

ARGENTINA

BENEFICIAL OWNERSHIP TRANSPARENCY

Argentina is fully compliant with three G20 Principles (Principle 1, 5, and Principle 10), and scores relatively well in several other principles. The country made significant progress by requiring legal entities and arrangements to disclose beneficial ownership information upon registration. Improvements are still necessary to ensure that this information is readily and easily available to domestic and competent authorities.

G20 PRINCIPLE 1: BENEFICIAL OWNERSHIP DEFINITION

Score: 100%

Argentina is fully compliant with the G20 Principle 1. The Resolution 229/11 of the Financial Intelligence Unit (FIU) and a recent 2015 Resolution of the General Inspectorate of Justice defines a beneficial owner as physical persons who have at least 20% of the capital or voting rights of a legal person or by other means exercise final control, directly or indirectly, over a legal person or other entities.

Within this framework, the definition covers all the main issues, such as the beneficial owner being a natural person, the exercise of direct or indirect ultimate control, as well as the alternative between “own” or “control.” The definition is thus in accordance with good practice.

G20 PRINCIPLE 2: IDENTIFYING AND MITIGATING RISK

Score: 10%

Argentina has not conducted an assessment of the money laundering risks related to legal persons and arrangements in the last three years. However, in 2014 the Financial Intelligence Unit issued a resolution establishing that assessments of money laundering risks have to be conducted every two years. Argentina is therefore considered only partially compliant with Principle 2.

According to government authorities, the assessment is currently being undertaken but the findings are confidential and therefore the assessment will not be published. It is also not clear whether relevant

stakeholders have been consulted during the assessment. According to the resolution, the Financial Intelligence Unit shall issue specific reports to inform obliged parties and other actors about the money laundering risks identified.

G20 PRINCIPLE 3: ACQUIRING ACCURATE BENEFICIAL OWNERSHIP INFORMATION

Score 50%

Current laws and regulations do not require legal entities, other than those with anti-money laundering obligations to maintain information on beneficial ownership. Consequently, there is also no requirement that the beneficial ownership information is maintained within Argentina.

However, a new regulation approved in July 2015 that will come into force in November 2015, requires legal entities to report on their ultimate beneficial owners upon registration (see Principle 4).

The current legal framework also requires legal entities to keep a shareholder registry, but in this case there is no requirement that the information recorded refers only to natural persons. In any case, shareholders are required to inform the company regarding changes in share ownership.

The concept of nominee shareholder does not exist in Argentina, and those professionals representing legal entities are required to declare it.

G20 PRINCIPLE 4: ACCESS TO BENEFICIAL OWNERSHIP INFORMATION

Score: 46%

Some competent authorities in Argentina can access beneficial ownership information in a timely manner. The new resolution requiring companies to disclose beneficial ownership information upon registration – yet to come into force – is likely to improve access to information, but it is still unclear whether the information will be made public.

Currently, the Financial Intelligence Unit is responsible

for accessing and maintaining all information related to anti-money laundering. The resolution 30/2013 provides that the FIU should exchange information with the Central Bank of Argentina, the National Securities Commission and with the Argentinian Insurance Authority within 10 days following a motivated request. The resolution of the Public Prosecutor's Office (1177/2013) also establishes a cooperation agreement with the FIU to exchange information related to financial crimes.

Competent authorities may also request to access information recorded in the company registry and in the AFIP tax authority registry.

All legal entities in Argentina are required to register with the Public Registry of Commerce at the sub-national (province) level. The type of information recorded in these registries is defined by a national law and therefore there is no discrepancy among them. They include, for example, name(s) of shareholders (natural or legal persons), a list of directors, and addresses. This information needs to be updated regularly by the legal entity, but it is recorded as declared by the legal entities as registry authorities do not have the capacity to verify the data provided.

In 2005, a national (central) company registry was created (Inspeccion General de Justicia, or IGJ) but adherence to the new registry depends upon the approval of laws at the sub-national level. Currently, 15 provinces adopted laws adhering to the national registry but eight of them have still to pass such laws. The law also provides that the information in the central registry should be made available to the public. However, as there has not been full adherence to the registry, the information is only available upon request. The public can access company information physically at the province registries.

Moreover, there is no real guarantee that the information recorded in the company registry is fully accurate, as the registry authority does not have the mandate to verify the information provided.

A resolution passed in July 2015 (IGJ Resolución 7/2015) states that some legal entities are required to identify the beneficial owner upon registration. The name and surname, nationality, passport, current address, date of birth, tax number as well as information on how control is exercised need to be disclosed.

G20 PRINCIPLE 5: TRUSTS

Score: 100%

Argentina has a domestic trust law and also allows the administration of foreign trusts and the current legal framework is closely in line with the G20 Principle.

Trustees are required to hold beneficial ownership information and to report transactions or omissions which may constitute crimes of money laundering and terrorist financing.

Trustees of domestic and foreign trusts (financial or regular), Argentine residents that are either settlors or beneficiaries of foreign trusts (but only relating to their interest in such trusts); and the assignors and assignees of the rights under domestic trust agreements are required to register with the AFIP, Argentina's tax administration.

The registration covers information on the creation of the trust, full documentation for the settlors and the beneficiaries, as well as any changes in those roles, if any, that take place after the inception of the trust; the assignments of the rights stemming from the trust, whether subject to any consideration or not, any contribution of assets to the trust that takes place after the inception of the structure, as well as the trustees', settlors' and beneficiaries' names, taxpayer ID numbers, and countries of residence., among others (General Resolution 3312/12).

G20 PRINCIPLE 6: ACCESS TO BENEFICIAL OWNERSHIP OF TRUSTS

Score: 75%

The Anti-Money Laundering law in Argentina provides that the FIU must have access to information held by physical and legal persons acting as fiduciaries in any kind of trust. However, the law does not specify a timeframe for the trustee to share the information requested.

Other resolutions provide that the information obtained by the FIU can be shared with other competent authorities upon motivated request. Finally, given the registration requirement, Argentina's tax authority also has access to beneficial ownership information of domestic and foreign trusts.

G20 PRINCIPLE 7: DUTIES OF BUSINESS AND PROFESSIONS

Score: 82%

Financial Institutions

Score: 66%

The Anti-Money Laundering law establishes that reporting entities are required to obtain information about the real identity of their clients. Within this framework, financial institutions are required to define a customer profile that contains information on the individuals who directly or indirectly exercise actual control of a legal entity. Additional measures to identify the beneficial owner should be taken in cases considered high-risk (e.g. amounts, frequency and nature of operations do not match the economic activity of the client). There should also be additional measures to identify whether a client is a politically exposed person (PEP) or a close associate. If financial institutions fail to identify the identity of the beneficial owner, they should not proceed with the transaction.

The law does not require financial institutions to independently verify information on the identity of the beneficial owner provided by the client. Equally, financial institutions are not required to submit a suspicious transaction report (STR) if the beneficial owner has not been identified.

The law establishes sanctions to financial institutions' directors and senior management for failures to apply the anti-money laundering legal framework.

The Financial Intelligence Unit is the body responsible for supervising financial institution's anti-money laundering obligations. In 2014, 10 financial institutions were sanctioned and in 2013, 27 administrative proceedings were conducted against financial institutions.

DNFBPs

Score: 92%

A rather comprehensive number of DNFBPs are subject to anti-money laundering rules, including trusts and corporate services providers, lawyers, accountants, real estate agents, casinos, dealers in precious metal and stones, dealers in luxury goods, such as yachts, cars, planes, art dealers, armored transportation companies, fine art auction and private sales, among others.

The same rules that apply for financial institutions apply to the DNFBPs described above.

G20 PRINCIPLE 8: DOMESTIC AND INTERNATIONAL COOPERATION

Score: 71%

Investigations into corruption and money laundering require that authorities have access to relevant information, including regarding beneficial ownership. In Argentina, the lack of a centralized database that can be used by domestic or foreign authorities to consult information on legal ownership and control means that authorities have to rely on memorandum of understanding and written requests.

As mentioned, several domestic competent authorities have signed agreements to share relevant information on money laundering. FIU is the competent authority that more often holds beneficial ownership information as the body receives reports from financial institutions and DNFBPs and other competent authorities such as Central Bank and the Public Prosecutor's Office can request information at any time.

With regard to international cooperation, the FIU is also the designated central authority for mutual legal assistance matters. Information held by the FIU can be accessed by foreign counterparts through a motivated request (if there is already an agreement in place), through mutual legal assistance requests, or letter rogatory.

Competent authorities in Argentina are allowed to use their power and investigative techniques to respond to a request from foreign judicial or law enforcement authorities if a mutual legal assistance request has been made.

There are some restrictions in the legal framework that may hamper the timely exchange of information with foreign authorities, but improvements have been made since the introduction of the Resolution 30/2013 that allows the FIU to share information with foreign counterparts.

G20 PRINCIPLE 9: BENEFICIAL OWNERSHIP INFORMATION AND TAX EVASION

Score: 83%

Tax authorities in Argentina do not have access to a central beneficial ownership registry, but the law does not impose any significant restriction on having beneficial ownership information held by other domestic authorities shared with tax authorities. In addition, tax authorities in Argentina maintain their own database containing relevant information in the identification of beneficial owners of legal persons and arrangements.

Argentina is a signatory of the OECD Convention on Mutual Administrative Assistance on Tax Matters and as of 2011 it had signed tax information exchange agreements with only 13 countries.

G20 PRINCIPLE 10: BEARER SHARES AND NOMINEES

Score: 100%

Bearer shares

Score: 100%

Bearer shares have been prohibited in Argentina since the promulgation of the law 24.587 in 1995.

Nominee shareholders and directors

Score: 100%

Nominee shareholders and directors are not allowed in Argentina.