

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

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,

=> *[(a) + (b)] the natural person(s) who ultimately owns or controls an entity through direct or indirect ownership*

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 shareholding of 25 % plus one share shall be an indication of direct or indirect company ownership, control by other means can be ascertained if a natural person can control the majority of voting rights or sufficient voting rights to influence the entity’s decisions, if it is not possible to ascertain the natural person(s) ultimately owning or controlling the entity the beneficial owner(s) will be considered the natural person(s) who hold the position of senior managing official(s) of the entity*

relevant legislation (if applicable).

=> art. 20, art. 21 D.Lgs. n. 231/2007

2. Access to basic information on legal persons

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

=> *companies (e.g. LLC, LTD) acquire legal personality when registered in the business register, a fully electronic public register using computerised techniques since 1996, managed at local level by Italian Chambers of Commerce, under the supervision of MiMIT and a local judge*

2.2 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.

=> *registration, name, details, contacts, address of the registered office, PEC (Certified E-mail), registered office, tax code/VAT registration number, legal form, date of foundation, corporate aim and partnership capital, activities carried out, quality certificates, certifications, administrative positions, control positions and qualifications, corporate bodies, owners and partners with relevant quotas, registers, roles and licences, secondary offices and local units*

2.3 Is the company registry available publicly & online in your country? **YES / NO**

=> **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.

=> *italianbusinessregister.it, registroimprese.it*

3. Access to beneficial ownership information of legal persons

3.1 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.

Through a registry/registries with beneficial ownership information

Through a different mechanism

Competent authorities do not currently have access to beneficial ownership information

=> *implementing regulation is in the process of being adopted, competent authorities will have shortly access to beneficial ownership information of entities via the business register*

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;

=> *Italian Chambers of Commerce, Unioncamere, Infocamere*

- Categories of beneficial ownership information (data fields) obtained, recorded and maintained on the registry(ies), e.g. name, nationality, date of birth, address, etc.;

=> *name, surname, place and date of birth, address and tax ID number*

- Types of legal entities covered within the scope of the beneficial ownership registry(ies), including any exempt entities;

=> *companies (e.g. LLC, LTD), other legal persons (e.g. associations, foundations), trusts and other legal arrangements*

- Details of the registry's(ies') access policy:
 - Is the information on the registry(ies) available to the public? **YES / NO**

=> *NO*

- If **YES**, please include a link(s) to the registry(ies).
- If **NO**, please list the authorities/agencies that have access to this information, or that can request access.

=> *AML authorities, Magistrates, Tax authorities, obliged entities, natural and legal persons having a legitimate interest for accessing the register*

- Does accessing beneficial ownership information in the registry(ies) entail any costs?

=> *YES, for obliged entities and natural and legal persons having a legitimate interest for accessing the register*

- 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)?

=> *YES, when operational it will be possible to search for legal persons, trust and other legal arrangements name and/or tax ID number*

- Frequency of updates of information and triggers for updates;

=> *within 30 days in case of new entities or in case of changes, if no changes occurred information is confirmed yearly*

- Any mechanisms to verify beneficial ownership information submitted to the registry(ies) by legal persons or their representatives (if they exist).

=> *information is verified with legal ownership (available in the business register) and will be made available to AML authorities for cross-checking with other information (tax authorities, police, ...)*

3.2 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).

=> *when operational via a web portal and a webservice, in line with current technical regulation adopted by the Italian Government (AGID)*

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.

3.3 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**

=> *YES, as for the regulation concerning the business register foreign legal persons can establish branches in Italy and own assets in Italian companies*

If **YES**,

- how is basic information on these arrangements recorded (if at all)?

=> *when operational online, using standardised forms and qualified signature (eIDAS)*

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

=> *when operational online, using standardised forms and qualified signature (eIDAS)*

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

4.1 Does your country recognize (express) trusts or other similar legal arrangements? **YES / NO**

=> *YES*

- 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.

=> *when operational online*

- If **NO**, please skip to question 5

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

=> *when operational online, using standardised forms and qualified signature (eIDAS)*

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

Through a registry/registries with beneficial ownership information

=> *YES, when operational*

Through a different mechanism

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.

=> *Italian Chambers of Commerce, same information and access policy of legal persons*

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

5. Sanctions

5.1 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).

=> *minimum of 103 euros, maximum of 1032 euros (art. 2630 civil code)*

5.2 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.

=> *Chambers of commerce are the designated authorities, enforcement is performed at local level, Unioncamere, the entity representing the Italian Chambers of commerce provides to MiMIT statistics on enforcement*

6. 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.

=> *YES, when operational at national level the register will be interconnected with the European e-Justice portal, at international level AML authorities (e.g. FIU) will provide information to their counterparts*

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.

YES, when operational at national level the register will be interconnected with the European e-Justice portal, at international level AML authorities (e.g. FIU) will provide information to their counterparts

Which agency(ies)/authority(ies) is/are responsible for receiving and responding to foreign requests?

=> *Chambers of commerce for requests coming from other Member States' AML authorities, in the EU via the e-Justice portal, at international level AML authorities (e.g. FIU)*

Please provide contact information and instructions.

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

None. Requested information are readily accessible

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?

Incomplete answers that do not allow identification of the beneficial owner. This is especially the case in jurisdictions where regulatory frameworks do not comply with the FATF recommendations and within the European Union with the 5th Directive.

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?

Unavailable

7. 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.

=> *when operational beneficial ownership information will be part of the business register, information*

filing is mandatory for all entities (penalties), it is manually checked by public officials (notaries), qualified accountants and Chambers of Commerce (registrars) and automatically checked using ICT applications and tools [identity is of the owner of the digital signature creating device (SSCD), integrity of the data linked with the digital signature validation of the content (technical specifications + front-end/back-end applications)]

8. 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.

=> Italy is an active member of the FATF and as a Member State of the European Union has transposed the 5AMLD into national law

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.