

STEP Consultation Response: Revision of Recommendation 25

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We take a leading role in explaining our members' views and expertise to governments, tax authorities, regulators and the public. We work with governments and regulatory authorities to examine the likely impact of any proposed changes, providing technical advice and support and responding to consultations.

Purpose of the Paper

In this paper, STEP responds to the Financial Action Task Force's (FATF) consultation on its review of Recommendation 25 on the transparency and beneficial ownership of legal arrangements.¹

I. Scope of Legal Arrangements, risk assessment and foreign trusts

1. In this context, are the following concepts sufficiently clear? If not, how could they be improved?

a. 'governed under their law'

We have two key points with the question of linking a trust to the jurisdiction of its governing law.

The first is that a trust may quite properly be administered in such a way that it has little or no connection with the jurisdiction which is the governing law of the trust (see below).

¹Revision of Recommendation 25 - White Paper for Public Consultation, <https://www.fatf-gafi.org/publications/fatfrecommendations/documents/r25-public-consultation.html>

The second is that, although the majority of trust deeds will expressly state what law should be the governing law of the trust, this is not the case with all trusts and it may be necessary to consider various different factors to determine what law will govern the trust, potentially giving rise to complexity and confusion.

For both these reasons we would not recommend that the jurisdiction of the governing law of the trust be treated as a relevant jurisdiction for the purposes of determining what jurisdictions anti-money laundering (AML) rules should apply to a trust.

On the first point we note that a trust may be administered in such a way that it has little or no connection with the jurisdiction which is the governing law of the trust. Trusts are very 'portable' as it is possible to move the trust from one jurisdiction to another by removing the trustee in jurisdiction A and appointing a trustee in jurisdiction B. It is not necessary to change the governing law of the trust to achieve this objective and it is often the case that no steps are taken to do so. Going forwards the trustee in jurisdiction B will be responsible for any tax or reporting obligations in jurisdiction B and, if the only connection with jurisdiction A is that the governing law of the trust is the law of jurisdiction A, will no longer have any tax or reporting obligations in jurisdiction A.

The European Union (EU) AML Directives moved away from the governing law of the trust as a relevant connecting factor to the place of administration of the trust. Article 31(1) of 4AMLD (*Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC*) stated that 'Member States shall require that trustees of an express trust governed under their law obtain and hold adequate, accurate and up-to-date information on beneficial ownership regarding the trust'. Following representations made that this was not an appropriate connection with the relevant jurisdiction this was changed in Article 31(1) of 5AMLD (*Directive (EU) 2018/843 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU*) to read 'each Member State shall require the trustees of any express trust administered in that Member State obtain and hold adequate, accurate and up-to-date information on beneficial ownership regarding the trust'.

The Hague Convention on the Recognition of Trusts acknowledges the complexity in identifying the governing law of a trust where one is not expressly stated or implied in the trust deed. Article 6 states that the applicable governing law of the trust is that expressed or implied in the trust deed, interpreted, if necessary, in the light of the circumstances of the case. If no such appropriate law has been chosen, (Article 7) a trust will be governed by the law with which the trust is most closely connected, looking at, in particular (a) the place of administration of the trust designated by the settlor; (b)

the situs of the assets of the trust; (c) the place of residence or business of the trustee; (d) the objects of the trust and the places where they are to be fulfilled.

The above concerns expressed appear to be consistent with the current FATF *Guidance on Transparency and Beneficial Ownership*² which states at paragraph 62 'This means that if a trust is created under the law of one country, but the trust is administered (and the trustee and trust assets are located) in a different country, the latter is likely to have more contact with the trust and its assets, as well as persons or entities involved in the trust. Therefore, that country should be the country responsible for the trust and implement appropriate sanctions as necessary'.

b. 'administered in the jurisdiction'

We consider that a trust will have a connection with a jurisdiction in which the trustee carries out the administration of the trust either by the trustee itself or through a permanent establishment or dependent agent of the trust. In order to determine whether a trust is 'administered in the jurisdiction' consideration will need to be given as to what the trustee actually does in the jurisdiction. In looking at this it is necessary to separate out what are 'core activities' of a trustee and activities which are merely 'auxiliary' or 'preparatory', it is the former which should be treated as trust administration. The following could be considered as the core activities of the trustee:

- The general administration of the trust.
- The over-arching investment strategy.
- Monitoring the performance of those investments.
- Decisions on how trust income will be dealt with and whether distributions should be made.
- Accounting, making tax returns and record-keeping.

Activities which are likely to be regarded as merely preparatory or auxiliary will include information gathering meetings, including meetings with independent agents or beneficiaries.

Activities carried on by an independent agent of the trustee (e.g. where the trustee appoints on arms' length terms an independent investment manager to advise or manage the trust investments or an accounting firm to prepare trust accounts) should not result in the administration of the trust being treated as carried out in the jurisdiction in which the independent agent carries out such activities for the purpose of these rules. We note in this regard that in entering into a business relationship with such an

²FATF Guidance on Transparency and Beneficial Ownership, <https://www.fatf-gafi.org/documents/news/transparency-and-beneficial-ownership.html>

independent agent, FATF recommend that the trustee is required to disclose its status as a trustee and the service provider (generally trust and company service providers (TCSPs), lawyers, accountants and financial institutions) are required to carry out customer due diligence (CDD) and understand their CDD obligations with respect to beneficial ownership, and are subject to AML/ combating the financing of terrorism (CTF) supervision, in line with Recommendation 10.

c. 'trustee residing in the jurisdiction'

We note that the Common Reporting Standard (CRS) refers to 'jurisdiction of residence of' a person and suggest that this is similarly defined as 'the jurisdiction of residence of the trustee' rather than the 'trustee residing in the jurisdiction'.

d. 'similar legal arrangements' (as compared with express trust).

We note that it is proposed to refer back to the definition of trust contained in Article 1 of the Hague Convention on the Recognition of Trusts:

'For the purposes of this Convention, the term 'trust' refers to the legal relationships created, inter vivos or on death, by a person, the settlor, when assets have been placed under the control of a trustee for the benefit of a beneficiary or for a specified purpose.

A trust has the following characteristics:

- a) The assets constitute a separate fund and are not a part of the trustee's own estate;
- b) title to the trust assets stands in the name of the trustee or in the name of another person on behalf of the trustee;
- c) the trustee has the power and the duty, in respect of which he is accountable, to manage, employ or dispose of the assets in accordance with the terms of the trust and the special duties imposed upon him by law.

The reservation by the settlor of certain rights and powers, and the fact that the trustee may himself have rights as a beneficiary, are not necessarily inconsistent with the existence of a trust.'

2. What could be the pros and cons associated with the new suggested risk assessment? What could be the potential 'sufficient links' for foreign-created legal arrangements (e.g. residence of trustee, location of asset etc.) for the purpose of risk assessment?

A trust (or similar legal arrangement) may have a number of connecting factors with a particular jurisdiction:

- I. The trust is tax resident in the jurisdiction.
- II. The trustee(s) is (are) resident in the jurisdiction.
- III. The administration of the trust is carried on in the jurisdiction either by the trustee or through a permanent establishment or dependent agent of the trustee.
- IV. The trust acquires a direct interest in real estate investments in the jurisdiction.
- V. The trust is carrying on a business in the jurisdiction.
- VI. The trust acquires a direct interest in private non-real estate investments in the jurisdiction.
- VII. The trust acquires a direct interest in public investments in the jurisdiction.
- VIII. The trust enters into a business relationship with an obliged entity.

As noted in the FATF paper, FATF suggests that countries should apply measures to understand the risk posed by trusts and similar legal arrangements governed under their law or which are administered in their jurisdictions or whose trustees are residing in their jurisdictions, and to take appropriate steps to manage and mitigate these risks.

For the reasons outlined above it is suggested that this is amended so that countries should apply measures appropriate to the risk posed by trusts and similar legal arrangements which are tax resident in their jurisdiction, whose trustees are resident in their jurisdiction or where the trust administration is carried out in their jurisdiction by the trustee or through a permanent establishment or dependent agent in their jurisdiction.

A risk based approach should be taken to other connections with the relevant jurisdiction and guidance should be provided in relation to this. The disadvantages of requiring jurisdictions to take into account many connecting factors is that it potentially places an unnecessary burden on jurisdictions to obtain information about trusts which do not necessarily have any meaningful or long term connection with the jurisdiction. We note that in relation to the above list the relevant jurisdiction may have access to information through a number of mechanisms:

- I. Where a trust is tax resident in the jurisdiction the tax authorities will be the most extensive source of information on the ownership and control of the trust and the assets held by the trust.
- II. Where the trust holds assets in the jurisdiction or carries on a business in the jurisdiction, tax authorities may have information about the ownership and

control of the trust but they will only hold information if the trust generates tax liabilities in the jurisdiction.

- III. Where the trust holds real estate or shares in companies in the jurisdiction, information is likely to be collected and disclosed about the trust on land a corporate registers in the jurisdiction.
- IV. Where the trustee enters into a business relationship with an obliged person in the jurisdiction, the trustee will be required to disclose that it is acting as a trustee and the obliged person (e.g. TCSPs, lawyers, accountants and financial institutions) are obliged to carry out CDD and understand their CDD obligations with respect to beneficial ownership, and are subject to AML/TF supervision.

3. Are there any other considerations with respect to scope of legal arrangements or risks posed by legal arrangements that FATF should factor into its review of Recommendation 25?

While STEP wholly supports the work of FATF to prevent the misuse of legal arrangements for money laundering or terrorist financing, it should be recognised that trusts and legal arrangements similar to trusts are very different entities and are often used for very different purposes than companies.

II. Obligations of trustees under Recommendation 25

4. What are the pros and cons of expanding the extent of information which trustees should hold to include the objects of power in the context of discretionary trusts? Is the concept of ‘objects of power’ sufficiently clear and reasonable? Are there any other terms that you would recommend FATF use instead of ‘objects of power’?

The term ‘object of a power’ can be used where it is clear what power is being considered. It is typically used in the context of a discretionary trust to describe someone in whose favour or for whose benefit the trustees may exercise their powers to apply capital or income of the trust. Generally speaking in the absence of any information that the trust may present a higher ML/TF risk the following principles should apply to avoid placing an unnecessary burden on trustees to obtain information about individuals who, although potential objects of a power, are not intended to, and may never in fact, benefit from the trust.

In a simple straightforward discretionary trust, the class of beneficiaries will include A and the children of A. The trustee should obtain and hold information about A and A’s children so that the trustee knows who is included in the class of beneficiaries. The trustee will often obtain proof of identity with respect to A and A’s adult children.

The class of beneficiaries may, however, be much wider and (by way of example) include all the employees of company X. In this case, the trustee should obtain and hold information about such of the employees who have received a benefit or are likely to do so (the should not be required to obtain information about every person who may be an employee of the company if, in practice, there are a large number of them and it is not anticipated that they will all benefit).

There may be more than one class of beneficiaries: for example the discretionary trust is held for the primary benefit of A and A's children. On the death of A and A's children, A's grandchildren become discretionary beneficiaries. Although the trustee will know that the grandchildren will benefit on the death of all of A and A's children, they should not be obliged to obtain and hold information about such grandchildren unless or until they become beneficiaries (i.e. on the death of the survivor of A and A's children).

Similarly where a person who only becomes a discretionary beneficiary on the happening of a particular event or satisfying a particular contingency e.g. on attaining a certain age, the trustee should only be obliged to obtain and hold information about that person until such person becomes a beneficiary on the happening of such event or the satisfaction of that contingency.

A person may not be named as a beneficiary of the trust may be added as a beneficiary of the trust under the exercise of the trustees' powers of addition. In most cases, the trustee should not be obliged to obtain and hold information about such persons who may be added (as the power to add beneficiaries may be completely unrestricted).

The trustee should be obliged, taking a risk based approach, to obtain information about persons who, although not included in the class of discretionary beneficiaries, could be added or become a beneficiary and it is clear from surrounding evidence available to the trustee (including, but not limited to a letter of wishes), that it is intended that the trustee exercises its powers to pay or apply capital to benefit such a person and such person should be treated as a discretionary beneficiary of the trust.

5. Do you agree with the proposed nexus of such obligations based on residence of trustees or location where the trusts are administered? Compared to the current obligation incumbent on countries that have trusts governed under their law, do you see pros and cons from such a change, (e.g., would there be a difference in terms of efforts to collect the information in cases where a trust may have trustees that are resident in more than one jurisdiction, and where a trust may be administered in a country in which a trustee is not resident)?

As noted above in our answer to question 4, it is possible that a trust may have no material connection with the jurisdiction which is the governing law of the trust and therefore the governing law of the trust may not be an appropriate nexus with that jurisdiction.

For the reasons outlined above it is suggested that this is amended so that countries should apply measures to under the risk posed by trusts and similar legal arrangements which are tax resident in their jurisdiction, whose trustees are resident in their jurisdiction or where the trust administration is carried out in their jurisdiction by the trustee or through a permanent establishment or dependent agent in their jurisdiction.

6. Do you see challenges in respect of record-keeping obligations for non-professional trustees noting that all other obligations under Recommendation 25 apply to such trustees?

It is not uncommon in England and Wales for trusts to be created by a will with family members as trustees. Requiring such trustees to retain such information may place an unnecessary burden on the individual trustees who will typically have little knowledge about AML obligations. We note that such arrangements typically have a low risk of ML/TF, and in England and Wales such a trust would be required to be included on the trust register and is likely to file tax returns. Therefore information about the trust will be available to the tax authorities.

Master trusts of pension schemes with large numbers of beneficiaries where there is no or very low risk in AML/TF terms are also an example of where record-keeping obligations for non-professional trustees would be overly burdensome. As an alternative we would suggest that it might be helpful for FATF to publish a glossary of excluded arrangements in regards to this.

III. Definition of Beneficial Owners

7. Would you support the insertion of a standalone definition for beneficial owner in the context of legal arrangements (distinct from that for legal persons)? Or would it risk creating confusion with the definition of beneficial owners applicable to legal persons? What relevance should control have in the definition of beneficial ownership of legal arrangement to address AML/CFT risk?

There is an area of tension between what information should be obtained by a trustee in relation to 'beneficial owners' of a trust and what information should either be disclosed to third parties dealing with the trust or included on beneficial ownership registers.

A trustee needs to obtain and hold information about individuals in whose benefit they may exercise their powers to apply capital and income (subject to the limitations set out above). A trustee will also need to verify the identity of the settlor, the protector and any other natural person exercising effective control over the trust and any beneficiary to whom a distribution or benefit is made or provided.

However, taking a risk based approach, a third party, such as a financial institution

should know the identity of each of the settlor, beneficiaries, trustees, protector or natural person exercising effective control, but need not necessarily have to obtain evidence to verify their identity. The third party dealing with the trustee:

- should take steps to verify the identity of the trustee;
- in relation to fixed interest beneficiaries i.e. beneficiaries who have a fixed right to income or a right to withdrawal capital or direct distributions of capital or income (in each case limited to 25 per cent or more of the income or capital), should take steps to verify the identity of such beneficiaries;
- in relation to discretionary beneficiaries, should make sure that they know who the beneficiaries are but are not required to take steps to verify the identity of each of the discretionary beneficiaries;
- in relation to contingent or default beneficiaries (as discussed above), should only have to obtain information about such beneficiaries when the contingency is satisfied or the event occurs but are not necessarily required to verify the identity of each of the contingent or default beneficiaries at that time;
- in relation to a protector, should take steps to verify the identity of the protector;
- in relation to a natural person exercising effective control, should take steps to verify the identity of the natural person.
 - A power to appoint (but not remove) trustees should not be treated as control for these purposes.
 - A power to appoint and remove the protector should not be treated as control for these purposes.
 - A power to consent to the exercise of the trustees powers (e.g. a power to add beneficiaries) should not be treated as control for these purposes.

In relation to a company register it is only necessary (in simple terms) to identify the directors and any natural person holding 25 per cent or more of the shares or voting rights of a company. This can be compared to a trust register where it is often necessary to name all discretionary beneficiaries, who may have never received and may never receive any benefit from the trust. Such discretionary beneficiaries also have no control over the trust. Their position is much closer to a minor shareholder holding under 25 per cent of a company and for the purpose of beneficial owners should be treated accordingly. It would be more consistent to require disclosure only of:

- *Controllers*: trustees, protectors and natural persons exercising effective control over the trust
- *Beneficiaries*: Beneficiaries holding fixed interests i.e. the right to receive 25 per cent or more of the income or capital or direct distributions of 25 per cent or more of the income or capital of the trust

8. Does limiting the information regarding beneficiaries to only those who have the power to revoke the arrangement or who otherwise have the right to demand or direct (that is, without the consent of the trustee) distribution of assets seem reasonable?

Yes for the reasons outlined above, for the purposes of verifying the identity of beneficiaries or including beneficiaries on trust or corporate registers, it would be reasonable to limit this to only those beneficiaries holding fixed interests in the trust i.e. the right to receive 25 per cent or more of the income or capital or direct distributions of 25 per cent or more of the income or capital of the trust.

9. Do you have any specific suggestions for a different standalone definition?

We have no further specific suggestions for a different standalone definition but take the view that it would be helpful to have specific guidance on what information is required to be obtained, verified and included in relation to beneficiaries to limit it as described above. In relation to natural persons exercising effective control it would be helpful to include the above examples of what powers should not fall within this definition.

IV. Obstacles to transparency

10. What features of legal arrangements do you see being used for obscuring ownership? Are these linked to their involvement in the creation of broader complex structures or inherent to legal arrangements?

Supervision of TCSPs and trust advisers by professional bodies and or the existence of trust registers provide for some degree of regulatory oversight and or transparency. This ideally should be of a non-public nature but available to the relevant authorities with the usual safeguards. Where these measures are not present jurisdictions should be required to justify their alternate mechanisms and their effectiveness.

11. What are the legitimate uses of flee/flight clauses? What are the challenges associated with these clauses?

Flee/flight are included so that a new trustee is appointed on the occurrence of a particular event happening in the jurisdiction of residence of the trustee.

In the experience of the individuals involved in STEP's response, typically such flee/flight clauses are ineffective to enable the transfer of trust assets to a new trustee outside the jurisdiction of the existing trustee. The authors have not seen such clauses routinely used and have no personal experience of such clauses working in practice.

12. What are the key obstacles to transparency of trusts and other legal arrangements?

We have no comments on this question.

V. Approach in collecting beneficial ownership information

13. Can such an approach ensure that competent authorities have timely access to beneficial ownership information in the context of legal arrangements?

It is understood that there is no evidence that trusts are more likely to be used for ML/TF than companies, partnerships or other similar structures. The majority of trusts are used for perfectly legitimate private and commercial reasons.

The first question to consider is which jurisdiction will apply these rules in relation to a trust?

By way of example, trust X has a corporate trustee based in jurisdiction A. For good commercial reasons, the trustee is managed from and trust X is controlled from jurisdiction B. Jurisdiction A requires the corporate trustee to have a resident TCSP in jurisdiction A and the TCSP obtains and holds beneficial ownership information about trust X. Jurisdiction A requires beneficial ownership information about the trust to be included on its trust register. Trust X is tax resident in jurisdiction B and jurisdiction B requires the TCSP which administers the trust company in jurisdiction B to obtain and hold beneficial ownership about trust A. Jurisdiction B requires beneficial ownership information about the trust to be included on its trust register. Trust X holds all its assets through a company established in jurisdiction C. Jurisdiction C requires the TCSP setting up the holding company, company C, to obtain and hold beneficial ownership information about trust X. The corporate register in jurisdiction C requires beneficial ownership information about the company C (and therefore trust X) to be included in its corporate register. Company C is tax resident in jurisdiction C. Company C opens a bank account in jurisdiction D and makes an investment in a fund established in jurisdiction E. Both the bank and the fund are required to obtain and hold beneficial ownership information with respect to trust X. The beneficiaries of trust X are resident in jurisdiction F. Trust X instructs investment advisers, lawyers and accountants in jurisdiction F. The advisers resident in jurisdiction F are required to obtain and hold beneficial ownership information about the trust. Trust X reports information about its account holders, including the settlor, protector, natural person exercising effective control and beneficiaries to who distributions are made to the tax authorities in jurisdiction A and/or jurisdiction B under CRS and the *Foreign Account*

Tax Compliance Act (FATCA).

In the above example:

- I. Beneficial ownership information about trust X is collected and retained by agents or service providers including trust and company service providers, investment advisors or managers, accountants, or lawyers in jurisdiction A (where the trustee is incorporated), jurisdiction B (where the trust is administered), jurisdiction C (where the holding company is established), jurisdiction D and jurisdiction E (where bank accounts are held or investments are made) and jurisdiction F.
- II. Beneficial ownership information about trust X is included on the trust registers in jurisdiction A and jurisdiction B and on the corporate register in jurisdiction C
- III. Information about the trust is held by tax authorities in jurisdiction B and jurisdiction C.
- IV. Beneficial ownership information is provided to the tax authorities in jurisdiction A and jurisdiction C for the purposes of FATCA and/or CRS.

While we welcome consideration of ways to strengthen the requirement for countries to have access to beneficial ownership information in respect of trusts and other legal arrangements any proposal must be proportionate to the risk involved. The following is noted:

- I. *A public authority or body holding information on the beneficial ownership of trusts or similar legal arrangements.* If this option is chosen consideration would need to be given as to which jurisdiction would hold such information. It is suggested that this should apply in the jurisdiction in which the trust is tax resident or, if none, the jurisdiction(s) of residence of the trustee(s). Although this information should be available to competent authorities within agreed parameters, we would suggest that such information should not be publicly available;
- II. *Asset registries.* It is noted that beneficial ownership information about a trust which owns real estate or shares in a company or an interest in a partnership is often included in land registers or corporate or partnership registers in the jurisdiction in which the land is situated or the company is incorporated or partnership established. It is suggested that any asset registries are not extended beyond this;
- III. *Information collected by other competent authorities.* It is noted that tax authorities in jurisdictions in which the trust is tax resident or pays tax or with whom information is shared under CRS and FATCA are likely to have more

information about the beneficial ownership and assets of a trust than other competent authorities, or

- IV. *Information collected by other agents or service providers including trust and company service providers, investment advisors or managers, accountants, or lawyers.* It is noted that in many jurisdictions such agents or service providers are required under ML/TF requirements to obtain and hold information about the beneficial ownership of the trust and to identify any inconsistencies in the information provided.

14. Have you seen any issues/challenges with including information collected by other agents or service providers including trust and company service providers, investment advisors or managers, accountants, or lawyers as a mechanism?

No we have not seen any issues or challenges with including information collected by other agents or service providers including trust and company service providers, investment advisors or managers, accountants, or lawyers as a mechanism.

15. Do you think that a multi-pronged approach should be followed for accessing beneficial ownership information of legal arrangements, consistent with Recommendation 24? Or would the features of legal arrangements make a single-pronged approach preferable instead? What are the pros and cons, including in relation to administrative burden, from these approaches?

We believe a multi-pronged approach would be better as it is difficult to envisage a single pronged approach which would enable the right information to be obtained. In addition optionality that reflects the different positions of jurisdictions with respect to resources available should be incorporated. Also some flexibility in the approach may be required between common law and civil law jurisdictions.

16. Are there any other mechanisms that FATF should consider as a reliable source of beneficial ownership information for competent authorities?

The multi-pronged approach ensures that there are reliable sources of information about beneficial ownership in the jurisdictions in which the trustee of a trust is resident, in which the trust is administered, or in which the trust makes investments or carries on business.

VI. Adequate, accurate and up-to-date information

17. Do you see any concerns with the suggested requirements?

We do not see any concerns with trustees being obliged to obtain and verify information about:

- I. the settlor, including the source of funds;
- II. the protector;
- III. any natural person exercising effective control (but also please see comments above in questions 7,9 and 13);
- IV. any beneficiaries with a fixed interest equal to 25 per cent or more of the capital of the trust;
- V. any other beneficiaries who receive distributions or benefits from the trust.

In accordance with the approach taken in the revised Recommendation 24, we see no problem with trustees being required to update such information from time to time.

18. In addition to trustees, who could play a role in the verification of beneficial ownership information in the context of legal arrangements?

Where information about a trust is included in the trust register, the person responsible for inputting the information could be required to obtain and verify the above beneficial ownership information, to the extent it is required to be included on the register.

Where information about a trust is included in a corporate register, the person responsible for inputting the information could be required to obtain and verify the above beneficial ownership information, to the extent it is required to be included on the register.

Where obliged persons have access to the information on a trust register, they may be required to report any unexplained inconsistencies between the information provided on the register and the information available to them.

19. Can the notion of ‘independently sourced/obtained documents, data or information’ in the definition of accurate information pose any issues for the private sector and, if so, how?

While it may be straightforward for trustees to obtain verification of the identity of individuals through the use of (for example) certified copies of passports and proof of address. The private sector may have fewer sources through which it can obtain independently sourced documents, data or information. For example it is difficult for trustees (and others) in the private sector and not forming part of a larger business to be able to carry out other independent risk related searches etc. to determine whether the individual identified is a politically exposed person (PEP) or gives rise to additional ML/TF concerns or to verify information provided about source of funds.

VII. General questions

20. What are the potential issues/challenges for the private sector regarding implementation of the Recommendation 25 requirements?

We have no comments on this question.

21. Do you see any challenges in obtaining information regarding beneficial ownership information of legal arrangements when the trustee (or equivalent) resides in another jurisdiction or when the legal arrangement is administered abroad?

We have no comments on this question.

22. Are there any suggestions to improve Recommendation 25 and its Interpretive Note to better meet its stated objective to prevent the misuse of legal arrangements for money laundering or terrorist financing?

We have nothing further to add to the points raised in our earlier answers.

23. What are the areas in particular where the private sector would benefit from guidance regarding implementation of Recommendation 25 requirements, including suggested revisions described above?

We have nothing further to add to the points raised in our earlier answers.