

The background features a gradient from red to blue with several circular patterns. Some are solid lines, some are dashed, and some contain numbers like 150, 160, 170, 180, 190, 200, 210, 220, 230, 240, 250, and 260. There are also arrows pointing in various directions.

BENEFICIAL OWNERSHIP - CHALLENGES

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INTRODUCTION

- According to the Financial Action Task Force (FATF), an ultimate beneficial owner is the person or legal entity (e.g. an organization) who directly or indirectly reaps the benefits of ownership of an asset or exercise ultimate effective control over it, even though that asset may be legally owned by a different party.
- The beneficial owner of an asset can also be the person or group of people who, either directly or indirectly, has the power to vote on or influence transaction decisions involving the asset. For example, if a company's board of directors have to decide together on whether or not to sell shares in the company, the board of directors is its beneficial owner or has beneficial ownership

The background features a gradient from dark red at the top to dark blue at the bottom, with a field of small white dots. Technical graphics include a circular gauge with numerical markings (80, 90, 100, 110, 120, 130, 140, 150, 160, 170, 180, 190, 200) and arrows on the right side, and various circular and dashed line patterns scattered throughout.

Link Chart Analysis Removed to Protect Ongoing
Investigation

CHALLENGES

➤ Tracing & Linking

Tracing the assets and obtaining evidence to illustrate who is the beneficial owner/(s) of the asset.

➤ Anonymity

Sometimes a person will choose to have certain assets registered in a different legal owner's name so that they can be anonymous about who ultimately owns these assets, for the sake of safety and privacy, such as Trusts.

➤ Concealing Assets

Some people have assets registered under a different name so that they can conceal these assets to protect them from being forfeited as damages in a lawsuit or even a divorce. This use of beneficial ownership is a form of financial fraud and is therefore illegal.

CHALLENGES1

➤ Tax Evasion

Some people or companies choose to have assets registered under different names in order to avoid paying tax on these assets. This use of beneficial ownership is a form of tax evasion and is illegal.

➤ Doctrine of Lifting the Corporate Veil

Lifting the corporate veil means disregarding the corporate personality and looking behind the real person/(s) who are in the control of the company. In other words, where a fraudulent and dishonest use is made of the legal entity, the individuals concerned will not be allowed to take shelter behind the corporate personality. In this regards the court will break through the corporate veil.



CHALLENGES



➤ Money Laundering

Money laundering is a complex financial crime that basically involves obscuring the ownership of assets and the true origin of funds in order to conceal the fact that the money has been earned from crime.

Assets earned via criminal activity and used in the process of money laundering are often registered under a different legal owner (for example a shell corporation) to obscure their links to the ultimate beneficial owner, or hide the ultimate beneficial owner's involvement in this process. Money laundering can also be used for terrorist financing.

Money laundering is a financial crime and there are legal penalties both for those who commit it and those who enable it by not adhering to anti-money laundering regulations in their companies.

CHALLENGES

- The lack of publicly available BO registry data remains a loophole in the entire AML effort.
- Complexity and broadness of the BO data is becoming one of the biggest challenges facing companies with a global footprint in all their markets.
- Non-standard documentation in offshore financial centers (OFCs).
- Navigating multiple layers of ownership.

OVERCOMING THE HURDLES AND KNOWING YOUR CUSTOMER

- Vetting a beneficial owner for signs of financial crime involves:
- Ensuring their name is not on any Politically Exposed Persons (PEP) lists
- Making sure their name is not on any sanction lists
- Examining and evaluating any negative news and media coverage about them.
- You also need to know who will effectively benefit from each client's transactions with your company. To better understand this, you should examine data about:
- Your client's corporate ownership structure
- Their shareholders and subsidiaries, and anyone who exercises significant control over your client
- Any sister companies with the same owner or within the same group structure
- The beneficial vs perceived ownership of your client and what purpose this difference serves
- Updates to beneficial ownership should be event-driven as part of normal monitoring, not as a categorical requirement on a continuous or periodic basis. Applies to all legal entity customers, including existing customers



THANK YOU