

# MANAGING FINANCIAL INVESTIGATIONS (INTERMEDIATE), 2021

AFRICA ACADEMY FOR TAX AND FINANCIAL CRIME INVESTIGATION

## Professional Enablers

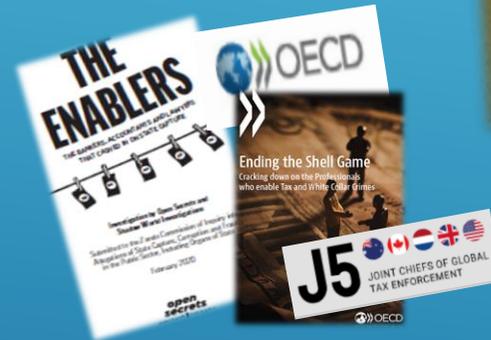
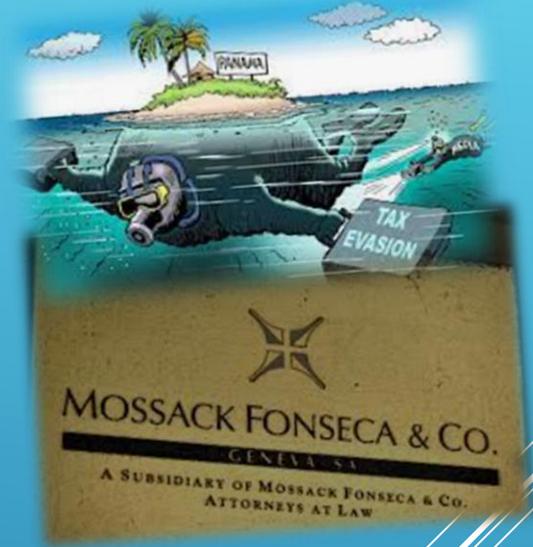
R Ismail (South Africa)

02 December 2021

# LEARNING OBJECTIVES

- ▶ How to identify professional enablers from the roles they play
- ▶ Developing risk indicators
- ▶ Developing responses to deter and disrupt their participation in tax and other financial crimes

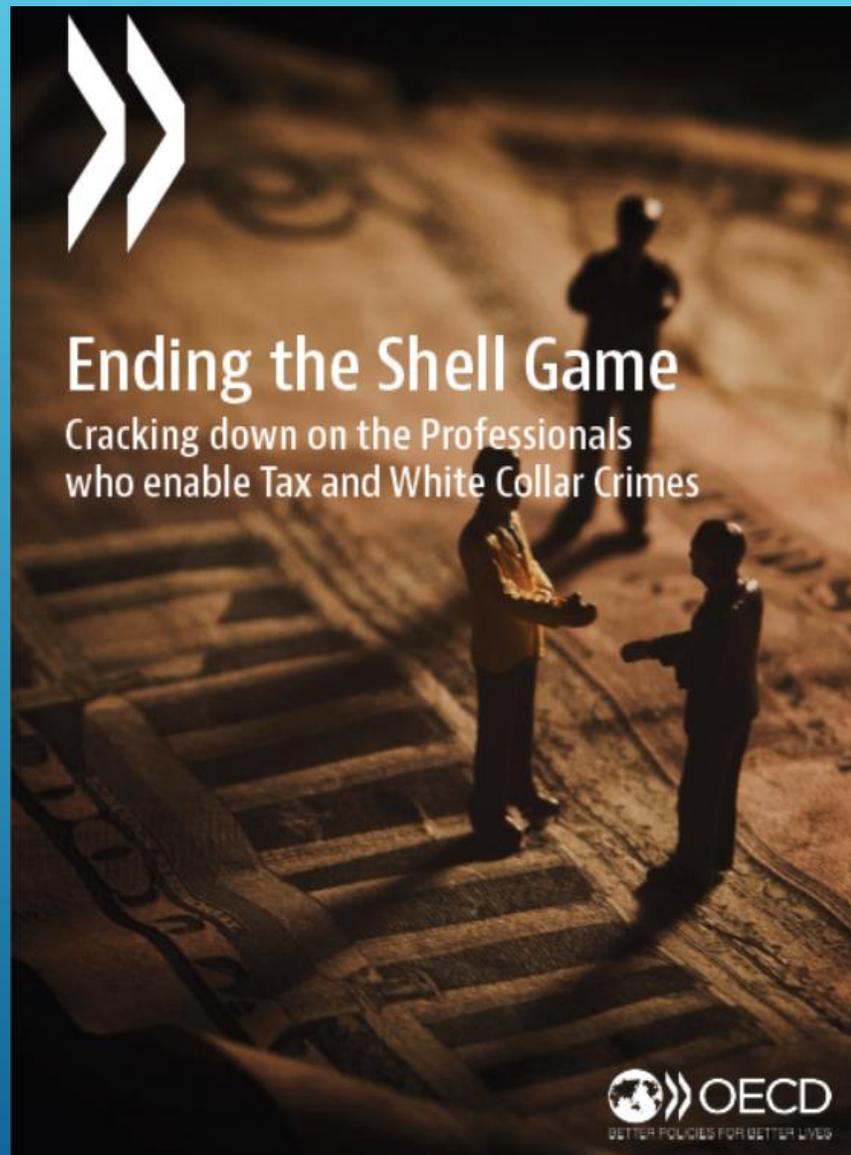
# RELEVANCE?



# RELEVANT



*Fighting Tax Crime*  
– **The Ten Global Principles**



# IN-CLASS DISCUSSION

What distinguishes a professional from a professional enabler?

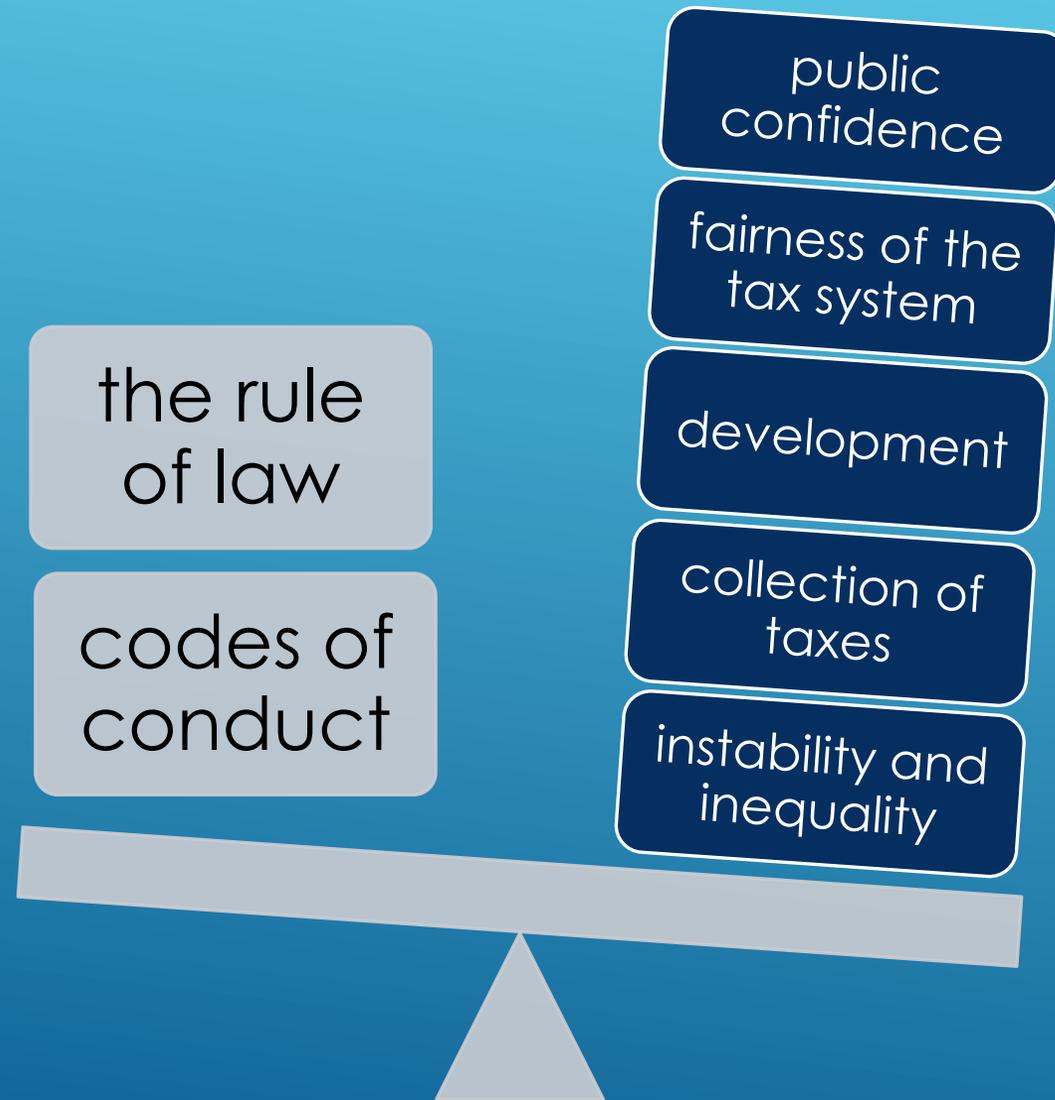
# PROFESSIONAL VERSUS PROFESSIONAL ENABLER

## Professional enablers

- ▶ **help** tax evaders and criminal enterprises **engineer** legal and financial structures **intended** to **facilitate** the commission and/or concealment of tax and other crimes
- ▶ **assist in planning** the crimes
- ▶ **intent on facilitating wrong-doing** by their clients
- ▶ **actively devise, promote, market and facilitate** tax evasion schemes
- ▶ **serve** criminal clients
- ▶ or are **complacent** in their actions



# IMPACTS OF TAX AND OTHER FINANCIAL CRIMES



# HOW TO IDENTIFY PROFESSIONAL ENABLERS



# CASE STUDY

07 Oct 2020

## UPDATE: VBS fraud case much stronger after former CFO's guilty plea, says Hawks, NPA

news24 Jeanette Chabalala



BUSINESS

## In a bizarre twist VBS liquidators sue KPMG for R863mn

Khaya Koko 24 Feb 2021

KPMG may have to repay VBS because of its alleged fraudulent audits if the defunct bank's liquidators have their way.



# BREAK-OUT SESSION

- ▶ Discuss, capture and provide feedback on:

## Groups 1 and 2

- ▶ what are the top 3 risk indicators that have been/could be put in place to red-flag professional enablers for risk assessment and potential investigation?

Example: Structures having multiple shell companies

## Groups 3 and 4

- ▶ which has been the most successful of the risk indicators in revealing the culpability of the professional enabler?

Example: Structures that obscure beneficial ownership

# RISK INDICATORS



- ▶ multiple shell companies
- ▶ multiple shell companies that “operate” from the same address
- ▶ separate legal and beneficial ownership of entities and/or assets, i.e. trusts
- ▶ obscure beneficial ownership structures
- ▶ use of offshore service providers; i.e. connection to company formation agents
- ▶ use of offshore jurisdictions that are known tax havens or hotspots of activity for specific evasion structures
- ▶ multiple companies with directors in common
- ▶ use of nominee directorships
- ▶ one individual is a director multiple times, the extent to which the provision of substantial and meaningful directorship services could not be feasible
- ▶ addresses of entities or key actors which are not traceable
- ▶ addresses registered at P.O. Boxes
- ▶ tax schemes based on premium or contingent fees; which have claw-back clauses; or protection from liability for the tax strategy

# PROPOSING SOLUTIONS IN RESPONSE TO THE RISKS POSED

RAISE  
AWARENESS



## Ending the Shell Game

Cracking down on the Professionals  
who enable Tax and White Collar Crimes



# REMEDY: RAISE AWARENESS

RAISE  
AWARENESS



## Ending the Shell Game

Cracking down on the Professionals  
who enable Tax and White Collar Crimes

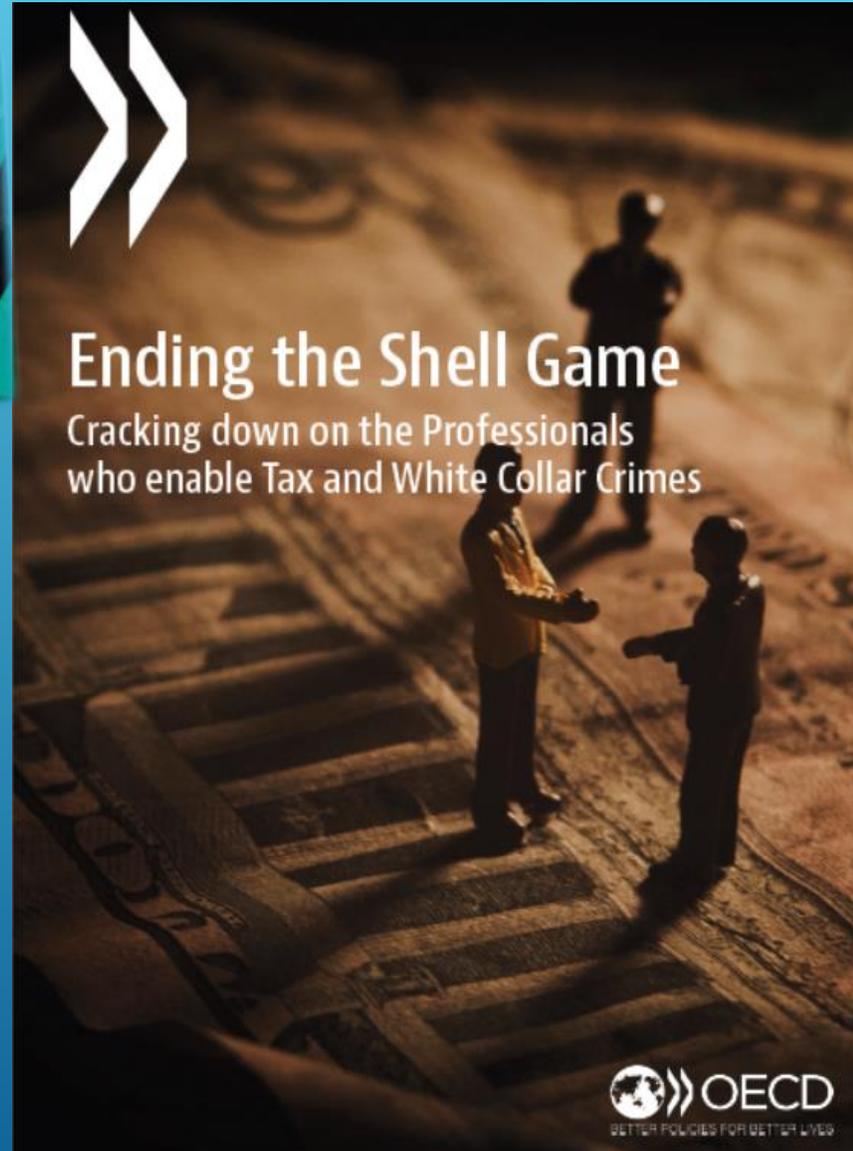


# REMEDY: LEGISLATION



## Ending the Shell Game

Cracking down on the Professionals who enable Tax and White Collar Crimes



# BREAK-OUT SESSION

- ▶ Discuss, capture and provide feedback on:

## Groups 1 and 2

- ▶ what are some of the counter-measures that have been implemented in your countries/administrations to address the risks posed by professional enablers?

Example: multi-agency centres of intelligence

## Groups 3 and 4

- ▶ what sanctions/measures have been/could be put in place to deter professional enablers from devising, promoting, and facilitating tax and other financial crimes?

Example: de-bar / disassociation by professional bodies

# SANCTIONS/MEASURES

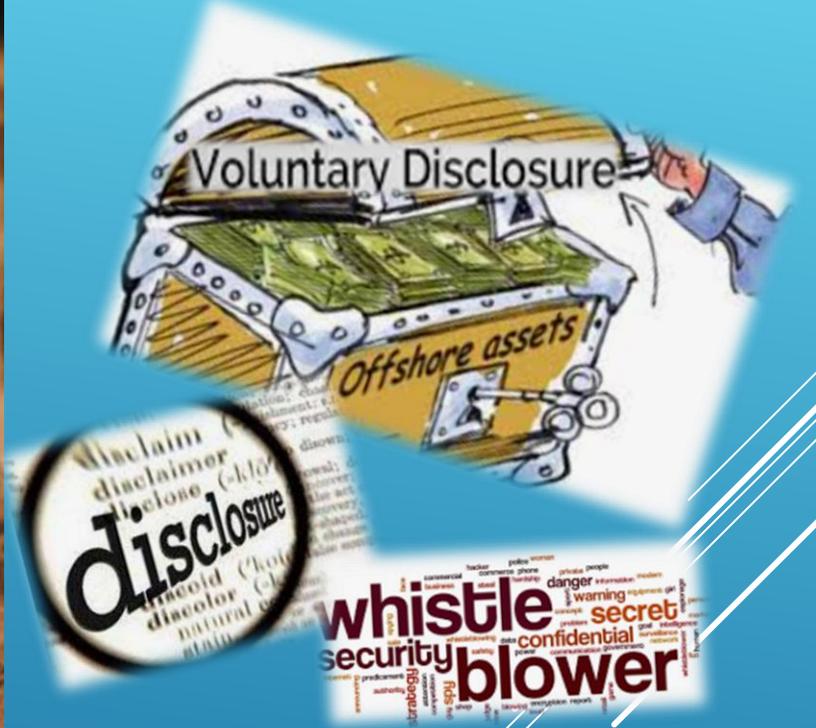
- ▶ De-bar/dis-association by recognised professional bodies
- ▶ Declare as delinquent
- ▶ Cancel licences/accreditation/certificates of good standing
- ▶ Deregister as a recognised practitioner
- ▶ Name & shame
- ▶ Media for leverage in the case of successful sanctions
- ▶ Financial sanction, e.g. fines, penalties, asset forfeiture
- ▶ Withhold government business, on a whole of government basis
- ▶ Periodic rotation of professional enablers
- ▶ Limit the types of services causing conflicts of interest

# REMEDY: TO DETER AND DISRUPT

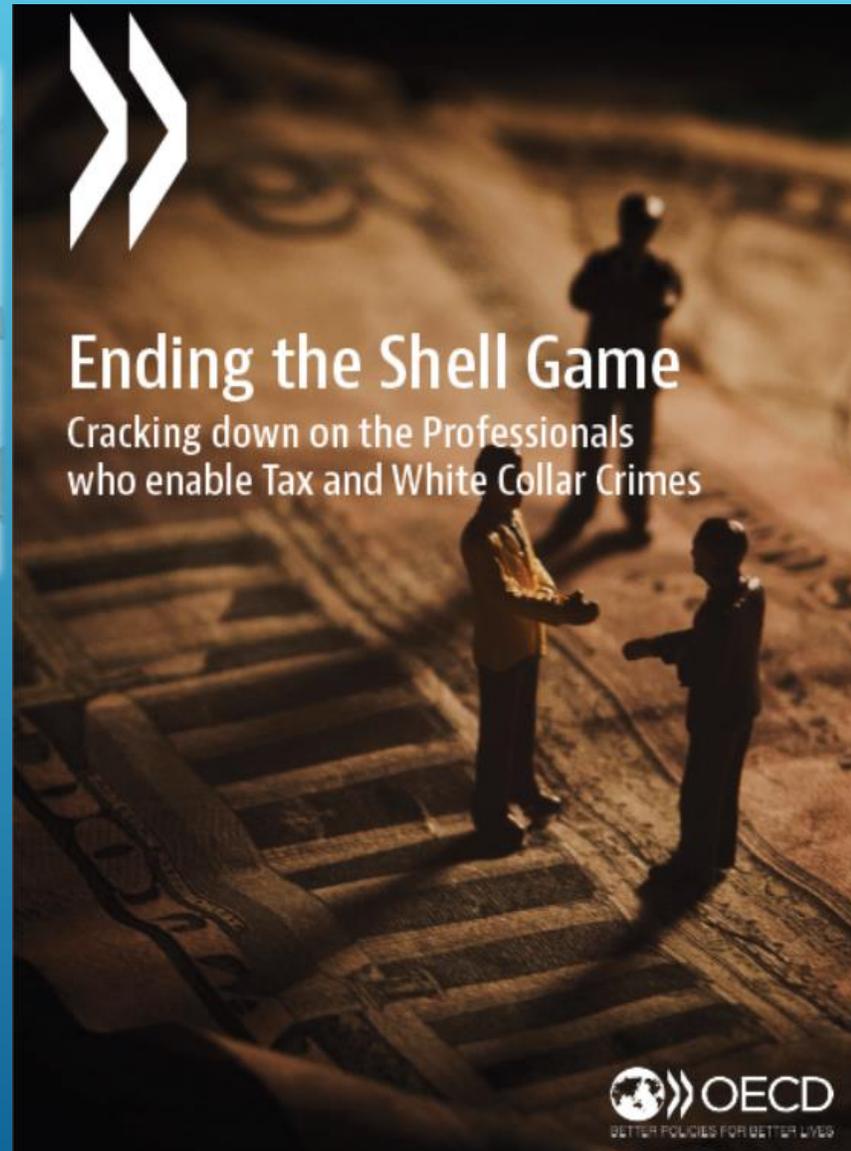


## Ending the Shell Game

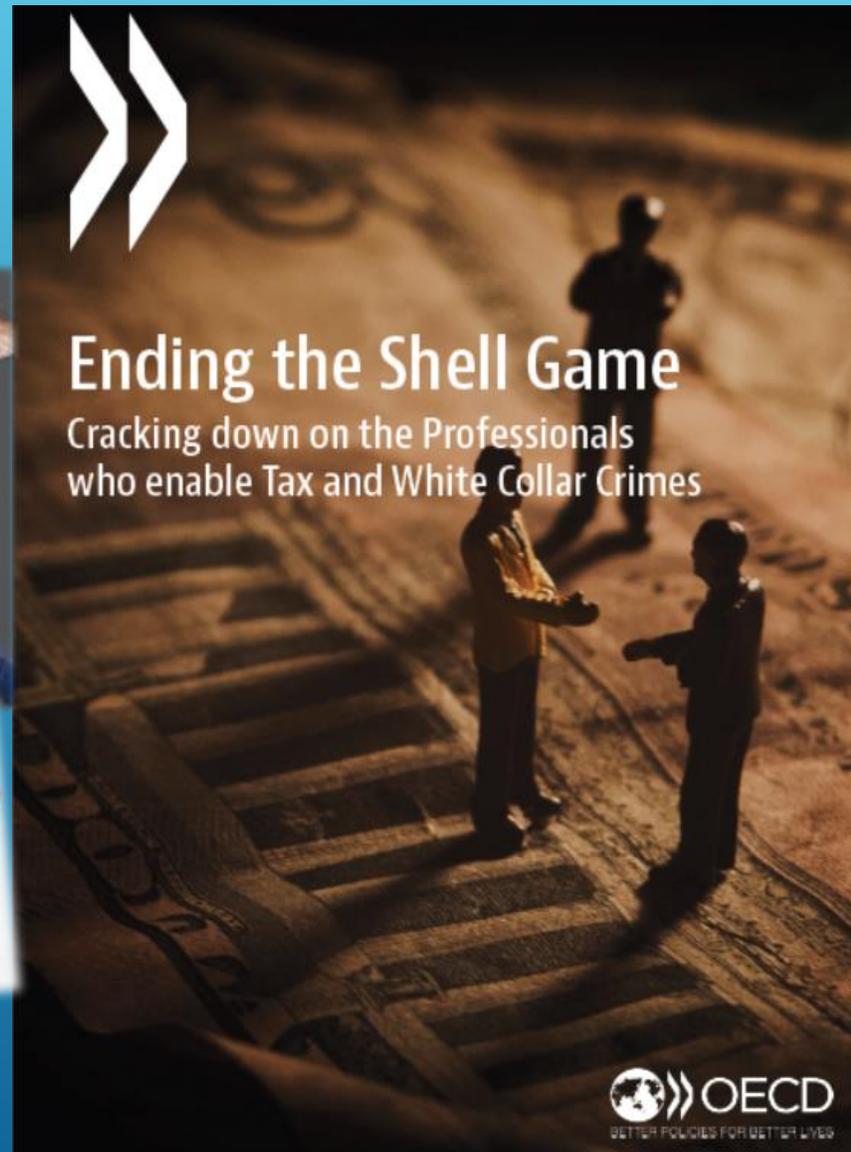
Cracking down on the Professionals who enable Tax and White Collar Crimes



# REMEDY: CO-OPERATION



# REMEDY: IMPLEMENT PLANS OF ACTION



THANK YOU

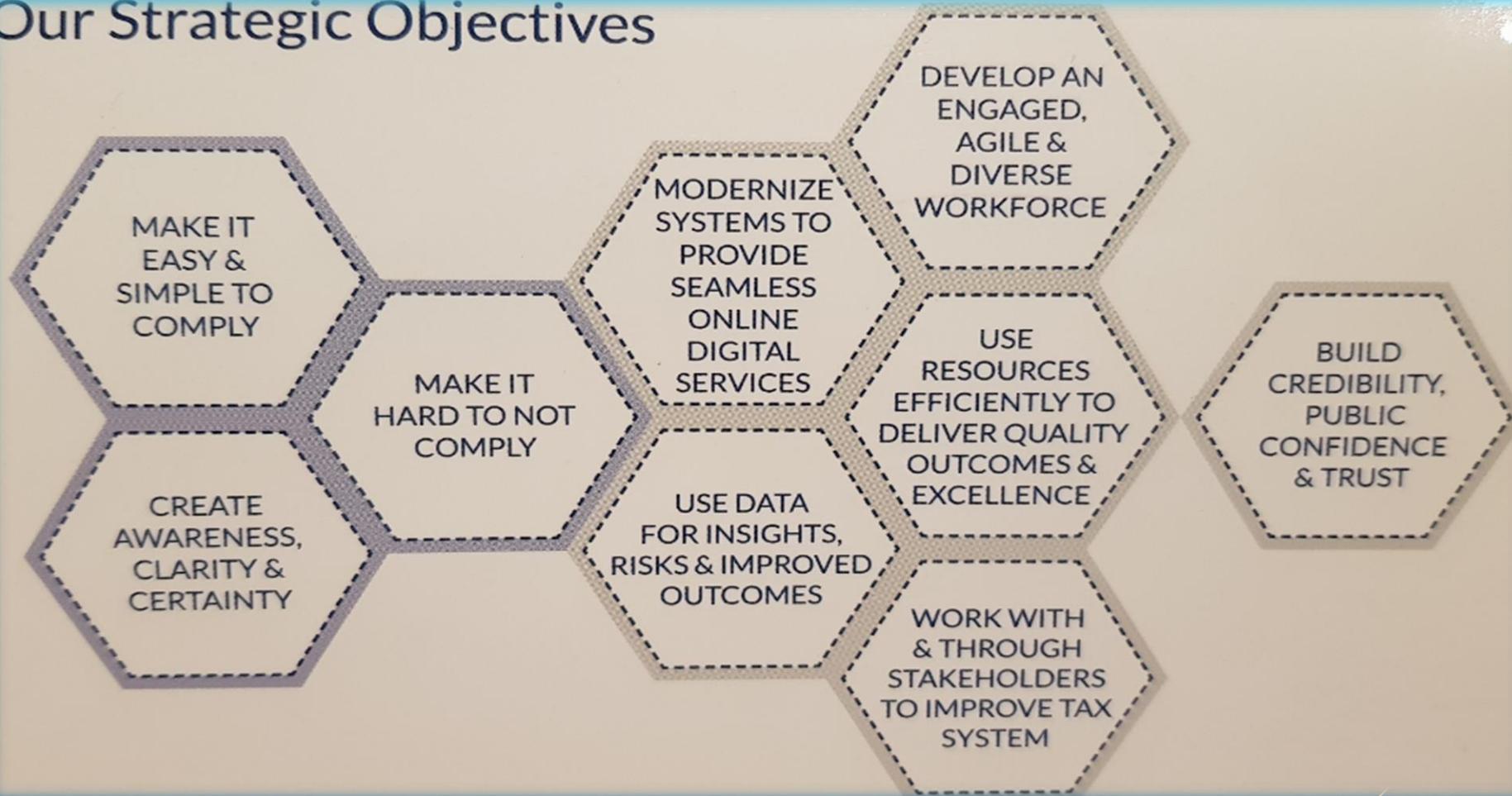
QUESTIONS AND FEEDBACK

OECD (2021), Ending the Shell Game: Cracking down on the Professionals who enable Tax and White Collar Crimes, OECD Publishing, Paris.

<http://www.oecd.org/tax/crime/ending-the-shell-game-cracking-down-on-the-professionals-who-enable-tax-and-white-collarcrimes.htm>

At SARS,

## Our Strategic Objectives



Invited to peruse our website at [www.sars.gov.za](http://www.sars.gov.za)