

# AFG'S RESPONSE FAFT CONSULTATION ON RECOMMENDATION 24

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# FAFT consultation on Recommendation 24 – AFG's Response

The Association Française de la Gestion financière (AFG) represents and promotes the interests of third-party portfolio management professionals. It brings together all asset management players from the discretionary and collective portfolio management segments. These companies manage at end 2019 more than €4,000 billions in assets, i.e. a quarter of continental Europe's assets under management.

The AFG's remit:

- Representing the business, financial and corporate interests of members, the entities that they manage (collective investment schemes) and their customers. As a talking partner of the public authorities of France and the European Union, the AFG makes an active contribution to new regulations,
- Informing and supporting its members; the AFG provides members with support on legal, tax, accounting and technical matters,
- Leading debate and discussion within the industry on rules of conduct, the protection and economic role of investment, corporate governance, investor representation, performance measurement, changes in management techniques, research, training, etc.
- Promoting the French asset management industry to investors, issuers, politicians and the media in France and abroad. The AFG represents the French industry - a world leader - in European and international bodies. AFG is of course an active member of the European Fund and Asset Management Association (EFAMA), of PensionsEurope and of the International Investment Funds Association (IIFA).



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## RISK-BASED APPROACH FOR FOREIGN LEGAL PERSONS

*1. Should countries be required to apply measures to assess the ML and TF risks to all types of legal persons created in the country and also to at least some foreign-created legal persons and take appropriate steps to manage and mitigate the risks*

Risk country associated to a client is already taken into consideration in due diligence processes. Rather than new measures, we are in favor of jurisdictions ensuring beneficial ownership registration and organizing regular updates of the data in the registries.

*2. What constitutes a sufficient link with the country? How should countries determine which foreign-created legal persons have a sufficient link with the country? Is there an alternative standard to “sufficient link” that could be used? What are the practical issues met/envisaged regarding the identification and risk assessment of foreign created legal persons?*

To facilitate the research of information in a homogeneous way, AFG suggests considering the domiciliation in a country as a sufficient link.

## MULTIPRONGED APPROACH TO COLLECTION OF BENEFICIAL OWNERSHIP INFORMATION

*3. (a) What do you see as the key benefits and disadvantages of a BO registry, and (b) what are the alternative approaches to registries, such as BO information held by companies, FIs, and DNFBPs, and their key benefits and disadvantages?*

Beneficial ownership registries are the most effective solution insofar as the legislation of each country specifically provides:

- who can have access to the registry,
- a free access for them,
- a legal obligation for the concerned entities to give all the needed information and to update it regularly in the registry under the authority of the local regulator.

*4. What are the key attributes and role regulators play in ensuring that a BO registry has adequate, accurate and up-to-date BO information available for competent authorities? Does this make a difference if BO information is held by a BO registry and alternative approaches to registries (e.g. BO information held by companies, FIs, and DNFBPs)?*

*5. How should the accuracy of BO information disclosed to the BO Registry be confirmed?*

*6. What role should the private sector play, if any, in ensuring that the BO information is adequate, accurate and up to date? What lessons should be learned from private sector use of existing registries?*



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*7. What effective mechanisms (aside from a BO registry) would achieve the objective of having adequate, accurate and up-to-date BO information for competent authorities? What conditions need to be in place for authorities to rely on financial institutions and DNFBPs to hold BO information? How could BO information held by obliged entities as part of their CDD be utilised in this regard?*

Regulators play an essential role in ensuring that a BO registry has adequate, accurate and up-to-date BO information available.

It seems to us that the private sector cannot go beyond what is on the registries. It is up to the local authorities to establish rules for publication in registry by the interested parties themselves. It is obvious that asset management companies will not be able to obtain a more reliable information than the one published by the interested parties themselves.

Having a centralized tool in each country that everyone can rely on seems to be the most effective solution ensuring a guarantee of quality and safety.

*8. How can the compliance burden on low-risk companies be reduced, without creating loopholes that could be exploited by criminals?*

Low-risk companies should be exempted from the compliance burden: there is no point in imposing additional obligations on low-risk companies which already offer, through the regulations applicable to them, information on their beneficial owners: whether listed companies or regulated companies, as asset management companies, which are controlled by the French Financial Markets Authority (AMF) and the French Prudential Supervision and Resolution Authority (ACPR).

## **ADEQUATE, ACCURATE, AND UP-TO-DATE INFORMATION**

*9. Who should play a role in the verification of BO information? How effective is the framework on discrepancy reporting? What are the possible verification approaches that can balance the need for accuracy and compliance cost?*

The countries regulations should give a specific role to the auditors of the entities for them to be in charge to verify annually for each entity that the entries in the registry are up-to-date and accurate.

*10. Should BO registries (where they exist) follow a risk-based approach to verifying of BO information?*

See above.

*11. How frequently should disclosed BO information be updated or re-confirmed (e.g. annually, within a set period after a change is made)?*

Annual update / confirmation by registered entities should be required.



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## ACCESS TO INFORMATION

*12. Should access to a BO registry or another mechanism be extended beyond national (AML/CFT) competent authorities (e.g. to AML/CFT obliged entities such as financial institutions and/or DNFBPs)?*

AML/CFT obliged entities should be authorized to consult the registries.

*13. What measures should be taken to address concerns relating to privacy, security and potential misuse of BO information, arising from access to BO information?*

In order to meet privacy requirements, access to the registry should be limited to only authorized persons, the list of which must be clearly defined.

## BEARER SHARES AND NOMINEE ARRANGEMENTS

*14. Should issuance of new physical bearer shares without any traceability be prohibited?*

*15. Should existing physical bearer shares be immobilised or converted?*

*16. With regard to nominee arrangements, what are the benefits and disadvantages of requesting nominees directors and stakeholders to declare their status? Are there alternative equivalent measures that would offer the same level of transparency?*

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