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# Webinar: Ultimate Beneficial Ownership: Challenges and Best Practices

June 10, 2020

## WEBINAR: ULTIMATE BENEFICIAL OWNERSHIP

### MODERATOR



**SHIRISH PATHAK**  
Managing Director,  
Fintelekt Advisory  
Services

### SPEAKERS



**CHUA CHOON HONG**  
Head of Compliance  
Solutions – APAC, Bureau van  
Dijk, A Moody's Analytics  
Company



**DEBMALYA MAITRA**  
Senior Director – BFSI  
Chokshi Group

**CHUA CHOON HONG**  
**Head of Compliance Solutions -**  
**APAC, Bureau Van Dijk, A**  
**Moody's Analytics Company**

Choon joins Bureau van Dijk with over 15 years' experience in business development for Enterprise and Regulatory software companies. Prior to Bureau van Dijk, Choon spent 3 years at Nice Actimize selling AML and fraud compliance solutions across APAC and worked on developing the partner and alliance ecosystem for Actimize and was their pre-sales team lead in APAC.

Choon holds a Business degree from Singapore Management University and a professional certification with ACAMS.



## KEY ISSUES

- Definition of Ultimate Beneficial Owner
- National Security Issues with Foreign State-Owned Enterprises
- Who will Benefit from the Global Economic Stimulus?
- Trade Conspiracy and Abuse



**BUREAU VAN DIJK**

A Moody's Analytics Company

# Ultimate Beneficial Owner Who is on the other side?

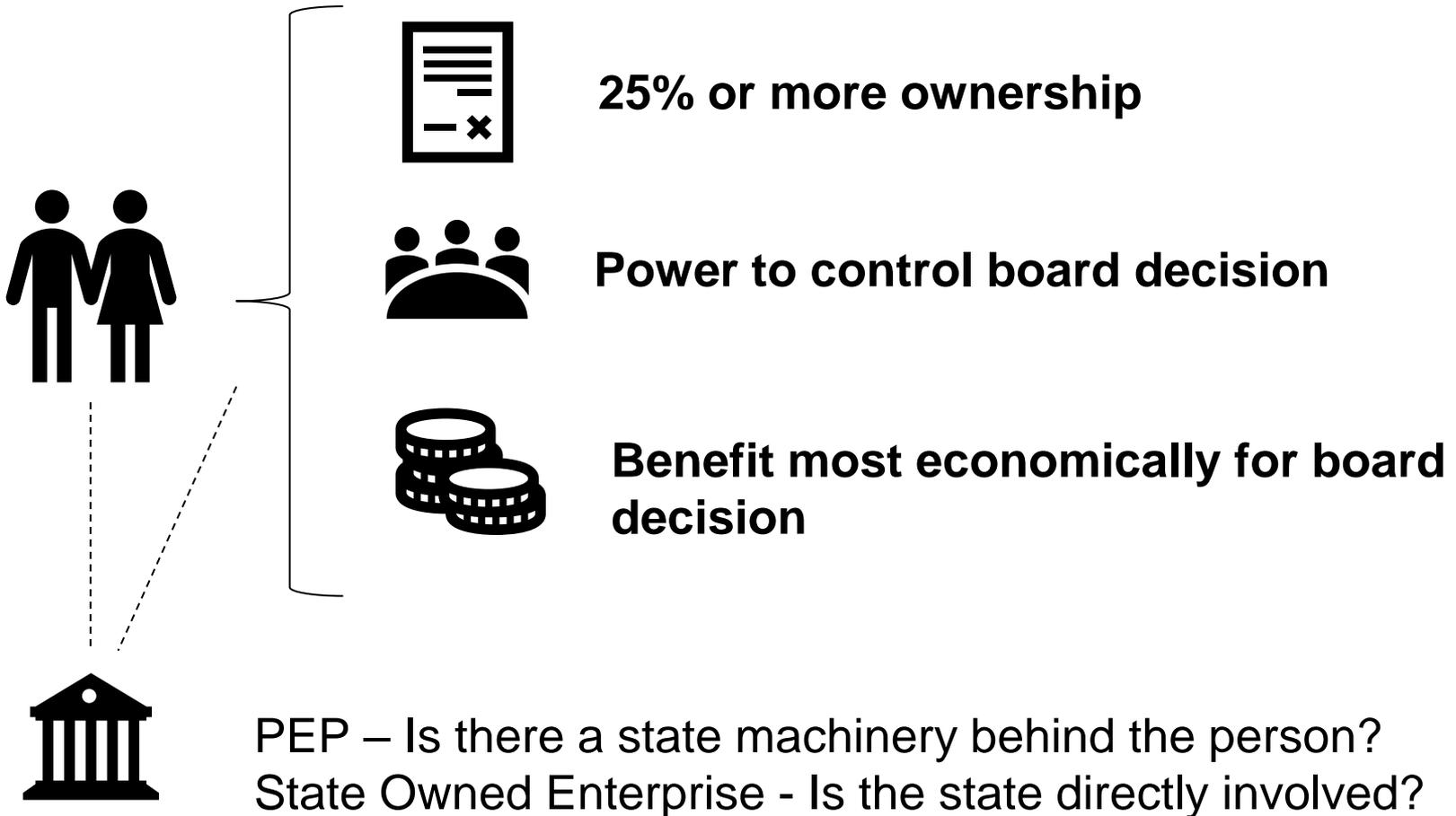
Welcome to the business of certainty

# 1

## Definition of Ultimate Beneficial Owner

# Definition of Ultimate Beneficial Owner

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**2**

**National Security**

# Exploiting Chaos



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## To avoid hostile takeovers amid COVID-19, India mandates approvals on Chinese investments

Manish Singh @esfarc / 7:53 pm +06 • April 16, 2020

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## Europe doubling down on foreign takeovers amid COVID-19 crisis

3 April 2020

*The disruption linked to COVID-19 already affects the global economy significantly, including M&A transactions in Europe and across the globe. On the regulatory side, many deals face challenges caused by national authorities' reduced capacities, while some authorities struggle to uphold business as usual. On the other hand, concerns about investors taking advantage of the volatility or undervaluation of European stock markets by acquiring valuable assets are widespread in Europe. Against this backdrop, the European Commission published a guidance...*

Key protected critical infrastructure: energy, transport, water, health, .....and sectors with access or control of sensitive information such as personal data and media.

Source: Techcrunch.com, hoganlovells.com



# Snapshot of Telecommunication Co.

Market Summary > Telstra Corporation Ltd. ADR  
OTCMKTS: TLSYY

**10.16** USD +0.062 (0.61%) ↑

May 15, 4:00 PM EDT · Disclaimer

1 day 5 days 1 month **6 months** YTD 1 year 5 years Max



Market Summary > Telekomunikasi Indona(Persero)TbkPT-ADR  
NYSE: TLK

**20.67** USD +0.050 (0.24%) ↑

Closed: May 15, 4:00 PM EDT · Disclaimer  
After hours 20.67 0.00 (0.00%)

1 day 5 days 1 month **6 months** YTD 1 year 5 years Max

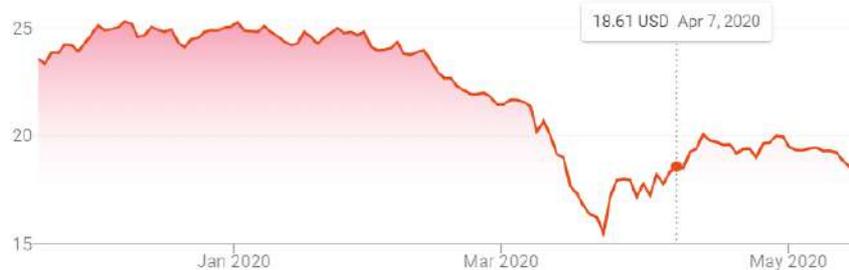


Market Summary > SINGAPORE TELEC/S ADR  
OTCMKTS: SGAPY

**18.58** USD -0.0050 (0.027%) ↓

May 15, 4:00 PM EDT · Disclaimer

1 day 5 days 1 month **6 months** YTD 1 year 5 years Max

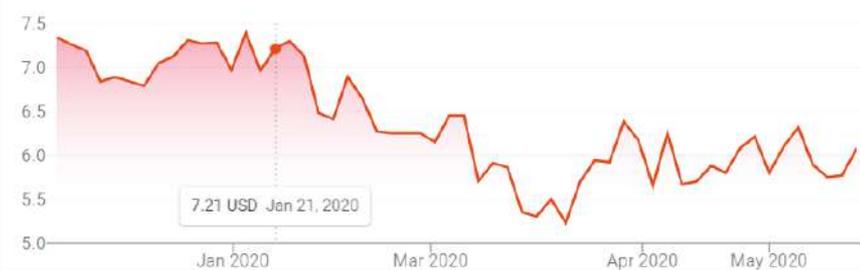


Market Summary > Advanced Info Service PCL  
OTCMKTS: AVIFY

**6.07** USD 0.00 (0.00%)

May 13, 3:43 PM EDT · Disclaimer

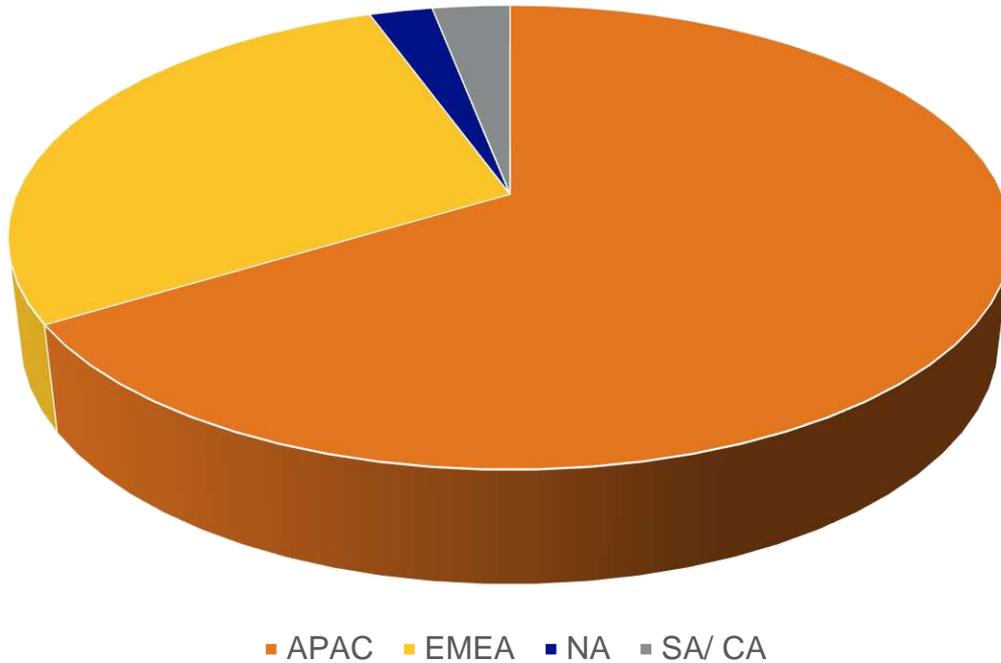
1 day 5 days 1 month **6 months** YTD 1 year 5 years Max



# Foreign State-Owned Enterprise

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State Owned/ Invested Enterprise



Regions	No. of SOE
APAC	238,960
EMEA	102,507
NA	8,755
SA/ CA	10,807



3

**National Interest**

# Global Economic Stimulus

ASIA ECONOMY

## India announces \$22.5 billion stimulus package to help those affected by the lockdown

PUBLISHED THU, MAR 26 2020-2:31 AM EDT | UPDATED THU, MAR 26 2020-6:14 AM EDT

Saheli Roy Choudhury  
@SAHELIR

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### KEY POINTS

- India announced an economic stimulus package worth 1.7 trillion rupees (\$22.5 billion) on Thursday.
- The package would be disbursed through food security measures for poor households and through direct cash transfers, Finance Minister Nirmala Sitharaman said.
- Daily wage earners, small business owners, and low-income households are said to be most vulnerable during the lockdown.
- Data from the health ministry showed India has 593 active cases of COVID-19, the respiratory disease caused by the coronavirus.

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REUTERS EVENTS

BUSINESS NEWS APRIL 20, 2020 / 8:47 PM / A MONTH AGO

## Denmark blocks firms registered in tax-havens from state aid

Nikolaj Skydsgaard

2 MIN READ



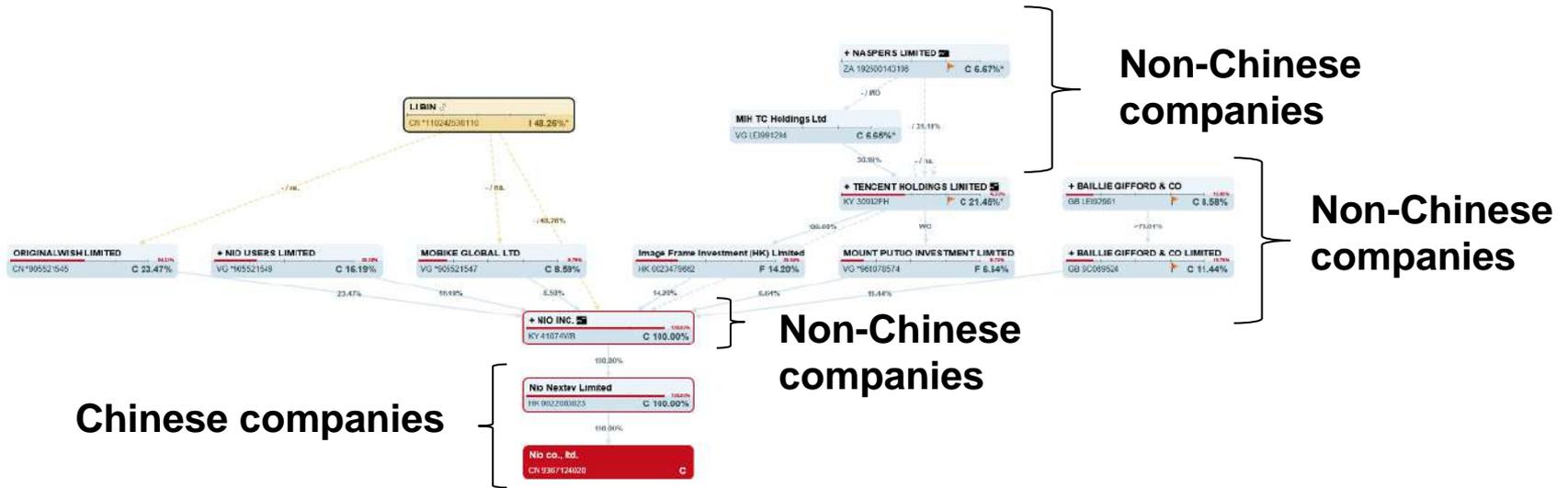
COPENHAGEN (Reuters) - Denmark has become one of the first countries to ban companies that are registered in tax havens from accessing financial aid during the coronavirus pandemic.

Governments around the world are planning to launch various stimulus package to kick start their economy. But funds must be channelled to right parties.

Source: CNBC, Reuters



# Who Will Benefit?



Visibility on who will benefit the most from stimulus package and tax breaks



# 4

## Trade Conspiracy and Abuse

# Laundering Illegal Proceeds

CORONAVIRUS

## A California Pair Have Been Arrested And Charged With Fraud Over A Multimillion-Dollar Face Mask And Respirator Deal

The men even went so far as to seal and shrink-wrap empty boxes, slapping fake 3M labels on some, federal officials said.



**Emmanuel Felton**  
BuzzFeed News Reporter

Posted on April 27, 2020, at 7:58 p.m. ET

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A nurse pushes a cart of masks donated to the Providence Saint Joseph Medical Center in Burbank, California on April 7. *Frederic J. Brown / Getty Images*

Newsweek

## FBI Discovers Promised Stockpile of 39 Million Medical Masks Was a Scam

Jason Lemon 13/04/2020



© Smith Collection/Gado/Getty. Close-up of N95 respirator mask during the coronavirus pandemic in San Francisco, California on March 30.

As state governments and hospitals have scrambled to obtain masks and other medical supplies during the coronavirus pandemic, scammers attempted to sell a fake stockpile of 39 million masks to a California labour union.

The *Los Angeles Times* first reported on Sunday that the FBI had uncovered the scam, which has been traced back to a broker in Australia and a supplier in Kuwait.

The investigators discovered the scam because they were looking into whether the supply could be intercepted by the federal government through the Defense Production Act.

The Service Employees International Union-United Healthcare Workers West (known as SEIU) promised at the end of March that it would make the millions of masks available, as government agencies and hospitals planned to purchase some of the supply. But as the FBI investigated, it became apparent that the union had been duped, although no financial transaction had yet been made.

< 1 2 3 4 >

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- Why are these sea urchins sporting...
- Russia coronavirus cases overtake China

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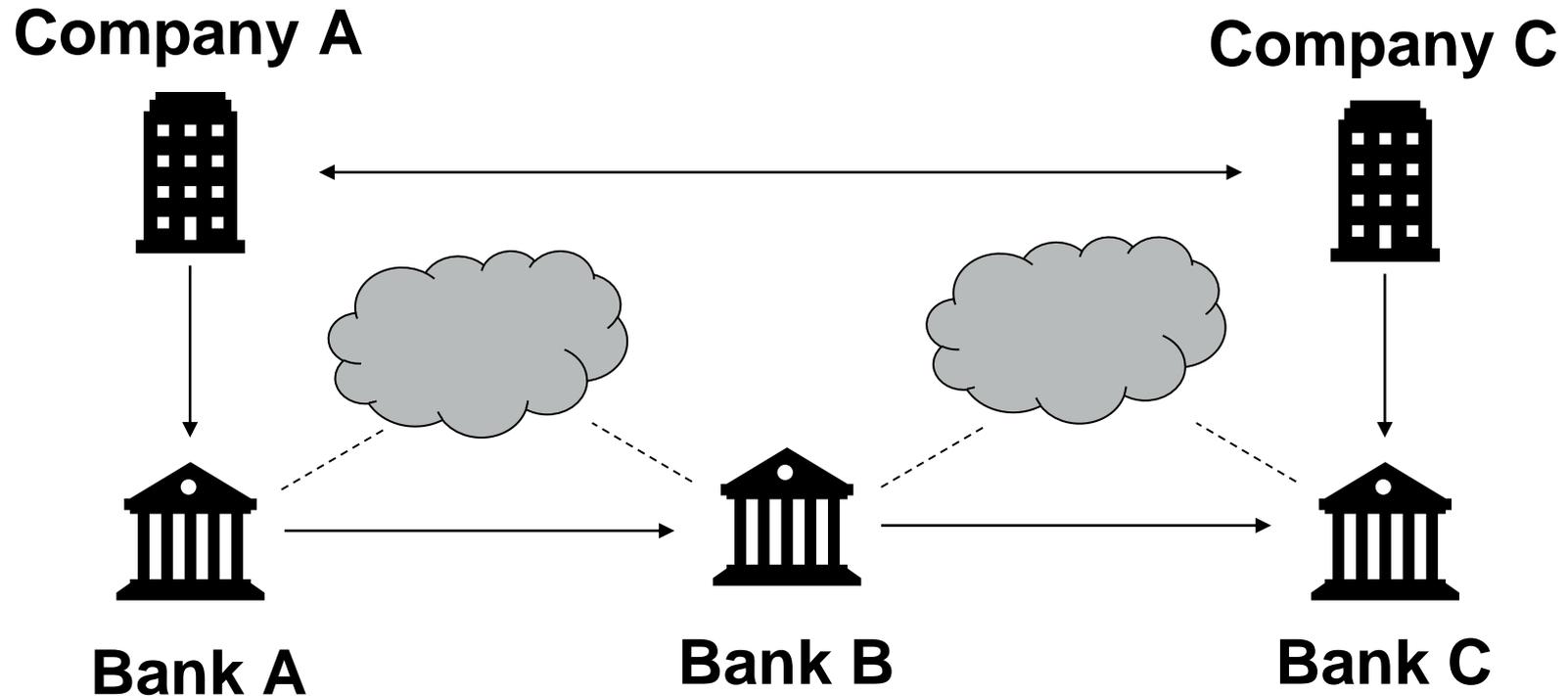
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# Who is on the other side?

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Banks depend on each other to do due diligence



# Risk in Cross Border Transactions



Photographer: Petti Kollanyi/Bloomberg

Markets

## Swedbank Hit by Criminal Probe in Growing Laundering Crackdown

By Frances Schwartzkopff and Ott Ummelas

April 12, 2019, 8:20 PM GMT+8 Updated on April 12, 2019, 11:00 PM GMT+8

- ▶ Denmark also expands investigations to target accounting firms
- ▶ Nordic and Baltic authorities step up the heat on suspects

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Efforts to fight money laundering across the Nordic and Baltic states took a

MARKETS BUSINESS INVESTING TECH POLITICS CNBC TV

## US digs deeper into Deutsche role in Danske money laundering scandal, report says

PUBLISHED MON, DEC 2 2019 4:32 AM EST

REUTERS

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### KEY POINTS

- One source said the Department of Justice's new line of inquiry is whether Deutsche helped move tainted money from Danske into the United States.
- The DOJ and Frankfurt state prosecutors declined to comment on the U.S. investigation, which two sources told Reuters is due to be completed next year.

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## Ousted Danske Bank CEO faces nearly \$400 million lawsuit tied to historic money laundering scandal

by Brian Monroe - 02/28/2020

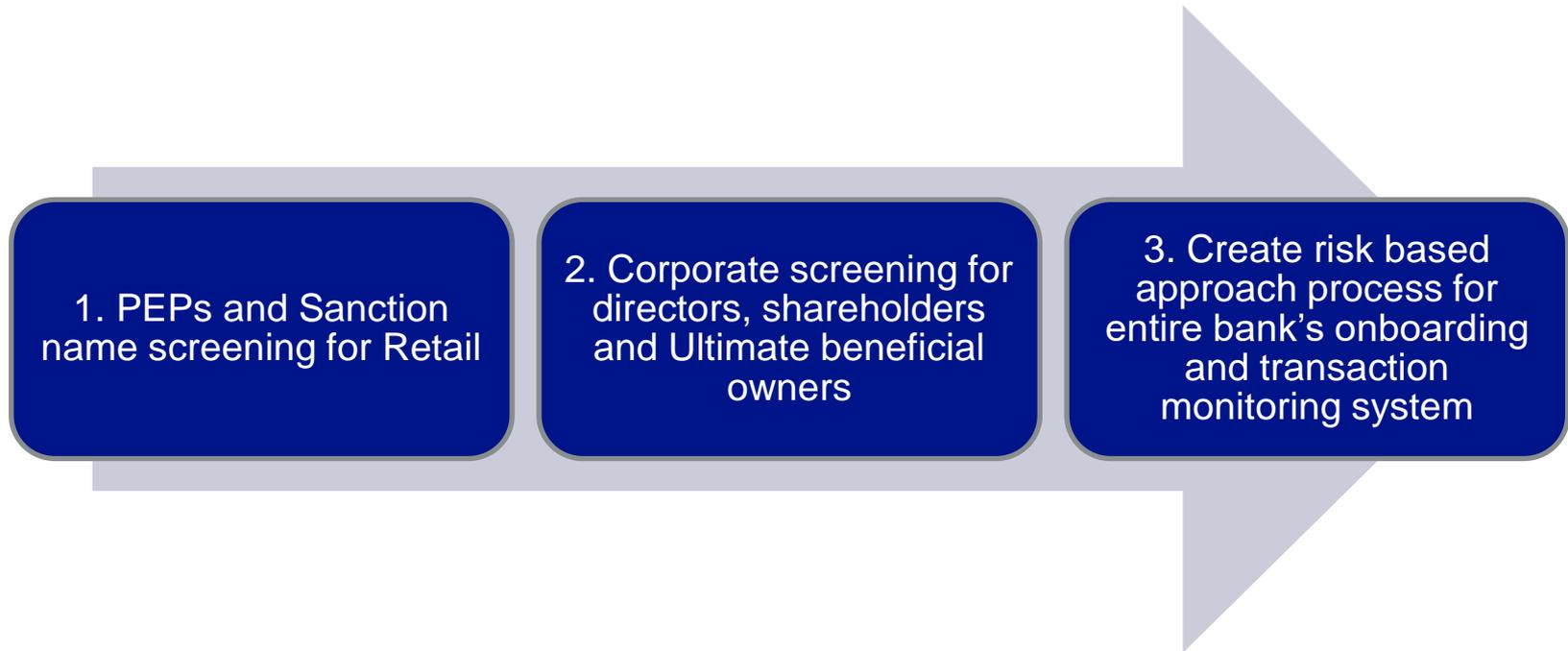


Source: Bloomberg, CNBC, Acfcs.org



# Incremental Steps

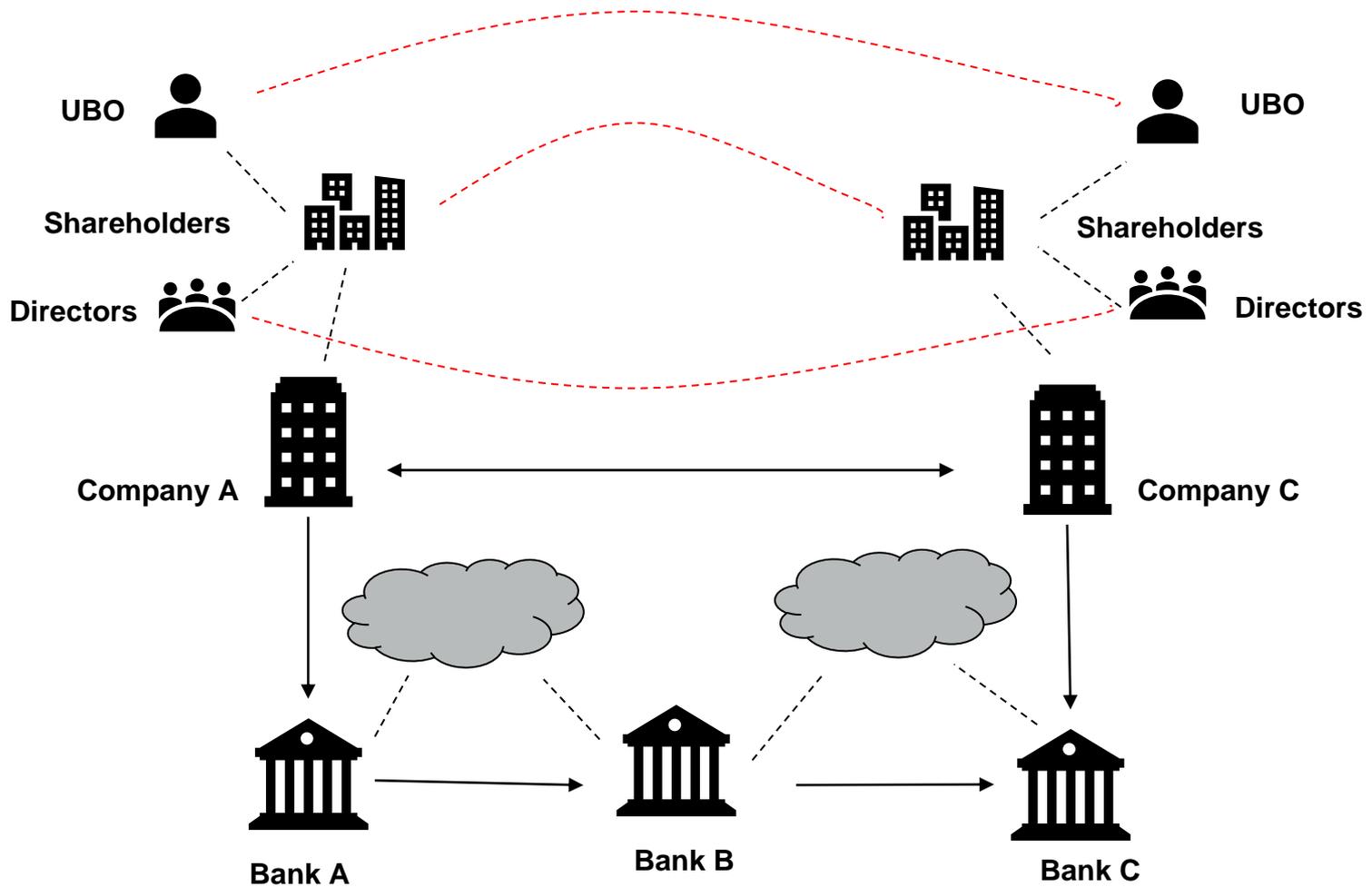
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- 1. Start with the greatest risk with largest volume**
- 2. Then to screen for high value corporate clients**
- 3. Risk base approach models and investigation**



# Know Your Customer's Customer



# How data can help

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Our unique capabilities can help frontline institutions

## Health – Know your customer's UBO

Know the true  
UBO of your  
customer even if it  
cross-border  
information



**Risk assessment**

## Investigate all counter-parties

Help banks identify  
all counter-parties  
that their clients  
transact with.  
Discover all UBO  
of parties in  
transactions



## Policy Analysis

Help banks  
identify  
companies  
eligible for  
various stimulus  
programs





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Choon Hong, Chua  
APAC Head of Compliance Solutions | [bvdinfo.com](https://www.bvdinfo.com)

## **DEBMALYA MAITRA** **Senior Director – BFSI** **Chokshi Group**

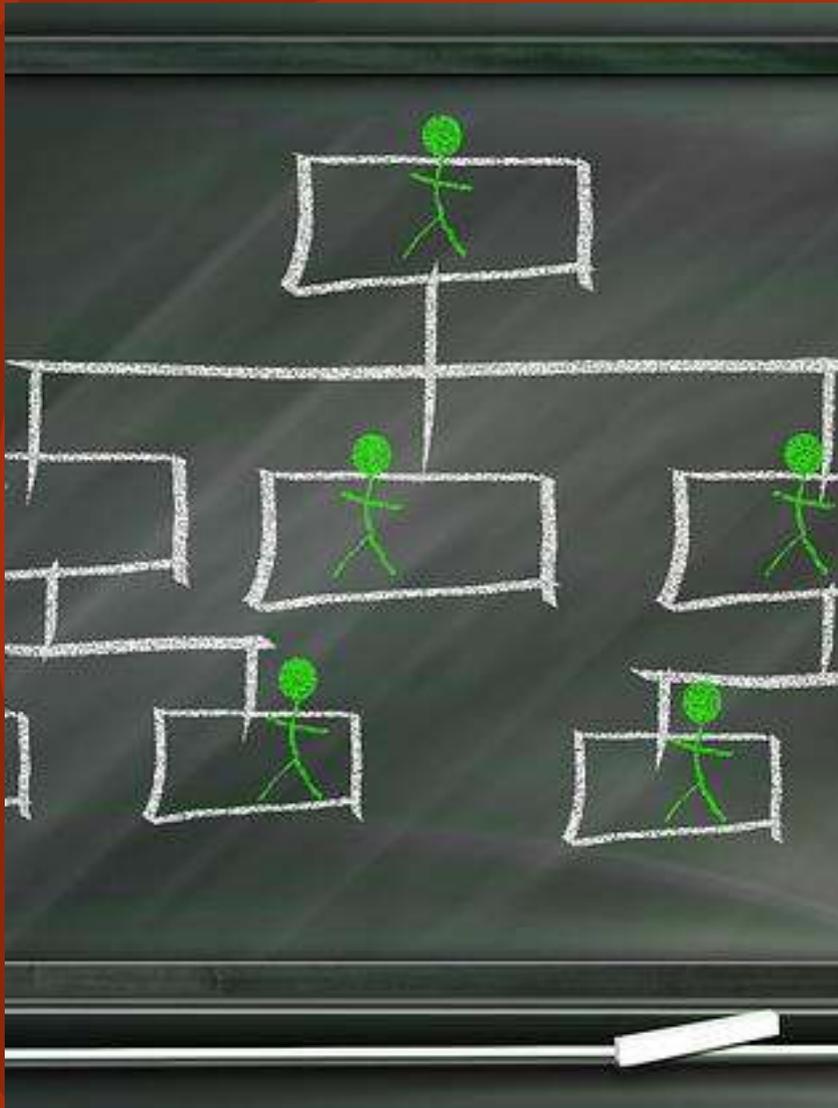
Debmalya Maitra is a seasoned professional with more than 29 years of experience in Banking and Financial Services, constituting over a decade each in new age private sector bank and life insurance companies and 7 years in a leading housing finance company.

Debmalya is a Chartered Accountant and holds a B.Com degree with Honours in Accountancy. Debmalaya was a member of the Insurance delegation in the FATF evaluation relating to preparedness regarding AML regulations (2010) in India. He is also one of the Member Governors of Institute of Internal Auditors, Mumbai Chapter since 2015.



## KEY ISSUES

- Legal Structure and Components
- Misuse of Corporate Entities for Illicit Purposes
- Characteristics of a Beneficial Owner
- FATF Guidelines
- Common Methods of Misuse & Red Flag Indicators
- Customer Due Diligence Process and Sources of Information



# ULTIMATE BENEFICIAL OWNERSHIP

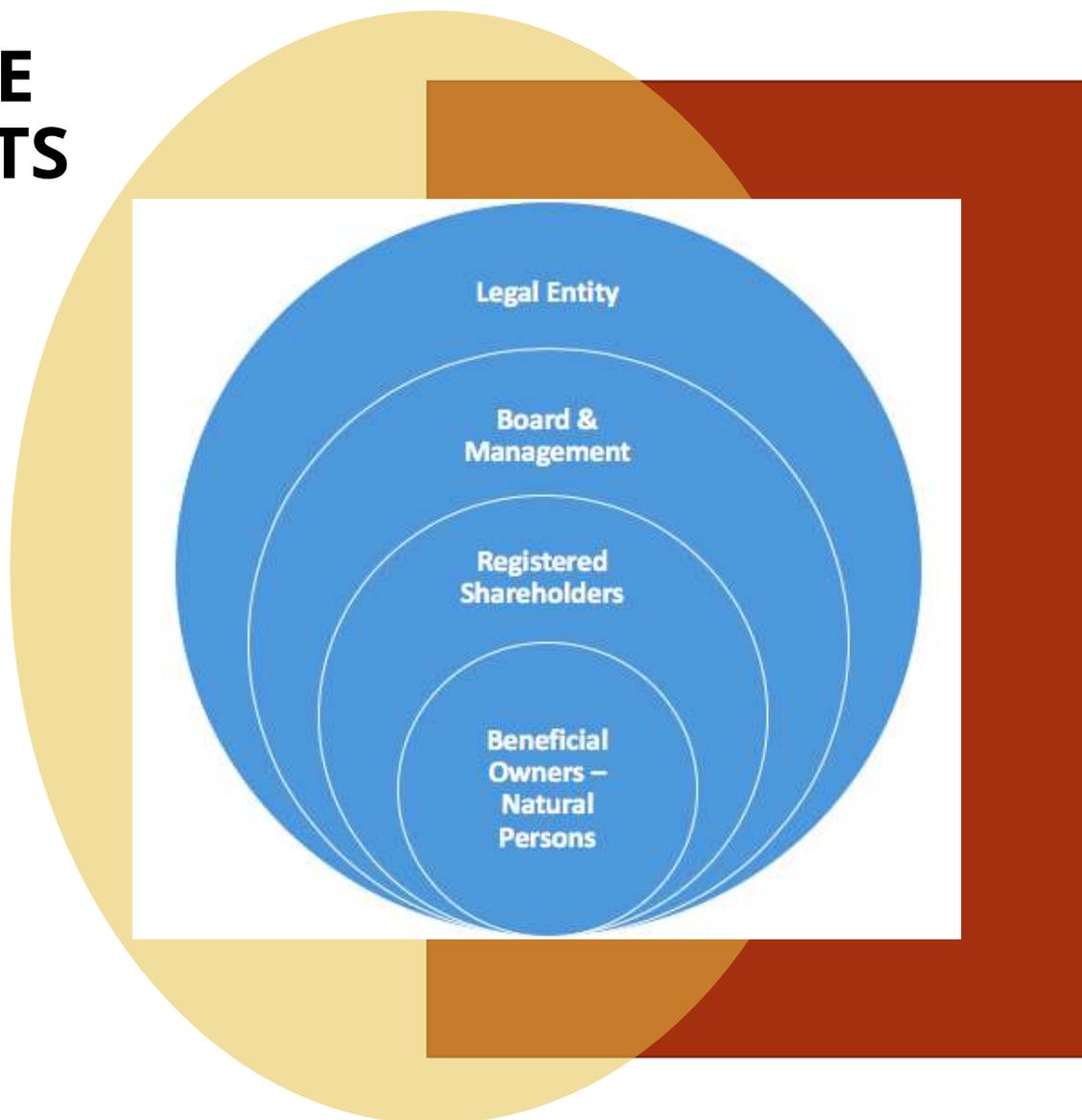
## TRENDS & DEVELOPMENTS

DEBMALYA MAITRA

# LEGAL STRUCTURE AND COMPONENTS

- **Legal Persons** – Any entities other than natural persons that can establish a permanent customer relationship with a financial institution or otherwise own property
- **Legal Arrangements** – Express trusts or any other similar legal arrangements

*(Source: FATF-Egmont Group report on Concealment of Beneficial Ownership – July 2018)*



# MISUSE OF CORPORATE ENTITIES FOR ILLICIT PURPOSES

In general, the lack of adequate, accurate and timely beneficial ownership information facilitates ML/TF by disguising:

the identity of known or suspected criminals

the true purpose of an account or property held by a corporate vehicle, and/or

the source or use of funds or property associated with a corporate vehicle

*Source: Studies by United Nations Office of Drug and Crime, World Bank, FATF*

# CHARACTERISTICS OF A BENEFICIAL OWNER

## Beneficial Owner

Must be a natural person

This person should benefit from the enterprise/transaction/fund and/or controls the same

The legal entity could be operating in multiple geographies

'Ultimate ownership/controls' need to be determined in situations in which ownership/control is exercised through a chain of ownership or by means of control other than direct control

# SPECIALISTS AND PROFESSIONAL INTERMEDIARIES



- In a large number of jurisdictions, these entities are not regulated under AML/ CFT regulations
- Legal privilege is used as a barrier to recovery of information

# FATF-EGMONT GLOBAL STUDY OF 106 CASES

Beneficial owners conceal their identity but are most likely to exercise control via a combination of direct and indirect controls

Use of nominees or 'straw man' is very common

Specialists and professional intermediaries used in most cases and in almost half of these cases they were unwittingly drawn in and exploited by the criminals

Only 4 of these 106 cases were reported as suspicious activity

# FATF REPORT – OCTOBER 2019

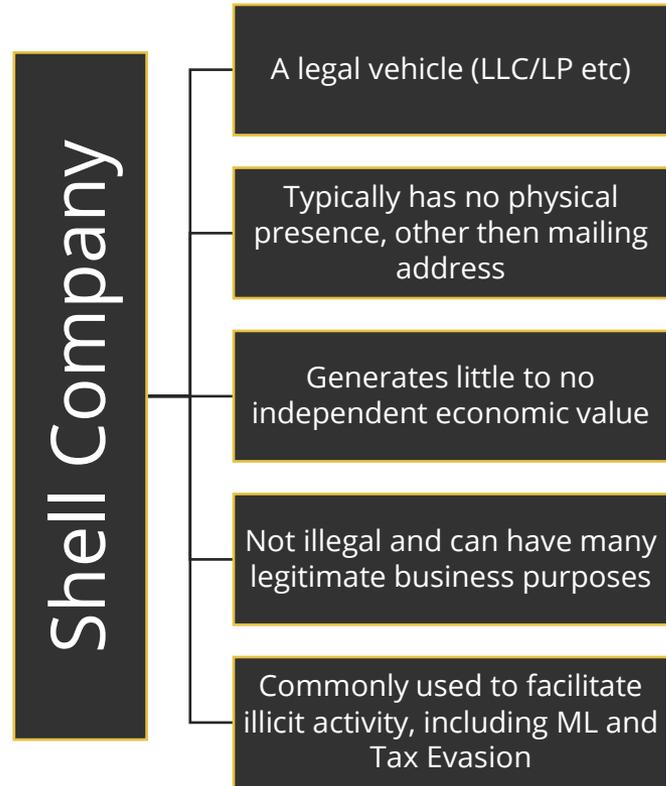
60% of the countries assessed have inadequate systems regarding capturing up to date information/ data on beneficial ownership

A major area of weakness identified was relating to obtaining beneficial ownership of foreign entities

Further in the FATF Plenary session held in February 2020, it reviewed the present state of compliance in Republic of Korea and United Arab Emirates (UAE). In both cases it observed 'focus on misuse / abuse of legal persons' as one of the areas of improvement.

# COMMON METHODS FOR MISUSE

- 1 Shell Company
- 2 Shelf Company
- 3 Front Company
- 4 Complex Ownership and Control Structure
- 5 Bearer Shares and Bearer Share Warrants
- 6 Unrestricted Use of Legal Persons as Directors
- 7 Undisclosed Identify of Shareholder and Director Nominators
- 8 Informal Nominee Shareholders and Directors
- 9 Trusts and Other Legal Arrangements
- 10 Use of Intermediaries



# COMMON RED FLAG INDICATORS

- Transactions not economically justified considering the account holder's business or profession, or inconsistent with normal activity or without business rationale or economic justification
- Use of funds by non-profit organisations that are not consistent with the purpose it is established
- Multiple deposits / cash transactions structured below the reporting level and / or apparently with no business logic
- Frequent wire transfers/ cash activities to and from foreign countries
- Login or banking from areas close to conflict zone (eg. Syrian border)
- Parties to the transaction are from countries identified as 'high risk' countries or funds are being generated or transferred to such countries
- Customer insisting on anonymity, reluctance to provide identifying information or providing minimal, seemingly fictitious information
- Adverse press or media reports

# CUSTOMER DUE DILIGENCE – SOURCES OF INFORMATION

## COMPANIES

- Registrar of Companies / Dept of Company Affairs
- Tax Authorities
- Licensing Authorities

## PARTNERSHIPS (INCLUDING LLPs)

- Registrar of Firms / Companies
- Tax Authorities
- Licensing Authorities

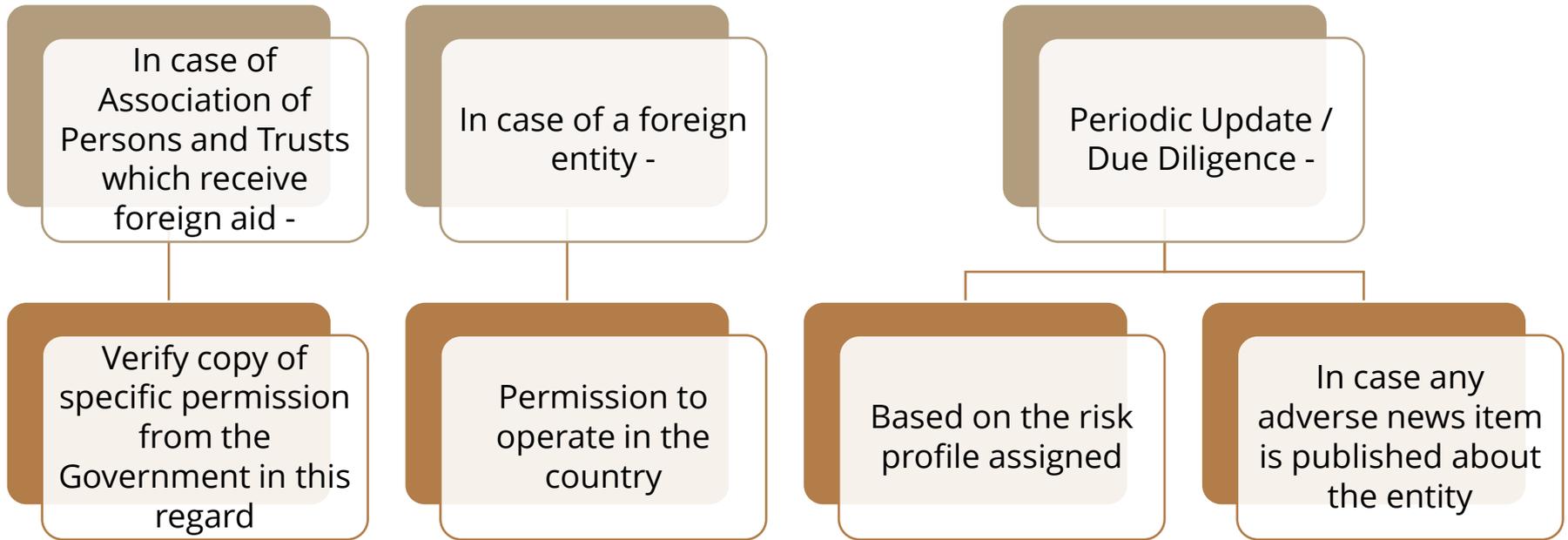
## ASSOCIATION OF PERSONS AND SOCIETIES

- Registrar of Societies
- Charity Offices (in case of Charitable Organisations)
- Tax Authorities

## TRUSTS

- Registrar of Trusts
- Charity Offices (in case of Charitable Trusts)
- Tax Authorities

# CUSTOMER DUE DILIGENCE – SOURCES OF INFORMATION



# CUSTOMER DUE DILIGENCE PROCESS



# RISK MITIGATION MEASURES

- FIU to have widest possible range of financial information
- Registries on beneficial ownership to be created by all countries and adequately resourced
- Improve quality and timelines for sharing information including transaction records between FIU, Registries and all concerned parties
- Articulate vulnerabilities regarding legal persons, legal arrangements, intermediaries – both domestic and foreign
- Define role and responsibilities of 'nominees' to limit their misuse
- Regulate professional intermediaries and create adequate awareness among professionals
- Prevent misuse of 'legal professional privilege' and provide enhanced guidance and training to legal professionals

# TO CONCLUDE ...

- Governments play a major part in:
- Collection and dissemination of information (especially relating to foreign entities)
- Regulating and training professional intermediaries
- Banks /FI have to go ahead and keep evaluating a customer with the information available from:
  - Concerned Entities
  - Third parties dealing with these entities
  - Information from unregulated informal sources including media reports

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# QUESTIONS





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<https://www.fintelekt.com/asia-aml-cft-2nd-annual-summit-2020/>

# THANK YOU

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[contact@fintelekt.com](mailto:contact@fintelekt.com)