



- [Home](#)
- [About us](#)
- [Members](#)
- [Education](#)
- [Advice & Support](#)
- [News & Events](#)
- [Find an Accountant](#)
- [Strategic Alliances](#)

You are here:

- [Home](#)
- > [Advice & Support](#)
- > [Additional AML Guidance](#)
- > [What is a Beneficial Owner](#)

[Links](#)

[Information](#)

[Conduct/Complaints](#)

[Anti-Money Laundering](#)

[Additional AML Guidance](#)

[What Exactly is Money Laundering?](#)

[How does the AML legislation affect you as an IFA member?](#)

[The AML Supervision Process](#)

[Registering for Supervision](#)

[Do I need to be supervised & if so by whom?](#)

[What is a Beneficial Owner](#)

[Identification of Beneficial Owners Living Outside of the UK](#)

[Policy Statement \(Example only\)](#)

[Risk](#)

[Customer Due Diligence](#)

[On-Going Customer Due Diligence](#)

[Anti-Money Laundering - Keeping records](#)

[Suspicion](#)

[Completing and Submitting Suspicious Activity Reports \(SARS\) using “SAR online”](#)

[Typical Response From SOCA To a SAR](#)

[The Serious Organised Crime Agency \(SOCA\)](#)

[Tax-specific CCAB Guidance, approved by HM Treasury](#)

[Engagements & AML](#)

[Trust or Company Service Providers – who they are](#)

[Politically Exposed Persons and Enhanced Due Diligence](#)

[HM Treasury Alerts](#)

[The Terrorism Act 2000 and subsequent legislation](#)

[Reliance on CDD performed by other professionals](#)

[What is Tipping Off?](#)

[Money Laundering Reporting Officer \(MLRO\)](#)

[Practising Members who decide to leave the IFA – A Vitaly Important Notice](#)

[AMLCC Product Information](#)

[Who are the FATF?](#)

[Shell Banks](#)

[AML for Members on the Isle of Man](#)

[AML for Members on Jersey](#)

What is a Beneficial Owner

What does “beneficial ownership” mean?

The definition of “Beneficial Owner” is not very straightforward and the area can be difficult to understand. However, you are required to establish the beneficial owners of clients as part of your

Customer Due Diligence.

The Financial Action Task Force (*FATF*) defines a Beneficial Owner as “the natural person(s) who ultimately owns or controls a customer and/or the person on whose behalf a transaction is being conducted. It also incorporates those persons who exercise ultimate effective control over a legal person or arrangement.” This is probably the easiest definition to understand. MLR 2007 go into more detail of percentages of ownership which apply and these are discussed in the CCAB Guidance below.

The focus on identifying and, where appropriate, verifying the identity of beneficial owners is not only an important element of the required Customer Due Diligence information, but is also an important factor in an effective risk-based approach to *client* acceptance. Members and Affiliates will need to be careful and thorough in their enquiries, taking into account that information may sometimes not be readily available from public record sources. This will require you to adopt a flexible approach to information gathering which will often involve direct enquiry of *clients* and their other advisers and professional service providers, as well as undertaking public record searches in the UK and overseas.

Paragraphs 5.6 and 5.7 of the CCAB Guidance outline the definition of a “Beneficial Owner”. MLR 2007 *set* out the meaning in some detail in terms of bodies corporate, partnerships, trusts and other legal entities/arrangements not falling into the main three categories as well as special provisions regarding estates of deceased persons and a catch all provision that, where not otherwise specified, defines the beneficial owner as the person who ultimately owns or controls the *client* or on whose behalf a transaction is being conducted. The provisions regarding beneficial ownership are set out in Regulation 6 and are summarised below:

Bodies corporate – “beneficial owner” means any individual who, in respect of anybody other than a company whose securities are listed on a regulated investment market, owns or controls, directly or indirectly including through bearer share holdings, more than 25% of the shares or voting rights in the body or who otherwise exercises control over the management of the body. This could typically be an owner who is not a director.

Partnerships - (*other than limited liability partnerships established under the Limited Liability Partnerships Act 2000*) - beneficial owner means any individual who ultimately is entitled to or controls (*directly or indirectly*) more than 25% of the capital or profits of the partnership or more than 25% of the voting rights in the partnership or who otherwise exercises control over the management of the partnership. This is typically a “sleeping partner”.

Trusts – “beneficial owner” means any individual who is entitled to a *specified interest* in at least 25% of the capital of the trust property, or where a trust is not set up entirely for the benefit of persons with a *specified interest*, the class of persons in whose main interest the trust is set up or operates or any individual who has control (*a trust controller*) over the trust. Where a class of persons is identified, it is not a requirement for all members of that class to be separately identified. Some beneficial owners of certain trusts might be children or even unborn as yet.

Other entities and arrangements - (*meaning an entity or arrangement which administers and distributes funds*) – where the individuals who benefit from the entity or arrangement have been determined, beneficial owner means any individual who benefits from at least 25% of the property of the entity or arrangements. Where those benefiting have yet to be determined, a beneficial owner means the class of persons in whose main interest the entity or arrangement is set up or operates or an individual who exercises control over at least 25% of the property of the entity or arrangement. Where a class of persons is the beneficial owner, it is not a requirement for all members of that class to be separately identified. Note that where an individual is the beneficial owner of a body corporate which benefits from, or exercises control over, the property of an entity or arrangement, the individual is to be regarded as having that benefit or control and so is classed as the beneficial owner.

Estates of deceased persons – the beneficial owner is considered to be the executor or administrator of the estate (*full detail is shown in Regulation 6(8)*).

The Wolfsberg AML Principles (<http://www.wolfsberg-principles.com/faq-ownership.html#1>) also draws attention to a further possible definition: “The term reflects recognition that a person in whose name an account is opened with a bank is not necessarily the person who ultimately controls such funds or who is ultimately entitled to such funds. This distinction is important because the focus of anti-money laundering guidelines – and this is fundamental – needs to be on the person who has this ultimate level of control or entitlement. Placing the emphasis on this person is a necessary step in

determining what the source of funds is.”

Login



[Contact us](#) | [Sitemap](#)

© 2011 Institute of Financial Accountants. Burford house, 44 London Road, Sevenoaks, Kent, TN13

1AS Website developed by neXtra



- [Home](#)
- [About us](#)
- [Members](#)
- [Education](#)
- [Advice & Support](#)
- [News & Events](#)
- [Find an Accountant](#)
- [Strategic Alliances](#)

You are here:

- [Home](#)
- > [Advice & Support](#)
- > [Additional AML Guidance](#)
- > Identification of Beneficial Owners Living Outside of the UK

[Links](#)

[Information](#)

[Conduct/Complaints](#)

[Anti-Money Laundering](#)

[Additional AML Guidance](#)

[What Exactly is Money Laundering?](#)

[How does the AML legislation affect you as an IFA member?](#)

[The AML Supervision Process](#)

[Registering for Supervision](#)

[Do I need to be supervised & if so by whom?](#)

[What is a Beneficial Owner](#)

[Identification of Beneficial Owners Living Outside of the UK](#)

[Policy Statement \(Example only\)](#)

[Risk](#)

[Customer Due Diligence](#)

[On-Going Customer Due Diligence](#)

[Anti-Money Laundering - Keeping records](#)

[Suspicion](#)

[Completing and Submitting Suspicious Activity Reports \(SARS\) using "SAR online"](#)

[Typical Response From SOCA To a SAR](#)

[The Serious Organised Crime Agency \(SOCA\)](#)

[Tax-specific CCAB Guidance, approved by HM Treasury](#)

[Engagements & AML](#)

[Trust or Company Service Providers – who they are](#)

[Politically Exposed Persons and Enhanced Due Diligence](#)

[HM Treasury Alerts](#)

[The Terrorism Act 2000 and subsequent legislation](#)

[Reliance on CDD performed by other professionals](#)

[What is Tipping Off?](#)

[Money Laundering Reporting Officer \(MLRO\)](#)

[Practising Members who decide to leave the IFA – A Vivaly Important Notice](#)

[AMLCC Product Information](#)

[Who are the FATF?](#)

[Shell Banks](#)

[AML for Members on the Isle of Man](#)

[AML for Members on Jersey](#)

Identification of Beneficial Owners Living Outside of the UK

Treasury Guidance on Reliance and Secrecy Laws

Members dealing with countries with strict banking secrecy laws, may encounter difficulty in

identifying beneficial owners of clients. HM Treasury published guidance last year to advise businesses on how reliance provisions within the Money Laundering Regulations can be used. The guidance was produced because of difficulties encountered with Swiss secrecy laws, regarding the obtaining of confirmation of the identity of Swiss beneficial owners of UK businesses, but may be applicable to other jurisdictions outside the EU.

The guidance can be found on the HM Treasury website here, http://www.hm-treasury.gov.uk/d/mlac_meeting_annex_210709.pdf. It advises businesses of what they must do to be fully compliant with the regulations in this situation and the circumstances in which reliance can be placed on customer due diligence by the referring organisation.

In short it states that businesses must always know the beneficial owner, to be fully compliant with the Money Laundering Regulations and that if you are seeking to rely on the referring organisation that:

The referring organisation accepts this arrangement
You have unfettered rights of access any customer due diligence records on request
You must reserve the right to monitor the customer due diligence work actually preformed and test a sample of clients to ensure procedures have been followed in practice.

We would advise anyone dealing with equivalent jurisdictions that have secrecy laws to read and understand the HMT Guidance and make sure that their relevant staff are also aware of it.

The intention of the FATF Recommendations, reflected in the Third Money Laundering Directive and the MLR 2007, is clearly that a relevant person must know the identity of his customer and any beneficial owner.

Certain third parties, meeting the appropriate standards, may be relied upon to carry out the work of obtaining documents and verifying identity etc, but the relevant person can only properly discharge the responsibilities placed on him by knowing the identify of his customer and (*as appropriate*) beneficial owner.

The principles apply to any beneficial owner (*which would include those in the Republic of Ireland*) who is resident outside the UK. It is safest and advisable for you to insist upon a certified copy of the beneficial owner's passport and tax identification; this should normally be certified by the Embassy, High Commission or similar representative in the country of residence.

Login



[Contact us](#) | [Sitemap](#)

© 2011 Institute of Financial Accountants. Burford house, 44 London Road, Sevenoaks, Kent, TN13

1AS Website developed by [netXtra](#)