Assessment of the Lebanese Beneficial Ownership Regime *in line with the International Standards*

February 2022

THE LEBANESE TRANSPARENCY ASSOCIATION NO CORRUPTION

TRANSPARENCY INTERNATIONAL
the global coalition against corruption

CIPE
CENTER FOR INTERNATIONAL PRIVATE ENTERPRISE

Assessment of the Lebanese Beneficial Ownership Regime *in line with the International Standards*

This Paper is supported by the Center for International Private Enterprise (CIPE).

Author:
Mohammad Almoghabat
Senior Legal Consultant at the Lebanese Transparency Association - No Corruption (LTA)

Research Assistant:
Christelle Mazloum
Intern at the Lebanese Transparency Association - No Corruption (LTA)

With Contribution by:
Me. Karim Daher
President at the Lebanese Association for Taxpayers' Rights (ALDIC)

Reviewed by:
Maira Martini
Research & Policy Expert on Corrupt Money Flows at Transparency International (TI) & Center for International Private Enterprise (CIPE)

Editor:
Rana Saleh Azzam

Abstract

Corruption is one of the main obstacles that stand in the way of economic and financial development in Lebanon. This is due to several factors that include inefficient public administrations combined with a fragmented legal framework(s) that sometimes leave out whole sectors deregulated.

Corrupt money flows contribute to the economic and financial underdevelopment which usually happens through money laundering that creates false figures about the economy by pressuring the exchange centers by entering illegitimate funds into the financial system from one side and sucking it as legitimate funds from the other side with no real benefit to the national economy.

One of the main tools to launder funds from illicit activities is Beneficial Ownership, which can be used to hide the real identity of the individual(s) owning the corrupt funds without being detected or identified.

In Lebanon, Beneficial Ownership is mainly regulated through Law No. 44/2015; Anti-money Laundering and Combatting Terrorism Financing Law. This law provides the main legislative tool for competent authorities to monitor the use of Beneficial Ownership and sets out the jurisdiction for these authorities in addition to obligations on Taxpayers, Certified Public Accountants, Public Notaries, and Lawyers. There are several other laws and regulations that, combined, establish the Lebanese Beneficial Ownership Regime.

Throughout this paper, an introduction to Beneficial Ownership, in general, will be presented in Chapter 1. Then, the Lebanese Beneficial Ownership Regime will be presented and discussed comparatively with relevant international standards and best practices in Chapter 2. In Chapter 3, an assessment of the Regime will also be presented with indicators scoring the effectiveness and efficiency of the legal framework regardless of its implementation, in addition to assessing the commitment of the relevant competent authorities to the legal framework. Chapter 4 will provide Conclusions and Recommendations based on the findings of the paper for the relevant competent authorities to ensure an effective and efficient Beneficial Ownership Regime in Lebanon.

Table of Contents

Executive Summary

Corruption in both, public and private sectors, can take many forms and can be facilitated by many tools. There's no doubt that corruption has a damaging impact on the effectiveness and efficiency of public services and the national economy which reflects negatively on the daily lives of citizens.

Those who acquire funds from illicit activities such as corruption in the public sector or do not want to report their income, work tirelessly to avoid being detected by public authorities to avoid any legal consequences such as paying due taxes and/or being charged with criminal offenses. The act of covering up such activities could either lead to a money laundering activity or a terrorism financing activity if the concerned parties are involved in terrorism. Moreover, some companies might want to bend competition rules in a given market to monopolize it or try bid -rigging a public tender to get awarded a specific public contract. All of the above acts have one thing in common: hiding the identity of the real beneficiary of the given act who is known as the Beneficial Owner.

Beneficial Ownership is rather a new legal dimension that is still under development across the world. Governments are still in the process of discovering and testing legal frameworks that could effectively and efficiently regulate this tool that is highly used in money laundering and terrorism financing, in addition to being used in violating competition law rules and undermining public procurement processes.

There is no international unified definition of a Beneficial Owner, however, most definitions include the same elements to identify a Beneficial Owner. The Financial Action Task Force, an intergovernmental organization founded in 1989 on the initiative of the G7 countries to develop policies to combat money laundering, defines a Beneficial Owner as "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".

In Lebanon, Law 44/2015 is the main legal tool that addresses the issue of

Beneficial Ownership, although, in some parts, the Lebanese Beneficial Ownership Regime meets the international standards and best practices, however, in most crucial issues it falls short in meeting international standards and best practices. Lebanon does not have a unified Public Beneficial Ownership Information Register as in the UK for example – the Register that helped investigative journalists in identifying the individuals behind the companies who imported the chemicals that exploded on the 4th of August in 2020 at the port of Beirut –. In addition, Lebanon's newly adopted Public Procurement Law does not address Beneficial Owners of companies contracted by the government and its agencies as in Slovakia that requires every company that wants to contract with the government to disclose its Beneficial Owner(s) information – this helps in having effective and efficient public procurement processes. As for the practical implementation that is discussed in the study, no public information is available on Beneficial Ownership. Furthermore, entities that have legal obligations within this framework; such as the Ministry of Finance, the Special Investigation Commission, the Lebanese Association for Certified Public Accountants, the Beirut and Tripoli Bar Associations, and Public Notaries, are not fully compliant with their legal obligations which leave the door open for violations defeating the object and purpose of having a Beneficial Ownership Regime.

The MOF needs financial and human resources as well as building the capacities of its Tax Department personnel skills and qualifications to be able to meet its legal obligations, and most importantly, the MOF needs the will to fulfill its obligations in accordance with the Beneficial Ownership Regime to make sure it doesn't get undermined. The SIC is ineffective in its Beneficial Ownership practice due to the secrecy culture it abides by which undermines the efforts of cooperation and coordination with other competent authorities to fulfill their legal obligations. LACPA with its members and the Public Notaries lack the needed skills and qualifications to meet their legal obligations, furthermore, the Beirut and Tripoli Bar Associations have not yet issued the Procedures that lawyers must abide by when detecting Beneficial Ownership information issues with their clients as stipulated in Law No. 44/2015, leading to a huge gap between practical implementation and legal obligations.

The purpose of the research study

Amid the ongoing crises in Lebanon and systemic corruption in the public sector, there's a need for development and reform, on both the legal and practical levels when it comes to Beneficial Ownership; most importantly there's a need for the implementation of the current legal provisions that govern Beneficial Ownership to initiate limiting and preventing corruption, monopolies, undermining public procurement, money laundering, and terrorism financing.

This study aims at comprehensively exploring the current Lebanese Beneficial Ownership Regime, identifying its gaps and fragmentations

on the legal and policy level, in addition to providing recommendations for the competent authorities and other stakeholders to undertake in order to achieve better results in the fight against corruption, money laundering, terrorism financing, as well as strengthening competition in the market and have an effective and efficient public procurement regime.

Method of data gathering and analysis

To provide a comprehensive analysis of the Lebanese Beneficial Ownership Regime, legal documents such as laws, circulars, and decisions have been mapped and presented through positive and normative analysis; thus, presenting what the laws provide, where do they abide by international standards and best practices and where do they fall short.

To assess the legal framework of Beneficial Ownership, an Index developed by Transparency International "to monitor the extent to which G20 members are fulfilling their commitments and the adequacy of their beneficial ownership transparency framework", is used to capture and measure the essential components that should be enforced by countries to fulfill the 10 principles ensuring the implementation of an effective and efficient Beneficial Ownership Regime. It is noteworthy that Lebanon is the first country to be assessed using this Index other than the G20 members.

Information Requests were submitted to the MOF, SIC, LACPA, Beirut and Tripoli Bar Associations and the Public Notaries Council, to assess the practical implementation of the Beneficial Ownership Regime asking about information that can provide an overview of how are they enforcing their obligations in accordance with the Beneficial Ownership Regime after several follow-ups, only the SIC and the Public Notaries' Council replied to our Information Requests; the SIC provided sufficient answers for the reader of the study to be able to stand on the status of the implementation of the legal provisions, however, it does not provide any indication about the results of this implementation which poses the question as to whether the SIC's implementation of its obligations is sufficient, effective or efficient. The Public Notaries' Council's answer was limited *by only providing the law that regulates its work* leading to the assumption that the Council has no jurisdiction over Beneficial Ownership information presented before Public Notaries, knowing that in accordance with the law provided by the Council it can be a major player when it comes to managing Beneficial Ownership information and in coordinating with the SIC, MOF and other competent authorities.

The study was also reviewed by experts in the field from Transparency International, the Center for International Private Enterprise, and the Lebanese Association for Taxpayers' Rights.

Recommendations

Based on the findings of the assessment, we were able to articulate a set of recommendations directed at the competent authorities and entities to adopt to ensure the Lebanese Beneficial

Ownership Regime is well implemented effectively and efficiently.

Below are the recommendations per competent authority with the rationale behind them:

» *Recommendations to the Lebanese Parliament:*

-Adopting a regulation establishing a Public Beneficial Ownership Register with effective and efficient identification and verification processes.

Having a Public Beneficial Ownership Register would facilitate the use of Beneficial Ownership information across different sectors leading to informed planning and policy making to avoid, prevent, and limit potential anti-competitive behavior by companies or undermining public procurement procedures. Having the chain of ownership of companies publicly available and accessible to different authorities would allow them to map challenges and opportunities of dealing with companies that have complex structures and to predict different scenarios on how to limit the damage if a company goes out of business or if it controls a substantial portion of a given market.

Such Register also provides a crucial tool in combatting, limiting, and preventing corruption in the public sector; it will give more resources for competent authorities to identify conflict of interest, and trading in influence. It will also allow competent authorities to have more information when dealing with tax evasion, money laundering, and/or terrorism financing to apply relevant laws.

The importance of having this Register publicly available is that it could allow for CSOs, journalists, and other stakeholders to join forces with the relevant authorities to verify the disclosed information and identify any irregularities that require enhanced due diligence measures, or any violations of the laws in place such as fraud, conflict of interest, or trading in influence.

-Amending Articles 2 and 5 of the Banking Secrecy Law to explicitly mention the obligation of Customers to waive their right to banking secrecy to the Tax Department; including only accounts' holders' names, numbers, debit and credit of the accounts at the end of the fiscal year.

Weighing down the importance of Customers' right to banking secrecy on the one hand, and the potential abuse of this secrecy and its impact on the national economy and the resources of the government, not to mention that banking secrecy, on the other hand, can be used to hide funds from illicit activities such as corruption in the public sector. Giving the Tax Department access to specific and limited information on bank accounts could prove very helpful in matching the declared information with basic bank accounts' information when applying due diligence measures. If the Tax Department identifies some inconsistencies between a given tax declaration and the relevant bank accounts, this means there's a red flag that requires enhanced due diligence measures to be applied and at the same

time this justifies the Tax Department's request to the SIC to completely lift banking secrecy from the targeted bank account to the Department.

In doing so, the legislator will be equipping the Tax Department with a necessary tool that doesn't have under its current jurisdiction, while at the same time putting an end to a legal fragmentation that paralyzed any effective and efficient policy adopted by the Ministry of Finance and its Tax Department to combat tax evasion or adopted by any other competent authority cooperating with the Tax Department to combat corruption in the public sector since banking secrecy can potentially be used to hide funds from illicit activities such as corruption.

-Amending Law No. 272/2014; Establishing the Public Notaries' Council, to include explicit jurisdiction of the Council to ensure the proper implementation of the Public Notaries to their legal obligations by stating the laws that the Council can oversee their implementation, including but not limited to, Law No. 44/2015; AML/CFT.

This recommendation is to explicitly equip the Public Notaries Council with the necessary jurisdiction to perform its role effectively and efficiently and to ensure that all Public Notaries fully cooperate with the Council in its work to monitor Beneficial Ownership information, as the current legal provisions only provide vague terms on the work of the Council which is resulting in the Council not being able to perform any activities when it comes to dealing with Beneficial Ownership information.

Adopting this recommendation will allow the Council to perform its own verification process of Beneficial Ownership information collected by Public Notaries, in addition to being able to conduct continuous trainings for Public Notaries on how to deal with Beneficial Ownership information that they collect from their clients so that they will not be subject to any potential criminal prosecutions in money laundering or terrorism financing cases.

-Amending the new Public Procurement Law to include an explicit Article obliging all private parties involved in public procurement contracts to declare their Beneficial Owners' information to the Public Procurement Authority. In addition, to include in the Article, the establishment of a Public Beneficial Ownership Register under the Public Procurement Authority that includes all the information declared by the private parties.

Public procurement is the main tool that the government uses in spending public funds to perform its duties in providing services to the public. Such a tool must be subject to extensive safeguards that guarantees that the taxpayers' money is being spent efficiently and is not being squandered nor it is going into the wrong contractors/service providers. Governments, such as the U.K and Slovakia, are recently using Beneficial Ownership information in public procurement planning and as a tool to limit fraud, conflict of interest, and trading in influence in the procurement processes.

If Public Procurement Authorities collect and have access to Beneficial Ownership information of contractors, they will be able to identify bid-rigging as they will be able to view the chain of ownership of the bidding contractors, for example. They will also be able to adopt informed plans and set out efficient policies for procurement in different sectors. If PPAs manage to grasp the chain of ownership and it proved not to constitute any fraud, conflict of interest, or trading in influence, there might still be the possibility of the contractor to undermine the procurement process and the given market through anti-competitive behavior which could pose a devastating impact on public services.

The case of Carillion in the UK is just on point here, which is a company that provided services for hospitals, schools, prisons, and transportation that had around 450 contracts with the UK government. When Carillion was liquidated in 2018, it made it difficult to assess the impact of the insolvency due to its complex ownership structure (the Companies House in the UK listed around 100 companies and partnerships with "Carillion" in their name). Carillion owed GBP 2 billion to its subcontractors and suppliers, which left many small and medium-sized businesses with outstanding debts.

A complete risk assessment could not have been possible at the time of concluding the contracts with Carillion. Beneficial Ownership information transparency can act as an integral tool for governments to efficiently assess and analyze risks of dealing with specific companies which will lead to better public services. In Carillion's case, if such analysis was conducted it would have provided the necessary information to help mitigate the impact of the company's insolvency.

Collecting Beneficial Ownership information is not enough on its own, it should be in a Public Register. The transparency factor allows for more due diligence to be conducted by CSOs and other stakeholders, which can bring the attention of the competent authorities to irregularities in the disclosed information and/or to patterns that could prove multi-leveled control and ownership. This has an indirect positive impact as it helps reduce costs and resources the government has to allocate for multiple due diligence measures, which might be not available in the first place.

This recommendation is also motivated by the fact that the current Beneficial Ownership regime does not provide that the PPA in Lebanon can have access to Beneficial Ownership information the Tax Department or the SIC have unless the latter authorities decide to make it available for the PPA; which from several experiences recorded on the cooperation between Lebanese public administrations will, likely, never happen.

Recommendation to the Ministry of Finance:

-Providing effective and efficient trainings on Beneficial Owners identification and verification processes by the MOF to the Tax Department personnel involved in the auditing processes.

Having the Beneficial Ownership legal framework in place is not enough on its own, intensive trainings on how to deal with Beneficial Ownership information is needed for all personnel involved in the identification and verification processes. The Tax Department must provide such trainings to its personnel, these trainings must cover all stages from receiving the information to auditing it and requesting more information from relevant individuals/entities if need be, including due diligence and enhanced due diligence measures, in addition to setting a Red Flags system that facilitates personnel's work and the legal procedures that must be followed in different scenarios such as providing inaccurate or false information and what legal measures should be adopted based on the results of the identification and verification processes.

Recommendation to the Central Bank of Lebanon (BdL):

-Issuing a Circular from the BdL directing banks to add to their current and new contracts with Customers a provision waiving their right to banking secrecy to the Tax Department, including only accounts' holders' names, numbers, debit and credit of the accounts at the end of the fiscal year.

In line with the second recommendation presented above to the parliament to amend the Banking Secrecy Law, the BdL must issue a Circular directing banks to oblige their clients to waive their right to banking secrecy to the Tax Department, in order to let the latter perform its duties without obstacles. This lifting of secrecy should not include all banking information, but only account holders' names, numbers, debit and credit at the end of the fiscal year.

Such waiver will allow the Tax Department to perform a matching exercise between the declared information and the limited banking information they receive, if there is any inconsistency between the two, the Department will then be able to justify a request to the SIC to have access to the necessary information to make sure no violations of the law are present.

This Circular can be issued under the current legal provisions without amending the law, the proposed recommendation to amend the law is only to end the vagueness of the terms and reaffirm the importance of giving the Tax Department the right tools in performing its duties with no legal obstacle and/or fragmentations that leaves the door open for speculation.

Recommendation to the Beirut and Tripoli Bar Associations:

-Adopting and publishing the Procedural Aspects on how to apply the obligations outlined in Article 5 of the AML/CFT Law No. 44/2015 for Lawyers by the Beirut and Tripoli Bar Associations.

Lawyers are subject to a special regulation governing their profession in Lebanon, in line with this regulation and the AML/CFT regulation, the Beirut and Tripoli Bar Associations have a legal obligation to issue the Procedural Aspects on how lawyers must fulfill their obligations that are stipulated in the AML/CFT law regarding Beneficial Ownership Information.

To date, six years after the adoption of AML/CFT law, the Associations haven't fulfilled this obligation and the procedures are yet to be adopted. Adopting these procedures is important to direct lawyers on how to deal with the Beneficial Ownership information of their clients, in addition to its importance in setting the line between what is covered by client-attorney privilege and what is not and that can be reported to the SIC.

Recommendation to the Public Notaries Council:

-Establishing a central database by the Public Notaries Council in cooperation with the SIC that includes all Beneficial Ownership related information collected from documents adopted before Public Notaries.

The current legal framework governing the work of the Public Notaries Council allows it to interfere in the Public Notaries' work to facilitate it and ensure the proper performance of the Public Notaries' duties and enhance the role of their profession, not to mention the Council's ability to organize training workshops for Public Notaries and establish relations and coordination with governmental entities on what is related to the Public Notaries' profession also.

The Council under the current regulation can establish a central database for Public Notaries to use for collecting Beneficial Ownership information and monitor the information added to the database, and if any Red Flag is recorded, they can report to the SIC to take the necessary measures.

These steps can be adopted/conducted without needing the parliament to adopt the third recommendation presented before, as that recommendation is to "explicitly" address the Council's jurisdiction when it comes to Beneficial Ownership and end any speculation that could arise if the Council initiates this recommendation, knowing that the reason for the Council not acting on Beneficial Ownership information is because there's no explicit mention of how to deal with Beneficial Ownership information.

Assessment on the Lebanese Beneficial Ownership Regime; in line with the International Standards

Background

Despite Lebanon's ratification of the United Nations Convention Against Corruption in 2009, it took the Lebanese parliament almost 10 years to start adopting anti-corruption regulations, which only led to inflating systemic corruption across public administrations during these 10 years. Several Lebanese laws aim to combat corruption in the public sector that were adopted after 2017, however, implementation is still yet to be tested.

On another level, Lebanon has been facing many challenges; political, social, economic, and security issues. The severe economic collapse that started in 2019 and the government's default in 2020 has made the public discussion focused on corruption in the public sector, and the COVID-19 Pandemic has paralyzed the remaining economic activity in the country; not to mention the Beirut Port Blast on the 4th of August in 2020 that destroyed a huge portion of Beirut.

All of the above-mentioned events pushed the government to initiate negotiations with the International Monetary Fund (IMF) and the international community to aid in the economic recovery and the reconstruction of Beirut. This means that, after the positive conclusion of the negotiations with the IMF and the international community, a cash flow will enter the country to fund the economic recovery and Beirut's reconstruction. In 2021, Lebanon scored 24/100 on the Corruption Perceptions Index (CPI) issued by Transparency International, ranking 154/180 countries from around the world[1]. This score, topping the above-mentioned factors, shows how corruption is projected in the Lebanese public sector, which in turn provides an overview on how it can impact the Lebanese economy and the daily lives of Lebanese citizens. This is through the impact of corruption on public services for example, or on the ability of citizens to perform administrative transactions.

This Assessment comes at a time where Lebanon is passing through a delicate stage in its history, the economic and monetary collapse, and the social and political unrest which led to a 33% unemployment rate in 2021 according to the International Labor Organization[2] , and multidimensional poverty reaching 82% and the extreme multidimensional poverty reaching 40% in 2021 according to ESCWA[3], with the shortage crisis of gasoline, gas-oil, and fuel for electricity that paralyzed the country and its economic activity, inflation rates of food commodities that touched 340% in 2021 according to the World Food Program[4], with a nearly total collapse across different sectors especially the health sector.

Currently, Lebanon is seeking to secure funds from international donors and governments, the IMF in particular, to help in countering the results of the economic and monetary crisis. This

[1]Corruption Perceptions Index, 2021. Transparency International. Available at: https://www.transparency.org/en/cpi/2021
[2]Assessing Informality and Vulnerability among Disadvantaged Groups in Lebanon: A Survey of Lebanese, Syrian and Palestinian Refugees. Technical report – June 2021. Pg. 34. Available at: https://www.ilo.org/wcmsp5/groups/public/---arabstates/---ro-beirut/documents/publication/wcms_816649.pdf
[3]Multidimensional poverty in Lebanon (2021-2019), Painful reality and uncertain prospects. E/ESCWA/CL3.SEP/2021/POLICY BRIEF.2. Available at: https://lebanon.un.org/sites/default/files/-00634-21/09-2021_multidimentional_poverty_in_lebanon_-policy_brief_-_en_0.pdf
[4]Lebanon Country Brief. World Food Program. October 2021. Available at: https://www.wfp.org/countries/lebanon?_ga=1814598572.1642110502-2.130610575.1217658234.1642524199

means that, if the Lebanese government reaches some terms with international donors, a huge cash flow will enter the country in the coming years to help in the economic recovery, which requires having safeguards in place to make sure that this cash flow will go into the right hands. These safeguards can be laws, decrees, decisions that put specific mechanisms in place to ensure the effective and efficient use of the funds. These regulations can be directed at combatting corruption in the public sector or regulating the financial and banking sector, in addition to combatting money laundering and terrorism financing.

Several actors could play a role in making sure that the government puts in place the right safeguards including the IMF that will be the main negotiator with the government, the World Bank who is already financing some of the government operations and can play the same role in future finances provided to Lebanon, governments participating in conferences dedicated to aiding the Lebanese people, the United Nations, and most importantly the Lebanese civil society (including economic associations, associations, and non-governmental organizations) as it represents the interests of the Lebanese society. Any measure must be taken in consultation with them to ensure the implementation of a participatory approach in decision making that reflects positively on the implementation of such decisions.

As for Beneficial Ownership, the last evaluation for Lebanon by the FATF was in November 2009, the next evaluation is set to be in July 20225 . The evaluators need to be aware of all the variables to understand the Lebanese context without undermining the commitment of the Lebanese government to the FATF Recommendations, specifically No. 24 and 25 on Beneficial Ownership, which is why this Assessment is important to comprehensively present the Lebanese Beneficial Ownership Regime to be able to stand on its effectiveness and efficiency and identify the legal gaps and fragmentations that could help in advocating decision-makers for reform in the first place and helping the FATF evaluators in standing on what reforms are needed in the second place.

Considering the high levels of corruption in the public sector, there must be an effective and efficient legal framework governing the spending of the received funds especially when it comes to procuring services and contractors.

In procurement, corruption could highly be involved, whether through trading in influence, conflict of interest, bribery, or monopolies. In this context, knowing the real individuals behind companies, the so-called Beneficial Owners, is important to prevent abusing the procurement system when applying and granting public contracts, licenses, and any other benefits like subsidies.

In the context of this paper, the Beneficial Ownership legal framework will be presented and assessed while taking international standards as a benchmark. Beneficial Ownership can be used in money laundering; especially when it comes to laundering money of corruption crimes, in terrorism financing, and in monopolizing economic sectors. It is an important tool as well in investigating and eventually prosecuting financial crimes and other

[5]Financial Action Task Force Calendar. Available at: https://www.fatf-gafi.org/calendar/assessmentcalendar/?hf=10&b=0&r=2%Bf2%Ffatf_country_en2%Flebanon&s=asc(document_lastmodifieddate)&table=1

abuses as well as to recover stolen assets since Beneficial Ownership information can help identify the assets of criminals for purposes of confiscation or disgorgement, and to ensure that no one benefits from the proceeds of crime. Thus, enhancing transparency and removing anonymity would significantly improve the chances of arresting the illicit flow of resources. In doing so, Beneficial Ownership information can also provide an effective deterrent, thus preventing further financial crimes from taking place.

Nevertheless, Beneficial Ownership information also helps competent authorities detect cases of corruption and/or money laundering whenever an individual cannot justify their wealth or asset ownership based on their declared income. Moreover, regulations for listed companies usually require the identification of the Beneficial Owner (a natural person), to protect minority shareholders and investors who would need to know whether a new person acquired a significant shareholding that could give them effective control over the listed company's decisions and activities.

Beneficial Ownership is also a term used internationally in commercial law which refers to the real person or group of people who ultimately own and/or control a legal entity or organization. The term Beneficial Ownership is used widely when dealing with money laundering and fraud; it is one of the ultimate goals that commercial laws and anti-money laundering legislations aim to establish to prevent financial crime.

The term Beneficial Ownership has various definitions worldwide. According to the Law Library of Congress, a Beneficial Owner is a "Natural person who exercises substantial control of corporation or LLC through ownership interests, voting rights, or agreement, or has a substantial interest in or receives substantial economic benefits from assets of corporation or LLC[6]" .

Another definition by Transparency International provides that a "beneficial owner means any natural person(s) who ultimately owns or controls the customer and/or the natural person(s) on whose behalf a transaction or activity is being conducted[7]".

Beneficial Ownership is a major legal concern, it is a huge issue and an interest for large well-established organizations worldwide. One of the major organizations working in the field is The Financial Action Task Force (FATF), one of the biggest global money laundering and terrorism financing watchdogs. It is an inter-governmental organization that sets up anti-money laundering standards.

The FATF, in Recommendations 24 and 25 in particular, provides that Beneficial Ownership of an entity should be well acknowledged by Financial Institutions (FI), for these FI to facilitate the governmental control and limitations of these actions; in their recommendations, FATF proposes that FI should undertake Customer Due Diligence (CDD) measures when dealing with Customers to identify Beneficial Owners and hence lower the risk of money laundering[8] .

Before 2015, Lebanon didn't have a comprehensive legal framework that addressed Beneficial Ownership,

[6]Disclosure of Beneficial Ownership in Selected Countries, by the Staff of the Global Legal Research Directorate, The Law Library of Congress, Global Legal Research Center, July 2017. Available at: https://www.loc.gov/law/help/beneficial-ownership/disclosure-beneficial-ownership.pdf (2021/02/04)
[7]EUROPEAN UNION BENEFICIAL OWNERSHIP TRANSPARENCY, Transparency International. Available at: https://www.transparency.org/files/content/publication/2015_BOCountryReport_EU.pdf (2021/02/04)
[8]INTERNATIONAL STANDARDS ON COMBATING MONEY LAUNDERING AND THE FINANCING OF TERRORISM & PROLIFERATION, The FATF Recommendations, Financial Action Task Force, Updated October 2020. Available at: https://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF20%Recommendations202012%.pdf (2021/02/04)

only the Anti-money Laundering and Combatting Financing Terrorism (AML/CFT), in addition to an Intermediate Circular No. 35/2003[9] issued by Bank du Liban (the Lebanese Central Bank/Central Bank/BdL) that provided an identification process of Beneficial Owners; amending the Financial Monitoring Regime attached to Basic Circular No. 83/2001[10] that defined Beneficial Owner(s) and provided an identification process. However, these Circulars were addressed to Banks and FI only which means there was no mechanism to declare Beneficial Owner(s) nor an identification process outside the Banking Sector.

In 2015, the Lebanese Parliament introduced a new law that outlines the relationship between Beneficial Ownership and money laundering risks. Article 4(3) of Law No. 44/2015 on Combating Money Laundering and Terrorism Financing (AML/CFT)[11], provides that all Banks and FIare obliged to identify the Ultimate Beneficial Owners (UBO) of entities.

The adoption of Law No.44/2015 initiated the legislative work on providing more legal tools regulating Beneficial Ownership by defining it and outlining the identification process. In 2016, the Parliament adopted Law No. 75/2016 on Abolishing Bearer and Warrant shares; this law orders joint-stock companies (s.a.l) to convert their shares to Nominal Shares within a specific period of time[12] .

Lebanon has committed, at the same period, to the Common Reporting Standard in May 2017 by virtue of Law No. 55/2016 which endorsed both the Multilateral Convention on Mutual Administrative Assistance in Tax Matters (the "Convention" or the "MAC") and the Multilateral Competent Authority Agreements (MCAA). Thus, the Lebanese Financial Institutions have since been obliged to apply due diligence procedures to identify reportable accounts preexisting on June 30, 2017, and pertaining to residents of reportable participating jurisdictions.

In addition, Law No. 74/2016, defining tax obligations for individuals carrying out trustee activities, has obliged any individual residing in Lebanon and carrying out, professionally or not, a trustee activity for a foreign trust, regardless of its nature or type, to apply for registration before the Tax Department and showing all information related to the people they are representing and/or dealing with.

In 2018, another Law No. 84/2018 on Strengthening Transparency in the Petroleum Sector[13] was adopted; this law obliges all contractors and sub-contractors in the Petroleum Sector to declare their Beneficial Owners.

Law No. 106/2018 Amending the Tax Procedure Law[14] was also adopted in 2018 defining Beneficial Ownership in addition to an obligation for taxpayers to declare the Beneficial Owners of the activities they perform annually.

Another legislation was adopted in 2019, Law No. 126/2019 Amending the Commercial Law No. 304/1942 and Article 844 of the Contracts and Obligations Law[15]; in particular amending Article 26 of the Commercial Law, imposing on companies that have their headquarters in Lebanon to declare their Beneficial Owner(s).

[9]Intermediate Circular No. 2003/35 - Amending the Financial and Banking Monitoring Regime of AML. Bank du Liban. Available at: https://bdl.gov.lb/circulars/intermediary/0/37/5/Intermediate-Circulars.html (2021/02/04)
[10]Basic Circular No. 2001/83 – Regulations on the Control of Financial and Banking Operations for Fighting Money Laundering and Terrorist Financing (AML/CFT). Bank du Liban. Available at: https://bdl.gov.lb/circulars/index/2021/02/05) 0/33/5)
[11]Law No. 2015/44 on Combating Money Laundering and Terrorism Financing (This Law replaces Law No. 2001/318 on Anti-money Laundering.) Available at: http://legiliban.ul.edu.lb/Law.aspx?lawId=2021/02/05) 241399)
[12]Law No. 2016/75 on Abolishing Bearer and Warrant shares. Available at: https://www.lp.gov.lb/Resources/Files/ad90430d408-7243-d8-9925-d97ecfcec8c.pdf
[13]Law No. 2018/84 on Strengthening Transparency in the Petroleum Sector. Available at: https://www.lpa.gov.lb/Library/Assets/Gallery/asdasdas/Laws/20%البترول20%قطاع20%في20%الشفافية20%دعم 2018-2084%قانون20%-.pdf . (2021/02/05)
[14]Law No. 2018/106 Amending the Tax Procedure Law. Available at: https://www.lacpa.org.lb/publications/3.pdf . (2021/02/05)
[15]Law No. 2019/126 Amending the Commercial Law No. 1942/304 and Article 844 of the Contract and Obligations Law. Available at: https://www.lacpa.org.lb/publications/10.pdf (2021/02/05)

The Minister of Finance issued decisions No. 1472/2018[16] and No. 2045/2018[17] defining Beneficial Owner(s) and their identification process, in addition to Circular No. 3045/2019 that provides more elaboration from the ministry on how to fill the Beneficial Ownership declaration template.

The Central Bank, on the other hand, issued Basic Circular No. 147/2019[18] outlining that every natural and/or legal person must provide a Registration Certificate issued by the Ministry of Finance (MOF) when opening a bank account, and Intermediate Decision No 12194/2016 through Intermediate Circular No. 411 on prohibiting banks, Financial Institutions, Exchange Institutions, and Leasing Companies from dealing with companies and mutual trusts that have bearer shares or owned by companies or mutual trusts that has bearer shares[19]. The Special Investigation Commission also issued Circular No. 24/2018[20] addressing parties mentioned in Article 5 of the AML/CFT Law, defining and identifying Beneficial Owner(s).

These different types of regulatory documents are the Lebanese Beneficial Ownership Regime, throughout this Assessment, we will go through them to stand on its effectiveness and efficiency in serving the objective of identifying Beneficial Owners which is to limit and prevent money laundering regardless of the type of illicit activities behind it; whether drug trafficking, human trafficking, corruption, embezzlement, smuggling, tax evasion, extortion, environmental crimes, trading in influence, abuse of functions, abuse of power, and illicit enrichment, etc., in addition to other uses that Beneficial Ownership information could prove helpful when using them. To do this, we will present the substantive provisions of the regulatory documents in the First Part – "Beneficial Ownership Legal Framework", and then assess this legal framework using several indicators developed by Transparency International that we will tailor to the Lebanese framework in the Second Part – "Assessing the Lebanese Beneficial Ownership Regime", to at the end, provide recommendations for the competent authorities and other stakeholders on how to move forward in the application of the Beneficial Ownership Regime in the third part – "Recommendations".

The Assessment will compare the national provisions on Beneficial Ownership with international standards focusing on the FATF standards and recommendations.

Facts and Figures

Beneficial Ownership information is not quite understood in Lebanon due to the lack of interest in the topic by both, public and private sectors. This lack of interest is caused by inadequate knowledge on the positive impact of the operationalization of Beneficial Ownership information on the economy and society, including the public and private sectors.

Foreign Direct Investment net inflows to Lebanon were projected by the World Bank in 2019 to be 2.2 billion USD, which amounted to 4.2% of the gross domestic product (GDP). In 2009, however, the FDI net inflows to Lebanon were 4.8 billion USD, amounting to 13.5% of the GDP. These two numbers show how FDI could

[16]Minister of Finance Decision No. 2018/1472 – Beneficial Owner Identification Process. Available at: http://uhy-lb.com/wp-content/uploads/1472/07/2019.pdf (2021/02/05)
[17]Minister of Finance Decision No. 2018/2045 – Amending Approved Templates and Accrediting Template Titled "Beneficial Ownership Declaration". Available at: http://uhy-lb.com/wp-content/uploads/2045/07/2019.pdf (2021/02/06)
[18]Basic Circular No. 2019/147 – Opening of Bank Accounts. Bank du Liban. Available at: https://bdl.gov.lb/circulars/search (2021/02/03)
[19]Intermediate Decision No 2016/12194 – Amending Basic Decision No 7776 of February 2001 ,21 Basic Decision No 7814 of May 2001 ,11, Basic Decision No 7136 of October 1998 ,22, Basic Decision No 7933 of September 2001 ,27, Basic Decision No 7540 of March 2000 ,4. Available at: https://www.bdl.gov.lb/circulars/intermediary/0/37/5/Intermediate-Circulars.html
[20]Circular No. 2018/24 – Defining and Identifying the "Beneficial Owner". Special Investigation Commission. Available at: https://www.sic.gov.lb/sites/default/files/laws-regulations/24EN_0.pdf (2021/02/06)

amount to a huge portion of Lebanon's GDP at the country's peak of stability.

In 2019, more than 70% of foreign investment flows came in the form of real estate acquisitions, based on estimates from the Central Bank of Lebanon, the General Directorate of Real Estate, UNCTAD, the Financial Times, and Moody's. These were distributed between the Lebanese diaspora's acquisition of real estate (49.3% of total acquisitions) and foreigners' acquisitions (28.8% of total acquisitions). Meanwhile, cross-border mergers and acquisitions constituted 14.6% of total FDI with major acquisitions concentrated in the tourism and financial sectors (e.g., Saudi-based company Kingdom Holding sold its stake in the Four Seasons Hotel in Beirut for USD 120 million to a group of Lebanese and Arab investors). The remainder of FDI took the form of greenfield FDI projects (5.6%), re-invested earnings (1.7%), and intra-company loans (0.1%)[21].

Beneficial Owners of these investments are unknown, which may indicate money laundering, tax evasion, and corruption in the public sector, including, but not limited to, conflict of interest, trading in influence, and bribery.

As for Beneficial Ownership information in the power sector in Lebanon, it is estimated that the Lebanese general public debt is approximately 148 billion USD[22] . The power sector's share of this debt stands at approximately 40 billion USD[23] (around 27% of the general public debt). Despite that, no contractual data is publicly available; neither the Ministry of Energy and Water nor the Electricity of Lebanon public institution publishes any contracts, spending reports, or budgets on the power sector. No due diligence on Beneficial Ownership information of the contracting companies involved in the power sector is also available. knowing that we don't even know if the relevant competent authorities have this kind of information in the first place; which indicates an alarming red flag of high levels of corruption within the sector, since no measures have been taken or adopted to limit and prevent corruption.

In the Oil and Gas sector, the Lebanese Petroleum Administration (the Regulatory Authority) publishes Beneficial Ownership information of the sub-contractors of the Consortium drilling in Block 4 for gas discoveries. However, we do not know if the published information was subject to due diligence before publishing; which highlights a problem on both levels; LPA's capacity to verify the declared information and CSO's/Journalist's capacity to verify the published information.

As for public procurement, which is an environment that can harbor corruption, the value of public expenditures at the central level is estimated at 20%, excluding purchase estimates from public institutions, municipalities, and unions of municipalities, in addition to 6.5% of GDP, which is approximately $3.4 billion at the central level[24]. Using Beneficial Ownership information within public procurement will allow limiting and preventing corruption and bid-rigging, in addition to better planning for sustainable and more competitive procurement.

[21]Central Bank of Lebanon, General Directorate of Real Estate, UNCTAD World Investment Report 2019, FDI Markets – The Financial Times, Moody's, IDAL's estimates. Available at: https://investinlebanon.gov.lb/en/lebanon_at_a_glance/foreign_direct_investments/fdi_data
[22]Ministry of Finance, Public Debt Directorate. General Debt Overview. August 2021. Available at: http://www.finance.gov.lb/en-us/Finance/PublicDebt/PDTS/Documents/General20%Debt20%Overview20%Updated20%as20%2031%August202021%.pdf
[23]Lebanon Economic Monitor. Lebanon Sinking (To the Top 3). World Bank Group. Spring 2021. Pg. 41. Available at: https://openknowledge.worldbank.org/bitstream/handle/35626/10986/Lebanon-Economic-Monitor-Lebanon-Sinking-to-the-Top3-.pdf?sequence=1&isAllowed=y
[24]Updating the Public Procurement Framework in Lebanon Brief. Bassil Fuleihan Institute of Finance. April 2020. Available at:

As mentioned above, there are several regulatory documents when it comes to identifying Beneficial Owners. In this section, we will go through these documents focusing only on provisions relevant to Beneficial Ownership. However, it is important to notice that there are two types of regulatory documents, those issued by the BdL addressing Banks and FI, and those issued by the Parliament, the MOF, and the SIC addressing taxpayers in general and other forms of legal entities.

**To avoid the duplication of information when discussing a presented issue, mainly between provisions addressed to Banks and FI on the one side and provisions addressed to taxpayers and other forms of legal entities on the other, we will refer to the previous presented discussion when it applies.*

 *Law No. 44/2015; Anti-money Laundering and Combatting Financing Terrorism*

This law aims to prevent and limit money laundering and terrorism financing. Opacity in beneficial Ownership is one of the means used to hide the actual owner of a business, while anonymity allows those who acquired their funds through illicit means to stay hidden and that is why Article 4 of the law addresses this issue by directing Banks and FI on how to deal with Beneficial Owners by stating:

"Banks, financial institutions, financial leasing companies, institutions that issue and promote credit or debit cards, institutions that handle cash transfers electronically, exchange institutions, companies that engage in financial intermediation and collective investment organizations and any other institutions that are subject to licensing and censorship from the Central Bank of Lebanon must abide with the obligations listed below and the regulatory texts issued by the Central Bank to implement this law:

1- Applying Customer Due Diligence {CDD} procedures on permanent clients (whether they are natural or legal persons/entities) to verify their identities based on documents, information, or trusted data.

2- Applying CDD procedures on temporary clients to veri fy their identities in case the value of an operation or series of operations is above the threshold determined by the Central Bank of Lebanon.

3- Determination of the identity of the beneficial owner and taking necessary steps to verify their identity based on documents, information, or trusted data.

4- Retention of copies of documents related to all operations and information or data or copies of documents related to the identity of clients for at least five years after finishing operations or the end of the relationship, whichever is longer.

5- Performing ongoing monitoring and revision of clients' relationships.

6- Application of procedures stated in paragraphs 1 to 5 above on permanent and temporary clients upon the emergence of any doubt regarding the truthfulness and relevance of their declared information, and information related to identifying clients, or upon

the emergence of doubt of money laundering or terrorism financing, regardless of any ceilings or exceptions that limit the implementation of these procedures.

7-Take into consideration the indicators that flag on the prospects of the presence of money laundering and terrorism financing, along with principles of caution and carefulness to reveal suspicious operations".

Unlike Article 4, Article 5 is addressed to institutions that are not subject to the "Banking Secrecy Law" such as insurance companies, gambling clubs, property traders and brokers, traders of high value products. It outlines an obligation on these institutions to hold a registry of operations that have a value higher than the threshold determined by the Special Investigation Commission (SIC). In addition, it also refers them to conduct the obligations of Banks and FI set in Article 4 and to comply with the recommendations provided by the SIC for the purpose of applying this law.

Article 5 continues to add that Certified Public Accountants (CPAs) and Public Notaries, shall apply the abovementioned obligations when providing the below services to their clients:

- Buying and selling property;
- Managing clients' movable and immovable property especially joint investment;
- Managing bank accounts and Financial Securities;
- Regulating private investment in establishing and managing companies;
- Establishing or managing legal persons or any type of legal arrangements, buying and selling Individual Institutions and Commercial Companies.

For lawyers, Article 5 outlines that the same provisions apply to them when conducting the same activities, however, the Beirut Bar Association and Tripoli Bar Association must outline the procedural aspects on how to apply this obligation taking into account the privacy of the profession in accordance with its regulations; referring here to the Client-Attorney Privilege without mentioning it. This exception for lawyers must be addressed in a professional manner allowing lawyers to be able to report any illicit activities, as not doing so might undermine the whole Beneficial Ownership Regime because then lawyers might be able to help criminals avoid prosecution and they will be facilitators in the crime of money laundering. In fact, this is the reason why there is comparatively low compliance, because of the absence of Mandatary Disclosure Rules (MDR) and the lack of implementation of Base Erosion and Profit Shifting (BEPS) inclusive framework, leading to a lack of effectiveness in preventing legal persons and arrangements from being misused in money laundering or terrorism financing, and negatively impacts the availability of information on Beneficial Ownership to competent authorities without impediments.

In addition, the International Principles on Conduct for the Legal Profession adopted by the International Bar Association on May 28, 2011, outlines that although there's a Client-Attorney Privilege that must be guaranteed, respected and protected, however, "Lawyers cannot claim the protection of confidentiality when assisting and abetting the unlawful conduct for their clients"[25]; meaning that the Client-Attorney Privilege exists when a lawyer

[25]The International Principles on Conduct for the Legal Profession. International Bar Association. May, 2011. Pgs. 21 and 22. Available at: https://www.icj.org/wp-content/uploads/10/2014/IBA_International_Principles_on_Conduct_for_the_legal_prof.pdf

is defending their client but when the lawyer is assisting and/or facilitating their clients' unlawful behavior, that means that the lawyer is an accessory to a crime unless they report it.

Articles 4 and 5 of the Law are compliant with the FATF Interpretive Notes of Recommendation No. 24 when it comes to outlining a risk assessment that must be conducted on clients by banks, CPAs and Public Notaries.

» ***As for sanctions, Article 3 of the law states:***
"Everyone who commits, attempts to commit, incites, facilitates, interferes, participates or is an accomplice shall be punished:

1) In money laundering operations between three years to seven years in prison and fined for an amount that doesn't exceed the double of the funds involved in the money laundering operation;

2) In terrorism financing operations or related activities with the punishments mentioned in Articles 316-bis and from 212 to 222, implicitly, of the Lebanese Penal Law No. 340/1943[26]".

Article 316-bis of the Penal Law outlines that those who finance or participates in financing terrorism, other terrorism activities, and terrorist organizations, on purpose, directly or indirectly, shall be sentenced between three years and seven years with hard works and fined with the same amount of funds used or its triple as a maximum. Articles 212 to 222 are the general provisions of the Penal Law that outline punishments and penalties on Criminal Complicity.

Articles 4 and 5 of Law No. 44/2015 must be read with Article 3 of the same law, these Articles provide that if those addressed in Articles 4 and 5 commit, attempt to commit, incite, facilitate, interfere, participate or if they accomplice a money laundering and/or terrorism financing crime, they can be prosecuted for their activities; meaning that if anyone tries to hide a Beneficial Owner purposely to facilitate money laundering and/or terrorism financing activities, they might face criminal charges.

The FATF Interpretive Notes on Recommendation 24 requires that the explicit responsibility of natural and legal persons be stated and be subject to liability and effective, proportionate, and dissuasive sanctions when incompliant with Beneficial Ownership requirements. The above legal provisions don't explicitly state that, rather they refer to those who facilitate money laundering and terrorism financing in general, which might be difficult to prove in a court of law. Failing to fulfill Beneficial Ownership requirements in Lebanon must be explicitly addressed to be compliant with the FATF Recommendation and ensure an effective and efficient legal framework.

[26]Lebanese Penal Law No. 1943/340. Available at: https://menarights.org/sites/default/files/12-2016/LBN_PenalCode1943_AR.pdf

Article 6 of the law establishes the SIC as the Lebanese Financial Intelligence Unit giving it a judicial nature and outlines its jurisdiction to receive reports and complaints and to initiate investigations into suspicious operations. The SIC also has the jurisdiction to verify that those mentioned in Articles 4 and 5 are complying with their obligations. According to Article 7 of the AML/CTF law, CPAs and Public Notaries must immediately notify the President of the SIC of the details of the executed operations or whose execution was attempted if they suspect that they are dealing with a money laundering or terrorist financing case. As for lawyers, they must implement the obligations stipulated in Articles 4 & 5 of the law, taking into account the specificity and regulations of the legal profession.

The SIC can also freeze Assets and operations, lift the bank account secrecy to the competent authorities and make suspicious bank accounts traceable with the ability to reverse their decisions if new leads are uncovered, this is in addition to other precautionary measures the SIC can decide.

Key Remarks

- Article 4 of the AML/CFT Law obliges banks and FI to conduct CDD measures on their clients to identify Beneficial Owners.

- Article 5 of the AML/CFT Law obliges businesses that aren't subject to the Banking Secrecy Law to hold information on their clients to identify their Beneficial Owners and to hold a registry of operations that exceeds that threshold provided by the SIC.

This Article also obliges CPAs and Public Notaries to apply the obligations present in Articles 4 and 5 of the law when performing or managing operations for their clients. The same applies to lawyers in accordance with the law regulating the legal profession, meaning they have to respect the Client-Attorney Privilege principle. This should happen in accordance with the International Principles on Conduct for the Legal Profession adopted by the International Bar Association to ensure that lawyers aren't facilitating crimes, nor they are accessories to crimes.

- In accordance with Article 3 of the AML/CFT Law, those who participate in any way, directly or indirectly, in money laundering or terrorism financing operations are subject to penalties and fines. However, it doesn't provide specific penalties regarding Beneficial Ownership information in accordance with the FATF Interpretive Notes.

- Article 6 of the SIC with a judicial status that has a wide jurisdiction to make sure those addressed by the AML/CFT Law are complying with its provisions.

SIC Circular No. 24/2018; Defining and Identifying the "Beneficial Owner"

The SIC issued Circular No. 24/2018, addressed to the Parties and Individuals mentioned in Article 5 of the AML/CFT Law, titled "Defining and Identifying the Beneficial Owner". A major importance of this Circular is that in its Preamble it explicitly states, "Pursuant to the FATF recommendations and the relevant interpretive notes", suggesting that the provisions

presented below are compliant with the FATF recommendation on Beneficial Ownership which implies the efficiency of such provisions as the FATF recommendations are known to set international standards of regulating Beneficial Ownership.

Article 1 of the Circular provides the definition of both, a Customer, and a Beneficial Owner, as follows:

Customer: ***"any natural or legal person, whether a company or a partnership of any type, or any legal arrangement (e.g. a trust), or any body, organization or non-profit organization (mutual funds, cooperatives, welfare centers, charities, clubs, etc.)"***

Beneficial Owner: ***"any individual who ultimately owns or who exercises ultimate effective control, whether directly or indirectly, over the Customer and/or the natural person on whose behalf a transaction is carried out".***

Although slightly different, the Beneficial Owner definition goes in line with the FATF definition of a Beneficial Owner that reads:

"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"[27].

In both definitions of Beneficial Owner, "ultimately owns or controls" and "ultimate effective control" refer to the ownership or control that is exercised through a chain of ownership and direct control. This outlines the difference between a Beneficial Owner and an Ultimate Beneficial Owner, as the former is someone who owns the economic rights of a given entity using one layer of disguise, while the latter owns it through two or more layers of disguise. A partner in an LLC, for example, who uses sham partners, for any given reason, and controls and/or manages the company is a Beneficial Owner, while an investor with the control of 20% or more of a given company that owns a vertical chain of other companies can be an Ultimate Beneficial Owner.

Article 2 of the Circular outlines that a Beneficial Owner of a given legal person is identified through taking reasonable measures as follows:

i) Natural persons holding 20% or of the legal person's capital, whether directly or indirectly;

ii) When the conditions in (i) are not certain, Beneficial Owners can be identified by identifying the person who exercises control through holding the majority of voting rights, or the rights to appoint or dismiss the majority of an administrative or regulatory body of the given legal entity;

iii) When conditions in (i) and (ii) are not certain, Beneficial Owners can be

[27]Glossary of the FATF Recommendations. Available at: https://www.fatf-gafi.org/glossary/ (2021/02/06)

identified by implementing reasonable measures to identify and verify the identity of the persons holding senior management positions.

The FATF Interpretive Notes on Recommendation 24 suggests a threshold to identify a Beneficial Owner of a legal person as a controlling shareholder who owns more than 25%, as an example, of the legal person. The SIC's Circular sets a stricter threshold at 20% which proves more progressive than the FATF's suggestion on this level. However, knowing that many Beneficial Ownership definitions for legal persons adopt the greater than 20% or even 25% threshold for ownership or voting rights, this condition may be easily avoided by splitting ownership among associates. For publicly listed companies (which are usually exempted from Beneficial Ownership registration laws), small ownership shares may still represent vast wealth about which the authorities would want to know, for tax purposes. Some legal frameworks fail to distinguish different ownership definitions based on the legal entity type, creating loopholes.

Also, by referring to other measures to identify Beneficial Owners such as identifying the person exercising control through holding the majority of voting rights and appointing or dismissal of the administrative or regulatory bodies of the legal person is compliant with the FATF Recommendation 24. Nonetheless, if the first two conditions are impossible to prove, the SIC Circular provides another condition that could lead to identifying a Beneficial Owner who is holding a senior management position.

As for Beneficial Owners of legal arrangements, Article 3 of the Circular outlines that their Beneficial Owners shall be identified with reasonable measures taken as follows:

i) For Trusts, the following persons shall be identified:

-The Settlor;
-The Trustee;
-The Protector;
-The Beneficiary; if it is not determined or verified, the class of beneficiaries in whose favor the Trust was established must be identified and verified;
-Natural persons exercising effective control over the Trust, directly or indirectly, through any given means.

This Article goes further to define the above-mentioned parties by referring to the glossary attached to the FATF 40 Recommendations when it comes to identifying them.

ii)When it comes to other types of legal arrangements, similar to trusts, those persons holding similar positions shall be identified.

Comparing this Article with FATF Recommendation 25; Beneficial Ownership of Legal Arrangements, it is clear that the SIC has followed the FATF's orientation by requiring the identification of Beneficial Owners of the same parties.

While in this identification process outlined in Articles 2 and 3, Article 4 of the Circular refers the concerned parties to the due diligence measures specified in the AML/CFT Law. If we go back to this law, we see that these concerned parties are addressed in Article 5 that must be read with Article 4 of the same law; which outlines applying CDD on permanent and temporary Customers, identifying

and verifying Beneficial Owners identity, retention of documents' copies, ongoing monitoring, and revision of the clients.

Article 4 of the SIC Circular outlines that the identification process of each permanent and transient Customer, whether residents or non-residents in Lebanon, must include:

i) Determination of the nature and ownership structure and control over the business;
ii) Purpose and nature of the business relation and/or the account opening;
iii) Identifying Beneficial Owners and the source of funds;
iv) Making sure that the control of operations is ongoing.

Those who are establishing a business or conducting transactions for temporary customers are also required to verify the identity of the Beneficial Owner(s). In addition, they are also required to check that if a person is claiming to act on behalf of a Customer they are authorized to do so – usually, this can be verified through the existence of a Legal Proxy certified by a Notary – while they also have to verify the identity of that person.

Article 5 of the Circular provides that after identifying the Beneficial Owner, the same due diligence measures that apply to Customers apply to Beneficial Owners. This means that the measures outlined above under Article 4 of the Circular are the measures that relevant parties must apply to Beneficial Owners.

After presenting relevant provisions from Law No. 44/2015 and the SIC Circular No. 24, we can stand on the Beneficial Owner definition the Lebanese Regime accredits which is the FATF definition. This makes it clear to CPAs and auditors when handling their Customers' businesses and operations they should identify the Beneficial Owner; in addition, we can outline the below Policies and Procedures[28] that they can follow when fulfilling their obligations and initiating the identification process.

Policies:

1- Apply Customer Due Diligence on permanent and temporary clients;

2- Verify the identity of a Beneficial Owner and legal person(s);

3- Hold copies of identity documentation;

4- Hold copies of proofs of operations;

5- On-going control and monitoring of Customers' relationships;

6- Monitoring of any indicators that might link to money laundering.

Procedures:

1- CPAs must fill a "Personal Information Form" that contains all information that should be acquired from the Beneficial Owner(s) and/or the legal persons;

2- CPAs must fill a "Business Information Form" containing all information that should be acquired regarding the business activity as well as the purpose and intended nature of the business relationship;

3- Both Personal and Business Information Forms are filled and signed by the Customer and attached with

[28]These Policies and Procedures are outlined in our previous publication; Sayah, Samer, Zoghaib, Riwa, Almoghabat, Mohammad, Money Laundering – Guideline for Auditors and Certified Accountants (Focusing on the Beneficial Ownership). Lebanese Transparency Association - No corruption 2020. Pg. 4.

copies of the documents and data that verify this information, then submitted to the competent authorities and archived;

4-CPAs should keep in mind that some alterations might take place at any time, periodic updates, at least once a year, of the client's information and operations, must be conducted;

5-An Information Update Form must be issued, this form is filled by the Customer, in case of any future change of information and must be signed by the Customer whether there is any change or not as proof of continuous control by the CPAs.

6-The contract between a CPA and a Customer must contain a brief on money laundering with a clause that the Customer must sign in which they promise that there will be no future account for money laundering or terrorism financing. This is important as a proof to the authorities of not being involved in any illicit operations.

7-CPAs and/or auditors must look for any red-flag indicators such as:

- Abnormal or remarkable transactions or business activity;

-Large cash deposits or consistent large balances with no grounds;

-Hesitation or avoidance of providing business information, such as hiding information on Beneficial Ownership;

-Complicated financial transactions that are usually done to disguise funding sources;

-Purchasing money orders and cashier checks using significant amounts of money;

-Variable information such as more than one tax ID or unverified documents.

Robust regimes should be put in place for the supervision of implementation. Such regimes should ensure that professionals comply with strict due diligence procedures. However, the whole regime won't be effective without accountability and deterrent sanctions regime such as large fines (the penalties for enabling should be substantial enough to change the incentives) and/or prison sentences and/or disciplinary (professional) sanctions (dismissal of a license to operate) and/or creating a distinct criminal offense or by more frequent recourse to complicity.

This will necessitate as well moving from (professional) secrecy to transparency notably for lawyers to improve accountability. Therefore, it should be acknowledged and agreed that any financial activity or conduct having externalities such as impacts on others, notably on public revenues. Assets should not benefit of or be protected by secrecy undermining any control or survey or disclosure.

Key Remarks

- Article 1 of the SIC Circular provides the definition of both, a Customer and a Beneficial Owner in line with the FATF definition.

- Article 2 of the SIC Circular provides that a Beneficial Owner of a legal entity shall be identified through reasonable measures.

- Article 3 of the SIC Circular provides that Beneficial Owners of legal arrangements shall be identified with reasonable measures by giving an example on Trusts requiring the identification of specific persons same as provided for by the FATF.

- Article 4 of the SIC Circular provides that the CDD measures that shall be applied are those specified in the AML/CFT Law.

- Article 5 of the SIC Circular provides that due diligence measures applied to Customers are also to be applied to identify Beneficial Owners.

Law No. 175/2020; Combatting Corruption in the Public Sector and the Establishment of the National Anti-Corruption Commission (NACC)

This law establishes the NACC as an independent administrative commission with several powers to investigate corruption-related crimes.

According to Article 4 (1) of the law[29], the NACC can initiate investigations of corruption crimes with no prerequisite authorization from any other authority – contrary to any other laws -, in addition, prosecutions initiated on the request of the NACC are conducted with the same condition.

Article 18 (b-1) of the law, provides that the NACC can also receive corruption-related crimes complaints, investigate them, and refer them – when deemed necessary – to the competent oversight, disciplinary, and judicial authorities. Meaning that the NACC can refer cases to the Central Inspection, the SIC, and National Courts.

The identification of Beneficial Owners is an integral part of combatting money laundering, it can be used to disguise illicit funds which result from corruption-related crimes. This makes the NACC play an integral part in the uncovering of Beneficial Owners by initiating investigations in the behavior of those subject to its authority and when it uncovers Beneficial Ownership related material it can refer it to the SIC to exercise its jurisdiction in taking the precautionary measures; freezing assets for example.

It is also worth noting that CPAs can reach out to the NACC as they can do with the SIC, however, they can only provide the NACC with information resulting from corruption-related crimes, as the jurisdiction of the NACC is limited to corruption in the public sector.

Key Remarks

- The NACC can investigate corruption-related crimes which can include the disguise of Beneficial Owners.

[29]Law No. 175/2020 on Combatting Corruption in the Public Sector and the Establishment of the National Anti-corruption Commission. Available at: https://www.lp.gov.lb/Resources/Files/67b41a38-8eea-4759-9489-fd83ddd829ce.pdf (07/02/2021)

- The NACC can refer its investigations' findings that are related to Beneficial Ownership to the SIC.

Banque du Liban Circulars; No. 83/2001, No. 35/2003 and No. 147/2019

As the competent authority to direct the Banking Sector and FI to fulfill their obligations in accordance with national and international laws, BdL issued Circular No. 83/2001, addressed to Banks and FI, attaching "Regulations on the Control of Financial and Banking Operations for Fighting Money Laundering and Terrorist Financing", in pursuant with Law No. 318/2001 – later replaced with Law 44/2015 -, and then BdL issued Circular No. 35/2003 amending Circular No. 83/2001[30].

Article 3 of Circular 83/2001 defines a Customer and Beneficial Owner identical to the definition provided in Article 1 of the SIC Circular No. 24/2018 presented above[31] . Then the Circular goes forward in providing similar due diligence measures as presented under the SIC Circular. However, there are some additions which we will present below.

Article 4 of the BdL Circular provides that banks must keep a copy of the statement identifying the Beneficial Owner by the Customer in addition to all related documents for at least five years after closing the account or ending the business relationship, which is compliant with the minimum requirement set out by the FATF Interpretive Note on Recommendation 24. Article 4 continues to provide a non-exhaustive list of instances that raises doubts on the Beneficial Owner(s) identity as follows:

i) When a power of attorney is given to a non-professional person (e.g. other than a lawyer or a fully authorized representative or a financial intermediary) and no relationship between the customer and the proxy justifies that power of attorney;

ii) When the business relationship is conducted through numbered accounts or front institutions/ companies;

iii) When the customer's financial status is known to the employee executing the operation and the amount of the intended operation is inconsistent with the said financial status;

iv) When any other indicator draws the attention of the bank during the course of its business.

When any of these situations is present, or any other similar situation, banks must request from the Customer a written statement identifying the Beneficial Owner including their full name, residential address, occupation, and financial status. Knowing that,

[30]For the purposes of this Assessment, the updated version of Circular No. 83/2001 cited in footnote No. 5 will be used.
[31]It is worth mentioning that the Chair of the SIC is the BdL's Governor as provided by Article 6 of Law No. 44/2015.

in accordance with Article 3 of the BdL Circular, banks must adopt clear procedures to identify Beneficial Owners of each account, meaning that, after the bank has applied the procedures to identify the Beneficial Owner of an account if one of the situations presented in Article 4 arises then they have to request the written statement from the Customer.

In accordance with Article 5 of the Circular, banks must immediately notify the Governor of BdL, in their capacity as the Chairman of the SIC, whenever they hold evidence or suspects that an attempted or executed banking operation revolves around money laundering or terrorism financing, and it goes on to specify relevant situations as follows:

i) The bank has irrefutable suspicions about the veracity of the Customer's written statement on the Beneficial Owners identity, or false statements has been provided;

ii) The bank uncovers that they were misled by the provided information on the Beneficial Owner.

Article 5-bis adds that banks must promptly notify the SIC of any measures they might take in accordance with the AML/CFT Law to freeze assets or close Customers' accounts, or to refrain from dealing with the Customer or from opening a bank account for them. This notification requires justification of any procedure and measure.

In addition, banks hold a Know Your Customer (KYC) Form to update when conducting their permanent due diligence measures in accordance with Article 6 of the Circular.

Article 7 requires banks to conduct enhanced due diligence measures when conducting a transaction including the inquiry about the source and destination of the funds, in addition to its object and the identities of the beneficiary and the Beneficial Owner. These measures are required when the operation is characterized by the following:

i) When the operation is carried out in exceptionally complicated circumstances;

ii) When the operation has no economic rationale or a legitimate purpose, mainly when the discrepancy between the cooperation and the Customers' occupation, or between the operation and the Customers' habits and personality;

iii) When one of the operation's counterparties is a national or a resident of countries that do not apply or insufficiently apply the FATF recommendations. This shall be verified through a periodic review of the FATF website, particularly after each FATF plenary meeting.

These characterizations show that banks' employees are required to have comprehensive trainings as they must be well equipped to be able to support these characterizations, especially No (ii). To do this, banks will first have to have a good understanding of risks they face given the services and products they offer and the type of Customers (high-net-worthy, non-resident, offshore

companies, PEPs, etc.). Banks also need to make sure that their AML program responds adequately to the risks identified.

Characterization No. (iii) shows the importance of the FATF recommendations and how BdL sees them not just as recommendations, but rather obligatory guidance and/or principles, in addition, this poses an indirect positive obligation on banks to train their employees periodically on updates to the FATF recommendations.

Article 9 (Second) of the Circular requires from banks, when it comes to Customers, Beneficial Owners, Politically Exposed Persons (PEPs) and their family members and close associates, in addition to the operations classified as "high risk" in accordance with the Risk Scoring, that the following enhanced measures and procedures to be established:

i) Raising awareness on the importance and prioritization of the increased supervisory examination, to perform ongoing monitoring of the business relationship;
ii) Obtain more information on Customers and Beneficial Owners to level up the increased KYC level, mainly on the source of their wealth;
iii) Obtain the approval of the Senior Management to establish a business relationship with Customers in line with the risk level;
iv) Periodic Review of the relationship with Customers;
v) Continuous peer comparisons;
vi) Set up a system that enables them to determine if a Customer, or a Beneficial Owner is a PEP.

What is important here is that the BdL gives greater care for those who are PEPs, especially when there is a suspicion around a PEP, as their source of funds might be the result of corruption crimes. Here comes the role of the NACC, the SIC, and National Courts to conduct a comprehensive investigation and prosecute those who have their funds as a result of a corruption-related crime. The NACC, when formed, could play a major role; however, there's the Banking Secrecy Law obstacle, whereas, without the SIC's approval to lift the secrecy from the specified bank accounts, the role of the NACC will be paralyzed in this area. What can be done here is that when a Suspicious Transaction Report (STR) is filed to the BdL/SIC, the latter should assess it, and if the result of this assessment provides proof of a crime, it should be shared with NACC and law-enforcement agencies if the actions that must be taken don't fall under the jurisdiction of the BdL/SIC. Currently, this can only happen if the SIC decides to and it is not legally automated, which is another obstacle facing an effective and efficient comprehensive AML/Beneficial Ownership regime, The SIC is not obliged to share the information they have/gather because it has a judicial status and the jurisdiction over such instances, which in turn creates an overlapping jurisdiction; especially that practice has shown that the SIC does not easily share information with other national competent authorities and/or courts.

Nonetheless, a current Draft Amendment to the Banking Secrecy Law is in place (not published), which gives the NACC the power to directly lift the bank secrecy without reverting to the SIC.

Article 11 (6-a) of the Circular, on the procedures aiming at controlling, fighting, and preventing money laundering and terrorism financing, sets the threshold for Banks' Cashiers at $10000 (USD), or its equivalent, requiring them to fill and sign a Cash Transaction Slip (CTS) that must include, in addition to the amount involved, the object of the operation, source of funds, and the Beneficial Owner.

This register, however, is only accessible to the Central Bank and the SIC, and only the latter, in accordance with the AML/CFT Law, can decide whether to disclose it to competent authorities such as the Financial Prosecutor or not. This is also a major challenge for Courts to be able to make use of the bank-related Beneficial Ownership information, as the SIC is known for its strict approach when it comes to applying the Banking Secrecy Law and the secrecy culture that defines the Lebanese Banking Sector.

The Financial Secrecy Index that ranks jurisdictions according to their secrecy and the scale of their offshore financial activities; a tool for understanding global financial secrecy, tax havens or secrecy jurisdictions, and illicit financial flows or capital flight, ranked Lebanon in 2020 as the 26th over 133 countries, based on a 64-secrecy score, and a low scale weighting for the size of Lebanon's offshore financial services sector, at 0.32 percent of the world total. According to the Narrative Report on Lebanon; no moves to collect information on the Beneficial Ownership of companies were made[32].

Moving to Article 12 (8) of the Circular, it requires banks to maintain and update a special register of the names of Beneficial Owners identified for each Customer.

The last Article 14 of the Circular provides that the provisions of this attached regulation also apply to FI operating in Lebanon.

The BdL also issued Circular No. 147/2019, addressed to banks, on Opening Bank Accounts. In its Article 1, the Circular requires that banks, when opening a bank account for a natural or a legal person residing in Lebanon to ensure their commercial, professional, or service business and activities, requires them to obtain a copy of the Registration Certificate at the MOF.

Article 2 of the Circular also requires the banks to obtain the same Registration Certificate from those subject to Article 1 above who have their bank accounts opened prior to the issuance of this Circular.

Although this step might seem little, however, it has major importance on two levels:

1) This means Beneficial Ownership relevant due diligence measures are

[32]Financial Secrecy Index 2020. Narrative Report on Lebanon. Pg. 4. Available at: https://fsi.taxjustice.net/PDF/Lebanon.pdf

applied by both, the MOF when reviewing the Customer's tax declaration who is also obliged to fill a Beneficial Ownership Declaration Template to the Ministry, and the banks who, as discussed under BdL Circular 83/2001, are also required to perform due diligence measures on their customers.

2) Tax evasion is one of the issues Lebanon is facing with no effective nor efficient measures in place. This step, linking bank accounts with the MOF Registration Certificates, is a step forward towards making the Tax Regime more efficient. However, this doesn't change the fact that the MOF still needs the SIC's cooperation to be able to link Registration Certificates with their holders' bank accounts, meaning that the MOF cannot access Beneficial Ownership information held by the SIC unless the latter agrees to share this information with the MOF.

To solve this issue and make sure that tax evasion is limited and prevented, BdL can issue a Circular requiring banks to include in their contracts with new customers a section where the latter waive their right to banking secrecy only for the Lebanese Tax Department, while also providing a transitional period for the current customers of the banks to do so. If a customer refuses to sign such a waiver, then they won't be able to open a bank account, while current customers' accounts will be closed if they don't sign the waiver.

This goes in line with Article 2 of the Lebanese Banking Secrecy Law that reads:

"The managers and customers of the banks referred to in Article 1, and everyone who has access because of their capacity or their job in any way whatsoever to the entries of books, transactions, and bank correspondence, are obliged to conceal the secret for the benefit of the customers of the banks and may not divulge what they know about the names of customers, their money and matters related to them to any person, be it an individual or a public administration, military or judicial body, unless they are authorized, in writing, to do so by the concerned person, their heirs, or trustees, or if they declared bankruptcy or a banking lawsuit arose related to a banking transaction between banks and their customers".

In addition, Article 5 of the Banking Secrecy Law provides that:

"It is permissible to agree in advance to give the permission mentioned in the previous articles {the authorization in Article 2 above} in every contract of any kind, and it is not permissible to revoke this permission except with the consent of all the parties involved".

Giving such waiver to the Tax Department will make the auditing processes more effective on two levels,

limiting and preventing tax evasion and in the Beneficial Owner identification/ verification process. However, this does not necessarily mean that the Tax Department gets access to all the information of all bank accounts, instead, the waiver could cover only a specific type of information; name, account number, and the total debit/ credit at the end of the fiscal year. In case the Tax Department was able to identify a Red Flag in an account then it could ask for more information of the specific account from the SIC.

The Lebanese Tax Department on the other hand can amend the Beneficial Owners Declaration Template to include the No. of bank accounts of legal and Beneficial Owners to be able to compare the declared information with the information retrieved from banks.

Nonetheless, this may not be sufficient to combat tax evasion efficiently. The struggle against fraud and tax evasion also depends mainly on seeing that the economic activity generating the tax base is within the reach of the authority of the state and involves necessarily other complementary important measures. These include, inter alia, tackling several loopholes in the current tax system such as the schedular taxes and the weakness of the notification procedures in view to apply on the midterm the Tax Identification Number for each resident, whether national or foreigner, and the general income tax with progressive measured rates. Needless to mention that the aforementioned measures need to be accompanied by an implementation of algorithms and remote computer groupings of taxpayers' accounting data, by means of computer interface links in order to highlight the flaws and to pursue the recalcitrant.

This practice is not new, and it is being used by several countries across the world, as reported by the OECD, to try to limit and prevent tax evasion and to help identify/verify Beneficial Ownership information. For example, Tax Authorities may obtain information from banks through automatic reporting of certain types of information; the opening and closing of bank accounts, account balances at the end of the year[33].

Specific member countries to the OECD, France for example, requires monthly reporting from FI managing stock, bonds, or cash of the opening, modifications, and closing of accounts of all kinds. This information is centrally stored to be used by the French Tax Administration for research, control and collection purposes[34]. This kind of information can be used by the Tax Authorities to be able to identify any Red Flags that require further auditing, which then gives these authorities legitimate reasons to access all the relevant banking information of the specific accounts.

Key Remarks

- Article 3 of BdL Circular No. 83/2001 outlines the same definition of a Customer and a Beneficial Owners provided under Article 1 of the SIC Circular No. 24/2018 and requires the same due diligence measures to be applied under the SIC Circular.

Under this Article banks must adopt clear procedures to identify Beneficial Owners of each account,

- Article 4 of the BdL Circular No. 83/2001 requires banks to hold a copy of the

[33]Improving Access to Bank Information for Tax Purposes, OECD. 2000. Pg. 36, para. 78. Available at: https://www.oecd.org/tax/exchange-of-tax-information/2497487.pdf
[34]Idem, para. 79.

statement identifying the Beneficial Owner by the Customer and all other documents for five years after closing the account or ending the business relationship.

It also provides a non-exhaustive list of instances that raises doubts on the Beneficial Owner(s) identity. If any of these instances are present, banks must request from the Customer a written statement identifying the Beneficial Owner.

- Article 5 of the BdL Circular No. 83/2001 states that banks must immediately notify the Governor of BdL, in their capacity as the Chairman of the SIC, whenever they suspect an act that falls under the AML/CFT Law.

-Article 7 requires an enhanced due diligence from banks whenever performing a transaction.

-Banks must acquire a good understanding of the risks involved in their work and the type of Customers they might be dealing with by making sure that their AML program responds adequately to the risks identified.

- Article 9 (Second) of the BdL Circular No. 83/2001 requires that perform enhanced due diligence measures when dealing with high-risk transactions and/or when dealing with Customers, Beneficial Owners, PEPs, and their family members and close associates.

- The NACC faces a major obstacle that consists of the Banking Secrecy Law that could paralyze its effectiveness and efficiency when conducting investigations into corruption-related crimes.

- Article 11 (6-a) of the BdL Circular No. 83/2001 sets the threshold at $10000 (USD) for banks to collect information through a CTS that must include the amount involved, the object of the operation, source of funds, and the Beneficial Owner.

- Article 12 (8) of the BdL Circular No. 83/2001 requires banks to hold an updated special register of the names of Beneficial Owners identified for each Customer.

- Article 14 of the BdL Circular No. 83/2001 provides that the presented provisions are also applicable to FI.

- Articles 1 and 2 of the BdL Circular No. 147/2019 requires that banks obtain a copy of the Registration Certificate at the MOF for Customers when opening an account and from those who already had bank accounts before the issuance of this Circular.

This leads to the benefit of applying due diligence measures by the MOF and the banks; however, the MOF still needs the SIC's cooperation to be able to link Registration Certificates with their holders' bank accounts.

- A waiver signed by the Customer to the Tax Department could solve this issue, and it will make the auditing processes more effective on two levels, limiting and preventing tax evasion and in the Beneficial Owner identification/ verification process.

The waiver to the Tax Department could cover only a specific type of information; name, account number, and the total debit/credit at the end of the fiscal year. In case of any Red Flag,

the Tax Department could ask for more information of the specific account from the SIC.

Law No. 75/2016; Abolishing Bearer and Warrant Shares

After 2015, the Lebanese Parliament was able to adopt several laws in accordance with Lebanon's commitments to international entities, one of these laws is Law No 75/2016 on Abolishing Bearer and Warrant Shares that was published in the Official Gazette on November 3rd, 2016. This law addressed Joint Stock Companies (s.a.l) and Limited Shares Partnerships, it consisted of one Article with seven provisions. However, before adopting this Law the Parliament voted on the rejection of a Draft Amendment Law to the Tax Procedure Law that was abolishing bearer shares also. This led the BdL to adopt Intermediate Decision No. 12194/2016 – attached to Intermediate Circular No. 411/2016 –, addressing Banks, Financial Institutions, Exchange Institutions and Leasing Companies, in response to international calls to adopt several anti-money laundering and terrorism financing regulations to comply with the Lebanese government's international commitments.

This BdL's Intermediate Decision prohibits Banks and Financial Institutions from carrying out any banking, financial, non-banking, or non-financial operations, recorded in or off their balance sheet, with companies or mutual funds whose stocks or shares are totally or partially issued in bearer form, or with companies or mutual funds that are owned directly or indirectly by companies or mutual funds whose stocks or shares are totally or partly issued in bearer form.

As for when the assignee is a company or a mutual fund, they should present a certified copy of their by-laws or Articles of Association that explicitly provides that all their shares are in a registered form – nominal shares –, in addition to stating that they are owned, whether directly or indirectly, by natural persons or companies whose shares are also in a registered form.

The Decision adds that Financial Institutions shall, on their own and full responsibility, check the compliance with all the legal and regulatory conditions, in addition to verifying the accuracy of the information they provide to BdL, and that the by-laws or Articles of Association, of both the companies and their owners, explicitly provides that all their shares are in a registered form. This means that Financial Institutions must conduct a multiple-level verification process of the type of shares of the direct companies or funds they are dealing with in addition to that of those who own these companies or funds and their owners as well.

The Decision goes on to outline the same provisions regarding Exchange Institutions and Leasing Companies, and when performing operations with joint-stock companies. The Decision also provides that Banks and Financial Institutions are bound with a two-year period to remedy their situation if it is not consistent with provisions of the Decision.

Although these provisions might seem strict, especially when it comes to verifying the accuracy of information, however, they are necessary to make sure that Banks and Financial Institutions are compliant with international commitments of the Lebanese government and follow the OECD recommendations which in turn guarantees that the Lebanese financial system is compliant with the international system. Incompliance might result in sanctions leading to being, de facto, expelled from the international financial system which could result in severe financial and economic hardships.

Unfortunately, there are no public data available to check whether those addressed by this Decision are compliant or not. However, as mentioned above, the consequences of not complying are severe and might lead to sanctions by the global community that can only result in two scenarios; financial and economic hardships on the national level, and/or the dissolution of those who are not compliant.

Going back to the current legislation adopted by the Lebanese Parliament, Article 1 (1) of Law No. 75/2016 states that:

"Contrary to any other provision, Joint Stock Companies (including Limited Shares Partnerships) are prohibited from issuing bearer shares and warrant shares after the entry into force of this law.

Also, companies whose shares include bearer or warrant shares, shall replace the bearer shares and warrant shares issued prior to the date of the issuance of this law with nominal shares, in accordance with provision Three [Of this Law], within one year from the date of enforcement of this law. It shall amend its Articles of Association in accordance with the above provision within a maximum period of time from the date of the first meeting of the General Assembly of shareholders".

Through this Article, the Law provides a legal obligation that burdens Joint Stock Companies to only issue nominal shares and orders it to stop issuing bearer and warrant shares. It fills a gap that was left unaddressed by-laws that deal with money laundering and tax procedures, for after the adoption of this law all holders of bearer shares and warrant shares, jointly with Joint Stock Companies, are obliged to convert these shares into nominal shares. Those who fail to, are

subject to several penalties and other legal measures within a specified period of time in accordance with Article 1 (2 and 3).

The provisions of this Article outline that Joint Stock Companies that already have bearer and warrant shares are obliged to inform the holders of these shares, through the Official Gazette and three local newspapers and their website, if available, about the obligation to convert their shares to nominal shares. To fulfill this, these companies are required to collect from these shareholders the name of the person in whose name the replaced shares must be registered. Knowing that the companies that don't comply with this provision are subject to a fine equaling 50% of their capital.

The Article adds that holders of the bearer and warrant shares who do not convert to nominal shares within one year from the entry into force of the law are prohibited from exercising all the rights related to these shares, in addition, they cannot be appointed to the Board of Directors of the companies until their shares are converted to nominal shares.

The Article also adds that after the one-year duration is passed, companies who pay profits to holders of the bearer and warrant shares are fined 20% of their capital for each transaction. In addition, all General Assemblies' decisions are considered illegal if the company allows for the holders of the bearer and warrant shares to attend them, or appoint them to the Board of Directors, or allowed them to participate in the dissolution procedures of the company. This last measure is highly important to restrict these holders from benefiting from the company in any way without declaring it.

The strictest measure, one can say, is the last measure that transfers the ownership of the bearer and warrant shares that don't convert to nominal shares, from their holders to the Lebanese government after two years from the enforcement of this law, which is November 4th, 2018. This is important to make sure that holders of the bearer and warrant shares in addition to the companies do not stall to avert from applying the law. However, some scholars consider this measure as unconstitutional and see the transfer of ownership here as an indirect nationalization of companies which goes against paragraph F of the Preamble of the Lebanese constitution that reads *"the economic system is free and ensures private initiative and the right of private property"*.

In applying this law, the MOF issued a statement on December 1st, 2016[35] alerting the companies and bearer and warrant shares' holders concerned with the application of the law to fulfill their obligations to avoid any fines and prohibition from exercising their rights. The MOF also issued a Directive on September 6th, 2017[36] , ordering the specialized Tax Units at the MOF, after verifying that the companies amended their Articles of Association to include

[35]MOF Statement to the Companies Concerned with Law No. 75/2016 Related to Abolishing Bearer and Warrant shares. Available at: http://nna-leb.gov.lb/ar/show-news/257384/nna-leb.gov.lb/ar
[36]MOF Directive No. 3585/S1 (١ ص/٣٥٨٥), Converting Bearer and Warrant shares into Nominal Shares in Accordance with Law No. 75/2016. Available at: http://www.finance.gov.lb/en-us/Taxation/LRT/TP/Documents/3585.pdf

only nominal shares, and converting all bearer and warrant shares into nominal shares, not to impose any fines on them if it was done before November 4th, 2017.

The MOF also issued Decision No. 307 on July 27th, 2020[37] , outlining the Mechanism to Transfer Bearer and Warrant shares that haven't been converted to Nominal Shares into the Ownership of the Lebanese Government. Article 1 of the Decision provides that the ownership of all bearer and warrant shares that haven't been converted to nominal shares, two years after the enforcement of Law No. 75/2017, is transferred to the ownership of the Lebanese government. In addition, this Article adds that the Stock Portfolio is then surrendered to the Treasury Department under the General Directorate of Public Finance within the MOF.

This Article provides who is the competent authority that is responsible for managing the shares owned by the Lebanese government that will be transferred from their bearers to the government as a penalty for not converting the bearer and warrant shares into nominal shares.

Article 3 of the decision reads the following:
"Every company whose shares still include bearer and warrant shares shall:

1-Issue nominal shares with the name of the Lebanese government, replacing the abolished bearer and warrant shares that have not been converted, and surrender them over to the Treasury Department of the Ministry of Finance,

2-Register the Minutes of the General Assembly that decided to issue the new nominal shares in the name of the Lebanese government at the Commercial Registry,

3-Amend the information to the Tax Department in accordance with the Tax Procedures Law.

4-Inform the Treasury Department of any decision to distribute dividends within 15 days from the date of the decision, specifying the value due to the Lebanese State from the distribution, and depositing it in the name of the Central Treasurer of this value".

Although these two Articles provide the procedural mechanism to transfer the ownership of the shares to the Lebanese government, however, there are no public data available on the companies that abided by the law and converted the bearer and warrant shares into nominal shares, nor there are public data available on the companies that did not abide by the law which led to the transfer of the ownership of the shares to the Lebanese government.

This lack of public data, which contradicts with the Right to Access Information Law (Law No. 28/2017), poses a serious threat to the effectiveness and efficiency of Law No. 75/2016 because it takes away the ability of the public to check if the government is complying with the law or not. In addition, it

[37]MOF Decision No. 307/2020 on the Mechanism to Transfer Bearer and Warrant shares that haven't been converted to Nominal Shares into the Ownership of the Lebanese Government. Available at: http://77.42.251.205/LawView.aspx?opt=view&LawID=285876

undermines the Beneficial Ownership Regime by opening a gap in having a comprehensive regime that deals with the different aspects of Beneficial Ownership, for the bearer and warrant shares are a legal tool for Beneficial Owners to avoid declaration and taxation.

The threat does not stop here, in May 2020, an unpublished proposal to amend Law No. 75/2016 was submitted in the Parliament. It proposes the amendment of the two years duration for the transfer of ownership, and the one-year duration to impose fines, to make it five years. One of the reasons outlined in the proposal is to put more effort into notifying bearer and warrant shares' holders, especially the migrants and/or non-residents.

It is highly controversial to submit such a proposal one year and a half after the two years duration expired, and supposedly all bearer and warrant shares were transferred to the ownership of the government, unless the competent authorities haven't yet implemented this law and, therefore, bearer and warrant shares' holders are still in possession of the ownership of these shares. Which in turn poses the Why and Who questions; why the law isn't implemented yet and who are the holders of the bearer and warrant shares?

If this proposal is adopted by the parliament it would have a retroactive effect and all the shares that weren't converted into nominal shares and haven't been transferred to the ownership of the Lebanese government would remain under the control of their current holders, which undermines the object and purpose of the original Law No. 75/2016 to prevent any tax evasion and abuse of the system, in addition to combatting money laundering of the assets that were acquired through funds coming from illicit activities such as corruption and/or trading in influence.

Yet, some see that based on facts and true stories, Law No. 75/2016 has not been well disseminated either by public authorities or by the entrusted persons such as the lawyers and auditors (in charge of the companies) by negligence and/or incompetence and/or lack of knowledge and adapted means notably through media. Moreover, it should be highlighted that the tendency to issue bearer shares was not intended or destined in the origin to commit offenses or financial crimes, or money laundering but has been advised and recommended to them by professionals as suitable means for their (legal and lawful) investments, and therefore, they should not be held liable for that notably those abroad not even informed about the changes in the Law. It is unfair and arbitrary. However, despite the legitimacy of some of these arguments, ignorance of the law is not a legitimate reason not to implement the law.

Key Remarks

- BdL prohibits Banks and Financial Institutions from doing business with companies or mutual funds that are owned, directly or indirectly, by companies or mutual funds that have bearer shares as stocks.

Companies and mutual funds should present a certified copy of their by-laws or Articles of Association explicitly providing that all their shares are

nominal shares and that their owners, whether directly or indirectly, natural persons or companies, have all their shares as nominal shares.

Financial Institutions are responsible for checking the compliance with all the legal and regulatory conditions, in addition to verifying the accuracy of the information they provide to BdL.

- Article 1 of Law No. 75/2016 provides that Joint Stock Companies (including Limited Shares Partnerships) are prohibited from issuing bearer shares and warrant shares.

- Holders of bearer shares and warrant shares, jointly with Joint Stock Companies, are required to convert all their shares into nominal shares.

Holders of bearer and warrant shares who do not convert to nominal shares within a one year from the entry into force of the law are prohibited from exercising all the rights related to these shares, and they cannot be appointed to the Board of Directors of the companies until their shares are converted to nominal shares.

After the end of the one-year duration, companies who pay profits to holders of bearer and warrant shares are fined 20% of their capital for each transaction. All General Assemblies' decisions are considered illegal if the company allows for the holders of bearer and warrant shares to attend them.

Ownership of the bearer and warrant shares that doesn't convert to nominal shares, is transferred to the Lebanese government after two years from the enforcement of this law.

- MOF Decision No. 307/2020 provides the procedural mechanism of transferring the ownership of the shares to the Lebanese government State. Nonetheless, no public data is available on the companies that abided by the law or those who did not.

- A new Draft Law presented at the parliament aims to amend the two years duration for the transfer of ownership, and the one-year duration to impose fines, to make it five years.

- If adopted, this law will have a retroactive effect and all the shares that weren't transferred to the ownership of the Lebanese government would remain under the control of their current holders.

Law No. 84/2018; Enhancing Transparency in the Petroleum Sector

With the uncovering of the petroleum resources in Lebanon, and in accordance with the Lebanese socio-economic and political contexts, there was a need to ensure the effectiveness and efficiency of the Petroleum Sector by making sure it wasn't subject to, or at least limit, nepotism, and to strengthen the sector against corruption-related crimes. Under these needs, the Lebanese Parliament adopted Law No. 84/2018

on Strengthening Transparency in the Petroleum Sector which provided several safeguards and measures to ensure transparency, as well as preventing and limiting corruption.

In this context, Article 9 (4-9 & 10) of the law requires the Lebanese Petroleum Administration (LPA) – the independent regulatory authority of the Petroleum Sector – when granting petroleum rights to abide by a number of procedures. Sub-paragraph 9 of paragraph 4 of Article 9 provides that the LPA must disclose any information or procedures that must be registered in the Petroleum Register, especially the disclosure of the Beneficial Owner(s) of the Contractors holding Petroleum Licensing. Sub-paragraph 10 goes further and outlines that the LPA must make the data registered in the Petroleum Register available to the public through its website or through requesting the data directly from it[38].To request information from the LPA one must look at Law No. 28/2017 on the Right to Access Information[39], which allows in its Article 1 "any natural and legal person" to request data from all Lebanese Public Administrations including the LPA. Information that can be requested from the LPA is everything it possesses unless it goes under Article 5 of the law that provides an exhaustive list[40] of

information that cannot be accessed. However, if the information requested falls under one of the categories outlined in this list, the LPA must apply the "Harm vs. Public Interest Test"[41] that consists of three combined conditions:

i) The protected information must be for a legitimate reason specified by the law;

ii) The disclosure of information will cause substantial harm;

iii) The substantial harm caused must be greater than the public interest achieved if the information was disclosed.

If one of these three conditions is not met, then the LPA must provide the requested information, and in any case, its decision is subject to the State Consultative Council's review and the NACC's when formed.

Article 9 (5) of the law requires that the Contractors holding Petroleum Rights and the sub-Contractors disclose any data or procedures that must be registered at the Petroleum Register especially the disclosure of their Beneficial Owner(s).

These two paragraphs provide for two layers of disclosure, one from the governmental agency that is regulating the Petroleum Sector and one from the Contractors and sub-Contractors, which doubles the assurances that Beneficial Ownership information must be disclosed. Also, Contractors and sub-Contractors are obliged to disclose their Beneficial Owners even if their contracts didn't explicitly state this because it is a

[38]You can request data from the LPA electronically through this link: https://www.lpa.gov.lb/english/transparency/request-information
[39]Law No. 28/2017 on the Right to Access Information. Available at: https://www.lp.gov.lb/backoffice/uploads/files/4-%202)المعلومات%20إلى%20الوصول%20في%20الحق%20قانون%20.pdf
[40]Protected information specified in the exhaustive list: 1) Secrets of National Defence, National Security and Public Safety, 2) Administration of the governments foreign affairs of a secret nature, 3) what harms the financial, and economic interests of the State and the national currency, 4) Individual private life and their mental and physical health, 5) Secrets protected by the law such as profession and commercial secrets, 6) Investigations' facts before announcing in them in a public hearing, secret trials, trials related to juveniles and personal status, 7) MoM of secret Parliamentary meetings unless decided otherwise, 8) CoM deliberations and its decisions that it gives the secret nature, 9) Unfinished preparatory and administrative documents, 10) Opinions issued by the State Consultative Council unless requested by the involved persons in the framework of a judicial review.
[41]Report of the UN Special Rapporteur on Freedom of Opinion and Expression, Economic and Social Council, Annex II; The Public's Right to Know: Principles on Freedom of Information Legislation – Principle 4. Limited scope of exceptions. Pg. 58. Available at: https://undocs.org/en/E/CN.4/2000/63 (07/02/2021)

legal obligation and not a contractual one. This only shows the attention the legislator gave to the issue of Beneficial Ownership and its importance on the level of good governance of the Petroleum Sector.

Article 10 (7) of the law also outlines that the disclosure of all Contractors awarded service contracts from the Contractors holding Licensing Rights is a must, in addition to applying the Ultimate Beneficial Ownership (UBO) measures on these Contractors[42]. This not only means that it is essential that Service Contracts Contractors disclose their Beneficial Owners, but also the competent authorities – the LPA and the Tax Department at the MOF – must apply UBO due diligence measures when auditing Contractors engaged in the Petroleum Sector.

Nonetheless, the Petroleum Register, established in Article 52 of Law No. 132/2010 on Petroleum Resources in Sea Waters[43] , is not formed yet as it requires a Decree to be adopted by the Council of Ministers (CoM) that outlines its Regime and relevant provisions at the suggestion of the Minister of Energy and Waters after considering the opinion of the Minister of Finance. This poses a major threat to the effectiveness and efficiency, not only to Beneficial Ownership relevant provisions but to Law No. 84/2018 as a whole, as the object and purpose of this law is to enhance transparency in the Petroleum Sector, and the main tool for this is the Petroleum Register, which in turn opens the door for money laundering opportunities and corruption-related crimes.

Nonetheless, recently the LPA has dedicated a page on its website to publish the list of service companies (sub-Contractors) and their Beneficial Ownership information during the execution of drilling activities related to the Exploration Well in Block 4 without waiting the adoption of the above-mentioned decree. This is considered a huge step towards the effective implementation of the Law and the **first public entity to publish such information in Lebanon[44].**

Key Remarks

- Article 9 of Law No. 84/2018 provides that the LPA must disclose all information or procedures that must be registered in the Petroleum Register, including the disclosure of the Beneficial Ownership information of the Contractors holding Petroleum Licensing Rights.

LPA must make the data registered in the Petroleum Register available to the public through its website or through requesting the data directly from it.

This Article also requires that the Contractors holding Petroleum Rights and the sub-Contractors to disclose any data or procedures that must be registered at the Petroleum Register especially the disclosure of their Beneficial Ownership information.

[42]The Law provides an English translation for UBO as "Final Beneficial Ownership", however, what is meant here is UBO which is the technical translation of "صاحب الحق الاقتصادي النهائي".
[43]Law No. 132/2010 on Petroleum Resources in Sea Waters. Available at: https://www.lpa.gov.lb/Library/Assets/Gallery/asdasdas/Laws/%D8%A7%D9%84%D9%85%D9%88%D8%A7%D8%B1%D8%AF%20%D8%A7%D9%84%D8%A8%D8%AA%D8%B1%D9%88%D9%84%D9%8A%D8%A9%20%D9%81%D9%8A%20%D8%A7%D9%84%D9%85%D9%8A%D8%A7%D9%87%20%D8%A7%D9%84%D8%A8%D8%AD%D8%B1%D9%8A%D8%A9%20-%20%D9%82%D8%A7%D9%86%D9%88%D9%86%20132-2010.pdf (07/02/2021)
[44]You can access the List of service companies (Subcontractors) and their Beneficial Owners published by the LPA through the following link: https://www.lpa.gov.lb/english/sector-operations/exploration-activities/procurement

- Article 10 of Law No. 84/2018 requires the disclosure of all Contractors awarded service contracts from the Contractors holding Licensing Rights, in addition to applying the Ultimate Beneficial Ownership (UBO) measures on these Contractors.

- The Petroleum Register is yet to be formed; the Council of Ministers should adopt a decree establishing the Register.

- The LPA dedicated a page on its website that included a list of the sub-Contractors with their Beneficial Ownership information.

Law No. 244/2021; Public Procurement Law

On June 30, 2021, the Lebanese Parliament adopted Law No. 244/2021, the new Public Procurement Law, which was published in the Official Gazette on July 27, 2021. As stipulated in the law, it goes into effect 1 year after its publication. It is a long-awaited law, especially since the public procurement system is outdated and the main laws and legislative decrees regulating it are from the 1950s and 1960s. The global community has been pushing for reforming this system by linking it to any foreign aid coming directly to the Lebanese government amid the current economic and financial collapse.

Despite the major reforms the new law sets out, however, it falls short on regulating three integral matters to limit and prevent undermining the public procurement system in Lebanon. These matters are the notion of absolute secrecy of some documents: having no role for CSOs in monitoring public procurement and Beneficial Ownership information of the companies contracted by the government and its agencies. In fact, the new law doesn't address the role of CSOs and Beneficial Ownership information at all.

For the purposes of this paper, we will address Beneficial Ownership information and its importance in public procurement to showcase the fragmentations left by the new law which might lead to undermining its effectiveness and efficiency, as it does not provide enough safeguards to limit, prevent and/or identify conflict of interest, undue influence, fraud, and corruption in public procurement procedures.

When regulating public procurement, governments aim to provide safeguards to limit and prevent corruption while at the same time creating a fair equitable competition and transparency to deliver value-for-money in its procurement. In addition, governments recently are trying to serve other objectives through public procurement such as ensuring gender equality and social inclusion, in addition to fostering innovation.

Open Ownership, a UK based non-profit specialized in Beneficial Ownership

regimes, has outlined six categories where Beneficial Ownership information can improve public procurement process and objectives[45]:

1. Preventing fraud and corruption by helping detect potential signs of bid-rigging and conflicts of interest;

2. Improving service delivery through competition by managing risk to expand and diversify the supplier base;

3. Verifying supplier eligibility in strategic and preferential procurement where this is based on ownership;

4. Oversight, verification, and accountability by civil society and the public through the publication of information;

5. Assess policy effectiveness and improve policies by analyzing Beneficial Ownership information together with other datasets such as open contracting and spending data;

6. Improve procurement indirectly on a systemic level by improving the business environment, allowing companies to use Beneficial Ownership information to manage and reduce risk in their due diligence and other AML processes.

Preventing Fraud and Corruption

Corruption risks can be spotted when conflict of interest amongst the awarding and receiving entities arises. This can happen at the early stages of procurement by avoiding competition (ex: unjustified sole sourcing), favoring a certain bidder (ex: tailoring specifications), excluding qualified bidders (ex: biased evaluation process), and/or avoiding detection of schemes (ex: using shell companies)[46].

Fraud can be spotted when multiple bidders co-conspire to rig a bid by suppressing bids through decreasing competition which might inflate prices, or by submitting covering bids to direct the selection into the intended bidder(s), or when companies fail to declare specific information or declare false information undermining the procurement administration in their due diligence process[47]. Beneficial Ownership information in both, corruption and fraud, could help in detecting conflict of interest and Red Flags on collusion and bid-rigging.

Improving Service Delivery through Competition

Beneficial Ownership information transparency could help in securing lower prices and better quality for governments through[48]:
1. Reducing and managing operational and financial risks through enhanced due diligence; identifying the companies contracted by the government and its agencies, and its ownership structure helps the Public Procurement Authority (PPA)

[45]Okunbor, Eva, Kiepe, Tymon, Beneficial Ownership Data in Procurement. Open Ownership. March 2021. Pg. 3. [Hereinafter OOBOP]. Available at: https://www.openownership.org/uploads/OO%20BO%20Data%20in%20Procurement.pdf (02/008/2021)
[46]Fraud and Corruption Awareness Handbook. A Handbook for Civil Servants Involved in Public Procurement. International Bank for Reconstruction and Development/The World Bank. 2013. Pg. 7. Available at: https://openknowledge.worldbank.org/bitstream/handle/10986/18153/877290PUB0Frau00Box382147B00PUBLIC0.pdf?sequence=1&isAllowed=y (02/008/2021)
[47]See footnote 37. Pg. 10.
[48]OOBOP. Pg. 11.

in managing operational risks when planning and preparing its strategy (ex: standing on the financial liabilities of companies especially when there's a multi-leveled chain of ownership).

The case of Carillion in the UK is just on point here, which is a company that provided services for hospitals, schools, prisons, and transportation that had around 450 contracts with the UK government. When Carillion was liquidated in 2018, it made it difficult to assess the impact of the insolvency due to its complex ownership structure (the Companies House in the UK listed around 100 companies and partnerships with "Carillion" in their name[49]). Carillion owed GBP 2 billion to its subcontractors and suppliers, which left many small and medium-sized businesses with outstanding debts[50] .

As Open Ownership provides, in its previous cited publication, "therefore, arguably, a complete risk assessment could not have been possible". Beneficial Ownership information transparency can act as an integral tool for governments to efficiently assess and analyze risks of dealing with specific companies which will lead to better public services. In Carillion's case, if such analysis was conducted it would have provided the necessary information to help mitigate the impact of the company's insolvency.

The transparency factor allows for more due diligence to be conducted by CSOs and other stakeholders, which can bring the attention of the competent authorities to irregularities in the disclosed information and/or to patterns that could prove multi-leveled control and ownership. This has an indirect positive impact, it helps reduce costs and resources the government has to allocate for multiple due diligence, which might be not available in the first place.

2. Diversifying suppliers; one of the measures for mitigating risk associated with companies contracted by governments is to diversify these companies. Unfortunately, there's this assumption in the public sector that "the larger the company, the safer the service[51]".

SMEs prices are usually cheaper and they offer a better value-for-money option to spend taxpayers' money. When the government diversifies suppliers, it is encouraging competition by increasing the number of potential bidders which will eventually result in better prices and better services/products achieving value-for-money.

3. Fostering competition by detecting shared ownership; ownership can be complex and multi-leveled which does not necessarily mean there's something wrong, however, it can be used to perform anti-competitive activities[52] . It is important for PPA to comprehensively understand ownership and its methods, especially when it comes to exercising control over a company in order to be able to stand on and identify anti-competitive activities; which is why it is important also for procurement

[49]Federico Mor, Lorraine Conway, Djuna Thurley, and Lorna Booth, "The collapse of Carillion", House of Commons Library, 14 March 2018. Pg. 30. Available at: https://researchbriefings.files.parliament.uk/documents/CBP-8206/CBP-8206.pdf (02/08/2021)
[50]Carillion: information for employees, sub-contractors, creditors and suppliers. Available at: https://www.gov.uk/guidance/carillion-information-for-employees-sub-contractors-creditors-and-suppliers (02/008/2021)
[51]Simon Wilcox, "The Public Procurement Scandal", Business Matters, 31 July 2013. Available at: https://bmmagazine.co.uk/opinion/the-public-procurement-scandal/. (02/02/2021)
[52]Dennis, Patrick J. and Gerardi, Kristopher S. and Schenone, Carola, Common Ownership Does Not Have Anti-Competitive Effects in the Airline Industry. March 1, 2021. Pg. 24. Available at SSRN: https://ssrn.com/abstract=3063465 or http://dx.doi.org/10.2139/ssrn.3063465 (02/08/2021)

competent authorities to have access to Beneficial Ownership information and be able to verify this information.

Verifying Eligibility in Strategic and Preferential Public Procurement

Governments are considered to be a force for change, as they are the largest single buyer of goods and services in most countries. Preferential procurement allows governments to award contracts giving preference to certain suppliers, making this award strategic in its objective. The preferential procurement could be serving an environmental goal (green procurement), and/or fostering innovation, or stimulating trade and economic integration[53] . One of the main objectives of such procurement method is Gender Equality and Social Inclusion (GESI), in addition to redistributing opportunities, choices, and resources to empower vulnerable groups, which in turn leads to job creation. Preferential procurement could also serve national security objectives that allow procuring only from national and/or trusted suppliers within the defense and security sector.

To do this efficiently, competent authorities must be able to have access and analyze Beneficial Ownership information to make sure participating bidders fit the criteria serving the objectives of the preferential procurement.

To ensure the eligibility criteria using Beneficial Ownership information, centralized and verified Beneficial Ownership Registers play a foundational role at the awarding stage to make sure bidders are not hiding information from the procurement authority. The Register helps by "simplifying and automating the verification of eligibility and auditing preferential procurement qualification procedures[54]" .

In conclusion, Beneficial Ownership Transparency, through Public Registers, improves procurement through increasing competitiveness, reducing risk and the cost of due diligence, and fostering a business culture of transparency and trust[55].

Nonetheless, the benefits of having a Public Beneficial Ownership Information Register are not exclusive to public procurement. Such Register could prove helpful in facilitating Tax Departments' due diligence efforts, as the number of companies usually registered in a country could be in thousands if not in millions, the required resources and human capacities needed for due diligence or verification processes could be exhaustive for public authorities and here comes the role of CSOs and the public who can be of added value in analyzing and verifying Beneficial Ownership information.

Operationalizing the use of Beneficial Ownership Information in Procurement

The operationalization of Beneficial Ownership information in procurement

[53]OOBOP. Pg. 13.
[54]Idem, pg. 15.
[55]Idem, pg. 16.

includes the oversight, verification, and accountability by civil society and the public through the publication of information; assessing policy effectiveness & improving policies by analyzing Beneficial Ownership information together with other datasets such as open contracting and spending data; and improving procurement indirectly on a systemic level by improving the business environment, allowing companies to use Beneficial Ownership information to manage and reduce risk in their own due diligence and other AML processes and obligations.

To do this, governments should decide where to source Beneficial Ownership information from, how and when to collect this information, how to verify it, whether it should be available to the public or not, how and in what format information should be collected[56].

Governments can either collect Beneficial Ownership information throughout the procurement procedures and store it in a Central Procurement Register, or can retrieve the information from a Central Beneficial Ownership Register within the country. In both cases, governments must follow some practical and technical considerations to ensure the effectiveness and efficiency of Beneficial Ownership information disclosures. To that end, Open Ownership has created the below set of principles to ensure effectiveness and efficiency of disclosures which is intended to support governments implementing Beneficial Ownership reforms, and guide international institutions, civil society, and private sector actors in understanding and advocating for effective reforms.

1. Beneficial Ownership should be clearly and robustly defined in law, with low thresholds used to determine when ownership and control is disclosed;
2. Disclosure should comprehensively cover all relevant types of legal entities and natural persons;
3.Beneficial Ownership disclosures should contain sufficient detail to allow users to understand and use the information;
4. Information should be collated in a central register;
5. Information should be accessible to the public;
6. Information should be structured and interoperable;
7. Measures should be taken to verify the data;
8. Information should be kept up to date and historical records maintained;
9. Adequate sanctions and enforcement should exist for noncompliance.
As mentioned in this section, the new

Public Procurement Law No. 244/2021 in Lebanon doesn't address the Beneficial Ownership information of the companies contracted by the government and its agencies in any way. This means that the PPA established by the new law has no competence to collect such information, as Law No. 44/2015 AML/CFT provides that the MOF and the SIC are the competent authorities to deal with

[56]OOBOP. Pg. 17.

such information, which leads us to the conclusion that if the PPA wants to access Beneficial Ownership information in the future, it has to request it from the MOF and/or the SIC depending on the nature of the entity being investigated or subject to due diligence. This means that only if the MOF and/or SIC agree to provide access to Beneficial Ownership information, the PPA can access them. This might prove to be an obstacle in the future as there's no explicit provision in the law that allows the MOF to share such information with the PPA, while the SIC strictly deals with the information it possesses and doesn't usually share information with other competent authorities and courts.

If the new PPA decides to use Beneficial Ownership information as stipulated above, it will face many obstacles to do so, which is why it is important to amend the new Public Procurement Law to explicitly include a provision obliging companies that want to enter into contracts with the government and its agencies to disclose their Beneficial Ownership information to the PPA, which in turn has to establish a special Beneficial Ownership Register for this information. Several countries have already included such provisions in their public procurement laws including but not limited to Slovakia, which obliges all companies who want to contract with the government and its agencies to disclose their Beneficial Ownership information, and if they refuse to do so they won't be able to be awarded a public contract[57].

Key Remarks

- The new Public Procurement Law doesn't address the Beneficial Ownership information of companies contracted by the government and its agencies in any way.

- Beneficial Ownership information can improve public procurement processes through

•Preventing fraud and corruption.
•Improving service delivery.
•Verifying supplier eligibility in strategic and preferential procurement.
•Oversight, verification, and accountability by civil society and the public.
•Assess policy effectiveness and improve policies by analyzing Beneficial Ownership information.
•Improve procurement indirectly on a systemic level.

Law No. 106/2018; Amending the Tax Procedures Law No. 44/2008

Law No. 106/2016 was adopted by the Lebanese Parliament to update the Tax Procedure Law and make it compatible with recent updates on Beneficial Ownership and to keep up with the regulations set out by the SIC. In addition, in the reasoning of the law which is attached to the law itself, it provides that, in 2012, Lebanon

[57]Chapter 9, Beneficial Ownership Transparency. The World Bank. Pg. 260. Available at: https://thedocs.worldbank.org/en/doc/734641611672284678-0090022021/original/BeneficialOwnershipTransparency.pdf (02/08/2021)

was subject to the first stage of the assessment conducted by the Global Forum on Transparency and Exchange of Information for Tax Purposes and was not found qualified to proceed to the second stage of the assessment. After accomplishing several procedures required by the Forum in 2016, Lebanon temporarily proceeded to the second stage with a pending status until all recommendations are accomplished.

This law comes in one Article that includes different paragraphs amending several Articles of the Tax Procedures Law (Original Law).

Article 1 (1) adds paragraph 12 to Article 1 of the Original Law, it provides a definition of Beneficial Owners as follows:

"A Beneficial Owner is every natural person, regardless of their residence, who owns or actually controls, ultimately, directly or indirectly, an activity that any natural or other legal person performs on the Lebanese territory.

Ownership and/or indirect ownership is present when the act of ownership or control is through a chain of ownerships or by other different control means".

Although the wording used in this definition is different from that present in the SIC's Circular No. 24/2018 and the definition accredited by the FATF, however, it includes all the elements presented in these definitions and covers both, Beneficial Ownership and Ultimate Beneficial Ownership.

Article 1 (2) amends paragraph 1 of Article 23 of the Original Law and

provides that in accordance with the Banking Secrecy Law, everyone, including public administrations, have to "cooperate" with the competent tax authorities and provide them with the information they request outlining that no one can justify non-compliance based on the Profession Secrecy obligations. Although this Article provides for an important obligation to cooperate, however, it has two aspects undermining its effectiveness and efficiency; 1) it obliges relevant persons to "cooperate" with the tax authorities which is a vague term that gives room for these persons to refuse to provide the requested information, 2) the term "in accordance with the Banking Secrecy Law" means that whenever the requested information falls under this law, then the persons are not obliged to provide their information.

Article 1 (3) adds paragraph 10 to Article 29 of the original law providing that all taxpayers are obliged to hold information on Beneficial Ownership in a private Register that includes: full name, nationality, date of birth, residence and mailing address, ID, or Passport No., Passport No. for foreigners, tax residence, tax No., percentage of the Beneficial Ownership distribution. Also, taxpayers are required to hold documents outlining the structure of the legal person and/or the control structure

and all other information related to Beneficial Owners, for ten years even after the Beneficial Owner status of the designated person is ended, or after they suspend their activities. This goes beyond the minimum requirement set out by the FATF Interpretive Note on Recommendation 24 at a minimum of 5 years.
Article 1 (4) amends Article 32 of the original law providing that anyone who establishes a business operation shall

declare their Beneficial Owner within two months from the date of initiating the business. The article goes further in paragraph 2 (a-4) and obliges any legal person registered at the Tax Department to annually declare to the Department any amendment/change that happens to their Beneficial Owner. The same paragraph in its sub-pargraph 2-b obliges any natural person residing in Lebanon and registered at the Tax Department to declare any change to the activities of the Beneficial Owner.

Article 1 (5) amends Article 37 (c) and adds a paragraph (e) to the same Article providing that taxpayers must fulfill the Tax Department's requests while exercising its jurisdiction and to submit information on Beneficial Owners of their activities. Paragraph (e) of the amending Article provides that taxpayers must inform the Tax Department when a partner or a shareholder fails to provide information related to their Beneficial Owners.

Article 1 (6) amends Article 44 (2) of the original law and outlines that the Tax Department personnel have the right to examine the taxpayers' documents including those related to the identity of the Beneficial Owners while performing their audit operations. It then goes further and sets a direct obligation on the Tax Department Personnel to implement the required procedures when information on the existence of Beneficial Owners is available; meaning that they have to apply due diligence measures when such information arises.

The same paragraph goes one step beyond to outline that the Tax Department personnel have the right to enter the taxpayer's place of business operations or the place where the accounting documents are stored in coordination with the taxpayer. If the taxpayer refuses to fulfill the Tax Department requests, the Department applies the provisions of paragraph6 of the same Article that provides that the Tax Department informs the taxpayer that it will determine their tax position within a month after being informed. This means that if the taxpayer refuses to provide information on their Beneficial Owner, the Department will determine them based on the due diligence measures it implements.

Article 1 (7) amending Article 48 (1) of the original law provides that the Tax Department have the right to request data, in writing, from any person who has information that could benefit the

auditing process within a time limit specified by the Department, including information related to the identification of Beneficial Owner(s).

Article 1 (8) amending Article 107 (1) of the original law provides the penalties on every person who fails to specify the Beneficial Owners of their activities as follows:

i)For Shareholding Companies: 2,000,000 LBP ($1,333 USD in accordance with the official exchange rate);

ii)For Persons and Limited Liability Companies and Entities Exempted from Taxes: 1,000,000 LBP ($666 USD in accordance with the official exchange rate);

iii)For Individuals and Other Taxpayers: 300,000 LBP ($200 USD in accordance with the official exchange rate).

Article 1 (9) adds to the original law Article 117-bisthis new Article that provides penalties on failing to provide Beneficial Ownership information or providing false information as follows:

i)A shareholder or Partner in an "Association of Capital" who withhold correct information on the Beneficial Owner's contribution to the company shall be fined with an amount equivalent to 100% of their shares in addition to other penalties;

ii)A Partner in a Persons Company or owner at an Individual Institution, who withhold information from the company itself on their Beneficial Owner shall be fined with an amount equivalent to 100% of the taxes due on their shares;

iii)Any person who fails to declare informationrelatedtoBeneficialOwner(s) when submitting the required forms, or fails to inform the Tax Department that a Partner or a Shareholder abstained from providing information on the Beneficial Owner of their activities in the annual tax declaration to the Tax Department shall be fined as follows:

-For Shareholding Companies: 2,000,000 LBP ($1,333 USD in accordance with the official exchange rate);

-For Persons and Limited Liability Companies and Entities Exempted from Taxes: 1,000,000 LBP ($666 USD in accordance with the official exchange rate);

-For Individuals and Other Taxpayers: 500,000 LBP ($333 USD in accordance with the official exchange rate).

Key Remarks

- Article 1 (1) of Law No. 106/2018 provides a definition of Beneficial Owners that includes all the elements presented in the SIC and FATF definitions.

- Article 1 (2) of Law No. 106/2018 provides that everyone, including public administrations, should "cooperate" with the competent tax authorities.

This has two aspects undermining its effectiveness and efficiency; 1) it obliges relevant persons to "cooperate" with the tax authorities without providing what cooperate means, 2) the Article includes a term that says "in accordance with the Banking Secrecy Law" in the sense that if the requested information falls under this law, then the persons are not obliged to provide their information.

- Article 1 (3) of Law No. 108/2018 obliges all taxpayers to hold information on Beneficial Ownership in a private Register with the supporting documents.

- Article 1 (4) of Law No. 108/2018 provides that anyone who establishes a business operation shall declare their Beneficial Owner within two months from the date of initiating the business and update the information annually.

- Article 1 (5) of Law No. 108/2018 provides that taxpayers must fulfill the Tax Department's requests to submit information on Beneficial Owners of their activities and must inform the Tax Department when a partner or a shareholder fails to provide information related to their Beneficial Owners.

- Article 1 (6) of Law No. 108/2018 provides that the Tax Department personnel have the right to examine the taxpayers' documents including those related to the identity of the Beneficial Owners.

Also, the personnel have the right to enter the taxpayer's place of business operations or the place where the accounting documents are stored in coordination with the taxpayer.

- Article 1 (7) of Law No. 108/2018 gives the right to Tax Department to request data, in writing, from any person who has information that could benefit the auditing process within a time limit specified by the Department, including information related to the identification of Beneficial Owner.

- Article 1 (8) of Law No. 108/2016 provides the penalties on every person who fails to specify the Beneficial Owners of their activities.

- Article 1 (9) of Law No. 108/2018 provides penalties on failing to provide Beneficial Ownership information or providing false information.

Law No. 126/2019; Amending the Commercial Law No. 304/1942

The Lebanese Parliament adopted Law No. 126/2019 to update the Lebanese Commercial Law No. 304/1942, and to keep up with the other legislative developments to harmonize the Lebanese national regime with the international developments and best practices.

What is important to this Assessment is Article 3 of this amendment which abolishes Article 26 of the Commercial Law and provides a new version of it. This new version requires companies that have their Head Quarters in Lebanon to be registered at the Court that has jurisdiction over the area the HQ is in. This

registration must include the identity of the company's Beneficial Owner(s).

Key Remarks

- Article 3 of Law No. 126/2019 requires that companies who have an HQ in Lebanon to provide Beneficial Ownership information to the court that they fall under its jurisdiction.

Decisions No. 1472/2018 and No. 2045/2018 of the Minister of Finance; Defining Beneficial Owners and their identification process

The Minister of Finance, based on Law No. 44/2008 on Tax Procedures and Law No. 44/2015 on AML/CFT in addition to other laws regulating different economic sectors and financial activities, issued Decision No. 1472/2018 titled "Identification Mechanisms of Beneficial Owners" that provided in its Article 1 a definition of Beneficial Owner(s) that is the same as the one provided in Law No.106/2018 amending the Tax Procedure Law, that was discussed above.

Articles 2 and 3 provide for obligations on legal persons and legal arrangements same as those provided in Articles 2 and 3 of the SIC Circular No. 24/2018. Article 4 of the Decision provides for the information that taxpayers must hold in a private Register identical to those outlined under Article 1 (3) of Law No. 106 presented above.

Article 5 of the Decision obliges the LACPA, Bar Associations (Beirut and Tripoli) and Public Notaries, to provide the MOF promptly with any documents they prepare, or they know about due to their profession, that relates directly or indirectly to operations based on information related to Beneficial Owner(s), when the Tax Department requests it. However, this article must be read with Article 5 of Law No. 44/2015, when applied by lawyers, as it requires the Bar Associations to outline the procedural aspects on how to apply the obligations of Article 5, *taking considering the privacy of the profession according to its regulations*. As discussed, when Article 5 was presented in this Assessment, the privacy of the profession here means the Client-Attorney Privilege.

This contradiction between the two provisions might confuse what can and what cannot be disclosed by attorneys, however, between the two provisions, provisions of the law override the provisions of ministerial decisions which brings us back to what was presented earlier. Exceptions related to lawyers must be addressed sensitively and professionally to make sure they are able to report any illicit activities and not undermine the Beneficial Ownership Regime.

Article 6 outlines that the MOF will adopt the needed templates that will ensure that the Tax Department is able to collect information on Beneficial Owners.

Article 7 goes on to set out the duties the Tax Department has to verify, during

desk and field auditing processes, the commitment of taxpayers to the Beneficial Ownership-related obligations they have.
Article 8 sets out an important provision, the Tax Department has the ability to coordinate with the SIC to collect information on Beneficial Owners. However, this can only happen when the requested information is not Banking Information "معلومات مصرفيَّة", which takes us back to the discussion on the Lebanese Banking Secrecy Law and how it stands as an obstacle to the effective and efficient implementation of the Beneficial Ownership Regime.

Following the issuance of the above-mentioned Decision, the Minister of Finance issued Decision No. 2045 titled "Amendment of approved forms and approving a form titled Statement of the Beneficial Owner". This Decision included template M18 "م ١٨"; Statement of the Beneficial Owner.

The Statement includes six columns that must be filled with the name of legal owner, their capacity, their tax number, number of owned shares, the name of the Beneficial Owner of the shares owned by the legal owner, and their Tax Number at the MOF[58]. In 2019, the Minister of Finance issued Circular No. 3045/2019 to provide guidance on how to fill the aforementioned template.

Key Remarks

- Minister of Finance Decision No. 1472/2018 defines Beneficial Ownership the same as the one provided in Law No.106/2018. Articles 2 and 3 of the Decision provides for obligations on legal persons and legal arrangements same as those provided in Articles 2 and 3 of the SIC Circular No. 24/2018.
- Article 4 of the Decision obliges taxpayers to hold, in a private Register, Beneficial Ownership information.

- Article 5 of the Decision obliges the LACPA, Bar Associations (Beirut and Tripoli), and Public Notaries to provide the Tax Department with all information they possess on transactions relating to Beneficial Ownership information.

- Article 7 of the Decision outlines the duties of the Tax Department to verify Beneficial Ownership information.

- Article 8 of the Decision gives the Tax Department the ability to request non-banking information on Beneficial Ownership from the SIC.

-Minister of Finance Decision No. 2045/2018 included the template on Beneficial Ownership information that must be submitted to the Tax Department.

- Minister of Finance Circular No. 3045/2019 guiding taxpayers on how to fill the Beneficial Ownership Information Template.

[58]You can access and download the Statement of the Beneficial Owner through this link: https://eservices.finance.gov.lb/Resources/Namazej/Tax%20on%20Commercial/18ρ.pdf (07/02/2021)

After having the Lebanese Beneficial Ownership legal framework thoroughly presented, it is important to assess these regulations taking international standards as the benchmark. Transparency International has developed a Questionnaire "to monitor the extent to which G20 members are fulfilling their commitments and the adequacy of their beneficial ownership transparency framework[59]". The Questionnaire can be used to assess more countries by tailoring a number of questions to fit with the context being assessed, which is why some minor changes to questions are found in the Questionnaire of this Assessment.

Methodology

To assess the Lebanese Beneficial Ownership legal framework, the Assessment relies on two different sources of information; 1) the presented Beneficial Ownership regulations in Lebanon in Part 1 of the Assessment. The data was collected through desk research and is used to fill the Questionnaire. 2) Several Information Requests were submitted to the MOF, SIC, LACPA, Beirut and Tripoli Bar Associations in the Annex to the Assessment, requesting information from them to stand on the practical implementation of the presented regulations.

Regulations include Laws, Decrees, Decisions, and Circulars, the term "Law" in the Questionnaire refers to these types of regulations. Each question answered has a recorded answer in Part 1 of the Assessment.

Regulations collected and examined are prior to the publication date of the Assessment by the Lebanese Transparency Association Research Team. In addition, the Assessment was reviewed by specialized experts in the field, integrating all their comments and notes into the Assessment.

Questionnaire Structure and Scoring

The questions composing the Questionnaire are developed to capture and measure the essential components that should be enforced by countries to fulfill the 10 principles ensuring the implementation of the Beneficial Ownership Regime. The number of questions per principle varies depending on the mechanism to apply the principle, which in turn affects the total score given per principle.

For scoring, a four-point scoring scale is used. Model answers are specific to each question, however, they center around five main answers as follows:

[59]G20 Leaders or Laggards? – Reviewing G20 promises on ending anonymous companies. Transparency International, 2018. Pg. 60. Available at: https://images.transparencycdn.org/images/2018_G20_Leaders_or_Laggards_EN.pdf

No. of Points	Model Answer
4	The country's legal framework is fully in line with the principle.
3	The country's legal framework is generally in line with the principle, but with shortcomings.
2	There are some areas in which the country is in line with the principle, but significant shortcomings remain.
1	The country's legal framework is not in line with the principle, apart from some minor areas.
0	The country's legal framework is not at all in line with the principle.

Scores were given across questions then transformed into percentages and converted into grades from "Very Weak" to "Very Strong". Each principle has its own score, then grouped together to provide a final score and a percentage of the final score that represents the percentage of how compatible the Lebanese Beneficial Ownership legal framework is with the 10 principles.

Grading Scale

Percentage Range	Grade
Scores between 81% and 100%	Very Strong
Scores between 61% and 80%	Strong
Scores between 41% and 60%	Average
Scores between 21% and 40%	Weak
Scores between 0% and 20%	Very Weak

Under each question, the score per answer is presented, and the right answer's cell is highlighted in red.

Limitations

The Questionnaire is only limited to testing the legal framework related to Beneficial Ownership, and in no way, it reflects the reality of the implementation of this legal framework. The latter is subject to another methodology, through submitting Information Requests to all relevant competent authorities and stakeholders with related legal obligations; MOF, SIC, LACPA, Beirut and Tripoli Bar Associations.

The overall scoring is a general analysis of how a country is performing across the 10 principles and doesn't provide a position of whether a principle is more important than the other.

A. Questionnaire: Lebanese Beneficial Ownership Legal Framework

A. Questionnaire: Lebanese Beneficial Ownership Legal Framework

Principle	Question	Scoring Criteria	Score
Beneficial Ownership Definition	To what extent does the law in your country clearly define Beneficial Ownership?	**4: Beneficial Owner is defined as a natural person who directly or indirectly exercises ultimate control over a legal entity or arrangement, and the definition of ownership covers control through other means, in addition to legal ownership**	**4**
		1: Beneficial Owner is defined as a natural person [who owns a certain percentage of shares] but there is no mention of whether control is exercised directly or indirectly, or if control is limited to a percentage of share ownership.	
		0: There is no definition of Beneficial Ownership or the control element is not included.	
Identifying and Mitigating Risk	Has the government during the last three years conducted an assessment of the money laundering risks related to legal persons and arrangements?	**4:** Yes	**0**
		0: No	
	Were the results of the risk assessment communicated to financial institutions and relevant DNFBPs?	**4:** Yes, financial institutions and DNFBPs received information regarding high-risks areas and other findings of the assessment.	**0**
		0: No, the results have not been communicated.	
	Has the final risk assessment been published?	**4:** Yes, the final risk assessment is available to the public.	**0**
		2: Only an executive summary of the risk assessment has been published.	
		0: No, the risk assessment has not been published or conducted.	
	Did the risk assessment identify specific sectors / areas as high-risk, requiring enhanced due diligence?	**4**: Yes, the risk assessment identifies areas considered as high-risk where additional measures should be taken to prevent money laundering.	**N/A**
		0: No, the risk assessment does not identify high-risk sectors / areas.	
Acquiring Accurate Beneficial Ownership Information	Are legal entities required to maintain Beneficial Ownership information?	**4: Yes, legal entities are required to maintain information on all-natural persons who exercise ownership of control of the legal entity.**	**4**
		0: There is no requirement to hold Beneficial Ownership information, or the law does not make any distinction between legal ownership and control.	
	Does the law require that information on Beneficial Ownership has to be maintained within the country of incorporation of the legal entity?	4: Yes, the law establishes that the information needs to be maintained within the country of incorporation regardless whether the legal entity has or not physical presence in the country.	**0**
		0: There is no requirement to hold Beneficial Ownership information in the country of incorporation or there is no requirement to hold Beneficial Ownership information at all.	
	Does the law require shareholders to declare to the company if they own shares on behalf of a third person?	**4: Yes, shareholders need to declare if control is exercised by a third person or nominee shareholders are not allowed.**	**4**
		2: Only in certain cases do shareholders need to declare if control is exercised by a third person.	
		0: No, there is no such requirement.	
	Does the law require Beneficial Owners/ shareholders to inform the company regarding changes in share ownership?	**4:** Yes, there is a requirement for Beneficial Owners / shareholders to inform the company regarding changes in share ownership.	**4**
		2: While there is a requirement for shareholders to inform the company regarding changes in share ownership, there is no such requirement for Beneficial Owners.	
		0: No, there is no requirement for Beneficial Owners or shareholder to inform the company regarding changes in share ownership.	

Access to Beneficial Ownership Information	Does the law specify which competent authorities (e.g. financial intelligence unit, tax authorities, public prosecutors, anti-corruption agencies, etc.) are allowed to have access to Beneficial Ownership information?	4: Yes, the law specifies that all law enforcement bodies, tax agencies and the financial intelligence unit should have access to Beneficial Ownership information. **2: Only some competent authorities are explicitly mentioned in the law.** 1: The law does not specify which authorities should have access to Beneficial Ownership information. 0: No, the law does not specify it.	**2**
	Which information sources are competent authorities allowed to access for Beneficial Ownership information?	4: Information is available through a central Beneficial Ownership register/ company register. 3: Information is available through decentralized Beneficial Ownership registers/ company registers. **1: Authorities have access to information maintained by legal entities / or information recorded by tax agencies/ or information obtained by financial institutions and DNFBPs.** 0: Information on Beneficial Ownership is not available.	**1**
	Does the law specify a timeframe (e.g. 24 hours) within which competent authorities can gain access to Beneficial Ownership?	4: Yes, immediately /24 hours. 3: 15 days. 2: 30 days or in a timely manner. 1: Longer period. **0: No specification.**	**0**
	What information on Beneficial Ownership is recorded in the central company register? (Note: In countries where there are sub-national registers, please respond to the question using the state/province register that contains the largest number of incorporated companies.)	4: All relevant information is recorded: name of the Beneficial Owner(s), identification or tax number, personal or business address, nationality, country of residence, and description of how control is exercised. **2: Information is partially recorded.** 1: Only the name of the Beneficial Owner is recorded. 0: No information is recorded.	**2**
	What information on Beneficial Ownership is made available to the public?	4: All relevant information is published online: name of the Beneficial Owner(s), identification or tax number, personal or business address, nationality, country of residence, and description of how control is exercised. 2: Information is partially published online, but some data is omitted (e.g. tax number). 1: Only the name of the Beneficial Owner is published/ or information is only made available on paper / physically, or only individuals and organisations with "legitimate interest" can access it. **0: No information is published.**	**0**
	Does the law mandate the register authority to verify the Beneficial Ownership information or other relevant information such as shareholders/directors submitted by legal entities against independent and reliable sources (e.g. other government databases, use of software, on-site inspections among others,...)?	**4: Yes, the register authority is obliged to conduct independent verification of the information provided by legal entities regarding ownership of control.** 2: Only in suspicious cases. 0: No, the information is registered as declared by the legal entity.	**4**
	Does the law require legal entities to update information on Beneficial Ownership, shareholders and directors provided in the company register?	4: Yes, legal entities are required by law to update information on Beneficial Ownership and information relevant to identifying the Beneficial Owner (directors/ shareholders) immediately or within 24 hours after the change. 3: Yes, legal entities are required to update the information on Beneficial Ownership and directors/shareholders within 30 days after the change. **2: Yes, legal entities are required to update the information on the Beneficial Owner and directors/ shareholders on an annual basis.** 1: Yes, but the law does not specify a specific timeframe. 0: No, the law does not require legal entities to update the information on control and ownership.	**2**

Trusts	Does the law require trustees to hold beneficial ownership information about the parties to the trust, including information on settlors, the protector, trustees, and beneficiaries?	**4: Yes, the law requires trustees to maintain all relevant information about the parties to the trust, including on settlors, the protector, trustees, and beneficiaries, in addition to the Beneficial Owners.**	**4**
		2: Yes, but the law does not require that the information maintained should cover all parties to the trust (e.g. settlors are not covered).	
		1: Yes, but only professional trusts are covered by the law.	
		0: Trustees are not required by law to maintain information on the parties to the trust.	
	In the case of foreign trusts, are trustees required to proactively disclose to financial institutions / DNFBPs or others information about the parties to the trust?	**4: Yes, the law requires trustees to disclose information about the parties to the trust, including about settlors, the protector, trustees, and beneficiaries.**	**4**
		2: No, but financial institutions and/or DNFBPs are required to collect Beneficial Ownership information on all parties to the trust that are customers.	
		0: Trustees are not required to disclose information on the parties to the trust.	
Competent Authorities' Access to Trust Information	Is there a register that collects information on trusts?	4: Yes, information on trusts, including Beneficial Ownership information, is maintained in a register.	**0**
		2: Yes, there is a register that collects information on trusts but registration is not mandatory or information registered is not sufficiently complete to make it possible to identify the real Beneficial Owner.	
		0: No, there is no register.	
	Does the law allow competent authorities to request/access information on trusts held by trustees, financial institutions, or DNFBPs?	4: Yes, competent authorities are able to access Beneficial Ownership information held by trustees and financial institutions, or access information collected in the register.	**2**
		2: Competent authorities have to request information or only have access to information collected by financial institutions.	
		0: No.	
	Does the law specify which competent authorities (e.g. financial intelligence unit, tax authorities, public prosecutors, anti-corruption agencies, etc.) should have timely access to Beneficial Ownership information held by trustees?	4: Yes.	**0**
		2: Some authorities.	
		0: No.	
Duties of Businesses and professionals:			
1. Financial Institutions	Does the law require that financial institutions have procedures for identifying the Beneficial Owner(s) when establishing a business relationship with a client?	**4: Yes, financial institutions are always required to identify the Beneficial Owners of their clients when establishing a business relationship.**	**4**
		2: Financial institutions are required to identify the Beneficial Owners only in cases considered as high-risk or the requirement does not cover the identification of the Beneficial Owners of both natural and legal customers.	
		0: No, there is no requirement to identify the Beneficial Owners.	
	Does the law require financial institutions to also verify the identity of Beneficial Owners identified?	**4: Yes, the identity of the Beneficial Owner should always be verified through, for instance, a valid document containing a photo, an in-person meeting, or other mechanisms.**	**4**
		0: No, there is no requirement to verify the identity of the Beneficial Owner.	
	In what cases does the law require financial institutions to conduct independent verification of the information on the identity of the Beneficial Owner(s) provided by clients?	**4: Yes, independent verification is always required or required in cases considered as high-risk (higher-risk business relationships, cash transactions above a certain threshold, foreign business relationships).**	**4**
		0: No, there is no legal requirement to conduct independent verification of the information provided by clients.	

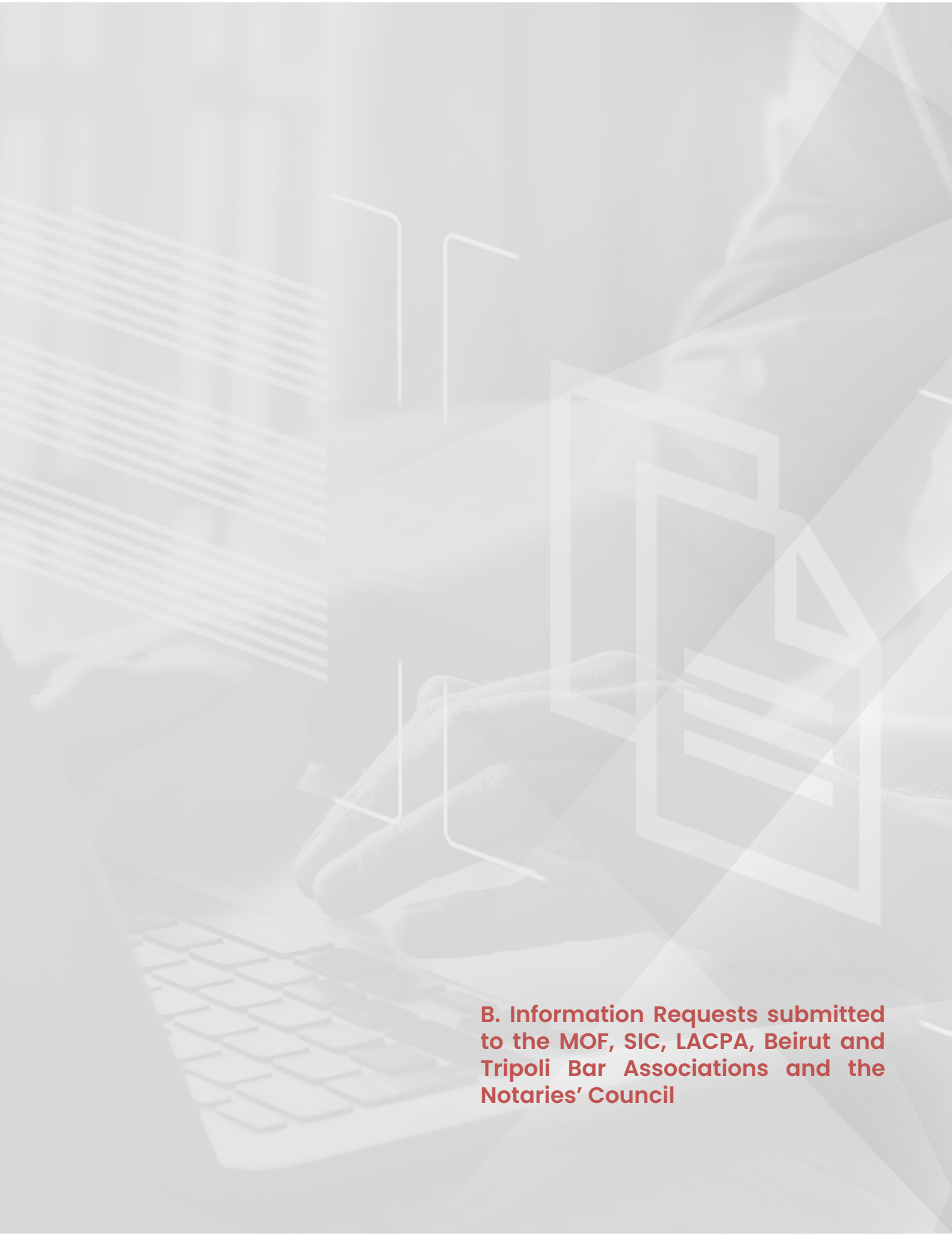
	Does the law require financial institutions to conduct enhanced due diligence in cases where the customer or the Beneficial Owner is a PEP or a family member or close associate of a PEP?	**4: Yes, financial institutions are required to conduct enhanced due diligence in cases where their client is a foreign or a domestic PEP, or a family member or close associate of a PEP.**	**4**
		2: Yes, but the law does not cover both foreign and domestic PEPs, and their close family and associates.	
		0: No, there is no requirement for enhanced due diligence in the case of PEPs and associates.	
	Does the law allow financial institutions to proceed with a business transaction if the Beneficial Owner has not been identified?	**4: No, financial institutions are not allowed to proceed with the transaction if the Beneficial Owner has not been identified.**	**4**
		0: Yes, financial institutions may proceed with business transactions regardless of whether or not the Beneficial Owner has been identified.	
	Does the law require financial institutions to submit suspicious transaction reports if the Beneficial Owner cannot be identified?	**4: Yes.**	**4**
		2: Only if there is enough evidence of wrongdoing.	
		0: No.	
	Do financial institutions have access to Beneficial Ownership information collected by the government?	4: Yes, online for free through, for instance, a Beneficial Ownership register.	**0**
		3: Online, upon registration.	
		2: Online, upon registration and payment of the fee.	
		1: Upon request or in person.	
		0: There is no access to Beneficial Ownership information collected by the government.	
	Does the law allow the application of sanctions to financial institutions' directors and senior management?	**4: Yes, the law envisages sanctions for both legal entities and senior management.**	**4**
		0: No, senior management cannot be held responsible or there is no criminal liability for legal entities.	
2. DNFBPs	Are TCSPs required by law to identify the Beneficial Owner of the customers?	**4: Yes, TCSPs are required by law to identify the Beneficial Owner of their customer when performing transactions on behalf of their clients.**	**4**
		2: TCSPs are partially covered by the law.	
		0: No, TCSPs are not covered by the law and do not have anti-money laundering obligations.	
	Are lawyers, when carrying out certain transactions on behalf of clients (e.g. management of assets), required by law to identify the Beneficial Owner of the customers?	**4: Yes, lawyers are required by law to identify the Beneficial Owner of their customer when performing transactions on behalf of their clients.**	**4**
		0: No, lawyers are not covered by the law and do not have anti-money laundering obligations.	
	Are accountants required by law to identify the Beneficial Owner of the customers?	**4: Yes, accountants are required by law to identify the Beneficial Owner of their customers when performing transactions on behalf of their clients.**	**4**
		0: No, accountants are not covered by the law and do not have anti-money laundering obligations.	
	Are real estate agents required by law to identify the Beneficial Owner of the customers?	**4: Yes, real estate agents are required to identify the Beneficial Owner of their clients buying or selling property.**	**4**
		2: Real estate agents are partially covered by the law.	
		0: No, real estate agents are not covered by the law and do not have anti-money laundering obligations.	
	Are casinos required by law to identify the Beneficial Owners of the customers?	**4: Yes, casinos are required by law to identify the Beneficial Owners of their customers, or casinos are prohibited by law.**	**4**
		0: No, casinos are not covered by the law and do not have anti-money laundering obligations.	
	Are dealers in precious metals and stones required by law to identify the Beneficial Owner of the customers?	**4: Yes, dealers in precious metals and stones are required to identify the Beneficial Owner of clients in all transactions or in transactions above a certain threshold.**	**4**
		0: No, dealers in precious metals and stones are not covered by the law and do not have anti-money laundering obligations.	

	Are dealers in luxury goods required by law to identify the Beneficial Owner of the customers?	**4: Yes, dealers in luxury goods are required to identify the Beneficial Owner of their customer.** 0: No, dealers in luxury goods are not covered by the law and do not have anti-money laundering obligations.	**4**
	Does the law require relevant DNFBPs to also verify the identity of Beneficial Owners identified?	**4: Yes, the identity of the Beneficial Owner should always be verified through, for instance, a valid document containing a photo, an in-person meeting, or other mechanisms.** 0: No, there is no requirement to verify the identity of the Beneficial Owner.	**4**
	Does the law require DNFBPs to conduct independent verification of the information on the identity of the Beneficial Owner(s) provided by clients?	**4: Yes, independent verification is always required or required in cases considered as high-risk (higher-risk business relationships, cash transactions above a certain threshold, foreign business relationships).** 0: No, there is no legal requirement to conduct independent verification of the information provided by clients.	**4**
	Does the law require enhanced due diligence by DNFBPs in cases where the customer or the Beneficial Owner is a PEP or a family member or close associate of the PEP?	4: Yes, DNFBPs are required to conduct enhanced due diligence in cases where their client is a foreign or a domestic PEP, or a family member or close associate of a PEP. 2: Yes, but the law does not cover both foreign and domestic PEPs and their close family and associates. **0: No, there is no requirement for enhanced due diligence in the case of PEPs and their associates.**	**0**
	Does the law allow DNFBPs to proceed with a business transaction if the Beneficial Owner has not been identified?	4: No, a business transaction may only proceed if the Beneficial Owner of the client has been identified. 0: Yes, relevant DNFBPs are allowed to proceed with a business transaction regardless of whether or not the Beneficial Ownership has been identified.	**0**
	Does the law require DNFBPs to submit a suspicious transaction report if the Beneficial Owner cannot be identified?	4: Yes, the law establishes that relevant DNFBPs have to submit a suspicious transaction report if they cannot identify the Beneficial Owner of their clients. 2: The law establishes that suspicious transaction reports should be submitted only if there is enough evidence of wrongdoing. **0: No, the law doesn't require DNFBPs to submit a suspicious transaction report if the Beneficial Owner cannot be identified.** **wnership has been identified.**	**0**
	Does the law allow the application of sanctions to DNFBPs' directors and senior management?	**4: Yes, the law envisages sanctions for both legal entities and senior management.** 0: No, senior management cannot be held responsible or there is no criminal liability for legal entities.	**4**
Domestic and International Cooperation	Does the law impose any restriction on information sharing (e.g. confidential information) across in-country authorities?	4: No, there are no restrictions in place. 2: There are some restrictions on sharing information across in-country authorities. **0: Yes, there are significant restrictions on sharing information across in-country authorities.**	**0**
	How is information on Beneficial Ownership held by domestic authorities shared with other authorities in the country?	4: Information on Beneficial Ownership is shared through a centralized database, such as a Beneficial Ownership register. 3: There are several online databases managed by different authorities that contain relevant Beneficial Ownership information (e.g., company register, tax register, etc.) that can be accessed. 2: Domestic authorities can access Beneficial Ownership information through written requests or memoranda of understanding. 1: Domestic authorities may only access Beneficial Ownership information maintained by another authority if there is a court order. **0: Information on Beneficial Ownership is not shared.**	**0**

	Are there clear procedural requirements for a foreign jurisdiction to request Beneficial Ownership information?	**4: Yes, information on how to proceed with a request for accessing Beneficial Ownership information is made available through, for instance, the domestic authority's website or guidelines.**	**4**
		0: No, information on how to proceed with a request is not easily available.	
	Does the law allow competent authorities in your country to use their powers and investigative techniques to respond to a request from foreign judicial or law enforcement authorities?	**4: Yes, domestic authorities may use their investigative powers to respond to foreign requests.**	**4**
		0: No, the law does not allow domestic competent authorities to act on behalf of foreign authorities.	
	Does the law in your country restrict the provision or exchange of information or assistance with foreign authorities (e.g. it is impossible to share information related to fiscal matters; restrictions related to bank secrecy; restrictions related to the nature or status of the requesting counterpart, among others)?	4: No, the law does not impose any restrictions.	**2**
		2: Some restrictions hamper the timely exchange of information.	
		0: Yes, there are significant restrictions in the law.	
	Do foreign competent authorities have access to Beneficial Ownership information maintained by domestic authorities?	4: Yes, online for free through, for instance, a Beneficial Ownership register.	**1**
		3: Yes, online upon registration.	
		2: Yes, online upon the payment of a fee and registration.	
		1: Beneficial Ownership information can be accessed only upon motivated request.	
		0: No.	
Tax Authorities	Do tax authorities have access to Beneficial Ownership information maintained by domestic authorities?	4: Yes, online for free through, for instance, a Beneficial Ownership register.	**N/A**
		3: Yes, online upon registration.	
		2: Yes, online upon the payment of a fee and registration.	
		1: Beneficial Ownership information can be accessed only upon motivated request.	
		0: No.	
	Does the law impose any restriction on sharing Beneficial Ownership information with domestic tax authorities (e.g. confidential information)?	**4: No, the law does not impose restrictions.**	**4**
		2: The law does not impose significant restrictions, but the exchange of information is still limited or cumbersome.	
		0: Yes, there are significant restrictions in place.	
	Is there a mechanism to facilitate the exchange of information between tax authorities and foreign counterparts?	4: Yes. The country is a member of the OECD tax information exchange and has signed tax information exchange agreements with several countries.	**2**
		2: There is a mechanism available, but improvements are needed.	
		0: No.	

Bearer Shares and Nominee Shareholder	Does the law allow the use of bearer shares in your country?	**4: No, bearer shares are prohibited by law.**	**4**
		0: Yes, bearer shares are allowed by law.	
	If the use of bearer shares is allowed, is there any other measure in place to prevent them from being misused?	**2: Yes, bearer shares must be converted into registered shares or share warrants (dematerialization) or bearer shares have to be held with a regulated financial institution or professional intermediary (immobilization).**	**2**
		1: Bearer shareholders have to notify the company and the company is obliged to record their identity or there are other preventive measures in place.	
		0: No, there are no measures in place.	
	Does the law allow the incorporation of companies using nominee shareholders and directors?	4: No, nominee shareholders and directors are not allowed.	**0**
		0: Yes, nominee shareholders and directors are allowed.	
	Does the law require nominee shareholders and directors to disclose, upon registering the company, the identity of the Beneficial Owner?	**2: Yes, nominees need to disclose the identity of the Beneficial Owner.**	**2**
		0: No, nominees do not need to disclose the identity of the Beneficial Owner, or nominees are not allowed.	
	Does the law require professional nominees to be licensed?	**0.5: Yes, professional nominees need to be licensed.**	**0.5**
		0: No, professional nominees do not need to be licensed.	
	Does the law require professional nominees to keep records of the person who nominated them?	**0.5: Yes, professional nominees need to keep records of their clients for a certain period of time.**	**0.5**
		0: No, professional nominees do not need to keep records.	

Total Questions	**57**	**Total score**	**217**	**131**
		Percentage	**60.36%**	
		Grade	**Average**	



B. Information Requests submitted to the MOF, SIC, LACPA, Beirut and Tripoli Bar Associations and the Notaries' Council

B. Information Requests submitted to the MOF, SIC, LACPA, Beirut and Tripoli Bar Associations and the Notaries' Council

To stand on the practical implementation of the Lebanese Beneficial Ownership legal framework, six Information Requests were submitted (Annex I), in accordance with Law No. 28/2017 the Right to Access Information Law through Registered Mail on March 30, 2021 (Annex II) to the MOF, SIC, LACPA, Beirut and Tripoli Bar Associations and the Public Notaries Council. Knowing that before sending out the Registered Mail, the same Information Requests were submitted to the same entities by e-mail....

The Information Requests included questions that varied around the legal obligations of the above-mentioned entities, especially the legal obligations outlined in Law No. 44/2015; AML/CFT. However, despite several follow-ups with these entities, while some of them expressed interest in cooperating with us on the topic, only the SIC and Public Notaries Council provided an answer in reply to the Information Request.

Below are the questions submitted per entity, in addition to presenting and discussing the SIC and Public Notaries Council answers, and what a "no-answer" can mean in terms of the effectiveness of the Beneficial Ownership Regime in Lebanon.

Ministry of Finance General Directorate:

1.Does the Tax Department have a special registry dedicated to Beneficial Ownership Declarations that includes the information collected through the M-18 "ا٨-م" Template adopted in Decision No. 2045/2018?

2.Is this registry electronic or paper-based?

3.How many are the natural persons who declared Beneficial Ownership information from the date of issuance of Decision No. 2045/2018 and the issuance of Decision No. 430/2019? How many are the Declarations after the issuance of Decision No. 430/2019 till the date of receiving this Letter?

4.Are there any training programs for units specialized in auditing at the Tax Department on verifying the commitment of taxpayers with their Beneficial Ownership related obligations, in accordance with Article 7 of the Minister of Finance Decision No. 1472/2018?

5.What is the list of information categorized as "non-banking information" related to Beneficial Owners that the Tax Department can cooperate with the SIC to have, in accordance with Article 8 of the Minister of Finance Decision No. 1472/2018, in conjunction with "Sixth 2-b" of Law No. 55/2016, Exchange of Information for Tax Purposes Law?

Special Investigation Commission:

1.Is there a regulation outlining the mechanism of how to submit a report to the SIC? What is this regulation?

2.Did the SIC receive, directly or indirectly, any report related to Beneficial Owners? If yes how many are these reports? Who are the entities that submitted these reports (MOF, Certified Public Accountants, Public Notaries, Lawyers..)? And what measures have been adopted based on these reports?

3.Does the SIC have a list of Customer Due Diligence measures that taxpayers, CPAs, Public Notaries, and Lawyers have to apply? If yes, what is this list?

4.What is the List of information categorized as "non-banking information" related to Beneficial Owners that the Tax Department can cooperate with the SIC to have, in accordance with Article 8 of the Minister of Finance Decision No. 1472/2018, in conjunction with "Sixth 2-b" of Law No. 55/2016, Exchange of Information for Tax Purposes Law?

Lebanese Association for Certified Public Accountants:

1.Did the Association adopt any Procedures for Certified Public Accountants to follow when applying their obligations when declaring Beneficial Ownership information?

2.If yes, what are these Procedures? (Ex: Customer Due Diligence)

3.Did the Association provide the MOF with any documents it adopted, or knew of in accordance with Article 5 of the Minister of Finance Decision No. 1472/2018? If yes, how many are these documents, and what is their subject?

4.Did the Association submit any reports/complaints before the SIC relating to suspicions around the identity of the real Beneficial Owners? If yes, how many complaints?

5.Does the Association have any knowledge of reports/complaints submitted by Certified Public Accountants to the SIC relating to suspicions around the identity of the real Beneficial Owners? If yes, how many complaints?

Beirut and Tripoli Bar Associations:

1.Did the Association adopt the Procedures for applying the obligations outlined in Article 5 of Law No. 44/2015; AML/CFT?

2.If yes, what are these Procedures?

Public Notaries' Council:

1.Did the Public Notaries Council adopt any Procedures for Public Notaries to follow when applying the obligations outlined in Article 4 of Law No. 44/2015, in accordance with Article 5 of the same law?

2.If yes, what are these Procedures? (Ex: Customer Due Diligence) Kindly provide us with a copy of the Procedures.

3.Does the Public Notaries Council have any knowledge of Public Notaries providing the MOF with any documents adopted before them or they know of, in

accordance with Article 5 of the Minister of Finance Decision No. 1472/2018? If yes, how many are these documents, and what is their subject?

4. Did the Public Notaries Council submit any report/complaint before the SIC relating to suspicions around the identity of the real Beneficial Owners? If yes, how many complaints?

5. Does the Public Notaries Council have any knowledge of reports/complaints submitted by Public Notaries to the SIC relating to suspicions around the identity of the real Beneficial Owners? If yes, how many complaints?

Almost four months after we submitted the Information Request to the SIC, its Chairperson replied to our request (Annex III) answering the questions outlined above. However, answers were vague and referred us to the SIC's website and its annual reports, which we have reviewed before and does not include the information we requested.

The SIC's Chairperson provided the following answer per question:

1-The "Special Investigation Commission", hereinafter, the "Commission", has adopted Circular No. 23 on November 6, 2017, which is directed to all entities obliged to report, including the following:

- The followed procedures and the template to be filled by banks, financial institutions, and other institutions that are obliged to report in accordance with Article 4 of Law No. 44/2015.

- The followed procedures and the template to be filled by institutions and concerned entities in accordance with Article 5 of Law No. 44/2015 (including but not limited to: insurance companies, CPAs, Public Notaries, and lawyers).

2- Information on the Beneficial Owner is an important component of most reports received by the "Commission". The annual reports of the "Commission" published on its website (ww.sic.gov.lb) can be reviewed for details on the classification of the incoming cases according to the nature of the crimes and according to the reporting body.

It is also worth noting that the "Commission" in general takes many decisions regarding the issues it deals with, which vary according to the merits of each case. These decisions may include:

- ***Freezing accounts/operations and referring cases to the Cassation Public Prosecutor.***

- ***Providing information to local entities including those concerned with law enforcement.***

- ***Requesting the Property Registry to mark certain properties.***

- ***Exchange of information with other Financial Intelligence Units.***

- ***Requesting the reporting entities to refrain from performing some operations.***

- ***Requesting banks to put accounts under review.***

- ***Requesting reporting entities to carry out enhanced due diligence for some accounts.***

3-The required due diligence procedures are referred to in each of:

- Article 4 of Law No. 44/2015.

- The "Commission's" Circulars No. 21 on September 9, 2016, and No. 24 on June 14, 2018 addressed to the persons and entities referred to in Article 5 of Law No. 44/2015.

Knowing that the "Commission" has issued to these entities a Guideline on Beneficial Owners of legal persons and trusts (review the website of the "Commission" www.sic.gov.lb).

4-The provisions of Article 9 of Law No. 44/2015 allow the "Commission" to directly contact all Lebanese or foreign authorities in order to request information on matters related to or connected to investigations they are conducting. The concerned Lebanese authorities must respond to the information request immediately to the "Commission" disregarding any secrecy obligations.

Accordingly, this information can be non-banking information related to Beneficial Ownership".

The Public Notaries Council on the other hand also provided an answer to the Information Request submitted to them, however, there was no detailed written answer. The President of the Public Notaries Council only provided us with a copy of Law No. 272/2014, Establishing the Public Notaries Council Law, to showcase that the Council does not have any jurisdiction or competence to adopt any Procedures for Public Notaries to fulfill their Beneficial Ownership related obligations, nor does it have the competence to have the knowledge of any Beneficial Ownership documents adopted before a Notary, and it does not have the competence to submit report/ complaint before the SIC, nor the competence to have the knowledge of any Beneficial Ownership related report/ complaints submitted by Public Notaries to the SIC.

It is true that the Public Notaries Council has no explicit competence in its establishing law to interfere in the Beneficial Ownership mechanism; however, Article 10 of the mentioned law outlines the jurisdiction of the Public Council's Office headed by the Council's President as follows:

"The Council's Office works towards patronaging the Public Notaries affairs and ensuring the proper performance of their duties and to enhance the role of their profession, especially: ...

9.Organizing trainings for Public Notaries...

11.Permanent coordination with the various state agencies in everything related to the affairs of the profession and providing advice if requested...".

The chapeau clause of this Article clearly states that the Council's Office is responsible for ensuring the proper performance of the Public Notaries' duties, which includes those outlined in Articles 4 and 5 of the AML/CFT Law related to identifying and verifying Beneficial Ownership information. Using the word "especially" means that the Council's jurisdiction includes, but is not limited to, the list of activities that follows. This means that the Council is not limited

by what is stated in this Article, but can also perform other activities, as long as they serve the objective stated in the Article and do not contradict with other laws. To make the Public Notaries work more effective and efficient, the Council can, for example, establish a central database/registry for Public Notaries that includes all Beneficial Ownership information related to documents adopted before them, and then the Council can establish a Specialized Public Notaries Committee to review this database periodically looking for Red Flags that requires more auditing and investigation by a specialized entity such as the SIC.

Also, Paragraph 9 provides that the Council can organize trainings for Public Notaries which can include trainings on how to identify and verify Beneficial Ownership information, in addition to trainings on Beneficial Ownership Red Flags to help Public Notaries review documents adopted before them in accordance with their legal obligations.

Paragraph 11 of the same Article adds that the Council should have permanent cooperation with all governmental agencies on what is related to the Public Notaries professional affairs. This includes cooperation with the SIC and the MOF on identifying and verifying Beneficial Owners, in addition to providing reports and filing complaints when Beneficial Ownership Red Flags arise. In fact, this paragraph can complement the proposition under the Article's chapeau if a central database is ever created.

There's no doubt that an explicit legal provision that outlines the Council's duties regarding Beneficial Ownership is a need, considering the current implementation of the Beneficial Ownership Regime. There's a need to strengthen the legal framework to be able to have a more effective and efficient regime, which is why the Law Establishing the Public Notaries Council must be amended to explicitly include a comprehensive role of the Council when it comes to implementing laws by the Council and/or its members; the Public Notaries.

As for the other Information Requests, no answer was received. This poses a huge challenge on two levels, 1) the lack of implementation of the Right to Access Information Law, and 2) the lack of implementation of the Beneficial Ownership Regime.

If these entities are not ready to provide general information of how they apply the Beneficial Ownership related-obligations, it can only mean two things: 1) either they are not applying the relevant laws and regulations, or 2) they are improperly applying the relevant laws and regulations and the information requested can show gaps that undermine the effective and efficient implementation of it. In both cases, there's a need to publish the information requested, in accordance with the Right to Access Information Law for the public and specialized stakeholders to be able to assess the relevant laws and regulations properly and make sure that gaps are mitigated legally and practically.

Conclusions and Recommendations

Conclusions

As provided throughout this paper, Beneficial Ownership is an interrelated dimension that cuts across the different sectors; whether public or private. It is an integral part of having an effective and efficient governance system that does not get undermined by corrupt individuals who seek to abuse legal gaps and loopholes.

It is clear that Beneficial Ownership could be used for laundering money or financing terrorism or monopolizing economic sectors. Beneficial Ownership information on the other hand could be used for drafting informed policies that could push for more competition in the markets and limit and prevent money laundering and terrorism financing. However, having Beneficial Ownership Information declared by the required entities does not mean that this information is true.

Competent authorities must identify Beneficial Owners by verifying the information declared. However, verification of Beneficial Ownership information is a consistent vulnerability that should involve:

- Authentication; by making sure that the Beneficial Owner is the same person as they say,

- Authorization; by ensuring that the Beneficial Owner intends to be involved in the legal vehicle, and

- Validation; by preventing mistakes and deliberate falsehoods.

In this case, a Red Flags system can play a major role in identifying fraud or abuse to hide the identity of the Beneficial Owner.

On the other hand, sanctions may be necessary to incentivize compliance. The most common sanctions involve economic penalties, but these may be too soft to change behavior. Another way to encourage compliance involves the withdrawal of the rights that the legal vehicle was intended to confer or even to de-register any legal vehicle that has failed to provide information or that has filed wrong information; in addition, shareholders and directors may be held as well jointly and severally liable with the company.

Solutions related to technical barriers should be addressed in-depth for better accessibility to Beneficial Ownership information. The value of a National Central Public Register for Beneficial Ownership Information should be of special concern to that end. It should consist of a database of assets encompassing companies, properties, valuable goods, intangible assets, bank accounts, crypto-assets, and alike (including records within the Ministry of Finance, and documents from the Traffic, Trucks, and Vehicles Management Authority for example). Hiding and laundering illicit and unreported funds and assets would become much more difficult, as such register allows competent authorities to timely access such information from a single source.

In addition, Journalists, CSOs, and other stakeholders could use the information available in the National Central Public Register for Beneficial Ownership Information in their work and push for

better implementation of the Beneficial Ownership legal framework and/or reforming it. For instance, through this process, they will be able to uncover and identify the identities of those working with the government to be able to stand on any facts that could lead to the uncovering of a corruption crime in the public sector, conflict of interest, undue influence, etc. This relates not only to have an effective and efficient Beneficial Ownership regime, but also to the Right to Know which is a constitutional and fundamental human right for the people.

Beneficial Ownership could also help in developing the tax regime. By receiving and analyzing Beneficial Ownership information, competent authorities will be able to limit and prevent tax evasion by linking money flows to the actual beneficiaries. This could happen through linking Tax Identification Numbers with bank accounts' numbers and names of accounts' holders, which will give competent authorities more resources to verify the declared information by those who are obliged to, through comparing the received information and see if any Red Flags arise which will then require enhanced due diligence measures by these authorities.

The implementation of such actions will require adopting several measures, including the harmonization of the Banking Secrecy Law with the ability of competent authorities to access limited banking information and training competent authorities' personnel involved in the verification and identification process of Beneficial Ownership information on updated mechanisms for AML/CTF. In addition, CPAs, Public Notaries, and lawyers, as seen throughout this paper, play a major role in the compliance of individuals to the Beneficial Ownership Regime, which is why legal requirements must be adopted for them to pursue their obligations to be able to fulfill their responsibility, especially for lawyers who must abide with Beneficial Ownership requirements and their profession's regulations.

As for Public Notaries, considering the role they play in certifying and authenticating different kinds of transactions, and as per the reply received from the Public Notaries Council, the law regulating their profession must also be harmonized with the nature and requirements of having an effective and efficient Beneficial Ownership regime.

Beneficial Ownership information is also important in public procurement, not only to limit and prevent corruption crimes but also for planning and creating short, mid, and long-term policies to ensure the sustainable development of the public sector; knowing that such information can also be used by competition authorities, however, there's no such authority in Lebanon nor a law regulating competition.

Recommendations

Based on what was provided throughout this paper, the below recommendations are directed to the Lebanese government competent authorities to adopt in order to ensure the Lebanese Beneficial Ownership Regime is well implemented effectively and efficiently.

Recommendations to the Lebanese Parliament:

1. Adopting a regulation establishing a Public Beneficial Ownership Register with effective and efficient identification and verification processes.

2. Amending Articles 2 and 5 of the Banking Secrecy Law to explicitly mention the obligation of Customers to waive their right to banking secrecy to the Tax Department; including only accounts holders' names, numbers, debit and credit of the accounts at the end of the fiscal year.

3. Amending Law No. 272/2014; Establishing the Public Notaries Council, to include explicit jurisdiction of the Council to ensure the proper implementation of the Public Notaries to their legal obligations by stating the laws that the Council can oversee their implementation, including but not limited to, Law No. 44/2015; AML/CFT.

4. Amending the new Public Procurement Law to include an explicit Article obliging all private parties involved in public procurement contracts to declare their Beneficial Owners' information to the Public Procurement Authority. In addition, to include in the Article, the establishment of a Public Beneficial Ownership Register under the Public Procurement Authority that includes all the information declared by the private parties.

Recommendation to the Ministry of Finance:

1. Providing effective and efficient trainings on Beneficial Owners identification and verification processes by the MOF to the Tax Department personnel involved in the auditing processes.

Recommendation to the Central Bank of Lebanon (BdL):

1. Issuing a Circular from the BdL directing banks to add to their current and new contracts with Customers a provision waiving their right to banking secrecy to the Tax Department, including only accounts' holders names, numbers, debit and credit of the accounts at the end of the fiscal year.

Recommendation to the Beirut and Tripoli Bar Associations:

1. Adopting and publishing the Procedural Aspects on how to apply the obligations outlined in Article 5 of the AML/CFT Law No. 44/2015 for Lawyers by the Beirut and Tripoli Bar Associations.

Recommendation to the Public Notaries Council:

1. Establishing a central database by the Public Notaries Council in cooperation with the SIC that includes all Beneficial Ownership related information collected from documents adopted before Public Notaries.

This Paper is supported by the Center for International Private Enterprise (CIPE).


THE LEBANESE
TRANSPARENCY
ASSOCIATION
NO CORRUPTION
TRANSPARENCY
INTERNATIONAL
the global coalition against corruption
CIPE
CENTER FOR INTERNATIONAL
PRIVATE ENTERPRISE