INDONESIA
BENEFICIAL OWNERSHIP TRANSPARENCY

Indonesia is only fully compliant with one Principle (Principle 10). Improvements in the current legal framework are required in order to effectively implement the other Principles. Indonesia should also conduct an assessment of the money laundering risks in order to inform the country's rules, policies and enforcement strategies.

G20 PRINCIPLE 1: BENEFICIAL OWNERSHIP DEFINITION

Score: 50%

Indonesia's legal definition of beneficial ownership is not fully in line with G20 Principle 1. The Bank Regulation 11/28/PBI/2009 and the Ministry of Financial Regulation 30/010/2010 define beneficial owner as any person who owns funds, controls customer transactions, confer power of attorney with regards to engaged transactions, and/or controls through a legal entity or an agreement.

Against this background, it seems that the definition does not specifically cover control exercised indirectly by a natural person. There is also no mention of ultimate control.

G20 PRINCIPLE 2: IDENTIFYING AND MITIGATING RISK

Score: 0%

Indonesia has not conducted an assessment of the anti-money laundering risks related to legal entities and arrangements in the past three years.

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 Indonesia.

The law only requires legal entities to maintain a list of shareholders, including their names, address, and number and class of shares held. According to the law, changes in share ownership need to be communicated and recorded in the registry. Legal entities are also required to register with tax authorities, where information on shareholders is also disclosed. This information however refers only to legal ownership and not necessarily beneficial ownership. They may help authorities in the identification of the beneficial owner, but should not be considered as sufficient.

G20 PRINCIPLE 4: ACCESS TO BENEFICIAL OWNERSHIP INFORMATION

Score: 29%

Access to beneficial ownership information by competent authorities in Indonesia is restricted. While the anti-money laundering law provide that the Financial Transaction Report and Analysis Center (PPATK) can have access to relevant information on anti-money laundering, currently the only direct source on beneficial ownership information is the information collected by financial institutions or upon request.

There is no beneficial ownership registry and legal entities in the country are only required to maintain information on legal ownership – and not necessarily on the individuals who exercise ultimate control.

Authorities may also consult information available in the central company registry, that records the name of shareholders and directors, but again, the information only refers to legal ownership. The information recorded in the registry is accessible to competent authorities online for free, but only upon registration and payment of a fee to the public. Also, some of the information recorded such as shares ownership is only available upon request. Changes in share ownership should be communicated within 30 days and the registry updated. There is however no requirement for the registry authority to verify the information reported and therefore the information is recorded as disclosed by the legal entity.

G20 PRINCIPLE 5: TRUSTS

Score: 67%

Indonesia does not have a domestic trust law, but allows the administration of foreign trusts. As such, there is no prohibition on foreign trusts operating in Indonesia or from being a customer of an Indonesian financial institution.

In cases where the trustee acts by way of business, anti-money laundering requirements, including the requirement of conducting due diligence and identifying the beneficial owner apply. However, the current law does not specify which parties to the trust should be identified. That is, there is no explicit requirement that the identity of the trustee, settlor and beneficiaries should be identified.

According to the Central Bank Regulation 14/17/PBI/2012, financial institutions providing services to foreign trusts need to sufficiently identify the parties to the trust, including the beneficial owner.

G20 PRINCIPLE 6: ACCESS TO BENEFICIAL OWNERSHIP OF TRUSTS

Score: 33%

Foreign trusts are not required to register in Indonesia. Competent authorities, such as the Bank Indonesia are allowed to access and / or request information on trust activities from professional trustees and financial institutions.

G20 PRINCIPLE 7: DUTIES OF BUSINESS AND PROFESSIONS

Score: 62%

Financial Institutions

Score: 81%

The 2009 Central Bank regulation provides that financial institutions are required to implement an anti-money laundering programme. As part of the programme, financial institutions need to conduct due diligence when engaging in a business relationship with a new customers, when there is the accuracy of the identity of the customer or beneficial owner is in doubt, or when there are unusual financial transactions (Article 9). The identity of the customer and beneficial owners need to be identified and verified. As part of the verification process, banks are required to conduct face to face meeting with prospective customers at the initiation of a business relationship in order to ascertain the accuracy of their identity.

The law also provides that financial institutions should scrutinise and verify the accuracy of supporting documents and ensure that the data are up-to-date. Financial institutions cannot however rely on information on beneficial ownership collected by the government as currently there is no registry containing beneficial ownership information.

In cases where the customer or the beneficial owner is a domestic or a foreign politically exposed person (PEP), financial institutions have to conduct enhanced due diligence procedures, including ongoing monitoring of the relationship.

According to the law, financial institutions should not procced with a business transaction if the beneficial owner has not been identified and in case of suspicious, a suspicious transaction report needs to be submitted.

The Central Bank and the PPATK are the bodies responsible for regulating and overseeing financial institutions. The law provides administrative and criminal sanctions for non-compliance with the law. These apply to financial institutions as well as directors and senior management.

DNFBPs

Score: 50%

Providers of goods and / or other services, including (i) property company/ property agents; (ii). motor vehicle dealers; (iii) gems, jewelry, and precious metal dealers; (iv). antique and art dealers; and (v) auction house are also subjected to anti-money laundering rules. Other business and professions such as lawyers, accountants, casinos and luxury goods dealers are not covered by the law.

A regulation adopted by Indonesia's financial intelligence unit (Regulation PER-10/1.02.1/PPATK/09/11) provides that as part of their customer due diligence requirements reporting parties of other goods and/or service providers have to identify the beneficial owner of their clients. Other regulations adopted by the FIU also contain relevant provisions such as suspicious transaction reporting procedures (Regulation 02/1.02/PPATK/02/15 and-12/1.02.1/PPATK/09/11).

According to these regulations, DNFBPs with obligations must verify information provided by the client and are prohibited from proceeding with a transaction if the beneficial owner has not been identified.

G20 PRINCIPLE 8: DOMESTIC AND INTERNATIONAL COOPERATION

Score: 46%

Investigations into corruption and money laundering require that authorities have access to relevant information, including regarding beneficial ownership. In Indonesia, there is no centralised database that can be consulted by domestic or foreign authorities to access information on legal ownership and control. The PPATK may access information on beneficial ownership collected by financial institutions and this information can be shared with other domestic competent authorities informally or through a formal agreement / request.

According to the law, in order to eradicate money laundering, PPATK can share relevant information with law enforcement authorities, supervisory bodies, or any other institutions associated with the prevention and eradication of the criminal action of money laundering or other criminal action associated with money laundering.

The law in Indonesia establishes bank secrecy, but the anti-money laundering law contains provisions ensuring that bank secrecy is not an impediment to investigations into money laundering. As such, Article 27 provides exemption in respect of PPATK's powers to request and receive reports and conduct audit of Financial Services Providers. Similarly, the law provides that investigators, prosecutors and judges when they request information regarding assets of any person reported by the PPATK, a suspect or a defendant for the purpose of court proceedings in a money laundering case are also allowed to access bank information.

There is also no significant impediment for cooperation with foreign authorities. The PPATK may share information on money laundering and predicate offences both spontaneously and upon request through written requests or mutual legal assistance. The Ministry of Foreign Affairs is responsible for dealing with mutual legal assistance requests, but information can also be requested directly to PPATK. There are no detailed procedural requirements available for foreign authorities in how to request beneficial ownership information.

Competent authorities in Indonesia are also allowed to use their powers to respond to requests from foreign authorities.

G20 PRINCIPLE 9: BENEFICIAL OWNERSHIP INFORMATION AND TAX EVASION

Score: 58%

Tax authorities in Indonesia do not have access to a central beneficial ownership registry. The law does not impose significant restrictions on sharing information, although bank secrecy laws could hamper the timely exchange of information. Bank information in Indonesia can only be accessed by tax authorities under conditions that often time restrictive.[1]

Indonesia is a signatory of the OECD Convention on Mutual Administrative Assistance on Tax Matters and as of 2014 it had signed five Tax Information Exchange Agreements and 71 double taxation conventions.

G20 PRINCIPLE 10: BEARER SHARES AND NOMINEES

Score: 100%

Bearer shares

Score: 100%

Bearer shares are prohibited in Indonesia.

Nominee shareholders and directors

Score: 100%

Nominee shareholders are not allowed in Indonesia according to the Investment Law 2007.

[1] OECD, 2014. Global Forum on Transparency and Exchange of Information for Tax Purposes: peer review. http://www.keepeek.com/Digital-Asset-Management/oecd/taxation/global-forum-on-transparency-and-exchange-of-information-for-tax-purposes-peer-reviews-indonesia-2014_9789264217737-en#page73