

Annex

To facilitate the provision of information on legislation, policies, practices and institutions related to promoting beneficial ownership information transparency, including existing registry(ies) and mechanism(s) to make requests for such information, the Secretariat has prepared the following questionnaire as a guide that States parties may wish to use. This questionnaire follows the same format as the questionnaire that was circulated in May 2022 in Note Verbale CU 2022/156(A)/DTA/CEB/CSS. If your Government responded to the previous questionnaire please only provide new and/or updated information.

The secretariat also wishes to draw the attention of the Government to the conference room paper entitled “Good practices and challenges with respect to beneficial ownership and how it can foster and enhance the effective recovery and return of proceeds of crime” (available at [CAC/COSP/WG.2/2022/CRP.1](#)) and to the contributions received in the response to the aforementioned Note Verbale (available on the webpage of the [16th session of the Working Group on Asset Recovery](#)).

Collecting the information for this questionnaire may require cooperation by several different agencies/authorities. States parties may wish to send the questionnaire to the following agencies/authorities, depending on their national system for obtaining and recording information on legal persons and legal arrangements in their country, e.g.:

- Company registry and any other relevant registry(ies)
- Agency(ies)/authority(ies)/body(ies) responsible for obtaining and maintaining beneficial ownership information
- National competent authorities responsible for international cooperation in criminal matters, including freezing and confiscation of criminal proceeds

Questionnaire on Beneficial Ownership Information

Contact Information

Please provide contact details for potential follow-up questions. Contact details will be treated confidentially.

Country:

Government Agency:

Department:

Contact Name:

Position:

Phone Number:

Email:

1. Definition of beneficial ownership & mechanisms for obtaining beneficial ownership information

- 1.1 Please provide the definition of “beneficial ownership” in your country for: (a) legal persons; and (b) legal arrangements, including the relevant legislation (if applicable). Please describe criteria and thresholds that are applied to determine beneficial ownership, including any criteria for exercising control without legal ownership (e.g. voting rights, right to appoint or remove board of directors).

(a) According to the “INSTRUÇÃO NORMATIVA RFB Nº 2119, DE 06 DE DEZEMBRO DE 2022”, for legal persons the following shall be considered as beneficiaries owner: i) the natural

person who, ultimately, directly or indirectly, owns, controls or significantly influences the entity; or II - the natural person on whose behalf a transaction is conducted. The significant influence referred to in item I of the caput is presumed when the natural person: I - owns more than 25% (twenty-five percent) of the entity's capital stock or voting rights, directly or indirectly; or II - directly or indirectly, acting individually or jointly, holds or exercises the preponderance in the social deliberations and the power to elect the majority of the entity's administrators, even if without controlling it.

(b) According to the same legislation, for legal arrangements, will be considered beneficial owners: I - the founders; II - the administrators; III - the curators, if any; IV - the beneficiaries; and V - any other natural person exercising effective final control of the trust. Access to basic information on legal persons.

1.2 Please describe the **process** for obtaining *basic information* on legal persons created or registered in your country, including the role of the company registry.

It is possible to obtain *basic information* on legal persons created or registered in Brazil (including beneficial ownership) online and instantly through the fiscal authority website, Redesim. Besides that, the civil registry offers *basic information* of non-commercial legal persons and the states company registries also offers *basic information* on legal persons of commercial purposes.

1.3 Please list the **categories** of *basic information* on legal persons that is obtained and recorded by the company registry (or other relevant registries), e.g. name of entity, date of incorporation, tax ID number, etc.

It is available: i) Name of entity; ii) date of incorporation; iii) tax ID number; iv) address; v) phone number; vi) share capital; vii) shareholders; and viii) directors.

1.4 Is the company registry available publicly & online in your country? **YES**

If **YES**, please provide links to the company registry and any other relevant registries of legal persons, or provide details about how the public can access them.

https://solucoes.receita.fazenda.gov.br/Servicos/cnpjreva/Cnpjreva_Solicitacao.asp

Please note that the beneficial ownership information is available at the QSA.

2. Access to beneficial ownership information of legal persons

2.1 Through which mechanism(s) can competent authorities (such as law enforcement, police, financial intelligence unit and tax agencies) access *beneficial ownership information* on companies and other legal persons created or registered in your country. Please select all that apply.

- Δ Through a registry/registries with beneficial ownership information
- Δ Through a different mechanism

If **REGISTRY**, please provide further details on such registry(ies) including:

- Authority(ies)/agency(ies) responsible for obtaining and maintaining beneficial ownership information and for maintaining the register(ies). Please list if more than one;
 - i) Receita Federal do Brasil (fiscal authority) ;
 - ii) Departamento Nacional de Registro Empresarial e Integração (DREI).
- Categories of beneficial ownership information (data fields) obtained, recorded and maintained on the registry(ies), e.g. name, nationality, date of birth, address, etc.;
 - i) Name;

- ii) status on the company.
- Types of legal entities covered within the scope of the beneficial ownership registry(ies), including any exempt entities;
 - i) Association;
 - ii) Cooperative Society;
 - iii) Individual limited liability company;
 - iv) Individual entrepreneur;
 - v) Private foundations;
 - vi) Football Corporation;
 - vii) Open Joint-Stock Company;
 - viii) Limited Partnership by Shares;
 - ix) Limited liability company.
- Details of the registry's(ies') access policy:
 - Is the information on the registry(ies) available to the public? **YES**
 - If **YES**, please include a link(s) to the registry(ies).

https://solucoes.receita.fazenda.gov.br/Servicos/cnpjreva/Cnpjreva_Solicitacao.asp

- Does accessing beneficial ownership information in the registry(ies) entail any costs? **No**
- Does the registry(ies) provide features to search information by different types of information, e.g. legal entity name, name of director, name of beneficial owner, by first or last name, by business address, by registered agent? Is it possible to search for a combination of information (Boolean searches)? **No**
- Frequency of updates of information and triggers for updates;

The “INSTRUÇÃO NORMATIVA RFB N° 2119, DE 06 DE DEZEMBRO DE 2022”, in the article 22, requires that the legal persons are obliged to immediate update the information
- Any mechanisms to verify beneficial ownership information submitted to the registry(ies) by legal persons or their representatives (if they exist).

The company register has the obligation to ensure that the information is correct.

- 2.2 Please describe any other sources (mechanisms) through which competent authorities/agencies can access beneficial ownership information in your country. In each case, please describe how beneficial ownership information on companies and other legal entities is made available to authorities and/or the public (if applicable).

Examples may include through private-public partnerships (e.g. involving financial institutions, notaries and/or corporate service providers), through stock exchange or security exchange commission, or disclosure obligations for participation in public procurement processes, etc.

- 2.3 Are foreign legal persons, foreign (express) trusts or foreign legal arrangements allowed to operate in/own assets/ and/or register in your country? **YES / NO**
If **YES**,

- how is basic information on these arrangements recorded (if at all)?
- how is beneficial ownership information on these arrangements recorded (if at all)? Please provide details of the relevant legislation and practices.

3. Access to basic information and beneficial ownership information of (express) trusts and other similar legal arrangements

- 3.1 Does your country recognize (express) trusts or other similar legal arrangements? **NO**

- If **YES**, please provide a broad overview of your country's system and mechanisms for obtaining beneficial ownership information on (express) trusts and other similar legal arrangements created or registered in your country.
- If **NO**, please skip to question 5

- 3.2 How is *basic information* on (express) trusts and other legal arrangements obtained and recorded in your country?

- 3.3 How is *beneficial ownership information* on (express) trusts and other legal arrangements obtained and recorded in your country?

Δ Through a registry/registries with beneficial ownership information

Δ Through a different mechanism

Δ Competent authorities do not currently have access to beneficial ownership information

If **REGISTRY**, please provide details on the registry(ies), authority(ies)/agency(ies) in charge of maintaining the registry(ies), type of information collected, and details on the access policy.

If **ALTERNATIVE MECHANISM**, please provide details on the mechanism, type of information collected, and details on the access policy.

4. Sanctions

- 4.1 Please describe the types of sanctions, sanctionable conduct, and targets of sanctions for non-compliance with beneficial ownership disclosure regulations (whether on the registry(ies) or through an alternative mechanism).

- 4.2 Please describe the powers available to the designated authority(ies)/agency(ies) to enforce sanctions for non-compliance with the beneficial ownership disclosure requirements, **including any statistics on enforcement of such sanctions.**

5. International Cooperation, asset recovery and challenges

- 6.1. Does your country make beneficial ownership information available to foreign competent authorities (directly or upon request)? Please provide details of the relevant legislative and regulatory framework in your country that allows for the international exchange of such information.

As indicated in previous answers, some information is already available online, through public access. If it is necessary to obtain documents or information in addition to those available online, the foreign authority may seek international legal cooperation to obtain such documents and information (for example, from company registries or notaries). The basis will be bilateral or multilateral agreements on mutual legal assistance in criminal matters.

- 6.2. Please describe how foreign competent authorities may request or access beneficial ownership information on legal persons and legal arrangements formed in your country. Which agency(ies)/authority(ies) is/are responsible for receiving and responding to foreign requests? **Please provide contact information and instructions.**

The requests for international legal cooperation will be directed to the Brazilian central authority (Ministry of Justice and Public Security) in cases where the requests are based on treaties or directed to the Ministry of Foreign Affairs if the request is based on a reciprocity commitment.

Requests may be sent to the following e-mail address: cooperacao@mj.gov.br

- 6.3. In your opinion, what are the main challenges faced by *foreign competent authorities* to access beneficial ownership information held in your country?

No difficulties in obtaining the information are identified. The challenge is to know the path of legal cooperation.

- 6.4. In your opinion, what are the main challenges faced by *competent authorities of your country* to access/receive beneficial ownership information held in a foreign country?

- 6.5. Do you have any case studies or examples where the transparency of beneficial ownership has *enabled or enhanced the effective recovery and return of proceeds of crime in (or for) your country*?

6. Good Practices for Beneficial Ownership Transparency

- 7.1. Has your country implemented any specific good practices relating to Beneficial Ownership Transparency that you wish to highlight? *Examples could include good practices in verification, data format, searchability, use of technology, enforcement of sanctions, automatic red flagging, use or risk-based approach.*

7. Follow-up to the special session of the General Assembly against corruption

- 8.1. Please describe any other measures, if any, that your country may have taken to implement paragraph 16¹ of the political declaration adopted by the General Assembly at its special session against corruption held in June 2021.

¹ 16. We commit to making efforts in international cooperation and taking appropriate measures to enhance beneficial ownership transparency by ensuring that adequate, accurate, reliable and timely beneficial ownership information is available and accessible to competent authorities and by promoting beneficial ownership disclosures and transparency, such as through appropriate registries, where consistent with the fundamental principles of domestic legal systems and using as a guideline the relevant initiatives of regional, interregional and multilateral organizations against money-laundering. To this end, we will develop and implement the measures necessary to collect and share such information on the beneficial ownership of companies, legal structures and other complex legal mechanisms, and we will enhance the ability of competent authorities in this regard.