

# AN INTERNATIONAL FINANCIAL ARCHITECTURE FOR STABILITY AND DEVELOPMENT

## A global framework for tracing Beneficial Ownership

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## Abstract

*The cross-border flow of payments, remittances, aid and investments is integral for globalisation. Ensuring transparency in such cross-border financial transactions is critical for the stability of the global financial system. A key goal for policy-makers has been the necessity to identify beneficial ownership in multi-country financial transactions to protect against money laundering, terrorist financing and tax evasion, which have besieged developed and developing countries alike. Existing global efforts on tracing Beneficial Ownership are insufficient since verification is limited to self-disclosures and by national regulations. What is needed is a global framework to enable data exchange, cross-referencing, tracing and analysis of data on cross-border financial transactions.*

## Challenge

### Existing efforts

The lack of information on cross-border capital flows during the trans-Atlantic financial crisis of 2008-2012 was a major limitation for policy-makers, restricting them from making an accurate and comprehensive assessment of the vulnerabilities in the global financial system.

To overcome this, the G20 requested institutions and standard-setting bodies such as the IMF, BIS, OECD, FSB, FATF, UN and others to publish guidelines for compiling and validating data on flows that included payments and investments. Their efforts have made it clear that identifying Beneficial Ownership of entities participating in a financial transaction is a priority.

For India, the drive for seeking transparency in cross-border capital flows comes from the need for curbing the flow of black money across borders. India is a net receiver of capital from the world, and therefore needs micro-prudential regulations as much as it does macro-prudential regulations for ensuring the stability and sanctity of the country's financial system.

The FATF defines Beneficial Ownership as:

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



Here are some existing global data-collection initiatives worth recapping:

1. G20 published High-Level Principles on Beneficial Ownership calling for timely exchange of data with international counterparts .
2. IMF-led Inter-Agency Group (BIS, ECB, OECD, UN, WB) began the Data Gaps Initiative (DGI) to aggregate data for **assessing systemic risk in the global financial system**. It identified 20 categories including securities statistics, international banking and public sector debt across which countries are required to collect data, inter alia, to reveal the **“from whom-to-whom”** information. A key goal was to identify data that exposes the linkages between global financial entities, cross-border banking flows and investment positions .
3. OECD developed the Common Reporting Standard (CRS) to **curb cross-border tax evasion and avoidance**. It provides a framework for disclosing tax details through the Automatic Exchange Of Information initiative (AEOI) between countries.
4. FATF regulations on beneficial ownership initiated to collect **data to curb money laundering and terrorist financing**. It requires Beneficial Ownership information be stored and updated by the relevant national authorities to be made available to other countries upon request . This database may be maintained as a national registry or by individual companies .
5. FSB has guidelines to identify **“who is who”** and **“who owns whom”** in the financial system, for which all financial entities must have a Legal Entity Identifier (LEI) - a 20-digit, alpha-numeric code based on the ISO 17442 standard for legal entities . It was originally conceived to identify the total exposure of one company to another (e.g. cross-company investments) but has since found relevance for monitoring suspicious cross-border financial activity. In addition to bringing transparency on entities and their transactions, LEI is being recommended for conducting diligence on borrowers, on-boarding clients in securities and fixed-income markets, and for verifying buyers and sellers in a cross-border trade . As of June 2017, a total of 30 LEI-issuing organizations had issued 520,000 LEIs in 200 countries . In India, 5873 new LEIs had been issued May 12, 2018 and another 2905 were pending review .
6. UN-led consortium (Eurostat, UNCTAD, WTO, IMF, OECD) MSITS Initiative - to accurately capture **data on trade in services**.
7. Private consortia like SWIFT, which have initiated the Business Identifier



Code (BIC) is worth mentioning here. BIC is an international standard used by financial and non-financial entities for addressing messages and routing transactions. This identifier is separate from LEI (which SWIFT also supports). One legal entity can technically hold multiple BICs. According to SWIFT, in 2017, there were 120,000 BIC in their directory of which 41,000 were financial entities that qualified as legal entities for LEI registration . SWIFT has launched a feature called the Unique End-to-end Tracking Number (UETR) to provide “parcel delivery” type tracking for multi-country, multi-entity financial transactions between 160 banks in over 200 countries . SWIFT has also launched a global KYC registry with data on 2500 institutions that use their network in over 200 countries .

## Shortcomings with existing efforts

A serious limitation in the current status is the ability to exchange, cross-reference, trace, and analyse the Beneficial Owner data on cross-border financial transactions. Existing efforts are insufficient for ensuring transparency since verification is limited to self-disclosures and national boundaries.

Another limitation is lazy implementation of existing guidelines. An effective system requires that all countries play their part in constructing a global framework.

- A 2018 survey by FATF revealed that 40 of 44 jurisdictions evaluated still required major work on the FATF requirements .
- A similar effort in 2016 by FATF to evaluate progress showed that only two of nine G20 countries had succeeded in preventing the misuse of legal persons and legal arrangements . Substantial improvements were required in the other seven countries assessed.
- An independent study by Transparency International in 2015 found that the UK and India were the only countries with regulations requiring legal entities to keep records of Beneficial Owners . The US had not enacted any of the G20 recommendations, and countries such as Australia, Canada, China, Japan, Russia, South Africa, South Korea had allowed transactions to proceed without collecting the Beneficial Ownership information.



## Proposals

Proposal: A global framework for enabling data exchange, cross-referencing, tracing and analysing Beneficial Owner data on cross-border financial transactions must be established.

Two developments make this proposal feasible now. One, other G20 efforts such as those initiated by FSB, FATF, OECD and IMF has demonstrated that there is a common global acceptance for the need for accurate data aggregation and exchange. Two, technologies such as Digital Ledger Technology and Big Data algorithms now enable access, compilation, sharing and analysis of data at marginal cost across the globe without the need for invasive surveillance across jurisdictions.

## Elements of the global framework for tracing Beneficial Ownership

### 1. Exchange of Beneficial Ownership data

The global framework must establish **an automated system of exchanging Beneficial Owner data across jurisdictions**. It is logical next step once data has been aggregated in national registries. This system can be similar to (i) the G20 arrangement on tax matters which uses a Common Reporting Standard under an agreement on Automatic Exchange Of Information, or (ii) the Statistical Data and Metadata Exchange (SDMX) established by ECB, Eurostat, IMF, OECD, UNSD and World Bank to standardise the exchange of data among international organisations and their member countries . The use of national registries must be encouraged for investigating intra-country transactions. This will ensure that data is continuously updated.

### 2. Cross-referencing Beneficial Ownership for validating cross-border links

The global framework must establish a system to **cross-reference the Beneficial Owner from one jurisdiction to another** in order to expose linkages between the Beneficial Owners of remitting and receiving accounts. Currently, international registries such as the Bankers Almanac and SWIFT KYC Registry only provide KYC details of the remitting and receiving financial institutions but not the Beneficial Ownership details of the account holders therein. This missing feature can be plugged by LEI registries which have begun to hold ownership details. In 2016, LEI ROC announced that all LEI registries will require applicants to provide “Direct Parent” and “Ultimate Parent” relationships as defined by the immediate and final holding entities declared in audited consolidated accounting statements (usually > 50% stake). Inclusion of parent relationships that show controlling interests (e.g. 20%) has been deferred due to the complexity of implementation . However, for effectively mapping “who owns who”, it is important that the LEI registries hold data on all parents, grandparents and other entities in between that hold controlling



interests, of at least more than 25%, leading up to the ultimate parent. Also, LEI's 20-character alpha-numeric code must include a flag for indicating that a parent relationship exists. These modifications can then enable LEI to be used for cross-referencing of Beneficial Ownership data across borders.

### 3. Tracing Beneficial Owner in case of multi-country cross-border transactions

The global framework must establish a system **to trace Beneficial Owner by travelling up-and-down a series of multi-country cross-border transactions**. Currently, the ability to see the full journey of a cross-border financial transaction is limited to tracking the movement of a single payment or remittance sent across borders (as is offered by SWIFT today). However, it is not possible to identify the Beneficial Owners for cross-border direct and portfolio investments where capital may be pooled (e.g. fund) before being forwarded or re-invested in a third country or if a single underlying transaction is split deliberately between intermediary banks to hide link between receiving and onward Beneficial Owners. This limits the ability to accurately track "from whom to whom" by receiving or transmitting institutions. Once Beneficial Ownership data is available in the LEI registries and the LEI code includes a flag for indicating existence of a relationship, any transaction can be examined accurately from source to destination.

### 4. Analyzing Beneficial Owner data for assessing true country risk

The global framework must establish a system to **examine cross-border capital flows in areas such as financing for development projects**. This is particularly required for opaque cross-border infrastructure financing arrangements between a state-backed lender and receiver since a default or delay in payments can significantly impact the risk assessment of a country. The development of Sri Lanka's Hambantota Port is a case in point. Sri Lanka's government spent 83% of its revenues on debt repayment in 2017. Twenty-five percent of this debt was owed to foreign entities. This is expected to double by 2022. The inability to pay debt has already forced the Sri Lankan government to convert its debt to equity and relinquish the port to China Merchant Port Holdings in 2017 for a 99-year lease .

The \$17 billion "Operation Car Wash" scandal that hit Brazil's petroleum giant Petrobras is another example proving the need for greater transparency in investments, esp. those related to energy infrastructure. Petrobras employees, contractors and suppliers across Latin America manipulated several contracts for their own benefit between 2004 and 2012 .

The frameworks being developed for identifying, validating and tracing Beneficial Owner data can also be applied to ensure transparency in financing for development. For this, some of the existing non-G20 initiatives can be leveraged. For instance, the IMF, IDI, ATI and EITI initiatives listed below can mandate the use of FSB-supported



LEI for every entity involved in cross-border infrastructure financing. Select existing parameters can also be included when designing a new framework.

- The IMF-led Data Gaps Initiative, which has Public Sector Debt as one of the parameters.
- GIH, EIB, LTIIA, LTIC and OECD launched the Infrastructure Data Initiative (IDI) to secure data on infrastructure investments, whose parameters include investment return metrics, cash flows, social impact and sustainability metrics
- Aid Transparency Initiative (ATI) has been working on improving the transparency of aid, development, and humanitarian resources .
- The Extractive Industries Transparency Initiative (EITI) is developing public scrutiny on parameters such as allocation and registration of licenses and contracts, identification of beneficial owners of extractive operations . Like the G20, the EITI has also recommended the establishment of a national public register of the Beneficial Ownership information of entities that explore, operate or invest in extractive assets . According to EITI's own assessment, by early February 2017, 45-member countries had published roadmaps to enact the beneficial ownership guidelines within their own national jurisdictions .

## Guiding principles for governing the global framework for tracing Beneficial Ownership

### 1. Investigations should be conducted only for specific requests

The exchange, cross-referencing, tracing and analysis of data **should only be allowed for specific official and legal requests** made by Competent Authorities of each country.

To ensure efficiency, investigations may be allowed (i) only for examining entities that own more than 25% (ii) and only for transactions worth more than one million USD.

### 2. Use “Regulatory Technology” to mitigate cross-border data sharing concerns

Innovations in regulatory technology are now making difficult solutions feasible. To avoid the obvious challenge of sharing private data or harmonizing regulations across jurisdictions, the global framework should **encourage the use of Distributed Ledger Technology (e.g. Blockchain)** that can enable verification of data without a central administrator or the risk of data tampering.

G20 is particularly well-placed to encourage Distributed Ledger Technology because the platform requires a critical mass of active participants for it to work appropriately.



It will also have two extra benefits: (i) It negates the requirement for a centralised global database that could be vulnerable to cyber threats, and (ii) the technology can easily be scaled up in size and scope at a marginal cost.

The distributed ledger technology is already being considered by financial institutions for trade digitisation, cross-border payments, remittances and even for settlement infrastructure.

A 2018 paper by the Centre for Global Development has evaluated how new technologies can help solve complex compliance issues for regulators. Suggestions include the use of software for know-your-customer verifications, Big Data algorithms for analysing high volume, high-variety data, and use of distributed ledger technology for secure record-keeping . All of these regulatory technologies are important for policy-makers to explore.

## Abbreviations

1. IMF – International Monetary Fund
2. BIS – Bank of International Settlements
3. OECD - Organization for Economic Co-operation and Development
4. FSB – Financial Stability Board
5. FATF - Financial Action Task Force
6. UN – United Nations
7. GFI – Global Financial Integrity
8. ECB – European Central Bank
9. WB – World Bank
10. DGI – Data Gaps Initiative
11. CRS – Common Reporting Standard
12. AEOI - Automatic Exchange of Information
13. LEI – Legal Entity Identifier
14. ISO - International Organization for Standardization
15. UNCTAD - United Nations Conference on Trade and Development
16. WTO – World Trade Organization
17. MSITS - Manual on Statistics of International Trade in Services
18. SWIFT - Society for Worldwide Interbank Financial Telecommunication
19. BIC – Business Identifier Code
20. UETR – Unique End to End Tracking System
21. KYC – Know Your Customer
22. BO – Beneficial Ownership
23. SDMX – Statistical Data and Metadata eXchange
24. UNSD – United Nations Statistics Division



25. LEI ROC - Legal Entity Identifier Regulatory Oversight Committee
26. IDI - Infrastructure Data Initiative
27. ATI - Aid Transparency Initiative
28. EITI - Extractive Industries Transparency Initiative
29. GIH - Global Infrastructure Hub
30. EIB - European Investment Bank
31. LTIIA - Long-Term Infrastructure Investors Association
32. LTIC - Long-term Investors Club



## References

1. “FATF Guidance on Transparency and Beneficial Ownership”, Financial Action Task Force, October 2014, <http://www.fatf-gafi.org/media/fatf/documents/reports/Guidance-transparency-beneficial-ownership.pdf>
2. G20 Australia 2014, “G20 High-Level Principles on Beneficial Ownership Transparency”, 2014, <https://www.ag.gov.au/CrimeAndCorruption/AntiCorruption/Documents/G20High-LevelPrinciplesOnBeneficialOwnershipTransparency.pdf>
3. “G-20 Data Gaps Initiative, Global Conferences on DGI.”, International Monetary Fund, June 20, 2017, <http://www.imf.org/external/np/seminars/eng/dgi/index.htm>.
4. “Summary of Key Points Made at the Users Conference on the Financial Crisis and Information Gaps”, International Monetary Fund, <http://www.imf.org/external/np/seminars/eng/2009/usersconf/summary.htm>
5. IMF Staff and the FSB Secretariat, “The Financial Crisis and Information Gaps: Report to the G-20 Finance Ministers and Central Bank Governors”, International Monetary Fund, October 29, 2009, <http://www.imf.org/external/np/g20/pdf/102909.pdf>
6. “International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation: The FATF Recommendations”, Financial Action Task Force, February 2018, <http://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF%20Recommendations%202012.pdf>
7. “FATF Guidance on Transparency and Beneficial Ownership”, Financial Action Task Force, October 2014, <http://www.fatf-gafi.org/media/fatf/documents/reports/Guidance-transparency-beneficial-ownership.pdf>
8. “Introducing the Legal Entity Identifier (LEI)”, Global Legal Entity Identifier Limited Foundation, <https://www.gleif.org/en/about-lei/introducing-the-legal-entity-identifier-lei>
9. “McKinsey & Company and GLEIF White Paper: Creating Business Value with the LEI”, Global Legal Entity Identifier Limited Foundation, <https://www.gleif.org/en/lei-solutions/mckinsey-company-and-gleif-creating-business-value-with-the-lei>
10. Ibid
11. “Data Metrics”, Legal Entity Identifier India Limited, [https://www.ccilindia-lei.co.in/AD\\_LEI\\_CHART.aspx](https://www.ccilindia-lei.co.in/AD_LEI_CHART.aspx)



12. SWIFT and GLEIF, “BIC to LEI Mapping Table: Fact Sheet”, Global Legal Entity Identifier Foundation, November 24, 2017, [https://www.gleif.org/content/4-lei-data/6-lei-mapping/1-download-bic-to-lei-relationship-files/2017-12-21\\_bic-to-lei-factsheet\\_v1.0-final.pdf](https://www.gleif.org/content/4-lei-data/6-lei-mapping/1-download-bic-to-lei-relationship-files/2017-12-21_bic-to-lei-factsheet_v1.0-final.pdf)
13. SWIFT, SWIFT GPI Cross Border Payments Transformed, 2018
14. SWIFT, Factsheet, The KYC Registry: Protect your correspondent connections with the KYC Registry, April 2018
15. “FATF Report to G20 Finance Ministers And Central Bank Governors”, Financial Action Task Force, March 2018, <http://www.fatf-gafi.org/media/fatf/documents/FATF-G20-FM-CBG-March-2018.pdf>
16. “FATF Report to the G20 on Beneficial Ownership”, Financial Action Task Force, September 2016, <http://www.fatf-gafi.org/media/fatf/documents/reports/G20-Beneficial-Ownership-Sept-2016.pdf>
17. Martini, Maira, and Maggie Murphy, “Just for Show: Reviewing G20 Promises on Beneficial Ownership”, Transparency International, 2015, [https://transparency.eu/wp-content/uploads/2016/11/TI\\_G20-Beneficial-Ownership-Promises\\_2015.pdf](https://transparency.eu/wp-content/uploads/2016/11/TI_G20-Beneficial-Ownership-Promises_2015.pdf)
18. “What Is SDMX?”, Statistical Data and Metadata Exchange, [https://sdmx.org/?page\\_id=3425](https://sdmx.org/?page_id=3425)
19. “Collecting Data on Direct and Ultimate Parents of Legal Entities in the Global LEI System – Phase 1”, Legal Entity Identifier Regulatory Oversight Committee, March 10, 2016, <https://www.ccilindia-lei.co.in/Documents/Relationship%20Data%20-%20Collecting%20data%20on%20direct%20and%20ultimate%20parents.pdf>
20. Bhandari, Amit, and Chandni Jindal, “Sri Lanka: Debt-trapped”, Gateway House. January 31, 2018, <http://www.gatewayhouse.in/chinese-investments-in-sri-lanka/>
21. “Report of the Administration 2016”, Petrobras, 2016, <http://www.investidorpetrobras.com.br/en/annual-reports/integrated-report/annual-report>
22. “Supporting the Infrastructure Data Initiative – Summary of the Workshop on Infrastructure as an Asset Class and Data Collection for Longterm Investment”, Organisation for Economic Co-operation and Development, November 2017, <http://www.oecd.org/daf/fin/private-pensions/Workshop-on-Infrastructure-Data-Collection-LTI-2017-Summary.pdf>



23. “The Organisation & Activity Standards”, International Aid Transparency Initiative, July 4, 2014, <http://iatistandard.org/203/introduction/standards/>
24. “Who We Are”, Extractive Industries Transparency Initiative, <https://eiti.org/who-we-are>
25. “Developing a Roadmap for Beneficial Ownership Disclosure: Guidance Note 22 – Requirement 2.5”, Extractive Industries Transparency Initiative, May 2016, [https://eiti.org/sites/default/files/documents/guidance-note-22-beneficial-ownership-roadmap-en-2016\\_0.pdf](https://eiti.org/sites/default/files/documents/guidance-note-22-beneficial-ownership-roadmap-en-2016_0.pdf)
26. “Beneficial Ownership: Revealing Who Stands behind the Companies”, Extractive Industries Transparency Initiative, <https://eiti.org/beneficial-ownership#what-the-eiti-requires-of-its-member-countries>
27. Woodsome, Jim, and Vijaya Ramachandran, “Fixing AML Can New Technology Help Address the De-risking Dilemma?”, Centre for Global Development, 2018, <https://www.cgdev.org/sites/default/files/fixing-aml-can-new-technology-help-address-de-risking-dilemma.pdf>

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