



**Lifting the Veil – Why Understanding Beneficial Ownership
Is Now Essential for AML Compliance**



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Global anti-money laundering (AML) standards have long required that understanding beneficial ownership be a part of a financial institution's AML program. Beneficial ownership outlines the identity of individuals with a controlling interest in a privately held company, enabling a financial institution to understand the ultimate beneficiary of a financial transaction. Identifying beneficial ownership can be a complex process, but it's one that institutions must conquer if they are to remain in compliance with industry rules and legislation.

With new guidance from the Financial Action Task Force on Money Laundering (FATF) and specific local legislation and rules from the likes of the U.S. Financial Crimes Enforcement Network (FinCEN), the Monetary Authority of Singapore and the European Union, beneficial ownership has grown as a hot topic for AML compliance professionals globally. In fact, with the introduction of the Fourth EU AML Directive, EU members will be required to keep central registers where companies subject to AML regulation must contribute information on beneficial ownership of their clients and related entities. Understanding beneficial ownership is also critical to support the detection of tax evasion and for compliance with legislation such as the U.S. Foreign Account Tax Compliance Act (FATCA), which impacts many financial institutions and countries around the world.

It's Not Easy

In the 2014 KPMG Global Anti-Money Laundering Survey, respondents stated that "identifying complex ownership structures is the most challenging area in the implementation of a risk-based approach to KYC [Know Your Customer] collection," particularly where an intermediate entity resides in a jurisdiction where AML requirements are not as stringent or data privacy provisions are particularly strong.

With this new guidance and legislation, financial institutions have to identify the beneficial owner of entities conducting financial transactions to avoid noncompliance and potential heavy penalties. This means taking reasonable measures to verify the identity of the beneficial owner and of the entity conducting the transaction so the financial institution is satisfied

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it knows the beneficial owner. This includes taking reasonable measures to understand the ownership and control structure of a corporate customer. An example of a proof of ownership for a corporate customer is a copy of the share certificates, register of shareholders or bylaws extracted from the company registries or chamber of commerce.

In addition to the complexities associated with intermediate entities, understanding beneficial ownership goes beyond traditional corporate customers to include other legal entities such as trusts. For a trust, a financial institution must also obtain proof of ownership, for instance through a copy of the Declaration of Trust, which identifies the settlor and trustee, among other important information. Regardless of whether a trust is revocable or irrevocable, identifying the settlor is critical, since he or she is the origin of the assets of the trust fund.

Layers of Complexity

In practice, financial institutions rely heavily on the information received from their clients. Verifying ownership on simple company structures as well as publicly held entities is not complicated. For private entities with simple structures, the financial institution checks the company registry or chamber of commerce directly, or asks the client to supply a certified extract from chamber of commerce data with the shareholder information. In addition, some companies provide access to a beneficiary ownership database consortium, where financial institutions can search and verify beneficial ownership information. Public companies are subject to regulatory disclosure requirements, and it is therefore not necessary to seek to identify and verify the identity of any shareholder.

However, things can get complicated when complex legal structures are in place, especially in offshore jurisdictions. For example, it can be challenging to identify the beneficial owners behind trusts and offshore corporate entities. Corporate vehicles in offshore jurisdictions often have limited disclosure and recordkeeping requirements, in which case a financial institution must rely on limited public records available in the offshore jurisdiction to discover true ownership. These complex structures are often used intentionally to hide the true owner of the assets. There can be multiple ownership layers with different corporate entity types in different jurisdictions, including trusts or private foundations, as well as different terminology, further obscuring the beneficial owner. In addition, many offshore entities are set up to be very flexible, enabling the transfer of ownership from jurisdiction to jurisdiction.

Nominee shareholders and directors create additional means to hide the identity of the true beneficial owner. Financial institutions must perform enhanced due diligence on these offshore service providers in addition to identifying the beneficial owners. Entities that are able to issue bearer shares also create higher risk exposure. All of these layers and subtleties make it a struggle for financial institutions to verify the customer.

Sophisticated Risk Management

Of course offshore legal entities don't necessarily mean dishonest financial transactions are being conducted; many businesses use offshore entities and sophisticated legal structures for valid reasons such as asset protection, estate planning, privacy and confidentiality. This makes it more important than ever for financial institutions to be able to distinguish legitimate from suspect entities.

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The level of risk associated with the entity, as determined by the financial institution, dictates the level of customer due diligence or enhanced due diligence measures required. In general, an assessment of higher risk for an offshore entity necessitates enhanced due diligence along with robust controls to mitigate the higher risk. This might include more frequent reviews, more regular contact with the client, and lower risk thresholds for suspicious transactions. Ownership information also needs to be verified during ongoing due diligence.

When looking for solutions to help organizations better understand beneficial owners, financial institutions need technology that provides powerful visualization capabilities to aid in mapping complex organizational structures. The best solutions can automatically link ownership data and create a schema that illustrates the beneficial owner(s) and the relationships among related entities, such as service providers, and individuals.

Moreover, facilitating integrity checks on the parties involved in the ownership structure directly from the schema is a desirable capability for most financial institutions. Organizations need to be able to screen against watch lists and search for publicly available information about a person or entity at the click of a button. Given the increasingly strict rules and regulatory expectations around understanding beneficial ownership, financial institutions require the right technology solutions to help them lift the veil to identify, and wherever possible verify, the beneficial owner of a financial transaction.

About the Authors

Andrew Davies is vice president of global market strategy for the Financial Crime Risk Management business line at Fiserv. In this role, he works with Fiserv customers around the world to design and deploy effective risk management solutions to mitigate financial crime risks with particular focus on compliance, money laundering and fraud. He is also responsible for seeking new markets and applications for the company's financial crime detection and prevention solutions.

Davies joined Fiserv in 2007 through the acquisition of NetEconomy. He has worked in the software industry for more than 20 years supporting many of the world's largest financial institutions, both private and public. Davies' experience covers real-time payments, front-office trading, risk mitigation of financial crime risk, settlement risk and more.

Irina Burkat is a market analyst with the Financial Crime Risk Management Solutions group at Fiserv. In this role, Irina is recognized as a compliance subject matter expert, with experience in the mitigating of money laundering as well as sanctions screening, know your customer (KYC) and customer due diligence (CDD) requirements and solutions. With this expertise, Irina helps inform the product direction of the AML Risk Manager solution – to ensure the technology anticipates market trends, meets regulatory demands and solves for clients financial crime risk management needs.

Irina joined Fiserv in 2015 and brings nearly 10 years of experience in the financial services industry. She understands the many complexities of regulatory compliance having worked as a compliance officer at several European financial institutions.

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