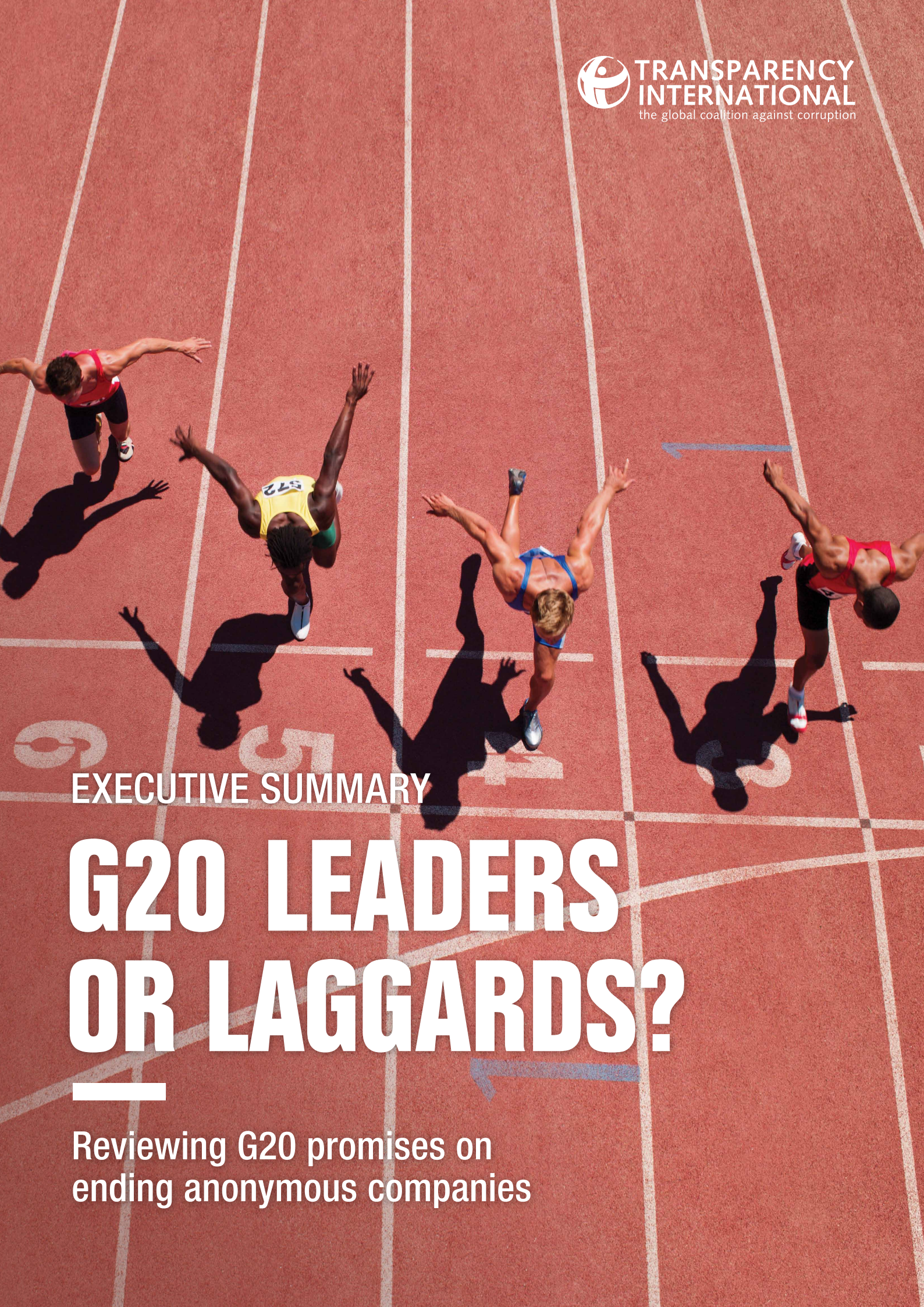

TRANSPARENCY INTERNATIONAL
the global coalition against corruption

EXECUTIVE SUMMARY

# G20 LEADERS OR LAGGARDS?

## Reviewing G20 promises on ending anonymous companies

**Transparency International is a global movement with one vision: a world in which government, business, civil society and the daily lives of people are free of corruption. With more than 100 chapters worldwide and an international secretariat in Berlin, we are leading the fight against corruption to turn this vision into reality.**

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Every effort has been made to verify the accuracy of the information contained in this report. All information was believed to be correct as of December 2017. Nevertheless, Transparency International cannot accept responsibility for the consequences of its use for other purposes or in other contexts.

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# HIGHLIGHTS

Eleven G20 countries have “weak” or “average” beneficial ownership legal frameworks. This has dropped from 15 in 2015, but progress is too slow.

Eight G20 countries (**Argentina, Australia, Brazil, Germany, India, Saudi Arabia, South Africa** and **Turkey**) have still not conducted an anti-money laundering risk assessment within the last six years.

**Canada,** the **United States** and **China** all score zero points on requiring companies to collect and maintain accurate and up-to-date beneficial ownership information.

Six countries now have central beneficial ownership registers: G20 countries **Brazil, France, Germany, Italy,** the **United Kingdom** and G20 guest country **Spain**. Only in the United Kingdom is the register publicly available. In **France**, public authorities still have to request access the data.

No G20 countries require register authorities to verify the information collected in company registers as standard. Only in three countries (**Argentina, Italy** and guest country **Spain**) might information be verified in suspicious cases.

All 23 countries analysed now require financial institutions to identify the beneficial ownership of customers. All countries, with the exception of **Switzerland**, also require financial institutions to verify the beneficial owner’s identity, although requirements are limited in **Canada, Italy, Germany** and the **United States**.

Only eight G20 countries (**Australia, China, France, India, Indonesia, Japan, Mexico** and the **United Kingdom**) require financial institutions to use independent and reliable sources to verify the beneficial owner in cases considered to be high risk.

In nine G20 countries (**Australia, Brazil, Canada, Germany, Indonesia, Russia, South Korea, Turkey** and the **United States**), financial institutions can still proceed with a transaction even if they cannot identify the beneficial owner.

Lawyers are not required to identify the beneficial owner of clients in nine countries, (**Argentina, Australia, Brazil, Canada, China, India, Japan, South Korea** and the **United States**). Real estate agents in five G20 countries (**Australia, Canada, China, South Korea** and the **United States**) are not required by law to identify the beneficial owners of clients buying and selling property, despite major corruption scandals involving high-end real estate.

Eight G20 countries (**Australia, Canada, China, Korea, Mexico, South Africa, Saudi Arabia** and the **United States**) still permit people to act as nominee shareholders without any requirement to disclose on whose behalf they are actually working.

# EXECUTIVE SUMMARY

Major cross-border "Grand Corruption" scandals have embroiled Group of 20 (G20) countries in recent years. In 2017, Brazilian engineering company Odebrecht received a US$2.6 billion fine for bribery.[1] The company was charged with paying around US$788 million in bribes, some of which flowed through United States banks to 12 countries between 2001 and 2016, including fellow G20 members Argentina and Mexico.[2] In the "Russian Laundromat" scandal, exposed in 2017, a group of individuals in G20 member Russia allegedly created 21 shell companies, which then moved and laundered ill-gotten money out of the country, making more than 26,000 payments to 96 different countries including every G20 country aside from Brazil.[3] We increasingly see how anonymous companies that hide the identity of the person at the source of the funds have been used either to launder and transfer stolen money, or to operationalise corrupt deals – using the companies and offshore accounts to pay bribes or buy influence.

Rightly, the issue of anonymous companies has risen in prominence on the global agenda. Yet, in 2015, our analysis of how well G20 members were implementing the G20 Beneficial Ownership Principles showed that 15 of the G20 members had weak or average beneficial ownership legal frameworks. This publication *G20 Leaders or Laggards?* updates that assessment.

## COUNTRY RESULTS

This assessment finds that the majority of countries have improved over the last two years, but that progress has been slow. In 2015, 15 G20 countries had weak or average beneficial ownership legal frameworks. Today, 11 G20 countries still have weak or average beneficial ownership legal frameworks, more than three years after the G20 Beneficial Ownership Principles were adopted and despite the increasing understanding of how secrecy around ownership and control of legal entities is used to facilitate corruption at the global level.

France, Germany and Italy have seen noticeable improvements since 2015. Their score increases have been largely due to the countries adopting central beneficial ownership registers to move towards

## 2015 Results

| Very weak framework | Weak framework | Average framework | Strong framework | Very strong framework |
|---|---|---|---|---|
| - | Australia | Germany | Argentina | UK |
| | Brazil | India | France | |
| | Canada | Indonesia | Italy | |
| | China | Japan | | |
| | South Korea | Mexico | | |
| | United States | Russia | | |
| | | Saudi Arabia | | |
| | | South Africa | | |
| | | Turkey | | |

1. www.occrp.org/en/daily/6348-u-s-finesodebrecht-a-landmark-us-2-6-billion-for-bribery. http://fcpa.stanford.edu/enforcement-action.html?id=635 A billion is a thousand million (1,000,000,000).
2. US Department of State, *Plea Agreement, Odebrecht,* www.justice.gov/opa/press-release/file/919916/download.
3. OCCRP, 2017.The Russian Laundromat Exposed. www.occrp.org/en/laundromat/

implementation of the fourth European Union Anti-Money Laundering Directive (EU AMLD). Their progress has only been matched by Brazil, which has jumped two categories and has independently seen some major regulatory change in the last two years driven by recommendations put forward by the National Strategy Against Corruption and Money Laundering (ENCCLA). Four G20 guest countries, Spain, Norway, Switzerland and the Netherlands – which did not participate at the Brisbane Summit in 2014 when the G20 Beneficial Ownership Principles were adopted, and which we assess for the first time – compare relatively well to their G20 counterparts.

Major changes appear to have originated through regional or domestic pressure, suggesting that membership of the G20 is not in and of itself a major driver for change. This leads us to wonder whether the G20 is leading from behind – if at all. The G20 has been keen to take a strong vocal stance on tackling beneficial ownership secrecy. In the G20 Anti-Corruption Action Plan 2015-16,[4] the G20 stated that "preventing the abuse of legal persons and arrangements is a critical issue in the global fight against corruption." They committed to taking "concrete action" to implement the G20 Beneficial Ownership Principles. Two years later, the G20 Anti-Corruption Action Plan 2017-18 re-stated that "transparency over beneficial ownership is critical to preventing and exposing corruption and illicit finance". They underscored their commitment to "fully implement … our Action Plans to implement the G20 High Level Principles on Beneficial Ownership Transparency … and promote the identification of the true beneficial ownership and control of companies and legal arrangements, including trusts, wherever they are located".[5]

And yet, progress across the board has been slow. G20 countries should be at the forefront of change, but little by way of monitoring or reporting on progress has been conducted. In the meantime, other countries from Afghanistan to Ghana and Nigeria have been moving forward with legislation and plans to adopt their central, public beneficial ownership registers. This will dramatically improve collection and access to information, following commitments made at the Anti-Corruption Summit in 2016. The Ukraine has already published a beneficial ownership dataset online.[6]

The G20 is a group of leading economies, but it seems that their leadership is slow-paced when it comes to seriously cracking down on the abuse of legal entities that are incorporated or operating in their own territories.

# 2017 Results

| Very weak framework | Weak framework | Average framework | Strong framework | Very strong framework |
|---|---|---|---|---|
| - | Canada | Australia | Argentina | France |
| | South Korea | China | Brazil | Italy |
| | | India | Germany | UK |
| | | Indonesia | Japan | ..... |
| | | Russia | Mexico | Spain (Guest) |
| | | Saudi Arabia | ..... | |
| | | South Africa | Norway (Guest) | |
| | | Turkey | Switzerland (Guest) | |
| | | United States | | |
| | | ..... | | |
| | | Netherlands (Guest) | | |

4. 2015-2016 Anti-Corruption Action Plan www.bmjv.de/SharedDocs/Downloads/EN/G20/G20%20ACWG%20Action%20Plan%202015-2016.pdf?__blob=publicationFile&v=1
5. 2017-2018 G2 Anti-Corruption Action Plan www.bmjv.de/SharedDocs/Downloads/EN/G20/G20%20ACWG%20Action%20Plan%202017-2018.pdf?__blob=publicationFile&v=2
6. The Ukraine dataset can be found in OpenOwnership: https://openownership.org/news/ukrainian-beneficial-ownership-data-now-available/.

# KEY FINDINGS

## 1 G20 countries are starting to tackle anonymous company ownership – but progress is slow

Three years have passed since the G20 adopted their High-Level Beneficial Ownership Principles at the Brisbane G20 Summit. In 2015, we cautioned that we found it worrying that 15 G20 countries had weak or average frameworks. That number has dropped to 11 this year, but there are still big weaknesses across the principles. Every country has the scope to improve their legislative framework.

Some countries have barely moved since 2015 and still have major weaknesses. It is concerning that the overall legal framework of Canada and South Korea is still considered "weak" and ten G20 countries (and two of the four guest countries) have "very weak" legal frameworks in place to provide law enforcement, supervisors, tax authorities and financial intelligence units with access to any beneficial ownership information.

## 2 The majority of countries still do not know who own and controls companies in their territories and do not keep up-to-date information on them

The G20 Principles took an important step by encouraging legal entities to require beneficial ownership information when recording information about their shareholders. Legal entities are now expected to understand their ownership and control structure and keep track of individuals who have an interest in a company but are represented through nominee shareholders or other legal entities.

Sadly, the great majority of countries assessed still do not require legal entities to maintain beneficial ownership information themselves. Beneficial ownership information is only analysed and collected by financial institutions and other DNFBPs within the framework of anti-money laundering and counter-terrorism financing rules. All countries do have some sort of shareholder register, but the information rarely includes beneficial ownership information.

Central (unified) beneficial ownership registers improve collection of beneficial ownership information and access to law enforcement, supports domestic and international cooperation between authorities and allows them to do their job quicker. The good news is that six assessed countries now have central beneficial ownership registers: G20 countries **Brazil, France, Germany, Italy,** the **United Kingdom** and guest country **Spain**. This was a requirement for European countries under the fourth EU AMLD.

Weaknesses still remain in those registers, hindering their ability to ensure that accurate and up-do-date information on beneficial owners is available in a timely manner to all relevant competent authorities (for example Financial Intelligence Units). Only in the **United Kingdom** is the register publicly available. In **France**, public authorities still have to request access to the data.

In other countries where beneficial ownership information is at least collected during registration of the company (such as **Argentina** and **India**), access to that information is inhibited by the lack of a central and complete online database that would make the data far more useful.

In countries where there are no central registers, competent authorities face great challenges when they try to investigate and identify the final beneficiary of a company. Information, when it is collected, is often incomplete, difficult to access or fragmented across different databases, as in **Canada** and the **United States**, where requirements differ across provinces and states. In some United States state registers (for example, Delaware), even information on shareholders or directors goes unrecorded.

Central registers also help collect vital information that banks and business can use during their due diligence processes. Without these registers, and without the information being checked and verified, identifying a client's beneficial ownership information will remain a difficult process. Sadly, in nine G20 countries (**Australia, Brazil, Canada, Germany, Indonesia, Russia, South Korea, Turkey** and the **United States**), financial institutions can still proceed with a transaction even if they cannot identify the beneficial owner.

## 3 Verification of information is weak across the board. This undermines the ability of competent authorities to investigate suspicious cases, and the ability of banks and businesses to carry out proper due diligence

Verification is important to ensure the quality of data being provided, but also for assessing if companies are fulfilling their duties (or if front men are being used to disguise ownership).

The good news is that all 23 countries analysed now require financial institutions to identify the beneficial ownership of customers, including **South Korea, South Africa** and the **United States**, countries where such a requirement was non-existent or inadequate two years ago. All countries, with the exception of **Switzerland**, also require financial institutions to verify the beneficial owner's identity, although requirements are limited in **Canada, Italy, Germany** and the **United States**.

Unfortunately, in high-risk cases, only eight G20 countries (**Australia, China, France, India, Indonesia, Japan, Mexico** and the **United Kingdom**) require financial institutions to use independent and reliable sources to verify the beneficial owner of their customers. That means that financial institutions often take for granted customers' own declarations regarding beneficial ownership information. This is problematic because competent authorities in 15 of G20 and G20 guest countries rely mostly on the information collected by financial institutions to identify beneficial owners.

Finally, no register authority in any G20 or guest country verifies information collected in company registers at the moment. In only three countries – **Argentina, Italy** and **Spain** – might information be verified by a notary in suspicious cases.

## 4 Rhetoric does not always translate into action

Governments are frequently aware of the weaknesses in their systems, but in many cases fail to implement key measures they know will help mitigate those problems.

For example, in **Canada**, the 2015 national risk assessment highlights the use of shell companies by criminal groups and individuals to launder money, and identifies real estate agents and developers as being exposed to high or very high money laundering risk. Despite these findings, the current legal framework does not include adequate mitigation measures, such as making it mandatory for these professionals to identify customer's beneficial owners. Similarly, many vulnerabilities identified in the United States 2015 assessment of money laundering risks have not yet been addressed in the legal framework.

**Brazil's** regulation on financial institutions is also notable for sending conflicting messages. It states, on the one hand, that financial institutions should only initiate or continue "commercial relations" provided all register data (which includes beneficial ownership information) is collected and up-to-date. On the other hand, it also states that financial institutions should pay special attention to clients and operations whose data on the ultimate beneficiary is impossible to obtain, suggesting that it is possible to proceed with the transaction without this information.[7]

In **Australia**, financial institutions' directors and senior managers cannot be held personally responsible for non-compliance with the anti-money laundering rules. In all other countries, sanctions for non-compliance (including penalties, fines, suspension or warnings) apply to financial institutions themselves as well as to directors and senior managers.

**Argentina** has not conducted a money laundering risk assessment for more than three years, despite a commitment in 2014 to conduct one every two years.

## 5 Gatekeepers such as lawyers, accountants, real estate agents, and trusts and company service providers remain money laundering weak-spots

Despite improvements since our last analysis, serious weaknesses remain regarding the obligations of professionals with money laundering obligations to identify the beneficial owners of their clients. Four G20 countries (**Australia, Canada, South Korea,** and the **United States**), have no legal provisions requiring DNFBPs to identify the beneficial owners of their clients. Lawyers are not required to identify the beneficial owner of clients in nine countries (**Argentina, Australia, Brazil, Canada, China, India, Japan, South Korea** and the **United States**), although Indonesia and South Africa adopted new rules extending anti-money laundering obligations to lawyers since our last assessment. In **Switzerland**, lawyers are only required to identify the beneficial owner of clients under limited circumstances. Real estate agents in five G20 countries (**Australia, Canada, China, South Korea** and the **United States**) are not required by law to identify the beneficial owners of clients buying and selling property.

7. The difference in score for Brazil under this principle is explained by this contradiction, which we were not aware of in the previous assessment as well as due to clarifications related to lawyers' anti-money laundering obligations.

# RECOMMENDATIONS

- Governments should establish a central register of beneficial ownership information and make it publicly available in open data format.
- Governments should resource and establish mechanisms to ensure that at least some verification of beneficial ownership information takes place, such as cross-checking the data against other government and tax databases, or conducting random inspections.
- Financial institutions or DNFBPs should not be allowed to proceed with transactions if the beneficial owner of their customer cannot be identified.
- Governments should undertake national money laundering risk assessments on a regular basis. These should include an analysis of the risks posed by domestic and foreign legal entities and arrangements. Key stakeholders, including obliged entities and civil society organisations should be consulted. The results of the assessment should be published online.
- Governments should consider prohibiting nominee shareholders. If they are allowed, they should be required to disclose their status upon the registration of the company and registered as nominees. Nominees should be licensed and subject to strict anti-money laundering obligations.
- Governments should require the registration of both domestic and foreign trusts operating in their country. Information on all parties to the trust (trustee, settlor and beneficiaries), and the real individuals behind them should be recorded.

Our full recommendations can be found in our *Technical Guide on Implementing the G20 Beneficial Ownership Principles.*[8]

8. Transparency International, *Technical Guide: Implementing the G20 Beneficial Ownership Principles*, www.transparency.org/whatwedo/publication/technical_guide_implementing_the_g20_beneficial_ownership_principles, July 2015.

# METHODOLOGY

**Questions were designed to capture and measure the necessary components that should be in place for a G20 member to have an adequate beneficial ownership transparency legal framework according to each of the 10 G20 principles. The assessment framework is based on the *Technical Guide: Implementing the G20 Beneficial Ownership Principles* published by Transparency International in 2015.[9] The number of questions per principle dictates the number of points available. The total points available varies according to the complexity and number of issues covered in each original principle. We do not rate whether one principle is more or less important than another.**

The 2017 assessment also analyses the beneficial ownership transparency legal framework of four recent G20 guest countries: the Netherlands, Norway, Spain and Switzerland.[10]

The European Union, a full G20 member, was not included in this year's assessment because the negotiations of the fifth EU AMLD were concluded at the time of writing, and its final approval is still pending.

Questionnaires were completed by pro bono lawyers or Transparency International chapters, and reviewed by Transparency International for the following G20 members: Argentina, Australia, Brazil, Canada, China, France, Germany, India, Indonesia, Italy, Japan, Mexico, Russia, Saudi Arabia, South Africa, South Korea, Turkey, the United Kingdom and the United States, as well as for G20 guest countries the Netherlands, Norway, Spain and Switzerland.

In this report, Transparency International assesses national legal frameworks related to beneficial ownership transparency and other areas covered by the G20 principles. It is, however, beyond the scope of the report to analyse how laws and regulations have been implemented and enforced in practice. Such research would be an important follow-up to this assessment.

9. Transparency International, *Technical Guide: Implementing the G20 Beneficial Ownership Principles*, July 2015, www.transparency.org/whatwedo/publication/technical_guide_implementing_the_g20_beneficial_ownership_principles.
10. Each G20 host country has the right to invite guest countries to participate. Spain is a permanent Guest Country. Norway and the Netherlands were invited to participate during Germany's 2017 G20 presidency; Switzerland was invited to participate during China's 2016 G20 presidency.
11. Ministério Público Federal, Homologação de acordo de delação premiada pelo Supremo Tribunal Federal firmado com Fernando Migliaccio da Silva, 2016. http://www.valor.com.br/sites/default/files/infograficos/pdf/migliaccio.pdf
12. Delação Premiada Benedito Barbosa da Silva Junior, https://oglobo.globo.com/brasil/delacao-premiada-benedito-barbosa-da-silva-junior-dia-1-parte-2-21200545.
13. United States, *Odebrecht Plea Agreement*, www.justice.gov/opa/press-release/file/919916/download, 2016.; Valor Econômico, Bancos dividiam comissão com executivos da Odebrecht, diz delator. http://www.valor.com.br/politica/4971902/bancos-dividiam-comissao-com-executivos-da-odebrecht-diz-delator, 2017.
14. Gazeta Dopovo, *Odebrecht comprou banco no Caribe para pagar propina, diz delator*, http://www.gazetadopovo.com.br/vida-publica/odebrecht-comprou-banco-no-caribe-para-pagar-propina-diz-delator-11cqi14s5yra6mgvug6mrpbrg June 2016
15. US District Court, Odebrecht Plea Agreement. https://www.justice.gov/opa/press-release/file/919916/download, 2016
16. Globo, *Odebrecht comprou banco para pagar propina no exterior, diz delator,* http://g1.globo.com/pr/parana/noticia/2016/06/odebrecht-comprou-banco-para-pagar-propina-no-exterior-diz-delator.html, June 2016
17. Video recording of Luiz Eduardo da Rocha Soares, former Executive of Odebrecht, as part of his plea agreement with the Brazilian Prosecutor's Office; Valor Econômico, Bancos dividiam comissão com executivos da Odebrecht, diz delator. http://www.valor.com.br/politica/4971902/bancos-dividiam-comissao-com-executivos-da-odebrecht-diz-delator, 2017
18. Video recording of Luiz Eduardo da Rocha Soares, former Executive of Odebrecht, as part of his plea agreement with the Brazilian Prosecutor's Office.
19. US District Court, 2016
20. El Pais, *Lawyer at center of Odebrecht scandal : "The company bribed more than 1,000 people"* https://elpais.com/elpais/2017/07/27/inenglish/1501179676_398397.html, July 2017
21. Financial Services Regulatory Commission, Notice of Revocation of Licence, https://www.fsrc.gov.ag/images/pdf/banking/Notice%20_of_Licence_Revocation_-_Meinl_Bank_(Antigua)_Ltd.pdf

CASE STUDY

## ODEBRECHT

All cross-border grand corruption cases need a combination of anonymous companies and bank accounts to succeed. Transparency International notes, for example, how the Brazilian construction company Odebrecht relied on banks in Antigua, Panama, Switzerland and the United States, among others, to make bribe payments to Brazilian and foreign public officials and politicians.[11] Odebrecht also used anonymous bank accounts to pay unaccounted bonuses to its own executives.[12] To ensure the cooperation of banks, Odebrecht frequently paid remuneration fees and higher rates to the banking institutions, and even a percentage of each illicit transaction to certain complicit bank executives.[13]

The corruption ring operated by Odebrecht in Brazil and in other countries in Latin America and Africa relied on accounts held offshore in the name of several shell companies. At least 42 offshore accounts[14] were used by Odebrecht in the scheme. A lot of the money used to pay bribes was passing through the Antigua Overseas Bank – this until 2010, when the Antigua Overseas Bank went bankrupt.

Odebrecht needed another reliable partner to continue moving dirty money. Why not buy a bank?

They heard the Austrian Meinl Bank AG had an Antigua branch that was largely inactive. In late 2010, two of the Odebrecht's executives responsible for running the "unofficial" international operations of the company decided to buy[15] 51 per cent[16] of the Meinl Bank Antigua. They paid US$4 million for it and agreed with Odebrecht they would still get a commission of 2 per cent on the transactions carried out on behalf of the company through the bank.[17] According to information provided by the executives in their plea agreements with Brazilian authorities, they were running the bank from São Paulo and most (if not all) of the transactions made by the bank were related to Odebrecht.[18]

As highlighted in Odebrecht's plea agreement[19] with United States and Swiss authorities, "[B]y virtue of this acquisition, other members of the conspiracy, including senior politicians from multiple countries receiving bribe payments, could open bank accounts and receive transfers without the risk of raising attention. By acquiring the bank, members of the conspiracy, including Odebrecht Employee 4 and others, willfully facilitated the illegal payment scheme."

Money was transferred from the Meinl Bank Antigua to other banks such as the Andorra Private Bank [BPA], allegedly mainly to pay bribes to politically exposed persons, according to Odebrecht's former lawyer.[20]

There is no sign that authorities in the country (or in Austria, where the Meinl Bank is located) asked questions or investigated the bank at any time during the period Odebrecht used the Meinl Bank Antigua for money laundering. Only in December 2017 did the Antiguan Financial Services Regulatory Commission revoke the license[21] of the Meinl Bank Antigua.

# COUNTRY OVERVIEW

**Argentina** has not conducted a money laundering risk assessment for more than three years, despite a commitment in 2014 to conduct one every two years. While Argentina requires companies to provide beneficial ownership information upon registration at the providence level, submission of the information to the National Register of Companies depends on the adoption of further regulations by each province, which has delayed the implementation of the national register and consequently the availability of beneficial ownership information.

**Australia** is the only country where financial institutions' directors and senior managers cannot be held personally responsible for non-compliance with the anti-money laundering rules. Australia is particularly weak on regulation of DNFPBs, with no legal provision requiring lawyers, accountants, the luxury goods sector or real estate agents to identify the beneficial owners of their clients and still permit nominee directors and shareholders to operate without disclosing on whose behalf they are working.

**Brazil** has seen the largest improvement across all G20 countries, having closed a number of loopholes since 2015, where it was assessed to have a weak legal framework. It is the only non-European Union country to have established a central beneficial ownership register maintained by tax authorities, and it should be fully implemented by the end of 2018.The register is open to the public; it remains to be seen if and what information on beneficial owners will be available once companies fulfil reporting duties.

**Canada** remains one of only two assessed countries still to have a weak legal framework with average, weak or very weak scores across 8 of the 10 G20 Principles. Its federal structure means that requirements across provinces are patchy, and some company registers do not even require information on shareholders. Lawyers, accountants and real estate agents are not required to identify the beneficial owner of clients, and the financial institutions can proceed with transactions even without beneficial ownership information. The country wins points for having conducted a recent money laundering risk assessment, but implementation of mechanisms to mitigate the identified risk is limited.

**China** still permits bearer shares and has no safeguards in place to protect them from being used for money laundering. China also permits nominee directors and shareholders and does not require lawyers, accountants or real estate agents to identify the beneficial owners of clients. In 2017, China adopted new rules on client identification, including beneficial owner identification, requiring information to be independently verified in cases considered of high risk. China scored points for having conducted a recent money laundering risk assessment that consulted external stakeholders.

**France** has adopted a central beneficial ownership register since our last assessment, and moves up one category as a result. Unfortunately, competent authorities cannot access the register automatically. France requires DNFPBs to undertake some level of independent verification of the beneficial ownership information provided by their clients. France also provides access to competent authorities to a trusts register containing beneficial ownership information.

**Germany** has adopted new rules on customer due diligence and money laundering in the financial sector since the 2015 assessment and has established a central beneficial ownership register (transparency register), to which individuals who can prove "legitimate interest" can gain access. Companies, however, only need to declare their beneficial owners to the transparency register if the information is not available in the commercial register, raising doubts regarding implementation. Financial institutions can still, however, proceed with transactions where they cannot identify the beneficial owner.

**India** has not conducted a risk assessment for more than three years, and has severe weaknesses in its obligations on DNFPBs. India is one of only three countries to require nominee shareholders to disclose the identity of their beneficial owner, and requires financial institutions to use independent sources to verify beneficial ownership information in high risk cases.

**Indonesia** adopted new rules requiring lawyers to identify their beneficial owners since our last assessment. In March 2018, new rules requiring companies to collect and report beneficial ownership information to an authorised agency. Companies that are already registered have one year to comply with the law. The new law also establishes the "know your beneficial owner" rules, requiring companies to verify the identity of the beneficial owners. Given the law was adopted when this publication was being finalised, the findings and scores do not reflect these changes. However, these rules would likely improve the country's performance under Principles 3 and 4.

**Italy** has improved its score through its efforts to transpose the European Union directive into domestic law, requiring legal entities to maintain accurate information and establishing a central register. Notaries are involved in the registration process, conducting some level of verification.

**Japan** has conducted a recent money laundering risk assessment and requires financial institutions to use independent sources to verify the beneficial owner in high risk cases but their requirements on lawyers, accountants and casinos are weak. Japan scores particularly badly on collecting and providing access to beneficial ownership information. Their shareholders/ members' register includes information on legal ownership, and does not necessarily include information on natural persons.

**Mexico** requires financial institutions to use independent sources to verify beneficial ownership information of their customers in high-risk cases. However, competent authorities have limited access to beneficial information, as companies are neither obliged to maintain this

information nor to report it upon incorporation. Access to information by authorities would be vastly facilitated if beneficial ownership information were to be collected in one central location and made available.

**Russia** has undertaken an anti-money laundering assessment but has not published the results, which means it is hard to know whether measures have been put in place to mitigate identified weaknesses. Russia scores poorly on collecting and providing access to beneficial ownership information. New rules have been adopted since 2015 on due diligence conducted by financial institutions on their customers, but they can still proceed with transactions, even if they cannot identify the natural person controlling their client, as can TCSPs.

**Saudi Arabia** has still to conduct an anti-money laundering risk assessment and scores extremely poorly on collecting and making any beneficial ownership information available. Nominee directors and shareholders are allowed to operate without disclosing on whose behalf they are working. Saudi Arabian trustees of foreign trusts are required to identify the client under the anti-money laundering law, but no clear guidance is provided on what information should be obtained by the trustee to satisfy this requirement.

**South Africa** has passed legislation since our 2015 assessment. It now has a strong legal definition of beneficial ownership, extends sanctions to directors and senior managers, and requires financial institutions to identify the beneficial owners of customers. Weaknesses remain in obligations imposed on lawyers, despite anti-money laundering rules having been extended to cover lawyers since 2015. Nominee directors and shareholders are still permitted. South Africa has not conducted a money laundering risk assessment for more than three years. Beneficial ownership information for trusts is not collected.

**South Korea** is one of just two countries identified to have weak beneficial ownership legal frameworks. Despite revisions in December 2015, South Korea still lacks a good legal definition for beneficial ownership, and this could have repercussions for implementing strong money laundering controls. South Korea does not collect or make beneficial ownership information available from companies; it is one of four countries where DNFPBs are not required to identify the beneficial owner of clients. Financial institutions can still proceed with transactions without identifying the beneficial owner of their clients.

**Turkey** has still not conducted a money laundering risk assessment, and still does not centrally collect beneficial ownership information. Some new rules have been adopted requiring the financial sector to conduct better due diligence, but there are still no requirements to identify whether the customer, or its beneficial owner is a politically exposed person requiring enhanced checks. Financial institutions can still proceed with transactions regardless of having beneficial ownership information.

The **United Kingdom** scores well across all G20 Principles. Its central, public beneficial ownership register (the "Persons of Significant Control Register") has been operational since June 2016, allowing immediate access to beneficial ownership information of companies incorporated in the United Kingdom. Sanctions are in place for incorrect information, but no independent verification is undertaken by the register authority. Nominees must disclose on whose behalf they are working; financial institutions are required to verify the beneficial owners of clients in high-risk cases. However, evidence continues to come to light showing that the United Kingdom's Overseas Territories and Crown Dependencies operate very different legal systems that are permitting corruption and money laundering to take place. The United Kingdom should accelerate plans to adopt a property register containing beneficial ownership information of foreign companies owning property in the United Kingdom and bring the Overseas Territories and Crown Dependencies in line with United Kingdom transparency standards.

The **United States** still has a weak legal definition of beneficial ownership. Improvements have been made since the 2015 assessment, and financial institutions now are subject to stronger requirements to identify the beneficial owners of clients. The United States is one of four countries that still does not require DNFPBs to identify the beneficial owners of clients, and one of eight G20 countries that allows nominee directors and shareholders to operate without disclosing on whose behalf they are working.

## G20 Guest Countries

The **Netherlands** scores "very weak" across four of the 10 G20 Beneficial Ownership Principles, and performs least well of the four guest countries. Only legal ownership information is included in companies' individual registers; this can include a nominee or another company, making it very difficult to actually identify the beneficial owner. The Netherlands does not require foreign trusts that operate in the country to maintain information on all parties to the trust. Under the fourth EU AMLD, the Netherlands should move towards registering trusts, but there appear to be no plans to do so. The Netherlands should ban bearer shares and the use of nominees.

**Norway** scores relatively well across most principles, aside from on acquiring and providing access to beneficial ownership information. Norway removed requirements on dealers in previous metals and stones to identify the beneficial owners of clients in 2017, limiting these measures to transactions via cash payments only.

**Spain** has a central beneficial ownership register open to competent authorities and in line with European Union regulations; it has a strong legal framework in place overall. In suspicious cases, beneficial ownership information may be verified by notaries (one of just three countries to do so). Banks are also required to provide information on account holders, including beneficial ownership information to the supervisory body. Spain does not, however, have a trust register, which is required to comply with the fourth EU AMLD.

**Switzerland** requires legal entities to maintain accurate and up-to-date information on their beneficial owners. They also require financial institutions to identify the beneficial owners of their clients, but it is the only country that does not require financial institutions to verify that information with a valid ID, for example. Real estate agents are only required to conduct due diligence and identify the beneficial owner if they accept more than 100,000 CHF in cash in the course of a commercial transaction. Bearer shares are still allowed, although safeguards have been in place since 2015.

# SUMMARY OF SCORES

| | **Principle 1:** beneficial ownership definition | **Principle 2:** identifying and mitigating risk | **Principle 3:** acquiring a ccurate beneficial ownership information | **Principle 4:** access to beneficial ownership information | **Principle 5:** beneficial ownership of trusts | **Principle 6:** access to beneficial ownership of trusts | **Principle 7:** duties of businesses and professions | **Principle 8:** domestic and international cooperation | **Principle 9:** beneficial ownership information and tax evasion | **Principle 10:** bearer shares and nominees |
|---|---|---|---|---|---|---|---|---|---|---|
| Argentina | 100% | 0% | 50% | 68% | 100% | 42% | 77% | 63% | 83% | 100% |
| Australia | 100% | 0% | 13% | 14% | 25% | 50% | 26% | 63% | 75% | 50% |
| Brazil | 100% | 0% | 75% | 54% | 25% | 42% | 69% | 46% | 100% | 100% |
| Canada | 25% | 80% | 0% | 18% | 50% | 33% | 24% | 71% | 58% | 13% |
| China | 100% | 100% | 0% | 29% | 25% | 33% | 40% | 63% | 75% | 0% |
| France | 100% | 80% | 100% | 64% | 75% | 83% | 93% | 63% | 100% | 100% |
| Germany | 100% | 0% | 88% | 75% | 75% | 83% | 76% | 71% | 100% | 50% |
| India | 100% | 0% | 75% | 57% | 25% | 25% | 65% | 38% | 75% | 75% |
| Indonesia | 100% | 60% | 38% | 18% | 25% | 33% | 67% | 71% | 75% | 100% |
| Italy | 100% | 90% | 100% | 61% | 75% | 83% | 86% | 71% | 100% | 75% |
| Japan | 100% | 100% | 38% | 11% | 25% | 33% | 71% | 71% | 75% | 100% |
| Mexico | 100% | 100% | 25% | 18% | 100% | 50% | 81% | 79% | 75% | 75% |
| Russia | 100% | 80% | 38% | 21% | 25% | 33% | 60% | 71% | 75% | 100% |
| Saudi Arabia | 100% | 0% | 13% | 18% | 50% | 50% | 76% | 46% | 42% | 38% |
| South Africa | 100% | 0% | 25% | 11% | 25% | 50% | 67% | 75% | 75% | 50% |
| South Korea | 50% | 50% | 13% | 11% | 25% | 33% | 24% | 63% | 58% | 50% |
| Turkey | 100% | 0% | 38% | 11% | 25% | 33% | 57% | 63% | 75% | 75% |
| UK | 100% | 100% | 100% | 82% | 88% | 100% | 93% | 83% | 100% | 88% |
| US | 25% | 80% | 0% | 18% | 25% | 42% | 29% | 71% | 75% | 50% |
| Netherlands | 100% | 100% | 13% | 18% | 25% | 33% | 83% | 54% | 42% | 13% |
| Norway | 100% | 100% | 38% | 18% | 25% | 50% | 76% | 79% | 75% | 100% |
| Spain | 100% | 60% | 75% | 71% | 100% | 33% | 90% | 88% | 100% | 100% |
| Switzerland | 100% | 80% | 100% | 21% | 50% | 33% | 55% | 79% | 75% | 38% |

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