or trade justification
- There is a discrepancy between the supposed wealth of the settlor and the object of the settlement.
- Discrepancy between purchase and sales invoices
- Fabricated corporate ownership records
- False invoices created for services not carried out
- Falsified paper trail

	<ul style="list-style-type: none"> <li>• Agreements for nominee directors and shareholders</li> <li>• Employees of professional intermediary firms acting as nominee directors or shareholders</li> <li>• Complex corporate structures that do not appear to legitimately require that level of complexity or which do not make commercial sense</li> <li>• Nominee owners and directors including formal nominees</li> <li>• Address of mass registration</li> <li>• No real business activities undertaken</li> <li>• Exclusively facilitates transit transactions and does not appear to generate wealth or income</li> <li>• Corporation has no personnel</li> <li>• Legal person does not have a physical presence</li> <li>• Transaction is occurring between two or more parties that are connected without an apparent business or trade rationale</li> <li>• Transaction involves two legal persons with similar or identical directors, shareholders, or beneficial owners</li> <li>• Transaction involves complicated transaction routings without sufficient explanation or trade records</li> <li>• Funds are sent to, or received from, a foreign country when there is no apparent connection between the country and the client</li> <li>• Funds involved in the transaction are sent to, or received from, a low-tax jurisdiction or international trade or finance centre</li> </ul>
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**Case Study 78 – New Zealand**

A New Zealand law firm was linked to clients who had been implicated, arrested or convicted of a myriad of offences including embezzlement, bribery, corruption, tax evasion, and money laundering. This law firm sets up its business basis in New Zealand, and worked for overseas clients using its in-depth knowledge of New Zealand tax, trust and company law.

The companies and partnerships were set up by this New Zealand law firm, who routinely used its employees as nominee directors and shareholders, with the beneficial owners (who were sometimes offenders and their associates) not publicly named. Furthermore, often a chain of companies was established, with one company is the shareholder of another, which was the shareholder of another, which added complexity to the structure, and further removed the beneficial owner from the assets. Sometimes a New Zealand (shell) company was used as a trustee of the trust.

The companies involved were usually all shell companies with nominee directors, shareholders, and addresses. The companies, partnerships and trusts comprised the complex structures established by this New Zealand law firm, which can be used to hide and protect wealth. Furthermore, sometimes entities were set up internationally by this New Zealand law firm’s business associates in other countries, which were added to the structures, further increasing the complexity and decreasing the ability and efficiency of detecting crime and hidden wealth. If

suspicious did arise and a person with such a structure was investigated, there was a convoluted audit trail that could be arduous to trace. There were strong indications that criminals have structures set up by this New Zealand law firm with evidence that some of these structures have been used by criminals to hide assets.

A NZ-based employee was also named as a director to satisfy the legal requirement to have a New Zealand resident director and address; however, the beneficial owner of the company was not identified in every instance.

**Indicators**

- Previous conviction for fraud, tax evasion, or serious crimes
- Under investigation or have known connections with criminals
- Registered at an address that is also listed against numerous other companies or legal arrangements
- Director or controlling shareholder(s) does not appear to have an activity role in the company
- Director, controlling shareholder(s) and/or beneficial owner(s) are listed against the accounts of other legal persons or arrangements
- Legal person or arrangement incorporated/formed in a low-tax jurisdiction or international trade or financial centre
- Complex corporate structures that do not appear to legitimately require that level of complexity or which do not make commercial sense
- Nominee owners and directors including formal nominees
- Address of mass registration
- No real business activities undertaken
- Exclusively facilitates transit transactions and does not appear to generate wealth or income
- Legal person has no personnel
- Legal person does not have a physical presence

**Case Study 79 – New Zealand**

Assets believed to be acquired using proceeds of crime allegedly linked with the settlor of these trusts. Some of these structures were set up via a NZ TCSP. None of assets are held directly by the trustees of the trusts – but via various US domestic and foreign entities. It appears all activities were US based with orders against US entities indirectly owned via overseas companies. The scheme involved two trusts, four companies, with nominee directors and shareholders employed by a law firm. This complex structure prevented law enforcement from obtaining beneficial ownership information by establishing a complex web of shell companies and trusts.

Indicators	<ul style="list-style-type: none"> <li>• Director, controlling shareholder(s) and/or beneficial owner(s) are listed against the accounts of other legal persons or arrangements</li> <li>• Legal person or arrangement conducts transactions with international companies without sufficient corporate or trade justification</li> <li>• Agreements for nominee directors and shareholders</li> <li>• Employees of professional intermediary firms acting as nominee directors or shareholders</li> <li>• Nominee owners and directors including formal nominees</li> <li>• Address of mass registration</li> </ul>
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**Case Study 80 – New Zealand**

Shell companies based in Panama, Belize, and the UK with nominee shareholders and directors have been used to open Latvian bank accounts to conduct hundreds of millions of dollars’ worth of international payments. The majority of transactions are payments being made on behalf of Vietnam entities for imported goods, or payments to Vietnamese expats living overseas on behalf of purportedly Vietnam-based senders. This distinct Vietnamese connection indicates the accounts may be controlled or administered from within Vietnam. New Zealand bank accounts were used to receive funds transferred from bank accounts in Latvia, Cambodia and China. The New Zealand accounts are either accounts held by students or by fruit wholesalers and exporters. More than 15 NZ properties have been purchased with funds from the Latvian bank accounts. These property transactions have been undertaken through NZ law firms. Information suggests that the Latvian accounts are also being “topped up” by other shell company bank accounts based in international jurisdictions, indicating a co-ordinated layering process being undertaken.

Indicators	<ul style="list-style-type: none"> <li>• Declared income which is inconsistent with their assets, transactions or lifestyle</li> <li>• Legal person or arrangement incorporated/formed in a low-tax jurisdiction or international trade or financial centre</li> <li>• Financial activities and transactions inconsistent with the corporate profile</li> <li>• Complex corporate structures that do not appear to legitimately require that level of complexity or which do not make commercial sense</li> <li>• Transaction involves complicated transaction routings without sufficient explanation or trade records</li> <li>• Funds are unusual in the context of the client or customer’s profile</li> <li>• Funds involved in the transaction are sent to, or received from, a low-tax jurisdiction or international trade or finance centre</li> </ul>
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### Case Study 81 – New Zealand

Companies registered in New Zealand by a Vanuatu-based TCSP operated by New Zealand citizens were suspected of acting as shell companies that facilitate crime in foreign jurisdictions. The TCSP acted as nominee shareholders and provided nominee directors who resided in jurisdictions such as Vanuatu, Panama and the Seychelles – in the case of Company A, the employee recruited to act as a director likely had no knowledge of the activities taking place, as they had no previous involvement in any of the TCSP activities. Crimes include smuggling of illegal goods, arms smuggling, tax fraud, investment fraud and money laundering. Company A was one company set up by the TCSP, which leased the plane that was caught smuggling arms. 73 companies registered in New Zealand by the TCSP were suspected of acting as shell companies which facilitated crime in foreign jurisdictions. Crimes included the smuggling of illegal goods, arms smuggling, tax fraud, investment fraud and money laundering.

#### Indicators

- Director, controlling shareholder(s) and/or beneficial owner(s) are listed against the accounts of other legal persons or arrangements
- Falsified paper trail
- Agreements for nominee directors and shareholders
- Employees of professional intermediary firms acting as nominee directors or shareholders
- Complex corporate structures that do not appear to legitimately require that level of complexity or which do not make commercial sense
- Nominee owners and directors including formal nominees
- Address of mass registration

### Case Study 82 – Norway

Seven Norwegian citizens, in different combinations, were the owners of four small Norwegian IT-companies. They were approached by a major Norwegian company (listed on the stock exchange) that wanted to buy shares of all the companies. The price offered was much higher than the share capital in the companies (their input value for taxation). In response to this, the owners established new companies in offshore jurisdictions and sold their shares to those companies with a minimum of profit. The newly established companies then immediately resold the shares to the actual buyer in Norway. The sales profits were realized abroad with no tax.

#### Indicators

- Legal person or arrangement incorporated/formed in a low-tax jurisdiction or international trade or financial centre
- Legal person or arrangement conducts a small number of high-value transactions with a small number of recipients
- Legal person or arrangement receives large sums of capital funding quickly following incorporation/formation, which is spent or transferred elsewhere

	<p>in a short period of time without commercial justification</p> <ul style="list-style-type: none"> <li>• Focused on aggressive tax minimisation strategies</li> <li>• Transaction appears cyclical</li> <li>• Transaction involves two legal persons with similar or identical directors, shareholders, or beneficial owners</li> <li>• Transaction involves the transfer of shares in an off-market sale</li> <li>• Funds are sent to, or received from, a foreign country when there is no apparent connection between the country and the client</li> <li>• Funds involved in the transaction are sent to, or received from, a low-tax jurisdiction or international trade or finance centre.</li> </ul>
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**Case Study 83 - Norway**

The CEO of a large Norwegian company transferred significant sums of money to several companies, claiming that this represented payment for services (consultancy fees etc.). Investigation proved that no services were delivered and that the CEO was the beneficial owner of the companies.

<b>Indicators</b>	<ul style="list-style-type: none"> <li>• False invoices created for services not carried out</li> <li>• Transaction involves two legal persons with similar or identical directors, shareholders, or beneficial owners</li> </ul>
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**Case Study 84 - Norway**

The suspect was the head of a shipping company, and committed breach of trust by buying ships and equipment intended for the company through a structure of companies that was ultimately under his control. The suspect then sold the assets to the company at an inflated price. He simultaneously committed fraud against the banks that were financing the ships, by alleging the ships were bought at marked price. Although beneficial ownership was determined, legal challenges remain in confiscating assets frozen in foreign bank accounts that were not party to the criminal case.

<b>Indicators</b>	<ul style="list-style-type: none"> <li>• Inflated asset sales between entities controlled by the same beneficial owner</li> <li>• Complex corporate structures that do not appear to legitimately require that level of complexity or which do not make commercial sense</li> <li>• Transaction involves two legal persons with similar or identical directors, shareholders, or beneficial owners</li> </ul>
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### Case Study 85 – Panama

The purported legitimate purpose of the scheme was the development and construction of real estate, based on small investors who injected capital. The funds provided by the settlor or third-party adherents were derived from illegal activities (corruption of public servants and illicit enrichment). The scheme involved a BVI company with nominee directors, ultimately controlled by a PEP who was a client of a bank that had a relationship with the TCSP. The TCSP set up a real estate trust to receive money and assets that come from the business of the settlor and “investors.” The assets received were invested in a real estate project, with the same assets given as a warranty to the bank that was financing 60% of the real state project. The ultimate beneficial owner of the real estate project was the son of the PEP.

The trustee did not conduct extensive due diligence and relied on the due diligence performed by the bank that referred the client, since both the client and the trustee maintained a business relationship with the bank.

#### Indicators

- Client is reluctant or unable to explain their source of wealth/funds
- Client is reluctant or unable to explain the nature of their business dealings with third parties
- Politically exposed persons, or have familial or professional associations with a person who is politically exposed
- Legal person or arrangement incorporated/formed in a low-tax jurisdiction or international trade or financial centre
- There is a discrepancy between the supposed wealth of the settlor and the object of the settlement.
- Falsified paper trail
- Nominee owners and directors including formal nominees
- An asset is purchased with cash and then used as collateral for a loan within a short period of time

### Case Study 86 – Peru

This case concerns a Peruvian PEP, his wife, his mother-in-law and other individuals close to him following the purchase of properties. Two mortgages were paid in advance using funds from a Costa Rican company that had been established only six months before instructions were given for the wire transfers. The loan was paid in just four months by the offshore company, despite the financial loss incurred. The Peruvian authorities established the origin of the funds to be corrupt activities performed by the PEP during his administration. The purchase of a luxury property by the mother-in-law of the PEP, who did not have the economic capacity to make this purchase, led to the opening of a case at the FIU and the issuance of SARs by reporting entities.

Indicators	<ul style="list-style-type: none"> <li>• Politically exposed persons, or have familial or professional associations with a person who is politically exposed</li> <li>• Financial activities and transactions inconsistent with their customer profile,</li> <li>• Director, controlling shareholder(s) and/or beneficial owner(s) are listed against the accounts of other legal persons or arrangements</li> <li>• Legal person or arrangement incorporated/formed in a low-tax jurisdiction or international trade or financial centre</li> <li>• Legal person or arrangement receives large sums of capital funding quickly following incorporation/formation, which is spent or transferred elsewhere in a short period of time without commercial justification</li> <li>• Family members with no role or involvement in the running of the business are listed as beneficial owners of legal persons or arrangements</li> <li>• A loan or mortgage is paid off ahead of schedule, incurring a loss</li> </ul>
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**Case Study 87 – Russia**

A state customer concluded contracts on research work and the development of a special software with Contractor #1 and Contractor # 2. Analysis of financial transactions showed that these contractors did not conduct any research activities themselves, but transferred budgetary funds to subcontractors with real scientific laboratories among them. The majority of funds from Contractor #1 was sent to its subcontractor, who channelled funds to a shadow financial scheme consisting of multiple layers of shell companies. The funds were finally withdrawn in cash. The majority of funds from Contractor # 2 was sent to a real estate company that invested these funds into its business activity, acquired luxury cars and granted zero-interest rate loans to a number of individuals.

Analysis of ownership data, address registry information, an air tickets booking database, financial transactions and law enforcement data showed that Contractor #2 was previously owned by Mr. X, before the ownership was passed to straw men uninvolved with the scheme. The real estate company was formerly owned by Mr. X, before the ownership was transferred to his daughter. Contractor #1 was owned by straw men who had no idea about the company’s business activities and received instructions from Mr. X. These straw men received a “salary” from the company’s account. The director of the state customer’s department responsible for research activities was a brother of Mr. X. A daughter of the state customer department’s director acquired expensive real estate using cash that was deposited in advance in her account. The woman who had joint flights with Mr. X acquired expensive real estate using cash that was in advance deposited into her account in advance.

Indicators	<ul style="list-style-type: none"> <li>• Politically exposed persons, or have familial or professional associations with a person who is politically exposed</li> <li>• False invoices created for services not carried out</li> <li>• Family members with no role or involvement in the running of the business are listed as beneficial owners of legal persons or arrangements</li> <li>• Nominee owners and directors including informal nominees, such as children,</li> </ul>
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	<p>spouses, relatives or associates who do not appear to be involved in the running of the corporate enterprise</p> <ul style="list-style-type: none"> <li>• Loans are received from private third parties without any supporting loan agreements, collateral, or regular interest repayments</li> <li>• Transaction is executed from a business account and involves a large sum of cash, either as a deposit or withdrawal, which is anomalous, or inconsistent with the company's profile</li> <li>• Transaction involves the use of multiple large cash payments to pay down a loan or mortgage</li> </ul>
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### Case Study 88 – Russia

Embezzled public funds worth RUB 300 million (11 million USD) were transferred from the account of Company K to the account of Company R. Company R, a Delaware corporation, was owned and managed by the Russian wife of the suspect, a state official. The same day, Company R transferred USD 11 million as a loan to an account of Company A (BVI) held by a Cypriot bank. Company A then transferred more than USD 11 million to the Company D (US) to purchase real estate in France. Company D transferred more than USD 12 million to a French Notaries Bureau. Information from the FIU of Luxembourg showed that one of the US banks acted as a guarantor for the suspect's wife in a transaction to purchase of shares of a French company – and the holder of the real estate. The transaction was conducted via an S.S. company – a French subsidiary of a Luxembourg S.D. SA., incorporated and owned by the same individual. Analysis showed that these two chains were interrelated and the real estate was purchased with the proceeds of public funds embezzled for the benefit of the state official's wife.

Indicators	<ul style="list-style-type: none"> <li>• Politically exposed persons, or have familial or professional associations with a person who is politically exposed</li> <li>• Legal person or arrangement incorporated/formed in a low-tax jurisdiction or international trade or financial centre</li> <li>• Family members with no role or involvement in the running of the business are listed as beneficial owners of legal persons or arrangements</li> <li>• Complex corporate structures that do not appear to legitimately require that level of complexity or which do not make commercial sense</li> <li>• The connections between the parties are questionable, or generate doubts that cannot be sufficiently explained by the client</li> <li>• Finance is provided by a lender, including either a natural or a legal person, other than a known credit institution, with no logical explanation or commercial justification</li> <li>• Transaction is occurring between two or more parties that are connected without an apparent business or trade rationale</li> <li>• Transaction is executed from a business account and involves a large sum of cash, either as a deposit or withdrawal, which is anomalous, or inconsistent with the company's profile</li> </ul>
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	<ul style="list-style-type: none"> <li>Funds are sent to, or received from, a foreign country when there is no apparent connection between the country and the client</li> </ul>
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**Case Study 89 – Serbia**

Four transfers from the account of agricultural cooperative “U.B.” were made to the account of legal person “P.I.P.H”, totalling approximately EUR 200 000. Funds in foreign currency totalling EUR 178 630 were purchased from this money immediately after it was deposited, and after that transferred to the account of Delaware Company M. The account of Company M was held with a bank in Cyprus. The stated purpose of the transactions was payment on basis of trade in goods. Furthermore, there was a transfer from the same account of “P.I.P.H” to the account of Delaware Company S, in the amount EUR 75 175. Company S’s account was with a bank in a foreign country. The stated basis for the transfer was payment for trade in goods. Investigation established that this was the case of black market trade. The funds accumulated from trade in goods were transferred to accounts of six legal persons from Serbia (it is suspected that these are front companies). The funds were afterwards transferred to accounts of legal persons abroad and then further to accounts of numerous Chinese citizens assumed to be the real beneficial owners of the goods sold in Serbia.

<b>Indicators</b>	<ul style="list-style-type: none"> <li>Legal person or arrangement incorporated/formed in a low-tax jurisdiction or international trade or financial centre</li> <li>Corporation maintains a bank balance of close to zero, despite frequent incoming and outgoing transactions</li> <li>The connections between the parties are questionable, or generate doubts that cannot be sufficiently explained by the client</li> <li>Transaction involves the transfer of shares in an off-market sale</li> <li>Funds are sent to, or received from, a foreign country when there is no apparent connection between the country and the client</li> </ul>
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**Case Study 90 – Serbia**

Members of an organized crime group devised a scheme involving Serbian banks, with the intention to legalize drug trafficking proceeds through purchasing a company's shares. One of the features of the scheme was the structuring of transactions to avoid reporting transactions to the FIU. The organized crime group found 42 individuals, who agreed to pay deposits into their own accounts, in the amounts below the threshold of EUR 15 000, declaring them their savings. Subsequently, these persons stated that they agreed to have their money used to acquire a company providing services in hospitality industry. At the same time, the organized crime group took over profitable private companies in Serbia, with large capital turnover through accounts, which were performing well and whose owners were ready to sell them.

Indicators	<ul style="list-style-type: none"> <li>• Under investigation or have known connections with criminals</li> <li>• Falsified records or counterfeited documentation</li> <li>• Finance is provided by a lender, including either a natural or a legal person, other than a known credit institution, with no logical explanation or commercial justification</li> <li>• Transaction involves the purchase of high-value goods in cash</li> </ul>
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#### Case Study 91 – Slovenia

EUR 4 million was transferred from a Slovenian company to a Liechtenstein TCSP's account at a Liechtenstein's bank under the guise of "construction consulting." MLA was used to identify the beneficial owner of TCSP, and the FIU identified that another Liechtenstein TCSP with the same trustee had opened a bank account in a Slovenian bank, though the trustee declared himself to be the beneficial owner. A bank statement allowed authorities to identify the beneficial owner as named by the trustee when opening the account. A deal was made with three suspects and authorities retrieved the embezzled assets and levied a penalty of more than EUR 1 million.

Indicators	<ul style="list-style-type: none"> <li>• Director, controlling shareholder(s) and/or beneficial owner(s) are listed against the accounts of other legal persons or arrangements</li> <li>• Legal person or arrangement incorporated/formed in a low-tax jurisdiction or international trade or financial centre</li> <li>• The connections between the parties are questionable, or generate doubts that cannot be sufficiently explained by the client</li> </ul>
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#### Case Study 92 – Switzerland

A lawyer, who had already been convicted of document falsification and misappropriation, hid stolen bearer shares in accounts opened in the name of offshore companies. The bearer shares had been sold and registered shares of the same company had been bought with the proceeds and transferred to other accounts in different jurisdictions. With effective domestic and international cooperation, the suspect was arrested and extradited to Switzerland and is now in prison. Assets in the amount of more than CHE 50 million (Swiss Francs) could also be blocked in all five countries.

Indicators	<ul style="list-style-type: none"> <li>• Under investigation or have known connections with criminals</li> <li>• Legal person or arrangement incorporated/formed in a low-tax jurisdiction or international trade or financial centre</li> <li>• Multiple bank accounts without good reason</li> <li>• Nominee owners and directors including informal nominees, such as children, spouses, relatives or associates who do not appear to be involved in the running of the corporate enterprise</li> <li>• Transaction appears cyclical</li> </ul>
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	<ul style="list-style-type: none"> <li>• Transaction involves the transfer of bearer shares in an off-market sale</li> <li>• Funds are sent to, or received from, a foreign country when there is no apparent connection between the country and the client</li> </ul>
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**Case Study 93 – Switzerland**

An operational coal mining company paid out EUR 800 million to their owner, a Dutch NV over a period of four years. The financial intermediary came across information that there was an ongoing prosecution of the Dutch NV and its owner in a third country and filed a STR for misappropriation of funds. The documentation held by the Swiss financial intermediary showed that this Dutch NV was owned by Mr. A, a citizen of another European country. Over a time period of 10 years CHF 3.5 billion was transferred through a large and complicated structure of 32 companies in different countries including the British Virgin Islands and the Netherlands. The Swiss financial intermediary’s documentation identified the beneficial owner of almost all of the companies as Mr. A.

Indicators	<ul style="list-style-type: none"> <li>• Foreign nationals with no significant dealings in the country in which they are procuring professional or financial services</li> <li>• Under investigation or have known connections with criminals</li> <li>• Legal person or arrangement incorporated/formed in a low-tax jurisdiction or international trade or finance centre</li> <li>• Legal person or arrangement regularly sends money to low-tax jurisdictions or international trade or finance centres or international trade or finance centres</li> <li>• Legal person or arrangement conducts transactions with international companies without sufficient corporate or trade justification</li> <li>• Complex corporate structures that do not appear to legitimately require that level of complexity or which do not make commercial sense or which do not make commercial sense</li> <li>• The connections between the parties are questionable, or generate doubts that cannot be sufficiently explained by the client</li> <li>• Transaction involves two legal persons with similar or identical directors, shareholders, or beneficial owners</li> <li>• Transaction involves complicated transaction routings without sufficient explanation or trade records</li> <li>• Funds involved in the transaction are sent to, or received from, a low-tax jurisdiction or international trade or finance centre or international trade or finance centre</li> </ul>
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**Case Study 94 – Switzerland**

A Swiss financial intermediary filed a SAR after a deposit of USD 2 million was made into the account of Company A by Company B who is a wholly owned

subsidiary of C Holding. The beneficial owner of company A, Mr. X, justified the incoming funds as being the result of services provided by Company A under a contract between companies A and B. The nature of these services was purported to be the provision business contacts, acquiring potential clients, and negotiation of terms and conditions.

Shortly after the deposit, two transfers of USD 1 million were made to two other companies of which Mr. X and Mr. Y –both high-ranking executives of the Dutch company C Holding - were the beneficial owners. The annual report of the Dutch company did not include any information about compensation to Mr. X and Mr. Y. The financial intermediary therefore suspected money laundering and dishonest business management to the disadvantage of the shareholders of company C Holding.

Indicators	<ul style="list-style-type: none"> <li>• The connections between the parties are questionable, or generate doubts that cannot be sufficiently explained by the client</li> <li>• Transaction involves two legal persons with similar or identical directors, shareholders, or beneficial owners</li> <li>• Transaction involves complicated transaction routings without sufficient explanation or trade records</li> </ul>
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**Case Study 95 – Trinidad and Tobago**

The case concerns a US citizen who created a complex scheme to avoid payment of taxes on income earned from a business operated in Trinidad and Tobago. The scheme included the involvement of gatekeepers, multiple individuals and legal structures and use of money remitters. The suspect, “Blackjack”, earned millions of dollars over the period 2009-2011 from a Trinidad and Tobago Private Members’ Club (similar to a casino). Blackjack took action to conceal his income and assets from the IRS by using unreported bank accounts in Trinidad and Tobago to deposit personal income; using US bank accounts in the names of his New Jersey business entities to receive income from the casino; using those business entities to pay for personal expenses; transferring income from the casino directly to vendors in the US for personal expenses; and directing the casino employees to send cash through wire transfers to individuals in New Jersey who then collected the cash on his behalf.

Indicators	<ul style="list-style-type: none"> <li>• Financial activities and transactions inconsistent with the corporate profile</li> <li>• Focused on aggressive tax minimisation strategies</li> <li>• Correct documents not filed with the tax authority</li> <li>• The connections between the parties are questionable, or generate doubts that cannot be sufficiently explained by the client</li> <li>• Transaction is executed from a business account but appears to fund personal purchases, including the purchase of assets or recreational activities that are inconsistent with the company’s profile</li> <li>• Funds are sent to, or received from, a jurisdiction that is considered to pose a high money laundering or terrorism financing risk</li> </ul>
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<b>Case Study 96 - Turkey</b>	
<p>The fuel obtained from fuel smuggling was sold through the petrol stations under the control of organised crime. Person A, who is the beneficial owner and the leader of the organisation, disguised his ownership by transferring control of the petrol stations to close associates and by carrying out transactions using cash and straw men.</p>	
<b>Indicators</b>	<ul style="list-style-type: none"> <li>• Client is reluctant or unable to explain the identity of the beneficial owner</li> <li>• Director or controlling shareholder(s) cannot be located or contacted</li> <li>• Bank balance of close to zero, despite frequent incoming and outgoing transactions</li> <li>• Falsified paper trail</li> <li>• Nominee owners and directors including informal nominees, such as children, spouses, relatives or associates who do not appear to be involved in the running of the corporate enterprise</li> </ul>

<b>Case Study 97 - Turkey</b>	
<p>A group of persons create and operate websites to provide illegal betting over the internet. In order to hide their identity, these persons use natural persons and shell companies to open bank accounts, and withdraw or transfer the deposited funds. The natural persons are aged around 30, are not registered as taxpayers and do not have social security records, live in different cities, and are generally unemployed, housewives or minimum wage workers. The straw men are paid a certain amount of money for the use of their accounts. The intermediary accounts are changed constantly. The sums collected in the bank accounts of those persons are withdrawn in cash from the banks or from ATMs, transferred to the bank accounts of persons/companies established for this purpose, or transmitted to an offshore corporation.</p>	
<b>Indicators</b>	<ul style="list-style-type: none"> <li>• Financial activities and transactions inconsistent with their customer profile</li> <li>• Correct documents not filed with the tax authority</li> <li>• Nominee owners and directors including informal nominees, such as children, spouses, relatives or associates who do not appear to be involved in the running of the corporate enterprise</li> <li>• Transaction is executed from a business account and involves a large sum of cash, either as a deposit or withdrawal, which is anomalous, or inconsistent with the company's profile</li> </ul>

### Case Study 98 – Ukraine

The money laundering scheme of former high-ranking officials of Ukraine was conducted via Ukrainian banking institutions and foreign banks. A number of non-resident companies (mostly registered in Panama, Cyprus, BVI, UK and Belize) linked by constituent-officials and business relations invested a considerable amount of funds in Ukraine (bought internal government bonds, transferred significant amounts of funds to deposit accounts in Ukraine and made contributions to the authorised capital of Ukrainian enterprises). According to the analysis of information on IP-addresses used to access business accounts, all the investments were managed from one management centre.

Indicators	<ul style="list-style-type: none"> <li>• Politically exposed persons, or have familial or professional associations with a person who is politically exposed</li> <li>• Director, controlling shareholder(s) and/or beneficial owner(s) are listed against the accounts of other legal persons or arrangements</li> <li>• Legal person or arrangement incorporated/formed in a low-tax jurisdiction or international trade or financial centre</li> <li>• Multiple bank accounts without good reason</li> <li>• Bank accounts in multiple international jurisdictions without good reason</li> <li>• Complex corporate structures that do not appear to legitimately require that level of complexity or which do not make commercial sense</li> <li>• The connections between the parties are questionable, or generate doubts that cannot be sufficiently explained by the client</li> <li>• Funds are sent to, or received from, a foreign country when there is no apparent connection between the country and the client</li> </ul>
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### Case Study 99 – United States

US authorities identified front companies used to conceal the ownership of certain US assets by Bank Melli, which was previously designated by the US authorities for providing financial services to entities involved in Iran's nuclear and ballistic missile program. Bank Melli was also subject to a call for enhanced vigilance in UNSCR 1803. The Department of Justice (DOJ) obtained the forfeiture of substantial assets controlled by the Government of Iran. These assets included a 36-story office tower in Manhattan at 650 5th Avenue having an appraised value of more than USD 500 million, other properties, and several million dollars in cash. The ownership of the office tower was split between Bank Melli (40%) and the Alavi Foundation (60%), which provided services to the Iranian government, such as transferring funds from the office tower to Bank Melli.

Indicators	<ul style="list-style-type: none"> <li>• Legal person or arrangement incorporated/formed in a jurisdiction that is considered to pose a high money laundering or terrorism financing risk</li> <li>• Correct documents not filed with the tax authority</li> </ul>
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	<ul style="list-style-type: none"> <li>• Designated persons or groups</li> <li>• Funds are sent to, or received from, a jurisdiction that is considered to pose a high money laundering or terrorism financing risk</li> </ul>
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**Case Study 100 - United States**

An individual organised a loan-fraud pyramid scheme to falsely inflate the sales and revenues of his company. His company served as a front. The scheme involved his wife and son. The defendants created numerous legal entities, including trusts, corporations/LLCs to open bank accounts to manage the illicit funds and conceal the ownership and involvement in the scheme. The defendants used the help of a legal professional (attorney) to create a number of legal entities, and diverted loans for the company for private benefit, including gems and jewellery. The attorney involved helped to sell the jewellery (which was an asset of the trust). The address of the attorney (then deceased) was used to move money from two different accounts.

The investigation obtained legitimate financial records from third parties via subpoena as corporate records held by the organisation were found to be fabricated. The assets held by the defendant were identified by interviewing third parties to determine the true ownership. Additional information was obtained via the interview of tax return preparer. Standard financial investigative techniques were used to identified several trusts/trustees and legal persons.

<b>Indicators</b>	<ul style="list-style-type: none"> <li>• Multiple bank accounts without good reason</li> <li>• Correct documents not filed with the tax authority</li> <li>• Discrepancy between purchase and sales invoices</li> <li>• Fabricated corporate ownership records</li> <li>• Family members with no role or involvement in the running of the business are listed as beneficial owners of legal persons or arrangements</li> <li>• Complex corporate structures that do not appear to legitimately require that level of complexity or which do not make commercial sense</li> <li>• Nominee owners and directors including informal nominees, such as children, spouses, relatives or associates who do not appear to be involved in the running of the corporate enterprise</li> <li>• Transaction is executed from a business account but appears to fund personal purchases, including the purchase of assets or recreational activities that are inconsistent with the company's profile</li> <li>• Transaction involves a professional intermediary without due cause or apparent justification</li> </ul>
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**Case Study 101 - United States**

The defendant operated a mortgage broker business and several other companies that owned and managed real estate. He used nominee accounts, shell

### Case Study 101 – United States

corporations and other schemes to conceal his ownership. The scheme involved the purchase of properties owned by entities that the defendant controlled through an employee. The purchases were financed through loans. In connection with the loan applications, the defendant and others submitted fraudulent information related to the financial position of the borrower or purchaser, fraudulent appraisals that overstated the value of the collateral, and other documents that contained other material misrepresentations. The subject would “sell” commercial property owned by an entity he controlled to another entity that he controlled at highly elevated prices. The purchases were financed through fraudulent loan applications and through the submission of fraudulent documents. Also, the defendant altered invoices directed to one of the entities by inflating the cost of the work listed on the original invoices to make it falsely appear as though improvements had been made to the properties serving as collateral for the loans.

Indicators	<ul style="list-style-type: none"> <li>• Falsified records or counterfeited documentation</li> <li>• Inflated asset sales between entities controlled by the same beneficial owner</li> <li>• Nominee owners and directors including informal nominees, such as children, spouses, relatives or associates who do not appear to be involved in the running of the corporate enterprise</li> <li>• No real business activities undertaken</li> </ul>
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### Case Study 102 – United States

Individual 1, a US Citizen and resident of Belize, incorporated more than 5 000 shell companies in Belize and the West Indies to facilitate numerous securities and tax fraud schemes. Individual 2, a dual US and Canadian citizen, was the secret owner of an international broker-dealer and investment management company based in Panama City, Panama, and Belize City, Belize. There were 3 inter-related schemes: 1) fraudulent stock promotion and price manipulation; 2) circumventing capital gains taxes under the Foreign Account Tax Compliance Act (FATCA); 3) laundering more than USD 250 million in profits through unidentifiable debit cards and attorney escrow accounts.

Individual 2 used the services of a US-based lawyer to launder the more than USD 250 million generated through his stock manipulation of a number of US companies – directing the fraud proceeds to five law firm accounts and transmitting them back to members of the scheme and its co-conspirators. These concealment schemes also enabled Individual 2 to evade reporting requirements to tax authorities.

Indicators	<ul style="list-style-type: none"> <li>• Legal person or arrangement incorporated/formed in a low-tax jurisdiction or international trade or financial centre</li> <li>• Correct documents not filed with the tax authority</li> <li>• Complex corporate structures that do not appear to legitimately require that level of complexity or which do not make commercial sense</li> </ul>
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	<ul style="list-style-type: none"> <li>• Nominee owners and directors</li> <li>• Transaction involves a professional intermediary without due cause or apparent justification</li> <li>• Transaction involves the transfer of shares in an off-market sale</li> </ul>
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**Case Study 103 – United States**

A Honduran PEP allegedly solicited and accepted USD 2.08 million in bribes from a Honduran technology company, in exchange for prioritising and expediting payments under a USD 19 million contract with the government agency to organise and digitise state records.

The technology company allegedly sent wire transfers through another company to the PEP totalling approximately USD 2.08 million through an affiliate company located in Panama, which was owned by nominees. The bribe proceeds were then allegedly laundered into the United States and used to acquire real estate in the New Orleans area. Certain properties were titled in the name of companies controlled by the PEP’s brother in an effort to conceal the illicit source of the funds as well as the beneficial ownership. One company used to hold title was a used-car dealership, and the other was a shell company which at one point counted the PEP among its members. Most of the real properties allegedly acquired with bribe proceeds were titled in the names of the companies.

Indicators	<ul style="list-style-type: none"> <li>• Politically exposed persons, or have familial or professional associations with a person who is politically exposed</li> <li>• Legal person or arrangement incorporated/formed in a low-tax jurisdiction or international trade or financial centre</li> <li>• Legal person or arrangement regularly sends money to low-tax jurisdictions or international trade or finance centres</li> <li>• Nominee owners and directors</li> <li>• Transfer of real property from a natural to a legal person in an off-market sale</li> </ul>
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**Case Study 104 – United States**

The defendants engineered a conspiracy to sell fraudulent renewable energy credits through the use of shell and shelf companies in the United States in order to receive renewable energy tax credits from the US government for renewable fuels never produced, and to launder those illicit proceeds for their own benefit. Among their ill-gotten gains from these proceeds were various assets including real estate, boats, cars, watches, and gold.

During the course of their investigation, law enforcement determined that the defendant directed a network of his professional contacts to purchase shelf companies throughout the United States, to serve as purported purchasers of renewable fuel and purported sellers of feedstock. The use of shelf companies was

discovered by interviewing the nominees who had opened bank accounts on behalf of those companies and through search warrants executed on a number of the businesses.	
Indicators	<ul style="list-style-type: none"> <li>• Long period of inactivity following incorporation, followed by a sudden and unexplained increase in financial activities</li> <li>• Multiple bank accounts without good reason</li> <li>• Falsified paper trail</li> <li>• Complex corporate structures that do not appear to legitimately require that level of complexity or which do not make commercial sense</li> <li>• Nominee owners and directors</li> </ul>

**Case Study 105 - United States**

The US Department of the Treasury’s Office of Foreign Assets Control (OFAC) designated a foreign PEP under the Foreign Narcotics Kingpin Designation Act for playing a significant role in international narcotics trafficking, with a straw man also designated for providing material assistance, financial support, or goods or services in support of and acting on behalf of the PEP. In addition, OFAC designated shell companies tied to the straw man that were used to hold real estate.

Indicators	<ul style="list-style-type: none"> <li>• Politically exposed persons, or have familial or professional associations with a person who is politically exposed</li> <li>• Designated persons or groups</li> <li>• No real business activities undertaken</li> </ul>
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**Case Study 106 - Vatican**

In this case, Company A incorporated in the Caribbean was entitled to issue bearer shares. Company A was managed by a branch of an international bank registered in the same country whose headquarters is registered in Europe. A South American politically exposed person was appointed as authorised signatory for an account held by company A at the headquarters of the bank. The same PEP was under investigation for racketeering, corruption, and ML. This individual appears to be the beneficial owner of company A. The company attempted a wire transfer of EUR 1 000 0000 from the bank headquarters to a charitable entity in a branch of another European bank. The charitable entity refused the transaction and reported the case to the domestic authorities. Shortly after the attempted transfer, Company A was dissolved.

Indicators	<ul style="list-style-type: none"> <li>• Politically exposed persons, or have familial or professional associations with a person who is politically exposed</li> <li>• Under investigation or have known connections with criminals</li> <li>• Legal person or arrangement incorporated/formed in a low-tax jurisdiction</li> </ul>
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	<p>or international trade or financial centre</p> <ul style="list-style-type: none"><li>• The connections between the parties are questionable, or generate doubts that cannot be sufficiently explained by the client</li></ul>
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## ANNEX D. SOURCES OF INFORMATION AND TECHNIQUES TO DISCOVER BENEFICIAL OWNERSHIP

### OVERVIEW

1. During the development of this report, a range of techniques to discover beneficial ownership was identified. However, due to the nature of the analysed case studies, which generally involved active law enforcement investigations, the identified techniques centred primarily on traditional law enforcement capabilities and tools. As such, the tools and techniques available to financial institutions, professional intermediaries, and intelligence agencies to reliably identify and verify beneficial ownership prior to forming a suspicion and commencing a formal investigation are more difficult to ascertain and describe.
2. This is somewhat unsurprising. As this report has demonstrated, the concealment of beneficial ownership information is the cornerstone of many money laundering and terrorism financing schemes, and proving beneficial ownership presents one of the greatest challenges for financial institutions and competent authorities. However, some simple tools are available to financial institutions and competent authorities to assist in the identification of high-risk or suspicious customers and activities. These are outlined in this Annex.

### SOURCE OF INFORMATION TO ASSIST IN THE IDENTIFICATION OF BENEFICIAL OWNERSHIP

3. In its 2014 guidance paper on *Transparency and Beneficial Ownership*<sup>78</sup>, the FATF outlined some mechanisms and sources for obtaining beneficial ownership information of legal persons, including: company registries, financial institutions, DNFBPs, the legal person itself, and other national authorities, such as tax authorities or stock exchange commissions. These mechanisms are outlined in greater detail in that guidance report; however, the focus of the guidance report is on the implementation of policy initiatives to improve transparency of beneficial ownership, rather than on investigative techniques, and may therefore be of limited value to financial institutions and competent authorities.
4. Analysis of the case studies provided in support of this report identified the following common sources of information used to identify beneficial ownership:  
  
*Banks and financial institutions*
5. Banks were the most common source of information used by competent authorities to identify beneficial ownership, and were involved in over half of the investigations analysed. Financial institutions represent a key source of information

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<sup>78</sup> FATF, 2014: p.18

for FIUs and competent authorities; however, there is limited ability for financial institutions to leverage the information held by other financial institutions. Information held by banks also relies on the quality of the information provided by a client. This is particularly relevant for the sharing of suspicions and risk profiles between banks, or within multi-national banks. Further work is being conducted globally to improve private-private and public-private information sharing to alleviate this issue.

*Professional intermediaries*

6. In approximately one-third of cases, information was provided by DNFBPs. Information held by professional intermediaries can be extensive; however, in countries where DNFBPs are not obliged to conduct CDD, the information held by professionals may not be reliable. Furthermore, the presence of LPP and client confidentiality can inhibit efforts to obtain information from intermediaries.

*Companies and company registries*

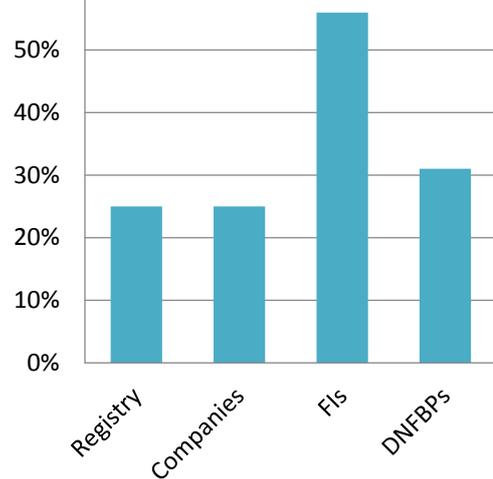
7. Beneficial ownership information held by companies and in company registries were used in only one-quarter of cases. In many cases, these registries were general property or corporate registries, rather than beneficial ownership registries. However, many of the cases included in the sample predate the work being done globally in this area.

*Traditional law enforcement techniques*

8. In one-quarter of cases, beneficial ownership was not known, the source of beneficial ownership information was not disclosed, or beneficial ownership was not discovered using information held under Recommendations 24 and 25. Often, in these cases, beneficial ownership was determined through surveillance.

9. Analysis of the case studies demonstrated that competent authorities and law enforcement can more easily obtain accurate beneficial ownership from financial institutions than from DNFBPs. Banks featured in 90% of cases, and were a source of beneficial ownership in over half the case studies. While 76% of cases included some type of DNFBP, in only one third did DNFBPs act as a source of beneficial ownership information for authorities – perhaps due to issues of complicity, legal professional privilege, or simply a lack of implementation of beneficial ownership record-keeping requirements in these sectors.

**Figure 3. Sources of beneficial ownership information**



10. Other sources of beneficial ownership include:

#### *Registers of Beneficial Ownership*

11. In recent years, and particularly after the *Anti-Corruption Summit* held in London in 2016, many countries have implemented, or commenced work to implement, registers of beneficial ownership. In countries where they have been implemented, registers of beneficial ownership will contain useful information relevant to determining true beneficial ownership and control. However, care should be taken to analyse the veracity of the information held on registers of beneficial ownership, as it is often self-reported and rarely vetted by a central administering body.

#### *Shareholder register*

12. In some instances, particularly in jurisdictions that require companies to actively collect such information up front, shareholder registers will contain sufficient information to identify controlling interests in a company. However, many criminals will seek to limit their exposure by concealing their share ownership. In these instances, the shareholder register may indicate other controlling persons (natural or legal) who may be acting on behalf of the beneficial owner, or may be controlled by the beneficial owner.

#### *Commercial databases*

13. A large number of commercial databases are available to law enforcement in developing their investigations and to financial institutions in identifying risk. Use of these databases provides a quick means of obtaining a wide variety of useful information and leads. A lack of information on commercial databases can be an indicator of the use of a shell or a shelf corporation. This information, along with other investigative techniques can be an effective tool to unravel the legal arrangement of an entity.

#### *Professional nominees*

14. As discussed in this report, some countries require all legal persons incorporated under domestic laws to maintain a physical presence in that country. In some instances, these countries also require a domestic national to serve as a director or controlling shareholder of the company. Many professional intermediaries, particularly TCSPs, offer nominee directorship and company management services to foreign clients to assist in meeting these legal requirements. These professional nominees will often maintain records of their customer, and while these records may not prove true beneficial ownership and control, they will assist in tracing and unravelling the broader control structure of the company.

### **MECHANISMS AVAILABLE TO COMPETENT AUTHORITIES**

15. While there is a range of information sources available to assist in the identification of beneficial ownership, the reliability of some of these sources is often questionable. In order to fully unravel complicated ownership structures and prove ownership and control (and thereby prove criminality where relevant) law

enforcement and competent authorities require access to a broader range of intelligence and evidence collection capabilities. The key capabilities relevant to the identification and verification of beneficial ownership are outlined below.

#### *Mutual legal assistance*

16. Mutual legal assistance is the cornerstone of most major investigations that involve a transnational corporate structure or international financial flows. However, many law enforcement and intelligence practitioners have reported that delays in mutual legal assistance requests are one of the key inhibitors in an investigation. Therefore, while the information available via mutual legal assistance is often invaluable, it is not necessarily a quick or easy solution to unravelling opaque transnational ownership structures.

#### *Intelligence disclosures and sharing*

17. In addition to mutual legal assistance, which is often used to exchange information for evidentiary purposes, FIUs and competent authorities will regularly exchange information with international partners for intelligence purposes only. These intelligence exchanges can be spontaneous or subsequent to a request, and can greatly assist FIUs to understand the ownership and control of complex international structures, or the financial activities of those structures.

#### *Taxation databases*

18. Taxation databases are a useful means of identifying indicators of criminality and schemes designed to obscure beneficial ownership. By comparing previous tax assessments to bank statements, financial transactions, assets, and the lifestyle of an individual, it is possible to identify anomalous financial activities. Further investigation often uncovers dubious control structures or corporate dealings designed to conceal beneficial ownership.

#### *Asset disclosure databases*

19. Many countries require public officials to disclose their assets on publicly accessible databases. These databases can be a useful tool to gauge the wealth and asset holdings of public officials, and can assist in identifying anomalous financial activities. Furthermore, the absence of an asset that is clearly controlled by the official, their family, or their corporate interests from the registry may be an indication of efforts to conceal their ownership of the asset.

#### *Subpoenas for information*

20. Subpoenas are often coercive in nature, and are generally used to compel the recipient to provide the required information. However, they can also offer a range of protections and indemnities to the recipient. For this reason, subpoenas are often used in situations where a competent authority and financial institution are working collaboratively on an investigation, despite the fact that the financial institution is a willing party to the investigation.

### *Covert surveillance*

21. Most law enforcement and intelligence agencies have access to covert surveillance capabilities, including telecommunication interception and physical surveillance. These techniques can be used to identify connections between associates and identify control over assets or companies.

### *Informants and witnesses*

22. Some intelligence and law enforcement agencies have the capability to coerce witnesses to give information or documents relating to an investigation. Often, these capabilities can only be utilised in certain limited circumstances, and the information gathered from these witnesses can often be used for intelligence purposes only (not evidence). However, these capabilities can be highly valuable in dissecting and understanding complicated corporate structures designed to conceal beneficial ownership and frustrate investigations.

### *Search Warrants*

23. Search warrants are a standard law enforcement capability; however, they are an overt and intrusive capability that immediately announces law enforcement's interests and investigation into a person or company. For this reason, search warrants are often used towards the end of an investigation, rather than at the commencement. While search warrants are valuable evidence gathering tools, and can assist in proving beneficial ownership in court, they may have limited value in identifying beneficial ownership in the early stages of an investigation.

### *Multi-agency task forces*

24. It is rare that any single agency has all of the information and capabilities required to unravel, understand, and prosecute complicated money laundering schemes designed to obscure beneficial ownership. Often, law enforcement agencies, intelligence agencies, taxation authorities, securities regulators, and other competent authorities are all required to successfully discover, understand and disrupt complex transnational schemes. Multi-agency task forces are a useful mechanism to co-ordinate investigative efforts, share information, and reduce duplication. The presence of a standing taskforce within a country allows for the quick deployment of resources and capabilities in response to emerging threats and opportunities.

## **Tools to identify potential efforts to obscure beneficial ownership**

25. In addition to the sources of information described above, law enforcement and private sector have identified a number of novel approaches to collecting information relevant to the identification of risk indicators. In most cases, these tools are not suitable to discovering true beneficial ownership and control; however, they may reveal anomalous activities and indices that could assist in recognising high-risk individuals and companies. These tools are outlined below:

### *IP addresses*

26. Many financial institutions and law enforcement agencies have begun to collect and analyse the Internet Protocol (IP) address of customers involved in a transaction. As the majority of financial transactions are now conducted online, the collection of IP address information can provide valuable insights into who is ordering a transaction, and where that transaction is being ordered from. It is likely that careful analysis of IP address information could identify situations where control is being exerted by an unknown third party, where control shifts from one person to another, where control of a domestic account is being exerted by a foreign influence, or where a person may be seeking to conceal their IP through the use of a virtual private network (VPN).

27. Furthermore, analysis of IP addresses collected by a financial institution may identify commonalities and control nexuses, where a single IP address is responsible for transaction requests for multiple accounts, customers, and beneficial owners. Instances of repeat IP addresses across numerous accounts may be indicative of a professional nominee, professional intermediary, or professional money launderer, and these accounts may deserve close monitoring.

### *Online maps and street-level images*

28. Online maps and street-level images (such as those developed by Google and other search engines) are readily available online for a significant proportion of countries across the globe. These capabilities can serve a range of useful purposes, including the verification and analysis of addresses provided by customers and clients. In the past, service providers and financial institutions were often limited in their ability to critically analyse the address of an individual or company, particularly when engaging with customers and companies based in a foreign country. Today, a simple search of a company address has significant analytical potential.

29. By analysing the location of an address provided by a customer or company, as well as the physical appearance of that address from the street (where images are available), it is often possible to identify anomalies indicative of a shell company or an attempt to conceal the customer's true identity. Anomalies may include:

- the location is inconsistent with the financial profile of the customer
- the location is inconsistent with business profile of the company
- the physical appearance of the address is inconsistent with the size and nature of the company
- the address is a post box.

30. Addresses that appear anomalous may warrant enhanced due diligence and closer monitoring.

### *Media reporting*

31. A number of cases analysed for this report involved financial institutions and professional intermediaries that identified suspicious transactions as a result of media reporting. Media reporting is a useful means of identifying potential

corruption, high-value government contracts, and high-profile corporate activities. While media reporting is not an indication of suspicious activities, it may assist in the identification of anomalous or high-risk activities.

32. Some media reporting is more specific and incriminating. In recent years, global consortiums of journalists, such as the International Consortium of Investigative Journalists, have undertaken widespread investigations into corruption, tax evasion, and money laundering. In two key instances<sup>79</sup>, the investigations released leaked documents relating to the establishment of complex corporate structures and companies in low-tax jurisdictions by law firms on behalf of high-wealth individuals. While these leaked documents are not evidence of criminality or wrong-doing, they may be indicative of risk, and may warrant close consideration from a risk analysis perspective.

33. It is important to consider the source of the media reporting when assessing the validity and reliability of the information. Not all media sources are reliable, and care should be taken to validate or verify any intelligence derived from open sources.

### Techniques to identify potential efforts to obscure beneficial ownership

34. There is a broad range of analytical techniques available to identify activities and trends indicative of the concealment of beneficial ownership, and of money laundering more broadly. This report will not attempt to list all such techniques; however, some key techniques identified by FIUs, competent authorities, and private sector representatives have been included below:

#### *Identifying the beneficial owners of legal arrangements*

35. Identifying the beneficial ownership of legal arrangements can pose significant challenges due to the number of actors that can exercise control or benefit from the arrangement. When considering the beneficial ownership of a trust, asking the following key questions may assist financial institutions and professional intermediaries to better understand key features of the arrangement:

- Who is the real settlor and what is the real source of funds?
- Who are the real beneficiaries i.e. for whose benefit are the trust assets managed?
- What is the trust's governance system and who are the real "natural persons exercising effective control"?

36. Seeking copies or extracts of tax or legal advice on the formation of the trust or an explanation from current advisers as to the purpose behind the formation of the trust will assist in answering some of these questions. Where such advice is not available, it may be possible to draw inferences from background information, although this can be less reliable.

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<sup>79</sup> The 2015 leak of confidential documents from Panama-based law firm Mossack Fonseca, and the 2017 leak from Bermuda-based law firm, Appleby.

*In the absence of the ability to identify BO, identify senior management personnel*

37. As explained previously, beneficial ownership must involve some level of ultimate control, whether direct or indirect control. While the beneficial owner of a company may not be visible, the management structure is generally easier to ascertain. By analysing the directors and senior management of a company, it may be possible to discern whether one of them is the ultimate beneficial owner. Conversely, analysis of the activities and financial dealings of the management personnel may identify a third party exerting control from outside of the company.

*In the absence of the ability to identify BO, identify individuals with control over transaction accounts/power of attorney*

38. As with identifying the director and senior management of a company, identifying individuals who exert control over financial transaction accounts, or who have power of attorney over the company, may assist in identifying the beneficial owner. Although more difficult to discern, individuals with control over transaction accounts, and those with power of attorney, often have the power to exert control over a company or its finances. While many of these individuals will be employed in legitimate finance and legal areas of larger companies, those with no apparent connection to the company, or who are seemingly employed in unrelated areas of the company, could potentially be the beneficial owner of the company.

*Search existing records for the same addresses or telephone numbers*

39. As identified in this report, numerous professional intermediaries, particularly TCSPs, provide directorship and company management services to their clients. A key indicator of this activity is the use of a mailbox service for multiple clients. As a result, large numbers of shell companies, particularly those with foreign beneficial owners, will be registered to the same address and telephone number. By identifying commonly used addresses and numbers, it is possible to identify companies that utilise a directorship or company management service. It may also indicate the use of professional nominees, and the fact that the company is a shell company.

40. Companies that are established and managed by TCSPs will often share the same bulk address. Additionally, these TCSPs will often establish banking relationships for their clients at the same financial institutions. Analysis of customer databases by these financial institutions is likely to identify commonly used addresses and telephone numbers indicative of bulk company incorporation and management. These customers may warrant enhanced due diligence to ensure that beneficial ownership and control details are recorded correctly.

*Meet high-risk clients face-to-face*

41. One of the findings of this report has been that the increased use of internet communications and the decrease in face-to-face client interactions have exacerbated challenges associated with identifying and proving beneficial ownership and control. This is largely due to the ease with which individuals can conceal their identity in the absence of face-to-face interactions. While governments and FinTech companies are investing significant resources to improve identification

processes in the digital age, including the provision of document verification systems and digital identities, the lack of face-to-face interactions will continue to pose a vulnerability to CDD and KYC processes.

42. One solution is to increase face-to-face interactions with high-risk clients or customers, including through the use of publicly available video-conference facilities. By meeting with the client directly, the financial institution can verify their identity against photographic identification documentation and better understand the level of control they exert over the company or assets involved. It is likely that even a brief discussion with a client about their activities and business dealings will allow the financial institution to identify indicators of the use of nominee directors and indirect control by a third party.

#### *Analysis of cross-border wire transfers*

43. The regular and proactive analysis of cross-border wire transfers is often instrumental in identifying true ownership and control structures. Those FIUs that receive cross-border wire transfer reports have reported the importance of those reports and their value in tracing money flows and identifying likely beneficial ownership. Financial institutions have direct and unfettered access to cross-border wire transfer information, and are therefore ideally placed to identify anomalous money flows on a global scale. Indicators of suspicious activities indicative of an attempt to conceal beneficial ownership are outlined in Annex E to this report.

#### **Additional resources**

44. For more examples of, and ideas on, the use of technology to verify beneficial ownership, see the Tax Justice Network's *Technology and Online Beneficial Ownership Registries: Easier to create companies and better at preventing financial crimes* report<sup>80</sup> and the FATF 2014 guidance on *Transparency and Beneficial Ownership*.<sup>81</sup>

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<sup>80</sup> Knobel, A., 2017.

<sup>81</sup> FATF, 2014.

## ANNEX E. INDICATORS OF CONCEALED BENEFICIAL OWNERSHIP

During the development of the report on the vulnerabilities associated with the concealment of beneficial ownership, 106 case studies were submitted by the FATF and Egmont Group members. Through the analysis of these case studies, as well as discussions with financial intelligence units (FIUs), competent authorities, and the private sector, a range of indicators of the concealment of beneficial ownership was identified. These risk indicators are summarised below. It is important to note that this list is not exhaustive, and other indicators may be identified.

### Indicators about the client or customer

1. The client is reluctant to provide personal information.
2. The client is reluctant or unable to explain:
  - their business activities and corporate history
  - the identity of the beneficial owner
  - their source of wealth/funds
  - why they are conducting their activities in a certain manner
  - who they are transacting with
  - the nature of their business dealings with third parties (particularly third parties located in foreign jurisdictions).
3. Individuals or connected persons:
  - insist on the use of an intermediary (either professional or informal) in all interactions without sufficient justification
  - are actively avoiding personal contact without sufficient justification
  - are foreign nationals with no significant dealings in the country in which they are procuring professional or financial services
  - refuse to co-operate or provide information, data, and documents usually required to facilitate a transaction
  - are politically exposed persons, or have familial or professional associations with a person who is politically exposed
  - are conducting transactions which appear strange given an individual's age (this is particularly relevant for underage customers)
  - have previously been convicted for fraud, tax evasion, or serious crimes
  - are under investigation or have known connections with criminals
  - have previously been prohibited from holding a directorship role in a company or operating a Trust and company service provider (TCSP)
  - are the signatory to company accounts without sufficient explanation

- conduct financial activities and transactions inconsistent with their customer profile
  - have declared income which is inconsistent with their assets, transactions, or lifestyle.
4. Legal persons or legal arrangements:
- have demonstrated a long period of inactivity following incorporation, followed by a sudden and unexplained increase in financial activities
  - describe themselves as a commercial business but cannot be found on the internet or social business network platforms (such as LinkedIn, XING, etc.)
  - are registered under a name that does not indicate the activity of the company
  - are registered under a name that indicates that the company performs activities or services that it does not provide
  - are registered under a name that appears to mimic the name of other companies, particularly high-profile multinational corporations
  - use an email address with an unusual domain (such as Hotmail, Gmail, Yahoo, etc.)
  - are registered at an address that does not match the profile of the company
  - are registered at an address that cannot be located on internet mapping services (such as Google Maps)
  - are registered at an address that is also listed against numerous other companies or legal arrangements, indicating the use of a mailbox service
  - where the director or controlling shareholder(s) cannot be located or contacted
  - where the director or controlling shareholder(s) do not appear to have an active role in the company
  - where the director, controlling shareholder(s) and/or beneficial owner(s) are listed against the accounts of other legal persons or arrangements, indicating the use of professional nominees
  - have declared an unusually large number of beneficiaries and other controlling interests
  - have authorised numerous signatories without sufficient explanation or business justification
  - are incorporated/formed in a jurisdiction that is considered to pose a high money laundering or terrorism financing risk
  - are incorporated/formed in a low-tax jurisdiction or international trade or finance centre
  - regularly send money to low-tax jurisdictions or international trade or finance centre

- conduct a large number of transactions with a small number of recipients
  - conduct a small number of high-value transactions with a small number of recipients
  - regularly conduct transactions with international companies without sufficient corporate or trade justification
  - maintain relationships with foreign professional intermediaries in the absence of genuine business transactions in the professional's country of operation
  - receive large sums of capital funding quickly following incorporation/formation, which is spent or transferred elsewhere in a short period of time without commercial justification
  - maintain a bank balance of close to zero, despite frequent incoming and outgoing transactions
  - conduct financial activities and transactions inconsistent with the corporate profile
  - are incorporated/formed in a jurisdiction that does not require companies to report beneficial owners to a central registry
  - operate using accounts opened in countries other than the country in which the company is registered
  - involve multiple shareholders who each hold an ownership interest just below the threshold required to trigger enhanced due diligence measures.
5. There is a discrepancy between the supposed wealth of the settlor and the object of the settlement.
6. Individuals, legal persons and/or legal arrangements:
- make frequent payments to foreign professional intermediaries
  - are using multiple bank accounts without good reason
  - are using bank accounts in multiple international jurisdictions without good reason
  - appear focused on aggressive tax minimisation strategies
  - are interested in foreign company formation, particularly in jurisdictions known to offer low-tax or secrecy incentives, without sufficient commercial explanation
  - demonstrate limited business acumen despite substantial interests in legal persons
  - ask for short-cuts or excessively quick transactions, even when it poses an unnecessary business risk or expense
  - appear uninterested in the structure of a company they are establishing
  - require introduction to financial institutions to help secure banking facilities

- request the formation of complex company structures without sufficient business rationale
  - have not filed correct documents with the tax authority
  - provide falsified records or counterfeit documentation
  - are designated persons or groups
  - appear to engage multiple professionals in the same country to facilitate the same (or closely related) aspects of a transaction without a clear reason for doing so.
7. Examination of business records indicate:
- a discrepancy between purchase and sales invoices
  - double invoicing between jurisdictions
  - fabricated corporate ownership records
  - false invoices created for services not carried out
  - falsified paper trail
  - inflated asset sales between entities controlled by the same beneficial owner
  - agreements for nominee directors and shareholders
  - family members with no role or involvement in the running of the business are listed as beneficial owners of legal persons or arrangements
  - employees of professional intermediary firms acting as nominee directors and shareholders
  - the resignation and replacement of directors or key shareholders shortly after incorporation
  - the location of the business changes frequently without an apparent business justification
  - officials or board members change frequently without an appropriate rationale.
8. Complex corporate structures that do not appear to legitimately require that level of complexity or which do not make commercial sense.
9. Simple banking relationships are established using professional intermediaries.

### Indicators of shell companies

10. Nominee owners and directors:
- formal nominees (formal nominees may be “mass” nominees who are nominated agents for a large number of shell companies)
  - informal nominees, such as children, spouses, relatives or associates who do not appear to be involved in the running of the corporate enterprise.

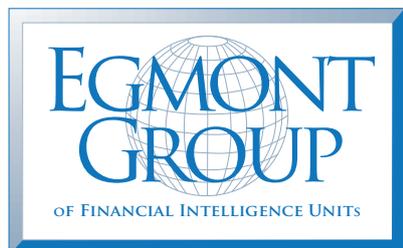
11. Address of mass registration (usually the address of a TCSP that manages a number of shell companies on behalf of its customers)
12. Only a post-box address (often used in the absence of professional TCSP services and in conjunction with informal nominees)
13. No real business activities undertaken
14. Exclusively facilitates transit transactions and does not appear to generate wealth or income (transactions appear to flow through the company in a short period of time with little other perceived purpose)
15. No personnel (or only a single person as a staff member)
16. Pays no taxes, superannuation, retirement fund contributions or social benefits
17. Does not have a physical presence.

### Indicators about the transaction

18. The customer is both the ordering and beneficiary customer for multiple outgoing international funds transfers
19. The connections between the parties are questionable, or generate doubts that cannot be sufficiently explained by the client
20. Finance is provided by a lender, whether a natural or a legal person, other than a known credit institution, with no logical explanation or commercial justification
21. Loans are received from private third parties without any supporting loan agreements, collateral, or regular interest repayments
22. The transaction:
  - is occurring between two or more parties that are connected without an apparent business or trade rationale
  - is a business transaction that involves family members of one or more of the parties without a legitimate business rationale
  - is a repeat transaction between parties over a contracted period of time
  - is a large or repeat transaction, and the executing customer is a signatory to the account, but is not listed as having a controlling interest in the company or assets
  - is executed from a business account but appears to fund personal purchases, including the purchase of assets or recreational activities that are inconsistent with the company's profile
  - is executed from a business account and involves a large sum of cash, either as a deposit or withdrawal, which is anomalous, or inconsistent with the company's profile

- appears cyclical (outgoing and incoming transactions are similar in size and are sent to, and received from, the same accounts, indicating that outgoing funds are being returned with little loss) (aka “round-robin” transactions)
  - involves the two-way transfer of funds between a client and a professional intermediary for similar sums of money
  - involves two legal persons with similar or identical directors, shareholders, or beneficial owners
  - involves a professional intermediary without due cause or apparent justification
  - involves complicated transaction routings without sufficient explanation or trade records
  - involves the transfer of real property from a natural to a legal person in an off-market sale
  - involves the use of multiple large cash payments to pay down a loan or mortgage
  - involves a numbered account
  - involves licensing contracts between corporations owned by the same individual
  - involves the purchase of high-value goods in cash
  - involves the transfer of (bearer) shares in an off-market sale
  - a loan or mortgage is paid off ahead of schedule, incurring a loss
  - includes contractual agreements with terms that do not make business sense for the parties involved
  - includes contractual agreements with unusual clauses allowing for parties to be shielded from liability but make the majority of profits at the beginning of the deal
  - is transacted via a digital wallet.
23. The funds involved in the transaction:
- are unusual in the context of the client or customer’s profile
  - are anomalous in comparison to previous transactions
  - are sent to, or received from, a foreign country when there is no apparent connection between the country and the client, and/or
  - are sent to, or received from, a low-tax jurisdiction or international trade or finance centre
  - are sent to, or received from, a jurisdiction that is considered to pose a high money laundering or terrorism financing risk.
24. An asset is purchased with cash and then used as collateral for a loan within a short period of time.

25. Unexplained use of powers of attorney or other delegation processes (for example, the use of representative offices).
26. Unexplained use of express trusts, and/or incongruous or unexplained relationships between beneficiaries (or persons who are objects of a power) and the settlor.
27. Unexplained or incongruous classes of beneficiaries in a trust.



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### **Concealment of Beneficial Ownership**

Legal persons, legal arrangements and professional intermediaries play important roles in facilitating business growth and development. But, they can also be misused, providing criminals with structures that help them conceal the proceeds of crime.

This joint FATF-Egmont Group study looks at the mechanisms and techniques that can be used to obscure the ownership and control of illicitly obtained assets, drawing on over 100 case studies, the experiences of law enforcement experts, the outcomes of FATF Mutual Evaluation Reports, and the insights provided by academic reports and other studies.

The report aims to raise awareness with national authorities, financial institutions and other professional service providers about the risks involved.