

## Germany's Action Plan on the Implementation of the G20 High Level Principles on Beneficial Ownership Transparency

Germany is fully committed to the 2013 G20 St. Petersburg Declaration calling on all partners to tackle the risks raised by opacity of legal persons and legal arrangements and to take measures to ensure that FATF standards regarding the identification of the beneficial owner of companies and other legal arrangements such as trusts will be met.

In order to comply with the G20 High Level Principles on Beneficial Ownership Transparency approved by the Brisbane Summit in 2014 the following measures will be taken:

### **Countries should have a definition of “beneficial owner”**

Germany and its European partners share a common definition of beneficial ownership in terms of AML/CTF that covers both the natural person who holds more than 25% of the shares and/or voting rights, and who is considered to be a legal owner under German company law, and the natural person who holds control through other means equivalent to the weight of 25% of the shares or voting rights. Moreover, in line with the 4<sup>th</sup> EU Anti-Money Laundering Directive the Federal Government will prepare draft legislation requiring that in cases where no natural person can be identified under the aforementioned criteria the relevant natural person who holds the position of a senior managing official has to be identified.

### **Countries should assess the existing and emerging risks associated with different types of legal persons and arrangements**

Germany is currently conducting a national risk assessment of money laundering and terrorist financing. Several surveys and studies have been carried out so far in order to assess the risk exposures both of the financial market and designated non-financial businesses and professions (DNFBPs).

### **Countries should ensure that legal persons maintain beneficial ownership information onshore**

The Federal Government will prepare draft legislation amending current customer due diligence obligations on beneficial ownership under the German Money Laundering Act by a new chapter on “Beneficial Ownership Information and Transparency”. The draft legislation will provide for an obligation of companies incorporated in Germany to collect and hold accurate and current information on their beneficial owners including the details of the beneficial interests held. In addition, the draft legislation will ensure that those companies are required to provide information on the beneficial owner to obliged entities when the obliged entities are taking customer due diligence measures.

**Countries should ensure that competent authorities have timely access to beneficial ownership information**

The Federal Government will prepare draft legislation requiring that beneficial ownership information held by companies can be accessed in a timely manner by competent authorities and FIUs.

**Countries could implement this, for example, through central registries of beneficial ownership of legal persons or other appropriate mechanism**

Already today, Germany has a data retrieval system in place providing up-to-date basic information on bank accounts and deposits including information on the beneficial owner. A special data base that can be accessed by competent authorities is supplied by banks with account information collected in the course of their due diligence obligations when opening new accounts or updating customer information on existing accounts.

Moreover, the Federal Government will prepare legislation to create a beneficial owner register under the German Money Laundering Act where beneficial ownership information of companies incorporated in Germany will be held. In line with the 4<sup>th</sup> EU Anti-Money Laundering Directive, the register will be accessible both for competent authorities, obliged entities when performing customer due diligence measures and for persons who are able to demonstrate a legitimate interest with respect to money laundering, terrorist financing, and the associated predicate offences such as corruption, tax crimes and fraud. Due to data protection provisions access for the latter can be restricted to a reduced set of beneficial ownership information.

**Countries should require financial institutions and DNFBPs, including trust and company service providers, to identify and take reasonable measures, including taking into account country risks, to verify the beneficial ownership of their customers.**

The German Money Laundering Act requires all obliged entities, including financial institutions, DNFBPs and trust and company service providers to identify the beneficial owner of their customers. In the future, the beneficial owner register will provide for information on beneficial ownership of companies incorporated in Germany. But still, obliged entities will have to take additional steps to verify the beneficial ownership information provided by their customers.

**Countries should ensure that their national authorities cooperate effectively domestically and internationally**

Germany is providing cooperation to the largest extent possible to national and international counterparts both horizontal and diagonal.

**Countries should support G20 efforts to combat tax evasion by ensuring that beneficial ownership information is accessible to their tax authorities.**

Already today, tax authorities have access to information held in the German data retrieval system which provides also for beneficial ownership information. In addition, the draft legislation to be prepared by the Federal Government will grant access for tax authorities to beneficial ownership information held both in companies and in the aforementioned register.

The mentioned draft legislation will be prepared when implementing the 4<sup>th</sup> EU Anti-Money Laundering Directive.