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- In April 2015, Australia was found to be partially compliant in respect of the collection of beneficial ownership information for legal persons (e.g. companies) and non-compliant in respect of legal arrangements (e.g. trusts) under the mutual evaluation process for the international standards.

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## THE FATF STANDARDS

- In 2012, the Financial Action Taskforce (FATF) of the G20, of which Australia is a member, published international standards on combatting money laundering and the financing of terrorism and proliferation. s 47C
  - The standards include 40 recommendations as to how countries should combat AML/CFT, including two key recommendations in respect of the collection, maintenance and sharing of beneficial ownership information for legal persons and legal arrangements with competent authorities.

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### *Definitions of key terms*

- **Legal persons** are defined by the FATF standards as:

*“Legal persons refers to any entities other than natural persons that can establish a permanent customer relationship with a financial institution or otherwise own property. This can include companies, bodies corporate, foundations, anstalt, partnerships, or associations and other relevantly similar entities”*

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- **Legal arrangements** are defined by the FATF standards as:

*“Legal arrangements refers to express trusts or other similar legal arrangements. Examples of other similar arrangements (for AML/CFT purposes) include fiducie, treuhand and fideicomiso”*

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- **Beneficial ownership** is defined by the FATF standards as:

*“Beneficial owner refers to the natural person(s) who ultimately owns or controls a customer and/or the natural person on whose behalf a transaction is being conducted. It also includes those persons who exercise ultimate effective control over a legal person or arrangement.”*

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**COMPLIANCE STATUS**

- Australia was subject to a mutual evaluation procedure in 2015 which found that we were partially compliant with recommendation 24 and non-compliant with recommendation 25 for the FATF standards in respect of the collection, maintenance and sharing of beneficial ownership information.

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**Recommendation 24- beneficial ownership of legal persons s 47C**

- Recommendation 24 s 47C

*“...take measures to prevent the misuse of legal persons for money laundering or terrorist financing. Countries should ensure that there is **adequate, accurate and timely information on the beneficial ownership and control of legal persons that can be obtained or accessed in a timely fashion by competent authorities**. In particular, countries that have legal persons that are able to issue bearer shares or bearer share warrants, or which allow nominee shareholders or nominee directors, should take effective measures to ensure that they are not misused for money laundering or terrorist financing. Countries should consider measures to facilitate access to beneficial ownership and control information by financial institutions and DNFBPs undertaking the requirements set out in Recommendations 10 and 22.”*

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**Recommendation 25- beneficial ownership of legal arrangements s 47C**

- Recommendation 25 s 47C

*“...take measures to prevent the misuse of legal arrangements for money laundering or terrorist financing. In particular, countries should ensure that there is **adequate, accurate***

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*and timely information on express trusts, including information on the settlor, trustee and beneficiaries, that can be obtained or accessed in a timely fashion by competent authorities. Countries should consider measures to facilitate access to beneficial ownership and control information by financial institutions and DNFBPs undertaking the requirements set out in Recommendations 10 and 22.”*

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- At the G20 leaders summit on 4-5 September in Hangzhou, the Prime Minister re-iterated Australia's commitment to combatting multinational tax avoidance.
  - Prior to the conference, the Prime Minister made media statements highlighting Australia's commitment to consulting on a beneficial ownership register for companies.
- At the UK Anti-Corruption Summit in April 2016 Australia committed to consulting publicly on options for a register of beneficial ownership for companies s 47C

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### **UK Register**

- The UK has set up a Register of People with Significant Control (PSC Register) as their central, public registry of beneficial ownership information.
- The obligations to file the information apply to all UK companies and Limited Liability Partnerships; however, there is an exemption for listed companies.

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- Since April 2016 companies have had to have their own PSC Register. Since June 2016, companies have been required to file the relevant information with the UK Companies House.

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