

Ultimate Beneficial Owner

Guidelines & Implementation



Beneficial Owner/
Beneficial Ownership

International Focus

UAE Legal Framework

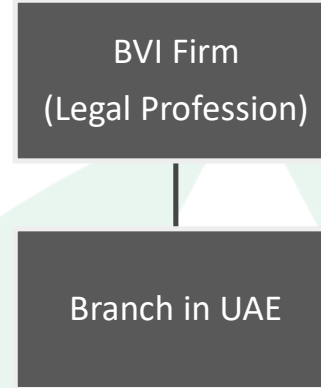
Compliance requirements

Guidance points

Example 1:

Structure

- A legal professional firm (law firm) having a registered entity in BVI,
- This BVI firm has a branch office in the UAE,
- The Branch office has a Managing Director, as per trade license, Mr. A,
- The BVI company has its main headquarters in Singapore,
- The Singapore firm has offices in Asia and the Americas and each firm has a CEO/MD,
- Mr B's father started this firm decades back and now Mr. B is actively involved in running this firm. He is the majority owner of the firm.



Beneficial Owner



According to the **FATF Glossary**, a beneficial owner is:
“The **natural person(s)** who **ultimately** owns or controls a customer and/or the natural person on whose behalf a transaction is being conducted.

It also **includes** those persons who exercise **ultimate effective control** over a **legal person** or **arrangement**”.

Beneficial Owner



Beneficial owner as per CD No. (109) of 2023 refers to the:

- *Natural person (s), who*
- *Ultimately owns and controls, or*
- *Exercise ultimate control over*
- *A legal person/customer*
- *Directly or*
- *Through a chain of ownership or control*
- *Or indirect means*

AS WELL AS

- the natural person
- **On whose behalf**
- transactions are conducted
- or who exercises ultimate effective control
- over a juristic person or
- legal arrangement

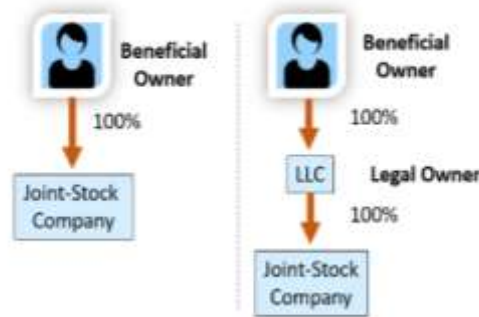
Legal Owner vs Beneficial Owner

- separate/overlapping concept

Legal ownership is where the **legal title or controlling shareholding** of a company **may be** in the name of a **natural or a legal person** other than the beneficial owner who ultimately controls the entity, directly or indirectly.

Legal owners may or may not be the ultimate beneficial owners **regardless** of whether they own shares above any specified minimum ownership threshold.

Figure 1. Difference between a BO and a Legal Owner

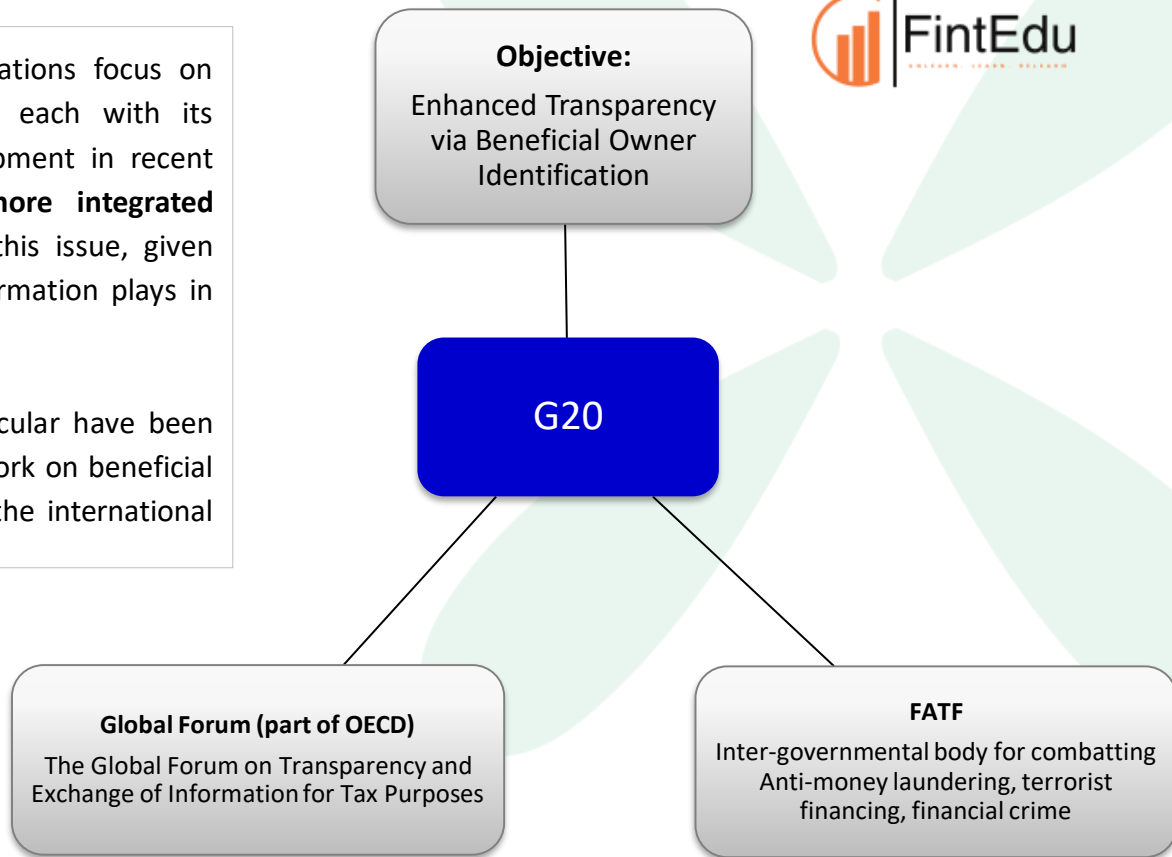


A beneficial owner is **always a natural person(s)** on the basis that they are the ultimate owner/controller of a legal person, either through their ownership interests or through exercising **ultimate effective control** through other means.

An International Focus on Beneficial Ownership

Several international bodies and organizations focus on issues related to beneficial ownership, each with its particular mission. An important development in recent years has been the **G20's call for more integrated cooperation between organizations** on this issue, given the crucial role beneficial ownership information plays in tax transparency.

The FATF and the Global Forum in particular have been given a mandate to align their technical work on beneficial ownership more closely, to better serve the international community.



G20

An important development in recent years has been the G20's call for more integrated cooperation between organizations on the issue, given the crucial role beneficial ownership information plays in tax transparency.

The FATF and the Global Forum (OECD)

in particular have been given a mandate to align their technical work on beneficial ownership more closely, with a view to better serving the international community

The Global Forum on Transparency and Exchange of Information for Tax Purposes,

has a mandate to ensure effective implementation of international tax transparency standards amongst its members and other relevant jurisdictions. It has adopted standards for tax transparency for both the **exchange of information on request (EOIR) and automatic exchange of information (AEOI)**, and members undergo peer reviews to assess their compliance.

FATF

The FATF is an inter-governmental body responsible for setting international standards and promoting effective implementation of legal, regulatory, and operational measures to combat money laundering terrorist financing, and other related threats to the integrity of the international financial system. Over 200 countries are members.

FATF 40 Recommendations

FATF-style Regional Bodies (FSRBs)

Mutual Evaluations

FATF Recommendations on Beneficial Ownership

THE FATF RECOMMENDATIONS

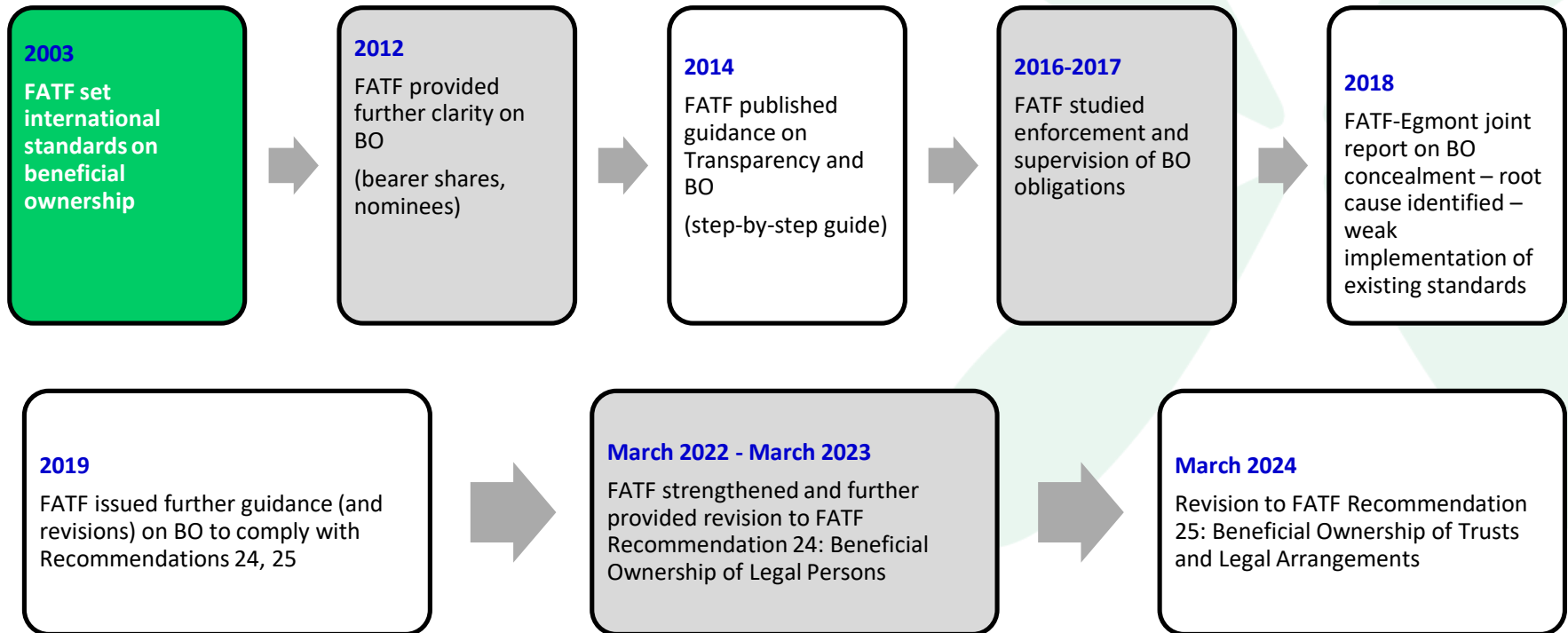
INTERNATIONAL STANDARDS ON COMBATING MONEY LAUNDERING AND THE FINANCING OF TERRORISM & PROLIFERATION

E – TRANSPARENCY AND BENEFICIAL OWNERSHIP OF LEGAL PERSONS AND ARRANGEMENTS

- | | | |
|----|------|---|
| 24 | R.33 | Transparency and beneficial ownership of legal persons * |
| 25 | R.34 | Transparency and beneficial ownership of legal arrangements * |

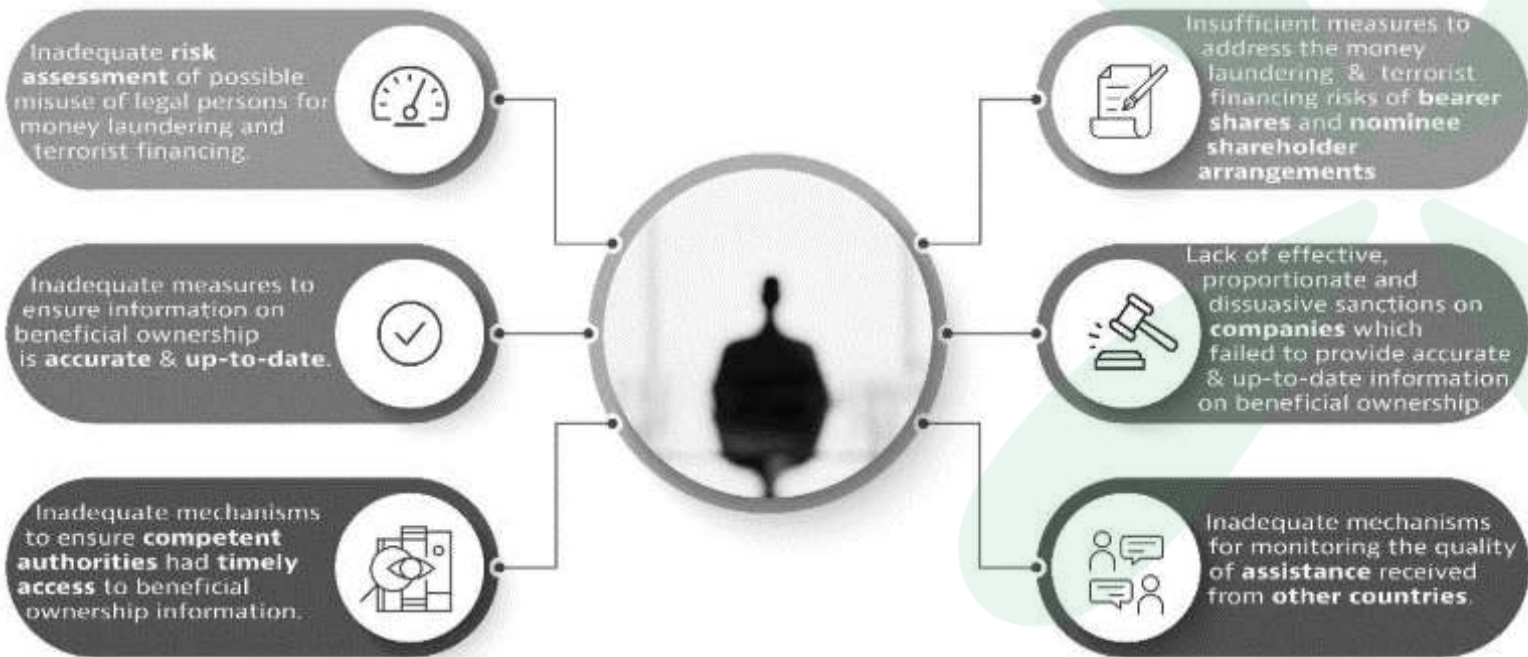
While applying CDD requirements as per R-10 (Customer Due Diligence), R-22 (DNFBPs CDD)

Evolution of FATF standards on Beneficial Ownership



Common challenges

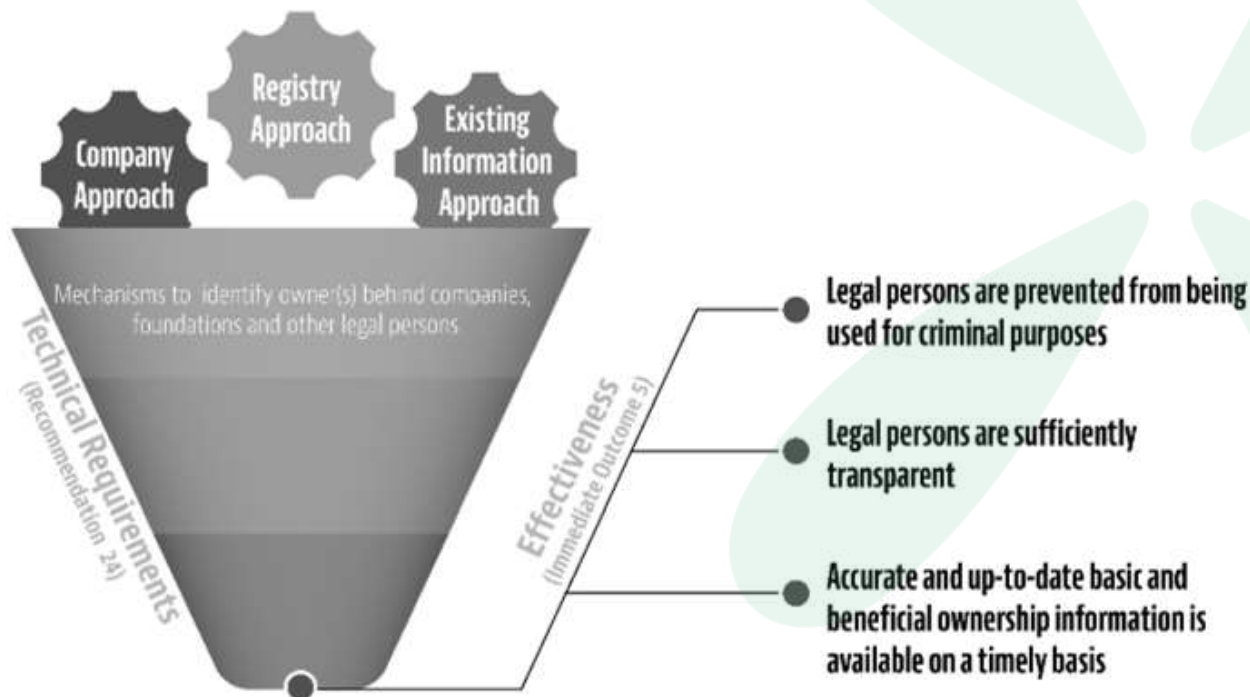
in implementing beneficial ownership measures



Based on the results from the fourth round of FATF mutual evaluations.

FATF Requirements

to identify the beneficial owner(s) behind legal persons, such as companies and foundations





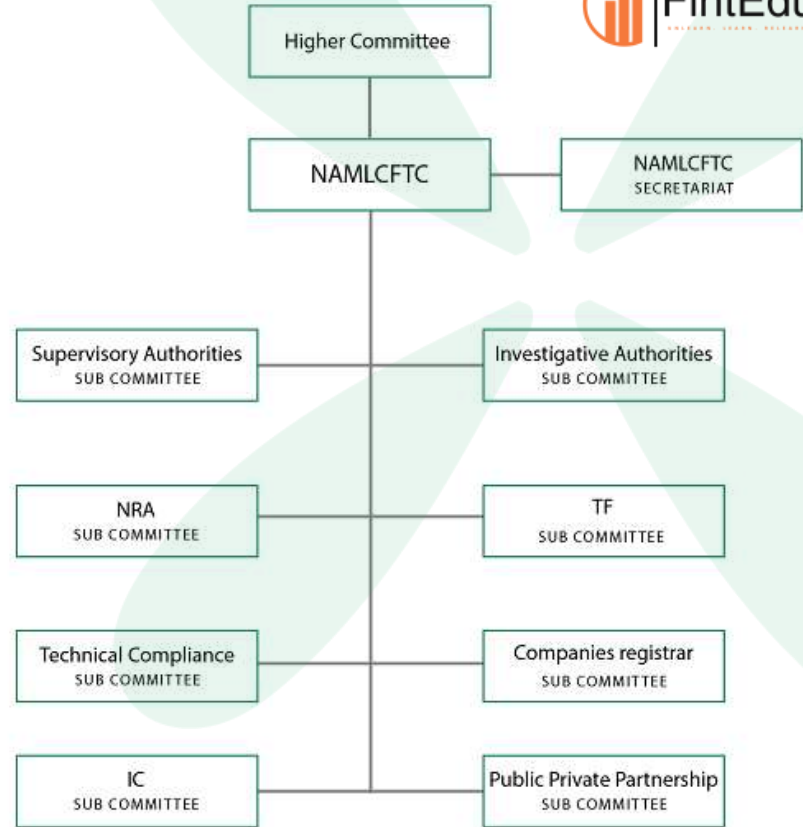
UAE's legal framework on Beneficial Ownership

Authorities Involved



In line with the UAE's National Strategy on Anti-Money Laundering and Countering the Financing of Terrorism, supervisors will continue to issue forward-looking guidance and will identify innovative practices that help improve the effectiveness of the UAE's AML/CFT supervision and its overall AML/CFT framework

H.E Khaled Mohamed Balama
Chairman of NAMLCFTC



Authorities Involved

NAMLCFTC Structure

AUTHORITY MEMBERS

SUB COMMITTEES

- ✍ Ministry of Foreign Affairs and International Cooperation
- ✍ Ministry of Interior
- ✍ Ministry of Finance
- ✍ Ministry of Justice
- ✍ Ministry of Economy
- ✍ Ministry of Community Development
- ✍ Central Bank of the United Arab Emirates
- ✍ Federal Customs Authority
- ✍ Securities and Commodities Authority
- ✍ General Authority for Islamic Affairs and Endowments
- ✍ Federal Tax Authority

Authorities Involved

NAMLCFTC Structure

AUTHORITY MEMBERS

SUB COMMITTEES

- ☑ Federal Authority for Nuclear Regulation
- ☑ Supreme Council for National Security
 - ☑ Ports, Borders and Free Zones Security Authority
 - ☑ Signal Intelligence Agency
- ☑ Executive office of Anti Money Laundering And Combatting Terrorist Financing
- ☑ Financial Intelligence Unit
- ☑ State Security
- ☑ Abu Dhabi Police General Headquarters
- ☑ Dubai Police Force
- ☑ Ras Al Khaimah Police General Headquarters
- ☑ Dubai Financial Services Authority (DFSA) – Dubai International Financial Center (DIFC)
- ☑ Financial Services Regulatory Authority (FSRA) – Abu Dhabi Global Market (ADGM)
- ☑ Supreme Audit Institution

UAE Legal Framework on AML/CFT and BO

Federal Decree-Law

- No. (26) of 2021 (Amended)
- No. (20) of 2018

- **Federal Decree Law No (26) of 2021** to **Amend** certain provisions of Federal Decree Law No (20) of 2018 on Anti-Money Laundering and Combating the Financing of Terrorism and Illegal Organizations,
- **Federal Decree Law No (20) of 2018** on Anti-Money Laundering and Combating the Financing of Terrorism and Illegal Organizations

Cabinet Decision

- No. (24) of 2022 (Amended)
- No. (10) of 2019

- **Cabinet Resolution No (24) of 2022 Amending** some provisions of Cabinet Resolution No (10) of 2019 On the Executive Regulations Of Federal Decree-Law No (20) of 2018 on Combating Money Laundering and the Financing of Terrorism and Illegal Organizations,
- **Cabinet Decision No. (10) of 2019** concerning the implementing regulation of DL (20) of 2018 on Anti-Money Laundering and Combating the Financing of Terrorism and Illegal Organizations

UAE Legal Framework on AML/CFT and BO

Cabinet Decision
No. (109) of 2023

- **Cabinet Decision No. (109) of 2023** on Regulating the Beneficial Owner Procedures.

- Issued on **6th November 2023**

Previous Cabinet Decision

- No. (58) of 2020 (Abrogated)

- No. (34) of 2020 (Abrogated)

Cabinet Decision
No. (132) of 2023

- **Cabinet Decision No. 132/2023** Concerning the **Administrative Sanctions Imposed on the Violators** of Cabinet Decision No.109/2023 Concerning the Regulation of Real Beneficiary Procedure. Issued on **15th December 2023**

Scope of CD (109) of 2023

Applicable to: FIs, DNFBPs, VASPs

Under the Ministry of Economy

- **Registrar**

(authority having competence to supervise the trade names register for the various types of establishments registered in the State)

- **Licensed/registered legal person in the State**

- **Commercial Free Zones**

Exempt Legal Persons:

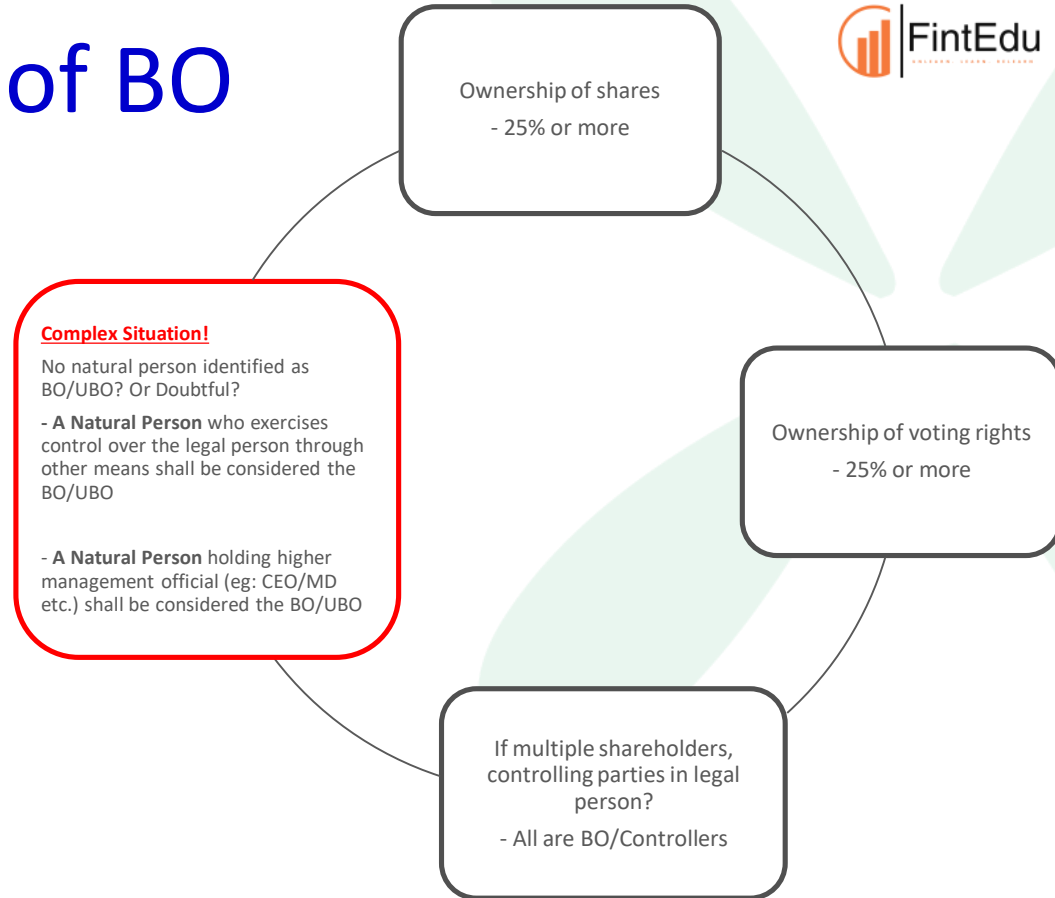
- **Listed on the regulated stock exchange or subsidiary of the listed entity**
- **Cos. wholly owned by the Federal or Local Govt. or any other cos. wholly owned by such cos.**
- **Government partners**

For Financial Free Zones *(BO compliance covered under DFSA, and FSRA rule book)*

Provisions of CD (109) of 2023 for - Legal Persons

Identification of BO

As per Article (5)



OECD Examples:

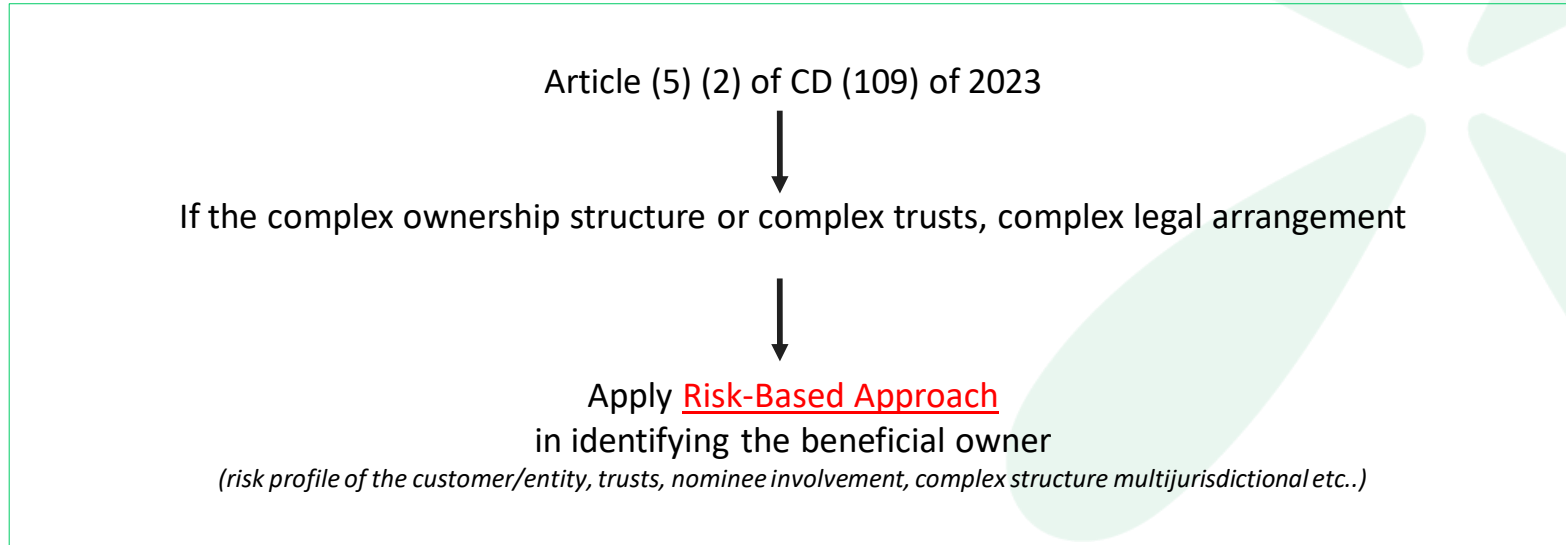
Direct and Indirect Ownership & Control



Figure Source: [oecd.org/tax/transparency/beneficial-ownership](https://www.oecd.org/tax/transparency/beneficial-ownership)

Identification of BO

Apply Risk Based Approach



Adopt a substantive approach while doing CDD rather than only the form

Figure Source: [oecd.org/tax/transparency/beneficial-ownership](https://www.oecd.org/tax/transparency/beneficial-ownership)

Reporting: When & What data provided to Registrar?

Register of:

- **Beneficial Owners**
- **Shareholders or Partners, (with Trustee or Nominee Board Member)**

3 Elements of data:

- **Adequate** (basic or advanced information-RBA)
- **Accurate** (correctness)
- **Up-to-date** (ongoing, as and when changed)

- **When applying for registration/license**
- **When there is any change or correction in BO information**

Beneficial Owner's Register:

Information to be included for each BO:

- ✓ *Full name, nationality, DOB, POB;*
- ✓ *Place of residence or address to which notifications are to be sent;*
- ✓ *Travel document/ID card details, country of issuance, expiry;*
- ✓ *Basis and date on which person became BO of legal person;*
- ✓ *Date on which person ceased to be BO of the legal person.*

Also refer to Article (8) (sub-clauses 3-5) of CD109 of 2023

Shareholders or Partners Register:

Information to be included for each shareholder/partner/Trustee/Nominee Board member:

- ✓ *No. of shares/stocks owned by each, categories, associated voting rights;*
- ✓ *Date of acquiring capacity*
- ✓ *In case of natural person:*
 - ✓ *Full name, nationality, DOB, POB,*
 - ✓ *Place of residence or address to which notifications are to be sent;*
 - ✓ *True copy of travel document/ID card details, country of issuance, expiry;*
- ✓ *In case of Legal person:*
 - ✓ *Name, legal form, AOA*
 - ✓ *HO address/main workplace address*
 - ✓ *If foreign legal person – legal reps’ name, address with evidence*
 - ✓ *The Statute (rule of law) or any other document approved by the concerned entity (Govt entity related to DL, CD) in the State*
 - ✓ *Senior management/managers (e.g. CEO, MD etc) names, travel document, ID details*
- ✓ *In case any partner/shareholder, acting as a Trustee/Nominee Board member data (name, address, nationality, DOB, POB, address, ID, travel document, date and basis of BO, cessation as BO date)*

2021 experience...

June 2021:

Notice via SMS for BO disclosure/forms by CFZ

*Dubai Economy invites you to register your establishment real beneficial owner as per the Cabinet Decision No. (58) of 2020 Regulating the Beneficial Owner Procedures. **Kindly register within three days to avoid legal actions***

*(<https://eservices.dubaided.gov.ae/rt/3799505269.0>) تنوه
اقتصادية دبي بتسجيل بيانات المستفيد الحقيقي للمنشأة الخاصة بكم وفق
في شأن تنظيم اجراءات المستفيد 2020 لسنة (58) قرار مجلس الوزراء رقم)
الحقيقي، آخر موعد لتسجيل بيانات المستفيد الحقيقي خلال ثلاثة أيام لتفادي
الإجراءات القانونية
(<https://eservices.dubaided.gov.ae/rt/3799505269.0>)*

Now:

At the time of opening a company, the Registrar takes the Beneficial Owner's information in their prescribed format (online form or physical form, depending on each licensing authority in the UAE)

Timelines: Provision of Information

Timeline	Information to Registrar
Within 60 days	From the <u>date of enforcement of this Decision</u> or from the <u>date of licensing and registration</u> of the legal person, submit the data of the Beneficial Owner's Records and the Register of Partners or Shareholders to the Registrar, and take reasonable measures to protect their records from damage, loss or destruction.
Within 15 days	The legal person shall provide any change or update in data to the Registrar within (15) Fourteen days from the date of change.
Within 14 days	The legal person shall provide any additional data the Registrar requests within (14) Fourteen days from the date of request. Exception for attorneys.
-	The licensed or registered Legal Person in the State should not issue bearer share warrants (A bearer share is a type of share that doesn't need to be registered under a specific person or business. The share will not be registered on any share registry and whoever holds the share certificate has full ownership of the share. A share warrant to bearer allowed the holder (bearer) of the warrant to transfer shares without an instrument (written document).
Within 15 days	When issuing shares or stocks in the name of persons or Board members, the legal person shall disclose within (15) fifteen days the details of such shares or stocks and the identity of the persons and Board members to the Registrar

Notification by Registrar –

Exemption to Attorneys, Independent legal Professionals/Auditors

- **Under Professional secrecy**

Attorneys and other independent legal professionals and independent statutory auditors shall be **exempt** from submitting any data required in the notification if obtained in the course of their assessment of the legal status of the legal person, his defense, or his representation before the judiciary, or the arbitration, mediation or conciliation procedures or the provision of a legal opinion on a matter related to judicial proceedings, including advising on initiating or avoiding such proceedings or inquiring about them whether such data were obtained before, during or after judicial proceedings or in other circumstances in which they are subject to professional secrecy.

...in case any notification is issued by Registrar requesting for information.

Liquidation Scenario

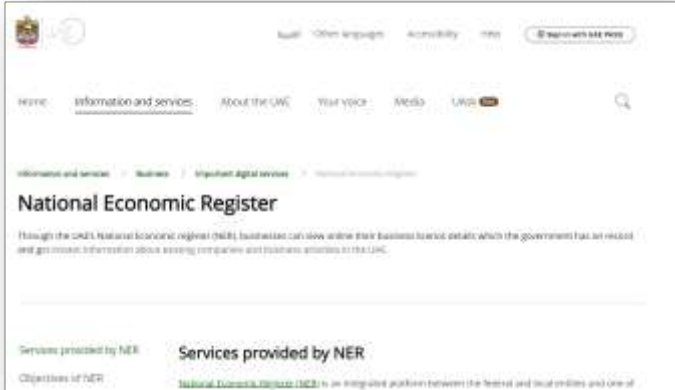
Timeline	Information to Registrar
Within 30 days	If the legal person is in the stage of dissolution or liquidation, the liquidator shall deliver the Beneficial Owner's Record and the Register of Partners or Shareholders, if any, or a true copy thereof to the Registrar within (30) thirty days from the date of his appointment.
5 years	The liquidator shall keep Records and all data included in this Decision for a period of (5) five years at least from the date of dissolution or liquidation.

Provisions of CD (109) of 2023 for - Registrars

Obligations of Registrar

- Forms, templates, collect, update, maintain data timely (issue notice);
- Human resources (within department);
- National Economic Register - Publically available;
- Data automation;
- Share data with Ministry for International cooperation for information exchange;
- Apply Risk Based Approach in the risk assessment of registered legal persons;
- Impose administrative penalties in case of violations
- Handle grievance applications
- Maintain data confidentiality
- Have unit of AML/CFT at Registrar to handle AML/CFT obligations

Public Registry: MOE – National Economic Register



Home: [Information and services](#) | [About the UAE](#) | [Your voice](#) | [Media](#) | [UAE](#)

Information and services: [Business](#) | [Important digital services](#) | [Personal records register](#)

National Economic Register

Through the UAE National Economic Register (NER), businesses can view and/or their business license details which the government has an interest and get more information about existing companies and business activities in the UAE.

Services provided by NER

Objectives of NER

Services provided by NER

[National Economic Register \(NER\)](#) is an integrated platform between the federal and local entities and one of



UNITED ARAB EMIRATES
MINISTRY OF ECONOMY

السجل الاقتصادي الوطني
National Economic Register

About | Inquiry Business License | Inquiry Business Activity | Trade Marks

Inquiry By License No

Local ED-License Number

Enter Display Number



View	Expiry date	Est. date	BL Status English	Registration ED Branch	Emirate English	BN EN	BN AR	# BL
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Public Registry: DIFC, ADGM



The screenshot shows the DIFC Public Register website. At the top left is the DIFC logo. To its right are navigation links for "Business", "Experience", and "Ecosystem". Below the navigation is a breadcrumb trail: "Home > Business in DIFC > Public Register". The main heading "Public Register" is displayed in a large, bold font.



The screenshot shows the ADGM Search Public Register interface. At the top left is the ADGM logo. Below it is a dark blue header bar. The main heading is "Search Public Register". There is a search form with the following elements:

- A dropdown menu labeled "Select Register you would like to search" with "All Entities" selected.
- A text input field labeled "Entity Name or Identifier or Trade Name".
- A link labeled "Advanced".
- A "Cancel" button.

Violations – Administrative Penalties

Cabinet Decision No. 132/2023 Concerning the Administrative Sanctions Imposed on the Violators of Cabinet Decision No. 109/2023 Concerning the Regulation of Real Beneficiary Procedures.

In the event of a violation of the provisions of this Decision, the Registrar may impose one or more penalties from the list of administrative penalties issued by a Cabinet Decision based on the proposal of the Minister of Finance and after coordination with the Minister.

Violations:

Administrative Penalties

(sample)

Refer Cabinet Decision No. 132/2023..for a full list

Sr.	Offence	Legal reference Cabinet Decision No. 109/2023	Administrative Sanctions		
			At first time	At second time	At third time
1	Legal person fails to keep appropriate, accurate, specific and updated data of real beneficiary or fails to properly record details of ownership of the real beneficiary.	Articles (6) and (7)	Written Notice to the Legal person to correct its position within (15) days from the date of issuing the offence notice.	AED 20,000 and notice to the Legal person to correct its position within (15) days from the date of issuing the offence notice.	AED 40,000 and notice to the Legal person to correct its position
2	The data set out in Clause (2) of Article (8) of Cabinet Decision No. 109/2023 referred to are not included.	Article (8)	Written Notice to the Legal person to correct its position within (15) days from the date of issuing the offence notice.	AED 20,000 and notice to the Legal person to correct its position within (15) days from the date of issuing the offence notice.	AED 40,000 and notice to the Legal person to correct its position
3	Legal person fails to create and keep data of record of real beneficiary	Article (8/1)	Written Notice to the Legal person to correct its position within (30) days from the date of issuing the offence notice.	AED 50,000 and notice to the Legal person to correct its position within (30) days from the date of issuing the offence notice.	AED 100,000 and notice to the Legal person to correct its position.
4	Legal person fails to update the record of real beneficiary	Article (8/1)	Written Notice to the Legal person to correct its position within (15) days from the date of issuing the offence notice.	AED 15,000 and notice to the Legal person to correct its position within (15) days from the date of issuing the offence notice.	AED 30,000 and notice to the Legal person to correct its position.

Grievance Filing



- Whoever has the capacity may file a grievance with the Registrar to the Grievances Committee on the administrative penalties that were imposed in accordance with the provisions of Article (18) of this Decision **within (30) thirty days** from the date of notification, and may submit a request to stop the implementation of administrative penalties, and the Committee shall decide on this request within (45) forty-five working days in accordance with the procedures applied thereby.
- The Minister shall issue a decision in coordination with the Registrar specifying the terms and conditions of grievances against the Decisions on administrative penalties before the Grievances Committee with the Registrar.

Role of TCSPs, Legal Firms, Auditors

Trusts

Purpose:
Privacy layer
Asset protection
Tax optimisation
Succession planning
Wealth management

- Various parties to trust are:
- Settlor – who establishes the trust
- Trustee – ongoing oversight, central source of info.
- Protector – oversees actions in best interest of beneficiaries
- Beneficiaries – entitled to the benefit from trust arrangement
- Any other natural person exercising ultimate control over the arrangement
- Trusts can have chain of ownership and control
- Ultimate effective control person – UBO important to identify

Legal Arrangements – TCSPs, Legal Professionals

- TCSPs play an important role in the establishment and administration of legal arrangements.
- In many countries, trust and company services (such as company formation and management) are offered by a range of different types of entities, including regulated professionals, such as lawyers and accountants.
- Although lawyers and accountants may be subject to regulation of their primary profession or business in some countries, the **provision of trust and company services** is one area where criminals may seek to abuse these professions to conceal beneficial ownership information, warranting specific regulatory oversight.
- In many countries, trust and company services are also offered by other companies that specialize in providing trust and company services, but which **may not be regulated about their profession or business**.
- **If there is no specific AML/CFT regulation** and a designated supervisor, such specialists **may be left unregulated**. Accordingly, this may **increase the AML/CFT risk** related to these providers.
- These professionals are required to understand the general purpose behind the structure and the source of funds in the structure and should be able to identify the beneficial owners. This is in addition to any obligations they will have under R.25

AML/CFT Obligations – TCSPs, Legal Professionals

Hence AML/CFT obligations for TCSPs

- CDD/EDD,
 - uncover corporate structure or trust arrangement
 - Identify nominees in the structure
 - Identify BO, person ultimately owing or controlling
 - Red flags around beneficial owner information
 - Identify the source of funds in structure
- and other compliance requirements.

Let us Simplify now:

How to Identify UBOs?

STEP 1:

Gather the company's data.

STEP 2:

Research the ownership structure.

STEP 3:

Detect and review the Ultimate Beneficiary.

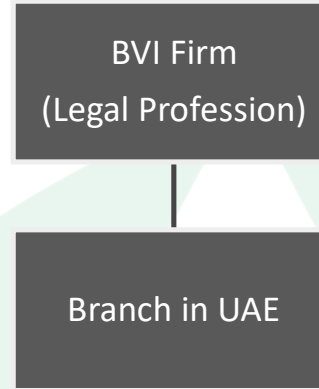
STEP 4:

Perform an AML/KYC check.

Example 1:

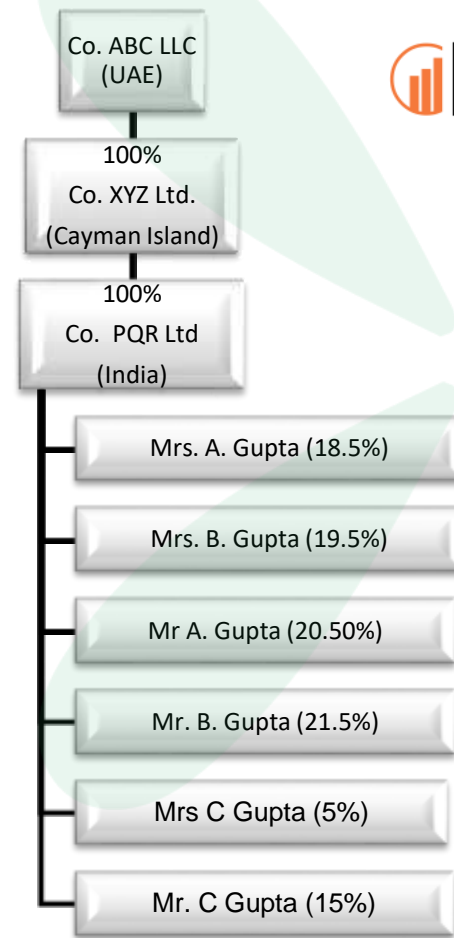
Structure

- A legal professional firm (law firm) having a registered entity in BVI,
- This BVI firm has a branch office in the UAE,
- The Branch office has a Managing Director, as per trade license, Mr. A,
- The BVI company has its main headquarters in Singapore,
- The Singapore firm has offices in Asia and the Americas and each firm has a CEO/MD,
- Mr B's father started this firm decades back and now Mr. B is actively involved in running this firm. He is the majority owner of the firm.



Example 2:

Gold and Jewellery Business



Thank you:

FinTax Compliance Consultants

050-6442723

mgarg@fintaxme.com