

# BO DISCUSSION SERIES



EU AML / CFT  
GLOBAL FACILITY

## BENEFICIAL OWNERSHIP AND COMPLEX OWNERSHIP STRUCTURES

BRIEFING NOTE

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# INTRODUCTION

On November 15th the EU Global Facility on AML/CFT (Global Facility) hosted a closed webinar on **“Beneficial Ownership Transparency and Complex Ownership Structures”**, which gathered representatives from international and regional organisations, Beneficial Ownership (BO) registers and competent authorities from partner countries, as well as experts from academia, the private sector and civil society. More than 200 participants from 42 countries attended the webinar.

The agenda included institutional speakers from the Financial Action Task Force (FATF) Secretariat and Asia-Pacific Group on Money Laundering (APGML) as well as authorities from the BO registries from Austria and Belgium. The following panels included several short presentations on cases of complex structures from a wide range of experts and topics including corruption, money laundering, Russian oligarchs, tax avoidance, investment funds and extractive industries.

The Global Facility extends its warmest thanks to the panelists who were involved in this webinar: Andres Knobel, Andrej Leontiev, Tom Neylan, Mitali Tyagi, Alexander Peschetz, Sébastien Guillaume, Will Fitzgibbon, Brian Orland, Antonio Bosisio, George Voloshin, Jason Ward and Susi Hjorth Bærentzen.

The Global Facility will organise a follow-up group discussion in early 2023 to continue its work on the identification of indicators and policy proposals to address the risks created by complex ownership structures.

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## Authors:

This publication was developed by Alexandre Taymans and Andres Knobel in the framework of the EU Global Facility on Anti-Money Laundering and Countering the Financing of Terrorism (EU Global Facility-AML/CFT) project, with funding from the European Commission's Service for Foreign Policy Instruments (FPI).

## Disclaimer:

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# 1. SUMMARY OF THE AGENDA AND PRESENTATIONS



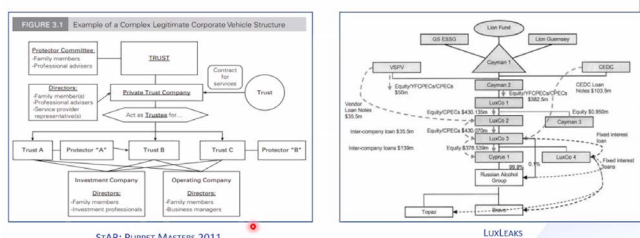
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# 1. SUMMARY OF THE AGENDA AND PRESENTATIONS

## Opening Session

During his welcoming remarks, the **Global Facility Team Leader, David Hotte**, highlighted the emerging challenges stemming from complex structures in the identification of BO and in the setting-up of effective disclosure systems within jurisdictions. The **Global Facility Key Expert on BO, Alexandre Taymans**, explained the rationale for holding this webinar and how it integrates within the context of the Global Facility's thematic activities towards capacity building, assistance and improving BO systems' effectiveness. Finally, **Global Facility BO expert Andres Knobel** described that, while the creation of complexity is legal and almost free for individuals, the costs are shifted to competent authorities and investigators who must invest increasing resources only to reveal the structure which is not always possible. He proposed shifting the costs to make work easier for authorities while encouraging participants to pay attention to the following presentations in order to identify common indicators that could be agreed on to define and determine complexity.

### IT IS LEGAL, BUT DOES IT CREATE RISKS?



Andres Knobel's presentation titled "Why should we tackle complexity?"  
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## Panel One: Institutional Policies and Standards

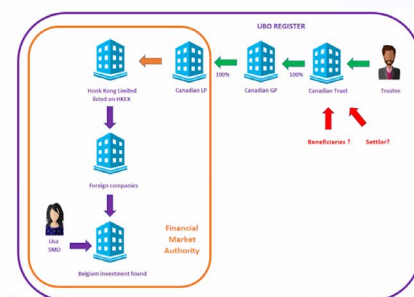
The following sessions, moderated by **Global Facility expert Andrej Leontiev**, involved the experiences and perspectives of various stakeholders: international organisations and competent authorities, followed by experts from the private sector and academics on corruption, money laundering and other illegal activities. The last panel included experts on complexity related to tax avoidance.

During the first panel, **Tom Neylan from the FATF Secretariat** described the next plans in relation to the Guidance of FATF Recommendation 24 and the reform of Recommendation 25, which will also deal with the issue of complexity during 2023. He also referred to more coordination with the Global Forum on exchange of information for tax purposes to deal with anti-money laundering and tax issues. **Mitali Tyagi from APG** described the situation from

an Asian perspective, where money laundering may involve mostly rudimentary rather than complex structures, and the challenges created by the lack of coordination between tax and anti-money laundering authorities, as well as the low level of understanding of the risks created by legal persons or access to their ownership information. **Alexander Peschetz from the Austrian BO register** emphasised the use of nominee arrangements, foundations, and trusts in relation to complex ownership structures and the development of threat scenarios to deal with them. **Sébastien Guillaume from the Belgian BO register** exemplified complexity cases relating to the combination of legal persons and trusts as well as the risks to determine the beneficial owner of investment funds when they involved entities listed on a stock exchange.

## 2. USE CASE

- Collaboration with the Belgium Financial Market Authority
- Limited sanction power (national)



Sébastien Guillaume's presentation on "BO transparency and complex structures: the Belgian perspective"

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## Panel Two: Case Studies on AML and corruption

The second panel started with **Chris Ives from Kroll** who illustrated the challenges to determine beneficial owners and relationships between bank's customers when comparing their declared relationships against the existent relationships between signatories of bank accounts and proposed measures in relation to nominees. **Will Fitzgibbon, from the International Consortium of Investigative Journalists (ICIJ)** described a case in an African country, where it is claimed that the complex ownership structure involving entities from several tax havens has the goal of blocking the liability of the beneficial owner. He warned on the shift of use of nominees located in non-traditional tax havens. **Brian Orland from Woods and Wayside International** presented an investigation into the use of nominees (mostly employees from different firms) to claim the independence between different companies involved in the pulp industry in a South East Asian country. He described different means to obtain information from public sources. **Antonio Bosisio from Transcrime** showed recent findings on the determination of factors and indicators to determine complexity,

emphasising the relevance of both who and how control is exercised. He illustrated geographic concentration of complexity in different regions of Europe as well as results when considering entities owned by Russian individuals. Finally, he showed the predictive power of complexity indicators in relation to entities being subject to sanctions and other enforcement measures. Finally, **George Voloshin from ACAMS** described a complex ownership structure involving several entities from two countries that are alleged to be involved in grand corruption for the acquisition of real estate developments.

avoidance of liability. He also lamented the challenges to obtain information on the whole list of entities integrating into large multinational groups. Finally, **Susi Hjorth Bærentzen** explained the recent cases from Denmark in relation to tax avoidance structures involving European holding companies to avoid taxes on dividends and interests. ■

### Panel three : Case studies on tax avoidance and investment funds

The third panel on tax avoidance began with teachings from **Don Griswold from Tech for Transparency** on different structures used to engage in avoidance of different types of taxes and warned the audience on the strategies used by tax planning firms to stay ahead and even deceive authorities regarding their tricks.



*Susi Hjorth Bærentzen's presentation on the "Danish BO Cases - legal effects of limiting tax avoidance"*

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**Jason Ward from CICTAR** described complex ownership structures related to the home care industry in the UK and Canada, focusing on two potential goals of these structures: tax avoidance and the





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## 2. Findings



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## 2. Findings

Although the webinar was supposed to focus only on identifying indicators of complexity, presentations and discussions also dealt with potential sources of information as well as proposed measures to address and reduce complexity.

Considering all presentations and discussions, the following were the main findings.

### Determining and Creating Complexity

#### Goals of complexity

- Hiding the beneficial owner and their assets
- Prevent liability of the beneficial owners
- Avoid sanctions and other enforcement measures
- Tax avoidance
- Terrorism and proliferation
- Hide activities by politically exposed persons (PEP)
- Fraud

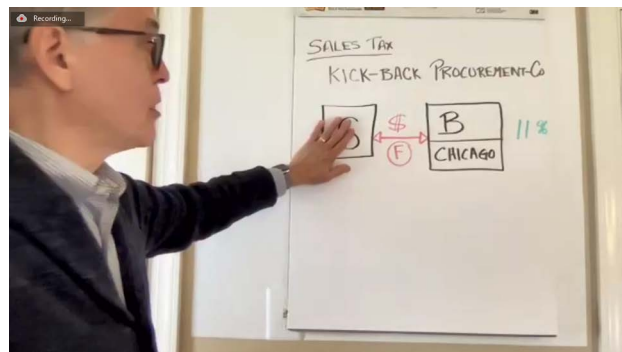
#### Strategies to engage in complexity

- Use of nominees and resident agents from non-traditional tax havens
- Creation of normal-looking companies
- List the senior manager rather than the beneficial owner
- Not to have any written document naming the beneficial owner (e.g. oral communications between nominees and beneficial owners)
- "Generic terms" in public documents, e.g., "John Smith means John Smith; or his family members; trusts, partnerships or LLCs for the benefit of John Smith or his family members, and their heirs, executors, estate, successors and legal representatives."
- Bogus deals, (e.g. sale at discount despite location or expected returns)
- Leave a "fake" low-hanging fruit, for authorities to think they found something, when the real technique remains hidden

#### Challenges in relation to complexity

- Low level of understanding of the risks of legal persons on average
- Low level of access to legal and BO information
- Low level of coordination between tax and anti-money laundering authorities
- Low level of exchange of information with foreign countries
- Lack of information on ownership chains
- Lack of information on relationship between entities and their beneficial owners and directors
- Lack of declaration of nominee status
- BO rules not applied effectively, thus exporting secrecy to other countries

- BO rules, even when applied effectively, are inadequate and unable to prevent illegal activities
- Complexity creates chilling effect on authorities, refraining them to investigate further
- Insufficient information on foreign nominees and trust and corporate service providers
- Lack of prohibition or measures to tackle some complex structures
- Information on BO in foreign languages
- Several months only to obtain information from an entity or foreign country (e.g., 50% of the time can be spent only to obtain information)
- Limited sanction power
- Inconsistent definitions across countries (e.g., BO definitions, scope of entities subject to BO registration)



Don Griswold presenting "Complex ownership structures for tax avoidance"  
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#### Indicators of complexity

- Length of the ownership chain, both vertical and horizontal
- Use of nominees, especially professional nominees. However, informal nominees are more difficult to find, especially if they involve illegal payments or coercion rather than family relationships
- Foreign entities, especially from high-risk or blacklisted jurisdictions
- Combination of legal persons and trusts
- Presence of trusts (because they don't need to register in many countries, so their records of their existence is not available in any local or foreign commercial registry)
- Bogus undertakings
- Letterbox companies

- Ownership by investment funds or companies listed on the stock exchange, especially from foreign countries
- Holdings slightly below the threshold, e.g., 24.98%
- Outlier in relation to its size and business sector

### Source of information

- Use of internet and search engines to determine if a person is a nominee (e.g., lawyer offering offshore services)
- “Innocent” questions on BO compliance (e.g., “Could a trust beneficiary be a company?”) to then engage in that strategy
- Legal ownership information from the commercial registry
- Social media (e.g. especially for senior citizens who are less concerned or aware of privacy settings)
- Media outlets
- Filings with the stock exchange or financial regulator

### Proposals to tackle complexity

#### General

- Public online access to open-data BO information, via interconnected registries
- Verification of BO information held by registers
- Enhanced due diligence
- Refusing to allow bank accounts to be opened, if the structure looks too complex or risky
- New technologies, especially artificial intelligence (AI) and big data to relate databases (e.g. tax information, residence databases, etc.)
- Discrepancy reporting
- Register the full ownership chain
- Shift the burden of proof (e.g. an entity has to prove that its declared information is correct, if challenged)
- Whistle-blower programmes

#### To identify and tackle nominees

- Mandatory declarations
- Offences for negligence or failure to prevent
- Positive assurance by nominees on AML/CFT obligations
- Enhanced cooperation and sharing of information between supervisors and obliged entities
- Having nominees on the “good side” (e.g., to verify BO information like in Slovakia) to prevent them from engaging with the “wrong side”
- Require obliged entities that if they cannot confirm or guarantee that they verified the beneficial owner, then they cannot engage in transactions with the customer (e.g., do not open a bank account or set up a company)

#### Other

- Create a global list of nominees to be shared among competent authorities based on their findings
- Special “Nominee Report” (e.g. similar to a suspicious

transaction report) where obliged entities report “X has been used as a nominee/representative/had a power of attorney” in relation to the identified beneficial owner/sanctioned individual

- High sanction (e.g., loss of license or prevent government contract) for any corporate service provider or tax planning firm whose clients were found to be engaged in illegal activities
- Blackbox warning to be included by corporate service providers or tax planning firms when approaching new clients: “our firm has been found to having engaged in X offence”
- Recruiting practitioners to be employed by accounting firms, learn their techniques, and then report them back to authorities, journalists, or civil society organisations



Group picture of the experts group © 2022 / EU Global Facility

**To remain informed about the latest activities of the Global Facility on Beneficial Ownership (and others), visit our website ([www.global-amlcft.eu](http://www.global-amlcft.eu)) and LinkedIn page.**





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## 3. BIOGRAPHIES



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## 3. Biographies



### David Hotte

is the Team Leader of the EU Global Facility on AML/CFT. He has twenty five years of experience as an international expert on money laundering and terrorist financing, advising bodies such as the European Union, the United Nations, the International Monetary Fund and the Office of the High Representative in Bosnia.

In the private sector, David Hotte was a senior compliance manager for a French banking group and a consultant for a law firm on financial crime. He has served in the Gendarmerie Nationale. His work has covered Palestine, Sri Lanka, Turkey, China, Laos and Syria, among many others.

David has extensive experience managing programmes of AML/CFT. He is the former Team Leader of the EU-funded project on AML/CFT in the Horn of Africa and is currently the project director of the EU Global Facility on AML/CFT. David Hotte holds a Masters degree in Public Law and Accounting from the University Pantheon-Sorbonne in Paris. David Hotte is the author of several books on financial crime.

### Alexandre Taymans

is the Global Facility's Key Expert on Beneficial Ownership. In this capacity, he heads a multi-disciplinary team of AML/CFT experts and is in charge of the design and implementation of the bilateral and thematic activities offered by the Global Facility to partner jurisdictions and the global AML/CFT community on Beneficial Ownership. Prior to that, Alexandre was a legal advisor within the Belgian treasury and was part of the core team in charge of implementing the Beneficial Ownership Register in Belgium. Since 2018, Alexandre has been working as an International AML/CFT Expert for various regional and international organisations.



### Andrej Leontiev

is Managing Partner of Taylor Wessing in Slovakia and works with clients from the private wealth, real estate and infrastructure, TMC sectors. He worked on multiple transparency, anticorruption and AML initiatives for different Slovak and foreign public, private and non-governmental entities. He was one of the main idea leaders on beneficial ownership transparency in Slovakia. Andrej is a co-author of the Slovak Anti-shell Companies Law. Currently, he is advising the Slovak Ministry of Justice on the reform of the Company Register with respect to verification of beneficial owners. He works also as an external expert at the Global Facility. Andrej also participated with other private and public stakeholders on creating a unique Gatekeepers Framework - value based self regulatory framework for private sector intermediaries to prevent or interrupt illicit financial flows.

### Andres Knobel

is a lawyer and beneficial ownership expert at the Global Facility. His work focuses on financial secrecy and tax havens, specifically in relation to beneficial ownership registration, automatic exchange of bank account information and abusive regimes of trust law. He has also worked as a consultant for the Tax Justice Network, the Inter-American Development Bank, the UNODC, the German cooperation agency (GIZ), the Green Party of the European Parliament, the UN FACTI Panel, among others.



### Tom Neylan

heads the Risk and Policy Unit within the Financial Action Task Force (FATF) Secretariat. He is responsible for FATF's work setting and amending international standards, and for monitoring new and emerging risks of money laundering and terrorist financing. Recent projects have included negotiating new global rules to regulate virtual assets, combat the financing of WMD proliferation, and improve beneficial ownership transparency; and leading initiatives to promote the use of new technologies by AML/CFT authorities. Before joining the FATF, Tom worked in the UK as head of Counter-Terrorism Finance at H M Treasury.



### Mitali Tyagi

is the Director of Research and Implementation at the APG (Asia-Pacific FATF Style Regional Body). In this capacity she leads the APG's work on Typologies and ICRG issues. She has led several mutual evaluations including Cambodia, Cook Islands and Philippines. Prior to this position Mitali was the Director Technical Assistance and Training at APG, an international lawyer on trade and investment issues for the Australian Government, and a litigation lawyer at King & Wood Mallesons. She has also worked in-country delivering technical assistance in Banda Aceh for the International Development Law Organisation and the UNDP.

### Alexander Peschetz

is head of Department III/12, BORA Registry Authority in the Federal Ministry of Finance and an expert in money laundering prevention. He was responsible for the implementation of the 4th and 5th Money Laundering Directive for the financial market (FM-GwG) and the Beneficial Owner Register Act (WiReG). He is also a lecturer and author of numerous specialist publications.



### Sebastien Guillaume

Sébastien Guillaume is a policy and strategy adviser for the Belgium Ministry of Finance. He is member of the Belgium Treasury Management Committee and the head of the AML Compliance Department. He is specialized in AML/CFT matters and Financial Sanctions. He was AML/CFT Inspector for obliged entities falling under the competence of the Treasury. Former Project Manager of Belgium's UBO Register, M. Guillaume supervised the integration and ensured the interoperability of the UBO Register platform within the federal ICT environment.

### Will Fitzgibbon

is a senior ICIJ reporter. He is also ICIJ's Africa and Middle East partnership coordinator. Will joined ICIJ in 2014 and coordinated the Fatal Extraction investigation that examined the impact of Australian mining companies in Africa. It remains one of the largest pan-African collaborations of journalists. Will has reported on ICIJ projects, including West Africa Leaks, Paradise Papers and Panama Papers. He coordinates ICIJ's partnerships with journalists in Africa and the Middle East. Before coming to Washington, he worked at The Bureau of Investigative Journalism (TBIJ) in London where his work on politics, the finance industry and housing appeared in The Guardian and The Observer. He studied at the London School of Economics, Sciences-Po Paris and The Australian National University.



### Christopher Ives

is an AML/CFT and financial investigations specialist at Kroll with extensive experience in conducting complex international money-laundering, financial crime and asset recovery investigations. Chris has broad experience working with financial intelligence units, AML/CFT supervisors, law enforcement and financial institutions on financial crime engagements across the globe, including supporting countries with FATF action plans.

### Brian Orland

is an analyst for U.S.-based non-profit Woods & Wayside International in the Forest Industries, Financial Institutions, and Fiscal Governance program. With over a decade of professional experience on environmental issues in Indonesia and India, Brian holds an MA in International Relations from the Johns Hopkins University's School of Advanced International Studies (SAIS) and a BA in Political Science from Davidson College.



### Antonio Bosisio

is Senior Researcher at Transcrime – Università Cattolica. His research focuses on organised crime, corruption, money laundering and financial crime. In the last years, he has specialised in the analysis of anomalies in companies' ownership that could flag potential involvement in illicit activities. In this domain, he has participated to numerous research projects at national and international level, including MORE; PROMENADE, DATACROS, and he is currently coordinating the EU-funded project DATACROS II. He holds a Master's degree in Economics and Social Sciences at Università Commerciale Luigi Bocconi.



### George Voloshin

is a global expert anti-financial crime at ACAMS and member of ACAMS' global SMEs team. He previously headed the Paris branch of a leading corporate intelligence consultancy and has strong credentials in corporate investigations and political risk analysis. An ACAMS-certified global sanctions specialist (CGSS) and certified anti-money laundering specialist (CAMS), he has particular expertise in the geopolitics, security and economics of wider Europe and the former Soviet Union. George has written extensively on international affairs and has published to date two books and hundreds of articles.

### Susi Bærentzen

holds a PhD in International Tax Law and Economics on the effectiveness of General Anti-Avoidance Rules in the OECD and the European Union. As part of this project, she worked for five years in the international tax law department of one of the Big4 corporations in Denmark. In 2020, she was awarded the Carlsberg Foundation Postdoctoral research grant to conduct interdisciplinary research in tax law and human rights in cooperation with the IBFD in Amsterdam until 2022. Subsequently, she has continued a combined career within the tax department at the Law Faculty at the University of Copenhagen and as manager of the Nordic tax department at a large multinational company.



### Jason Ward



has been the principal analyst at CICTAR (Centre for International Corporate Tax Accountability & Research) since its establishment 4 years ago. Jason has been an active member and frequent spokesperson for the Tax Justice Network – Australia for nearly a decade and is currently a Visiting Fellow at the Faculty of Business at the University of Greenwich, United Kingdom. Prior to CICTAR, Mr Ward conducted in-depth research on Chevron, Exxon, the Petroleum Resource Rent Tax (PRRT) which has helped to increase corporate tax revenue in Australia by over \$12 billion since 2017. He has recently analysed the tax practices of large for-profit nursing home companies and other large government contractors and helped mobilise over US\$10 trillion of investor capital to support the Global Reporting Initiative's proposed tax transparency reporting standards. Through a partnership with PIRC, a major UK investment adviser, CICTAR has

facilitated the filing of landmark shareholder resolutions on tax transparency at Amazon, Microsoft and Cisco. Jason has a MPhil in Development Studies from the Institute for Development Studies at the University of Sussex. He has lived in Africa, Asia and the Middle East, campaigned to reform the World Bank and IMF, and has 15 years of research and campaign experience with two of the most active US unions.

### Don Griswold

is a constitutional tax lawyer, fiscal justice columnist, and public interest policy consultant. Don Griswold works to reshape tax and fiscal policy to foster equitable and inclusive growth consistent with the United Nations sustainable development goals.

Previously, Don was executive tax counsel at Berkshire Hathaway, a nationwide tax litigator for large multinational corporations, and leader of a Big 4 accounting firm's 600-person state tax practice. A gifted teacher, Don has contributed scores of articles and speeches in his field, and taught as an adjunct professor at Georgetown Law. Don now writes the "(Re)Thinking Tax" column for Bloomberg, with a focus on economic justice, critical tax theory, tax avoidance, and social harms taxation. He consults for fiscal policy think tanks in furtherance of progressive policy objectives in the public interest. A senior fellow at The Digital Economist's Center of Excellence on Human-Centered Global Economy, Don convenes renowned data scientists, anti-corruption activists, visionary business leaders, and economic futurists aiming to harness the transformative potential of a decentralized, web3/blockchain/AI-enabled, open-source, global digital public infrastructure to actualize the full potential of the Beneficial Ownership Transparency movement. Don's #TechForTransparency initiative aims to uncover the \$50 Trillion in hidden wealth that escapes \$480 Billion in tax every year—and so to capture a significant revenue source for funding climate resiliency and the complete UN-SDG agenda.







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