



EU AML/CFT Global Facility - GAFILAT - IDB

“Country experiences to verify beneficial ownership information”

Webinar, 10 July 2024

Briefing note

Disclaimer:

This document has been prepared by Andres Knobel and Alexandre Taymans with the support of Alexander Peschetz, Graham Barrow, Guillermo Hernández, María Cecilia Alvarez Bollea, Sébastien Guillaume, Andrej Leontiev and Nadiia Babynska in the framework of the technical assistance program provided by the EU AML/CFT Global Facility Project, financed by the European Union and implemented by Expertise France and GIZ.

This publication was co-funded by the European Union. Its contents are the sole responsibility of the EU AML/CFT Global Facility and do not necessarily reflect the views of the European Union.

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The **European Union Global Facility on Anti-Money Laundering and Countering the Financing of Terrorism (EU AML/CFT Global Facility)** is a technical assistance project supporting partner countries worldwide to strengthen their AML/CFT policy and operational frameworks.

Identified as the European Commission's mechanism to support countries engaged in strategic and operational AML/CFT reforms, the EU AML/CFT Global Facility offers various forms of technical assistance programs tailored to the partner countries' needs, on a demand-driven basis and in response to emerging threats.

The EU AML/CFT Global Facility project is funded by the European Commission's Service for Foreign Policy Instruments (FPI) and implemented by Expertise France and GIZ..

For further information please contact:

Alexandre TAYMANS, Key Expert on Beneficial Ownership

E-mail: ataymans@global-amlcft.eu

<https://www.global-amlcft.eu>

The **Latin American Financial Action Task Force (GAFILAT)** is a regionally based intergovernmental organization that brings together 18 countries from South, Central and North America: Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru and Uruguay. GAFILAT is an associate member of the Financial Action Task Force (FATF) and one of the FATF-style regional bodies (FSRBs) of the Global Network. GAFILAT's objective is to combat money laundering (ML), the financing of terrorism (FT) and the financing of the proliferation of weapons of mass destruction (PF) through a commitment to continuously improve national policies against both issues and to deepen the various cooperation mechanisms among member countries.

For further information please contact:

Guillermo Hernández, Technical expert

gbernandez@gafilat.org

The **Inter-American Development Bank (IDB)** provides tailored technical assistance to its member countries to adopt and implement reforms to strengthen their AML/CFT frameworks aligned with international AML/CFT Standards.

For further information please contact:

María Cecilia Alvarez Bollea, Modernization of the State Specialist

mariaalv@iadb.org

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Abbreviations and Acronyms

AML	Anti-Money Laundering
AML/CFT	Anti-Money Laundering and Counter Terrorism financing
AMLD	Directive 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, as amended by Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018
BO	Beneficial ownership
BOR	Beneficial ownership register
FIU	Financial Intelligence Unit
DNFBP	Designated Non-Financial Businesses and Professions
EU	European Union
EUGF	EU AML/CFT Global Facility on Anti-Money Laundering and Counter-Terrorist Financing
FATF	Financial Action Task Force
FI	Financial Institution
Legal vehicles	Legal persons, trusts and similar legal arrangements
UBO	Ultimate Beneficial owner

1 | Introduction

The following briefing note encapsulates the key highlights and insights from a webinar regarding countries experiences on beneficial ownership verification. This webinar was a follow-up to the three-day regional conference organised in Buenos Aires on November 7-9, 2023 regarding the synergies between beneficial ownership transparency, tax crimes and the fight against money laundering and terrorism financing.

The webinar was organised by the EU AML/CFT Global Facility project (EU Global Facility), GAFILAT and the Inter-American Development Bank. It featured Global Facility experts from Argentina, Austria, Belgium and Slovakia, as well as an expert from the UK. More than 150 experts participated in the webinar, representing competent authorities from 13 countries: Argentina, Bolivia, Brazil, Colombia, Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Peru, and Uruguay.

This event served as a vital platform for sharing knowledge, experiences and best practices on BO verification, especially ahead of the new round of FATF Mutual Evaluations that will have an emphasis on effectiveness and ensuring that BO information is adequate, accurate and up to date.

After the opening remarks there was a first introductory presentation that offered a menu of options for BO verification and the ideal scenario. Then, representatives from the BO registries of Belgium and Austria presented how they apply verification in their countries. This was followed by an expert and designer of the Slovak mechanism for BO verification of companies that engage with the State. The last presenter showed insights on his company's approach to applying big data analysis to detect unusual incorporations. Finally, there was a round for presenters to answer many questions from participants.

This briefing note aims to distil the valuable insights and outcomes of this webinar, providing a comprehensive overview of the discussions and presentations that unfolded.

2 | Opening remarks

The webinar was opened with remarks by representatives from the organising institutions, **Alexandre Taymans (EU Global Facility)**, **María Cecilia Alvarez Bollea (IDB)** and **Guillermo Hernández (GAFILAT)**. They explained that this webinar was a first follow up event after the successful Buenos Aires conference organised in Buenos Aires on November 7-9, 2023 regarding the synergies between beneficial ownership transparency, tax crimes and the fight against money laundering and terrorism financing. Based on the feedback to the Buenos Aires conference sent by participants, the issue of BO verification was chosen as a major issue for many jurisdictions. This webinar served to address these concerns and offer best practices from other countries that can be used as an example for Latin American jurisdictions.

The three organisations reiterated their plans to keep their collaboration to organise events and training on BO transparency for interested jurisdictions and to further develop partnerships with countries that need technical assistance as well as with other institutions and experts that can help tackle the region's challenges.

3 | Menu of options for BO verification

Andres Knobel (EU Global Facility) reminded participants that, in addition to complying with the international standards on BO Transparency, BO verification should be seen as a service offered by BO registries. He equated BO information to a puzzle, explaining that unverified data is similar to offering all the pieces of the puzzle mixed together for users to try and solve the puzzle, without ensuring that all the pieces are actually there. Instead, verified information means offering the solved puzzle for users (e.g. authorities) to directly “use” the data, rather than to spend time verifying it themselves. BO registries are in a better position to ensure that all the pieces of the puzzle are indeed available by the time companies are incorporated.

Andres offered many examples of how BO verification may be undertaken, from the simplest to the most sophisticated ways. For instance, using the example of the BO's address, he explained that BO verification could entail:



Data validity

The address field of the BO registration form is filled out and with an actual word/possible address structure, rather than just a number or symbol.



Consistency

The registered address matches government databases.



Possibility

The street name and number exist on Google Maps.



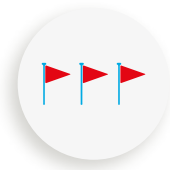
Plausibility

The address corresponds to a building (rather than a park or school)



Confirmation

A password is sent by post to the address to confirm that someone related to the entity has received it.



Red flags

Alerts for suspicious activities, e.g. frequent changes to the address or the address being used by hundreds of other entities, or by entities accused of wrongdoing.

Second, Andres focused on the activities or checks for each stage. He explained that the first stage involves the preparatory work. These could include the interconnection of national registries and databases, the national risk assessment (to know on which risky types of entities to focus), identifying typologies and finally running exploratory analyses of entities and BOs to identify basic features of corporate structures (e.g. number of layers, nationality of layers, number of BOs per entity, etc) as well as to determine the economic profile of BOs (e.g. level of income, level of assets, education, nationality, neighbourhood, credit card consumption, etc). These details can be used in the following stages to detect outliers (to detect outliers one must first know what is normal or typical).

The second stage involves the usual checks that take place. These may include data validity (e.g. ensuring all fields of the BO registration form are complete), consistency of the registered data with other databases or pre-filling of the forms. In this stage, reporting entities, e.g. notaries or lawyers may be involved to offer an additional check before information is registered.

The last stage is a continuum during the life of the entity. In this case, much of the information will not be directly available to the BO registry but depends on cooperation with other local authorities or reporting entities. For instance, a bank could analyse an entity's transactions and money transfers to detect potentially undeclared BOs (e.g. those who always received payments or withdraw money without being mentioned as BOs of the company). The tax authorities could look into electronic invoicing to detect possible undeclared corporate relationships, especially if a company has only one supplier or contractor present in all invoices. Utility companies could also determine the level of gas, electricity or water consumption,

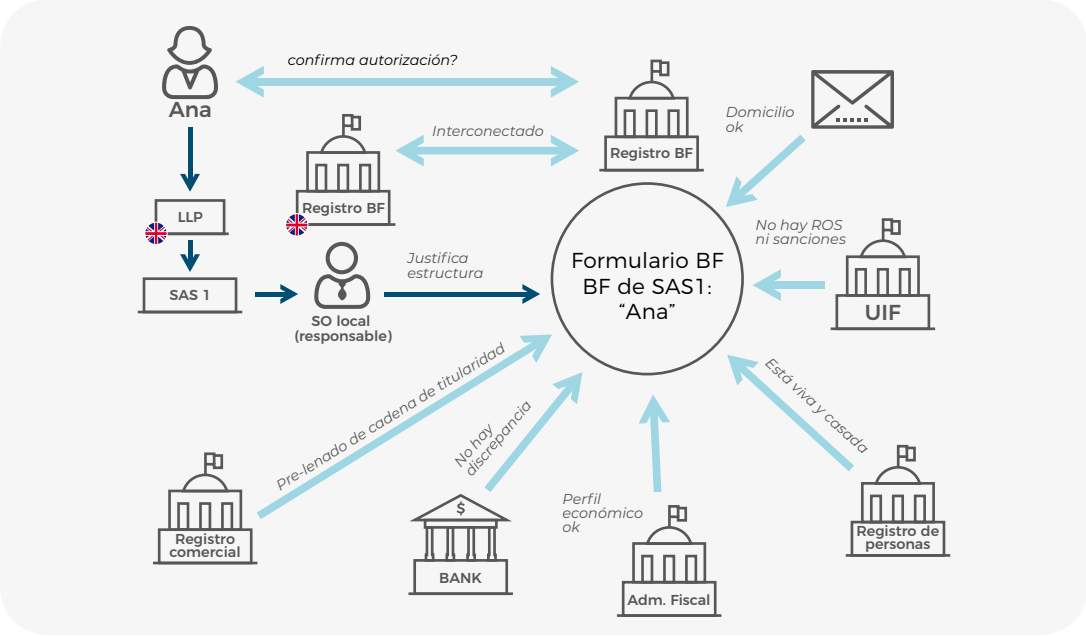
indicating whether a company has any activity at all, despite declaring to have employees and activities.

Finally, as described by the next figure, Andres presented his ideal case of verification, although he isn't aware of any country implementing all of these checks. Let's suppose that Company 1, a simplified joint-stock (SAS in Spanish) is owned by a British LLP and wants to register Ana as its BO. First, a public notary (reporting entity subject to AML provisions) will need to check the data similar to what happens in Uruguay or Slovakia (see below for details on Slovakia). When the notary is trying to register the data, the BO registry's system - based on interconnection with the national commercial register - will pre-populate the entity's information including its full ownership chain. In addition, the foreign BO or commercial registries involved will also be interconnected to confirm or pre-populate the data, in this case the British BO registry would confirm that Ana is the registered BO of the LLP.

To prevent cases of stolen identities, the BO registry would reach out to Ana directly, based on any registered contact details already held by the government (regardless of the contact details declared by the notary). This would allow Ana to confirm that she is aware and agrees to appear as the BO of the new company.

The address of the BO would also be confirmed by post. Ana will need to submit the password sent by post to confirm that her address is correct.

More sophisticated checks will take place. First, the natural person registry will confirm the age of Ana, her marital status and that she is alive. Second, the FIU would confirm that there are no suspicious transaction reports (STRs) or sanctions against the BO or the entity. Reporting entities would confirm whether there are any discrepancies between Ana's details and the BO information that they collected when the entity opened a bank account. Finally, the tax administration's economic profile will determine whether there are red-flags on Ana by comparing the income and assets of Company 1 and Ana's economic profile (her declared income and assets, the neighbourhood where she lives, her credit card consumptions, whether she receives any pension for low-income individuals, etc).



4 | BO verification in Belgium

Sébastien Guillaume (EU Global Facility) from Belgium's BO registry presented Belgium's BO verification mechanisms involving preventive measures and discrepancy reporting by reporting entities as required by the EU AMLD 5, where financial institutions and competent authorities (the latter, when appropriate) are required to report discrepancies to the BO register based on the information that they collect and hold, e.g. from customers as part of the due diligence process.

With regard to preventive mechanisms, Belgium implements several measures:



Validity checks. Belgium checks that registered information is possible (e.g. if it's a company, the BO cannot be a "settlor"), that the sum of registered shares doesn't surpass 100%, or that the BO is alive.



Consistency: to ensure consistency with other government databases, information is pre-populated based on the information held by the commercial registry or the civil registry's data (based on the BO's tax identification number or TIN). If there is missing or incorrect information, the legal representative must update the data in the corresponding registry (cannot be done with the BO registry). Moreover, to ensure consistency within corporate documents, entities have an obligation to provide supporting documents (e.g. relevant extracts from deeds and incorporation documents, copy of shares' register, extract from a foreign BO register, minutes from a General Assembly, shareholder's agreement, copy of an ID card or passport, etc).



Authorisation: Belgium contacts the BO to ensure they are aware and authorised their inclusion as a BO.



Accountability: Although Belgium doesn't require a reporting entity to register information, it requires the legal representative submitting the information to be identified. This person will be held accountable in case of filing wrong information.

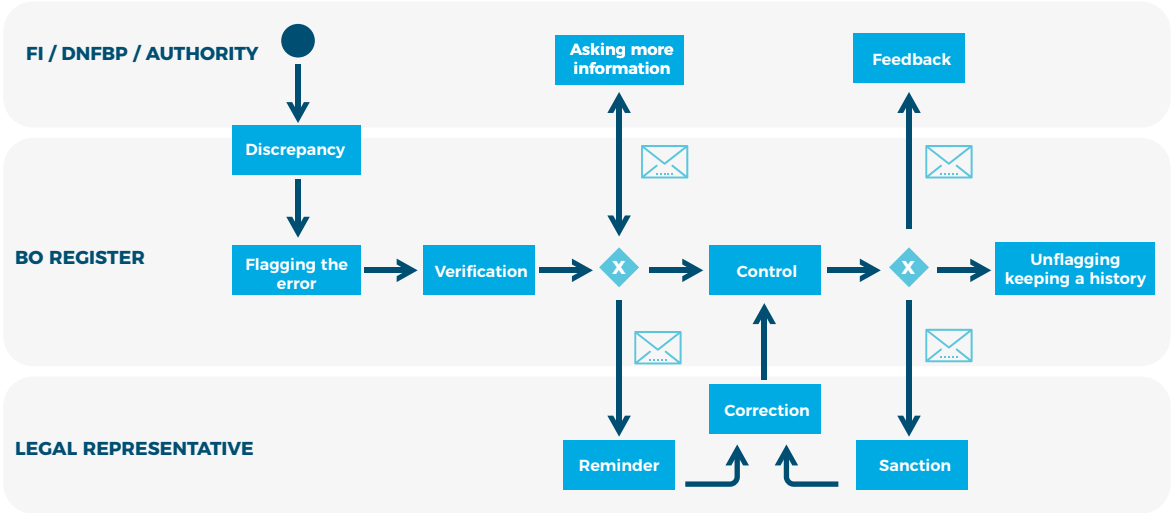
Belgium also engages in active outreach to ensure the population is aware of their BO obligations. This outreach is through reminders, authorities and financial institutions. Belgium has also produced guidance and videos to explain BO requirements. Finally, Belgium monitors compliance to identify ghost or inactive companies, which are ultimately struck off.

As for discrepancy reporting, Sébastien described Belgium's process which involves reporting entities (or other competent authorities), the BO register and an entity's legal representative. In addition to being required by the EU AML Directive, discrepancy reporting is a means of verification which relies on reporting entities.

Financial institutions are better equipped to verify given their access to more data (e.g. transactional data), more human resources and customer risk-based analysis. Data from the discrepancy reporting may also feed risk-analysis for the BO registry (companies with a bank account and no discrepancy reporting can be considered to have checked data and be considered low-risk).

As the figure below illustrates, the process starts with a discrepancy identified and reported by a reporting entity to the BO register. These discrepancies could refer to Information on the entity (e.g. wrong address), BO control information (e.g. the nature and extent of the control), information that is missing (e.g. BO missing, indirect ownership missing), or false information (e.g. identity theft).

The register will first flag the discrepancy to alert users and then verify the report, which may lead to requesting more details from the reporting entity and/or reminding the legal representative of the entity to correct the information. The BO register will then control the correction, and based on the results it will give feedback to the reporting entity and sanction the entity (if it was a case of non-compliance). After being corrected, the BO register will unflag the entry while keeping a history of the discrepancy. In case of persistent non-compliance, the company could be struck off the registry.



Sébastien mentioned some of the challenges faced by the new system, including small discrepancies (e.g. inconsistency between day of incorporation and data of publication on official gazette), discrepancies based on other sources (e.g. the commercial register), or the filing of discrepancy reporting as “tests”.

Interestingly, the implementation of an API to automate cross-checks highly increased the number of discrepancies, overwhelming the staff. For this reason, Belgium is working on a new strategy involving automatization with the commerce register, striking off an entity from the register if there is no annual confirmation coupled with discrepancies, sending warning letters before verification and implementing datamining to verify if the information has been modified.

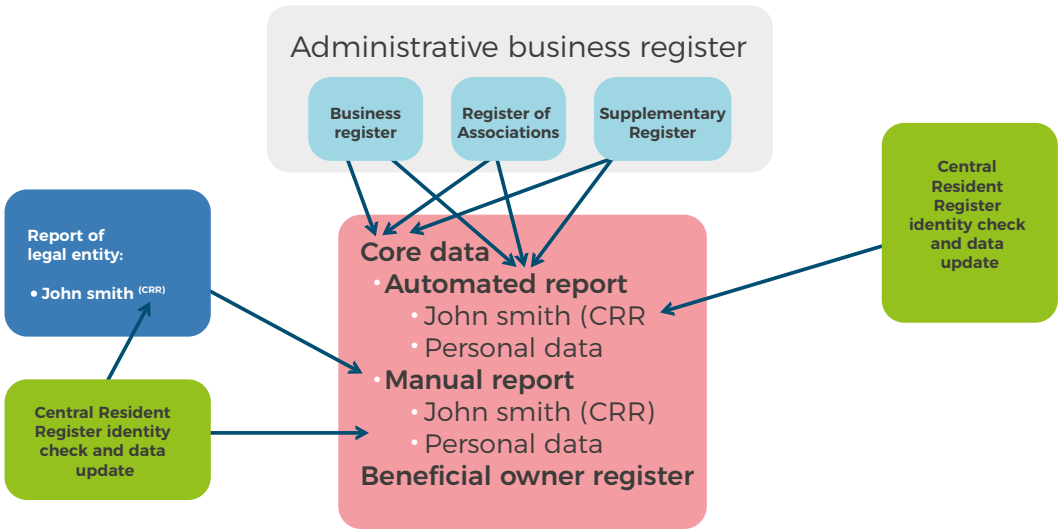
Belgium upgraded their system to address some issues. For example, to unify reports in case many financial institutions report discrepancies about the same entity, making it compulsory in the system to include proof for the discrepancy reporting. The law was also amended to protect the identity of the user who filed the discrepancy report.

5 | BO verification in Austria

Alexander Peschetz (EU Global Facility) from the Austrian BO registry presented the mechanism to verify BO information in Austria. There are two main mechanisms to verify BO information. One relies on the high interconnection of databases in the country. The other one relies on a multi-pronged approach to verification which involves high cooperation between the BO registry and competent authorities in charge of the national risk assessment and the FIU.

First, Austria enjoys a high level of automation and interconnection of databases, which allows a trove of data to be pre-populated or cross-checked, as the next figure shows. At the same time, the automation allows the BO registry to automatically impose fines whenever there is a case of non-compliance, for example with the timeframe to submit or update BO data.

First of all, for simple structures where the natural person shareholder is also the BO, information will be pre-populated into the BO registry from other databases (e.g. business register, register of associations). In cases where it refers to another BO that has to be manually registered, information will be automatically populated or cross-checked by the Central resident register (as long as it involves a local resident about whom Austria has recorded details). In other words, most of the information in the Austrian BO registry is pre-populated from other government database, reducing the risk of inconsistency.



A second measure, for more complex cases, involves a multi-pronged approach to verification.

First, entities themselves and reporting entities have an obligation to verify BO data. Reporting entities also have an obligation to report discrepancies, by verifying and comparing the BO data available in the BO registry. This discrepancy reporting required by the EU AMLD is kept at low levels in Austria because financial institutions encourage their customers to correct the data themselves before they file a discrepancy reporting.

Second, the BO registry relies on the national risk assessment to identify typologies, define parameters and threat scenarios. This allows the BO registry to assess each company for red-flags and receive an automatic risk-score (based on factors determined based on the national risk assessment). Each month cases for inspections are selected automatically (1/3 random, 2/3 risk based). Monitoring is also updated based on higher risk cases, discrepancy reports (e.g. if information has not been corrected within 6 months), discrepancy reporting by authorities, individual audits of documents and financial offences notified by the anti-fraud office.

This ongoing monitoring creates synergies and cooperation among authorities, where competent authorities share new criminal trends and the BO registry shares trends in the concealment of beneficial ownership.

Austria's verification system is currently focusing on nominee arrangements, foundations and trusts without declared beneficiaries, bogus undertakings and evasion of sanctions imposed by the EU. In the near future, it will add cooperation with the tax administration, for instance to detect cases of nominees (e.g. the tax authority knows if an individual is a lawyer or tax planner, plus tax information would reveal if they have the economic profile to own 100 companies or not). At the same time, tax information on withholding taxes based on distributions could help detect cases of trusts and foundations that declare not to have beneficiaries.

6 | BO verification in Slovakia

Andrej Leontiev (EU Global Facility) is a Slovak lawyer and co-author of the special Slovak legislation concerning identification and registration of BOs of the entities receiving public funds. These entities must be registered in a publicly accessible online registry to be eligible for relationships with the State. This special BO verification mechanism applies exclusively to local or foreign entities receiving public funds (or other non-monetary consideration), e.g. based on procurement contracts or subsidies. This public BO registry is different from the general BO register that applies to all other Slovak companies.

Andrej explained this special BO verification system relies primarily on authorised persons (AP), who must verify BO data before an entity is allowed to be entered into the registry to be able to receive funds from the State. "Authorised persons" may be an attorney-at-law, notary, bank or a branch of a foreign bank, auditor, or tax advisor. Foreign professionals with registered seat or place of business in the Slovak Republic may also act as authorised persons. The key element is that they must be resident in Slovakia to be held accountable for the verification (as a guarantor, although the main responsible party for the accuracy is the registered entity).

The authorised person must determine and verify the BOs and this information (a description of the steps made to verify the information) will also be registered and publicly accessible.

After registration, a second mechanism comes into place. Based on the public access to the BO information and the document on the verification, any member from the public may object to the registered information. In this case, Slovakia is also innovative because there is a shift of the burden of proof. Unlike general legal principles, where whoever invokes a fact must prove it, when a person objects to the information in this special registry, it is the registered entity who must prove that the registered data is correct.

This approach is especially relevant when it comes to BO transparency. If the ownership structure involves foreign entities, it will be impossible for someone from the general public, and very timely even for a judge, to obtain information from abroad. In contrast, the registered entity will have an incentive to obtain information from its parent entity to prove that the registered information is correct in order to remain in the registry.

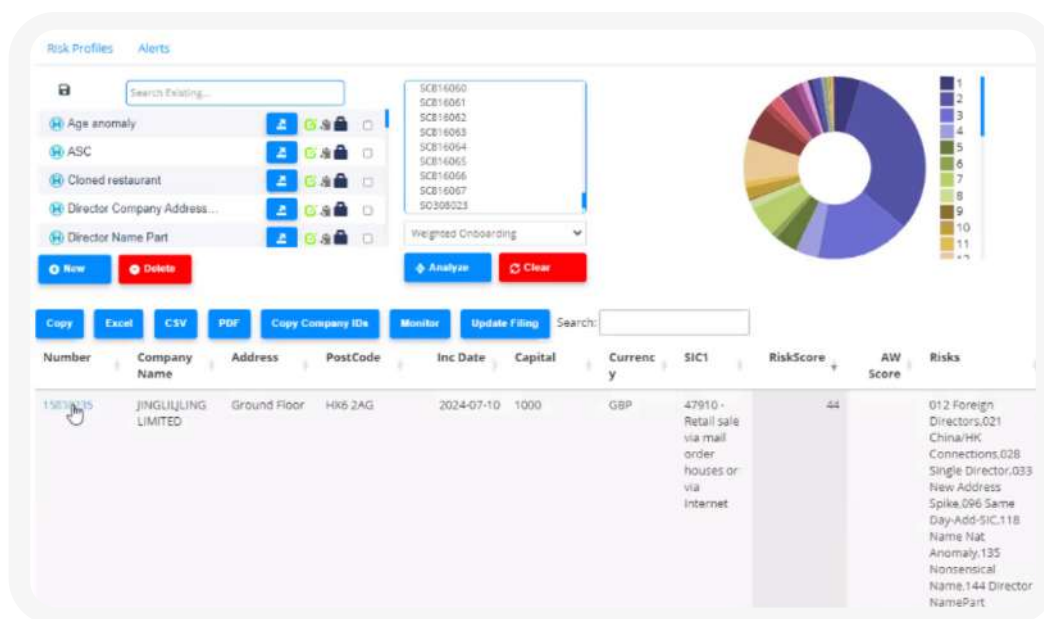
Entities whose information was objected, must prove the completeness and accuracy of the data. Otherwise, they will be subject to a fine and removal from the registry, preventing transactions with the State. The court, however, doesn't determine who the correct BO is, but rather confirm whether the entity sustained the burden of proof.

7 | Red-flags in real time for incorporated companies in the UK

Graham Barrow (The Dark Money Files) is one of the founders of Risk Alert 247, a company that offers red-flagging analysis in real time about company incorporation in the UK thanks to Companies House open data beneficial ownership registry.

Rather than looking at particular suspicious cases, Graham showcased how his company's software can be used to detect suspicious patterns during company incorporation. This is a problem for the UK given that companies may be created remotely in 30 minutes at a rather low cost (50 GBP).

Graham's system, which is interconnected to the UK BO registry, uses its own algorithms to detect the riskiest cases. It also explains the risk factors. As illustrated in the next figure, risk factors may include foreign directors, an address that has never been used before to incorporate an entity but that appears suddenly related to four new companies, anomalies with the company name (the company name is a combination of the director's name, suggesting the involvement of an algorithm to create the name), and the fact that the four companies related by the address share the same SIC (code of activity) and incorporation date.



When looking at Companies House specific details on the company, more peculiar data is revealed, such as names in Chinese, referring to individuals living in very small districts of China, of a relatively young age, but yet with a declared British nationality.

None of this information would suggest that an illegal activity is taking place. However, the identified red-flags should prompt more investigation by authorities depending on the actions or activities of these companies (e.g. looking into their declared income, contractors, customers, etc). Similarly, any financial institution would have enough data to ask questions in case any of these companies tried to open a bank account with them.

One could imagine what other information and checks could be carried out, for countries establishing such an advanced analysis at the time of incorporation based only on company name, address, SIC code and a few other details. For instance, the national civil registry could confirm whether individuals with those names actually have a British nationality or whether the registered address corresponds to a real building.

8 Next Steps

Based on the success of the webinar and the interest by participants, countries will be able to consider any of the presented mechanisms for their own verification systems.

The organisers will convene another event to continue the work, synergies, cooperation and trust among local and regional authorities, while being inspired from more best practices and learning about new tools and technologies.

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