

TURKEY

BENEFICIAL OWNERSHIP TRANSPARENCY

Turkey is fully compliant with only one of the G20 Principles. Competent authorities in Turkey have limited access to beneficial ownership information; companies are not required to maintain beneficial ownership information and there is no registry. Current anti-money laundering rules on financial institutions could also be strengthened. Obligated entities should be required to independently verify beneficial ownership information in cases of high-risk and also identify whether a customer or a beneficial owner is a Politically Exposed Person (PEP).

G20 PRINCIPLE 1: BENEFICIAL OWNERSHIP DEFINITION

Score: 100%

Turkey is fully compliant with G20 Principle 1. Whilst there is no definition of beneficial ownership in the Company Law, the Regulation on Measures Regarding Prevention of Laundering Proceeds of Crime and Financing of Terrorism (RoM) provides that “beneficial owner means natural person(s) who controls the natural persons, legal persons or unincorporated organizations on behalf of whom a transaction is conducted within an obliged party or who is the ultimate owner of the transaction or the account belonging to them.”

G20 PRINCIPLE 2: IDENTIFYING AND MITIGATING RISK

Score: 0%

Turkey has not conducted an assessment of the anti-money laundering risks related to legal entities and arrangements in the past three years and therefore cannot be considered compliant with Principle 2.

G20 PRINCIPLE 3: ACQUIRING ACCURATE BENEFICIAL OWNERSHIP INFORMATION

Score 25%

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 beneficial ownership

information is maintained within Turkey.

Turkish company law does not differentiate between legal ownership and beneficial ownership. Legal entities are only required to maintain a shareholders’ book, containing the shareholder’s name, address and the number of shares held. Changes in share ownership should also be registered in the book.

Nominee shareholders are not required to inform the legal entity in case they own shares on behalf of a third person.

G20 PRINCIPLE 4: ACCESS TO BENEFICIAL OWNERSHIP INFORMATION

Score: 7%

Timely access to beneficial ownership information by competent authorities in Turkey is restricted. As there is no beneficial ownership registry and legal entities are not required to maintain beneficial ownership information, authorities have to rely on beneficial ownership information collected by financial institutions and DNFBPs or on basic information contained in the trade registry.

The law does not contain any provision stating which competent authority should have access to beneficial ownership information or under which timeframe and mechanisms this information can be accessed.

Turkey’s electronic trade registry (MERSIS) contains information on all legal entities incorporated in the country, but not all ownership information is recorded. For instance, information on shareholders and detailed information on directors are not recorded in the registry. A list of shareholders and other company documents are however published in the registry gazette and available online.

The registry authority does not have the mandate to verify the information provided by legal entities. As such, there is no guarantee that the data recorded is accurate and it is not unusual to find conflicting information on a legal entity in the trade registry and in the registry gazette.

G20 PRINCIPLE 5: TRUSTS

Score: n/a

Turkey does not have a domestic trust law, and does not allow the administration of foreign trusts. Therefore the principles on trusts are not applicable.

In case a foreign trust wants to open an account with a Turkish financial institution it is considered an ordinary customer and all customer due diligence measures apply.

G20 PRINCIPLE 6: ACCESS TO BENEFICIAL OWNERSHIP OF TRUSTS

Score: n/a

Turkey does not have a domestic trust law, and does not allow the administration of foreign trusts. Therefore the principles on trusts are not applicable.

G20 PRINCIPLE 7: DUTIES OF BUSINESS AND PROFESSIONS

Score: 55%

Financial Institutions

Score: 50%

Current laws and regulations require financial institutions to take reasonable measures to identify the beneficial owner of customers when conducting customer due diligence.

According to the law, in the case of legal entities, financial institutions shall identify the natural and legal person partners holding more than 25% of the legal person shares and shall obtain accurate information regarding the persons ultimately managing, or having the control or ownership of the legal person which is their customer within the scope of a permanent business relationship.

The identification of the beneficial owner requires the presentation of identification data¹, but financial institutions are only required to verify the data if they suspect the authenticity of the documents. Independent verification, such as checking the information provided against independent reliable sources is not mandated by the law, not even in high-risk cases.

Nevertheless, in the establishment of permanent business relationship, customers are required to submit to financial institutions a written declaration indicating whether the act is carried out for the benefit of someone else. This declaration can be specified in the customer contract or be received by using appropriate forms.

The law does not contain any provision requiring the identification or enhanced due diligence measures of politically exposed persons (PEPs).

Financial institutions, in cases where they cannot make customer identification or obtain information on the purpose of the business relationship, shall not establish business

¹ FATF's 15th Follow-Up Report Mutual Evaluation of Turkey page 10. See <http://www.fatf-gafi.org/media/fatf/documents/reports/mer/Turkey-FUR-2014.pdf>

relationship and not conduct the transaction which they are requested. In such a circumstance they cannot open an anonymous account or account with a fictitious name. Moreover, in cases where customer identification and verification is required due to suspicions regarding the adequacy and accuracy of the previously obtained customer identification information, but cannot be carried out, the business relationship must be terminated. Financial institutions should assess whether the situations specified above are suspicious transactions or not.

The Banking Regulation and Supervision Agency is responsible for overseeing financial institutions. Administrative, civil and criminal sanctions can be applied to financial institutions, directors and senior management

Designated Non-Financial Businesses and Professions (DNFBPs)

Score: 58%

DNFBPs covered by the anti-money laundering law are required to conduct customer due diligence and identify the beneficial owner under certain circumstances.

DNFBPs with anti-money laundering obligations in Turkey include:

- Lawyers, when dealing with real estate trade, establishment, management and transfer of companies, foundations and associations
- Accountants
- Independent audit institutions authorised to conduct audit in financial markets
- Real estate agents;
- Notaries
- General Directorate of Post and cargo companies
- Assets management companies
- Directorate General of Turkish Mint pertaining only to its activities of minting gold coins
- Precious metals exchange intermediaries
- Dealers of any kind of sea, air and land transportation vehicles including construction machines
- Dealers and auctioneers of historical artifacts, antiques and works of art
- Those who operate in the field of lotteries and betting including Turkish National Lottery Administration, Turkish Jockey Club and Football Pools Organization Directorate
- Sports Clubs

The same rules that apply to financial institutions regarding the identification of the beneficial owner apply to DNFBPs. Similarly, DNFBPs are only required to verify the data if they suspect the authenticity of the documents. Independent verification, such as checking the information provided against independent reliable sources is not mandated by the law, not even in high-risk cases.

The law does not contain any provision requiring the identification or enhanced due diligence measures of

politically exposed persons (PEPs).

In cases where DNFBPs cannot identify the beneficial owner the relationship should not be established. Moreover, the business relationship needs to be terminated in cases where customer identification and verification, required due to suspicion regarding the adequacy and accuracy of the previously obtained customer identification information cannot be carried out.. Obligated entities should assess whether the situations specified above are suspicious transactions or not.

The anti-money laundering law also provides for sanctions for non-compliance for DNFBPs as well as senior managers.

G20 PRINCIPLE 8: DOMESTIC AND INTERNATIONAL COOPERATION

Score: 63%

Investigations into corruption and money laundering require that authorities have access to relevant information, including regarding beneficial ownership. In Turkey, there is no centralised database that can be use by domestic or foreign authorities to consult information on legal ownership and ultimate control. Domestic authorities, including Ministry of Finance, Financial Crimes Investigation Board (MASAK) and public prosecutors, are empowered to obtain information from government authorities, financial institutions and third parties and the information obtained may be shared with other domestic competent authorities upon the submission of a written and motivated request.

Turkish authorities usually share money laundering-related information with foreign authorities through bilateral agreements / memorandum of understanding. MASAK is the body responsible for collecting and sharing relevant information. Within this framework, MASAK provides counterpart FIUs with information and documents obtained from other domestic institutions, natural and legal persons, as long as the information is treated as confidential and is used only for intelligence purposes.

National authorities may also use their powers to assist foreign counterparts in the production, search and seizure of information and evidence, including financial records, from financial institutions and other natural and legal persons, obtaining evidence and taking depositions from persons, and providing originals or copies of documents, among others.

G20 PRINCIPLE 9: BENEFICIAL OWNERSHIP INFORMATION AND TAX EVASION

Score: 75%

Tax authorities in Turkey do not have direct access to beneficial ownership information. They are however allowed to request information from government institutions, individuals and legal entities. MASAK also provides reports on potential violations in the area of taxation to tax authorities.

There are no legal provisions in place that restrict effective exchange of information.

Turkey is a member of the Global Forum on Transparency and Exchange of Information for Tax Purposes. As of 2013, Turkey had a network of information exchange mechanisms covering 94 jurisdictions, including double taxation agreements and tax information exchange agreements.

G20 PRINCIPLE 10: BEARER SHARES AND NOMINEES

Score: 75%

Bearer shares

Score: 50%

The issuance of bearer shares is allowed in Turkey. In order to prevent the misuse of such shares, they have to be converted into registered shares or share warrants (dematerialisation).

Nominee shareholders and directors

Score: 100%.

Nominee shareholders are not allowed in Turkey