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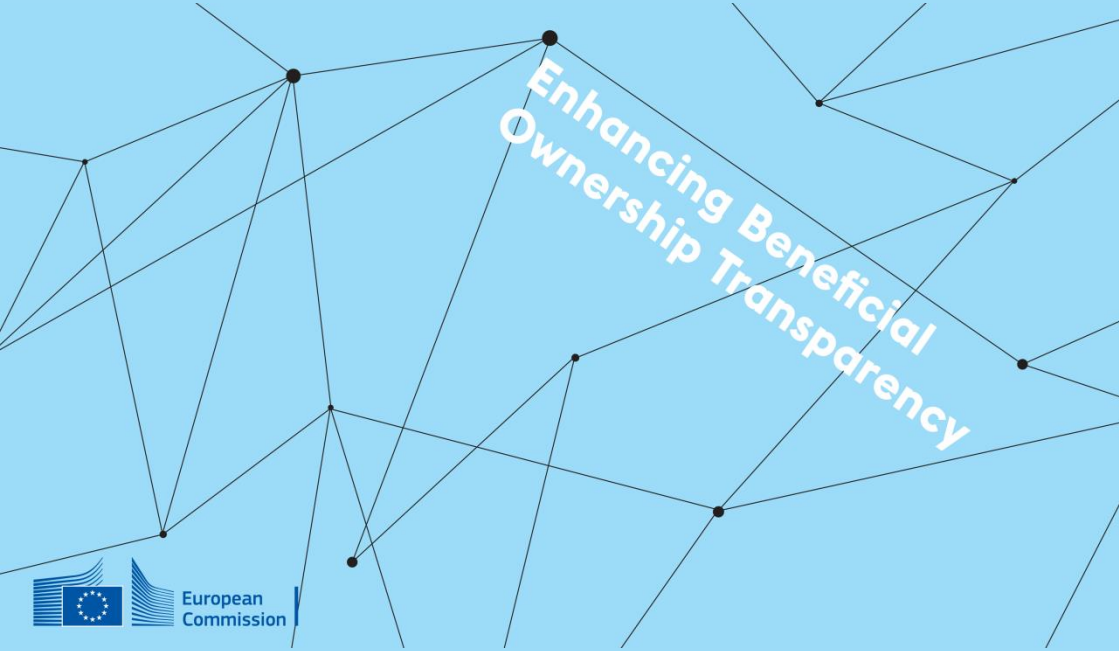
„We research corruption in the Czech Republic and actively help reduce it."

Enhancing Beneficial Ownership Transparency



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Transparency International Czech Republic (TI-CZ) is a Chapter of TI. TI-CZ works with governments, businesses, and civil society to put effective measures in place to tackle corruption and promote integrity.

Enhancing Beneficial Ownership Transparency in the Czech Republic – An Assessment of the Legal and Regulatory Framework

Praha, April 2017

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The recommendations herein reflect the opinions of TI-CZ and should not be construed as being the opinions of the people quoted, cited or interviewed, unless explicitly stated.

Project website: www.transparency.cz/ebot/

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GLOSSARY

AML	Anti-Money Laundering
AML/CFT	Anti-Money Laundering/Combating the Financing of Terrorism
AMLD4	4th Anti-Money Laundering Directive of the European Parliament and Council
ARO	Asset Recovery Office
BO	Beneficial owner
CC	Civil Code
CDD	Customer Due Diligence
CRS	Common Reporting Standard
DNFBP	Designated Non-Financial Businesses and Professions
DTT	Double Taxation Treaty
FATCA	The Foreign Account Tax Compliance Act
FATF	Financial Action Task Force
FIU	Financial Intelligence Unit
FSRB	FATF-Style Regional Body
G20	The Group of 20
LLC	Limited Liability Company
MoJ	Ministry of Justice
NCOC	National Centre against Organized Crime
NRA	National Risk Assessment
PEP	Politically exposed person
TI-CZ	Transparency International - Česká republika o.p.s.
TIEA	Tax Information Exchange Agreements
UBO	Ultimate Beneficial Owner or Ultimate Beneficial Ownership

INTRODUCTION

Old joke says, definition of really wealthy individual is that he can choose to pay tax or not, unlike anyone else. The Panama Papers revealed a year ago in April 2016, represent biggest leak of corporate documents in history. It opened eyes of the world to the blistering extent to which these shady deals are taking place, how corporations, celebrities as well as criminals use legal constructions and arrangements to launder immense amounts of illegally obtained funds, avoid taxation and – most importantly hide their ownership structure under the purposeful wail of ignorance and secrecy. It also shed brutal light on numerous enablers - banks, audit firms, law firms, and advisors - who for number of years take part in highly lucrative dirty business of creation of web of offshore entities, shell companies and anonymous bank accounts facilitating cover-up of money-laundering, financial fraud and corruption. These practices result in immense losses of tax revenue for authorities, while honest tax payers must pick up the bill. The wrongdoers are assisted by financial and legal service providers to neglect their civic and legal duty to pay taxes employing creative tricks offered by questionable advisors.

The problem of the opacity of beneficial owners and shell companies has become the subject of great political and societal attention globally. On top of the agenda is the idea to have transparency of beneficial ownership is to make it easier for the authorities (dealing with AML or financial intelligence), other businesses and also public to identify people who control and benefit from company´s gains. It is certain that everyone with honest and standard operations on

the market - businesses, competitors, customers, regulators - would benefit if there was easy access to beneficial ownership. Money laundering and the circulation of illicit funds affect all countries. Shutting the eyes and accepting illicit or laundered money is an dangerous illusion.

But the times are changing - recent survey by EY revealed that 91% of respondents believe that it is important to know who the ultimate beneficial owner is of the entities with which they do business. Not knowing who the natural person behind a customer is can carry serious risks for service providers, including regulatory oversight, sanctions and reputational damage. Banks, other financial institutions and firms in other sectors carry out anti-money laundering due diligence on their customers and start seriously collect beneficial ownership information. It´s simple they need to know with whom they are actually doing business.

Europe should be praised for taking right and well-targeted initiative, adopting 4th AML Directive and closely follows process of its implementation in member states. It proposes numerous further measures to unveil corporate secrecy. Also European Parliament's Committee of Inquiry into Money Laundering, Tax Avoidance, and Tax Evasion (PANA) set a good example at the beginning of 2017, starting its fact-finding investigation by questioning representatives of banks, law firms, auditors and accountancy firms.

In the Czech Republic at this moment (April 2017), there is no register of beneficial owners; however the amendment of the Act of Public Registers introduces the register. The amendment is planned to come into force in January 2018. The reason

for delay is the need to specify and award a contract and subsequently have time to create register. Register of beneficial owners will not be a part of the commercial register. The details about technical specifications of the register are not yet known. The Register in its current form will be completely non-public (with the exception of persons, which can prove an legitimate interest). It does not plan on introducing sanctions for not supplying information to the register or for providing wrong information. Transparency International (TI) with our dear colleagues of Glopolis work hard to influence the legislative procedure to fix that and build fully disclosed reliable and functional register of beneficial ownership.

To sum up, the ultimate goal is to build effective global register of beneficial ownership – and that is a long way to go. It requires growing international awareness of the importance of disclosure, transparency and strategic cooperation between institutions and governments, including OECD, FATF, G8, G20, and EU. TI will be proud and active part of changing the business paradigms and increase corporate openness.

PURPOSE AND CONTENT

This project is funded by the European Commission and co-funded with the resources of Transparency International Czech Republic (TI-CZ). It is carried out in the context of the transposition of the Fourth Anti-Money Laundering Directive (AMLD4), which was enacted in 2015 and is currently being amended in the wake of the revelations of the Panama Papers and the resulting public debates.

With this report, TI-CZ contributes to a further analysis of Ultimate Beneficial Ownership (UBO) transparency. It will assess (i) the current and future regulation regarding transparency of the ownership structures of companies and other legal entities in the Czech Republic and (ii) the regulations' effectiveness in practice.

The first part consists of a technical evaluation, which focuses on an assessment of the current and future Czech legislative framework regarding UBO transparency (as of page 17). Following this technical assessment, the second part analyses the effectiveness of the analysed legislation in practice (as of page 30). The G20 High Level Principles on Beneficial Ownership Transparency and the commonly known approach followed by the Financial Action Task Force (FATF) recommendations serve as the basis for the analyses.

The effectiveness evaluation is followed by three case studies (as of page 56), which will illustrate how a selection of the identified shortcomings have materialised in practice in the past few years. Case studies are examining the abuse of anonymous ownership structure as a useful tool for tax evasion.

EXECUTIVE SUMMARY

This material analyses the current legislative situation as of December 2016 in the fight against money laundering (and in particular with regard to beneficial ownership transparency) and shows possible improvement thanks to future amendments and practical application of new mechanisms and tools.

This document will be a part of a large scale analysis of the state of implementation in six European countries – the Czech Republic, Slovenia, Portugal, Luxembourg, the Netherlands and Italy.

The analysis was carried out using a set methodology to assess the current and future state of the legislative Anti-Money Laundering (AML) framework and the effectiveness of tools in place or in the process of being implemented. The results are based on available information, discussions with key stakeholders, such as politicians, experts in the field of banking, accounting, law enforcement, or public officers.

There are three main parts of the document:

- Technical Questionnaire
- Effectiveness Evaluation
- Case Studies

Both Technical Questionnaire and Effectiveness Evaluation parts showed an impressive improvement in relation to the future formal implementation. However, there has to be an emphasis on the "formal". The Czech Republic has missed no check box in terms of fulfilling the necessary requirements but their practical implementation considering country specificities is lacking an autonomous effort. The transposition is

merely a blind implementation without any further agenda to deliver effective means for a broader use.

Transposition of the Fourth Anti-Money Laundering Directive (AMLD4) into the Czech legislation has been reflected mainly in two laws, namely in the AML Act No. 253/2008 Coll., and the Act No. 304/2013 Coll. on Public Registers. The AML Act presents a new definition of beneficial owners (BOs) and develops measures against money laundering. The Act on Public Registers comes up with a completely new Register of Beneficial Owners and a Trust Register.

The amendments of the AML Act No. 253/2008 Coll., and the Act No. 304/2013 Coll. on Public Registers (hereinafter "Act on Public Registers") related to the implementation of the AMLD4 were ratified on 19th October 2016 by the Senate and on 1st November 2016 by the president of the Czech Republic.

The Amendment of the AML Act should come into force in January 2017. The Amendment of the Act on Public Registers should come into force in January 2018. The reason for the delay is the need for safeguarding technical security of the new Register.

The National Risk Assessment (NRA) process was carried out in years 2015 and 2016 and the NRA report is to be tabled to the Government for formal approval these days (end of the year 2016).[1] The final risk assessment will be available to the public, once it is formally approved. A summary of it will be made public, while more sensitive elements will be shared only with the reporting entities since these contain tailor-made sets of risky indicators and red-flags.

[1] NRA was approved by the government in January 2017 and published on the website of FIU.

At the moment, the material is non-public and is awaiting an approval by the government. This is also the reason why it is not possible to specify it any clearer right now. The relevant bodies of the state administration as well as obliged entities under the AML Act cooperated during its making. The obliged entities consider the cooperation with the Financial Intelligence Unit (FIU) since the existence of the AML Act (2006) to be of a very high level. From the perspective of the methodical impact, the obliged entities consider the FIU as a subject which defines the basic AML criteria by way of law and following explanatory methodology. The FIU provides guidance, trainings, reports with typologies, single explanations of single questions on a daily basis via phone calls, emails, or on its website.

At the moment, there is no Register of BOs in the Czech Republic. The amendment of the Act on Public Registers introduces the register. The amendment is planned to come into force in January 2018. The reason for the delay is the need to specify and award a contract and subsequently have time to create the register. The Register of BOs will not be a part of the Commercial Register. The details about technical specifications of the register are not yet known. The register in its current form will be completely non-public (with the exception of persons, who can prove a legitimate interest). It does not plan to introduce sanctions for not supplying information to the register or for providing wrong information.

There is currently a publicly available Commercial Register, to which companies have the obligation to file legally defined facts and deeds. However, only the companies with a simple assets structure have their BOs searchable.

The obligation of the subjects to know the information about its true BO is also connected with the future obligation to register information about the BO to the register. At the moment, the Czech legal system does not acknowledge the obligation for legal persons, nor the arrangements to maintain adequate, accurate and current BO information. Analogically, based on the lack of obligation, such information is not controlled and there is no sanction mechanism for failure to comply. Therefore, it is hard to tell how well this information is known among the subjects and how difficult it will be for them to ascertain the BO.

The trusts were established in the Czech legislation in 2014 with a big novelisation of the civil law. In relation to the trust's register, great changes are expected from year 2018 as two registers shall be created. One shall be a specialized register of trusts and the second one will be a BO register which includes also information about BOs of trusts. On 1st January 2017 the amendment of the AML Act came into force which poses an obligation to identify the trustee. It is necessary to pursue a control of the client in specific cases listed in the Act. This control includes among others the determination and identification of both the BO and the beneficiary. The trust is obliged to provide this information and in case of failing to do so, any trade transactions shall be prohibited. Furthermore, since 2017 the amended AML provides a definition of the BO of a trust.

During the process of authentication of the BO, financial institutions and Designated Non-Financial Businesses and Professions (DNFBPs) rely on the Commercial Register or on the documents provided by the client. If the client cannot provide documents required to clear authentication of the BO, financial institutions and DNFBPs often settle with an declaration of honour and

consider it as a sufficient proof. This system based on self-declaration can only work if proper verification mechanisms of the information provided exist. However, these are currently missing in the Czech law. Financial institutions and DNFBPs do not investigate the BOs themselves and do not verify the acquired documents[2].

We do not possess the statistical information about the capabilities of the obliged entities to search the beneficial owners. Entities most often sanctioned by the FIU for breach of the AML Act are exchange offices, trust and corporate service providers, banks, insurance providers and saving unions.

Domestic information sharing among state bodies is limited, due to the sensitive nature of the AML information. Provisions for information exchange appear in the Criminal Procedure Act, the AML Act and the Tax Procedure Act. The cooperation between FIU and police bodies with their foreign counterparts is relatively good and information exchange relating to the BO is common.

[2] Nowadays, no law requires this obligation; however, it will be restated in the current amendment.

Technical evaluation

The technical evaluation below assesses the current and future[3] Czech legislative framework regarding the BO based on international standards of BO transparency. It uses an international methodology based on the High-Level Principles on Beneficial Ownership that were agreed upon by the members of the G20[4] and which were inspired by the recommendations of the inter-governmental organisation FATF[5]. The FATF urges organisations to increase attention and awareness, as well as risk analysis regarding the opaque vehicles and structures and to ensure that accurate ownership information is available to authorities.

On a scale of one (very weak) to five (very strong), the scores presented below are the result of a technical evaluation questionnaire, which is attached to this report as an annex (page 73). The questionnaire was completed based on desk-based research conducted by TI-CZ and the results of consultations with (legal) professionals as well as representatives of relevant authorities. Please refer to the part on Methodology below for more detailed information, e.g. regarding the methodology behind the allocated score percentages (as of page 71).

Table 1 shows the overall scores of the current and expected future compliance of the Czech legislative framework with internationally accepted UBO transparency standards.

[3] By the current state is meant December 2016 and the future state relates to the amendments with effect from 2016 or 2017, unless otherwise stated.
[4] StAR, G20 High-Level Principles on Beneficial Ownership Transparency.
[5] FATF, International Standards of Combating Money Laundering and the Financing of Terrorism & Proliferation.

	CURRENT STATE	FUTURE PLANS
OVERALL	26,7%	72,9%
SCORE	Weak	Strong

Table 1: Overall adequacy of Czech UBO transparency framework

PRINCIPLE 1: BENEFICIAL OWNERSHIP DEFINITION

The Czech Republic is compliant with the G20 Principle 1. Even though the current[6] Act against Anti-Money Laundering and Financing Terrorism (AML Act) does not currently provide a general definition of a beneficial owner, it provides specific definitions of beneficial ownership for different categories of corporate vehicles (companies, foundations, funds and other legal entities and arrangements such as trusts).

A general definition of the BO is already incorporated in the amendment[7] and it is understood as a natural person, who is factually or legally able to exercise direct or indirect influence over a legal entity, or a trust fund, or another legal arrangement without a legal personality. It is understood that under the conditions of the first sentence the real owner is:

a) a natural person in business corporations

   1. who alone or together with other persons acting in agreement disposes of more than 25% of the

[6] 12/2016
[7] In force since 1st January 2017.

voting rights of the business corporation or has a share in its registered capital of more than 25%;

2. who alone or together with other persons acting in agreement controls the person listed under point 1;
3. who receives at least 25% of the profit of the business corporation;
4. who is a member of the statutory body, a representative of a legal person in this body, or in a similar position as a member of the statutory body, if not the BO or if it cannot be determined according to points 1 to 3;

b) a natural person in association, public benefit organization, the associations of unit owners, church, religious society or other legal entity under the law regulating the status of churches and religions,

1. who holds more than 25% of its voting rights;
2. who is a recipient of at least 25% of its distributed resources;
3. who is a member of the statutory body, a representative of a legal person in this body, or in a similar position as a member of the statutory body, if not the BO or if it cannot be determined according to points 1 or 2;

c) a natural person or a BO of the legal entity in the foundation, institute, fund, trust or another legal arrangement without legal personality who is in a position of

1. settlor;
2. trustee;
3. beneficiary;

4. individual for whose benefit the foundation, institute, fund, trust or another legal arrangement without legal personality was created, if the beneficiary is not designated;
5. individual entitled to exercise supervision over the management of the foundation, institute, fund, trust or another legal arrangement without legal personality.

The BO is defined precisely in the Czech law transposing the AMLD4. However, nowhere is defined what the indirect control over a legal entity or arrangement means; in other words, what is the notion of beneficial ownership. This is an important problem in situations where the direct company owner is not the same as a beneficial owner, i.e. where the legal entity is owned by another legal entity, which is owned by another legal entity etc. up to the beneficial owner (natural person).

PRINCIPLE 2: IDENTIFYING AND MITIGATING RISK

The first National Risk Assessment (NRA) process was carried out in years 2015 and 2016 and the NRA report is to be tabled to the Government for formal approval these days (end of 2016). The final risk assessment will be available to the public, once it is formally approved.[8]

[8] NRA was approved by the government in January 2017 and subsequently published on the website of FIU. All interested state institutions and some obliged entities were involved in its making. The

The amendment transposing the AMLD4 introduces[9] the duty on the obliged entities to conduct a risk assessment from 1st January 2017.

Nonetheless, many credit and financial institutions and some DNFBPs have already carried out individual risk assessments in the past.

PRINCIPLE 3: ACQUIRING ACCURATE BENEFICIAL OWNERSHIP INFORMATION

Amendment of the AML Act on the basis of the AMLD4 from 1st January 2017 introduces[10] a duty on the legal entities to collect and continually record current information to uncover and verify their beneficial owners. This includes the information on which the title of beneficial owner is based or another explanation why this person is considered a beneficial owner. Other obligations of the legal entities regarding their UBOs are not determined.

report is public, except for the parts which have been developed specifically for some concrete obliged entities.

[9] In Article 21a.

[10] in Article 29a

PRINCIPLE 4: ACCESS TO BENEFICIAL OWNERSHIP INFORMATION

This principle assesses how easy the access to BO information is for three categories of actors:

- relevant authorities;
- obliged entities;
- the public.

After the creation of BO register[11], relevant authorities (state bodies) will have an immediate online access to this information.

The obliged entities defined in the AML Act will have an immediate online access to this information.
The public will not have access to the register. Only the person who proves a legitimate interest will also be granted access after the successful consideration of their application.

The obliged entities as well as the person who proves a legitimate interest have to pay the costs. The amount of this compensation shall not exceed the actual costs incurred with the operation and update of the application enabling access. The compensation costs and obligations associated with accessing it according to the above mentioned information will be established by the Decree of the Ministry of Justice (MoJ).[12]

[11] From 2018, there is no BO register as of now.
[12] This regulation is yet to be released. Therefore, we do not have any detailed information.

The technical details about the functioning of the register are not yet known.
Legal entities have an obligation to insert information into the register and update it without undue delay. There is not any specified timeframe. Information inserted into the register will not be verified by any means.

PRINCIPLE 5: TRUSTS

The trusts were established in the Czech legislation in 2014 with a big novelisation of the civil law. The Czech trusts are based on legal regulations of trusts in Quebec. These are based on the English doctrine on trusts. This means that the trusts are created by a process of "separating from the possessions of the owner, who entrusts property to a protector for a specified purpose". The Czech legislation adopts a somewhat unusual stance on the ownership of the trust. It is said that it does not belong to the trustee, settlor, nor to the beneficiaries. Each trust must have a "statute". Each statute must include a) name of the trust, b) designation of assets which are a part of the trust at the beginning, c) conditions for reimbursement from the trust fund d) conditions for performance from the trust, e) information about the duration of the fund, and f) appointment of the beneficiaries or a method how one will be determined.

For the definition of trust BO see Principle 1.

PRINCIPLE 6: COMPETENT AUTHORITIES' ACCESS TO TRUST INFORMATION

Current situation – register of trusts only for tax purposes

In line with the current legislation there is a Register of trusts which is administered by the Financial Administration of the Czech Republic. However, it exists only for the tax purposes. The current legislation does not make a difference between local and foreign trusts[13]. Every trust which has tax obligations under the Czech tax laws is obliged to be registered. The register is non-public and is subject to the obligation of professional secrecy. However, no obligation of professional secrecy applies in case this information is provided for example to the FIU, Police, etc.

Future plans – two new registers from 2018: BO register and register of trusts

Beneficial ownership register includes also information about BOs of trusts. BO register will be accessible only for the institutions explicitly stated in the Act No. 304/2013 Coll., on Public Registers. The access is granted to the listed state institutions, obliged entities

[13] The term "foreign trust" is established by the Law No. 304/2013 Coll., on Public Registers applicable from year 2018 and defines it without any additional details as a "trust or similar mechanism which is governed by the laws of a foreign country, operating however in the Czech Republic".

listed in the AML Act[14] and for persons with legitimate interest.[15]

Register of trusts will be public partially (information about designation of trust, the day of its registration, ID number, its purpose, full name of the trustee(s), their delivery address, information about the number of trustees and the way they act on behalf of the trust) – this part will be accessible for everybody online

- some information (information about the settlor and/or beneficiaries) will be accessible only:

1. to the trustee;

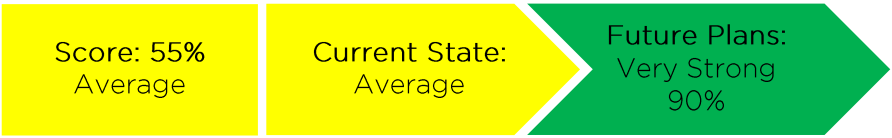
2. to those who prove their legal interest[16];

3. if the trust (trustee) agrees the information could be accessible to everybody who asks;

4. for the entities listed in the Act on Public Registers (FIU, Police…) will have current online access to the register without any restriction;

5. obliged entities – after the reimbursement of costs.

PRINCIPLE 7: DUTIES OF FINANCIAL INSTITUTIONS, OTHER BUSINESSES AND PROFESSIONS

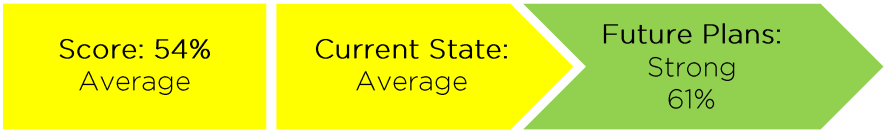


[14] Access to information from the Register will be charged but closer information is not yet available.
[15] For more information see principle 4dealing with the BO register.
[16] It is the exact translation – this definition is lacking further explanation but it is not the same as legitimate interest.

The obliged entities[17] (financial institutions and other businesses and professions – legislation is similiar) are always required to find out the BO during the creation of the commercial contact, if their contact is a legal entity. After the amendment[18], there is newly an obligation to access information of the owner and governing structure[19] and accept measures to verify the identity of the BO. The obliged entities are required to conduct an enhanced due diligence of a politically exposed person (PEP)[20] and family members or close associates of the PEP. If the BO is not identified, commercial transactions will not be created.

After the creation of the BO register, the obliged entities will have a paid access to the register. Technical details are not yet known. At the moment, they utilise the commercial register and other public sources to access this information.

PRINCIPLE 8: DOMESTIC AND INTERNATIONAL COOPERATION



Domestic transfer of information between the state bodies is limited, in respect to the AML problematic and related questions, especially the Criminal Procedure Act,

[17] The AML Act defines the obliged entity relatively broadly.
[18] Effective since 1st January 2017.
[19] Under the Article 9, paragraph 1, 2 letter b) - Article 7, paragraph 2, letter b) (AML Act)
20 At the moment, the legislature only works with foreign PEPs. In the amendment effective since 2017 also domestic PEPs are included.

the AML Act and the Tax Procedure Act.[21] The information is shared between the subjects on the basis of request. The legislature does not identify a specific procedure. The Czech Republic (as well as other new EU member states) is not a member of FATF but a FATF-Style Regional Body (FSRB), i.e. the MONEYVAL committee at the Council of Europe. FATF has 36 members in total (including the European Commission) and 8 associate member groups, i.e. FSRB. Hence, 180 jurisdictions are bound to comply with FATF standards. Over 20 international organizations with observer status participate in the work of FATF.

The Czech legislature does not specify the limits of international exchange of information. According to the AML Act, the FIU is explicitly entitled to cooperate with the EU member states and further with all the states, which have already ratified the AML Act and with other states on the basis of bilateral agreements.

There are no publicly available specific regulations or procedures which would define the international cooperation closer.

PRINCIPLE 9: TAX AUTHORITIES

Score: 50% Average	Current State: Average	Future Plans: Very Strong 90%

Access to information at national level

Section 118g (3) (c) of the Act No. 304/2013 Coll., on Public Registers effective from 1st January 2018, grants

[21] For more information see page 51.

the Czech tax authorities unrestricted access to the BO information provided that it is necessary for exercising their authority. Identity of any individual accessing the beneficial ownership information on behalf of a tax authority has to be established. Specific conditions of access to the beneficial ownership register are yet to be provided by the MoJ's Decree. The Decree has not been issued yet[22].

Access to information at international level

The exchange of information mechanism has been incorporated into the Act No. 164/2013 Coll., on International Cooperation in Tax Administration, as amended. Currently, the automatic exchange of information under the Common Reporting Standard (CRS) and the Foreign Account Tax Compliance Act (FATCA)[23] regimes is in operation. The system of automatic exchange of country by country reports shall be implemented by 5th June 2017. The automatic exchange of information about advance cross-border rulings and advance pricing agreements will be probably introduced into the Czech legislation in 2017 as well (the Bill is being debated in the Chamber of Deputies). Still, there is a possibility to request individually information not subject to automatic exchange. The Czech Republic has a broad scope of agreements with 99 jurisdictions (87 DTTs[24] and 12 TIEAs[25]) to facilitate the exchange of information (upon request) with foreign tax authorities. The central authority for handling both the automatic exchange of

[22] As of December 2016.
[23] While financial institutions globally struggle to meet the full Foreign Account Tax Compliance Act (FATCA) compliance requirements, they must also deal with a wider global tax transparency initiative—the Common Reporting Standard (CRS)
[24] Double Taxation Treaty
[25] Tax Information Exchange Agreements

information and information exchange upon request is the General Fiscal Directorate.

PRINCIPLE 10: BEARER SHARES AND NOMINEES

Score: 25% Weak	Current State: Weak	Future Plans: Weak 25%

Bearer shares

The bearer shares are prohibited in physical, materialized form by the Act No. 134/2013 Coll., on certain measures to enhance the transparency of joint stock companies. The bearer shares are allowed in situations when they are not anonymous. In the Czech Republic, it is allowed for the bearer to transform them in two ways. They should contain the name of the owner / be converted into registered shares or share warrants (dematerialisation) / be held with a regulated financial institution or professional intermediary (immobilisation).

Nominee shareholders and directors

The Czech legal system does not operate with such terms as nominee / professional nominee. The law does not concern itself with the situation, where a person can hold shares on behalf of a third person. That is why there is no legal way to prevent the use of nominee shareholders or directors without any legal base.

Effectiveness evaluation

The technical evaluation above concerned an analysis of the strength of the current legislative framework regarding UBO transparency and related future plans.

The following chapter evaluates the effectiveness of that legislation in practice, develops the information from the previous section and gives recommendations. It looks at several themes relating to UBO transparency such as the legislative process, discussions, debates as well as political dynamics accompanying the implementation of the AMLD4. Furthermore, it addresses the understanding of AML risks, access to beneficial ownership information, access to trusts information, and others.

This analysis is based on desk research conducted by TI-CZ, consultations with experts in the field of money laundering risk analysis and UBO transparency, discussions with representatives of ministries and supervisory and law enforcement authorities, as well as interviews with professionals who operate in the financial services market, including the banks, law firms, and accountancy firms.

LEGISLATIVE PROCESS, DISCUSSIONS, DEBATES AS WELL AS POLITICAL DYNAMICS

Background on the legislative process

It was necessary to transpose the AMLD4 into the Czech law. This directive introduces some new measures against money laundering and financing terrorism. The necessity to establish a BO register is

perceived as crucial. The question that has been observed with a great interest was whether the newly introduced form of the BO register will be open to all or if the access will be restricted.

The submitter of the legislative amendment, reflecting the AMLD4, was the Ministry of Finance (concretely FIU) and the Ministry of Justice (MoJ).[26] The very first draft presented a vision of a partially public form of the register. It proposed making publicl.y available the information about the name, year and month of birth, and state identity of the beneficial owner. Further information was available only upon proving a legitimate interest. However, the legal community, especially experts on business law from the Government Legislative Council, expressed a very hard resistance about the public part of the register. The main argument was a disruption of the business environment. Explanatory memorandum[27] argued that during the course of a usual private business transaction, it is irrelevant who is the true owner of the legal entity. It is argued that this information can rather hinder the usual business contact because some internal relations or their specific structures are internal matters of the legal entities and at the same time, the provision of this information about the true owner could harm the willingness of the investors to acquire a share in the companies in the Czech Republic. Additional arguments consisted of the element of envy in the Czech nation and the BOs' fear of potential extortion. However, it is not possible to identify with these arguments. There are many studies showing that there is a business case for

[26] In the Czech Republic, MoJ is a gestor for the agenda of public registries and thus, the Register of beneficial owners falls under their competence.
[27] http://www.psp.cz/sqw/text/tiskt.sqw?O=7&CT=752&CT1=0

public registers.[28] Above 90% of senior executives want to know who they are doing business with.[29] On top of that, BO opacity is connected to certain business risks.[30]

On the basis of arguments from the Government Legislative Council the proposers refrained from putting forward a public register. The final draft sent to the Chamber of Deputies already presented the vision of a strictly non-public register. They argued that from a tactical point of view, they preferred to have at least some proposal agreed upon without problems so they could further work on it, without risking additional obstruction and refusal of amendments within the period.

TI-CZ together with a think-tank named Glopolis had addressed several Members of the Czech Parliament during the legislative process. This lobbying activity was done with the purpose to point out that the possibility to have a public form of the register is justified and effective. Substantial lack of knowledge has emerged during the meetings regarding the possibility to pass a public register. Some Members of the Parliament considered this only as a strict tool created for the purpose of the law enforcement authorities and for other relevant state bodies. They were unaware of the fact that this would be a tool for the public as well. Thanks to extensive debates with the members of the Chamber of Deputies, TI-CZ and Glopolis managed to convince one deputy (Jaroslav Klaška, KDU-ČSL party)

[28] https://issuu.com/the bteam/docs/bteam_business_case_report_final.we?e=15214291/11025500
[29] http://www.ey.com/gl/en/services/assurance/fraud-investigation---dispute-services/ey-global-fraud-survey-2016
[30] https://www.globalwitness.org/en/reports/chancing-it/

to file an amendment before the third reading of the proposal. This amendment would aim to change the register to a public form. Consequential voting on this amendment was very tight: 69 deputies voted in favour, 72 against the amendment (from the total 170 of votes) and thus, this amendment was declined. The deputies of the KSČM, TOP 09, KDU-ČSL and Úsvit voted in favour; ČSSD and ANO voted against. In September 2016, the amendment passed the Chamber of Deputies and was sent to the Senate as a next phase.

TI-CZ along with Glopolis have tried to influence the legislative procedure even in the Senate. TI-CZ has agreed with the deputy Klaška to work out a similiar amendment proposal as the one which was presented in the Chamber of Deputies for the senators of the KDU-ČSL. At first, it seemed promising that an amendment of the proposal would be passed but the amendment read by the Chamber of Deputies was passed in its original non-public form without any discussion.

Comment – discussions, debates and political dynamics

Generally, this issue is not particularly high on political radar in the Czech Republic and it has been overshadowed by a number of other issues and policy debates. The AML legislation and EC directives are primarily presented and understood as anti-terrorism measures, and thus targeted at enforcement institutions, not at civil society or the public. This largely defines positions of the key stakeholders – Ministry of Finance, Ministry of Justice, Financial-Analytical Unit (AML enforcer) or Tax authorities. They keep repeating the same arguments about why it is technically difficult to build a fully disclosed and functional register of BOs and lack an active approach to fix that.

This has resulted in a situation, in which it is up to anti-corruption and good-governance NGOs (TI-CZ and Glopolis) to bring on the agenda, attract some media attention and demand public reactions from the decision-makers. So far, TI-CZ has partially succeeded in that effort by bringing some experts to the table and policy conversation, forcing some reactions, exerting a focused pressure on the Minister of Finance Mr. Babis (one of key political figures in the country). Certain political groups reacted positively (KDU-ČSL – the Christian democrats, TOP09 – conservatives, the Green party) and there are individual MPs from other parties who were also in favour – but still it was not enough to change the parliamentary vote. The challenge remains to convince the Czech politicians of the positive link between an open ownership structure and the fight against money laundering and tax evasion or avoidance and to translate it into a compelling political narrative.

UNDERSTANDING RISKS

Risk assessment will be executed on three levels

The amendment of the transposed AML Directive establishes a risk assessment, which will be executed on three levels: on the European (within the EU), on the national and on the level involving individual obliged entities. On the country level, the FIU will coordinate the assessment of the risks arising from the money laundering and from the financing of terrorism. The obliged entities will have to execute a written evaluation of the risk assessment of the legalization of proceeds of crime and terrorism financing for the types of given business and business relations. Based on the assessment results, the obliged entities will decide regarding the application of stricter or more benevolent

requirements towards their clients (mainly for their identification and control).

National Risk Assessment

The Czech Financial Intelligence Unit (FIU) manages all the National Risk Assessment (NRA) processes and performs some of the key sub-processes. All legal entities which are engaged in the Anti-Money Laundering/ Combating the Financing of Terrorism (AML/CFT) system such as regulators, supervisors or law enforcers - Ministries of Finance, Justice, Interior, Foreign Affairs, Culture, Regional Development, the Czech National Bank, Gambling Supervisors, Czech Trade Inspection, Tax and Customs Administration, FIU, Police, Prosecutors, Government advisory committees on corruption and on non-profit organizations and the private sector (all obliged entities) are part of the NRA processes. The work is structured in sub-processes which are performed in specialized teams composed of relevant experts. Stakeholders from the private sector in question are always summoned and can have their say during the preparation of the NRA. For example, banks in the past have already provided their own assessment of the AML risks to the FIU at the FIU's request. Therefore, it is assumed that their comments will be reflected in the NRA. All the other legal entities got the chance to at least comment on the final text of the report.

The NRA process was carried out during 2015 and 2016 and the NRA report is now to be tabled to the government for formal approval.[31]

[31] NRA was approved by the government in January 2017 and subsequently published on FIU website. All interested state institutions and some obliged entities were involved in its making. The

The final risk assessment will be available to the public, once it is formally approved. The public parts will be published; the non-public parts will be shared with the reporting entities since these contain tailor-made sets of risky indicators and red-flags.

At the moment, the material is non-public and is awaiting an approval by the government. That is also the reason why it is not possible to specify it in greater detail right now.

GUIDANCE AND TYPOLOGIES, THE NEW POLICY DEVELOPMENTS

FIU

Awareness raising is a part of the FIU mission so the FIU provides guidance, trainings, reports with typologies or single explanations of single questions on a daily basis via phone calls, emails, or website. In terms of the issue of BO, there is a specific guidance on the FIU website. At the same time, whenever the FIU feels that there might be issues relevant for other entities, the FIU consults them both informally during the preparatory works and formally during the consultation processes.

The FIU takes the law and relevant regulations as a tool to restrict money laundering while considering the awareness of the risks coming with the above mentioned processes (training, educational activities, etc.) as a very effective and valuable tool.

The obliged entities value the cooperation with the FIU since the beginning of the FIU's existence very highly and consider this cooperation as completely non-problematic and always very constructive and on the

report is public, except for the parts which have been developed specifically for some concrete obliged entities.

subject.[32] From the perspective of the methodical impact the obliged parties consider the FIU as a subject, which defines the basic AML criteria in a form of legal statute and related explanatory methodology[33].

Representatives of the banking environment add that there exist: forms of early warning in a way of information handed over via the application MoneyWeb[34], regular meetings with the Commission for the banking and financial security, in which the representatives of the FIU regularly participate, expert seminars organized by the Czech banking association or FIU.

Law enforcement authority – National Centre against Organized Crime (NCOC)[35]

The Law enforcement authority participates in creating typologies of the risk areas in the money laundering and other areas where crimes were committed. In terms of the legislative processes they take part in commenting. Furthermore, they deal with proposed substantial comments relating to the matters of prevention and the fight against criminality in the relevant area.

Through the creation of an internal (not publicly available) analysis, the NCOC tries to perform methodical research, which aims to monitor and evaluate the current and potential risks. This will be

[32] This information emerged from the interviews with the representatives of the obliged entities.
[33] For example, the explanatory statements by the FIU published on the website of the Ministry of Finance.
[34] An enciphered connection between the FIU and banks provided via the software system which was developed by the FIU and is delivered to all the obliged entities free of charge.
[35] Former Unit for Combating Organized Crime and the Unit for Combating Corruption and Financial Crime. They have fused into the new National Centre against Organized Crime during 2016.

done in order to eliminate these risks by spreading good practice, educating in the relevant areas, publishing recommendations, commenting on the legislature and by other proposals that could increase the identified risks.

The Police department has a researcher, who deals with the money laundering. He/she gathers all the information related to individual cases based on which the methods are created. These methods serve as an educational material for other employees in this field.

Relevant expert police authorities believe that understanding the risks associated with the involvement of legal entities or other legal arrangements in committing predicate criminal offences or laundering the proceeds of crime are high, given the fact that they deal with these activities on a daily basis.

ACCESS TO BENEFICIAL OWNERSHIP INFORMATION ON LEGAL PERSONS AND ARRANGEMENTS – COMMERCIAL REGISTER, REGISTER OF THE BENEFICIAL OWNERS

Commercial Register

There is a publicly available Business Register, to which companies have an obligation to file legally defined facts and deeds. If the company complies with its duties and files required documents to the Commercial Register, it is possible to find out who is the Executive Head, Affiliate, Authorized Signatory, or insolvency administrator of the company - so basically the senior managers and the direct legal owners. In case of most

Limited Liability Companies (LLC), the beneficial owner of the company can directly be retrieved from the register since the beneficial owner and the legal owner do correspond. In the case of the Joint-stock Companies, it depends on the owners' structure and the nature of documents that they decide to file to the Commercial Register.

The users can perform a search based on the name of a company or an identification number for either current or all (current and "past") information. Most of the information is contained in a text format on the website, which is transferrable to a .pdf file. The documents provided by companies are in a .pdf file already, but with a wide range of readability and quality.

There is a principle of material publicity applied to the information contained in the register. There is a sanction mechanism for failure to comply with the obligation to file the required documents; however, the enforcement is very rare and mostly absent in practice, which diminishes the potential of Commercial Register and increases the lack of information filed within the register.

To enforce this duty, the Registration Court can file a financial penalty of up to 1,000,000 CZK. If this duty is breached repeatedly or when this non-compliance can have serious impact on third parties and there is a genuine legal interest, the Registration Court can (even without the proposal) start insolvency proceedings with the company.

In certain circumstances, there can be a threat of criminal sanctions for the physical persons in the position of statutory body of the legal entities or physical entities. According to the Criminal Act, a

criminal act is committed by someone who endangers or limits someone else's rights, who without unnecessary delay does not submit a draft to the Commercial Register, or another register or does not submit a document to the Collection of Documents. This can be punished by a ban on activity, or an imprisonment of up to 8 years.

The reason why the Registration Courts do not proceed with sanctions is claimed to be for capacity limits.

Usually, proceedings are started when the Registration Court receives an initiative pointing out that some company does not publish all required information or their provision is inadequate. According to the MoJ responsible for the agenda of register, a slow but steady rise in compliance with the obligations of register is happening.

Register of the beneficial owners

At the moment, there is no Register of BOs in the Czech Republic. The amendment of the Act on Public Registers introduces the register. The amendment is planned to come into force in January 2018. The reason for the delay is the need to specify and award a contract and subsequently have time to create a register. The Register of BOs will not be a part of the Commercial Register. Whether the BO register will present technical features similar to that of the Commercial Register is still unknown at this stage.

Under the current legislation, it is only possible to access the register for the institutions explicitly stated in the amendment. The access is granted to the Courts, to the Czech Police, to the Public prosecutors, to the Tax Administrators, to the Secret Services, to the FIU or

to the Czech National Bank, Obliged entities listed in the AML[36] Act etc. and for persons with legitimate interest.

These institutions will be granted a direct and online access to the Register Decree implementing the amendments of the Act which will state specifically the technical details of the access. It is expected that every access will be authorized under specific login credentials of an authorized employee, who will have to report the reason for the need to enter the register. Furthermore, the system will gather information regarding the login and the time spent on the register together with other relevant information. Further technical details will be specified in the procedure protocol which is not yet available. The MoJ is currently working on it. Therefore, it is not yet possible to say in what form the data will be and what will be its search functions etc.

Registration of beneficial owners[37] will be administered via Registration Courts (that is a specialized part of county/regional court). However, there will be neither factual control of the documents received, nor control of the information contained in these documents. The Registration Court does not have any obligation to investigate, whether the data provided is really true. The Act on Public Registers does not specify the nature of documents, which shall provide the information. According to the explanatory report "these documents cannot be clearly listed by the law, the way of identifying the beneficial owner is neither appropriate, nor possible to uniformly set in advance". These documents will differ with each concrete entity and its beneficial owner. However, in a number of cases

[36] Access to information from the Register will be charged but closer information is not yet available.
[37] The authority responsible for the area of registers is MoJ.

the beneficial ownership will be proved, for example, by declaration of honour. This means that the legal entity not capable to document its beneficial owner will make a statutory declaration who the beneficial owners is and this document will be considered sufficient.[38]

The legal construction of the Register results in a situation when the information content in the Register of BOs will be considered only as a clue that can help the obliged entities with identifying the BO by the obliged entities. The obliged entities should not rely exclusively on the BO Register to identify BOs as a part of their customer due diligence (CDD) obligations on their customers.

The MoJ defends the current state of the amendment, arguing that it does not have enough staff and other capacities to verify the information in the filed documents.

We can recommend the approach followed by the Netherlands which is considering to require the obliged entities to report to the company house or the agency hosting the BO register any discrepancy between the results of their CDD checks and the information in the BO register.

Person with a legitimate interest is perceived very narrowly in relation to the main purpose of the Directive. The person with legitimate interest is considered to be someone who, based on a very concrete situation, may use the information provided by the register to confirm or disprove the suspicion of money laundering or financing of terrorism. According

[38] This system based on self-declaration can only work if proper verification mechanisms of the information provided exist. They are currently missing in the Czech law.

to the explanatory report these are, for example, a specific public purchaser or somebody who has public funds at their disposal and thus can be exposed to corruption risks. Another example can be a contractor or a contracting party which enters into a situation with a legal entity that could entail their duty to notify the police authorities about a crime.

At the moment, we are not able to tell whether also investigative journalists or NGOs will be listed in this category. It depends on the interpretation of the Registration Court, which will decide on this matter. Therefore, it is necessary to wait for the implementation of the amendment and try it in practice. However, in the explanatory note, these subjects are not mentioned.

Persons who can prove their legitimate interest will be able to access a limited set of data from the court - full name, address, year and a month of birth, nationality of the BO and the nature and extent of the beneficial interest including:

- the share of voting rights, if the position of the BO is based on the direct participation of the BO in the legal entity;
- the share of the distributed resources, if the positions of the true owner is based on the fact that he/she is the recipient; or
- other information, if the position of the BO is put differently.

The Act does not state any sanction mechanism for the failure to comply with the duty to register in the register and file documents to the Registration courts.

TI-CZ considers the current arrangement of the approved BO Register as insufficient and practically

non-functioning. Therefore, TI-CZ strongly recommends:

- to verify the entered data
- to set a firm deadline for reporting changes for the entities filed in the register
- to sanction not inserting the data, their late insertion or inserting the wrong data – the penalties should be imposed and enforced
- completely free access for the obliged entities
- access for the general public (not only after proving legitimate interest)
- to introduce adequate search functions in BO register allowing to search by all categories (entity name, date of incorporation, name of owner, director, residence of owners or directors, etc.)
- to operate BO register in an open data format, i.e. using an open data license so that the information in the register is free, downloadable in bulk, machine-readable and re-usable.

DO LEGAL PERSONS AND ARRANGEMENTS MAINTAIN ADEQUATE, ACCURATE AND UP-TO-DATE BENEFICIAL OWNERSHIP INFORMATION?

The amendment of the AML law; of the relevant law regulations; and mainly of the Act on public registers, which should come into force in January 2017,

establishes an obligation for the legal entities and trusts to know their beneficial owner.[39]

At this moment, it is impossible to predict how well will this obligation be upheld. However, there is a concern that the law will not be effective. This concern is based on the fact that the law itself does not consider the failure to comply as an administrative delict. As a result, there will be no sanctions in the cases when the entities fail to comply with the law.

Also, FIU states that it is very difficult to assess the accuracy of the information. As a body supervising the fulfilment of legal obligations by the obliged entities (and not by all legal persons), the FIU came across a number of cases within the framework of its supervision where the obliged entity had either serious difficulties in finding the BO or never found it. However, the FIU does not possess any strong indications which would suggest that the information possessed by the legal persons/arrangements regarding the BOs is accurate. For foreign legal persons and arrangements, it is even more difficult to estimate how accurate this information is.

ACCESS TO TRUSTS INFORMATION

In line with the current legislation there is a register of trusts which is administered by the Financial Administration of the Czech Republic. However, it exists only for the tax purposes. The current legislation does

[39] The legal entity keeps record and continuously records up-to-date information for verification of its beneficial owner, including information that is based on the position of the beneficial owner or another argumentation, why this person is considered a beneficial owner. Trustee or subject in analogical position toward other legal arrangements without legal subject keeps record for finding and verifying the identity of the beneficial owner of the trust or legal arrangement.

not make differences between local and foreign trusts[40]. Every trust which has tax obligations under the Czech tax laws is obliged to be registered.[41] Trusts are the taxpayers of corporate taxes, of the value added tax and of the tax on land and buildings. The obligation to register a trust lies on the trustee who is also the only legal entity which will be stated in the application for registration. As a result of the above mentioned, the register does not include any information regarding the settlor, beneficiary or the beneficial owner.

The register is non-public and is subject to the obligation of professional secrecy. However, no obligation of professional secrecy applies in case this information is provided for example to the Financial Intelligence Unit (FIU), Police, etc.

In relation to the trust's register, great changes are expected from year 2018 as **two registers shall be created.** One shall be a specialized register of trusts and the second one will be **BO register** which includes also information about BO of trusts.

The BO register will be accessible only for the institutions explicitly stated in the Act. The access is granted to the Courts, to the Czech Police, to the Public prosecutors, to the Tax Administrators, to the Secret Services, to the FIU or to the Czech National Bank, Obliged entities listed in the AML Act etc. and for persons with legitimate interest.

[40] The term "foreign trust" is established by the Law No. 304/2013 Coll., on Public Registers applicable from year 2018 and defines it without any additional details as a "trust or similar mechanism which is governed by the laws of a foreign country, operating in the Czech Republic".

[41] Tax liability arises in case a foreign trust has a legal personality or is regarded as a taxpayer in its domicile and either qualifies as a Czech tax resident or has a permanent establishment in the Czech Republic.

It is said that both trusts created in the Czech Republic and foreign trusts operating there shall be registered in the Register of trusts.

- Register of trust

- the Register of trust will be partly public (information about designation of the trust, the day of its registration, ID number, its purpose, full name of the trustee/s, their delivery address, information about the number of trustees and the way they act on behalf of the trust) – this part will be accessible for everybody online

- some information (information about the settlor and/or beneficiaries) will be accessible only:

1. to the trustee;

2. to those who prove their legal interest (it is the exact translation – this definition is lacking further explanation, but it is not the same as legitimate interest);

3. if the trust (trustee) agrees the information could be accessible for everybody who asks;

4. entities listed in the Act (Financial Intelligence Unit (FIU), Police…) will have current online access to the register without any restriction;

5. obliged entities – after the payment of reimbursement.

The trustee shall be solely responsible for the failure to provide the register with necessary information. Potential administrative fine up to 100,000 CZK (approx. 3,700 EUR) does not affect the trust's assets. Furthermore, the court may decide to liquidate the trust

in case of repetitive failure to comply with the obligation set by the AML.

TRUSTS AND AML ACT

In no way does the current AML Act provide guidance with respect to the correlation, rights and obligations which arise in connection to trusts. However, on 1st January 2017 the amendment of the AML came into force which poses an obligation to identify the trustee (not the BO or other parties to the trust). In specific cases listed in the Act (trade exceeding certain value, client from a high risk country, etc.) it is necessary to pursue a control of the client. This control includes among others the determination and identification of both the BO and the beneficiary. The trust is obliged to provide this information and in case of failing to do so, any trade transactions shall be prohibited. If the responsible entity fails to secure proper determination and identification of the client, this failure shall be qualified as an administrative delict for which a sanction up to 10 million CZK (approx. 370,000 EUR) may be imposed.

Furthermore, since 2017 the amended AML provides a definition of the beneficial owner of trust. For the purposes of this Law a beneficial owner is a natural person who has legally or factually the possibility to directly or indirectly exercise a decisive influence on the trust.

It may be assumed that in accordance with the above mentioned the beneficial owner is a natural person who performs the role of:

1. settlor;

2. trustee;
3. beneficiary;
4. individual for whose benefit the foundation, institute, fund, trust or another legal arrangement without the legal personality was created, if the beneficiary is not designated;
5. individual entitled to exercise supervision over the management of the foundation, institute, fund, trust or another legal arrangement without the legal personality.

FINANCIAL INSTITUTIONS AND DESIGNATED NON-FINANCIAL BUSINESSES AND PROFESSIONS TO IDENTIFY AND VERIFY BENEFICIAL OWNERSHIP OF THEIR CUSTOMERS

What about the obliged entities?

Financial institutions and DNFBPs are aware of their legal duty to identify the beneficial owners of their clients. Fundamentally, the primary reference to find information about the ownership structure of their customers (legal entities) is the Commercial Register. Further information, if necessary, can also be obtained directly from the customer, or eventually from external consultants specialised in providing such services (for example, Dun & Bradstreet).

At the moment, the legal entities prove their owners' structure by an extract from the Commercial Register or by an equivalent document. If it cannot be obtained this way, the FIU admits also accepting self-declaration based documents such as an declaration of honour

signed by a natural person empowered to act for the legal entity – however, this is an extreme case.

The obliged entities are not required to verify the truthfulness of information provided by the client. If they need the information, they request it and rely on what is submitted to them. They do not have any means to prove it by an independent source.

The obligations for the banks to update client information are dealt with in their terms and conditions and thus, they commonly delegate this obligation on their clients. They themselves do not proactively verify and deal with this information, only in special circumstances when they need it themselves.

After the amendment[42], there is newly an obligation to access information of the owner and governing structure[43] and accept measures to verify the identity of the BO.

What does the FIU say about it?

It follows from the annual FIU report for 2015 that in the field of AML/CFT there were 51 controls made during the year 2015 (2014 – 27 controls, 2013 – 14 controls). The most often controlled subjects are the exchange offices (the most common type of physical entities – approx. 1 000), payment institutions (institute of electronic money), corporate and trust service providers. Controls of the exchange offices have been done by control shopping. The control department has initiated 35 administrative proceedings as part of its control regime within the field of AML, whilst 17 found a breach of the AML Act.

[42] Effective since 1st January 2017.
[43] under the Article 9 paragraph 1, 2 letter b) - Article 7 paragraph 2 letter b) (AML Act).

The most often sanctioned subjects for breach of AML Act are exchange offices, corporate and trust service providers, banks, insurance providers and saving unions.[44] It is worth noting that this concerns the information about the AML Act. We do not possess accurate statistical information about the capabilities of the obliged entities to search for the beneficial owner. The above provided sanctions have been given especially for not fulfilling their obligation to control the client and obligation to identify the client. Therefore, it is very probable that in certain circumstances the duty to ascertain the BO has been concerned. The amount of sanctions given for the breach of 2015 AML Act was 2,470,000,000 CZK.

The FIU, when asked explicitly who they consider to be the weakest in terms of providing information, answered that these are the real estate agencies. In their words, "if they find obstacles in ascertaining the BO, then they hardly go further".

INTERNATIONAL AND DOMESTIC COOPERATION

a) Domestic cooperation

Criminal Procedure (Act)

According to the Criminal Procedure Act, the state bodies, natural persons and legal entities are required without unnecessary delay and without any financial compensation to comply with the requests of the bodies active in the criminal proceedings whilst pursuing their goals.

[44] From this information, we cannot tell whether this is really the most problematic field. Firstly, they only represent a relatively small sample and secondly, the amount of sanctioned subjects depends on a number of subjects which the FIU focused upon.

The state bodies and legal and natural persons have a duty to provide all necessary information required to the bodies active in the criminal proceedings, unless these bodies have a duty to maintain privacy of the information by a special legal act or confirmed duty to maintain silence.

The obligation of confidentiality does not apply to the information, which is subject to banking secret and to the information from the securities. Banks must provide the information about the owners' accounts and about the movement on those accounts to the bodies active in criminal proceedings; the prosecutor can also order surveillance of the bank accounts or accounts of a person entitled to evidence of the investment tools.[45]

AML Act

According to the AML Act, the Ministry of Finance has a right to information from the police department of the Czech Republic, intelligence services, bodies active in the tax governance and other bodies of the public administration. Therefore, the Ministry of Finance has a right to demand all information during investigation, which can be relevant for the given case. These cases may involve, for example, suspicious business, abuse of the tax management system for purpose of money laundering and terrorism financing etc.

Tax Procedure

Administrators of the tax are generally bound by the obligation of confidentiality concerning all the facts they discovered whilst in the pursuit of their activity. The obligation of confidentiality does not extend, however, to the situations when the administrator

[45] Article 8 of the Act No. 40/2009 Coll., Criminal Procedure Act.

provides information to the Ministry of Finance in accordance with the AML Act. Not only do the administrators have to provide information to the bodies active in the criminal proceedings, they even have an information duty towards these bodies, when they find during their activity some information which indicates that a tax or funds crime was perpetrated or a crime of providing false information on the state of economic activity and money was committed.[46]

b) International cooperation

FIU

According to the AML Act, the FIU is entitled to cooperate with the EU member states and further with all the states, who have ratified the AML Act, with other states on the basis of bilateral agreements, even with those states, whose accession to the international agreement is, for example, only in the ratification period, if they have already built the appropriate institutions and are able to enforce the international standards for AML.

The Czech FIU is part of a worldwide working group, which currently has 151 members. They share information on the basis of a secured information channel. This exchange of information has two forms: request on provision of information and sending spontaneous information. The Czech FIU accepted 183 pieces of spontaneous information from abroad in 2015 and sent 328 pieces of spontaneous information abroad. In both regards, this is considered a large increase compared to previous years. In total, 241 questions were received from abroad and 254 requests were sent.

[46] Article 53 Act number 280/2009 Coll. – Tax Procedure Act

The FIU states that the requests concerning BO are a common part of the received requests from its counterparts (i.e. in around 30 % cases). The FIU also commonly makes such requests for BOs.

The FIU can provide information acquired during international cooperation to entitled subjects (usually bodies active in the criminal proceedings) only with previous agreements of the subject who provided the information. This information can also serve for operative uses. Therefore, this applies to the limitation of giving information, which affects also the inter-state level.

Police of the Czech Republic

In 2015, the Czech ARO[47] received 27 queries. In 13 cases, the information about the ownership was provided (ownership which is traceable), in 14 they could not find the BO.

In 2015, the Czech ARO sent 28 queries abroad, in 22 cases the information about the ownership was provided, in 6 cases there were no findings.

From the perspective of the Police of the Czech Republic, the greatest problems with information sharing are the following:

- the UBO cannot be identified because the Register of real ownership still does not exist. The owner given in registers can be uncovered – in the case of Commercial Register free of charge in a form of free resource, in the case of other registers

[47] Asset Recovery Office – international police network dealing with searching, office for the whole Czech Republic.

based on the query of the Police Authority on cooperation in criminal proceedings;

- companies are often registered on straw persons, especially in the cases of tax frauds;
- there are some countries (such as the Cayman Islands or British Virgin Islands) with no institutions providing such information.

Regarding the timeliness of the information received – it is different for every country. Some provide the information in a few days, some in a few months. Information required by foreign countries is mostly settled by the Police of the Czech Republic in two weeks.

CASE STUDIES

THE PRINCIPLE OF A HYBRID

In October 2015 the Supreme Administrative Court confirmed[48] an additional tax assessment to a group of CTP companies worth more than 300 million (CZK). The CTP Group is a major player on the market with industrial areas not only in the Czech Republic, but also in Slovakia, Hungary, Romania, Poland and Slovenia. In 2011, the Czech tax administrator was addressed by its Dutch counterpart. Later in a subsequent investigation, the company was assessed to pay additional taxes worth 341 million CZK.

The CTP Group had a subsidiary in the Czech Republic, Luxembourg and the Netherlands. According to the court resolution, the Czech company CTP Property was owned by the company CTP Property LUX based in Luxembourg. This company had only one owner, the CTP Property N.V. based in the Netherlands. The owners of the company CTP Property N.V. were companies Finspel B. V. a R. L. Vos Real Estate B. V. Both of these companies had a major share in the companies CTP Alpha and CTP Beta. The company Finspel B. V. had only one shareholder, namely Eddy Maas. The company Vos Real Estate B. V. had also only one shareholder, namely Remon Voss. Both persons were concurrently directors in the parent company CTP Property N. V.

With the help of lawyers of the companies, restructuring was performed with the results mentioned

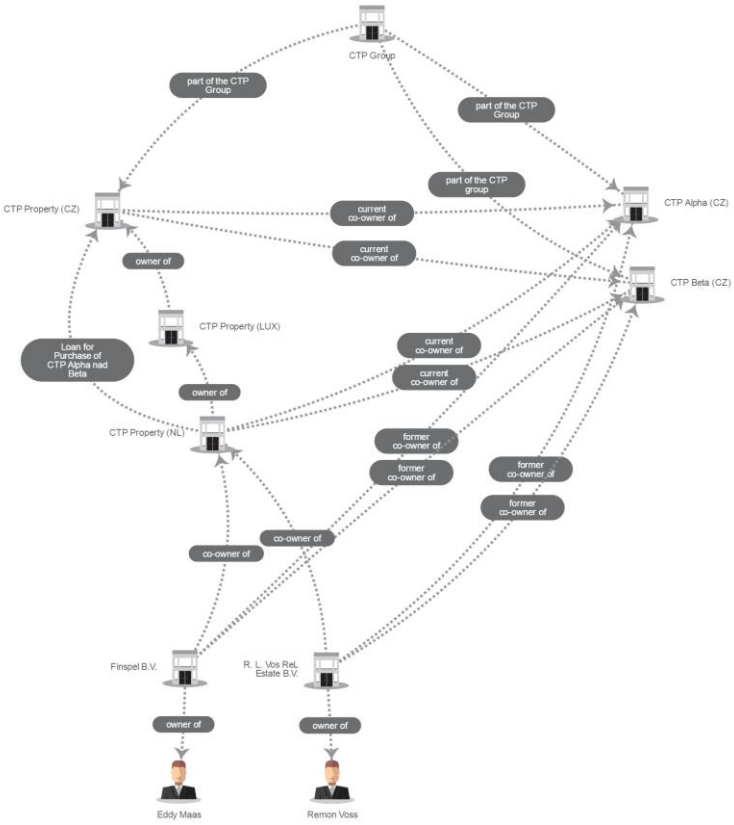
[48]http://www.nssoud.cz/files/SOUDNI_VYKON/2015/0057_9Afs_1500120_20151021084508_prevedeno.pdf

above. The CTP Alpha company merged with the company CTP Property and the company resulting from the merger concomitantly showed declining earnings and a negative profit of approximately 1.7 billion CZK partly due to interest repayments on a loan. CTP Property LUX has provided CTP Property a.s. a loan in total of EUR 5, 08 million for purchase of companies CTP Alpha and CTP Beta, which were already part of the CTP group of companies. Part of the debt was also payments for consultants helping with this fusion totalling at 85 million CZK. The Court identified that the loan related transactions were made between the same holders and were therefore considered as an accountancy trick with a view to generate a formal debt of the CTP Alpha Company[49]. These operations allowed the group of companies to avoid paying corporate taxes in the Czech Republic and the ultimate owners to enrich themselves through the interest repayments on the loan, which were not taxed neither in the Czech Republic, nor in the Netherlands or Luxembourg. The tax administrator evaluated these transactions as purpose-built and contrary to the principle of reasonable arrangement of social relations.

The CTP Company appealed to the Supreme Administrative Court, which decided that the model of financing between related entities where the parent company finances the activities of the subsidiary through a loan was not questioned. The court also does not deny the possibility of buying majority shares in a company before a merger. As the key event the court identified the fact that the merger must have a clear rationally justified economic meaning, other than avoiding paying taxes. In this structure the company CTP Property N.V. had its seat in the Netherlands, the

[49]http://www.nssoud.cz/files/SOUDNI_VYKON/2015/0057_9Afs_1500120_20151021084508_prevedeno.pdf

company CTP Property LUX in Luxembourg and CTP Property in the Czech Republic, i.e. in locations where it would allow paying minimum or no tax through the transfer of profits to low-tax jurisdictions using the artifice of a loan commitment between entities of the same company. [50]



[50] http://ekonomika.idnes.cz/nejvetsi-developer-ctp-kratil-dane-rozhodl-soud-ftx-/ekonomika.aspx?c=A160421_133344_ekonomika_jvl

OWNERS UNKNOWN FOR A LONG TIME

Škoda Transportation a.s. is a Czech engineering company headquartered in Pilsen, Czech Republic. Its operations are in the area of transport engineering, manufacture of rail vehicles for urban and railway modes of transport, traction motors and drives for transport systems in the tradition of Škoda manufacturing plants. It has a strong footprint in the local and international market.

The company was incorporated on 1st March 1995 as the Škoda Dopravní Technika s. r. o.; as of 10 December 2004 it operated under the name Škoda Transportation s.r.o.; as of 1 April 2009 it had the legal form of a joint-stock company. In 2009, Škoda Holding, then owner of Škoda Transportation, made several acquisitions in the transportation sector. In 2010, Škoda Transportation posted revenues of 6.7 billion CZK.

In 2002, the company Škoda Transportation was bought by a Swiss company Appian Machinery, which belongs to the Appian Group, which was owned by a company with anonymous structure. The company was represented by Marek Čmejla and Jiří Diviš during this transfer, both sentenced (non-final) by the Swiss court for putting funds out of the Mostecká uhelná společnost[51] via companies connected to the Appian Group holding. After the purchase, the company gradually fell into bankruptcy and the only remaining

[51] Mostecká uhelná společnost (MUS) was a state company, which was sold to private investors during the privatization in 1990s in Czech Republic. The allegations are consited of possible money tunneling from the former state-entreprise to Swiss accounts and allegations about tax evasion and money laudering. The case was investigated for more than 15 years, the latest verdict of the Swiss court found the former managers of MUS guilty of tax evasion and money laudering. The verdict described the system of companies that were used for tunneling the funds out of the MUS.

company from Škoda Holding was Škoda Transportation.

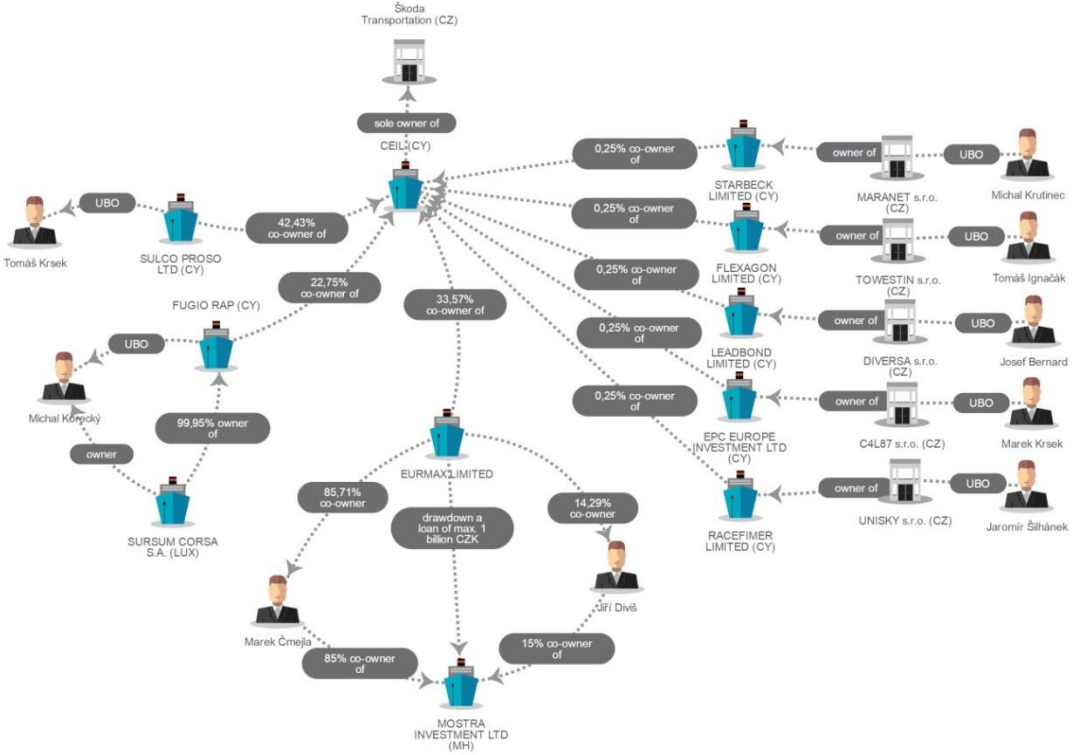
In September 2010, the company announced that it was being sold to four natural persons - managers Marek Čmejla, Jiří Diviš, Tomáš Krsek and Tomáš Korecký. But in Bussiness Register these persons were not written as owners, the owner was a Cyprus-based company SKODA INDUSTRY (EUROPE) LTD, renamed since CEIL (Central Europe Industries) LTD as indicated in the business register. In 2011, the Cypriot company was known to be co-owned by Marshall Islands based Maranex Finance (2/3) and Guernsey based Conitor Terra (1/3).

For years, the identity of the BOs behind the Cyprus offshore company CEIL was kept secret until 2016 when it became known that four natural persons happening to be the managers of Škoda Transportation Marek Čmejla, Jiří Diviš, Tomáš Krsek and Tomáš Korecký were behind the corporate scheme. In the middle of 2016, journalist Eliška Hradílková Bártová acquired the documents that trace back the UBO. According to her investigation, between years 2010 and 2013 the company paid out the dividends in a total sum exceeding 16 billion CZK. The structure of owners of the CEIL has changed as well. At the time of the investigation the structure consisted of a total of eight Cyprus companies and all of them were directly or indirectly owned by the Czech management itself. The greatest share was held by the company SULCO PROSO LTD (42.43%), EURMAX LIMITED (33.57%) and FUGIO RAP LTD (22.75%). The rest of the companies held 0.25% each. SULCO PROSO is owned by Jiří Krsek, the current chairman of the Supervisory Board of Škoda Transportation. EUMAX LIMITED is owned by Marek Čmejl as a majority shareholder and by Jiří Diviš as a

minority shareholder. FUGIO RAP LTD is held in majority by the Luxembourg company SURSUM CORDA S.A., whereas Michael Korecký, deputy chairman of supervisory board of Škoda Transportation has a minority holding. According to the journalist, Michael Korecký is also the owner of the company SURSUM CORDA S.A.

All the minority shareholders of Škoda Transportation (5 companies above) have an owner from the Czech Republic, from Škoda Transportation respectively – Marek Krsek (Vice Chairman), Tomáš Ignačák (Chairman of the Board), Josef Bernard (member of the Supervisory Board), Jaromír Šilhánek (Member of the Board) and Michal Kurtinec (CEO of Škoda Vagonka, subsidiary of Škoda Transportation).

In light of the above, it is interesting that EURMAX LIMITED, the second biggest shareholder of Škoda Transportation enabled to drawdown a loan of up to one billion CZK to the company MOSTRA INVESTMENTS LTD which moved to the Marshall Islands just a few months after its founding in 2014. Both companies are connected not only through the loan but also because they are owned by the same persons, Marek Čmejla and Jiří Diviš. Moreover, the company MOSTRA INVESTMENT was according to a Swiss court used as an instrument of money laundering and tax evasion in case of the company Mostecká uhelná společnost. Čmejla and Diviš had non-finished sentences for fraud and money laundering.


Škoda Transportation (CZ)
sole owner of
CEIL (CY)
UBO
Tomáš Krsek
SULCO PROSO LTD (CY)
42,43% co-owner of
22,75% co-owner of
FUGIO RAP (CY)
UBO
Michal Kopecký
owner
99,95% owner of
SURSUM CORSA S.A. (LUX)
33,57% co-owner of
EURMAX LIMITED
85,71% co-owner
drawdown a loan of max. 1 billion CZK
14,29% co-owner
Marek Čmejla
Jiří Diviš
85% co-owner of
15% co-owner of
MOSTRA INVESTMENT LTD (MH)
0,25% co-owner of
STARBECK LIMITED (CY)
owner of
MARANET s.r.o. (CZ)
UBO
Michal Krutinec
0,25% co-owner of
FLEXAGON LIMITED (CY)
owner of
TOWESTIN s.r.o. (CZ)
UBO
Tomáš Ignačák
0,25% co-owner of
LEADBOND LIMITED (CY)
owner of
DIVERSA s.r.o. (CZ)
UBO
Josef Bernard
0,25% co-owner of
EPC EUROPE INVESTMENT LTD (CY)
owner of
C4L87 s.r.o. (CZ)
UBO
Marek Krsek
RACEFIMER LIMITED (CY)
owner of
UNISKY s.r.o. (CZ)
UBO
Jaromír Šilhánek

THE NEST OF THE MINISTER OF FINANCE

Farma Čapí hnízdo is a leisure and recreational resort located in the central Bohemia.[52] In 2006, an extensive reconstruction of the resort began.[53] The reconstruction was financed by the company ZZN AGRO Pelhřimov Ltd. This company was part of the Agrofert holding, which was founded in 1993 and bought in 2000 by Andrej Babiš, currently the leader of ANO 2011 (political party), Deputy Prime Minister, Minister of Finance and Member of the Parliament of the Czech Republic.[54] Agrofert is a conglomerate operating in agriculture, food, chemical, construction, logistics, forestry, energy and mass media industries in the European Union and China. There are more than 250 companies in the conglomerate with total revenue of 167.1 billion CZK (6.183 billion EUR).[55]

In 2007, the company ZZN AGRO Pelhřimov Ltd. decided to innominate shares and to change its name to Farma Čapí Hnízdo. In 2008, the company organized a general meeting of shareholders in the residency of Agrofert holding, although none of the companies of Agrofert holding was connected with Farma Čapí Hnízdo as a result of innominate shares. There were 2 persons as shareholders – Václac Knotek and Gabriela Knapová. Václav Knotek was a member of Supervisory Board of Afeed company, part of the Agrofert holding, and currently is a member of the Board of Directors of SynBiol company, also a part of the Agrofert holding.[56]

[52] http://www.capihnizdo.cz/en/
[53] http://www.capihnizdo.cz/en/about-capi-hnizdo/
[54] http://www.parlamentnilisty.cz/arena/nazory-a-petice/Andrej-Babis-Muj-uplny-zivotopis-213394
[55] https://www.agrofert.cz/media/download/7360
[56] http://obchodni-rejstrik.podnikani.cz/vaclav-knotek/vaclav-knotek-620399.htm

Gabriela Knapová was the deputy chairman of supervisory board of Afeed company.[57]

In 2008, the company Farma Čapí Hnízdo applied for a subsidy from the European Union intended for small and medium companies in order to co-finance the reconstruction of the property. The company received a total of 50 million CZK (equivalent of 1.85 million EUR) in subsidy.[58]

In 2013, KPMG company was asked by the Ministry of Finance (the Minister of Finance was Miroslav Kalousek, currently the leader of political party TOP 09, these days in opposition) to follow up on the eligibility to the subsidy to Farma Čapí Hnízdo. KPMG detected anomalies regarding how the subsidy was granted and spent.[59] In an interview for Respekt magazine Andrej Babiš claimed that he lent 400 million CZK for the reconstruction of the resort but he had no idea who the owner of Farma Čapí Hnízdo company was.[60] Investigative server Hlidacipes.org said that the resort is placed on the land owned by company SynBiol, which is fully owned by Andrej Babiš.[61]

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[57] http://rejstrik-firem.kurzy.cz/osoby/gabriela-knapova/mgr-gabriela-knapova-577449/

[58] http://www.ropstrednicechy.cz/download.php?file=932ce29f-e3ef-4d6b-807d-f07ad4ac9791.pdf&directory=/files/&name=Projekty%20v%20r%C3%A1mci%20v%C3%BDzvy%20%C4%8D.%204%20-%20schv%C3%A1leno%20VRR%2020.8.2008.pdf&tableName=files&id=932ce29f-e3ef-4d6b-807d-f07ad4ac9791&counterField=counter

[59] http://www.infoprovsechny.cz/request/5185/response/8088/attach/html/4/k%2011569.pdf.html
http://www.infoprovsechny.cz/request/5185/response/8088/attach/html/5/k%2011569%20p%20loha.pdf.html

[60] https://www.respekt.cz/z-noveho-cisla/jsem-realizator-a-budovatel-rika-v-rozhovoru-andrej-babis

[61] http://hlidacipes.org/sedm-dukazu-ktere-andreje-babise-spojuji-s-capim-hnizdem/

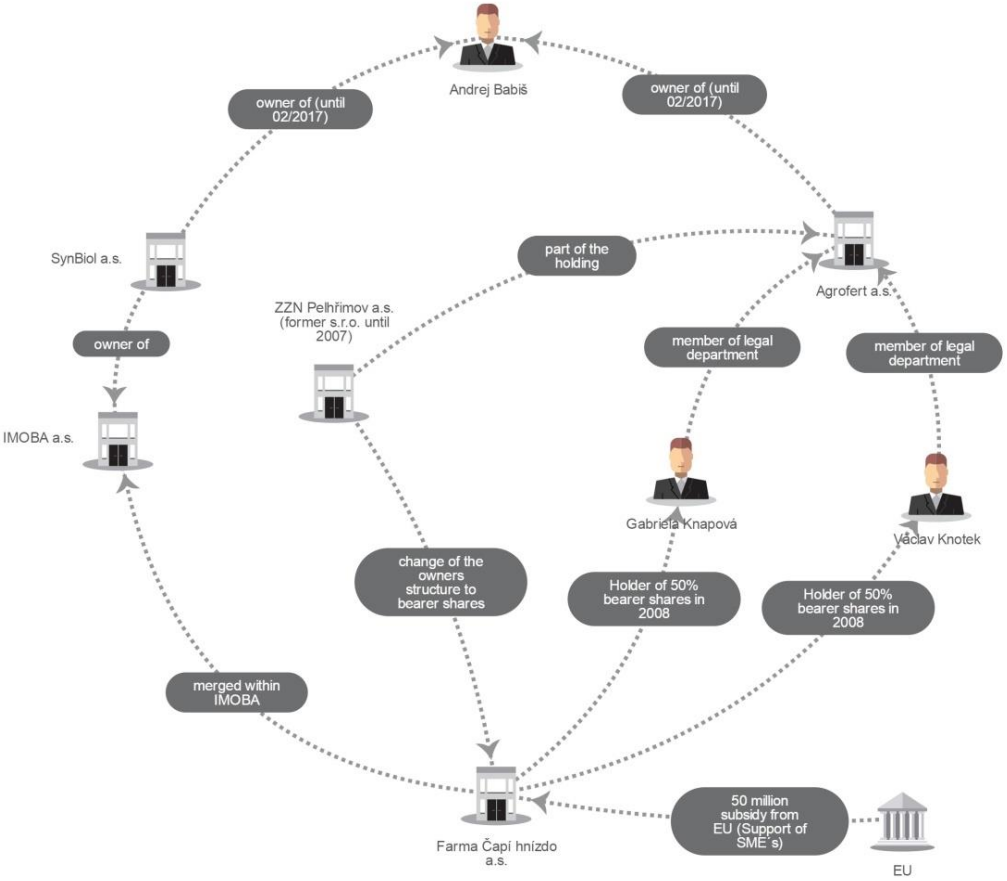
After June 2014, marking the end of the five-year period during which Farma Čapí Hnízdo had to remain in the category of small or medium-sized companies in order to be eligible for the subsidy, the company Farma Čapí Hnízdo was merged with the Imoba company, which is a part of the Agrofert holding.[62]

2015 saw the release of a documentary film called Matrix "AB" (AB meaning Andrej Babiš) in which Andrej Babiš stated that Čapí hnízdo resort is the best idea he ever had. Andrej Babiš claimed the whole documentary was a blatant scam with only one purpose – to discredit his person.[63] After the premiere, the Police of the Czech Republic received a criminal complaint and an investigation was initiated. The Police of the Czech Republic investigates whether the case of Farma Čapí Hnízdo and its subsidy is a subsidy fraud and more specifically whether the release of anonymous shares was purpose-built in order to conceal the identity of the beneficial owner, who is allegedly Andrej Babiš, and to be granted the subsidy.[64] In March 2016, the news website Neovlivni.cz posted that Farma Čapí Hnízdo company is investigated by the European Anti-Fraud Office (OLAF).[65] After this information emerged, an extraordinary meeting of the Chamber of Deputies took place. In an extensive speech, Andrej Babiš admitted that the owners of the anonymous shares of the company Farma Čapí Hnízdo were his children and the brother of his partner. Babiš also claimed that he did not intend to implement the reconstruction of the resort

[62] https://or.justice.cz/ias/content/download?id=0430bb39f12e4b358380fa49399c6246
[63] http://www.ceskatelevize.cz/porady/10408111009-cesky-zurnal/214562262600003-matrix-ab/
[64] http://zpravy.tiscali.cz/policie-proveruje-jestli-melo-babisovo-capi-hnizdo-narok-na-dotace-270158
[65] http://neovlivni.cz/olaf-spustil-vysetrovani-babisova-capiho-hnizda/

via Agrofert holding, because the resort is not connected with any industry Agrofert holding operates with and therefore, he decided not to sponsor this project via financial means of Agrofert. But according to the analysis of the transactions connected to the Farma Čapí Hnízdo, administrative operations were carried out by employees or people close to Agrofert, which cast a bad shade on the whole project. Babiš was convinced that Farma Čapí Hnízdo would receive the subsidy even with him being an owner. The Chamber of Deputies voted to suspend this extraordinary meeting and to hold its decision until the final report of OLAF is announced, which has not happened yet at the time of drafting. [66]

[66]https://www.psp.cz/eknih/2013ps/stenprot/043schuz/s043003.htm#r10
http://www.psp.cz/eknih/2013ps/stenprot/043schuz/s043027.htm


Andrej Babiš
owner of (until 02/2017)
owner of (until 02/2017)
SynBiol a.s.
part of the holding
Agrofert a.s.
ZZN Pelhřimov a.s. (former s.r.o. until 2007)
owner of
member of legal department
member of legal department
IMOBA a.s.
Gabriela Knapová
Václav Knotek
change of the owners structure to bearer shares
Holder of 50% bearer shares in 2008
Holder of 50% bearer shares in 2008
merged within IMOBA
50 million subsidy from EU (Support of SME`s)
Farma Čapí hnízdo a.s.
EU

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- Act No. 304/2013 Coll., on Public Registers
- Act No. 253/2008 Coll., on Selected Measures against Legitimation of Proceeds of Crime and Financing of Terrorism
- Civil Code Act No. 89/2012
- Act No. 280/2009 Coll., on the Tax Procedure Act
- Act No. 586/1992 Coll., on Tax Income
- Act No. 235/2004 Coll., on Value Added Tax (Section 4b. 2 Act No. 235/2004 Coll., on Value Added Tax)
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- https://issuu.com/the-bteam/docs/bteam_business_case_report_final.we?e=15214291/11025500
- http://www.ey.com/gl/en/services/assurance/fraud-investigation---dispute-services/ey-global-fraud-survey-2016
- https://www.globalwitness.org/en/reports/chancing-it/

Cooperating subjects and institutions

- AML consulting experts
- Academic experts on tax havens issues
- EY Tax Division
- Operation Risk Management from the Bank Sector
- Czech Banking Association
- Tax and Legal Services PricewaterhouseCoopers
- National Headquarters against Organized Crime
- Ministry of Justice
- Czech Financial Intelligence Unit

Methodology - Technical evaluation

Current situation

The first stage of the methodology consists of carrying out a technical assessment of the arrangements currently in place. In doing so, the methodology uses existing standards as a basis, in particular the overlapping and complementary standards in the G20 Principles, the FATF standards and the EU AMLD4. Where there are differences in detail, data collection differentiates between the standards. The technical assessment section examines the legal and institutional frameworks on beneficial ownership and transparency, with a particular focus on existing legal provisions and their actual enforcement, the role of key stakeholders, high-risk sectors and cross-border cooperation. Given the changing environment (e.g. the requirement to implement AMLD4, global political initiatives on transparency, particularly in light of the reaction to the Panama Papers) the study also examines proposals and plans to enhance transparency in national frameworks, by assessing future plans (both in terms of commitment and anticipated outcome).

The technical assessment section draws upon a questionnaire designed for TI's previous work on reviewing G20 countries' compliance with G20 commitments with a view to allowing for inserting the six covered countries into the existing ranking. In line with the previous methodology, points are awarded on a 4-point scale for each answer (0 corresponding to ´The country's legal/institutional framework is not at all in line with the principle/standard´ and 4 to ´The country's legal/ institutional framework is fully in line

with the principle/standard´). The questionnaire is attached to this report in the Annex, see page 73 below.

The scores are averaged across each Principle and converted to percentage scores to illustrate the strength of the system using a 5-band system:

Scores between 81% and 100% Very strong
Scores between 61% and 80% Strong
Scores between 41% and 60% Average
Scores between 21% and 40% Weak
Scores between 0% and 20% Very weak

Future plans

The second stage of the technical evaluation consists of identifying a 'direction of travel'; that is to take account of forthcoming changes, such as implementation of recently adopted laws, plans to adopt new laws and so forth. The analysis consists of two parts – how advanced plans are to address gaps and how adequate the proposals appear to be.

These data are captured by a parallel set of questions to the technical assessments above; where gaps or shortcomings against the highest standard are identified, additional questions are posed:

Qxx Commitments:

If the score on Qxx is less than 4, are there any commitments to address the shortcomings? 4 Legislation is drafted and under consideration for this issue. 3 There is a consultation exercise underway on this issue. 2 There are firm proposals, e.g. in an AML/CFT Action Plan, to address this issue in the next year. 1 There has been a commitment, e.g. in a AML/CFT

Strategy, to address this issue at some point. 0 There are no current plans to address this issue.

Qxx Adequacy: If the plans identified above are implemented what would the score on Qxx be post-implementation? 4 The country's legal framework will be fully in line with the principle/standard. 3 The country's legal framework will be generally in line with the principle/standard but with shortcomings. 2 There are some areas in which the country will be in line with the principle/standard, but significant shortcomings will remain. 1 The country's legal framework will not be in line with the principle/standard, apart from some minor areas. 0 The country's legal framework will not be at all in line with the principle/standard.

As with the previous TI G20 Principles methodology, the answers are scored and averaged using the same bands (Very Strong to Very Weak), to give direction of travel risk scores alongside the scores of the adequacy of the current framework – so a country may be scored weak currently with an average score on adopting plans which would result in a strong score ultimately.

ANNEX

Technical Questionnaire

PRINCIPLE 1: BENEFICIAL OWNERSHIP DEFINITION

Guidance: The beneficial owner should always be a natural (physical) person and never another legal entity. The beneficial owner(s) is the person who ultimately exercises control through legal ownership or through other means.

Q1. To what extent does the law in your country clearly define beneficial ownership?
Scoring criteria:
4: Beneficial owner is defined as a natural person who directly or indirectly exercises ultimate control over a legal entity or arrangement, and the definition of ownership covers control through other means, in addition to legal ownership.
1: Beneficial owner is defined as a natural person [who owns a certain percentage of shares] but there is no mention of whether control is exercised directly or indirectly, or if control is limited to a percentage of share ownership.
0: There is no definition of beneficial ownership or the control element is not included.

Q2. If thresholds are used to define beneficial ownership, what are they?
Scoring criteria:

4: Any shareholding is regarded as a beneficial ownership
3: 10% for all companies is regarded as beneficial ownership
2: 10% is regarded as beneficial ownership for profit-making companies only
1: 25% is the threshold for beneficial ownership

PRINCIPLE 2: IDENTIFYING AND MITIGATING RISK

Guidance: Countries should conduct assessments of cases in which domestic and foreign corporate vehicles are being used for criminal purposes within their jurisdictions to determine typologies that indicate higher risks. Relevant authorities and external stakeholders, including financial institutions, DNFBPs, and non-governmental organisations, should be consulted during the risk assessments and the results published. The results of the assessment should also be used to inform and monitor the country's anti-corruption and anti-money laundering policies, laws, regulations and enforcement strategies.

Countries should require financial institutions and designated non-financial businesses and professions (DNFBPs) to identify, assess and take effective action to mitigate their money laundering and terrorist financing risks.

Q3: Has the government during the last three years conducted an assessment of the money laundering risks related to legal persons and arrangements?
4: Yes
0: No

Q4: Were external stakeholders (e.g. financial institutions, designated non-financial businesses or professions (DNFPBs), non-governmental organisations) consulted during the assessment?
4: Yes, external stakeholders were consulted.
0: No, external stakeholders were not consulted or the risk assessment has not been conducted.

Q5. Were the results of the risk assessment communicated to financial institutions and relevant DNFBPs?
4: Yes, financial institutions and DNFBPs received information regarding high-risks areas and other findings of the assessment.
0: No, the results have not been communicated.

Q6: Has the final risk assessment been published?
4: Yes, the final risk assessment is available to the public.
2: Only an executive summary of the risk assessment has been published.
0: No, the risk assessment has not been published or conducted.

Q7: Did the risk assessment identify specific sectors / areas as high-risk, requiring enhanced due diligence?
4: Yes, the risk assessment identifies areas considered as high-risk where additional measures should be taken to prevent money laundering.
0: No, the risk assessment does not identify high-risk sectors / areas.

Q8: Are financial institutions required to identify, assess and take effective action to mitigate their money laundering and terrorist financing risks, relating to legal persons and arrangements.

4: Yes, financial institutions are required to carry out an enterprise wide AML/CFT risk assessment and risk-rate their customer.
2: Financial institutions are only required risk-rate their customers.
0: There are no obligations on financial institutions to carry out their own risk assessment.

Q9: Are DNFBPs required to identify, assess and take effective action to mitigate their money laundering and terrorist financing risks, relating to legal persons and arrangements.
4: Yes, DNFBPs are required to carry out an enterprise wide AML/CFT risk assessment and risk-rate their customer.
2: DNFBPs are only required risk-rate their customers.
0: There are no obligations on DNFBPs to carry out their own risk assessment.

PRINCIPLE 3: ACQUIRING ACCURATE BENEFICIAL OWNERSHIP INFORMATION

Guidance: Legal entities should be required to maintain accurate, current, and adequate information on beneficial ownership within the jurisdiction in which they were incorporated. Companies should be able to request information from shareholders to ensure that the information held is accurate and up-to-date, and shareholders should be required to inform changes to beneficial ownership.

Q10: Are legal entities required to maintain beneficial ownership information?
4: Yes, legal entities are required to maintain information on all natural persons who exercise ownership of control of the legal entity.

3: Yes, legal entities are required to maintain information on all natural persons who own a certain percentage of shares or exercise control in any other form.
0: There is no requirement to hold beneficial ownership information, or the law does not make any distinction between legal ownership and control.

Q11: Does the law require that information on beneficial ownership has to be maintained within the country of incorporation of the legal entity?
4: Yes, the law establishes that the information needs to be maintained within the country of incorporation regardless whether the legal entity has or not physical presence in the country.
0: There is no requirement to hold beneficial ownership information in the country of incorporation or there is no requirement to hold beneficial ownership information at all.

Q12: Does the law require shareholders to declare to the company if they own shares on behalf of a third person?
4: Yes, shareholders need to declare if control is exercised by a third person.
2: Only in certain cases do shareholders need to declare if control is exercised by a third person.
0: No, there is no such requirement.

Q13: Does the law require beneficial owners / shareholders to inform the company regarding changes in share ownership?
4: Yes, there is a requirement for beneficial owners / shareholders to inform the company regarding changes in share ownership.

0: No, there is no requirement for beneficial owners or shareholder to inform the company regarding changes in share ownership.

Q14: Does the law require that information on beneficial ownership be maintained by foreign legal entities that are carrying out economic activity or otherwise subject to tax requirements?
foreign legal entities, but carrying out economic activity or otherwise subject to tax requirements?
4: Yes, in all circumstances
2: Yes, but only in some circumstances (e.g. owning property, participating in public procurement)
0: No, there are no requirements on foreign legal persons or arrangements

PRINCIPLE 4: ACCESS TO BENEFICIAL OWNERSHIP INFORMATION

Guidance: All relevant competent authorities, including all bodies responsible for anti-money laundering, control of corruption and tax evasion / avoidance, should have timely (that is within 24 hours) access to adequate (sufficient), accurate (legitimate and verified), and current (up-to-date) information on beneficial ownership. Ideally, this should be through a central register (and this will be required under 4MLD), but may be through other mechanisms – see Question 14.

Countries should establish a central (unified) beneficial ownership registry that is freely accessible to the public. As a minimum, beneficial ownership registries should be open to competent authorities, financial institutions and DNFBPs.

Beneficial ownership registries should have the mandate and resources to collect, verify and maintain information on beneficial ownership. Information in the registry should be up-to-date and the registry should contain the name of the beneficial owner(s), date of birth, address, nationality and a description of how control is exercised.

Access by competent authorities
Q15: Does the law specify which competent authorities (e.g. financial intelligence unit, tax authorities, public prosecutors, anti-corruption agencies, asset recovery offices etc.) are allowed to have access to beneficial ownership information?
4: Yes, the law specifies that all law enforcement bodies, asset recovery offices, tax agencies and the financial intelligence unit should have access to beneficial ownership information
2: Only some competent authorities are explicitly mentioned in the law.
1: The law does not specify which authorities should have access to beneficial ownership information.
0: The law does not allow for access by competent authorities at all.

Q16: Which information sources are competent authorities allowed to access for beneficial ownership information?
4: Information is available through a central beneficial ownership registry/company registry.
3: information is available through decentralised beneficial ownership registries/ company registries.
1: Authorities have access to information maintained by legal entities / or information recorded by tax agencies/ or information obtained by financial institutions and DNFBPs.
0: Information on beneficial ownership is not available.

Q17: Does the law specify a timeframe (e.g. 24 hours) within which competent authorities can gain access to beneficial ownership?
4: Yes, immediately /24 hours.
3: 15 days.
2: 30 days or in a timely manner.
1: Longer period.
0: No specification.

Q18: What information on beneficial ownership is recorded in the central company registry?
In countries where there are sub-national registries, please respond to the question using the state/province registry that contains the largest number of incorporated companies.
4: All relevant information is recorded: name of the beneficial owner(s), month and year of birth, identification or tax number, personal or business address, nationality, country of residence and description of how control is exercised.
3: Some relevant information is recorded: name, the month and year of birth, the nationality and the country of residence of the beneficial owner as well as the nature and extent of the beneficial interest held
2: Information is more partially recorded.
1: Only the name of the beneficial owner is recorded.
0: No information is recorded.

Q19: What information on beneficial ownership is made available to the public?
4: All recorded information is published online: name of the beneficial owner(s), identification or tax number, personal or business address, nationality, country of residence and description of how control is exercised.
3: Information is partially published online, but some data is omitted (e.g. tax number).

2: Only the name of the beneficial owner is published/ or information is only made available on paper / physically.
1: Only parties with a 'legitimate interest' are allowed access to the information.
0: No information is made available.

Q20: Does the law mandate the registry authority to verify the beneficial ownership information or other relevant information such as shareholders / directors submitted by legal entities against independent and reliable sources (e.g. other government databases, use of software, on-site inspections, among others)?
4: Yes, the registry authority is obliged to conduct independent verification of the information provided by legal entities regarding ownership of control.
2: Only in suspicious cases.
0: No, the information is registered as declared by the legal entity.

Q21: Does the law require legal entities to update information on beneficial ownership, shareholders and directors provided in the company registry?
4: Yes, legal entities are required by law to update information on beneficial ownership or information relevant to identifying the beneficial owner (directors/ shareholders) immediately or within 24 hours after the change.
3: Yes, legal entities are required to update the information on beneficial ownership or directors shareholders within 30 days after the change.
2: Yes, legal entities are required to update the information on the beneficial owner or directors/ shareholders on an annual basis.
1: Yes, but the law does not specify a specific timeframe.
0: No, the law does not require legal entities to update the information on control and ownership.

Q22: Do the requirements on access to beneficial ownership information also apply to foreign legal entities carrying out economic activity for profit or otherwise subject to tax requirements?
4: Yes, in all circumstances
2: Yes, but only in some circumstances (e.g. owning property, participating in public procurement)
0: No, there are no requirements on foreign legal persons or arrangements

PRINCIPLE 5: TRUSTS
Guidance: Trustees should be required to collect information on the beneficiaries and settlors of the trusts they administer. In countries where domestic trusts are not allowed but the administration of trusts is possible, trustees should be required to proactively disclose beneficial ownership information when forming business relationship with financial institutions and DNFBPs. Countries should create registries to capture information about trusts, such as trust registries or asset registries, to be consulted by competent authorities exclusively or open to financial institutions and DNFBPs and / or the public.

Q23: Does the law require trustees to hold beneficial information about the parties to the trust, including information on settlors, the protector, trustees and beneficiaries?
4: Yes, the law requires trustees to maintain all relevant information about the parties to the trust, including on settlors, the protector, trustees and beneficiaries.
2: Yes, but the law does not require that the information maintained should cover all parties to the trust (e.g. settlors are not covered).

1: Yes, but only professional trusts are covered by the law.
0: Trustees are not required by law to maintain information on the parties to the trust.

Q24: In the case of foreign trusts, are trustees required to proactively disclose to financial institutions / DNFBPs or others information about the parties to the trust?
4: Yes, the law requires trustees to disclose information about the parties to the trust, including about settlors, the protector, trustees and beneficiaries in all circumstances.
2: Yes, the law requires trustees to disclose information about the parties to the trust, including about settlors, the protector, trustees and beneficiaries, but only in some circumstances.
0: Trustees are not required by disclose information on the parties to the trust.

PRINCIPLE 6: COMPETENT AUTHORITIES' ACCESS TO TRUST INFORMATION

Guidance: Trustees should be required to share with legal authorities all information deemed relevant to identify the beneficial owner in a timely manner, preferably within 24 hours of the request. Competent authorities should have the necessary powers and prerogatives to access information about trusts held by trustees, financial institutions and DNFBPs.

Q25: Is there a registry which collects information on trusts?
4: Yes, information on trusts is maintained in a registry.
2: Yes, there is a registry which collects information on trusts but registration is not mandatory or information

registered is not sufficiently complete to make it possible to identify the real beneficial owner.
0: No, there is no registry.

Q26: Does the law allow competent authorities to request / access information on trusts held by trustees, financial institutions, or DNFBPs?
4: Yes, competent authorities are able to access beneficial ownership information held by trustees and financial institutions, or access information collected in the registry.
2: Competent authorities have to request information or only have access to information collected by financial institutions.
0: No.

Q27: Does the law specify which competent authorities (e.g. financial intelligence unit, tax authorities, public prosecutors, anti-corruption agencies, asset recovery offices etc.) should have timely access to beneficial ownership information held by trustees?
4: Yes, the law specifies that all law enforcement bodies, asset recovery offices, tax agencies and the financial intelligence unit should have access to beneficial ownership information
2: Only some competent authorities are explicitly mentioned in the law.
1: The law does not specify which authorities should have access to beneficial ownership information.
0: The law does not allow for access by competent authorities at all.

Q28: Do these requirements also extend to foreign trusts being administered in the jurisdiction?
4: All trusts established anywhere with any connection to the country concerned

3: Trusts from other Member States with a connection to the country concerned
1: Only trusts established in the country concerned
0: No requirement

Q29: What information on beneficial ownership of trusts is made available to the public?
4: All relevant information is published online: name of the beneficial owner(s), identification or tax number, personal or business address, nationality, country of residence and description of how control is exercised.
3: Information is partially published online, but some data is omitted (e.g. tax number).
2: Only the name of the beneficial owner is published/ or information is only made available on paper / physically/Only information on "business-type" trusts is made available
1: Only parties with a 'legitimate interest' are allowed access to the information.
0: No information is made available.

PRINCIPLE 7: DUTIES OF FINANCIAL INSTITUIONS & OTHER BUSINESSES AND PROFESSIONS

Guidance: Financial institutions and DNFBPs should be required by law to identify the beneficial owner of their customers. DNFBPs that should be regulated include, at a minimum, casinos, real estate agents, dealers in precious metals and stones, lawyers, notaries and other independent legal professions when acting on behalf of the legal entity, as well as trust or company service providers (TCSPs) when they provide services to legal entities. The list should be expanded to include other business and professions according to identified money laundering risks. In high-risk cases, financial institutions and DNFBPs should be required to verify – that is, to

conduct an independent evaluation of – the beneficial ownership information provided by the customer.

Enhanced due diligence, including ongoing monitoring of the business relationship and provenance of funds, should be conducted when the customer is a politically exposed person (PEP) or a close associate of a PEP. The failure to identify the beneficial owner should inhibit the continuation of the business transaction and / or require the submission of a suspicious transaction report to the oversight body. Moreover, administrative, civil and criminal sanctions for non-compliance should be applicable for financial institutions and DNFBPs, as well as for their senior management.

Finally, they should have access to beneficial ownership information collected by the government. According to 4MLD, financial institutions and DNFBPs should have access to the central registry of beneficial ownership when carrying out customer due diligence as required by the Directive.

FINANCIAL INSTITUTIONS
Q30: Does the law require that financial institutions have procedures for identifying the beneficial owner(s) when establishing a business relationship with a client?
4: Yes, financial institutions are always required to identify the beneficial owners of their clients when establishing a business relationship.
2: Financial institutions are required to identify the beneficial owners only in cases considered as high-risk or the requirement does not cover the identification of the beneficial owners of both natural and legal customers.
0: No, there is no requirement to identify the beneficial owners.

Q31: Does the law require financial institutions to also verify the identity of beneficial owners identified?
4: Yes, the identity of the beneficial owner should always be verified through, for instance, a valid document containing a photo, an in-person meeting, or other mechanism.
0: No, there is no requirement to verify the identity of the beneficial owner.

Q32: In what cases does the law require financial institutions to conduct independent verification of the information on the identity of the beneficial owner(s) provided by clients?
4: Yes, independent verification is always required or required in cases considered as high-risk (higher-risk business relationships, cash transactions above a certain threshold, foreign business relationships).
0: No, there is no legal requirement to conduct independent verification of the information provided by clients.

Q33: Does the law require financial institutions to conduct enhanced due diligence in cases where the customer or the beneficial owner is a PEP or a family member or close associate of a PEP?
4: Yes, financial institutions are required to conduct enhanced due diligence in cases where their client is a foreign or a domestic PEP, or a family member or close associate of a PEP.
2: Yes, but the law does not cover both foreign and domestic PEPs, and their close family and associates.
0: No, there is no requirement for enhanced due diligence in the case of PEPs and associates.

Q34: Does the law allow financial institutions to proceed with a business transaction if the beneficial owner has not been identified?

4: No, financial institutions are not allowed to proceed with transaction if the beneficial owner has not been identified.
0: Yes, financial institutions may proceed with business transactions regardless of whether or not the beneficial owner has been identified.

Q35: Does the law require financial institutions to submit suspicious transaction reports if the beneficial owner cannot be identified?
4: Yes.
2: Only if there is enough evidence of wrongdoing.
0: No.

Q36: Do financial institutions have access to beneficial ownership information collected by the government?
4: Yes, online for free through, for instance, a beneficial ownership registry.
3: Online, upon registration.
2: Online, upon registration and payment of fee.
1: Upon request or in person.
0: There is no access to beneficial ownership information collected by the government.

Q37: Does the law specify a timeframe (e.g. 24 hours) within which financial institutions carrying out CDD can gain access to beneficial ownership collected by the government?
4: Yes, immediately /24 hours.
3: 15 days.
2: 30 days or in a timely manner.
1: Longer period.
0: No specification.

Q38: What information on beneficial ownership of companies is made available to the financial institutions?

4: All relevant information is published online: name of the beneficial owner(s), identification or tax number, personal or business address, nationality, country of residence and description of how control is exercised.
2: Information is partially published online, but some data is omitted (e.g. tax number).
1: Only the name of the beneficial owner is published/ or information is only made available on paper / physically.
0: No information is made available.

Q39: What information on beneficial ownership of trusts is made available to the financial institutions?
4: All relevant information is published online: name of the beneficial owner(s), identification or tax number, personal or business address, nationality, country of residence and description of how control is exercised.
2: Information is partially published online, but some data is omitted (e.g. tax number).
1: Only the name of the beneficial owner is published/ or information is only made available on paper / physically.
0: No information is made available.

Q40: Does the law allow the application of sanctions to financial institutions' directors and senior management?
4: Yes, the law envisages sanctions for both legal entities and senior management.
0: No, senior management cannot be held responsible or there is no criminal liability for legal entities.

DNFBPS
Q41: Are TCSPs required by law to identify the beneficial owner of the customers?
4: Yes, TCSPs are required by law to identify the beneficial owner of their customer when performing transactions on behalf of their clients.
2: TCSPs are partially covered by the law.

0: No, TCSPs are not covered by the law and do not have anti-money laundering obligations.

Q42: Do these obligations extend to foreign trusts being administered or provided with other services, rather than being arranged?
4: Yes, in all circumstances
2: Yes, but only in some circumstances
0: There are no requirements relating to foreign trusts

Q43: Are lawyers, when carrying out certain transactions on behalf of clients (e.g. management of assets), required by law to identify the beneficial owner of the customers?
4: Yes, lawyers are required by law to identify the beneficial owner of their customer when performing transactions on behalf of their clients.
0: No, lawyers are not covered by the law and do not have anti-money laundering obligations.

Q44: Are accountants required by law to identify the beneficial owner of the customers?
4: Yes, accountants are required by law to identify the beneficial owner of their customer when performing transactions on behalf of their clients.
0: No, accountants are not covered by the law and do not have anti-money laundering obligations.

Q45: Are real estate agents required by law to identify the beneficial owner of the customers?
4: Yes, real estate agents are required to identify the beneficial owner of their clients buying or selling property.
2: Real estate agents are partially covered by the law.
0: No, real estate agents are not covered by the law and do not have anti-money laundering obligations.

Q46: Are casinos required by law to identify the beneficial owners of the customers?
4: Yes, casinos are required by law to identify the beneficial owners of their customers or casinos are prohibited by law.
0: No, casinos are not covered by the law and do not have anti-money laundering obligations.

Q47: Are providers of gambling services required by law to identify the beneficial owners of the customers when collection of winnings or wagering of a stake exceeds EUR 2,000?
4: Yes, providers of gambling services are required by law to identify the beneficial owners of their customers or providers of gambling services are prohibited by law.
0: No, providers of gambling services are not covered by the law and do not have anti-money laundering obligations.

Q48: Are dealers in precious metals and stones required by law to identify the beneficial owner of the customers?
4: Yes, dealers in precious metals and stones are required to identify the beneficial owner of clients in all transactions or in transactions above a certain threshold.
0: No, dealers in precious metals and stones are not covered by the law and do not have anti-money laundering obligations.

Q49: Are dealers in luxury goods required by law to identify the beneficial owner of the customers?
4: Yes, dealers in luxury goods are required to identify the beneficial owner of their customer.
0: No, dealers in luxury goods are not covered by the law and do not have anti-money laundering obligations.

Q50: Are persons trading in goods required by law to identify the beneficial owner of the customers when carrying out cash transactions over EUR 10,000?
4: Yes, persons trading in goods are required to identify the beneficial owner of their customer.
0: No, persons trading in goods are not covered by the law and do not have anti-money laundering obligations.

Q51: Does the law require relevant DNFBPs to also verify the identity of beneficial owners identified?
4: Yes, the identity of the beneficial owner should always be verified through, for instance, a valid document containing a photo, an in-person meeting, or other mechanism.
0: No, there is no requirement to verify the identity of the beneficial owner.

Q52: Does the law require DNFBPs to conduct independent verification of the information on the identity of the beneficial owner(s) provided by clients?
4: Yes, independent verification is always required or required in cases considered as high-risk (higher-risk business relationships, cash transactions above a certain threshold, foreign business relationships).
0: No, there is no legal requirement to conduct independent verification of the information provided by clients.

Q53: Does the law require enhanced due diligence by DNFBPs in cases where the customer or the beneficial owner is a PEP or a family member or close associate of the PEP?
4: Yes, DNFBPs are required to conduct enhanced due diligence in cases where their client is a foreign or a domestic PEP, or a family member or close associate of a PEP.

2: Yes, but the law does not cover both foreign and domestic PEPs and their close family and associates.
0: No, there is no requirement for enhanced due diligence in the case of PEPs and their associates.

Q54: Does the law allow DNFBPs to proceed with a business transaction if the beneficial owner has not been identified?
4: No, a business transaction may only proceed if the beneficial owner of the client has been identified.
0: Yes, relevant DNFBPs are allowed to proceed with a business transaction regardless of whether or not the beneficial ownership has been identified.

Q55: Does the law require DNFBPs to submit a suspicious transaction report if the beneficial owner cannot be identified?
4: Yes, the law establishes that relevant DNFBPs have to submit a suspicious transaction report if they cannot identify the beneficial owner of their clients.
2: The law establishes that suspicious transaction reports should be submitted only if there is enough evidence of wrongdoing.
0: No, a business transaction may only proceed if the beneficial owner of the client has been identified.

Q56: Does the law allow the application of sanctions to DNFBPs' directors and senior management?
4: Yes, the law envisages sanctions for both legal entities and senior management.
0: No, senior management cannot be held responsible or there is no criminal liability for legal entities.

Q57: Do DNFBPs have access to beneficial ownership information collected by the government?
4: Yes, online for free through, for instance, a beneficial ownership registry.

3: Online, upon registration.
2: Online, upon registration and payment of fee.
1: Upon request or in person.
0: There is no access to beneficial ownership information collected by the government.

Q58: Does the law specify a timeframe (e.g. 24 hours) within which DNFBPs carrying out CDD can gain access to beneficial ownership collected by the government?
4: Yes, immediately /24 hours.
3: 15 days.
2: 30 days or in a timely manner.
1: Longer period.
0: No specification.

Q59: What information on beneficial ownership is made available to DNFPBs?
4: All relevant information is published online: name of the beneficial owner(s), identification or tax number, personal or business address, nationality, country of residence and description of how control is exercised.
2: Information is partially published online, but some data is omitted (e.g. tax number).
1: Only the name of the beneficial owner is published/ or information is only made available on paper / physically.
0: No information is published.

Q60: Does access to beneficial ownership for DNFBPs include any information provided by foreign trusts or companies?
4: Yes, all information is provided
2: More limited information is provided on foreign than domestic arrangements
0: No information is provided on foreign trusts or companies.

PRINCIPLE 8: DOMESTIC AND INTERNATIONAL COOPERATION

Guidance: Domestic and foreign authorities should be able to access beneficial ownership information held by other authorities in the country in a timely manner, though, for instance, access to central beneficial ownership registries. Domestic authorities should also have the power to obtain beneficial ownership information from third parties on behalf of foreign authorities or to share information without the consent of affected parties in a timely manner.
Governments should publish guidelines explaining what type of information is available and how it can be accessed.

DOMESTIC SHARING OF INFORMATION

Q61: Does the law impose any restriction on information sharing (e.g. confidential information) across in-country authorities?
4: No, there are no restrictions in place.
2: There are some restrictions on sharing information across in-country authorities.
0: Yes, there are significant restrictions on sharing information across in-country authorities.

Q62: How is information on beneficial ownership held by domestic authorities shared with other authorities in the country?
4: Information on beneficial ownership is shared through a centralised database, such as a beneficial ownership registry.
3: There are several online databases managed by different authorities that contain relevant beneficial ownership information (e.g. company registry, tax registry, etc.) that can be accessed.

2: Domestic authorities can access beneficial ownership information through written requests or memoranda of understanding.
1: Domestic authorities may only access beneficial ownership maintained by another authority if there is a court order.
0: Information on beneficial ownership is not shared.

INTERNATIONAL SHARING OF INFORMATION

Q63: Are there clear procedural requirements for a foreign jurisdiction to request beneficial ownership information?
4: Yes, information on how to proceed with a request for accessing beneficial ownership information is made available through, for instance, the domestic authority's website or guidelines.
0: No, information on how to proceed with a request is not easily available.

Q64: Does the law allow competent authorities in your country to use their powers and investigative techniques to respond to a request from foreign judicial or law enforcement authorities?
4: Yes, domestic authorities may use their investigative powers to respond to foreign requests.
0: No, the law does not allow domestic competent authorities to act on behalf of foreign authorities.

Q65: Does the law in your country restrict the provision or exchange of information or assistance with foreign authorities (e.g. it is impossible to share information related to fiscal matters; restrictions related to bank secrecy; restrictions related to the nature or status of the requesting counterpart, among others)?
4: No, the law does not impose any restriction.

2: There are some restrictions that hamper the timely exchange of information.
0: Yes, there are significant restrictions in the law.

Q66: Do foreign competent authorities have access to beneficial ownership information maintained by domestic authorities?
4: Yes, online for free through, for instance, a beneficial ownership registry.
3: Yes, online upon registration.
2: Yes, online upon the payment of a fee and registration.
1: Beneficial ownership information can be accessed only upon motivated request.
0: No.

Q67: Do the information sharing requirements extend to any beneficial ownership information provided by foreign companies and trusts?
4: Yes, in all circumstances
2: Yes, but in limited circumstances
0: Information on foreign trusts or companies cannot be shared or is not collected

PRINCIPLE 9: TAX AUTHORITIES

Guidance: Tax authorities should have access to beneficial ownership registries or, at a minimum, have access to company registries and be empowered to request information from other government bodies, legal entities, financial institutions and DNFBPs. There should be mechanisms in place, such as memoranda of understanding or treaties, to ensure that information held by domestic tax authorities is exchanged with foreign counterparts.

Q68: Do tax authorities have access to beneficial ownership information maintained by domestic authorities?
4: Yes, online for free through, for instance, a beneficial ownership registry.
3: Yes, online upon registration.
2: Yes, online upon the payment of a fee and registration.
1: Beneficial ownership information can be accessed only upon motivated request.
0: No.

Q69: Does the law impose any restriction on sharing beneficial ownership information with domestic tax authorities (e.g. confidential information)?
4: No, the law does not impose restrictions.
2: The law does not impose significant restrictions, but exchange of information is still limited or cumbersome (e.g. a court order is necessary)
0: Yes, there are significant restrictions in place.

Q70: Is there a mechanism to facilitate the exchange of information between tax authorities and foreign counterparts?
4: Yes. The country is a member of the OECD tax information exchange and has signed tax information exchange agreements with several countries.
2: There is a mechanism available, but improvements are needed.
0: No.

PRINCIPLE 10: BEARER SHARES AND NOMINEES

Guidance: Bearer shares should be prohibited and until they are phased out they should be converted into registered shares or required to be held with a

regulated financial institution or professional intermediary.
Nominee shareholders and directors should be required to disclose to company or beneficial ownership registries that they are nominees. Nominees must not be permitted to be registered as the beneficial owner in such registries. Professional nominees should be obliged to be licensed in order to operate and to keep records of the person(s) who nominated them.

Q71: Does the law allow the use of bearer shares in your country?
4: No, bearer shares are prohibited by law.
0: Yes, bearer shares are allowed by law.

Q72: If the use of bearer shares is allowed, is there any other measure in place to prevent them being misused?
2: Yes, bearer shares must be converted into registered shares or share warrants (dematerialisation) or bearer shares have to be held with a regulated financial institution or professional intermediary (immobilisation).
1: Bearer share holders have to notify the company and the company is obliged to record their identity or there are other preventive measures in place.
0: No, there are no measures in place.

Q73: Does the law allow the incorporation of companies using nominee shareholders and directors?
4: No, nominee shareholders and directors are not allowed.
0: Yes, nominee shareholders and directors are allowed.

Q74: Does the law require nominee shareholders and directors to disclose, upon registering the company, the identity of the beneficial owner?
2: Yes, nominees need to disclose the identity of the beneficial owner.

0: No, nominees do not need to disclose the identity of the beneficial owner or nominees are not allowed.

Q75: Does the law require professional nominees to be licensed?
0.5: Yes, professional nominees need to be licensed.
0: No, professional nominees do not need to be licensed.

Q76: Does the law require professional nominees to keep records of the person who nominated them?
0.5: Yes, professional nominees need to keep records of their clients for a certain period of time.
0: No, professional nominees do not need to keep records.

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