



AFS Singapore

“Money Laundering”

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AML TOPIC: Combating Money Laundering, The Frontline Soldier Compliance Officer: What Is Beneficial Ownership?

On Christmas Day, 25 December 2017, I wrote the first article titled, “Combating Money Laundering, The Frontline Soldier – Compliance Officer: Are You Trained? I provided a signal that some form of training for Compliance Officers required although it appears that carrying out the CDD measures is simple, easy and straightforward.



The revised 2003 Financial Action Task Force (“FATF”) Forty Recommendations and among others, call for the customer identification and further, to identify the real beneficial owner. The meaning here is for the Compliance Officer to show proof who is the real beneficial owner of the entity, company or business transaction, by conducting a threshold test.

Today, we all live in a very complicated society. Investors have different thoughts on their investment.

For example, it is simple and straightforward if John and Mary are just only shareholders of a company irrespective of their shareholdings ratio. The situation will become complicated when there are more shareholders especially a company has a corporate shareholder.

There are many pathways for a business partnership. For example:

Pathway 1: The real owner appoints a shadow owner, director or agent and the agent forms or becomes the incorporator of the company. The agent may become a partner of the partnership, joint venture or in a business transaction involving in the buying of a piece of property.

Pathway 2: The real owner appoints a shadow owner, director or agent and the agent forms or becomes the incorporator of the company. Once the company incorporated, the company commences doing business or involving in investment activities such as a business partnership or joint venture in the acquisition of a piece of property.

Pathway 3: The real owner appoints a shadow owner, director or agent and the agent forms or becomes the incorporator of the company. Once the company is incorporated, the company commences doing business or involving in investment activities as well as to acquire another company to become the parent company or associated company. The

subsidiary or associated company engages in a partnership or joint ventures including in the acquisition of properties. Since situations may become complicated, it is advisable for the Compliance Officer to request from the customer a copy of the Ownership Chart for analysis and to match the findings.

Well, that is not the end of the road. At this stage, the task is incomplete. FATF Recommendations 24 and 25 demand transparency to find out the “real” owner who actually in possession of the “ultimate effective control” over the company. The meaning here is that the Compliance Officer require to conduct a threshold test.

How to conduct the threshold test? Let’s look at the Shareholders Structure of Company ZZ. The ownership chart provided reveals the following:

1. John, the real owner, has invested in Company ZZ 70%.
2. Tony, the real owner, owns 100% of Company X and Company X owns 10% in Company ZZ.
3. Investigation reveals Tony also owns 80% in Company XY. Mary owns the remaining 20%.
4. Mary, the real owner, manages Company XY and Company XY invests 20% in Company ZZ.

On the surface of Company ZZ, it appears Company ZZ owned by John (70%), Company X (10%) and Company XY (20%). To determine who is the “real” owner or “beneficial owner”, the threshold test must carry out by using the formula below:

For John, he is clean. Direct 70% beneficial owner.

For Tony, $(10\% \times 100\%) + (20\% \times 80\%) = 10\% + 16\%$ 26% beneficial owner.

For Mary, $(20\% \times 20\%) = 4\%$ insignificant beneficial owner.

Further, I remind Compliance Officers that you do not just close the file after the threshold test completed. Compliance Officers required to file and keep all original records or documents for five years from the date the business transaction ended. Alternate to the originals, scanned documents in pdf format and documents stored in a computer hard disc accepted.

Mover, the moment Compliance Officer, found an ST or there is a suspicion on a transaction or even the customer, the Compliance Officer must report to the Senior Compliance Officer, or the Management Compliance Officer worked. The Senior Compliance Officer or the Management will decide to lodge a Suspicious Transaction with the relevant authority. For example, in Singapore, ST reported to the Singapore Police Force, Commercial Affairs Department by filing a Suspicious Transaction Report (“STR”) via STROLLS (“Suspicious Transaction Report Online Lodging System”).



However, Compliance Officer needs to understand that things changed when management of a company changed. The meaning here is that Compliance Officers must understand their customers as well as their businesses which is a going concern. Therefore, “Ongoing Monitoring Policy” required to perform ongoing CDD measures for detection of STs. Is the company you are working for have an AML/CFT Policy or AML/CFT Operations Manual? The risk will be high if there is no AML/CFT Policy to guide you.

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