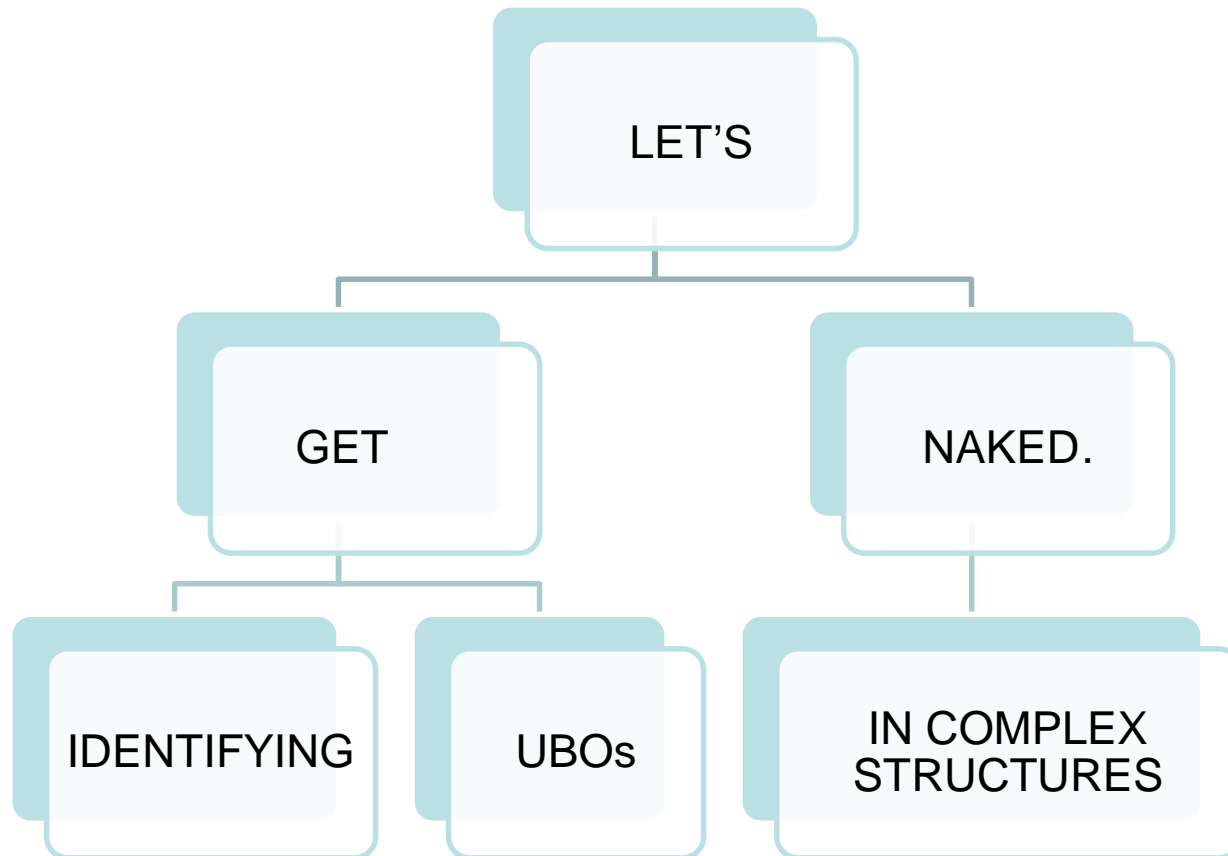


CRCA 2015 – NASSAU BAHAMAS



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FATF Definition of a UBO

- The natural person(s) who ultimately owns or controls a customer and/or the natural person on whose behalf a transaction is conducted.
- It also includes those persons who exercise ultimate effective control over a legal person or arrangement.

- “Ultimately owns or controls” and “ultimate effective control” refer to situations in which ownership/control is exercised through a chain of ownership or by means of control other than direct control
- (Footnotes to Glossary to the *FATF Recommendations*)

Global Witness Definition

- A beneficial owner must be *a real, live human being*, and not another company or a trust. For companies with complicated ownership structures, involving many different corporate vehicles and, in some cases, private agreements over ownership and/or control, the beneficial owners are the individuals who are right at the very top of the chain.

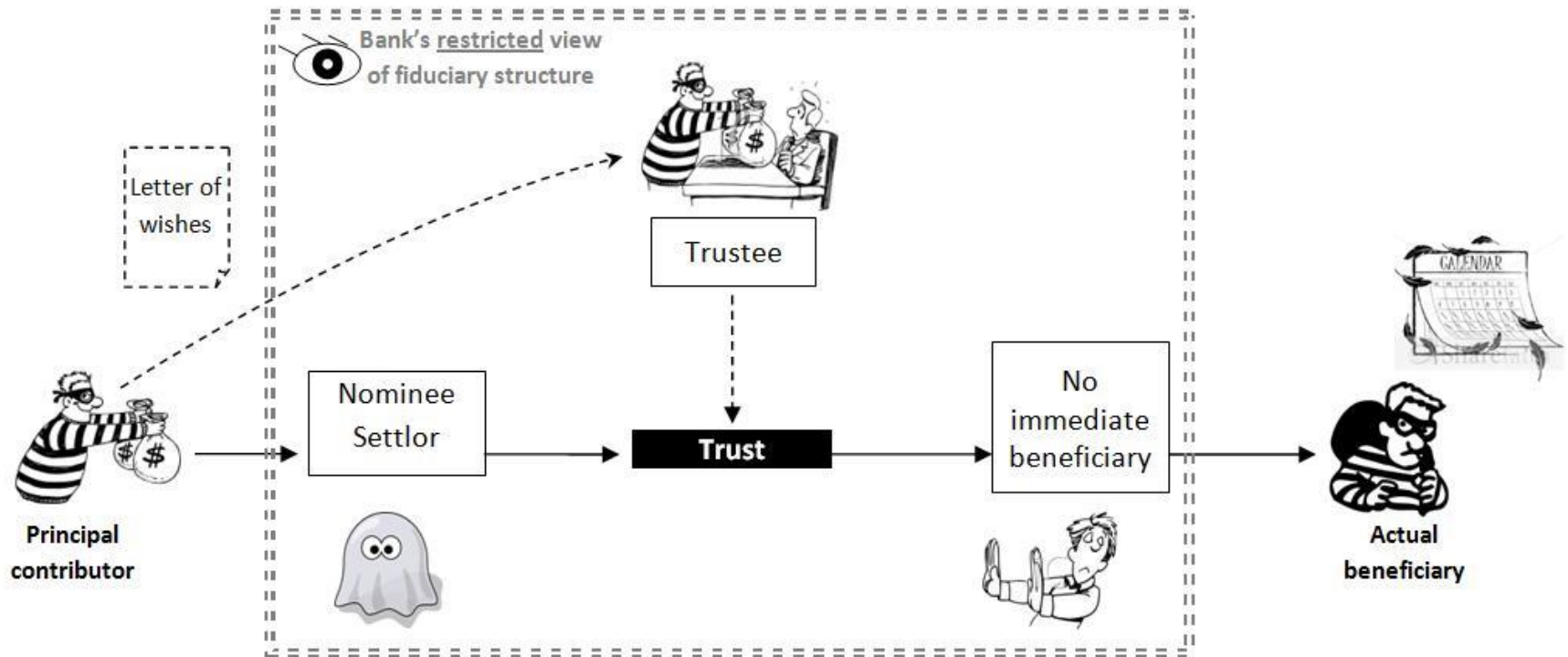
The Concern ?

“Vice knows she’s ugly, so puts on her mask”

Benjamin Franklin.



And a more simple structure is not necessarily legitimate



Typical building blocks of a structure

- Companies
- Trusts
- Foundations
- Unincorporated economic organisations

Legal Persons

- Companies, Foundations, LLCs, LP, LLPs
- Indicators:-
 - Registration
 - Certificate of Incorporation or other official document showing creation of entity.
 - Limited Liability
 - Ownership and control separate

Legal Arrangements

- Trusts, Partnerships, Unincorporated Associations
- Indicators-
 - (Typically) not registered
 - Documentation, if any describes relationships between persons (legal and/or natural)
 - Personal/unlimited liability

The test to identify beneficial ownership

- a) Who owns more than 25% (sometimes 10%) of the customer/entity
- b) Who has effective control of the customer
- c) The person on whose behalf a transaction is conducted.

A beneficial owner is an individual who satisfies any one element, or any combination of the three elements

The test to identify beneficial ownership in complex structures

- See above.....
- Each layer/element needs to be looked at separately
- Do bad guys want to spread their wealth?

Inappropriate complexity – how to spot it

- Does it feel right?
 - Trust yourself.
- The “*Three-layer test*”
 - If more than 3 layers of legal entities or arrangements exist. Ask why.
- Expert opinion.
 - Complex structures do not create themselves.

- Training.
 - Provide examples to staff of misuse of structures/corporate vehicles.
- Partnership with professional organisations
 - If you know what is normal, you will not what is abnormal. I.E. STEP.

What do the authorities require?

- Identity of the UBO(s)
 - Ownership/control
- Information in relation to any intermediate layers/legal persons
 - Official Documents, perhaps officer's certs.
- If no UBO then evidence that have undertaken sufficient investigations to confirm that.
- Apply a risk based approach

QUESTIONS?