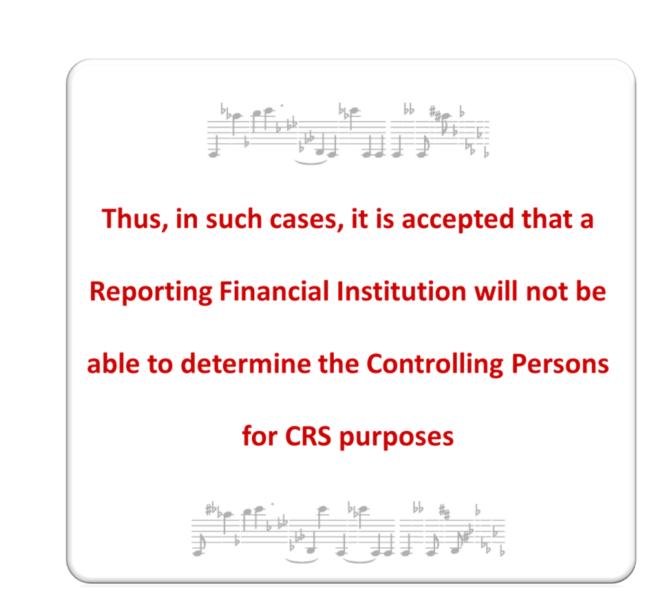
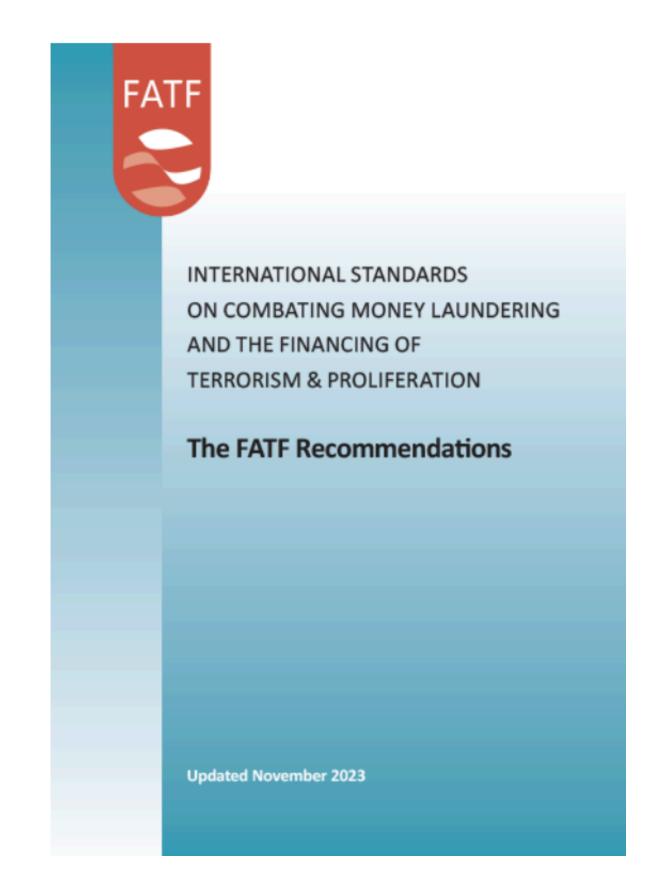


sentence from the FATF recommendations on identifying beneficial owners of listed entities.
This oversight creates a loophole because the OECD opines it is acceptable that the bank will not be able to identify Controlling persons of listed entities and hence not report for CRS.
This is inane acceptance, in the face that the FATF clearly states that significant controlling shareholder information can be obtained from transparent exchanges.
Seems the OECD didn't get the message.



The OECD granting exemptions to identify Controlling Persons that should never have been allowed i sexquisite music to tax evader's ears.
The CRS Implementation Handbook contains sweet lyrics regarding identifying beneficial owners of listed entities. So list your private investment company on an alternative company listing on a tiny exchange even if the shares are not subsequently traded, or a de minimis amount of shares is sold to your wife, and hey bingo you hide your identity in plain sight from the CRS.
Despite the fact that the bank could easily obtain the identitification of controlling

interest information from the exchange itself. So where did the OECD go wrong?



 The Financial Action Task Force is a body created by the G7 in Paris 1989 to promote legal, regulatory and operational measures for combating money laundering, expanded to cover terrorist financing in 2001.

To meet its goal, the key document issued by the FATF is its recommendations on international standards to combat money laundering and terrorist financing.
The key AML measures are recommendations numbers 10 and 25 for Financial Institutions to identify natural person beneficial owners of legal entities.

## See page 61 of the FATF recommendations.

Where the customer or the owner of the controlling interest is a company listed on a stock exchange and subject to disclosure requirements (either by stock exchange rules or through law or enforceable means) which impose requirements to ensure adequate transparency of beneficial ownership, or is a majority-owned subsidiary of such a company, it is not necessary to identify and verify the identity of any shareholder or beneficial owner of such companies. The relevant identification data may be obtained from a public register, from the customer or from other reliable sources



In kindergarten language, the FATF explains that the beneficial owner information can be identified from either the client or from the exchange directly.
It is not necessary to identify beneficial owner immediately upon opening account if and only if the exchange is subject to disclosure requirements.
If no such transparency exists, then bank must obtain information upon account opening.
This means that information on the beneficial owners can be obtained at any time from

the exchange.
This does NOT mean the information on shareholders need never be identified.

# OECD didn't see this



• The CRS screwed up this identification ability by giving Financial Institutions a 'praised be pass' to NOT identify the Controlling Persons of listed entities even though the significant shareholder information can easily be obtained from the exchange.

shareholder information can easily be obtained from the exchange.
Heck, the exchanges often oblige that significant share owners be stated in the annual financial statements.

# What does CRS say about this? • CRS Implementation Handbook edition 2 page 70 quotes from FATF but says...

Paragraph 148. Recommendations do not require the determination of beneficial ownership if an Entity is (or is a majority owned subsidiary of) a company that is listed on a stock exchange and is subject to market regulation and to disclosure requirements (either by stock exchange rules or through law or enforceable mean) to ensure adequate

through law or enforceable mean) to ensure adequate transparency of beneficial ownership. Further, FATF Recommendations do not require determination of beneficial ownership of a controlling interest that is held by an Entity described in the preceding sentence.

Thus, in such cases, it is accepted that a Reporting Financial

Institution will NOT be able to determine the Controlling Persons for CRS purposes.

No, no no, you are wrong.
 The OECD omitted to include the vital final sentence from FATF recommendation 10 regarding listed entities that "The relevant identification data may be obtained from a public register, from the customer or from other reliable sources.

FATF recommendations do not require identification of controlling interest beneficial owners of listed entities because this information can be obtained from the exchange.
Sheesh, this is so simple to understand, therefore it should not acceptable to the OECD that FIs will be unable to determine Controlling purposes for CRS and not report for CRS.
If the CRS can create beneficial owners such as protectors or debt interest in investment entities, then the OECD can mandate that controlling interest owners of listed entities can

Just follow the FATF guidelines. However by omitting the FATF sentence on obtaining this information from the exchange, a loophole has been created. Note that using listings to avoid the CRS invariably do not meet the requirements of Active NFE regularly traded entitities because they don't sell 10% of their shares to unrelated parties every year, nor trade 60 days a year.

# In for a penny, in for a pound, what a shocker theSwiss follow this crap

To make matters worse, countries like Switzerland issue due diligence rules that banks do not have to identify the beneficial owner if the contracting partner, i.e. account holders opening account, is a listed entity.
No requirement that the exchange must have transparency rules or the that information is available from the exchange, etc. See page 22 Article 22 of the Swiss bank code of conduct

# Sad thing is, this is an easy loophole to fix Perhaps of Mr. McGoo get's a new prescription for his spectacles

• In summary, banks can easily identify significant Controlling Persons, owning at least 25% of shares of listed entities for purposes of the CRS by obtaining this information from the customer or directly from the exchange.

from the customer or directly from the exchange.
After all, the FATF says banks need not identify beneficial owners if, and only if, entity is listed on a transparent exchange because this info is obtainable from the exchange.

It should not be acceptable, as the OECD opines in the CRS implementation handbook, that banks cannot identity significant shareholders.
Bear in mind, listing does not mean the entity is an Active NFE regularly traded.

Mark Morris

Mark Morris  CRS and CARF expert. No, truly.		
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Messaging