

## **Germany's Action Plan to prevent the misuse of legal persons and legal arrangements**

Transparency regarding the beneficial ownership and control of legal persons and legal arrangements is of key importance for reaching a variety of objectives and in numerous, sometimes interlinked, areas such as an effective anti-money laundering and counter-terrorist financing (AML/CFT) system, the fight against corruption and tax evasion as well as improving asset recovery. Therefore, Germany is committed to further strengthening its regime and related implementation measures.

- **Having companies know their beneficial owners**

Companies should know who owns and controls them and their beneficial ownership and basic information should be adequate, accurate, and current. Therefore, shareholders with a certain controlling influence should be required to inform their company about whether they hold their respective shares on their own or on someone else's behalf. The companies will have to hold this information. That way, companies will be able to deliver on request adequate, accurate and current information on their beneficial owners.

- **Ensuring timely access to beneficial ownership information**

Germany is in favour of reinforcing the existing framework on the transparency of legal persons in order to enable the competent authorities to access information on the ultimate beneficial owners in a timely manner. Such access can additionally be efficiently supported through an account data retrieval system that technically allows competent authorities the automated retrieval of all relevant account data including beneficial owner information. The recorded information is provided by the obliged financial institutions based on data collected through their customer due diligence measures, including their compliance with the identification and verification requirements regarding the beneficial owners of companies.

- **Carrying out national risk assessments**

Germany will conduct national risk assessments, i.e. identify, assess and understand the money laundering and terrorist financing risk it faces, in order to inform potential changes to Germany's AML/CFT regime; assist in the allocation and prioritisation of AML/CFT resources by competent authorities; and make information available for AML/CFT risk analyses of obliged entities. Work has already been initiated and a survey on the extent of money laundering within Germany and on the money laundering risks in individual business sectors is expected to be finalized by the end of 2014.

Given that money laundering and terrorist financing frequently involve a cross-border dimension, Germany calls for a stronger involvement of the European Commission and better coordination among Member States as regards the appropriate risk-management policies based on supranational and national risk assessments.

- **Preventing the misuse of legal arrangements**

A proposal for an amendment of the German Stock Corporation Act (*Aktiengesetz*) has just been passed by the German *Bundestag*. According to that proposal, bearer shares may only be issued if (1) the shares of the stock corporation are publicly listed or (2) if the shares have been immobilised. In the latter case, the law will require them to be held with a regulated financial institution or professional intermediary.

- **Adequately supervising obliged entities for compliance with their AML/CFT requirements on beneficial ownership**

The Act to Optimise the Prevention of Money Laundering (*Gesetz zur Optimierung der Geldwäscheprävention*) of 22 December 2011 revised inter alia the provisions dealing with beneficial owners: The customer due diligence requirements to identify and verify the beneficial owner as well as the term “beneficial owner” itself were defined more clearly in order to improve the understanding of their scope and substance and thus the implementation by the obliged entities. Guidance issued in February 2012 by the Federal Financial Supervisory Authority (*Bundesanstalt für Finanzdienstleistungsaufsicht*) includes updated sections on the identification and verification of legal persons and the beneficial owner. Germany will continue its efforts to strengthen the consistent approach to supervision by the various competent authorities.

- **Applying effective, proportionate and dissuasive sanctions**

In light of the ongoing negotiations on the 4<sup>th</sup> AMLD, Germany promotes setting up the sanctions regime as a toolbox so that each individual case can be adequately addressed. Once the 4<sup>th</sup> AMLD has entered into force, Germany will reappraise whether changes to the existing national provisions are necessary. Currently, the Federal Financial Supervisory Authority is realizing a project to realign and adjust its sanctioning capabilities as regards credit institutions to maximize efficiency and effectiveness.

- **Providing international cooperation**

Germany will rapidly, constructively and effectively provide international cooperation in relation to basic and beneficial ownership information using the widest range of mutual legal assistance as provided for under its laws and respective international agreements.