

Methodology for estimating compliance with the Financial Action Task Force (FATF) recommendations and the effectiveness of anti-money laundering and terrorist financing systems”

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## Growing number of Predicate offenses



-Magnitsky  
-ESG



# FATF - Financial Action Task Force - 40 Rs

## Soft Law: Naming and Shaming

1. **AML/CFT Policies and Coordination (1-2)**
2. **Money Laundering and Confiscation (3-4)**
3. **Terrorist Financing and Financing of Proliferation Rs 5-8 (NRA, dual use goods, TBML)**
4. **Preventive Measures (9-23)**
5. **Transparency and Beneficial Ownership of Legal Persons and Arrangements (24-25)**
6. **Powers and Responsibilities of **Competent Authorities** ! (26-35)**
7. **International Cooperation (36-40)**

**Proliferation Financing** is the act of providing funds or financial services which are used, in whole or in part, for the manufacture, acquisition, possession, development, export, transshipment, brokering, transport, transfer, stockpiling, or use of nuclear, chemical, or biological weapons, and their **means** of delivery.

**(FATF R 7, R 6 for TF)**

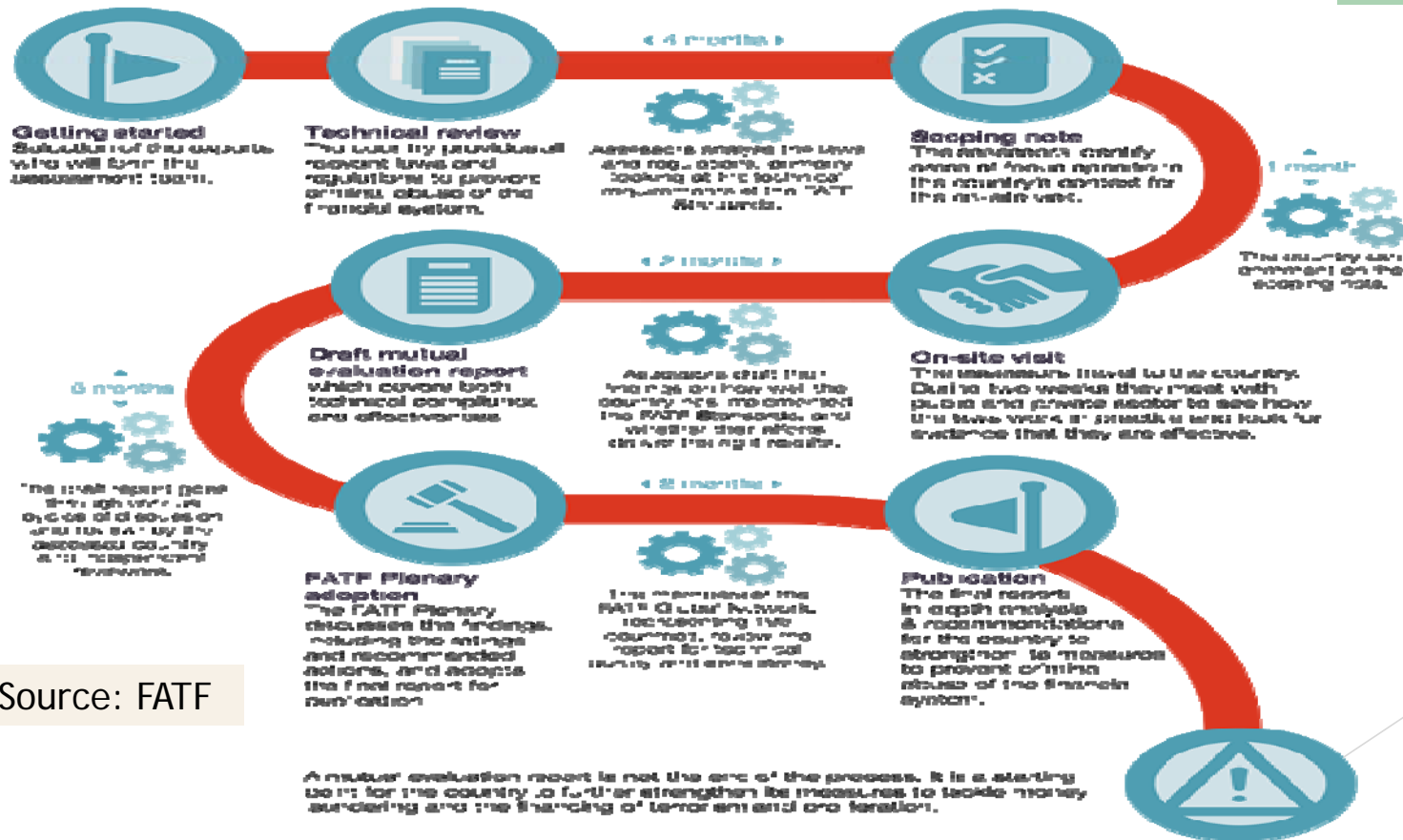
FATF  
GAFI



# MER-Mutual Evaluation Review

Assessment of the whole AML/CFT Regime (LEA, FIs, DNFBPs, NBFIs, - PPP)

## The Mutual Evaluation Process



Source: FATF

# Immediate outcomes of FATF Mutual Evaluations

Assessment is conducted based on 11 immediate outcomes

## Effectiveness Prong

IO1-Money laundering and terrorist financing risks are understood

IO2- International co-operation delivers appropriate financial intelligence

IO3-Appropriate Supervision to FIs & DNFBPs

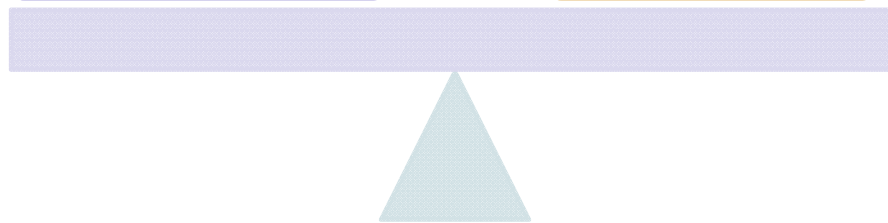
## Technical Prong

R1-RBA

R2-National Cooperation

R3-Money Laundering Offense

Application of Technical requirements of FATF Rs



# Assessment Prongs

## Technical Compliance Assessment

Addresses the specific requirements of each of the FATF recommendations, as they relate to the relevant legal and institutional framework of the country, and powers and procedures of competent authorities.



## Technical Compliance Ratings

Rating	Symbol used in assessment	Meaning
Compliant	C	No Shortcomings
Largely Compliant	LC	Minor Shortcomings
Partially Compliant	PC	Moderate Shortcomings
Non-Compliant	NC	Major Shortcomings

# Assessment Prongs

## Effectiveness Assessment

Assesses the extent to which the country achieves a defined set of outcomes that are central to a robust AML/CFT system and analyzes the extent to which a country's legal and institutional framework is producing expected results.

### Effectiveness Ratings

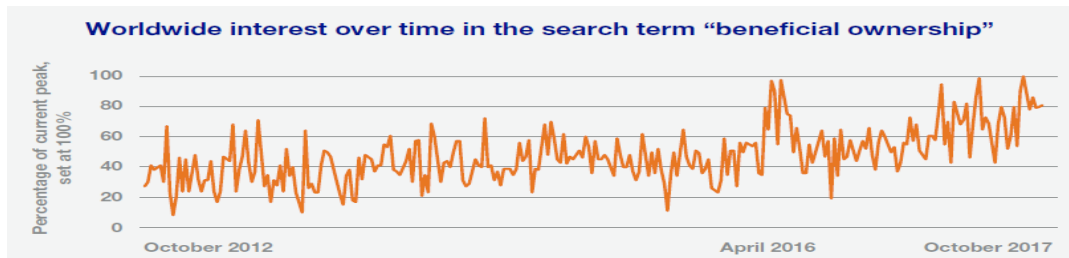
Rating	Meaning
High level of effectiveness	Immediate outcome achieved to a very large extent- <b>minor</b> improvements needed
Substantial level of effectiveness	Immediate outcome achieved to a large extent- <b>moderate</b> improvements needed
Moderate level of effectiveness	Immediate outcome achieved to some extent- <b>major</b> improvements needed
Low level of effectiveness	Immediate outcome is <b>not</b> achieved - <b>fundamental</b> improvements needed



# FATF R 24-25 and the growing importance of UBO

## *Recommendation 24: Transparency and Beneficial Ownership of Legal Persons*

*Countries should take measures to prevent the misuse of legal persons for money laundering or terrorist financing. Countries should ensure that there is adequate, accurate, and timely information on the beneficial ownership and control of legal persons that can be obtained or accessed in a timely fashion by competent authorities. (*Bearer shares*)*






## Public Statement on revisions to R.24/Paris, 4-March 2022

- ❖ The revisions to Recommendation 24 will require countries to follow a **risk-based** approach and consider & assess the risks of legal persons in their countries.
- ❖ The changes also specify that access to information by competent authorities should be **timely**, and information should be adequate for identifying the beneficial owner, accurate - based on verification - and up-to-date.
- ❖ Revisions require countries to ensure that public authorities have access to beneficial ownership information (**Public registries**) of legal persons in the course of **public procurement**. (Egmont corruption red flags)
- ❖ Changes include stronger controls to prevent the **misuse of bearer shares and nominee arrangements**, including prohibiting the issuance of new bearer shares and bearer share warrants and conversion or immobilisation of the existing ones, and more robust transparency requirements for nominee arrangements.

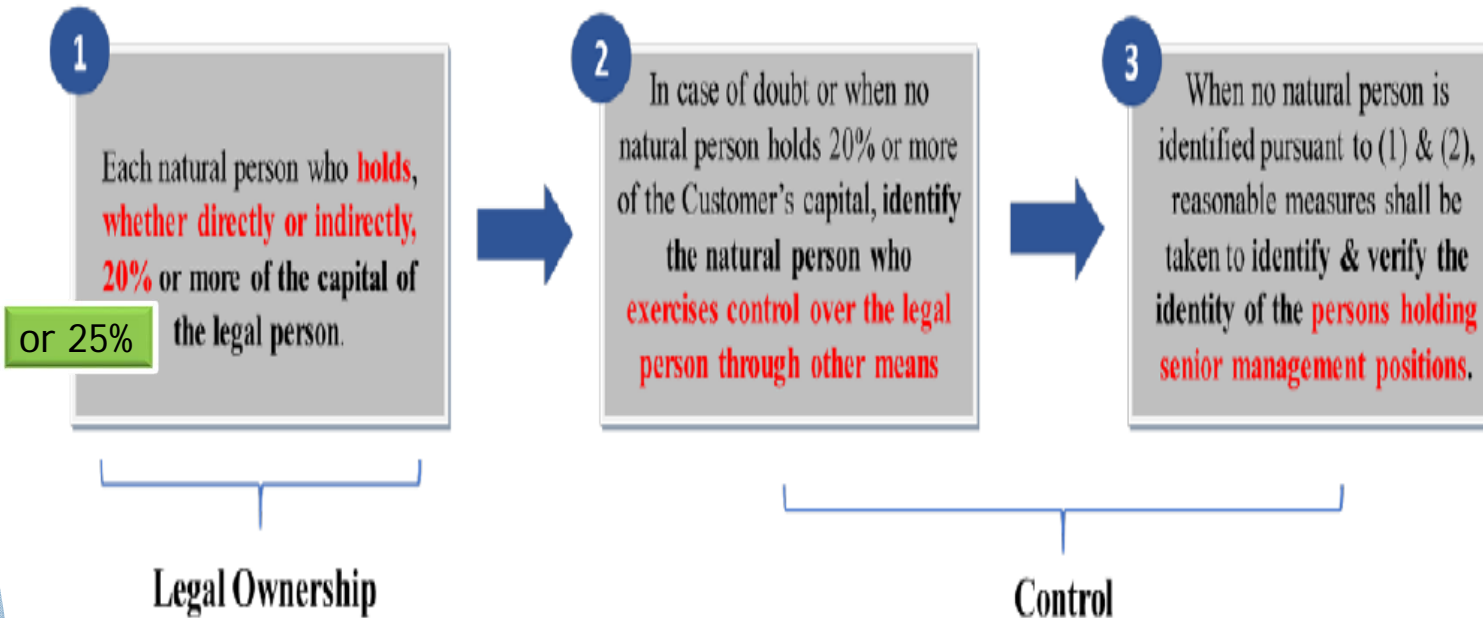
# Determining Ultimate Beneficial Owner - UBO

- Generally speaking, the beneficial owner refers to the natural person who ultimately owns or controls an account or the natural person on whose behalf a transaction is being carried out. It also includes those persons who exercise ultimate control over a legal person
- Ownership Prong: Includes each individual who owns directly or indirectly **25% (FATF/FinCEN)** or more equity interest in the legal person (i.e. legal entity)
- Control Prong: A single individual with significant responsibility to control or manage the legal customer (EU )

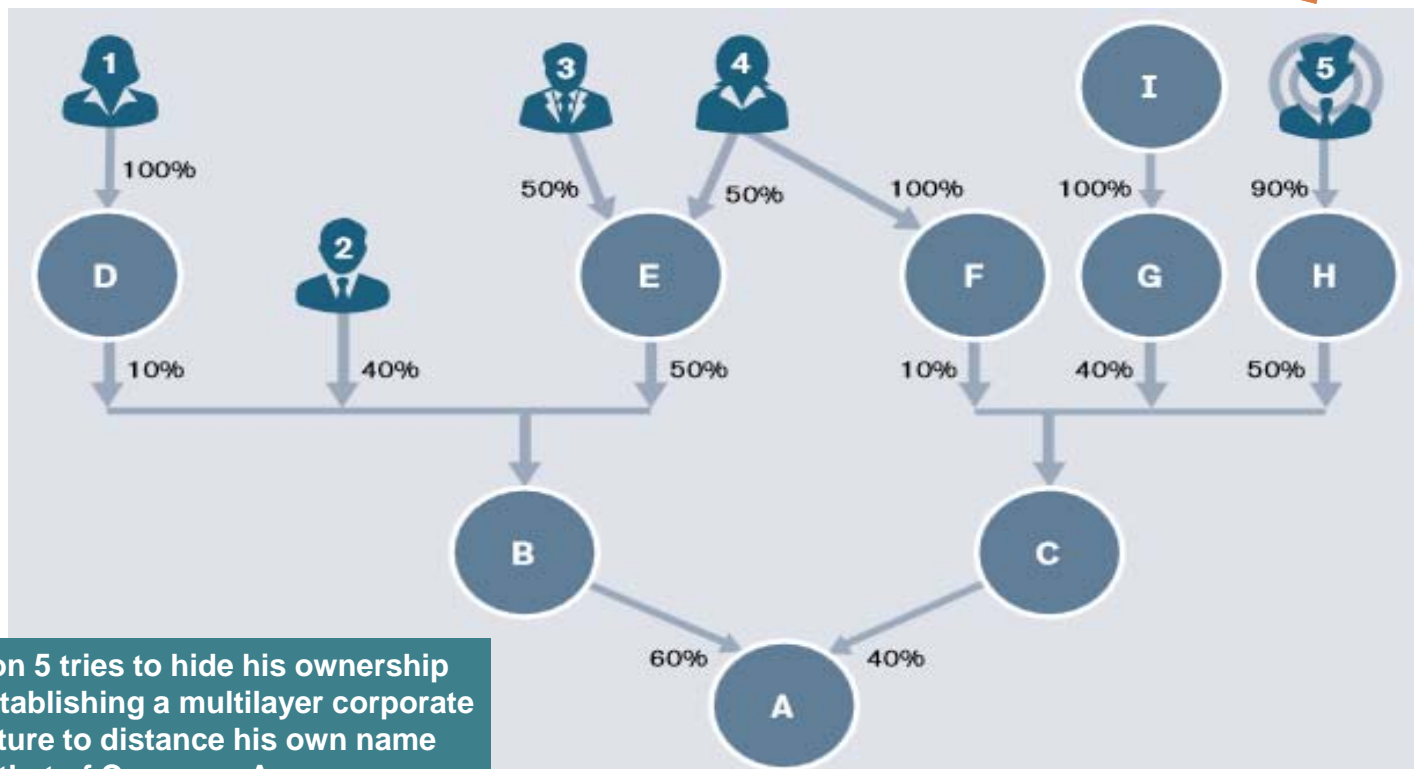
When the above cannot be achieved, FIs may pick anyone in senior management or the CFO for example

# Determining Ultimate Beneficial Owner - UBO

## Three Tier Approach



## Example of Hiding/Distancing Ownership




Person 5 tries to hide his ownership by establishing a multilayer corporate structure to distance his own name from that of Company A.

## How BRO identification for AML/CFT purposes differs from Sanctions!

- ▶ Determining ownership for Sanctions Due Diligence (SDD) is different than for anti-money laundering (AML) requirements, most of which identify a beneficial owner as one that directly or indirectly owns more than 25% (FATF) of a legal entity.
- ▶ In contrast, for SDD, OFAC applies the 50 Percent Rule to legal entity ownership, whether direct or indirect. That is, **if a sanctions target owns 50%** or more of another legal entity, the legal entity is also subject to the sanctions restrictions—even if it is not itself named as a sanctions target.
- ▶ Better have a separate risk assessment for sanctions and AML/CFT. What may be considered high risk for **AML** purposes may not necessarily be considered high risk for **sanctions** compliance, and vice versa. This principle also applies to low risk.
- ▶ One common mistake is when banks use their **AML** country risk ratings for their **sanctions** risk assessment, which can lead to inaccurate results

# Latest FATF Plenary, Berlin, 17 June 2022: Jurisdictions Under Increased Monitoring



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FATF welcomes the progress made by these countries in combating money laundering and terrorist financing, despite the challenges posed by COVID-19.

## Jurisdictions with strategic deficiencies

- Albania
- Barbados
- Burkina Faso
- Cambodia
- Cayman Islands
- Gibraltar
- Haiti
- Jamaica
- Jordan
- Mali
- Morocco
- Myanmar
- Nicaragua
- Pakistan
- Panama
- Philippines
- Senegal
- South Sudan
- Syria
- Türkiye
- Uganda
- United Arab Emirates
- Yemen

## Jurisdiction no longer subject to increased monitoring

- Malta

Democratic People's Republic of Korea (DPRK) & Iran remain High-Risk Jurisdictions subject to a Call for Action (Black List)

# Russian Invasion of Ukraine on FATF's Table



## U.S. Department of the Treasury Office of Public Affairs

**Press Release:**     **FOR IMMEDIATE RELEASE**  
June 17, 2022

**Contact:**            Treasury Public Affairs; [Press@Treasury.gov](mailto:Press@Treasury.gov)

### **U.S. Treasury Commends Unprecedented Censure of Russia by Financial Action Task Force**

*At June Plenary, FATF Takes Important Steps To Fight Corruption, Improve Transparency*

WASHINGTON – Today in Berlin, the Financial Action Task Force (FATF) concluded the last Plenary under the German presidency and produced policy recommendations to strengthen efforts to combat corruption and the misuse of virtual assets. The FATF again condemned the Russian war against Ukraine and, in an unprecedented step, took action to restrict Russia's FATF membership privileges.

FATF members agreed to severely limit the Russian Federation's role and influence within the FATF. In particular, FATF members decided that the Russian Federation can no longer hold any leadership or advisory roles or take part in decision-making on standard-setting, FATF peer-review processes, governance and membership matters. The Russian Federation can also no longer provide assessors, reviewers or other experts for FATF peer-review processes. The FATF will monitor the situation and consider at each of its Plenary meetings whether grounds exist for modifying these restrictions.

## Key takeaways

- ❖ **ALARP** - As low as reasonably possible
- ❖ **Residual Risk** = Inherent Risk - Control Effectiveness
- ❖ Foster a “think-risk culture”
- ❖ Reflect FATF Rs in the bank’s AML/CFT PPs and KYC process taking into consideration the institution’s geographic footprint and product sophistication

