



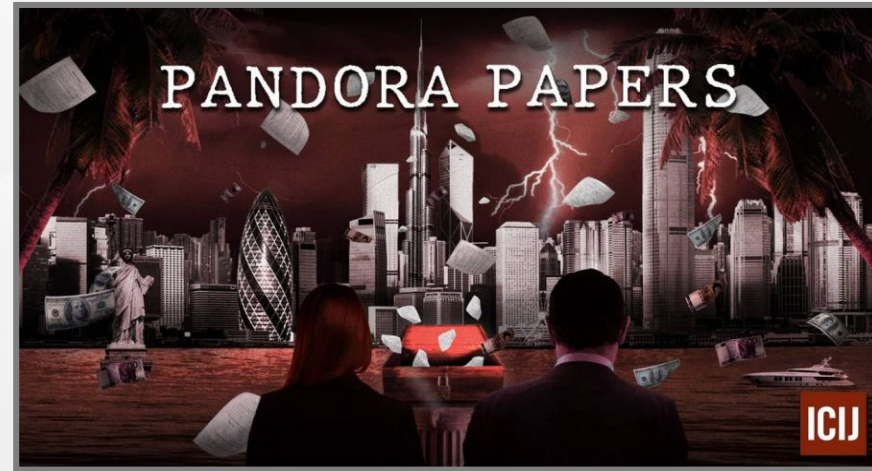
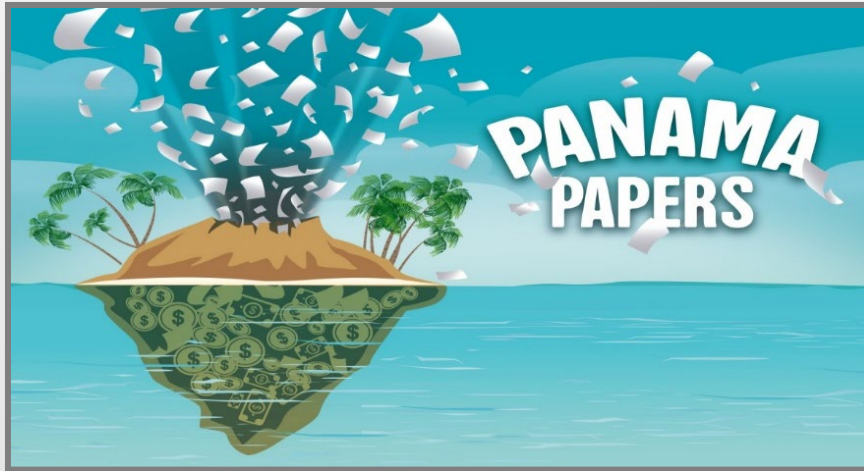
Combating money laundering: current trends, prosecutions and challenges of crypto-assets

BENEFICIAL OWNERSHIP

OECD LATIN AMERICA ACADEMY

18 April 2023

1 Beneficial owner (BO) – FOUR CASES





1. Discourages the misuse of legal persons and arrangements.
2. Prevents and combats money laundering and terrorist financing (MLTF).
3. Strengthens international fiscal transparency.
4. Helps to combat corruption.
5. Improves tax fairness.
6. Allows illicit assets to be recovered.
7. Provides information about the operation of the markets.
8. Provides greater transparency in private trade relations.

Global Forum on Transparency and Exchange of Information for Tax Purposes

Exchange of information on request
Automatic exchange of information

Recommendations of the Financial Action Task Force

R10 – Customer due diligence (financial sector)
R22 – Customer due diligence (non-financial sector)
R11 – Record-keeping
R24 – Beneficial ownership – legal persons
R25 – Beneficial ownership – legal arrangements
Effectiveness – Immediate outcome 5

Extractive Industries Transparency Initiative

Public beneficial ownership registry of companies that bid, operate or invest in the extractive industries (oil, gas, minerals)

R 24 – Transparency and beneficial ownership of legal persons

Countries should take measures to prevent the misuse of legal persons for MLTF. Countries should ensure that there is adequate, accurate and timely information on the beneficial ownership and control of legal persons that can be obtained or accessed in a timely fashion by competent authorities. In particular, countries that have legal persons that are able to issue bearer shares or bearer share warrants, or which allow nominee shareholders or nominee directors, should take effective measures to ensure that they are not misused for MLTF. Countries should consider measures to facilitate access to beneficial ownership and control information by financial institutions and designated non-financial businesses and professions (DNFBPs) undertaking the requirements set out in Recommendations 10 and 22.

R 25 – Transparency and beneficial ownership of legal arrangements

Countries should assess the risks of misuse of legal arrangements for MLTF and take measures to prevent their misuse. In particular, countries should ensure that there is adequate, accurate and timely information on express trusts, trusts and other similar legal arrangements, including information on the settlor(s), trustee(s) and beneficiaries, that can be obtained or accessed in a timely fashion by competent authorities. Countries should consider measures to facilitate access to beneficial ownership and control information by financial institutions and DNFBPs undertaking the requirements set out in Recommendations 10 and 22.

Immediate outcome 5

Legal persons and arrangements are prevented from misuse for money laundering or terrorist financing, and information on their beneficial ownership is available to competent authorities without impediments.

Ownership of shares

Holding of voting rights

Ownership agreements (nominee shares, intermediaries)

Managers or directors who are answerable to a third party (managerial control)

Right to appoint or remove the majority of the management

Arrangements that allow control to be directly or indirectly exercised

Rights of veto or to receive benefits that confer significant influence

How to identify the beneficial owner: a cascade process

1. The majority holding, direct or through a chain of entities or arrangements, is obtained and verified.

If not possible
or there are
any doubts

If not possible
or there are
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2. The majority holding, direct or through a chain of entities or arrangements, is obtained and verified.

3. Individual with the main managerial position (although this does not strictly imply that they are the beneficial owner).



TRUST

Trustor or settlor

Fiduciary

Protector

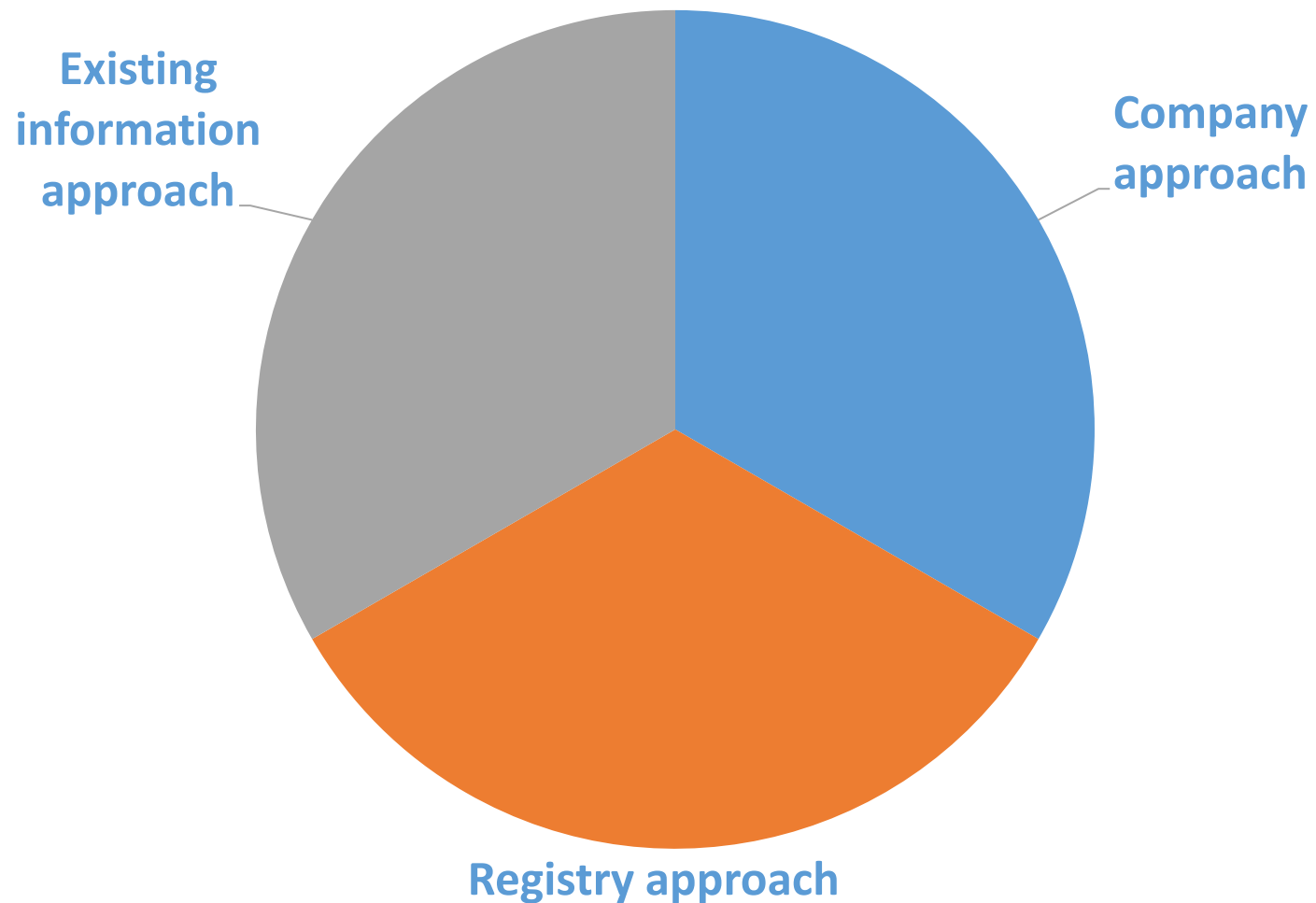
Beneficiary

Trustee

Any person exercising effective control
(e.g. secret documents such as letters of intent from the trustor)



Multifaceted approach to beneficial ownership



All companies established in a country must register with a **register of companies**, which must contain basic information:

Name of the company

Legal form

Status

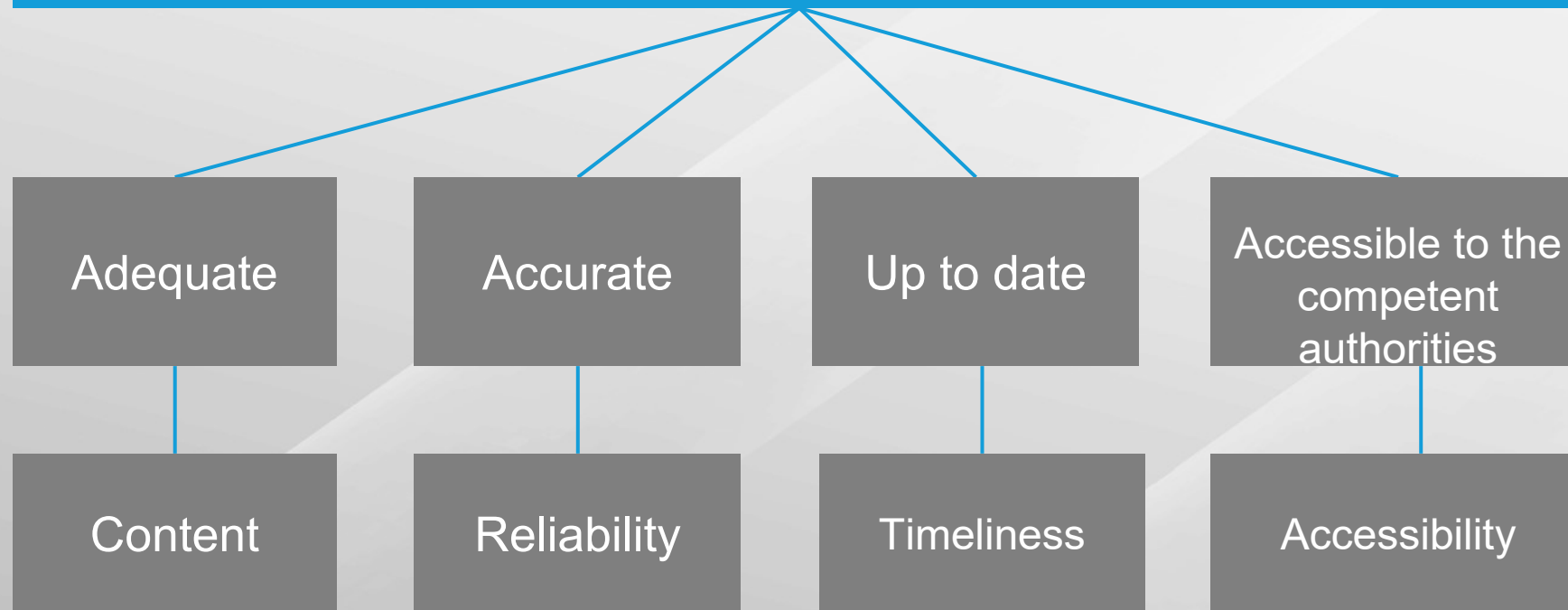
Registered office

List of directors/shareholders

Registered capital

Date of incorporation

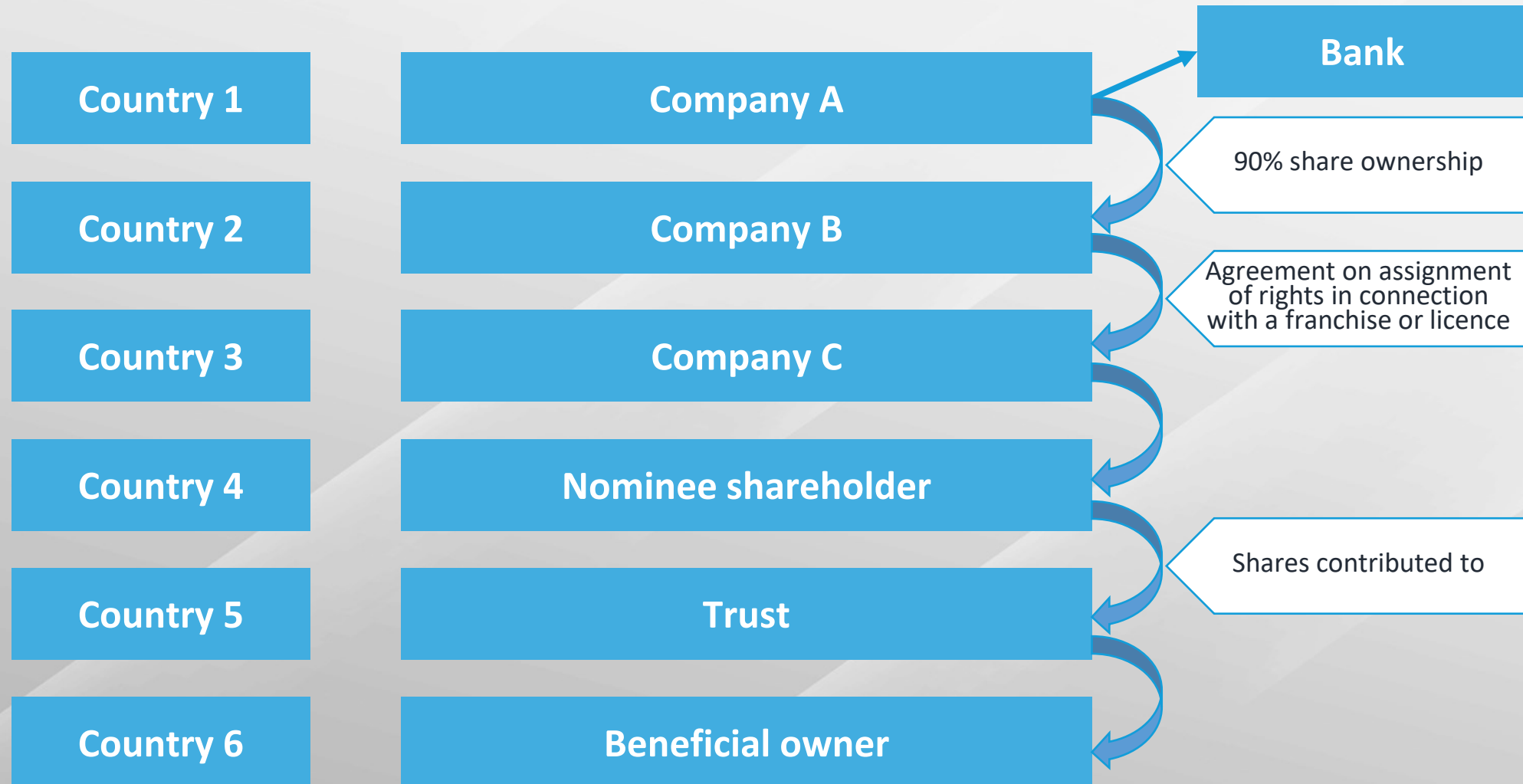
The information in the Register of Companies must be:



In case of a breach, proportional, effective, dissuasive penalties must be applied.

1. Facilitates access to up-to-date information in a timely manner for authorities and interested parties.
2. Avoids the need to alert third parties or reporting parties to any consultations.
3. Allows penalties to be imposed if information is missing or deficient.
4. Optimises cross-references between the database and other sources of information.
5. Reinforces the uniformity of data supplied.

10 Combination of companies and a trust



Our task is to carry out an operation to legitimise assets in the form of crypto-assets.

Design a money laundering scheme that covers the various ways of concealing the beneficial owner, using companies and trusts, combined with techniques for concealing ownership in crypto-asset transactions.

**USA:**

<http://dos.myflorida.com/sunbiz/search/>

<https://icis.corp.delaware.gov/Ecorp/EntitySearch/NameSearch.aspx>

<https://www.sec.gov/edgar.shtml>

United Kingdom:

<https://beta.companieshouse.gov.uk/>

Panama:

<https://opencorporates.com/companies/pa/709853>

<https://www.panadata.net/>

Spain:

<https://www.empresa.es/>

Ecuador:

<https://www.supercias.gob.ec/portalscvts/>

<https://www.compraspublicas.gob.ec/ProcesoContratacion/compras/EP/BusquedaProveedorCpc.cpe>



Thank you!

Dr Alberto Mendoza