Financial Action Task Force

Groupe d'action financière

THE MISUSE OF CORPORATE VEHICLES, INCLUDING TRUST AND COMPANY SERVICE PROVIDERS

13 OCTOBER 2006

Executive Summary

Despite the important and legitimate roles corporate entities, including corporations, trusts, foundations and partnerships with limited liability, play in the global economy, they may, under certain conditions, be used for illicit purposes.

The present study's prime aim has been to seek to identify in respect of corporate vehicles areas of vulnerability for money laundering and terrorist financing, along with evidence of their misuse. Faced with the vast scope of a general project on corporate vehicle misuse the study focuses on what is considered to be the most significant feature of their misuse – the hiding of the true beneficial owner.

The study examined a series of cases as examples of the misuse of corporate vehicles from which certain key elements and patterns for this misuse are identified. The study also analyses the results of a survey conducted to obtain a better picture of the international diversity in the formation and administration of corporate vehicles.

Drawing on the typologies, as well as prior studies, a number of frequently occurring risk factors associated with corporate vehicle misuse are identified, which could be useful to countries in helping identify such misuse.

The information and typologies examined suggest a number of areas that may call for further and separate consideration in preventing corporate vehicles and their activities from misuse by criminals.

Table of Contents

Page

1. Introduction

Corporate entities, including corporations, trusts, foundations and partnerships with limited liability characteristics, conduct a wide variety of commercial activities and are the basis for a broad range of entrepreneurial activities in market-based economies. However, despite the important and legitimate roles these entities play in the global economy, they may, under certain conditions, be used for illicit purposes, including money laundering, bribery and corruption, improper insider dealings, tax fraud, financing of terrorist activities and other forms of illegal activities[1]. Criminals have responded to the money laundering defences put in place by banks and other financial institutions by misusing corporate vehicles, and those who provide trust and company services, to disguise and convert their proceeds of crime before it enters the traditional financial system.

Organised crime groups or individual criminals tend to seek out the services of professionals to benefit from their expertise in setting up schemes that the criminals then use for illicit purposes. Criminals may seek advice from trust and company service providers (TCSPs) as to the best corporate vehicles or jurisdictions to use to support their schemes, with the TCSPs having varying degrees of awareness of or involvement in the illicit purposes underlying their client's activities.

General concerns about the misuse of corporate vehicles by criminals to disguise and convert the proceeds of their illegal activities, as well as concerns about the use of trust and company services to help facilitate this misuse, are reflected in the extension of the scope of the FATF Forty Recommendations to lawyers, accountants and TCSPs, and, in particular, in the wording of Recommendations 5, 33 and 34. They are concerns that have also been specifically referred to by the G7 Financial Stability Forum, the European Commission, the International Organisation of Securities Commissions (IOSCO) and the Organisation for Economic Co-operation and Development (OECD).

Of particular concern is the ease with which corporate vehicles can be created and dissolved in some jurisdictions, which allows these vehicles to be used not only for legitimate purposes (such as business finance, mergers and acquisitions, or estate and tax planning) but also to be misused by those involved in financial crime to conceal the sources of funds and their ownership of the corporate vehicles. Shell companies can be set up in onshore as well as offshore locations and their ownership structures can take several forms. Shares can be issued to a natural or legal person or in registered or bearer form. Some companies can be created for a single purpose or to hold a single asset. Others can be established as multipurpose entities. Trusts are pervasive throughout common law jurisdictions.

When in February 2000 the FATF reviewed the rules and practices that impair the effectiveness of money laundering prevention and detection systems as part of its non-cooperative countries and territories initiative, it found in particular that:

Shell corporations and nominees are widely used mechanisms to launder the proceeds from crime, particularly bribery (e.g. to build up slush funds). The ability for competent authorities to obtain and share information regarding the identification of companies and their beneficial owner(s) is therefore essential for all the relevant authorities responsible for preventing and punishing money laundering.

The aims/objectives of the project:[2] This typologies project's prime aim has been to seek to identify in respect of corporate vehicles areas of vulnerability for money laundering and terrorist financing, along with evidence of their misuse. It has also sought to identify differences among jurisdictions for establishing and using corporate

[1] Organisation for Economic Corporation and Development (OECD), Options for Obtaining Beneficial Ownership and Control Information: A Template (OECD Template) p.7

[2] This report is the product of research carried out by a project team operating under the umbrella of the FATF typologies initiative.

vehicles, how these may be exploited and what steps have been or are being taken by jurisdictions to address this threat[3].

While this typologies project is concerned with the misuse of corporate vehicles for money laundering and terrorist financing, the findings and the issues for further consideration can be expected to have similar application to other types of criminal activity. In addition to their use in facilitating money laundering, corporate vehicles are frequently mis-used to help commit tax fraud, facilitate bribery/corruption, shield assets from creditors, facilitate fraud generally or circumvent disclosure requirements.

The concerns arising from the misuse of corporate vehicles by criminals have been well documented by a number of other authorities.[4] However, it is hoped that from this typologies project will come a clearer picture of the misuse involved. This in turn should help focus and prioritise efforts made in the anti-money laundering (AML) and combating the financing of terrorism (CFT) areas to meet those concerns.

Corporate vehicles play a complex, varied and essential role in modern economies. The scope and scale of a typologies project that looks at the misuse of corporate vehicles is therefore potentially enormous. Extensive literature already exists on the subject, and the considerable jurisdictional variation in the nature, scale and oversight of corporate vehicles means that there are also many differing viewpoints on the subject to be taken into account. Similarly, many specific issues arise regarding the creation, administration and operation of corporate vehicles.

In examining the potential misuse that corporate vehicles may be subject to, it is important to bear in mind that, of the millions of companies that exist, the vast majority engage in legitimate business, and only a small minority are misused. Likewise among the trusts that are set up, the majority serve legitimate purposes, and only a small minority are misused.[5] In considering the misuse of corporate vehicles, it will be essential therefore to distinguish between those vehicles that pose a high risk and those that pose a low risk in relation to money laundering and terrorist financing.

The initial step for this project was to establish a team of experts which included persons drawn from FATF jurisdictions, observer organisations and FATF-style regional bodies (FSRBs) with skills/experience in the process of corporate vehicle formation and administration, and in particular the formation and administration of shell companies, and in regulatory action and law enforcement in this field. The experts came from a range of countries including common law and civil law jurisdictions, countries from outside the FATF and also countries with a substantial TCSP and/or non-resident business activity sectors.

The first step taken by the team of experts was to conduct a survey (by means of a questionnaire)[6] as a way of obtaining a fuller picture of the international diversity in the formation and administration of corporate vehicles, and of providing both FATF and FSRB members with an opportunity to contribute to the exercise.

Faced with the vast scope of a general project on corporate vehicle misuse mentioned above, it was clear to the team of experts that the most effective way to deal with the subject was to focus first on what they and prior studies considered to be the most significant feature of the misuse of corporate vehicles – the hiding of the true beneficial ownership. It is therefore with this aspect in mind that this report is primarily concerned. This is not to deny that there are other aspects that are worthy of attention, and that more detailed work on other areas could be done later.

---

[3] Some jurisdictions, such as the US, do not have a national or nationally uniform system of incorporation or registration of corporations, trusts and other business entities but instead have a dual Federal State or multi-regional systems. References in this report to the laws and principles in such jurisdictions are necessarily generalisations regarding the majority of states or regions, or the most common elements of the specific law or principle referenced.

[4] See the bibliography and Annex 5.

[5] Annex 2 refers to the many legitimate uses for trusts as well as the potential for their misuse.

[6] A copy of the questionnaire used is attached at Annex 7.

The terminology used in the context of corporate vehicles is also quite varied and complex, and it often differs from one study to another. Therefore, a glossary of terms used in this report is included in Annex 1. At the start of this report, it is useful however to highlight two key terms as they will be used for this study:

- *Corporate vehicle*: This term has the same meaning as that used by the OECD[7] and thus includes corporations, trusts, partnerships with limited liability characteristics, foundations, etc.

- *Trust and company service provider (TCSP)*: This term has the same meaning as used by the FATF[8] and thus includes those persons and entities that, on a professional basis, participate in the creation, administration and management of corporate vehicles.

2. Typologies

As a starting point for this study, the team of experts first examined a series of case examples of misuse of corporate vehicles[9]. By examining such material, certain key elements and patterns for this misuse were identified. The following typologies then derive from case examples that were submitted as part of the response to the survey as well as from several databases.

This section uses a selection of the submitted cases[10] to focus on examples in which one of the main objectives of the misuse was to hide the ultimate beneficial owner. The case studies indicate how difficult it can be to determine who actually benefits from the structure. The different ways to maintain anonymity and to hide identity are described in the following case examples. Often these structures are used to perform two functions simultaneously: the execution of a criminal scheme and the diversion of money flows as part of a money laundering scheme.

All submitted case studies show several common features. For illustrative purposes, four typologies were selected, each of which focuses on a specific method or element of a corporate vehicle structure that is commonly used to hide identity. As indicated above, the selection of cases was made so as to highlight the key characteristic involved. The remaining case examples are included in Annex 4, which classifies the examples according to individual typologies and main characteristics that can be useful for money laundering activities.

Typology 1 – Multi-jurisdictional structures of corporate entities and trusts[11]

In many instances, a structure consisting of a series of corporate entities and trusts — created in different jurisdictions — is used to hide identity and carry out a fraud scheme[12]. The complex structure can give the appearance of a legitimate purpose, which can then be used to easily attract investment from third parties. For the third parties that are victims of such schemes, it is almost impossible to see behind the structure of the various corporate entities to find out who is liable for their loss. By setting up such a complex multi-jurisdictional structure, the seemingly logical money flow between these entities is used to move and launder criminal money. These structures can also be convenient for diverting the money flow or hiding payments. The cases belonging to this typology are described briefly in the next few paragraphs, with more detailed descriptions set out in the boxes below.

---

[7] See the OECD report *Behind the Corporate Veil: Using Corporate Entities for Illicit Purposes (Behind the Corporate Veil), 2001*.

[8] See the glossary to the FATF Forty Recommendations.

[9] A detailed description of all characteristics of these case studies is included in Annex 4 which was compiled with the considerable assistance of the Netherlands authorities.

[10] A detailed description of all characteristics of these case studies is included in Annex 4.

[11] This relates to cases 1, 2, 3, 12, 16, 17, 24, 25, 26, 27, 28, 29, 31, 32, 33 and 34.

[12] The scheme mostly involves types of financial fraud and Ponzi schemes.

In Case 1, third parties were persuaded to invest savings and retirements accounts in a series of trusts. The investors were led to believe that the trusts would ultimately provide investment income. In fact, however, the trusts, which were tied to offshore bank accounts, served as conduits for channelling funds to the perpetrators of the fraud scheme.

In Case 2 a multi jurisdictional structure was set up to purchase insurance companies and again divert the assets to the creators of the structure.

Case 3 concerns an investment fraud scheme. To realise the scheme, offshore corporations from Antigua, Isle of Man and Belize were used. The structure was also used to divert the money and hide the profits from fiscal authorities.

Case 1
Mr. [A] was a trust service provider operating a trust company [L]. Using a series of domestic trusts that he established, he wired large sums of money to 51 different US and offshore bank accounts. In total it is estimated the scheme defrauded over 500 investors of approximately $56 million.
The thrust of the scheme was that A and associates convinced their clients to form ["Pure Trust Organizations" (PTO)] and to place their life savings, including their retirement accounts, into these trusts created by [L]. Clients were advised that the [PTO] provided asset protection providing concealment of their assets from the government and other creditors. The [L] package promised the formation of a [PTO] and off- shore bank accounts. The clients were told that when the funds were placed in these off-shore bank accounts the funds was beyond the reach of the US government and any creditor.
Once the clients had placed their assets into the trusts, [A] used another corporation to provide investments for the assets in the trusts. In reality there were no real investments, and [A] and his associates defrauded the trust owners.

Case 2
Mr. [B] set up an international structure with on- and offshore companies as well as trusts to purchase insurance companies. The insurance companies were actually bought through a trust to hide the personal involvement of [B]. The assets of these companies were subsequently drained and used for personal benefits. The draining of these assets was concealed by transferring the money into accounts in and out of the US via wire transfers. Immediately after the acquisition, [B] would transfer million of dollars of reserve assets to a corporation he set up in the US. The funds were transferred to an offshore bank account in the name of another corporation that he controlled. Once these funds were deposited into the offshore bank account, [B] used them to pay for his personal expenses. In this way [B] laundered about USD 225 million over a period of 9 years.

Case 3
This case example shows a pyramid investment scheme. It caused more than USD 8.4 million in losses to almost 8,000 investors in the US. The investigation focused on an association [M]. [M] was a pyramid business enterprise that sold various products to its members including investment plans. It was alleged that [M] leaders were promoting the sale of an investment, identified as [Private Placement Offers (PPO)]. The investment promised a 30 to 1 return within a year. To be able to benefit f the investment members were encouraged to establish offshore corporations and bank accounts in Antigua, Isle of Man and Belize. They were advised that financial transactions relating to these investments should be transferred through their offshore accounts. The funds of all the investments were deposited into bank accounts in the US. Instead of using these monies as purported, [M's] leaders diverted the funds to their personal use and used the funds to promote the carrying on of the illegal enterprise. Potential investors were fraudulently lulled into believing that the investment was guaranteed by a bank and the principal insured by a major insurance company. The new investor funds collected and not yet turned over to the US Corporation were used to issue checks to investors within the group who were expecting their first returns from investment. The appearance that the program was working caused a windfall of new investor money to begin pouring in for the [PPO].

Case 4
The identity of the beneficial owner remained unknown in the management of several investment funds.
Fund E was established in the British Virgin Islands. This fund had over EUR 93 million in assets in Bank A. The fund was managed by Company F in Dublin.
One of the shareholders of Fund E was Bank G in Switzerland. Another shareholder was Fund H (Bahamas), managed by Company I (Bahamas). Fund H was 100% controlled by Bank J, another Swiss bank.
However, for Fund E, Bank A was not able to compare the subscriptions with the total amount of capital issued by the fund. Moreover it appeared from business correspondence found during the on-site mission led by the French Banking Commission that Mr K was directly involved in the management of Fund E. It was likely that Mr K's family was the beneficial owner of the fund, but the bank had no evidence thereof.

Typology 2: – Specialised financial intermediaries / professionals

The cases related to this typology highlight the fact that, when there is evidence of the misuse of corporate vehicles, a specialised financial intermediary or professional has often been involved, to a greater or lesser extent, in facilitating the formation of an entity and exploiting the opportunities presented by foreign jurisdictions to employ various arrangements that can be used for legitimate purposes but also can be used to help conceal true beneficial ownership, such as corporate shareholders, corporate directors and bearer shares. The degree of complicity of these financial intermediaries and professionals varies widely, with some unknowingly facilitating illicit activities and others having greater knowledge of their clients' illicit purposes.

Case 5
A company initially established in an offshore centre had moved its registered office to become a limited company under Belgian law. It had consulted a lawyer for this transition. Shortly afterwards the company was dissolved and several other companies were established taking over the first company's activities. The whole operation was executed with the assistance of accounting and tax advisors. The first investment company had opened an account in Belgium that received an important flow of funds from foreign companies. The funds were later transferred to accounts opened with the same bank for new companies. These accounts also directly received funds from the same foreign companies. Part of it was invested on a long term basis and the remainder was transferred to various individuals abroad, including the former shareholders of the investment company. These funds were also transferred to the new companies. The whole structure was set up by tax accountants.

Case 6
Mr. [C] was an accountant who started his own accounting and financial services business [N] in Panama. He advertised his services primarily on the internet and through mass mailings. [N] provided a variety of services including the following:

- *Formation of offshore entities to disguise ownership of assets;*
- *Passports and dual citizenship, mostly using new nominee names;*
- *Movement of cash and other assets offshore and back onshore using various methods;*
- *Issuance of debit cards for the purpose of anonymously repatriating and spending offshore funds;*
- *Use of correspondent bank accounts to skim profits of legitimate businesses and repatriate funds through the purchase of assets and use of debit cards;*
- *Anonymous trading of securities through accounts with two major brokerage houses;*
- *False invoicing/re-invoicing schemes to support fraudulent deductions on tax returns;*
- *False investment losses, to disguise transfer of funds overseas.*

[C] was identified pursuant to an Internal Revenue Service investigation of one of his clients for illegal importation and sale of goods. The targets of this investigation were using a re-invoicing scheme devised by [C] to illegally import these chemicals into the US for sale. [C] assisted the targets in the re-invoicing scheme by preparing the invoices, receiving the proceeds of the scheme and hiding the proceeds in a myriad of Panamanian corporations for later use by the targets.

As a result of this investigation, [C] became a subject of investigation for the formation of illegal trusts to facilitate money laundering and other crimes. The investigation disclosed that [N] had about 300-400 active clients/investors. The investigation also disclosed that it created between 5,000-10,000 entities for these clients, including the layering of foreign trusts, foundations and underlying business corporations, which were formed in offshore countries. The primary package purchased by the client was referred to as the Basic Offshore Structure that includes a foreign corporation, a foreign trust and a foundation. In 2003, [C] was found guilty of money laundering and other criminal violations. He was sentenced to 204 months' imprisonment and fined USD 20,324,560 and ordered to pay restitution to the Internal Revenue Service in the amount of USD 6,588,949.

Typology 3: – Nominees

The next series of cases provides examples of the extent to which the use of nominees may be used to hide the identity of the beneficial owners. Within this typology, the use of nominees may be grouped into the following categories: nominee bank account, nominee shareholders and nominee directors.

Case 7
Mr [B] and his associate bought insurance companies. The assets of these companies were drained and used for personal benefits. The draining of the assets was concealed by transferring them into accounts in and out the US via wire transfers. The first step in the scheme was establishing a trust in the US. [B] concealed his involvement and the control of the trust through the use of nominees as grantors and trustee. [B] then used the trust to purchase the insurance companies. Immediately after the acquisition, [B] would transfer millions of dollars of reserve assets to a corporation he set up in the US. The funds were then wire-transferred to an offshore bank account in the name of another corporation that he controlled. Once these funds were deposited into the offshore bank account, [B] used them to pay for his personal expenses.

Case 8
Beginning in 1997, Mr. [D] assisted his clients with various schemes to hide income and assets from the IRS, including a method by which an individual used ' common used trusts' to conceal ownership and control of assets and income and the use of offshore trusts with related bank accounts in which the assets would be repatriated through the use of a debit card. [D] also set up international business corporations (IBC) that had no economic reality and did not represent actual ongoing business concerns, on behalf of his clients, to conceal the clients' assets and income from the IRS. Concerning his own liabilities, [D] opened and maintained nominee bank accounts both in the US and abroad to conceal his income from the IRS.

Case 9
Mr. E, a CEO of a local telecommunication company received corrupt money of RM 300.000 as an inducement to award supply and work worth RM 5 million to a company P which belonged to Mr. F. Mr. F paid the corrupt money as a payment by company P to company Q for services rendered. Company Q also belonged to Mr. F but was merely a dormant and shell company with RM 2.000 paid up capital. The money was later withdrawn from company P and placed in a stock broking firm under the name of Mr. G., a nominee of Mr. E, who opened an account with the same stock broking company using his son's name. The money in G's account was used to purchase shares in the open market and later sold to Mr. E's son using numerous married deal transactions whereby the shares were later sold by Mr. E's son in the open market at a higher price. Capital gains subsequently were used to open fixed deposits, sign up for a insurance policy (under the name of Mr. E) as well as purchase assets in the name of Mr. E's relatives.

Typology 4: Shell companies.

The use of shell companies to facilitate money laundering is a well-documented typology. The complex case included here provides a "textbook" typology as an example of misuse of corporate vehicles. The scheme established here was intended to launder criminal proceeds through real estate investment. A complex structure was set up by legal professionals to hide the origin of the beneficial owners as well as the origin of the money.

THE WHITE WHALE CASE

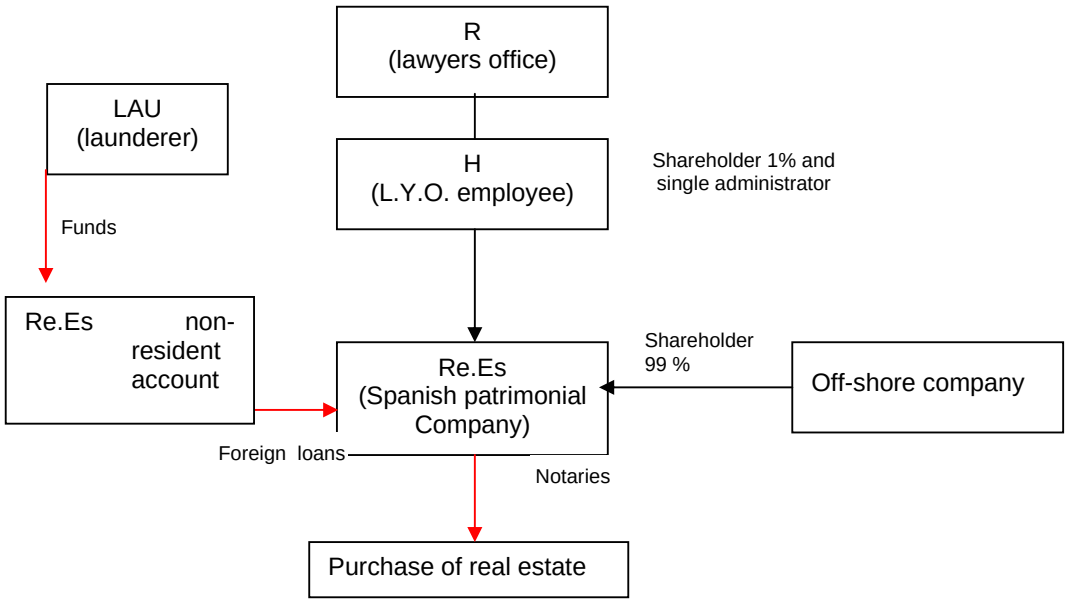
The investigations started in September 2003 by cross referencing data from an investigation on drug trafficking, with information coming from another investigation on assets owned by Eastern European citizens living in the Costa del Sol (Malaga).

In such cross referencing of information it arose that [H] appeared as administrator of more than 300 companies established through [R], a lawyer's office in Marbella (Malaga).

All of the companies had similarities: companies established off-shore, except one held by [H] who was the single administrator of the companies and, at the same time, an employee of [R]. Giving support to clients of H by establishing companies was one of the activities of [R], which also offered the management of client's bank accounts and real estate buying and selling. The investigators knew that several clients of [R] were allegedly connected with international organized crime groups and/or with people involved in serious crimes in Spain and abroad.

The board of [R] was aware of the likely criminal activities of some of H's clients, because they had been the subject of media and press reports as possible criminals, and because the board knew that some clients were in prison in Spain or in other countries since documents had been sent to them there. In other cases, members of the board were called to testify as witnesses in judicial proceedings against those clients.
Additionally, the board deliberately ignored the activities of their clients. In their advertisements they even advertised that the office conducted company´ "engineering", that they guaranteed anonymity and that they did not ask any questions or respond to requests for information.

Diagram of the money laundering scheme



The Spanish companies were established for use as an instrument for money laundering schemes based on the real estate market. They were companies created exclusively for the management and administration of real estate properties. Re.Es. was one of these companies.

The off-shore companies which participated in the Spanish companies were "shell companies" established in an American State whose laws allow a special tax regime for these companies and for their transactions. The companies were pre-constituted in the name of an agent (usually a lawyer) before the incorporation of the company. In other words, the document of incorporation of the company would remain inactive in the hands of the agent until the company was bought by a client, and at that moment the company would be effective.

Therefore, the board of the companies when first registered was made up of the agent and his associate, without any link with the real owners of the company who subsequently purchased the shell. Consequently, the ultimate beneficiaries of the off-shore companies and, consequently, of the Spanish companies, remained hidden.

The launderer (LAU) transferred funds from a foreign country to a non-resident account owned by Spanish company Re.Es. The use of non-resident accounts provided other advantages, including the advantage of being subject to less control by the tax authorities. The funds described above were gathered in the account of Re.Es under the guise of foreign loans received. The destination of the funds received was the purchase of real estate properties in the name of Re.Es., in the last stage of the money laundering process, taking advantage of the hidden situation of the launderer and of the beneficial owners.

Three public notaries documented all the transactions, from the incorporation of the companies to the purchase of real estate. The suspicion of money laundering was clear: incorporation of several companies by the same persons in a short period of time, concurrence of the same partners in several companies, several real estate purchases in a short period of time, etc. Despite this, and even though the public notaries were obliged to report under the Spanish anti-money laundering law, such transactions were not disclosed to the Spanish FIU

Analysis of the Typologies

From the typologies presented here, the methods for concealing the identity of the beneficial owner and/or his customer may be broken down into the following groupings based on the types of corporate vehicles used in the structure of the money laundering scheme.

Figure 1

Use of (various types of) companies	7 cases
Use of banks or investment funds	2 cases
Use of one of more trusts	5 cases
Use of companies and trusts	4 cases
Use of nominees	6 cases
Use of TCSPs	5 cases

More details on the findings for the individual case studies used are described in Annex 4.

Traditionally the money laundering process is broken down into three phases — placement, layering and integration. Since corporate vehicles may be used for multiple purposes in the different phases of the money laundering process, a slightly modified version of this template might be considered to better describe the role

that such entities can play in money laundering[13]. For the analysis of the case studies four phases of money laundering were distinguished.

In the "placement" phase, dirty money is inserted into the financial system. In the second or "layering" phase, the money is moved through various bank accounts, mostly belonging to several different corporate vehicles in multiple jurisdictions. The third phase, known traditionally as the "integration" phase consists of two sub phases: "justification" and "investment". In the "justification" phase, the proceeds are re-integrated into regular business activities, for instance by way of a loan structure. In the "investment" phase, the now laundered money is invested for personal gain, such as purchasing real estate.

Looking at the cases sampled for this study, the following breakdown may be made of the particular phases in which the corporate vehicles appeared to play a preponderant role in the money laundering process.

Figure 2

Money laundering phase	Number of case studies
Placement	22
Layering	5
Justification	2
Investment	4
Unknown (more specific details are needed for classification)	2
No money laundering process identified	4
Combination of money laundering phases	6

As can be seen from this overview, it was found that the majority of the cases presented involved misuse of corporate vehicles in the first phase of money laundering. In a number of cases, corporate vehicles are used to lure third parties in fraudulent investment schemes or committing other types of fraud. It is clear that this finding is based on the information available and that the case studies from which information has been obtained involve crimes other than money laundering. However, the techniques observed – the use of corporate vehicles, the use of specialised intermediaries, and the use of foreign jurisdictions – are all common to the techniques used for money laundering and therefore can be considered to be of equal relevance.

In analysing the submitted case studies, certain common elements were found. These elements are sometimes combined with the typologies (e.g. the involvement of financial or legal experts) and sometimes with an additional element to help achieve the goal (e.g. concealing identity, diverting money flow). The most common elements are the following:

- Multi-jurisdictional and/or complex structure of corporate entities and/or trusts (cases 1, 2, 3, 4 and White Whale);
- (Foreign) payments without a clear connection to the actual activities of the corporate entity (cases 5, 11,and White Whale);
- Use of offshore bank accounts without clear economic necessity (cases 1, 4, 3, 6, 17, 21, 27, 28 , , 30, 31, 32, 34, and White Whale);

[13] It should be noted that the case studies showed that, unlike most other methods used to launder money, legal entities are used not only to launder money, but also to generate it, e.g. from earnings of a criminal offence (money with illegal origin) or as windfalls (earnings) of tax evasion (money with legal origin).

- Use of nominees[14] (cases 2 7, 8, , 27, 28, 35, and White Whale);
- Use of shell companies (White Whale);
- Tax, financial and legal advisors were generally involved in developing and establishing the structure. In some case studies a TCSP or lawyer was involved and specialised in illicit services for their clients (cases 1, 5,6,7 and White Whale).

When hiding or disguising the identity, often a combination of the above mentioned elements and various layers with a foreign element is established to maintain as much anonymity as possible. These elements can be considered as indicators or "red flags" for such activity. The more of these elements observed, the greater the likelihood (and the risk) that the identity may be able to remain unknown. It is therefore essential for authorities to be able to determine the ultimate beneficial owners of a company and the trustees, settlors, beneficiaries involved with a trust.

3. Analysis of the Questionnaires

The following is an analysis of the responses of 32 jurisdictions to the survey conducted by the FATF as part of this study[15]. The assumption underlying the survey is that one of the main purposes of the misuse of corporate vehicles is to hide the identity of the natural person(s) benefiting from and/or controlling the money laundering, that is, the beneficial owner (BO). Thus the primary aim of the survey was to ascertain how criminals might use corporate vehicles to hide their identities and how, in practice, this may have occurred. The survey sought to achieve this aim by eliciting information on (1) the types of corporate vehicles in a particular country, (2) the types of BO relationships, (3) the sources of BO information and methods of obtaining such information, and (4) examples of the misuse of corporate vehicles in that jurisdiction. Beneficial ownership, the sources of information and the regulation thereof are addressed below. The case examples provided earlier demonstrate how the weaknesses identified are exploited in practice. The analysis is based solely on the information obtained through the survey; no verification of the information provided by respondent jurisdictions was undertaken.

The types of corporate vehicles are described in Annex 6[16]. Although many different types of corporate vehicle can be abused, the submitted case studies show that the legal entity most commonly misused is a private limited company with shared capital combined with activities in a jurisdiction other than the jurisdiction where the entity was created.

Section 1: Beneficial Owners

The FATF Methodology Glossary defines a beneficial owner (BO) as the natural person "who ultimately owns or controls a customer and/or the person on whose behalf a transaction is being conducted. It also incorporates those persons who exercise ultimate effective control over a legal person or arrangement."[17] Accordingly, the issues of ownership, control, and, for trusts, beneficiary identification must be addressed.[18]

---

[14] Other legal structures that could lead to same result are the use of bearer shares and corporate directors.

[15] The participating jurisdictions are listed in Annex 3, along with the abbreviations used hereafter. The analysis was undertaken with the considerable assistance of the World Bank.

[16] In the case studies, varying types of corporate vehicles are referenced, such as *offshore corporate vehicles* (case 3), , *limited companies* (case 17), *UK limited companies* (case 19), *limited liability companies* (case 18,19), *corporate vehicles* (case 20), , *shell companies* (case 21), *Nevada corporations* (case 22), *trusts* (case 33 and 34). Both formal terms (e.g. *limited liability company*) and informal or "popular" terms (e.g. *shell companies*) were used interchangeably.]

[17] FATF Methodology, www.fatf-gafi.org/glossary.

[18] In view of the lack of universally accepted definitions or principles regarding control, beneficial ownership and related concepts, this report does not attempt to provide a detailed analysis of these concepts.

A. Ownership

The potential for anonymity is a critical factor in facilitating the misuse of corporate vehicles.[19] In particular, the fact that ownership of a corporate vehicle may be through corporate shareholders, nominee shareholders and bearer shares presents a special challenge to determining beneficial ownership of a corporate vehicle.[20] Each of these types of ownership is considered in Figure 2.1. It should be noted however that the ownership and control structures described below have many legitimate purposes.

Figure 3

PRACTICE: Ownership through…	Defining Characteristics	Associated Problems/ Risks	Where permitted among reporting jurisdictions
Corporate shareholders[21]	Shares are owned by a legal entity.	Creates an extra layer between BO and entity.	Not addressed in questionnaire
Nominee shareholders][22]	Shares are registered in the name of another (such as a stockbroker)	Reduces usefulness of shareholder register	Not addressed in questionnaire
Bearer shares[23]	Negotiable instruments according ownership of a corporation to the person who possesses the bearer share certificate.	Can be easily transferred without leaving a paper trail	NL,[24] UK,[25] TR, LB, LV, NZ, QA, HK, MH, DE, SK, CH, US, DK Permitted but dematerialised[26] in: VI, BE, LT, MO, FR

B. Control[27]

Corporations serving as directors and nominee directors can be used to conceal the identity of the natural persons who manage and control a corporate vehicle.[28] Corporate directors and nominee directors are described in Figure 4.

[19] OECD *Behind the Corporate Veil*, 2001, pp. 21.

[20] Id pp. 29-32.

[21] This type of ownership was not addressed in the survey, but the layering of different corporate entities on top of each other is a common characteristic in many cases of misuse of corporate vehicles, and hence it is included here. Of course this is not so much a "practice", but rather a logical characteristic of corporate law; anyone can hold shares, be it a natural person or a legal entity.

[22] This type of ownership was also not addressed in the survey. It is included here because two jurisdictions mentioned this issue (GI and IM). Of course ownership through nominee shareholders being simply a contractual relationship, it is possible in any jurisdiction that does not explicitly prohibit it, and this type of ownership is necessary for any broker trading on a stock exchange where shares are held on behalf of a client.

[23] A majority of bearer shares are book entries and are "dematerialised". Shares are dematerialised when they are registered. Dematerialisation is achieved by requiring registration upon transfer or requiring registration in order to vote the shares or collect their dividends. While physical transfer of bearer shares is possible it is believed to be rare.

[24] A majority of the bearer shares are *book entries* and are dematerialised. While physical transfer of bearer shares is possible it is believed to be rare.

[25] Some of the bearer debt in the United Kingdom is dematerialised, while another part of it is immobilised in International Central Securities Depositories (ICSD). The records of the ICSDs cannot be inspected.

[26] Shares are dematerialised when they are registered. Dematerialisation is achieved by requiring registration upon transfer or requiring registration in order to vote the shares or collect their dividends.

[27] Of course ownership will in many cases entail (a degree of) control. This paragraph deals only with those relationships of control that do not derive from ownership.

[28] OECD. Behind the Corporate Veil 2001 pp. 31.

Figure 4

PRACTICE: Control through…	Defining Characteristics	Associated Risks	Where permitted among reporting jurisdictions
Corporate directors	Corporation is selected to serve as a director. Management functions performed by representative of the selected corporation.[29]	Creates an extra layer in establishing identity of natural person who controls. May facilitate abuse of CVs if legal system cannot timely assign responsibility to physical persons.	NL, MY, US, GI, LV, MA, GG, QA, UK,[30] HK, MH, DE, PW, TR, LB, VI[31], BE, BA
Nominee directors [[32]]	Director nominates another entity or person to act as the director in its place.	Increased difficulty in identifying those who exercises de facto control.	Not addressed in questionnaire

Nineteen of the 32 jurisdictions responding to the survey indicated that corporations are permitted to serve as directors, whereas corporate directors are prohibited in eight. Five jurisdictions failed to provide an answer to this item on the questionnaire.[33] None of the responding jurisdictions that permit corporate directors indicated that foreign corporate directors were prohibited. One jurisdiction stated that "a fit and proper test applies to corporate directors, however executing these tests on foreign directors tend to be difficult due to lack of information."[34]

Although the survey did not specifically address the use of nominee directors, at least one respondent indicated that this practice is one of the greatest contributors to a corporate vehicle's vulnerability to misuse.[35] Typically, a nominee director appears as a director on all company documents and in any official registries, but passes the requisite duties of the directorship on to the beneficial owner.[36]

One jurisdiction allows TCSPs to act as nominee directors if certified to do so.[37] In this jurisdiction, TCSPs can face significant liability for failure to practice customer due diligence (CDD) and generally cannot be released from liability as nominees.[38] This jurisdiction further indicated that TCSPs are required to obtain indemnity insurance before acting as nominee directors.

[29] In some jurisdictions this representative can be liable for civil and criminal penalties. It is unclear from the questionnaires which jurisdictions in fact enforce these penalties.

[30] Legislation requiring that at least one natural person serve on the board is pending in the UK.

[31] VI has passed legislation requiring that at least one natural person serve on the board.

[32] Jurisdictions may have nominee directors, but this was not addressed in the survey.

[33] The item on the questionnaire reads "Are corporate directors possible?"

[34] NL, noting risk mitigation factors that effectiveness is limited to domestic corporate directors.

[35] GI, noting that the concept of nominee directors "does not exist in law". IM and TR also indicated permission of nominee directors.

[36] OECD *Behind the Corporate Veil*, 2001, pp. 31.

[37] IM.

[38] IM.

C. Beneficiaries

A beneficiary is someone for whose benefit property is held in trust, especially one designated to benefit from a disposition or assignment or to receive something as a result of a legal arrangement or other instrument. Traditionally, trusts have been treated like contractual agreements between private persons and subjected to less regulation and oversight and to fewer disclosure requirements, thus making them susceptible to abuse.[39] Trusts can legally be established in seventeen of the jurisdictions surveyed.[40]

Section 3: Information Sources

Information about corporate vehicles may be obtained from a variety of sources such as the corporate vehicles themselves, from a company registry, from public sources such as government or regulatory authorities, exchange operators, via intermediaries such as TCSPs or lawyers, notaries or accountants, or from other sources through the use of compulsory or investigatory measures.[41]

A. Corporate Vehicles

Corporate vehicles often keep shareholder registers. Fifteen jurisdictions indicated that corporate vehicles are obliged to keep shareholders lists that are then available to competent authorities.[42] One jurisdiction indicated that international business companies (IBCs) are required to maintain a register of shareholders at its registered office.[43] To be clear, the shareholder registers may contain accurate information on legal ownership, but not necessarily on beneficial ownership.[44]

B. Company Registries

All jurisdictions responding to the survey indicated that company registries with information on legal ownership are required. Twenty jurisdictions include foundations in these registries[45], twenty-five jurisdictions include limited liability partnerships[46], and three jurisdictions include trusts.[47] Eighteen jurisdictions indicated that it is mandatory for the registry to be regularly updated.[48] One jurisdiction requires that any change in the beneficial ownership of shares be reported to the public registry.[49] These registries are accessible to the public in all but three jurisdictions.[50] One jurisdiction indicated that it is optional for companies to be recorded in the company registries.[51] Five jurisdictions require that a corporate vehicle be approved before it can be included in the company registry.[52]

---

[39] OECD Behind the Corporate Veil, 2001 pp. 25-26.

[40] GG,IM,MH,HK,UK,QA,MY,GI,NO,PW,MA,NZ,JE,VI,JP,BA,US. Other countries may recognize trusts pursuant to the Hague Convention on the Law applicable to Trusts and on their Recognition.

[41] OECD *Behind the Corporate Veil,* 2001, pp. 41-42.

[42] GI, MY, CH, US, LT, SK, MA, QA, HK, FR, TR, LB, BE, VI, NL.

[43] BA, noting how it obtains information on ownership of companies.

[44] MY, GI, SK, MO, GG, BH, LB and JE require upfront disclosure with respect to beneficial ownership prior to start up. However, for GG, BH and LB, this information is not required to be updated. Only JE reported an explicit requirement that information on beneficial ownership be updated.

[45] NL,GI,MY,CH,US,SK,NZ,MO,ES,QA,DE,DK,PW,TR,LB,FR,JP,AU,BE,BA.

[46] NL,GI,MY,US,SK,NZ,MO,BH,ES,IM,QA,UK,HK,MH,DE,DK,PW,LB,FR,JE,VI,AU,BE,BA.

[47] For GI,MY and HK it is unclear whether registration is required.

[48] GI,MY,SK,NZ,MO,MA,BH,IM,UK,HK,DK,TR,LB,FR,JE,BE,BA,CH.

[49] JE, noting how it obtains information on the beneficial owner.

[50] BH,TR and JP did not report that the registries were open for public inspection, although they indicated that the registries could be accessed through investigatory means.

[51] VI

[52] NL, MY,LV,BH,GG

C. Intermediaries

Intermediaries, such as TCSPs, lawyers, notaries and accountants, commonly play a role in the formation and management of corporate vehicles.[53] In the cases submitted as part of the survey, intermediaries played a role in many instances. Twelve jurisdictions require TCSPs to carry out customer due diligence procedures that are predicated upon a verified identification of the beneficial owner[54], and nine jurisdictions mandate that TCSPs apply for a license before engaging in the business of the formation or management of corporate vehicles[55]. About half of the jurisdictions use TCSPs for the formation and management of corporate vehicles.[56] Within these jurisdictions, TCSPs face sanctions for deficiencies in exercising due diligence. These sanctions can include making public statements, the imposition of conditions on continued licensure, requiring specific actions, and license revocation.[57]

Twenty-nine jurisdictions allow lawyers, notaries, and accountants to participate in the formation and management of corporate vehicles.[58] However, only seven jurisdictions specifically reported that their governments enforce AML regulations with respect to intermediaries.[59] Of those six, three jurisdictions defined penalties for failure to follow AML regulations.[60] Those penalties included letters of disapproval, automatic governmental access to books and accounts, and loss of license. Ten jurisdictions rely on private regulation of intermediaries for the civil enforcement of AML.[61]

One jurisdiction stated that it places significant reliance on financial institutions to obtain information on the beneficial owner. It noted the importance of CDD and KYC practices for the success of their reliance on financial institutions.[62]

D. Other Sources

Other sources of information can be utilised through a jurisdiction's investigatory powers, including both the ability to gather information from public records as well as the authority to compel corporate vehicles to release information. Thirteen jurisdictions rely exclusively on investigatory powers to obtain information on beneficial ownership.[63]

Typical means employed by jurisdictions relying on investigatory powers include examining the tax returns of corporations through the local internal revenue office,[64] retrieval of information from online databases,[65] and acquiring information from a jurisdiction's securities exchange commission. According to one jurisdiction, the inability to use evidence gathered by investigation at trial presents a problem with this method.[66] Another

---

[53] *Behind the Corporate Veil*, 2001 pp. 50 (company formation agents, trust companies, lawyers, notaries, trustees, and other professionals).

[54] NL,GI,MY,CH,MA,GG,IM,UK,HK,JE,VI,BA

[55] NL,GI,NO,CH,MA,GG,IM,JE,BA

[56] NL,GI,NO,MY,CH,MA,GG,IM,UK,HK,DE,QA,LT,JE,VI,AU,BA

[57] JE, noting penalties regulatory bodies may impose on TCSPs

[58] GI, NO, MY, CH, US, LT, MO, LV, MA, BH, GG, IM, QA, UK, HK, MH, FR, DE, DK, PW, TR, LB, AU, NL, JP, VI, BE, BA, JE. Out of these, LT, GG, VI, NL and JP do not allow accountants to participate in these functions.

[59] MY, LT, HK, FR, AU, BE. BA noted that AML applies to all its citizens in compulsion for information but did not state any specific facts regarding lawyers, accountants, and notaries.

[60] MY, HK, BE

[61] MY, MO, LV, UK, HK, TR, LB, FR, JP, BE

[62] BA, noting the importance of financial institutions gaining BO information

[63] NO, US, SK, LV, QA, MH, DE, DK, PW, TR, LB, JP, AU, BE

[64] US,NL,UK,PW,SK,NL all noted the information on beneficial ownership could be obtained through tax returns.

[65] US noted availability of information from Dunn & Bradstreet, Lexis/Nexis, and Choicepoint.

[66] NO, noting its difficulties in using acquired intelligence information.

jurisdiction indicated that it uses its governmental powers to "undertake monthly updates of records of selected companies."[67]

The obstacles to obtaining information are compounded by the fact that in almost all cases of the misuse of corporate vehicles, there is one or more cross border relationship, as was evidenced by the cases submitted for the survey. In these examples, the cross-border structures had different corporate vehicles "stacked" on top of each other, with each vehicle holding (all or some) shares in the vehicle below it, they had non-resident management (directors)[68], or else the corporate vehicle had been incorporated in jurisdiction other than the one in which the related activity took place:

Figure 5

Jurisdiction or state of incorporation is *not* the same as jurisdiction or state where the actual activities take place	23 cases
Jurisdiction or state of incorporation is the same as jurisdiction or state where the actual activities take place	2 cases
Unknown (lacking information)	8 cases
Total number of analysed cases	33 cases

Indeed, the lack of economic and/or logistic benefits when using a multi-jurisdictional structure for corporate entities or the related money flow would appear to be an important indicator of possible abuse.

Furthermore, foreign (offshore) bank accounts were used in 13 of the 33 analysed cases. In 11 out of the 13 cases, a combination of multi-jurisdictional structure and foreign bank accounts was identified.

Section 4: Overview of survey responses

The responses to the survey highlighted the main areas of risk with respect to corporate vehicles, indicated frequent problems in obtaining information on beneficial ownership, and suggested areas for further investigation.

A. Areas of Risk

Several jurisdictions continue to have practices that make use of corporate vehicles which are relatively more vulnerable to exploitation for illicit purposes, such as ownership through nominee shareholding and bearer shares, and control through nominee and corporate directors.

Where information on a corporate vehicle must be disclosed upfront, there is a potential problem with ensuring that this information remains current and accurate over time. Dealing with this issue will require learning more about how jurisdictions with upfront disclosure systems for corporate vehicles enforce and update their company registers.

TCSPs, lawyers and accountants are required in most jurisdictions to practice CDD. Based on responses to the questionnaire this normally results in the information on beneficial owners being obtained by persons subject to AML requirements, but it does not necessarily mean this information is then directly accessible by the authorities.[69] Also, in jurisdictions with strong confidentiality rights, information held by the TCSPs may be treated in the same way as information held by legal professionals, thus making it harder for competent authorities to gain access to the records.[70]

[67] MO.

[68] See cases 4, 10, 11, 17, 19 .

[69] For example, MY, noting that TCSPs are not required to give information to investigators unless a warrant is obtained.

[70] Id.

Although bearer shares can serve legitimate purposes, they can also be used to mask the true ownership and control of a company and thus may be used for money laundering, self-dealing and/or insider trading. Sixteen of the thirty-two jurisdictions permit the use of bearer shares, and in two jurisdictions bearer shares can also be used by private companies.[71] Five jurisdictions indicated that they have dematerialized or immobilized bearer shares in an effort to verify the identities of their owners.[72]

B. Prevalent Problems in Obtaining Information[73]

Twenty-nine of the jurisdictions surveyed stated that they are willing to exchange information on beneficial ownership with foreign jurisdictions[74], although nine expressed concern about bureaucratic delays associated with obtaining information from foreign authorities[75]. Also, seven noted that the inability to gather necessary information from analogous regulatory bodies in other jurisdictions was due to insufficient disclosure from corporate vehicles and TCSPs, not from lack of co-operation.[76]

In summary: the survey appears to show that in the reporting jurisdictions–

- There is a wide variety of types of "corporate vehicles";
- "Beneficial owners" are involved with corporate vehicles in a number of different ways –through direct shareholding and through indirect shareholding (corporate shareholders, nominee shareholders, bearer shares, trusts);
- There are a large number of different competent authorities with oversight of corporate vehicles;
- Information on "corporate vehicles" can be found in a number of different places, such as company registries, financial institutions, and TCSPs;
- The degree of regulation applied to the creation and administration of corporate vehicles varies significantly from jurisdiction to jurisdiction – for example, a few jurisdictions regulate trust and company service providers, but the majority still do not;
- Many countries permit bearer shares to be issued and also permit the appointment of corporate and nominee directors;
- In some countries, the corporate vehicle itself is obliged to furnish/maintain certain information, and it is sometimes subject to criminal liability;
- In all countries covered by the survey, a company registry exists, but the extent of the information available from the registry varied significantly from jurisdiction to jurisdiction. Some require full shareholder information, others only partial information. Some provide information from the time of creation and have no update obligation; others include an obligation to register changes in shareholding. In nearly all cases, the information in the company registry relates to legal ownership – and not necessarily the beneficial ownership – of the corporate vehicle;

[71] TR,LB.

[72] LV,MO,FR,VI,BE.

[73] Note: there are a number of current international initiatives to improve the ability of regulatory authorities to share information (e.g. IOSCO).

[74] NL,GU,NO,MY,CH,LT,SK,MO,LV,MA,BH,GG,IM,QA,UK,HK,MH,DE,PW,TR,LB,FR,JE,JP,AU,BE, VI,BA, US

[75] GI,NO,MY,MA,IM,HK,PW,LB,JP

[76] NL,GI,LV,MA,GG,HK,LB

- Lawyers and accountants that are involved in establishing corporate vehicles are subject to AML regulation in the majority of countries surveyed.

4. Overall findings and conclusions

From the foregoing analysis of the typologies and the survey, it seems clear that prevention of corporate vehicle misuse for ML purposes could be improved by knowing or being in a position to determine in a timely fashion who are the ultimate beneficial owners of a company and who are the trustees, settlors, beneficiaries involved with a trust. It would also be important to find out for what purpose the corporate vehicle was formed, why foreign jurisdictions are being used for creation/administration of the entity, and why complex structures are being built.

The level of misuse of corporate vehicles could be significantly reduced if the information regarding the ultimate beneficial owner, knowledge of the source of assets and the business objective of the company or a trust within a structure were readily available to the authorities that might need it, especially in situations containing many or all of the "risk indicators" cited on pages 13/14. Since many of the structures are set up and / or managed by trust and company service providers it might be advisable that TCSPs be obliged to gather and maintain the above mentioned information. Some of this is already part of the present FATF-recommendations (at least the identification of the beneficial owner, as well as suspicious transaction reporting).

Another conclusion that may be drawn is that, in theory, it matters less who maintains the required information on corporate vehicles, namely:

- the corporate vehicle itself;
- the trust and company service provider;
- the registrar of companies; or
- another authority;

provided that the information on beneficial ownership exists, that it is complete and up-to-date and that it is available to competent authorities. It is thus an essential corollary that competent authorities – especially across jurisdictional lines – need to know where relevant corporate vehicle information is held and how it can be obtained. Both the OECD and IOSCO have emphasised that it is important for competent authorities to be able to co-operate with other competent authorities within and without their own jurisdiction to share relevant information on beneficial ownership.[77]

Company registers are an important source of information on legal ownership, although they may not always contain the most current information on the corporate vehicle. Nevertheless, as is indicated by the results of the survey, checking company registries is an important first step in obtaining information about the structure of corporate vehicles that are of concern. It is thus important that such registries be as comprehensive and as up-to-date as possible. Similarly, legal ownership information held by other public entities such as filings with financial regulatory authorities or stock exchanges should also be accurate and current.

Individuals and corporate vehicles have legitimate expectations of privacy and business confidentiality in their affairs and, from the information obtained through the survey, it is evident that jurisdictions adopt different approaches to protect legitimate privacy interests.[78] Certain of the arrangements and practices however, including the absence of appropriate regulation/supervision, would appear to contribute to the potential for

[77] OECD, Options for Obtaining Beneficial Ownership and Control Information: A Template (OECD Template) Annex 1, p33; IOSCO, Multilateral Memorandum of Understanding Concerning Consultation and Co-operation and the Exchange of Information (IOSCO Multilateral MOU); and IOSCO, Methodology for Assessing Implementation of the IOSCO Objectives and Principles of Securities Regulation, Principles 11-13.

[78] OECD Template 2002, Annex 2, p34.

corporate vehicle misuse by making it very difficult, and perhaps even impossible, for the authorities to identify beneficial owners and controllers.

As with all regulation – and as confirmed by the survey – it appears that there is a need to strike a balance between the need for robust regulation and/or supervision to prevent corporate vehicle misuse and the need to avoid unnecessary restrictions on legitimate business. In developing further guidance for this area, it will be important to consider the potential impact on overall economic performance, market integrity, market efficiency, market transparency and incentives.

The analysis of the typologies submitted as part of the survey, as well as prior studies relating to this topic,[79] points toward a number of frequently occurring risk factors associated with the corporate vehicle misuse (see Section 2 above). From this can be concluded that the further development of these common risk factors could be useful for countries in determining their own factors that help to identify such misuse and could be used in conjunction with other, existing, diagnostic tools, such as the OECD Template and the IOSCO Multilateral MOU. Examples of these factors are included in Figure 6.

Figure 6

Examples of Risk Assessment Factors

1. *What are the corporate vehicle formation requirements in the source jurisdiction?*
   - *Is information concerning the beneficial ownership and control of a company required to be recorded, maintained and kept up-to-date?*
   - *Do similar requirements apply concerning information on the settlor or founder, trustee and beneficiaries of a trust or foundation, and the partners of a partnership?*
   - *Are regularly updated list of the shareholders, directors and principal officers of all companies required to be maintained?*
2. *Are there adequate regulatory and/or AML standards or investigative capacities in the jurisdictions where the corporate vehicle has been incorporated /formed/administered (e.g. particularly in the application to lawyers, accountants and trust and company service providers engaged in the formation and administration of corporate vehicles)?*
3. *How might information on the beneficial owners be made available, or be obtained, in the jurisdiction of incorporation and/or the country in which the company and trust administration services are provided?*
   - *Is all or some of the information required to be maintained:*
     - *(a) On a public register (and how easy it is to obtain the information)? *[80]*
     - *(b) On a private register available to financial institutions;**
     - *(c) On a private register available to regulators/law enforcement agencies (and under what circumstances can they share information available to them with other domestic/foreign regulatory authorities or law enforcement agencies)?*
     - *(d) By licensed/regulated trust and company service providers (and under what circumstances and to whom are they permitted or required to make information available)?*
     - *(e) By unregulated trust and company service providers (and under what circumstances and to whom are they permitted or required to make information available)?*
     - *(f) By the entities themselves (and under what circumstances and to whom are they permitted or required to make information available)?*

[79] Id.

[80] Items marked by an asterisk should also be of particular interest to financial institutions when undertaking CDD in respect of corporate vehicles seeking to use their services.

- *Is there a register (public or otherwise) of the corporations, trusts, foundations and partnerships that are created, incorporated, registered or administered in the jurisdiction?**
- *Is the information referred to in the preceding bullet point required to be maintained in –*
  - *(a) The country of creation/incorporation?*
  - *(b) The country(ies) of administration or operation (if different to (a))?*
  - *(c) Both (a) and (b)?*

4. *What is known about the beneficial owner?**
5. *Is the corporate vehicle a regulated or unregulated entity?**
6. *What is the purpose of the corporate vehicle? Does it have 'real' activities (e.g. manufacturing, trading) or is it solely involved with holding/administrating the assets of the beneficial owner?**
7. *If applicable, why has the corporate vehicle been established in a foreign jurisdiction?**
8. *If applicable, why has an individual given up control over his assets to trustees, through the formation of a trust?**
9. *What is the purpose behind naming corporate shareholders, nominee shareholders, corporate directors or bearer shares* –*

   - *Are bearer or nominee shares permitted, and if so, is there an effective mechanism that will allow the ultimate beneficial owner of the shares to be ascertained? Who can use this mechanism and with whom can the information be shared?*
   - *Are corporate or nominee directors permitted, and if so, is there an effective mechanism that will allow the person with ultimate control of the company to be ascertained? Again, who can use this mechanism and with whom can the information be shared?*
   - *Is there a requirement that at least one director of the company/trustee of a trust/administrator of a foundation/partner in a partnership must be a natural person resident in the jurisdiction of creation/ incorporation/administration?*

10. *Can shell or shelf companies be formed in the jurisdiction of incorporation?*
11. *What is known about the source of funds?**
12. *What is known about the scale of the business/funds?**
13. *Are the business activities unusual, particularly with regard to the nature of the beneficial owners?**
14. *Are there any other unusual features about the structure/business activities of the corporate vehicles?**
15. *Are corporate vehicles administered by lawyers, accountants, trust company service providers or other individuals, and are intermediaries identified as the legal owner?*
16. *Is there a lack of oversight of those engaged in the formation and administration of corporate vehicles (e.g. is there a fit and proper test for those able to form and administer corporate vehicles; is there adequate control over the opening of bank accounts in the name of the corporate vehicles in the jurisdiction where the vehicle is formed)?*
17. *Do secrecy laws prevent or unduly restrict access to beneficial ownership information?*
18. *Are financial institutions and intermediaries obliged to obtain beneficial ownership information, and perform customer due diligence at the commencement, and during the course of, a business relationship, in particular when opening an account for a customer?*
19. *Have competent authorities been designated to oversee and monitor compliance with the requirements referred to in the preceding bullet point, including imposing sanctions for non-compliance where appropriate?*
20. *Can law enforcement agencies, and financial regulatory authorities, obtain or access beneficial ownership*

information, and is there evidence of information being obtained on a timely basis:

(a) For their own investigative or regulatory purposes?

(b) Based upon a legitimate request from another domestic or similar foreign authority, and share that information on a timely basis, and without unduly restrictive conditions?

21. Is there evidence of a lack of effective international cooperation exhibited by the authorities in the jurisdictions where the corporate vehicle is formed and/or administered?

22. What are the penalties or other consequences for non-compliance with international standards in the jurisdiction where the vehicle is formed and/or administered?

As suggested by the typologies examined as part of this research, there appear to be two essential factors that further protect against the misuse of corporate vehicles: (1) the quality of available information and (2) the quality of the "gateway" through which that information can be obtained. There is little value in having good gateways if no information on beneficial owners can be obtained. Likewise there is little value in knowing that there is good quality information available when investigators are unable to get access to it.

The conclusions drawn from the typologies are further reinforced by findings made in other sources that were consulted as part of this research project (extracts from these sources are included in Annex 5).

4. Issues for consideration

As stated at the beginning of this paper, the focus of research for this FATF typologies project has been on the beneficial ownership issues that are directly tied to the misuse of corporate vehicles for money laundering purposes. Despite this limited focus, however, the information and typologies examined through the project survey suggest a number of areas that may call for further and separate consideration – by the FATF and/or other relevant international organisations[81] – in preventing corporate vehicles and their activities from misuse by criminals. Some of the most important questions are as follows:

- Are the existing AML/CFT standards as a whole adequate to discourage the misuse of corporate vehicles?
- Are the specific FATF Recommendations 12, 16 and 24 sufficient as a basis for dealing with the issue of corporate vehicle misuse?
- What more can be done to ensure that adequate, accurate and timely information on the beneficial ownership and control of legal persons/legal arrangements may be obtained or accessed in a timely fashion by competent authorities?
- What can be done to ensure that those engaged in the formation and administration of corporate vehicles are "fit and proper"? Is there a need for an international standard for TCSPs or professionals engaged in providing trust and company services?
- What steps can and should be taken to ensure that the actions of those engaged in the formation and administration of corporate vehicles are properly monitored or subject to investigation as necessary?
- Should TCSPs be regulated or should there be enhanced regulation of such service providers, including lawyers and accountants where they offer similar services?

[81] For example, the OECD, who have already conducted extensive work in this area

- Should existing corporate governance standards (such as the OECD Principles) be extended to include factors relating to the role of TCSPs, lawyers and accountants in relation to the potential misuse of corporate vehicles?

- Should guidance in other forms be produced – for example risk assessment check lists – to help the competent authorities focus their risk-based approaches in relation to the different types of misuse of legal persons and legal arrangements?

- Where should beneficial ownership information be held?

- What more needs to be done to enhance the effectiveness of company registers, and other publicly available information?

- Is there any practical action that needs to be or can be taken to enhance the information publicly available in respect of legal arrangements?[82]

This typologies report should be seen as an initial report. It has addressed what is seen as the key issue in limiting the misuse of corporate vehicles – namely who is the beneficial owner and what is the purpose behind the corporate vehicles being used. There are however many matters deserving of further consideration which are further evidence of the scale and complexity of the issues involved in preventing the misuse of corporate vehicles.

[82] See Annex 2 for information on the South African system for registering the information on trusts.

BIBLIOGRAPHY

The following is a list of the source material/documentation accessed by the team of experts

- Behind the Corporate Veil – Using Corporate Entities for Illicit Purposes; a report by the OECD (2001);
- Options for Obtaining Beneficial Ownership and Control Information – a template prepared by the OECD (September 2002);
- Trust and Company Service Providers: Statement of Best Practices – a report by the Offshore Group of Banking Supervisors (OGBS) (September 2002);
- Securing Effective Exchange of Information and Supervision in Respect of Trust and Company Service Providers – a report by OGBS (December 2004);
- A review commissioned by the International Trade and Investment Organisation and the Society for Trust and Estate Practitioners on "Regulating Corporate Vehicles and Cross-Border Transactions" (2002);
- FATF Report on Money Laundering Typologies 2000-2001 – February 2002;
- "Euroshore". Final report prepared for the European Commission, Falcone Progamme 1998, (January 2000) on Protecting the EU Financial System from the Exploitation of Financial Centres and Offshore Facilities by Organised Crime;
- Transparency and Money Laundering. A report produced for the European Commission by the Research Centre on Transnational Crime – University of Trento ("the Savona Report") (October 2001) on Study of the Regulation and its Implementation in the EU Member States that Obstruct Anti-money Laundering International Co-operation;
- Report of the United States Government Accountability Office (October 2000) on Possible Money Laundering by US Corporations Formed for Russian Entities;
- US Money Laundering Threat Assessment (December 2005) – report of an inter-agency working group composed of experts from the spectrum of the US government agencies, bureaux and offices that study and combat money laundering;
- Options papers prepared for the FATF working groups engaged on the review of the Forty Recommendations on beneficial ownership and control of corporate vehicles; enhancing the transparency of trusts; and trust and company service providers (March 2002);
- US Government Accountability Office (April 2006) – Report to the Permanent Sub-Committee on Investigations, Committee on Homeland Security and Governmental Affairs, US Senate on Company Formations – minimal ownership information is collected and available.

Annex 1 GLOSSARY

The following are terms used in this report, and elsewhere in the study of the misuse of corporate vehicles:-

Corporate vehicles: The term "corporate vehicle" when used has the same meaning as in the OECD report "Behind the Corporate Veil – Using Corporate Entities for Illicit Purposes", and embraces corporations, trusts, partnerships with limited liability characteristics, foundations etc.

Legal persons/arrangements: The FATF Recommendations use two separate terms which together have the same scope as the OECD term "corporate vehicle" –

- legal persons - this refers to bodies corporate, foundations, anstalt, partnerships, or associations, or any similar bodies that can establish a permanent customer relationship with a financial institution or otherwise own property;

- legal arrangements - this refers to express trusts or other similar legal arrangements. Examples of other similar arrangements (for AML/CFT purposes) include *fiducie*, *Treuhand* and *fideicomiso*.

  Particular difficulties are often experienced in understanding what is meant by a "trust". The Hague Convention on the Law Applicable to Trusts and their Recognition (1985) provides as follows in Article II –

  "For the purposes of this Convention, the term "trust" refers to legal relationships created ... by a person, the settlor, when assets have been placed under the control of a trustee for the benefit of a beneficiary or for a specified purpose".

  There are many different types of trusts, many of which are most unlikely to be used by criminals (e.g. a will trust, an employee share/options trust, a pension fund trust). For an explanatory note on trusts, see Annex 2, which for the most part is taken from an OECD report produced by the Global Forum Joint Ad Hoc Group on Accounts entitled "Enabling Effective Exchange of Information: Availability and Reliability Standard".

Bearer shares: These are negotiable instruments that accord ownership of a corporation to the person who possesses the bearer share certificate.

Beneficial owner: This refers to the natural person(s) who ultimately owns or controls a customer and/or the person on whose behalf a transaction is being conducted. It also encompasses those persons who exercise ultimate effective control over a legal person or arrangement.

Beneficiary: A person who is designated to receive something as a result of a trust arrangement. While trusts must always have some ultimately ascertainable beneficiary, trusts may have no defined existing beneficiaries but only objects of a power until some person becomes entitled as beneficiary to income or capital on the expiry of a defined period, known as the accumulation period. This period is normally co-extensive with the trust's perpetuity period, which is usually referred to in the trust deed as the trust period.

Corporate Director: A corporation appointed as a director with "management" functions being performed by a representative of the selected corporation.

Corporate Shareholder: a legal person who holds shares.

Corporate Trustee: A trust company appointed as a trustee and who has all the responsibilities/obligations of an individual trustee.

Nominee: The person, corporation, or beneficiary who has been appointed or designated to act for another (e.g. a Nominee Director is a director nominated by another director to act in his or her place).

Settlors: Persons or companies who transfer ownership of their assets to trustees by means of a trust deed. Where the trustees have some discretion as to the investment and distribution of the trust's assets, the deed may be accompanied by a non-legally binding letter setting out what the settlor wishes to be done with the assets.

Shelf company: A corporation that has had no activity. It has been created and put on the "shelf". This corporation is then later usually sold to someone who would prefer to have an existing corporation than a new one.

Shell company/corporation: A company that is incorporated that at the time has no significant assets or operations.

Trustee: A trustee, who may be a paid professional or company or unpaid person, holds the assets in trust fund separate from their own assets. The trustee invests and disposes of the trust assets in accordance with the settlor's trust deed, taking account any letter of wishes. There may also be a protector, who may have power to veto the trustee's proposals or remove them, and/or a custodian trustee, who holds the assets to the order of the managing trustees.

Trust and company service provider (TCSP): This has the same meaning as in the Glossary attached to the FATF Forty Recommendations and refers to any person or business that provides any of the following services to third parties:

- acting as a formation agent of legal persons;
- acting as (or arranging for another person to act as) a director or secretary of a company, a partner of a partnership, or a similar position in relation to other legal persons;
- providing a registered office; business address or accommodation, correspondence or administrative address for a company, a partnership or any other legal person or arrangements;
- acting as (or arranging for another person to act as) a trustee of an express trust;
- acting as (or arranging for another person to act as) a nominee shareholder for another person.

In many jurisdictions the existence of TCSPs is not recognised. However, trust and company services may well be provided by lawyers and other professionals. For example, in most, if not all, jurisdictions lawyers will be engaged in the formation of foreign companies for clients to hold assets outside of that client's jurisdiction (e.g. a yacht, a residential or commercial property etc). Some TCSPs are required to afford confidentiality privileges to a client which can conflict with AML reporting requirements.

Even where jurisdictions do not recognise trusts, they may well have lawyers or other professionals within the jurisdiction engaged in the administration of trusts. For example, there may be no barrier in such jurisdictions to a resident professional acting as a trustee for a trust established under the law of a jurisdiction that does recognise trusts.

Annex 2 Explanatory Note: Trust

1. Definitions of a trust are to be found in the domestic trust law of those jurisdictions where such laws exist. Alternatively, the definition can be taken from the Hague Convention on the Recognition of Trusts.

2. As an example of a definition incorporated in a trust law, the following is taken from the Trusts (Guernsey) Law, 1989, which mirrors the definition in the Jersey (Trusts) Law, 1984:

   "A trust exists if a person (a "trustee") holds or has vested in him, or is deemed to hold or have vested in him, property which does not form, or which has ceased to form, part of his own estate –

   (a) for the benefit of another person (a "beneficiary"), whether or not yet ascertained or in existence;

   (b) for any purpose which is not for the benefit only of the trustee.

3. The Hague Convention on the Law Applicable to Trusts and their Recognition (1985) provides as follows in Article II –

   "For the purposes of this Convention, the term "trust" refers to legal relationships created …. by a person, the settlor, when assets have been placed under the control of a trustee for the benefit of a beneficiary or for a specified purpose".

4. The definition of a trust, whether included in domestic law or in the Hague Convention, normally embraces a wide range of types of trust.

5. It is important to remember that a trust is not a legal entity, it is a relationship between juridical persons – settlor, trustee, beneficiary.

Express Trusts

6. These are trusts created voluntarily and intentionally, either orally or in writing –

   - inter-vivos by the settlor executing an act or instrument of settlement made between the settlor and the trustees under which the settlor transfers assets to the trustee to hold subject to the terms of the trusts set out therein;

   - inter-vivos by the settlor transferring assets to the trustees and the trustees executing a declaration of trust (to which the settlor is not a party) whereby the trustees acknowledge that they hold the assets subject to the terms of the trusts set out in the instrument; or

   - on death by the Will of testator taking effect, whereby the testator's executors are directed to transfer all or part of the testator's estate to trustees (who may be the executors) to hold subject to the trusts set out in the Will.

7. The following are forms of express trusts. Within any trust, different elements of the following may be found.

   (a) <u>Bare/Simple Trust</u>

   A bare trust is one in which each beneficiary has an immediate and absolute right to both capital and income.

   (b) <u>Discretionary Trust</u>

This is a form of trust where the interests of the beneficiaries are not fixed but depend upon the exercise by the trustee of some discretionary powers in their favour. As such, it is the most flexible of all trusts.

(c) Interest in Possession Trust

This is a trust where a particular beneficiary (the "life tenant") has a right to receive all the income arising from the trust fund during his life time. The trustee will usually also have the power to apply capital to the life tenant. Often there are successive life interests in favour of an individual and his spouse. On the death of the life tenant, the remainder of the trust fund is often held on discretionary trusts for the other beneficiaries.

(d) Fixed Trust

A trust where the interests of beneficiaries are fixed. The trustee will have control over the management of the assets, but the interests of the beneficiaries are defined in and by the trust instrument. Typically such a trust may provide an income which is paid, say, to the wife of the settlor and capital to the children on her death.

(e) Accumulation and Maintenance Trust

This form of trust is usually created for the children or grand-children of the settlor, where the trustees have powers during the minority of each beneficiary to pay income in a way beneficial for the upbringing or education of the beneficiary, and to accumulate income not so applied. On attaining a certain age each beneficiary will become entitled to a particular share of the trust fund.

(f) Protective Trust

A trust where the interest of a beneficiary may be reduced or terminated, for example on the happening of events (a common scenario may be if the beneficiary attempts to alienate or dispose of his interest in income or capital).

(g) Employee Share/Options Trust

Trusts established by institutions in favour of their employees.

(h) Pension Fund Trusts

Trusts established to provide pensions for employees and their dependants.

(i) Charitable Trust

A trust established purely for charitable purposes. In this case there needs to be an enforcer.

(j) Purpose Trust

A trust established for one or more specific purposes. There are no named or ascertainable beneficiaries and there is commonly an enforcer to enforce the terms of the purpose trust.

(k) Commercial Trusts

The major applications include –

- unit trusts;
- debenture trusts for bond holders;

- securitisation trusts for balance sheet reconstructions;

client account trusts for lawyers and other providers of professional services, separate from the provider's own assets;

- retention fund trusts, pending completion of contracted work.

Implied Trusts

8. A trust can also arise from an oral declaration or by conduct and may be deemed by the Court to have been created in certain circumstances. On account of their very nature there are no formal requirements for those trusts. Usually the existence of such trusts is only recognised as a result of legal action.

Resulting Trusts

9. Both express and implied trusts require an intention for their creation. A resulting trust arises where the intention is absent and yet the legal title to property is transferred from one person to another. By way of example, where X transfers £100 to Y at the same time as executing an Express trust in respect of £80, only the balance of £20 is held on a Resulting Trust to be retransferred back to X. In this situation, in the absence of intention, the beneficial ownership remains with the transferor.

Constructive Trusts

10. Constructive trusts are those trusts that arise in circumstances in which it would be unconscionable or inequitable for a person holding the property to keep it for his own use and benefit absolutely. A constructive trust can arise in a number of differing scenarios covering a broad spectrum of activity. The proceeds of criminal activity can be traced into the hands of the recipient's bankers who, once alerted, would hold them as constructive trustee on behalf of those to whom they actually belong.

11. Trusts may also be classified according to why they are created and may include –

- private trusts – made for the benefit of specific private individuals, or a class thereof;
- public trusts – made for the benefit of the public at large, or a section of the public – for example a charitable trust established to relieve poverty, to advance education or to promote religion;
- purpose trusts (see above).

12. This brief, and limited, description of trusts shows that the concept encompasses a wide variety of arrangements. Essential to them all is that legal ownership and control is passed from the settlor to the trustee.

Potential for misuse

13. Aspects of some trusts that can give rise to a lack of transparency and enable their misuse, which are also to be found in the misuse of companies, limited partnerships and other legal entities, can be itemised as follows –

(a) Trusts can exist without any written record.

These conditions where they exist can create difficulties for law enforcement or regulatory authorities (either administrative or judiciary) to gather rapidly information or evidence regarding the very existence of the trust and collect the names of their settlor or beneficiary(ies). In such circumstances, it can also be very difficult, if not impossible, for a financial institution to know and verify the name of a beneficiary of a financial transaction conducted through such a trust.

(b) A trust deed can exist which does not identify the settlor and/or the beneficiary.

Together with the situation in (a) above, this can create an important obstacle for the law enforcement authorities to identify rapidly the beneficiary(ies) of the trust, and can hamper a financial institution in fulfilling properly its know your customer requirements.

(c) Some form of trusts, such as the discretionary trust, can make it possible to give the trustee discretionary power to name the beneficiary within a class of beneficiaries and distribute accordingly the assets held in trust.

The beneficiary can be named or changed at any time, which can make it possible to keep the beneficiary's identity secret up until the time the ownership of the assets held in trust is transferred to them. As in (a) this can also make it difficult, if not impossible, for a financial institution to know and verify the name of a beneficiary of a financial transaction conducted through such trusts.

(d) The laws of certain jurisdictions have encouraged the development of so called asset protection trusts which can protect the settlor from the freezing, seizure, or confiscation of the assets, even though the settlor is able to keep control over their management, either by giving the trustee instructions or by naming a protector. In some jurisdictions, the settlor can be made a beneficiary of the trust without anyone being able to find out.

(e) Decisions about the management of trusts may not be recorded and they may not be disclosed in writing to anyone. If such decisions are not recorded at least by the trustee the law enforcement authorities cannot have access to them.

(f) Trusts can be set up for the purpose of managing shares in a company, which can make it even more difficult to determine who the true beneficiaries of assets managed by trusts are (cascade arrangements). These kinds of arrangements often have the purpose of hiding the identity of the ultimate beneficiary(ies) or real owner of an asset.

(g) Flee clauses can constitute an obstacle to an effective anti-money laundering framework, in particular in terms of international legal assistance. These clauses permit the automatic change of the law of the trust in case of certain events. With such clauses it is possible to protect trust assets against legal action.

(h) In some countries the use of trusts can be a way to escape from judicial decisions that freeze, seize or confiscate the assets located in trusts. Some legislation can explicitly prohibit freezing, seizure or confiscation of the assets located in trusts.

Register of Trusts

14. Most countries in which trusts are set up do not consider it practical to require trusts to be registered in the same way that a company is registered. However, in South Africa the Trust Property Control Act, 57 of 1988, Section 4, provides that the trustee must, before he or she assumes control of the trust property, lodge with the Master of the High Court the trust instrument in terms of which the trust property is to be administered. In other words, in respect of a trust inter vivos, the deed in terms of which the trust agreement is recorded must be lodged with the Master of the High Court before a trustee is allowed to take charge of the trust property.

The contents of the trust deed and the appointment of the trustees are therefore matters of public record. The master must on written request and payment of the prescribed fee furnish a certified copy of any document under the Master's control relating to trust property to a trustee, his or her surety or representative or any other person who in the opinion of the Master has sufficient interest in the document.

The value of the register depends on what information is contained in the trust deed. Insofar as a trust is a discretionary trust reference may be made in the trust deed simply to a class of beneficiary.

Annex 3 Jurisdictions Completing the Questionnaire

FATF Members

Austria (AT)
Belgium (BE)
Denmark (DK)
France (FR)
Germany (DE)
Hong Kong, China (HK)
Japan (JP)
Netherlands (NL)
Netherlands Antilles (NA)
New Zealand (NZ)
Norway (NO)
Spain (ES)
Switzerland (CH)
Turkey (TR)
United Kingdom (UK)
United States of America (US)

(16)

Members of FSRBs

Bahamas (BA)
Bahrain (BH)
British Virgin Islands (VI)
Gibraltar (GI)
Guernsey (GG)
Isle of Man (IM)
Jersey (JE)
Latvia (LV)
Lithuania (LT)
Macao, China (MO)
Malaysia (MY)
Marshall Islands (MH)
Mauritius (MA)
Palau (PW)
Qatar (QA)
Slovakia (SK)

(16)

Annex 4 Cases

No	Short description	Time	Experts involved	Jurisdiction of incorporation	Jurisdiction where the actual activities take place	Similar fashion (typology)	Case ID via	Offence(s)	ML phase	Amount (fine/damage)
1	Mr. A was a Trust Service Provider operating a Trust Company [L]. Using a series of domestic trusts that he established, he wired large sums of money to 51 different U.S. and offshore bank accounts that originated from a investment/securities fraud. The thrust of the scheme was that A and associates convinced their clients to form 'Pure Trust Organisations' (PTO) and to place their life savings, including their retirements accounts, into these Trusts created by L. Clients were taught the PTO provided asset protection providing concealment of their assets from the government and other creditors. The L-package promised the formation of a PTO and offshore bank accounts. The clients were told when the funds were placed in these offshore bank accounts it was beyond the reach of the U.S. government and any creditor. Once the clients placed their assets into the Trusts, A used another corporation to provide investments for the assets in the Trusts. In reality there were no investments, and A and his associates defrauded the Trust Owners.	Unknown	TSP	1) trusts in the U.S. (unknown is the type of Trust and the state in the U.S. in which the Trusts were established) 2) Pure Trust Organisation (PTO) (unknown is the type of corporation and the jurisdiction in which the corporation was established) 3) another corporation (unknown is the type of corporation and the jurisdiction in which the corporation was established)	The activities of this Trust Service Provider took place in the U.S. (unknown is the state in which this Trust Service Provider is seated and active)	1) use of trusts and corporations to realize scheme 2) use of trusts to divert the money flow 3) use of trusts and corporations to conceal identity of clients	IRS	1) Investment fraud 2) securities fraud 3) mail fraud 4) wire fraud 6) conspiracy Mr. A pleaded guilty and was sentenced to 220 months in federal prison.	1 Placement	In total it is estimated the scheme defrauded over 500 investors of approximately USD 56 million.

No	Short description	Time	Experts involved	Jurisdiction of incorporation	Jurisdiction where the actual activities take place	Similar fashion (typology)	Case ID via	Offence(s)	ML phase	Amount (fine/damage)
2	Mr. B and his associate bought insurance companies. The assets of these companies were drained and used for personal benefits. The draining of the assets was concealed by transferring them into accounts in and out of the U.S. via wire transfers. The first step in the scheme was establishing a Trust in the U.S. B concealed his involvement and control of the Trust through the use of nominees as the grantors and trustee. B used the Trust to purchase the insurance companies. Immediately after the acquisition, B would transfer million of dollars of reserve assets to a corporation he set up in the U.S. The funds were then wire transferred to an offshore bank account in the name of another corporation that he controlled. Once these funds were deposited into the offshore bank account, B used them to pay for his personal expenses.	Unknown during 9 years	Feasible but not specifically described	1) trust in the U.S. (unknown is the type of Trust and the jurisdiction or state in which the Trust was established) 2) corporation in the U.S. (unknown is the type of corporation and the jurisdiction in which the corporation was established) 3) another corporation with an offshore bank account (which type of corporation and in which jurisdiction the corporation was established)	Mr. B used a U.S. trust to purchase insurance companies (unknown in which jurisdiction) and subsequently transferred millions of dollars of reserve assets to a corporation in the U.S.	1) use of structure, trust and shell companies to realize scheme 2) use of structure to conceal identity 3) use of nominees to conceal identity	IRS	1) wire fraud 2) money laundering 3) racketeering influenced corrupt organisation (RICO) 4) RICO conspiracy 5) securities fraud	1 Placement	Total restitution ordered by the court was approximately USD 400 million.

No	Short description	Time	Experts involved	Jurisdiction of incorporation	Jurisdiction where the actual activities take place	Similar fashion (typology)	Case ID via	Offence(s)	ML phase	Amount (fine/damage)
3	Mr C and his associates perpetrated of a pyramid investment scheme caused more than USD 8,4 million in losses to almost 8,000 investors in the U.S. The investigation focused on an association [M]. M was a pyramid business enterprise that sold various products to its members including investment plans. The chairman of M was Mr. C. It was alleged that M's leaders were promoting the sale of an investment, identified as Private Placement Offers (PPO). The investment promised a 30 to 1 return within a year C promoted the PPO investments to M members and encouraged them to establish offshore corporations and bank accounts in Antigua, Isle of Man and Belize. He advised them to conduct their financial transactions relating to the PPO investments through their offshore accounts. It was proven that all the participants conspired to defraud and obtain money and property from individuals by means of false and fraudulent representations. From 4 years, C and his associates caused members of the M to invest in the PPO offered by a U.S. corporation. The result was the receipt of more than USD 8 million from investors for participation in the PPO. These funds were deposited into bank accounts in the U.S. Instead of using these monies as purported, they were diverted to the personal use and benefit of C and his associates and used to promote the carrying on of the illegal enterprise.	Unknown	Feasible but not specifically described	1) offshore corporations in Antigua, Isle of Man and Belize (unknown is the type of companies that were established)	An association known as Sovereign Business System (SBS) , a pyramid business enterprise was established in the U.S. and used to promote PPO´s. The investors subsequently transferred money into offshore organisations and trusts that were established in Antigua, Isle of Man and Belize.	1) use of multi jurisdictional structure realize scheme 2) use of offshore corporations divert money flow 3) use of offshore bank accounts	IRS	1) money laundering 2) mail fraud 3) wire fraud 4) other criminal charges	1 Placement	More than USD 8,4 million in losses to almost 8,000 investors in the U.S. Due to the seizure of assets, restitution of approximately USD 5,8 million was paid to the victims of this fraud.

No	Short description	Time	Experts involved	Jurisdiction of incorporation	Jurisdiction where the actual activities take place	Similar fashion (typology)	Case ID via	Offence(s)	ML phase	Amount (fine/damage)
4	Fund E (BVI) had over EUR 93 million in assets in Bank A and was managed by company F in Dublin. One of the shareholders of Fund E was Bank G in Switzerland. Another shareholder was Fund H (Bahamas) managed by company I (Bahamas). Fund H was 100% controlled by Bank J, another Swiss bank. However, for Fund E, Bank A was not able to compare the subscriptions with the total amount of capital issued by the fund. Moreover it appeared from business correspondence found during the on-site mission led by the French Commission that Mr. K. was directly involved in the management of Fund E. It was likely that Mr. K´s family was the beneficial owner of the fund, but the bank had no evidence thereof.	Unknown	Feasible but not specifically described	1) British Virgin Islands (BVI) (unknown which type of fund was established) 2) Bahamas (unknown which type of fund was established) 3) Ireland (unknown which type of company was established) 4) Bahamas (unknown which type of company was established)	Fund E was managed by Company F in Ireland. Fund E used apparently French bank accounts Investments in Fund E were made by two Swiss banks, one of the Swiss banks invested in Fund E via Fund H established on Bahamas. Out of 51 companies for which bank A. did not identify the beneficial owner, 14 were established in BVI, 12 in Panama, 2 in Luxembourg, 1 in the Bahamas.	1) conceal identity of the beneficial owner through multi jurisdictional structure where companies, management, bank accounts and shareholders are all situated in different jurisdictions	French banking commission fined a bank for breach of the obligation to identify the beneficial owner (on-site visit)	Breach of French law	no ML	Banking commission fined Bank A with EUR 100.000
5	Company established in an offshore centre and moved its registered office to become a limited company under Belgian law. Limited company was dissolved and several other companies were established taking over the activities. The investment company (in Belgium) had opened a bank account and received an important flow of funds from foreign companies Funds were later transferred to accounts opened with the same bank for the new Belgium companies	Unknown	Yes judicial financial fiscal experts	1) Offshore centre (unknown is the type of company that is established and the jurisdiction in which the companies are set up)	Money flow from various foreign companies to Belgium companies Subsequently money flow from Belgium to various individuals abroad including the original shareholder.	1) multi jurisdictional structure 2) dissolvement after creating new companies 3) money flows without clear connection to activities of company	Disclosure by bank to FIU. There was no economic justification for transactions	1) Tax fraud 2) Money laundering	1, 2 Placement and layering	Unknown

No	Short description	Time	Experts involved	Jurisdiction of incorporation	Jurisdiction where the actual activities take place	Similar fashion (typology)	Case ID via	Offence(s)	ML phase	Amount (fine/damage)
6	Mr C was an accountant that started his own accounting and financial services, N in Panama. He advertised his services primarily on the internet and through mass mailings. N provided a variety of services including the following: formation of offshore entities shelf corporations (trust, foundations and corporations to disguise ownership of assets; passports and dual citizenship, mostly using new nominee names; movement of cash and other assets offshore and back onshore using various methods; issuance of debit cards for the purpose of anonymously repatriating and spending offshore funds; use of correspondent bank accounts to skim profits of legitimate businesses and repatriate funds through the purchase of assets and use of debit cards; anonymous trading of securities through accounts with two major brokerage houses; false invoicing-re-invoicing schemes to support fraudulent deductions on tax returns; false investment losses, to disguise transfer of funds overseas. C was identified pursuant to an IRS-CI investigation of one of his clients for illegal importation and sale of goods. The targets of this investigation were using a re-invoicing scheme devised by C to illegally import these chemicals into the U.S. for sale. C assisted the targets in the re-invoicing scheme by preparing the invoices, receiving the proceeds of the scheme and hiding the proceeds in a myriad of Panamanian Corporations for later use by the targets. As a result of this investigation, C became a subject investigation for the formation of illegal trusts to facilitate money laundering and other crimes. The investigation disclosed that L had about 300-400 active clients/investors. The investigation also disclosed that it created between	2000-2003?	C was an accountant	1) foreign trusts (unknown is the type of Trust and the jurisdiction in which the Trusts were established 2) Panamanian corporations (unknown is the type of corporation) 3) foundations (unknown is the jurisdiction in which the foundations were established)	N was seated in Panama and advertised its services primarily via the internet and through mass mailings.					

No	Short description	Time	Experts involved	Jurisdiction of incorporation	Jurisdiction where the actual activities take place	Similar fashion (typology)	Case ID via	Offence(s)	ML phase	Amount (fine/damage)
	5.000-10.000 entities for these clients, including the layering of foreign trusts, foundations and underlying business corporations, which were formed in offshore countries.									

No	Short description	Time	Experts involved	Jurisdiction of incorporation	Jurisdiction where the actual activities take place	Similar fashion (typology)	Case ID via	Offence(s)	ML phase	Amount (fine/damage)
7	Mr. B and his associate bought insurance companies. The assets of these companies were drained and used for personal benefits. The draining of the assets was concealed by transferring them into accounts in and out of the U.S. via wire transfers. The first step in the scheme was establishing a Trust in the U.S. B concealed his involvement and control of the Trust through the use of nominees as the grantors and trustee .B used the Trust to purchase the insurance companies. Immediately after the acquisition, B would transfer million of dollars of reserve assets to a corporation he set up in the U.S. The funds were then wire transferred to an offshore bank account in the name of another corporation that he controlled. Once these funds were deposited into the offshore bank account, B used them to pay for his personal expenses.	Unknown during 9 years	Feasible but not specifically described	1) trust in the U.S.(unknown is the type of Trust and the jurisdiction or state in which the Trust was established) 2) corporation in the U.S.(unknown is the type of corporation and the jurisdiction in which the corporation was established) 3) another corporation with an offshore bank account (which type of corporation and in which jurisdiction the corporation	Mr. B used a U.S. trust to purchase insurance companies (unknown in which jurisdiction) and subsequently transferred millions of dollars of reserve assets to a corporation in the U.S.	1) use of structure, trust and shell companies to realize scheme 2) use of structure to conceal identity 3) use of nominees to conceal identity	IRS	1) wire fraud 2) money laundering 3) racketeering influenced corrupt organisation (RICO) 4) RICO conspiracy 5) securities fraud	1 Placement	Total restitution ordered by the court was approximately USD 400 million
8	Beginning in 1997, Mr D assisted his clients with various schemes to hide income and assets from the IRS, including a method by which an individual used 'common used trusts' to conceal ownership and control of assets and income and the use of offshore trusts with related bank accounts in which the assets would be repatriated through the use of a debit card. D also set up international business corporations (IBC) that had no independent economic reality and did not represent actual ongoing business concerns, on behalf of his clients, to conceal the clients´ assets and income from the IRS. Concerning his own liabilities, D opened and maintained nominee bank accounts	1997-2001	Tax advisor	1) trusts 2) international business corporations (IBC) (unknown in which jurisdiction the IBC was established) 3) offshore trusts (unknown is the type of Trust and the jurisdiction in which the Trusts were established	The actual activities took place in the U.S.	1) use of trusts and corporations to conceal identity 2) use of nominee bank accounts to conceal identity	IRS	1) criminal tax fraud 2) wire fraud	1 Placement	D admitted that between 1998 and 201, he was paid USD 281.890 in income and then directed those payment

No	Short description	Time	Experts involved	Jurisdiction of incorporation	Jurisdiction where the actual activities take place	Similar fashion (typology)	Case ID via	Offence(s)	ML phase	Amount (fine/damage)
	both in the U.S. and abroad to conceal his income from the IRS.									s to nominee bank accounts primarily set up in foreign countries .
9	Mr. E a CEO of a local telecommunication company received corrupt money of RM 300.000 as an inducement to award supply and work worth RM 5.0 million to company P, which belongs to Mr. F. Mr. F paid the corrupt money as a payment by company P to company Q for services rendered. Company Q also belongs to Mr. F, but was merely a dormant and shell company with RM 2.00 paid up capital. The money was later withdrawn from company Q and placed in a stock-broking firm under the name of Mr. G., a nominee of Mr. E, who opened an account with the same stock broking company using his son´s name. The money in G.´s account was used to purchase shares in the open market and later sold to Mr. E´s son using numerous married deal transactions whereby the shares were later sold by Mr. E´s son in the open market at a higher price. Capital gains subsequently were used to open fixed deposits. Sign up for a insurance policy (under the name of Mr. E) as well as purchase assets in the name of Mr. E´s relatives.	Unknown	Feasible but not specifically described.	1) Company P and Q. (unknown which type of company and in which jurisdiction these companies were established)	The activities of the companies took place in Malaysia. The purchase of shares in the open market took place via a stock broking firm seated in Malaysia	1) use of corporate structure for hiding of payments 2) conceal of identity by nominees (Mr. E´s son and Mr. G.)	Unknown	1) corruption	4 Investment	Unknown

No	Short description	Time	Experts involved	Jurisdiction of incorporation	Jurisdiction where the actual activities take place	Similar fashion (typology)	Case ID via	Offence(s)	ML phase	Amount (fine/damage)
10	Individual B, a foreigner without an address in Belgium set up a company X for buying and selling real estate. The company was set up by Notary A. The sole manager and shareholder of this company was a family member of B, who also resided abroad. Shortly after its creation the company bought property in Belgium. The property was paid on the account of notary A by means of several transfers, not from company X, but form another foreign company about B B did not provide any details.	Unknown	Yes Notary	1) Belgium (unknown is the type of company that was established) 2) foreign (unknown in which jurisdiction the company was established)	Shortly after incorporation company X bought a property in Belgium. The property was paid by means of several transfers not by company X, but by another foreign company The sole manager and shareholder of this company was a family member of B, who also resided abroad B. was known by Police for financial fraud	1) multi jurisdictional structure 2) payment by foreign company without clear connection to company X nor clear connection between the two companies involved 3) incorporation of a company by a non-resident with no links nor activities in jurisdiction where the company is established 4) the company´s sole manager and shareholder	Notary in Belgium filed STR	1) financial fraud 2) money laundering	4 Investment (possibly phase3, if payment was made by way of a loan)	Unknown

No	Short description	Time	Experts involved	Jurisdiction of incorporation	Jurisdiction where the actual activities take place	Similar fashion (typology)	Case ID via	Offence(s)	ML phase	Amount (fine/damage)
11	Individual A, a foreign national without an address in Belgium, but manager of company X established in Belgium was active in the sector of household appliances. A held several bank accounts in the Middle East. A had substantial cash deposits in various foreign currencies. One of the accounts was credited by a transfer from a tax haven by order of individual B. Immediately afterwards, A. requested to transfer funds to an account of company X meant for the creation of new capital. The CTIF-CFI in Belgium received a request for information from a FIU in the Middle East.	Unknown	Unknown	1) Belgium (unknown is the type of company that was established)	Several substantial deposits in various foreign currencies were made and one of the bank accounts in the Middle East was credited by a transfer from a tax haven by order of B Subsequently the money was transferred to an account of company X in Belgium.	1) multi jurisdictional structure 2) incorporation of a company by a foreign national without an address in land of incorporation of the company 3) international money flows without clear connection to the activities of company 4) cash deposits in foreign currencies without link to company X (household appliances)	CTIF/CFI received request for information from FIU in Middle East	Suspicion that company X laundered the assets of international trade in cigarettes	1.2 Placement and layering	Unknown
12	A foreign citizen residing in Belgium opened a bank account. Immediately afterwards the account was credited by a very substantial transfer from a lawyer´s office in North America. This amount was the result of the closing of the account in the name of a trust. The individual requested to withdraw this amount in cash.	Unknown	Yes lawyer in US (unknown which state)	1) US trust (unknown which type of trust and in which state the trust was established)	Bank account in Belgium was credited by a very substantial amount from the U.S. (unknown from which state). This amount was the result of the closing the account in the name of a trust Individual wanted to withdraw the amount	1) conceal identity of the beneficial owner by using a foreign trust.	Bank in Belgium filed the STR and opposed to the withdrawal.	Money laundering suspicion	1 Placement	Unknown

No	Short description	Time	Experts involved	Jurisdiction of incorporation	Jurisdiction where the actual activities take place	Similar fashion (typology)	Case ID via	Offence(s)	ML phase	Amount (fine/damage)
13	Companies B1 en B2 were registered in the BVI. Both companies had opened several accounts at Bank A in France. The balance on the bank accounts amounted to approximately EUR 3 million. Half of these amounts were used to secure a loan. Companies B1 and B2 were managed by a foreign registered Trustee C. licensed by the Guernsey FSC. The French banking commission fined Bank A for breach of the obligation to identify the beneficial owner.	Unknown	Yes Trustees C licensed by the Guernsey FSC.	1) British Virgin Islands (BVI) (unknown which type of companies were established)	Bank accounts in France totalled approximately EUR 3 million, half of which was secured by a loan. The French banking commission considered that Bank A had not gathered convincing documents to verify the identity of the ultimate beneficial owner(s) of companies and legal arrangements in BVI, Bahamas	1) conceal identity of the beneficial owner through structure of corporate entities and trusts and international money flow	French banking commission fined a bank for breach of the obligation to identify the beneficial owner (on-site visit)	Breach of French law	no ML	Unknown
14	Company L registered in Liberia, borrowed funds from Bank B for the purchase of a ship. Company L acquired the ship financed and gave it in guarantee of the loan. The register of Lloyd´s insurances mentioned the name of company L under the name of company M without any other details, implying that company M manages company L. During investigations, it was established that the interlocutor of the bank was Mr. J. who was supposed to be the beneficial owner of company M, but the bank did not have any document attesting this information. The shares of company O were held 50% by company P and 50% by company Q. Mr. J. was allegedly the beneficial owner of company Q and one of his associates was supposed to be the beneficial owner of company P. Mr. J. negotiated the terms of the loan.	Unknown	Lawyers and legal advisors	1) Three companies were established in Liberia (unknown which type of companies were established) 2) Companies M, P and Q (unknown which type of companies and in which jurisdiction these companies were established)	Company L seated in Liberia was used to purchase a ship by obtaining a loan from Bank B, seated in France and gave it in guarantee of a loan.	1) conceal identity of the beneficial owner through structure of foreign companies(with possibility to issue bearer shares, articles of associations or financial statements in which the shareholders or capital owners are not mentioned)	Investigation of French banking commission.	Breach of French law	no ML	Unknown

No	Short description	Time	Experts involved	Jurisdiction of incorporation	Jurisdiction where the actual activities take place	Similar fashion (typology)	Case ID via	Offence(s)	ML phase	Amount (fine/damage)
15	Bank B gathered the 'Certificate of Incorporation' of its Delaware customer company N and later obtained information about the 100% shareholder Delaware Corporation O. The incorporation documents did not give details about the real beneficiaries. There was no other document related to the capital structure and the shareholders. Bank B provided a loan to Single purpose company N in Liberia to facilitate a plane lease construction in which the single purpose company N holds the head lease and trust holds the sublease. The airline companies paid rentals for the sub lease to the trustee. U.S. Holding holds 100% of the shares in the airline leasing companies and another special purpose company (owner at the reimbursement term).	Unknown	Feasible but not specifically described.	1) Two Delaware companies (unknown which type of companies were established)2) US holding company (unknown which type of company and in which state the company was established) 3) Trust(ee)(unknown which type of trust and in which jurisdiction the trust was established and who acts as trustee in this case) 4) Airline leasing companies (unknown which type of companies and in which jurisdiction these companies were established)	The loan was provided by a bank in France. Airline leasing companies paid rentals for sub lease the Trustee. The Trustee paid Single purpose company N in Delaware for the head lease. It seems that company N paid the interest and/or repayments on the French bank loan.	1) conceal identity of the beneficial owner through structure of a trust and foreign companies	Investigation of French banking commission	Breach of French law (AML law)	Unknown	EUR 1.000.000
16	Between the years 2000-2002, a gang of robbers carried out robberies at private and public premises. The robbers' main targets were the jeweler and pawnshops throughout Malaysia. During this period, the total haulage of ill-gotten proceeds was laundered by acquiring various types of businesses such as seafood restaurants, car accessories, and electrical shops. The bulk of the laundered proceeds were invested in jeweler	2000-2002	Unknown	1) Various Malaysian businesses were purchased (type of company, if any, is unknown)	The activities of these businesses took place in Malaysia.	1) use of businesses or one-man businesses to launder money by way of increasing fictitious turnover of these business or one-man	Investigation by the police.	1) robbery 2) breach of AML law	3 Justification	Unknown

No	Short description	Time	Experts involved	Jurisdiction of incorporation	Jurisdiction where the actual activities take place	Similar fashion (typology)	Case ID via	Offence(s)	ML phase	Amount (fine/damage)
	business.					businesses				
17	The case relates to three fraudulent wire transfers from Miami to Mauritius and the funds were thereafter transferred to Sri Lanka, Hong Kong, India, USA and Panama A limited company A operating in the textile sector exports mainly to the USA. Its Board of Directors consists of an Indian national based in Sri Lanka, a Mauritius national, and a sister company B seated in Sri Lanka. A Miami bank received three requests by fax to debit the accounts of Mr. N., a client based in Venezuela and operating in cosmetics through his company C. and credited accounts of A a bank in Mauritius for an amount of USD 1,8 million. The Mauritius bank received three requests from their correspondent bank HSBC in New York for cancellation of the payment orders to A s they were sent in error. Delphis bank requested A to authorise for reversal of the payment order. However the funds were transferred to other bank accounts in Sri Lanka, India, Panama and Hong Kong. It seems that Mr. N. agreed A not to produce the goods. The goods were manufactured by B in Sri Lanka, but since there is exchange control regulation in Sri Lanka and Mauritius has offshore facilities the remittances were made to A in Mauritius. The documents that witnessed the export of textile to Venezuela were forged and improper.	2001-2004	Unknown	1) Mauritius (limited company) 2) Sri Lanka (unknown is type of company) 3) Company C(unknown is type of company and jurisdiction in which this company was established)	The goods were manufactured in Sri Lanka. In order to avoid exchange control regulation, the goods were pretended to be manufactured in Mauritius. The goods were sold to Mr. N in Venezuela, who paid by means of a wire transfer to a company incorporated in Mauritius (not Sri Lanka). The funds were thereafter transferred to Sri Lanka, Hong Kong, India, USA and Panama. Mauritius has offshore facilities.	1) multi jurisdictional structure to evade exchange control and taxes in Sri Lanka 2) false documents also to evade exchange control and taxes in Sri Lanka. 3) management of a company in Mauritius consists of at least one non-resident person.	Investigation by the police	1) forgery	no ML	Each director of A was fined to pay Rs. 1 million plus Rs 500 costs in 2004

No	Short description	Time	Experts involved	Jurisdiction of incorporation	Jurisdiction where the actual activities take place	Similar fashion (typology)	Case ID via	Offence(s)	ML phase	Amount (fine/damage)
18	Investment of Russian funds, presumably criminal funds in real estate in Amsterdam. Company C was incorporated in the Netherlands. Its shareholder was Company D, on Curacao A local carpenter acted as director in the Dutch limited liability company C. Another company, E, on Curacao provided a loan to Company D in the Netherlands in several tranches. The loan turned out to be not secured in favour of E and interest was not paid but accrued. The terms of the loan seem not businesslike. A TCSP in the Antilles acted as director in both companies D and E. C invested the money in real estate in Amsterdam. The UBO is only known by the TCSP in the Antilles.	1997-2002	Yes Tax advisor Notary	1) Two Netherlands Antilles N.V.´s 2) Dutch limited liability company (B.V.) purchased real estate via a notary.	Investment of Russian funds, presumably criminal funds in real estate in the Netherlands. A loan was provided by E to the Dutch B.V.	1) conceal identity of the beneficial owner through structure of foreign companies 2) management of a real estate company by a strawman 3) Loan back structure (loan was provided by a foreign allegedly non-related company. However in fact it concerns a company owned and controlled by the same beneficiary) 4) The terms of the loan were not businesslike.	Investigation by fiscal intelligence service-economic control service FIOD/ECD	1) breach of AML law 2) falsification of documents 3) tax fraud	3.4 Justification and investment	Unknown
19	English limited companies used in VAT-schemes. The difference between the legal systems in the Netherlands and England is being used to deduct taxes. According to English law the company is dissolved, whereas in the company lives on for VAT tax-purposes in the Netherlands and can file VAT returns claiming input tax. Since the company is dissolved in England there is no beneficial owner causing legal problems in addressing claims according to Dutch tax and corporate law. Investigation revealed the destination of money,	unknown	unknown	1) English limited liability companies incorporated and then dissolved	In the Netherlands the same English limited liability companies live on en file fraudulent VAT- tax returns.	1) incorporation of an U.K. limited liability company by a foreigner, with no link nor activities in the jurisdiction where the company is established.	Investigation by fiscal intelligence service-economic control service FIOD/ECD.	1) tax fraud 2) falsification of documents	1 Placement	Unknown

No	Short description	Time	Experts involved	Jurisdiction of incorporation	Jurisdiction where the actual activities take place	Similar fashion (typology)	Case ID via	Offence(s)	ML phase	Amount (fine/damage)
	but turned out to be out of reach for the Dutch authorities.									
20	At the end of the 90s, a European telecommunication group X asked a Swiss lawyer Y, to construct a specific payment system. The purpose is to transfer bribes to influential persons in emerging markets abroad. X received important orders to establish the mobile network in these countries. The lawyer Y used a number of corporate vehicles to veil the connection between X and the recipients of the bribes. Y opened bank accounts in the name of every company at several banks in Switzerland and opened bank accounts in their own names which were specifically to be used for bribes to easy the decision-making process for foreign administration officials/lobbyists. X credited the accounts with explanations as market studies, support international trade etc. In may 2002 the frequent large cash withdrawals attracted the attention of one of the banks in the canton of Zurich. STR´s were filed.	End of 90s till June 2003	Mr. Y. is a lawyer	1) Several Swiss companies (unknown is the type of companies that were established)	The activities of a number of corporate vehicles probably took place in Switzerland.	1) use of multi jurisdictional structure to divert the payments	Bank in canton of Zürich filed STR´s	1) bribery	1 Placement	Maybe disciplinary measures against lawyer Y Investigation still open: almost CHF 550 million flowed through corporate vehicles

No	Short description	Time	Experts involved	Jurisdiction of incorporation	Jurisdiction where the actual activities take place	Similar fashion (typology)	Case ID via	Offence(s)	ML phase	Amount (fine/damage)
21	Two US citizens formed a LLC, which was an independent venture capital firm but was secretly controlled by the two US citizens in violation of the State´s order. At order of L. direction M. created a number of shell companies and bank accounts in the Caribbean island of Nevis for himself and other defendants. M. used these Nevis companies to funnel money offshore by submitting fraudulent stock subscription agreements and financial statements of the Nevis companies, to make it appear that the LLC had wealthy backers and lines of credit. The LLC fraudently raised USD 12 million from investors. In total securities with a value over USD 90 million were offered and sold.	2001-2002	No	1) LLC (a venture capital firm) in the U.S. 2) Nevis shell companies (unknown are the type of companies which were established)	The LLC in the U.S. fraudently raised millions from U.S. investors.	1) use of multi jurisdictional structure to divert the payments 2) conceal identity by using Nevada and Nevis companies 3) use of offshore bank accounts	IRS	1) conspiracy 2) mail fraud In 2004 M. was sentenced to four years in prison to be followed by 3 years of supervised release with restrictive financial/employment conditions	1 Placement	In total a value of securities worth USD 90 million were offered/sold
22	A US citizen, Mr. H operated two Nevada corporations doing business in Idaho Falls. Approximately 100 clients invested a total of USD 1.7 million on the promise of a good return and minimal risk through day trading. However, H did not do the trading he promised, but diverted much of the money to his own personal use. To keep the investments coming in H prepared monthly statements for each investor, falsely representing that he engaged in day trading on a regular basis.	2004	No	1) Two Nevada corporations (unknown are the type of companies which were established)	The activities took place in Idaho Falls in the U.S	1) use of multi jurisdictional structure to divert the payments (between U.S. states) 2) conceal identity by using Nevada companies	IRS	mail fraud In 2005 H was sentenced to 37 months in prison to be followed by 3 years supervised release	1 Placement	Total loss was for investors more than USD 1.2 million H was sentenced to pay USD 1.2 million in restitution to the victims

No	Short description	Time	Experts involved	Jurisdiction of incorporation	Jurisdiction where the actual activities take place	Similar fashion (typology)	Case ID via	Offence(s)	ML phase	Amount (fine/damage)
23	Mr. J, an attorney made false statements in support of a bank loan application in the Springfield area from 1973 until his disbarment in 2000. J induced a number of individuals to invest funds with him through company T by false and fraudulent pretences. J claimed that T was engaged in the business of factoring accounts receivable in the trucking industry and that there was little or no risk of loss of investment. However J did not invest the funds. Instead he used the money to make periodic payments representing return of their investment. J converted more than USD 1 million for his own use.	1973-2000	Mr. J is an attorney	1) Company T was established in the U.S. 2) Bank loan application was filed in the Springfield area in the U.S.	Mr. J defrauded numerous investors through an investment scheme, whereby used part of the invested money for his own use and part of the invested money to make periodic payments representing return on investment.	1) use of multi jurisdictional structure to divert the payments 2) conceal identity 3) use of false 'loan' documents.	IRS	1) money laundering 2) defrauding more than USD 1,6 million from his clients and others through an investment scheme 3) false tax returns 4) false statements in support of a bank loan application.	1 Placement	Total loss admitted by Love amounts to USD 158.152. Love was sentenced to 108 months in prison and ordered to pay USD 2.442.564 in restitution.
24	Mr. K a tax attorney was arrested in Madagascar after fleeing the U.S. K set up/advised a scheme for a client to defeat the assessment of income taxes on the sale of a company by confusing the nature of the capital gain. K conspired with the client to establish a complicated series of transactions involving shell corporations, limited partnerships, trusts and sham corporate executives.	1996-2004	Mr. K is a tax attorney	1) Various shell corporations, limited partnerships, trusts were established. (unknown which type of corporation and trust and in which jurisdiction)	Violations took place in the state of Michigan in the U.S.	1) use of multi jurisdictional structure to divert the payments 2) conceal identity (sham executives) 3) falsification of documents (backdating)	IRS	1) mail fraud 2) money laundering 3) tax fraud 4) theft of property violations 5) falsification of documents (backdating)	1 Placement	This sham resulted in the reporting to the IRS the sale of the company to be USD 2,8 million whereas the actual selling

No	Short description	Time	Experts involved	Jurisdiction of incorporation	Jurisdiction where the actual activities take place	Similar fashion (typology)	Case ID via	Offence(s)	ML phase	Amount (fine/damage)
										price was USD 9,8 million.
25	Mr. L claimed to have invented a revolutionary new software program that could compress huge amounts of data and transmit the compressed data over standard telephone lines. L sold or licensed the software to three different investment groups, receiving about USD 12,5 million from investors, but never delivered the product to any of the groups.	2001-2005	No	1) Shell corporations in various states in the U.S. L used numerous identities across the U.S.	Activities took place in various states in the U.S. (from Florida to Ohio, to California, to Texas and then to Colorado)	1) use of multi jurisdictional structure to divert the payments 2) use of structure to conceal identity	IRS	1) wire fraud 2) bank fraud 3) money laundering Mr. L was sentenced to 480 months/40 years in prison on April 27, 2005	1 Placement	Damage USD 13,5 million.

No	Short description	Time	Experts involved	Jurisdiction of incorporation	Jurisdiction where the actual activities take place	Similar fashion (typology)	Case ID via	Offence(s)	ML phase	Amount (fine/damage)
26	On April, 19, 2005, in New York, Mr. M was sentenced to 96 months in prison, was amongst others ordered to pay USD 106 million in restitution to the creditors he defrauded. M was convicted of conspiring to defraud, and defrauding, his creditors and income tax evasion based on his receipt of over USD 25 million he never reported to the IRS. M and his partner N built a series of companies by borrowing hundreds of millions of dollars from and through various financial institutions and personally guaranteed many of the loans. After failing to repay the loans, M and N put into place a restructuring plan pursuant to which they signed deficiency notes making themselves personal liable to their creditors for approximately USD 100 million. Around the same time they were signing deficiency notes, M and N sold Company A to Company B in a deal that allowed M and N to earn shares of B. Pursuant to the agreement M and N with the assistance of others pulled off a massive fraud involving falsely representing to their creditors that they were broke and could not repay the notes and duping the creditors that held the notes, at a steep discount, to purportedly unrelated third parties who were in fact sham entities controlled and funded by M and N. During the scheme the identity of M and N remained unknown.	2002-2004	unknown	1) A series of companies (unknown is the type of companies and the state in which they were established)	unknown	1) use of structure to realize scheme 2) use of structure to conceal identity	IRS	1) bank fraud 2) tax evasion	1 Placement	On April 19, 2005 Hundley was sentenced to 96 months/ 8years in prison, ordered to pay USD 106 million in restitution to the creditors he defrauded and USD 5,4 million in restitution to the IRS The judge also entered a forfeiture order USD 44 million allowing the U.S. to seize assets of M.

No	Short description	Time	Experts involved	Jurisdiction of incorporation	Jurisdiction where the actual activities take place	Similar fashion (typology)	Case ID via	Offence(s)	ML phase	Amount (fine/damage)
27	O owned eight residential apartment complexes, which contained more than 400 rental units. O along with his wife conspired to hide owner-ship of the rental units, so they could conceal the income from the rental units and avoid paying taxes. O transferred ownership of the apartments to sham entities, which they called Unincorporated Business Organisations (UBO) and opened more than 40 bank accounts with signature authority in their own names or nominees. O and his wife advised their accountant that they had no income from the apartments because, having transferred the rentals to the UBO, they no longer owned the rentals. They then filed false tax returns, failing to report the income.	2002-2004	Feasible but not specifically described	1) sham entities which were called Unincorporated Business Organisations (UBO). (unknown which type of corporation) O was sentenced in Salt Lake City.	The actual activities took place in the U.S. (unknown in which state the activities took place)	1) use structure to realize scheme 2) use of structure to conceal identity 3) use of nominees to conceal identity	IRS	1) conspiracy 2) tax evasion 3) bankruptcy fraud	1 Placement	During the years of the conspiracy O failed to pay more than USD 5 million in federal taxes. On June 22, 2005 O was sentenced to serve 100 months in federal prison to be followed by three years of supervised release. In addition O was ordered to file accurate tax

No	Short description	Time	Experts involved	Jurisdiction of incorporation	Jurisdiction where the actual activities take place	Similar fashion (typology)	Case ID via	Offence(s)	ML phase	Amount (fine/damage)
										returns with 18 months of his sentencing
28	Mr P invented a wheel-locking device to be used on four-wheel drive off-road vehicles. After forming a company to market his product, he sold the company for USD 1.008.000,-. P failed to file a tax return that reported any of the funds generated by the sale, nor did he pay any taxes on the income. Instead, he placed the funds into offshore bank accounts, used bank accounts in the names of other persons and entities, and conducted financial transactions using large amounts of cash. The loan fraud conviction was based on the submission of a false employment letter in connection with a loan application to purchase a house.	2002/2004	Feasible but not specifically described	1) company (unknown which type of company and in which jurisdiction the company was established) 2) entities (unknown which type of entities and in which jurisdiction the entities were established)	The activities took place in various states of the U.S.	1) use structure to realize scheme 2) use of structure to conceal identity 3) use of nominees to conceal identity 4) use of offshore bank accounts	IRS	1) tax evasion 2) loan fraud 3) structuring cash transactions to avoid federal reporting requirements	1.4 Placement and investment	P owes USD 264.335 in back taxes. On January 31, 2005 P was sentenced to 33 months in prison. In San Diego county, on January 31, P was sentenced to 33 months in prison.

No	Short description	Time	Experts involved	Jurisdiction of incorporation	Jurisdiction where the actual activities take place	Similar fashion (typology)	Case ID via	Offence(s)	ML phase	Amount (fine/damage)
29	Between November 1998 and March 1999, at least 13 lenders sent a total of USD 1,760.000 by means of wire transfers to Anguila in the name of Company Q. During 1998 and 1999, Mr. A the founder and the director of two companies, Q in Anguilla, British West Indies and R In the state of Missouri, induced individuals to lend money to the company in Missouri, for a period of one year and one month and promised to pay interest to such lenders at 120 percent per year. A represented to the lenders that all of the money was to be used to purchase U.S. bonds or other comparable obligations and that all of their money would be insured. In addition A told the lenders that the government bonds or other obligations purchased were to be used as collateral to obtain more money to be used to trade financial instruments in order to generate profits to repay the loans and earn interest.	1998-2005	Unknown	1) Company Q was established in Anguila (BWI) 2) Company R was established in the state of Missouri in the U.S.	U.S. Investors invested their money in U.S. bonds with a '120 percent' return per year.	1) use structure to realize scheme 2) use of structure to conceal identity	IRS	1) wire fraud 2) money laundering	1 Placement	On June 17, in St. Louis Mr. A was sentenced to 51 months in prison for wire fraud and money laundering and ordered to pay USD 2.070.000 in restitution.

No	Short description	Time	Experts involved	Jurisdiction of incorporation	Jurisdiction where the actual activities take place	Similar fashion (typology)	Case ID via	Offence(s)	ML phase	Amount (fine/damage)
30	A was a TCSP that operated from California in the late 1990. In order to help clients commit money laundering and tax evasion, he assisted them in purchasing banks offshore. Two of his clients, D and K, were committing investment (securities) fraud stealing millions of dollars from their clients. A helped them to set up a bank X that maintained a corresponding account at another bank in Liechtenstein for USD 25.000. Shortly after opening this account A set up an account at another bank Y in Liechtenstein. Monies from Bank X were wired to this account. During the period December 1, 1998 - February 5, 1999 approximately 2 months, D and K defrauded clients of approximately USD 8 million, that were deposited in to the account in Bank Y. However, Sexton convinced D and K to give a Power of Attorney to withdraw over USD 2 million and divert to another bank account that he controlled in Liechtenstein. Funds were then removed from this account and transferred to a trust A set up in the U.S. A then used these funds to pay for his personal expenses including purchase of a condominium in Austria, renovating a hotel he owned in California, purchase of a boat, among other items.	1998-1999	TCSP	1) Bank X (unknown in which jurisdiction the bank was incorporated)	The activities took place in the U.S. (unknown in which state)	1) use of trusts to conceal the identity 2) use of trusts to divert the money flow 3) use of offshore bank account (jurisdiction with bank secrecy law)	Liechtenstein bank contacted law enforcement agency	1) mail fraud 2) wire fraud 3) money laundering 4) conspiracy	1.2 Placement and layering	D and K defrauded clients of USD 8 million.

No	Short description	Time	Experts involved	Jurisdiction of incorporation	Jurisdiction where the actual activities take place	Similar fashion (typology)	Case ID via	Offence(s)	ML phase	Amount (fine/damage)
31	Mr X was a TCSP that co-founded an organisation Z that sold audiotapes, CD´s and tickets to offshore seminars on "wealth building" strategies. This firm and its vendors conducted seminars which promoted bogus trust packages and other schemes advocating fraudulent methods of eliminating a person´s income tax liability. Z allegedly received more than USD 40 million from selling the so-called "wealth building" products and tickets to the offshore seminars. The defendants were charged with concealing income they earned from the sale of Z products, in part by using bogus trusts, nominee entities and offshore bank accounts, into which they deposited portions of their profits. They also allegedly transferred funds from the offshore bank accounts back into the U.S. through wire transfers and the use of debit cards. All of Mr. X´s co-defendants have pleaded guilty to tax crimes in the Western District of Washington. All four defendants face sentencing on April 10, 2006 in Seattle.	1996-2002	TSCP	1) Corporation Z (unknown in which jurisdiction the corporation was established)	The tax crimes took place in the state Washington in the U.S.	1) use of corporation to realize scheme 2) use of trusts, corporations and offshore bank accounts to divert money flow 3) use of trusts, corporations to conceal identity 4) use of offshore bank accounts	IRS	1) charged in a superseding indictment with additional counts of tax evasion; conspiring to defraud the IRS.	2 Layering	If convicted, Mr. X faces a maximum potential sentence of 20 years in jail and USD 1 million in fines.
32	In August 1995, Mr. and Mrs. A sold 20 acres of property for USD 3,1 million. They tried to evade paying federal taxes with the use of sham trusts which were lacking economic substance. One day prior to the sale, Mr and Mrs. A transferred ownership of the property to a trust for "USD 10 and some shares", where they along with one of their sons, were the trustees with complete control of the assets. Mr. and Mrs. A also created another trust, just five days prior to the closing of the sale, along with a bank account, which was used to deposit the sales proceeds of the property. The majority of the money was later transferred into a Barclays bank account located offshore in the Cayman Islands, still under complete control of Mr	1995-2005	Unknown	1) trusts (unknown which type of trust and the jurisdiction in which the trust is established)	The activities took place in the U.S. (unknown in which state or jurisdiction) The majority of the sale proceeds was transferred to a bank account on the Cayman Islands	1) use of trusts to realize scheme 2) use of trusts to conceal identity 3) use of trusts to divert the money flow 4) use of offshore bank accounts	IRS	1) tax fraud	1.2 Placement and layering	Unknown

No	Short description	Time	Experts involved	Jurisdiction of incorporation	Jurisdiction where the actual activities take place	Similar fashion (typology)	Case ID via	Offence(s)	ML phase	Amount (fine/damage)
	& Mrs A. Over the years, Mr. and Mrs. A used some of the money for their personal benefit, including the purchase of their own residence for USD 168.000 "ownership" of which was put into another sham trust.									
33	Mr. M and Mr. N marketed trust packages through a Tacoma-based organisation. The defendants advised customers that they could avoid paying taxes if they placed their income and assets in a "pure equity trusts", even though the customers retained control over the use of the income and assets they placed into the trusts. The defendants promoted the scheme through seminars, a website and booklets.	1994-2006	Unknown	1) pure equity trusts (unknown is the type of Trust and the jurisdiction or state in which the Trusts were established) 2) unknown in which state/ jurisdiction this company was established.	Unknown in which jurisdiction/state the business was active. The defendants promoted the scheme through seminars, a website, and a website and booklets.	1) use of trust to realize scheme	IRS	1) tax fraud	1 Placement	The defendants promoted the scheme and received over USD 2 million in revenue from the sales of more than 400 trusts, charging customers approxim

No	Short description	Time	Experts involved	Jurisdiction of incorporation	Jurisdiction where the actual activities take place	Similar fashion (typology)	Case ID via	Offence(s)	ML phase	Amount (fine/damage)
										ately USD 5.000 - 7.500 for the trust packages .
34	Mr. P routed his clients' income through bank accounts in the names of trusts located in the U.S. and abroad in order to conceal their income from the IRS. P admitted in his guilty plea that his clients, all medical doctors from Northern California - begin using his tax evasion system to cycle income from their medical practices through domestic and foreign bank accounts in an effort to conceal their funds from the IRS. P charged a fee for running client income through the system of bank accounts and then back to an account controlled by the client. P's clients then filed federal income tax returns without disclosing the income that had been routed through the offshore accounts.	? - 2002	Yes tax advisor	1) trusts in the U.S. (unknown is the type of Trust and the jurisdiction or state in which the Trusts were established)	Use of U.S. trusts and foreign bank accounts to route and conceal funds from the IRS. Unknown in which jurisdiction the bank accounts were opened.	1) use of trust to realize scheme 2) use of foreign bank accounts	IRS	1) tax evasion and fraud	1 Placement	Mr. P was ordered to pay a fine of USD 67.500 and to serve a three-year term of supervised release after prison. P clients have been sentenced for their participation in the scheme.

No	Short description	Time	Experts involved	Jurisdiction of incorporation	Jurisdiction where the actual activities take place	Similar fashion (typology)	Case ID via	Offence(s)	ML phase	Amount (fine/damage)
35	Mr. X, a CEO of a local telecommunication company received corrupt money of RM 300.000 as an inducement to award supply and work worth RM 5.0 million to company A, which belongs to Mr. Y. Mr. Y paid the corrupt money as a payment by company A to company B for services rendered. Company B also belongs to Mr. Y, but was merely a dormant and shell company with RM 2.00 paid up capital. The money was later withdrawn from company B and placed in a stock-broking firm under the name of Mr. W., a nominee of Mr. X, who opened an account with the same stock broking company using his son's name. The money in W.´s account was used to purchase shares in the open market and later sold to Mr. X´s son using numerous married deal. The married deal transactions whereby the shares were later sold by Mr. X´s son in the open market at a higher price. Capital gains subsequently were used to open fixed deposits. Sign up for a insurance policy (under the name of Mr. X) as well as purchase assets in the name of Mr. X´s relatives.	unknown	Feasible but not specifically described.	1) Company A and B. (unknown which type of company and in which jurisdiction these companies were established)	The activities of the companies took place in Malaysia. The purchase of shares in the open market took place via a stock broking firm seated in Malaysia	1) use of corporate structure for hiding of payments 2) conceal of identity by nominees (Mr. X´s son and Mr. W.)	Unknown	1) corruption	4 Investment	Unknown

Annex 5 Findings Drawn from other Source Material

There is extensive source material that reinforces the findings drawn from the typologies. The following extracts are taken from some of the key sources referred to in the Bibliography -

1. Behind the Corporate Veil – OECD Report (2001)

Page 8 - "In essence, any jurisdiction that provides mechanisms enabling individuals to successfully hide their identity behind a corporate vehicle while excessively constraining the capacity of authorities to obtain and share information on beneficial ownership and control for regulatory/supervisory and law enforcement purposes is increasing the vulnerability of its corporate vehicles to misuse. Certain jurisdictions allow corporate vehicles established in their jurisdictions to use instruments that obscure beneficial ownership and control, such as bearer shares, nominee shareholders, nominee directors, "corporate" directors, flee clauses, and letters of wishes, without devising effective mechanisms that enable the authorities to identify the true owners and controllers when illicit activity is suspected or to fulfil their regulatory/supervisory responsibilities. Some of these jurisdictions further protect anonymity by enacting strict bank and corporate secrecy laws that prohibit company registrars, financial institutions, lawyers, accountants, and others, under the threat of civil and criminal sanctions, from disclosing any information regarding beneficial ownership and control to regulatory/supervisory and law enforcement authorities."

Page 8 - "In order to successfully combat and prevent the misuse of corporate vehicles for illicit purposes, it is essential that all jurisdictions establish effective mechanisms that enable their authorities to obtain, on a timely basis, information on the beneficial ownership and control of corporate vehicles established in their own jurisdictions for the purpose of investigating illicit activities, fulfilling their regulatory/supervisory functions, and sharing such information with other authorities domestically and internationally."

Page 41/42 – "A number of factors influence the choice of mechanism for obtaining information on beneficial ownership and control, including the nature of business activity in a jurisdiction, the extent and character of non-resident ownership, corporate regulatory regime, existing anti-money laundering laws, powers and capacity of supervisors and law enforcement authorities to obtain beneficial ownership and control information, functioning of the judicial system, and availability of anonymity instruments. In addition, policy makers must find an appropriate balance between ensuring proper monitoring/regulation of corporate vehicles and protecting legitimate privacy interests. In jurisdictions with a substantial domestic commercial sector and where existing investigative mechanisms function well, policy makers must also take into account the risk that an extensive up-front disclosure system may impose unnecessary costs or burdens on corporate vehicles, particularly smaller enterprises."

2. Transparency and Money Laundering – Savona Report (2001).

Page 76 – the thematic area "incorporation" –

"The incorporation is the initial phase in the "life" of a legal and non-legal structure, in which the structure itself is established through a series of acts aimed at making it operational. The relevance of this thematic area for anti-money laundering international cooperation lies in the fact that lack of checks during the incorporation phase results in greater opacity in company law, which might obstruct the acquisition of information regarding the physical persons participating in its establishment. The less opaque (or the more transparent) the process of incorporation is, the more available should be the information concerning the incorporation of the structures. This facilitates investigation of their activities and of the persons controlling them, both at the national and at the international levels".

Page 79 - The thematic area "company activity" –

"The area of "company activity" refers to the activities of an operative legal and non-legal structure aimed at achieving its economic or patrimonial goal.

This area is relevant for anti-money laundering international cooperation because lack of checks on the activities of the company increases the opacity in company law and makes it difficult to monitor its behaviour and exchange this information with other foreign authorities. The greater the possibility is of gaining information on the management and on the activities of a structure, the more the names of shareholders are accessible to other parties.

The more closely accounts are audited, and the greater the obligation to disclose relevant information, the more information concerning the activities of structures is available to the law enforcement, judiciary and financial authorities to be exchanged, when necessary, with their counterparts for anti-money laundering purposes".

Page 82 – the thematic area "identification of the real beneficial owner" –

"The area "identification of the real beneficial owner" refers to those rules aimed at identifying the person/s who are actually in control of a structure and its activities.

In this thematic area, the opacity created by the impossibility of ascertaining the identity of the shareholders and establishing a connection between a structure and a physical person/s running it, obstructs effective investigation at the national and transnational levels.

Page 125 –

"The results illustrate that the greatest obstacles to anti-money laundering international cooperation are to be found in the thematic area "identification of the real beneficial owner"…. The main obstacle is lack of regulation requiring full information on the real beneficial owner of a public or private limited company, especially when a legal entity is a shareholder or director, or the issuance of bearer shares is permitted".

"The thematic area "incorporation" also presents obstacles to anti-money laundering international cooperation, even though at a lower degree than the former. Lack of regulation in this area makes it more difficult to acquire information of physical persons party to the creation of legal structures and increases the possibility that these might be used for criminal purposes".

"The analysis of regulation covering trusts has shown it has been characterised by great opacity and absent of all those provisions relevant for anti-money laundering international cooperation. Their regulation and the confidentiality of their constitution hinder the gathering of information on the people setting them up and of that management structure. This opacity creates obstacles to anti-money laundering international cooperation because of the lengthy process in getting information."

3. OECD, Template; Options for Obtaining Beneficial Ownership and Control Information (September 2002)

This OECD template, developed by an expert group under the authority of the OECD Steering Group on Corporate Governance, outlines three options for obtaining beneficial ownership and control information and provides a diagnostic tool to assist jurisdictions in assessing these options –

(a) Upfront disclosure system – an upfront disclosure system requires the disclosure of the beneficial ownership and control of corporate entities to the authorities charged with the responsibility at the establishment or incorporation stage and imposes an obligation to update such information on a timely basis when changes occur. The obligation to report beneficial ownership and control information to the authorities may be placed on the corporate entity, the ultimate beneficial owner or the corporate service provider involved in the establishment or management of the corporate entity;

(b) Imposing an obligation on service providers to maintain beneficial ownership and control information. This option requires intermediaries involved in the establishment and management of corporate entities, such as company formation agents, trust companies, registered agents, lawyers, notaries, trustees companies, registered agents, lawyers, notaries, trustees and companies supplying nominee shareholders, directors and officers

("corporate service providers") to obtain, verify and retain records on the beneficial ownership and control of the corporate entities that they establish, administer, or for which they provide fiduciary services;

(c) Primary reliance on an investigative mechanism. Under an investigative system, the authorities seek to obtain (through compulsory powers, Court issued subpoenas, and other measures) beneficial ownership and control information when illicit activity is suspected, when such information is required by authorities to fulfil their regulatory/supervisory functions, or when such information is requested by other authorities domestically and internationally for regulatory/supervisory or law enforcement purposes. The effectiveness of an investigative system depends, to a significant extent, on the likelihood that beneficial ownership and control information relating to the establishment stage is available within the jurisdiction in which the corporate entities were established.

4. US Money Laundering Threat Assessment (2005)

Page 47 - "The use of bearer shares, nominee shareholders and nominee directors function to mask ownership in a corporate entity. While these mechanisms were devised to serve legitimate purposes, they can also be used by money launderers to evade scrutiny.

Trusts separate legal ownership from beneficial ownership and are useful when assets are given to minors or individuals who are incapacitated. The trust creator, or settlor, transfers legal ownership of the assets to a trustee, which can be an individual or a corporation. The trustee fiduciary manages the assets on behalf of the beneficiary based on the terms of the trust deed.

Although trusts have many legitimate applications they can also be misused for illicit purposes. Trusts enjoy a greater degree of privacy and autonomy than other corporate vehicles, as virtually all jurisdictions recognising trusts do not require registration or central registries and there are few authorities charged with overseeing trusts. In most jurisdictions no disclosure of the identity of the beneficiary or the settlor is made to authorities. Accordingly, trusts can conceal the identity of the beneficial owner of assets and ….. can be abused for money laundering purposes, particularly in the layering and integration stages.

Legal entities such as shell companies and trusts are used globally for legitimate business purposes, but because of their ability to hide ownership and mask financial details they have become popular tools for money launderers."

5. US Government Accountability Office Report on Company Formations (2006)

Page 1 – "Companies – business entities that conduct a variety of commercial activities and hold a variety of assets – form the basis of most commercial and entrepreneurial activities in market based economies. Companies in the United States play an essential and legitimate role in the country's economic system. They provide a wide variety of services that range from the provision of necessary utilities and investment services to retail sales of items such as clothing and furniture. Companies can also be set up that act as "shell" companies and conduct either no business or minimal business. Shell companies are used for legitimate purposes; for example, they may be formed to obtain financing prior to starting operations. However, government and international reports indicate that shell companies have become popular tools for facilitating criminal activity in the United States and internationally and can be involved in fraud and corruption or used for illicit purposes such as laundering money, financing terrorism, hiding and shielding assets from creditors, and engaging unquestionable tax practices. Such schemes can conceal money movements that range from a few thousand to many millions of dollars".

Page 6 – "Although law enforcement officials noted that information on owners was useful in some cases, State officials, agents and others we interviewed said that collecting company ownership information could be problematic. For instance, if States or agents collected such information, the cost of filings and the time needed to approve them could increase, potentially slowing down business dealings or even derailing them. A few States and some agents also said they might lose business to other States, countries, or agents that had less stringent requirements, a consequence two foreign jurisdictions experienced after regulating agents and requiring collection of ownership information. Further, State officials and agents pointed out the difficulties of collecting

information when companies are being formed or on periodic reports since ownership can change frequently. In addition, State officials and agents expressed concerns about maintaining privacy when making public information about legitimate businesses that historically has been protected. State officials, agents and other experts in the field suggested internal company records, financial institutions, and the IRS as alternative sources of ownership information for law enforcement investigations. However, collecting information from these sources could present many of the same difficulties."

Annex 6 Corporate Vehicles

I. Corporations

A corporation is a legal entity whose owners consist of shareholders. Control of a corporation is vested in the board of directors elected by the shareholders. Since a corporation is a legal entity, the shareholders are only liable up to the amount of their investment. A corporation can have unlimited duration.

a. Private Companies[83] – A private company is restricted in its number of shareholders and the transferability of its shares. Private companies may not issues shares to the general public. Private companies have less stringent reporting requirements than public companies.

b. Public Companies – A public company can freely trade its shares and there is no limit on the number of shareholders. It may offer its shares to the general public. A public company is generally required to adhere to strict reporting guidelines and is subject to rigorous governmental oversight.

II. Partnerships[84]

A partnership is an association of two or more legal or natural persons created to conduct business. For the most part partnerships do not enjoy limited liability and partners may be jointly and severally liable for the actions of the partnership. Partnerships generally benefit from "flow through" taxation which prevents profits being taxed twice.

a. General Partnership – In a general partnership, partners are jointly and severally liable. Partners in such an arrangement are usually easy to identify and general partnerships are rarely required to register.

b. Limited Partnership – A limited partnership consists of general partners and limited partners. The general partners are liable as under general partnerships. The limited partners will typically have limited control and are only liable up to the amount of their investment. Limited partnerships are required to register in most jurisdictions.

c. Limited Liability Partnerships – Under this arrangement, all partners possess limited liability even if they exercise management control. Limited liability partnerships are required to register in most jurisdictions.

III. Limited Liability Companies (LLC)

The LLC is a hybrid business structure that is designed to provide the limited liability features of a corporation and the tax and operational flexibilities and efficiencies of a partnership. The advantages are:

1. Limited liability of the members;
2. Profits and losses are passed-through for taxation purposes; and
3. In the U.S., for the most part, you do not need to be a U.S. person to own, operate or control an LLC.

LLCs generally have fewer disclosure requirements, both in the formation stages and subsequently. Unlike corporations, LLCs are run by members and do not have a formal structure (i.e. with directors and corporate officers). Generally, there are no annual reporting requirements for LLCs, and there are less

[83] Responses to the questionnaires support the conclusion that Trusts and Private companies are the vehicles that are most susceptible to abuse.

[84] All jurisdictions indicated recognizing Partnerships.

administrative burdens than on corporations. Generally, they are less expensive and easier to form and maintain.

IV. Foundations[85]

A foundation (based on the Roman law *universitas rerum)* is the civil law equivalent to a common law trust in that it may be used for the similar purposes. A foundation traditionally requires property dedicated to a particular purpose. Typically the income derived from the principal assets (as opposed to the assets themselves) is used to fulfill the statutory purpose. A foundation is a legal entity and as such may engage in and conduct business. A foundation is controlled by a board of directors and has no owners. In most jurisdictions a foundation's purpose must be public. However, there are jurisdictions in which foundations may be created for private purposes. Normally, foundations are highly regulated and transparent.

V. Trusts[86]

A trust[87] is a corporate vehicle that separates legal ownership (control) from beneficial ownership. Trusts are important for transferring and managing assets. Trusts usually are restricted in duration. Trusts are not required to register in many jurisdictions and because of this it can be difficult to identify the beneficial owner of a trust. Trusts are common law vehicles, but there are civil law constructions that also separate legal ownership from beneficial ownership.

VI. Associations[88]

Associations (based on the Roman law *universitas personarum*) are membership-based organizations whose members, legal or natural persons, or their elected representatives, constitute the highest governing body of the organization. They can be formed to serve the public benefit or the mutual interest of members. Whether an association is a legal entity or not often depends upon registration. Registered associations may enjoy the same benefits as other legal entities.

[85] LV,TR, LT, ES, LB, QA, FR, MY, US, MO, GI, CH, NL, NO, PW, MA, SK, DE, NZ, JP, AU, BE, BA

[86] NZ, MA,PW, NO, GI, MY, QA, GG, UK, HK, MH, IM, JE, VI, JP, BA

[87] See Annex 2 above .

[88] NL, NO, LT, FR, SK, CH, DE, BE

Annex 7 QUESTIONNAIRE

FATF-XVII WGTYP/50

FATF TYPOLOGIES PROJECT ON MISUSE OF CORPORATE VEHICLES (see note 1) QUESTIONNAIRE

This questionnaire has been compiled by the FATF for use in typologies research – the examination of money laundering and terrorist financing methods and trends. The information from this questionnaire will be used by the FATF as part of its assessment on the misuse of corporate vehicles; the completed questionnaires will not be published. A completed report on the misuse of corporate vehicles will be published on the FATF website in June 2006; no country specific information will be placed in the report without first seeking the permission of the country concerned.

Further information on FATF typologies can be found at: http://www.fatf-gafi.org/document/23/0,2340,en_32250379_32237277_34037591_1_1_1_1,00.html

Please try and complete all of the following questions as comprehensively as possible.

1. Country or Jurisdiction (see note 2)

2. Contact Name (please give two names, if the first contact is regularly away from the office for long periods)

3. Contact details -

E-mail address:	
Telephone number:	
Fax. Number:	

4. What type of corporate vehicles (see note 1) can be formed or (b) can be recognised legally (see note 3) in the jurisdiction? Please give the national name of each type, the closest English translation (or equivalent) and a brief description.

	Can be formed	Can be recognised legally (see note 3)	Are bearer shares possible	Are corporate directors possible
1. Legal persons				
Companies				
Foundations				
Partnerships				

Other (specify)				
2. Legal arrangements				
Trusts				
Other				

If there is a form of corporate vehicle that neither can be formed nor can be recognised legally, how are such vehicles that are formed in other jurisdictions dealt with if they are the subject of investigation/prosecution (e.g. if a trust can neither be formed nor recognised legally how would assets held in the trust be dealt with in the event of an investigation/prosecution).

5. What is the estimated number of corporate vehicles formed, for the most recent year for which data is available? If possible this information should be split between corporate vehicles formed for residents and for non-residents.

	Number formed in ……for residents of the jurisdiction	Number formed in ... ... for non-residents of the jurisdiction	Total number of 'live' companies as at end 2004
Companies			
Trusts			
Foundations			
Foundations			
Partnerships			
Others (specify)			

If a register is kept of all 'live' companies incorporated please also provide a total figure as at end 2004 (or the most recent end year available).

6. Which of the following entities in the jurisdiction are engaged in the formation and/or administration of corporate vehicles -

	Yes/No	Estimated Number of Entities	Comments
Lawyers, notaries etc.			
Accountants			
Financial institutions (see note 4)			
Trust and company service providers (see note 5)			
Other entities (please specify)			

7. For those who are engaged in the formation and/or administration of corporate vehicles which of the following are they subject to. In each case, please specify the agency or other body that is responsible for performing the relevant functions. To the extent possible also indicate the main characteristics of each of the categories in your jurisdiction.

	The Agency(ies) Responsible	Brief Description of What is Involved
AML legislation		
Prudential regulation		
Self-regulation		
Registration		
A fit and proper test		
Regulatory oversight (see note 6)		
Regulatory monitoring (see note 6)		
Investigatory powers		

8. How do investigative agencies (or other competent authorities) obtain routine information (see note 7) on legal persons and legal arrangements?

	Comments
1. Legal persons	
Companies	
Foundations	
Partnerships	
2. Legal arrangements	
Trusts	
Other	

9.How do investigative agencies (or other competent authorities) obtain information on the beneficial ownership of companies and other legal persons?

	Comments
Upfront disclosure (see note 8)	
From trust and company service providers when required (please indicate what kind of information they are required to keep) (see note 8)	
Through the use of investigatory powers	

Where relevant please distinguish between domestic and foreign beneficial owners

10. How do investigative agencies (or other competent authorities) obtain information on the beneficiaries and settlors of trusts and other legal arrangements?

	Comments
Upfront disclosure (see note 8)	
From trust and company service providers when required (please indicate what kind of information they are required to keep) (see note 9).	
Through the use of investigatory powers	

Where relevant please distinguish between domestic and foreign beneficiaries

11. Can information obtained on corporate vehicles be exchanged with other jurisdictions?

Yes/No

If not what restrictions are in place?

What is the experience of obtaining information from other jurisdictions? What particular difficulties have been experienced?

12. What information is available on the purposes for which corporate vehicles are established, and have you noted any recent trends in this respect?

13. Where those engaged in the formation and administration of corporate vehicles are covered by AML legislation what number of STRs are being filed by this sector, what proportion of the total number of STRs does this account for, and how many have led to investigations/prosecutions.

(i) Number of STRs filed by those engaged in the formation and administration of corporate vehicles in 2004	
(ii) Total number of STRs filed in 2004	
(iii) The number of STRs filed under (i) that have led to investigations/prosecutions to date	

14. What evidence do you have available, in the form of recent case studies, of the misuse of corporate vehicles to launder the proceeds of crime? Please provide evidence, for example, of situations in which the differences between corporate vehicle establishment/management systems in two jurisdictions have been exploited for ML purposes or to carry out other types of offences.

If you have any cases involving more generic abuse of corporate vehicles to carry out other types of offences – circumventing disclosure requirements, bribery/corruption, committing fraud, hiding assets from creditors - please also submit these as case examples.

15. From experience of the misuse of corporate vehicles what in your view are the greatest money laundering vulnerabilities (e.g. which corporate vehicles are most misused and why in your view are these vehicles most usually selected for misuse).

16. What risk mitigation measures are in place to limit the misuse of corporate vehicles (e.g. where bearer shares and/or corporate directors are permitted).

NOTES

1. The term corporate vehicles is as used in the OECD publication "Beyond the Corporate Veil":

   http://www.oecd.org/document/11/0,2340,en_2649_201185_2672715_1_1_1_1,00.html. It includes both legal persons (companies, foundations, partnerships etc.) and legal arrangements (trusts, some forms of anstalts, etc.) as defined for the purposes of the FATF Recommendations.

2. Where the matters with which the questionnaire is concerned are the responsibility of a regional or State authority within a federal structure please complete a separate questionnaire for the jurisdiction as a whole and the regional/State authorities.

3. The term "recognised legally" means recognised by the Courts of the jurisdiction.

4. The term "financial institutions" is as for the FATF Forty Recommendations: http://www.fatf-gafi.org/glossary/0,2586,en_32250379_32236930_34276935_1_1_1_1,00.html#34289432

5. The term trust and company service providers is as for FATF Recommendation 12: http://www.fatf-gafi.org/document/45/0,2340,en_32250379_32236930_33966509_1_1_1_1,00.html

6. Regulatory oversight is intended to cover those situations where there is an opportunity to exercise regulatory control on an ad hoc basis whereas regulatory monitoring envisages a situation where there is formal, continuous, monitoring of those concerned.

7. Routine information would include name, date of incorporation/registration, place of business, registered office/place of administration, sources of funds, shareholders/ and purpose.

8. Upfront disclosure means disclosure to a public body. In the comment please specify what type of information is required to be filed/registered with a local registry or other authority and whether or not the information is available to the public. Please also indicate if information on beneficial owners/beneficiaries is required to be kept by the legal entity itself.

9. The term trust and company service providers is not necessarily restricted to the formal professional category of TCSP's. If – in your jurisdiction – these services are mainly provided by other regulated entities, such as lawyers (see question 6) , please also indicate to what extent investigators can rely on records that are legally required to be kept by such other professionals when providing TCSP-services.

If you have any questions on the FATF typologies, or how to compete the questionnaire please contact Mark Hammond at the FATF Secretariat at: mark.hammond@fatf-gafi.org or tel: +33 (0)1 45 24 99 50

MCV Project
14 September 2005