Beneficial Ownership Transparency at a crossroads: Progress, Stagnation or Setback?

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TAX JUSTICE NETWORK

AGENDA

Progress

Stagnation

Setback

Proposals

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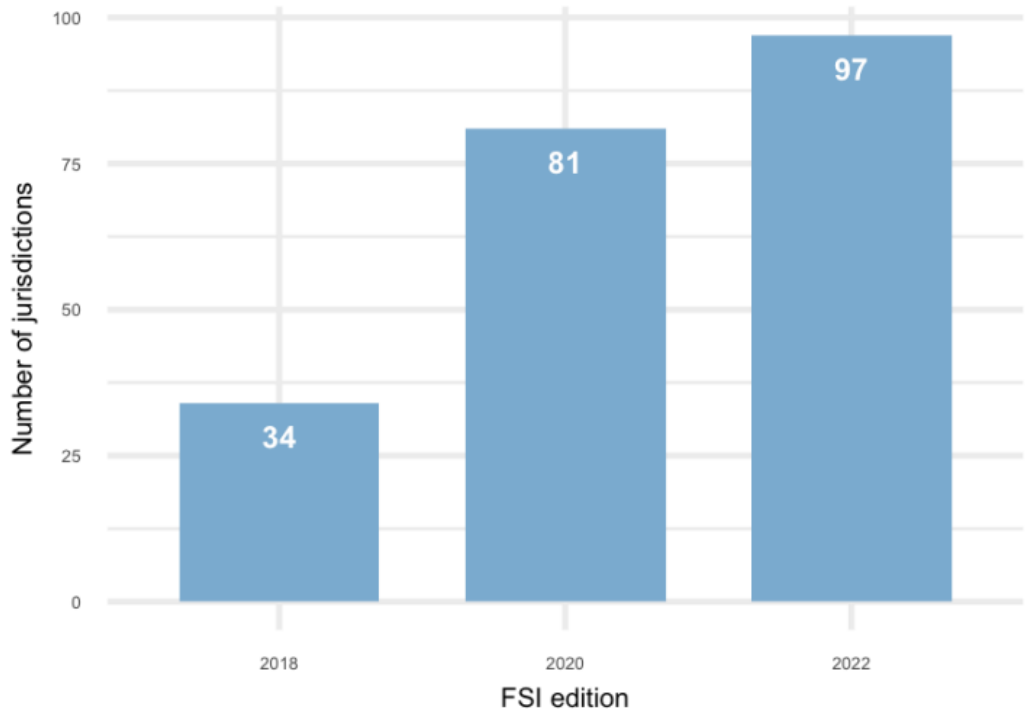
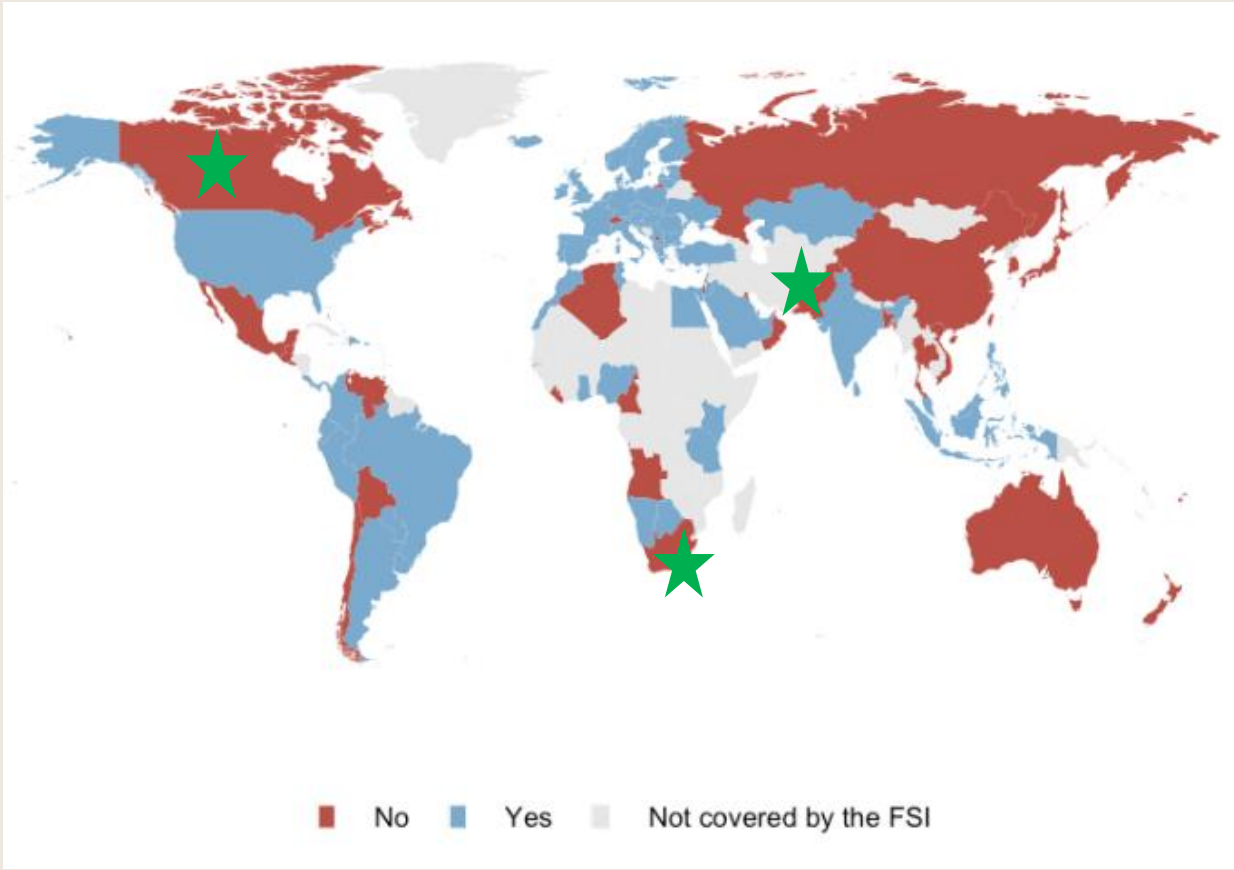
BENEFICIAL OWNERSHIP BECAME MAINSTREAM, EVEN BEFORE FATF REFORM OF RECOMMENDATIONS 24 & 25

Figure 1. Evolution of number of countries with beneficial ownership registration laws covered by the Financial Secrecy Index (FSI)





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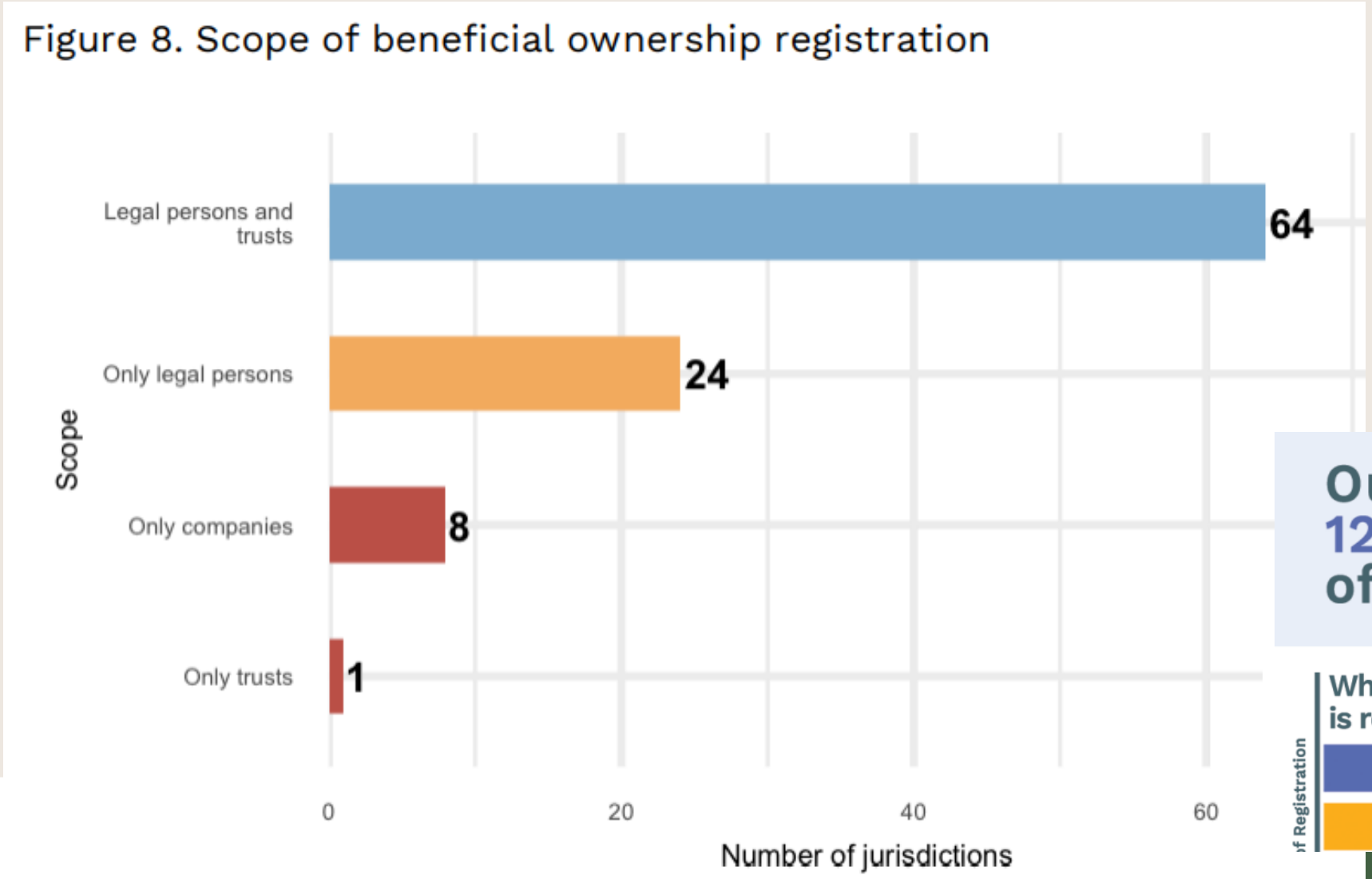
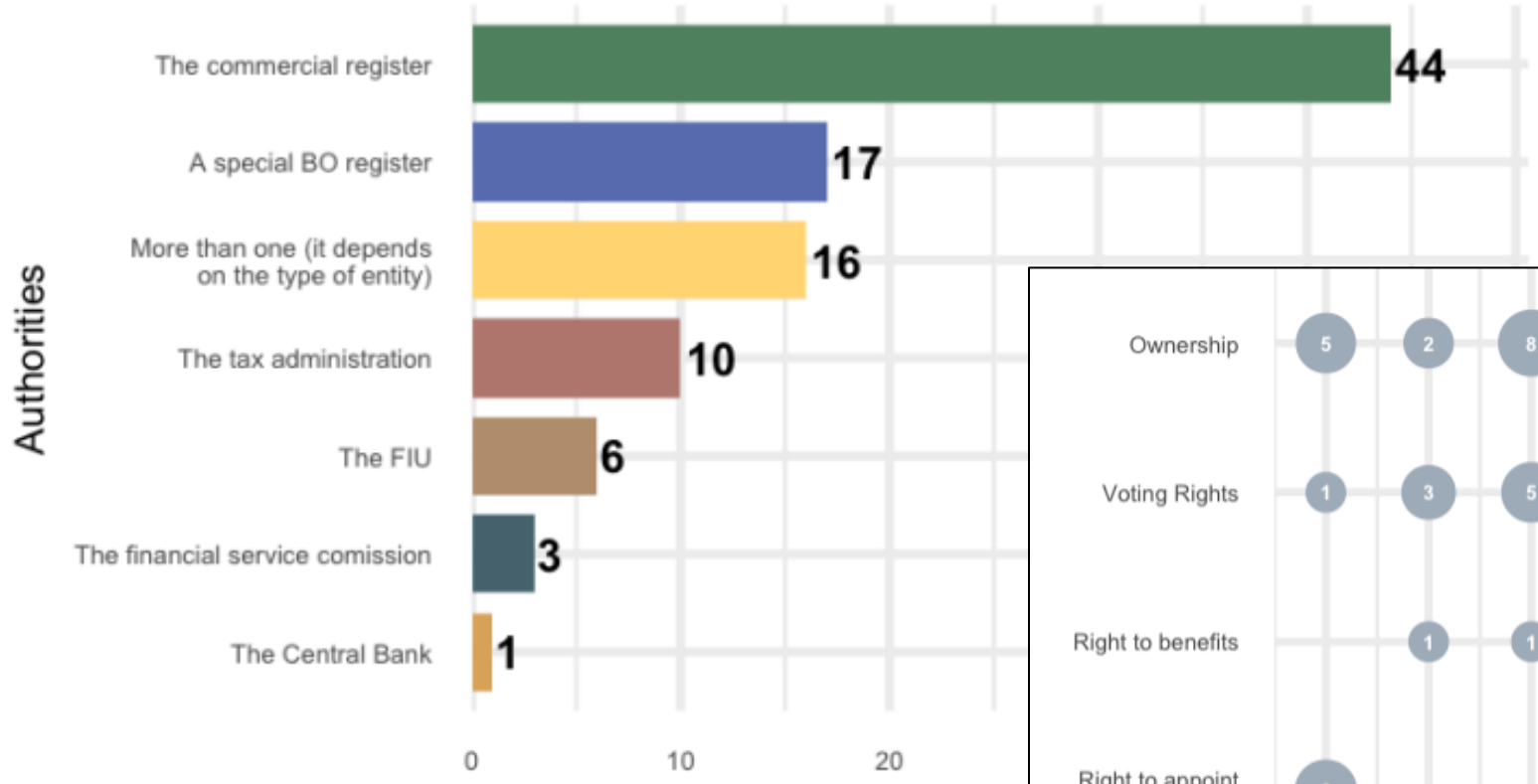
ALSO FOR TRUSTS

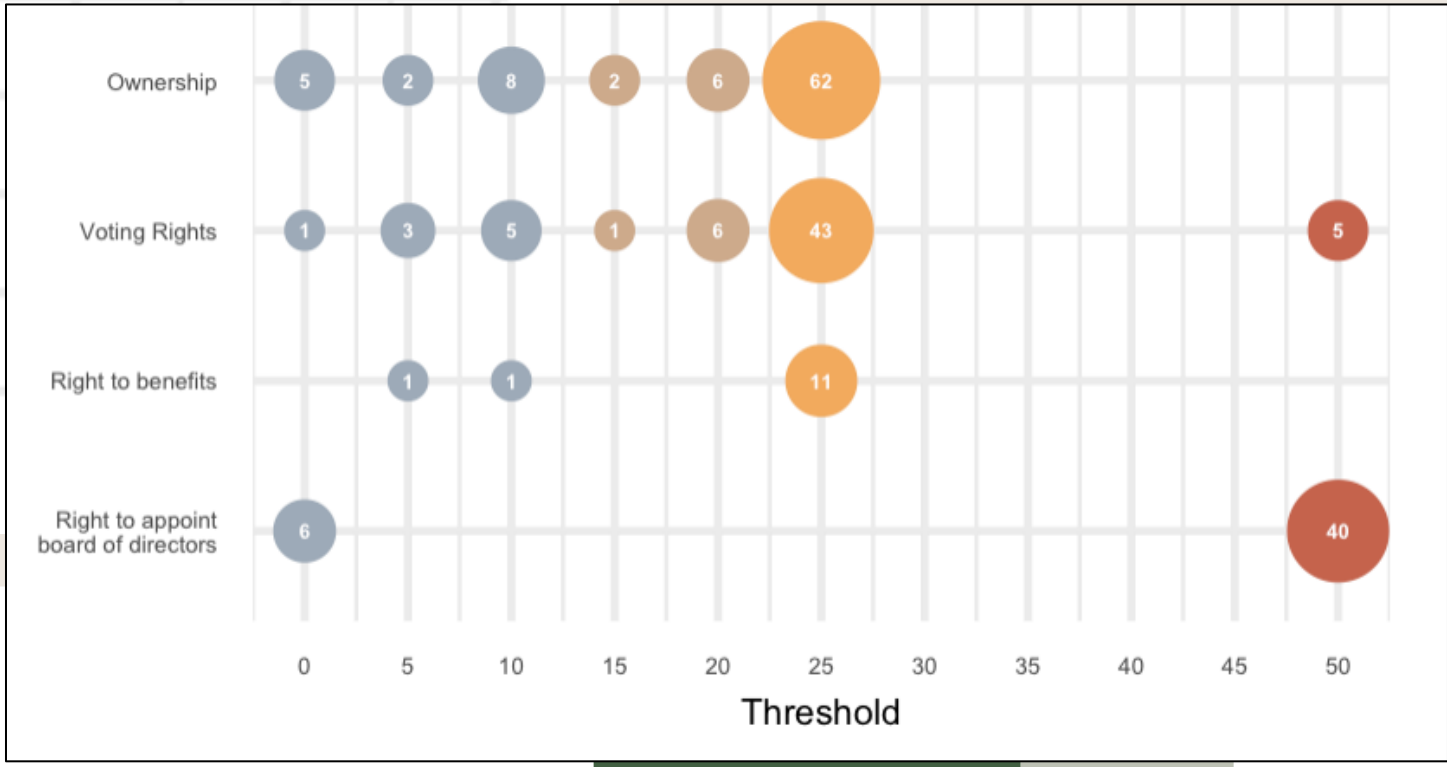


Out of 141 countries 121 require some type of trust registration

MORE AVAILABLE INFORMATION

Figure 4. Authorities in charge of registration





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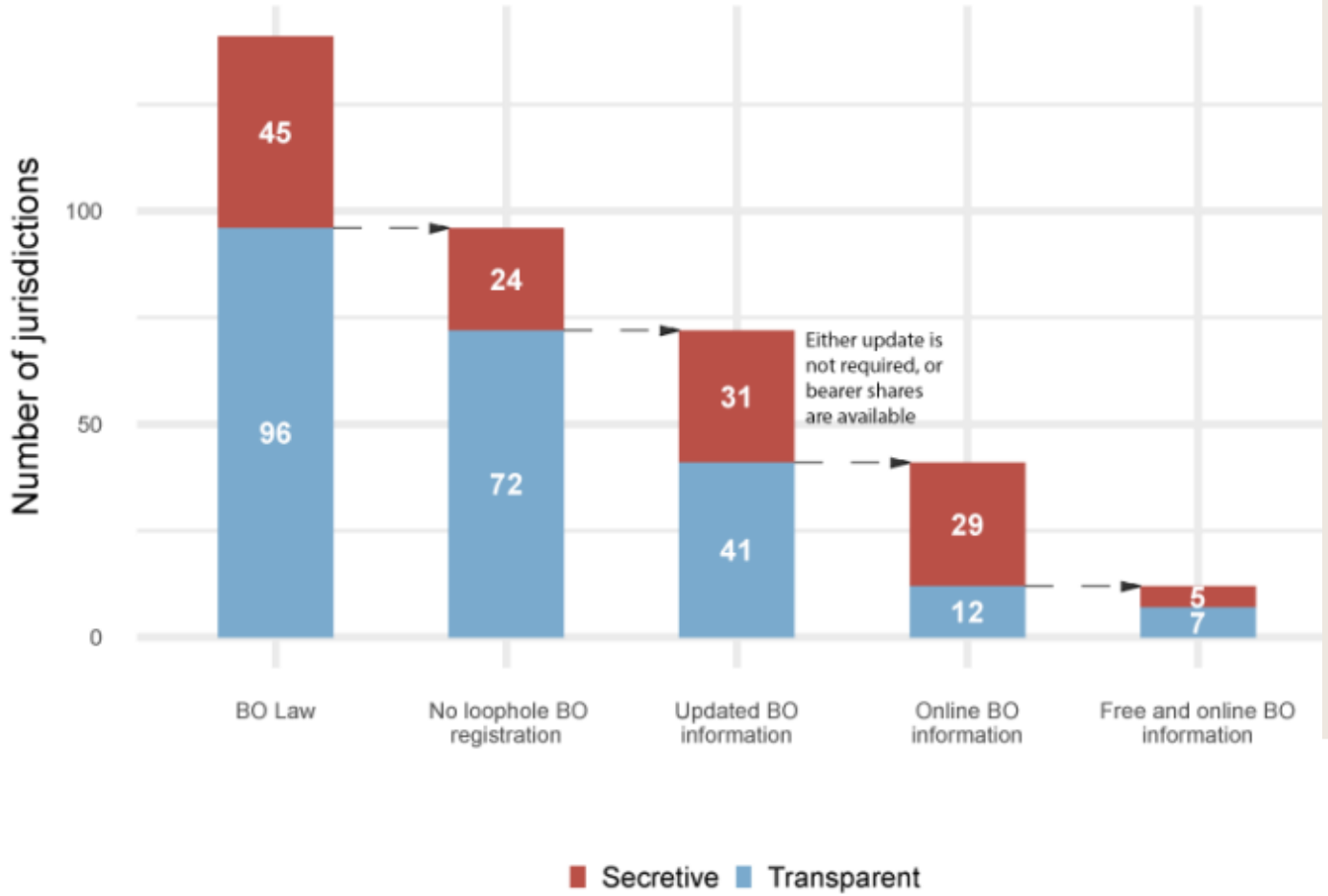
MANY LOOPHOLES REMAIN

Figure 14. Beneficial ownership registration and public access for companies



-High thresholds (25%)

-Many exceptions from scope:

-Listed companies

&

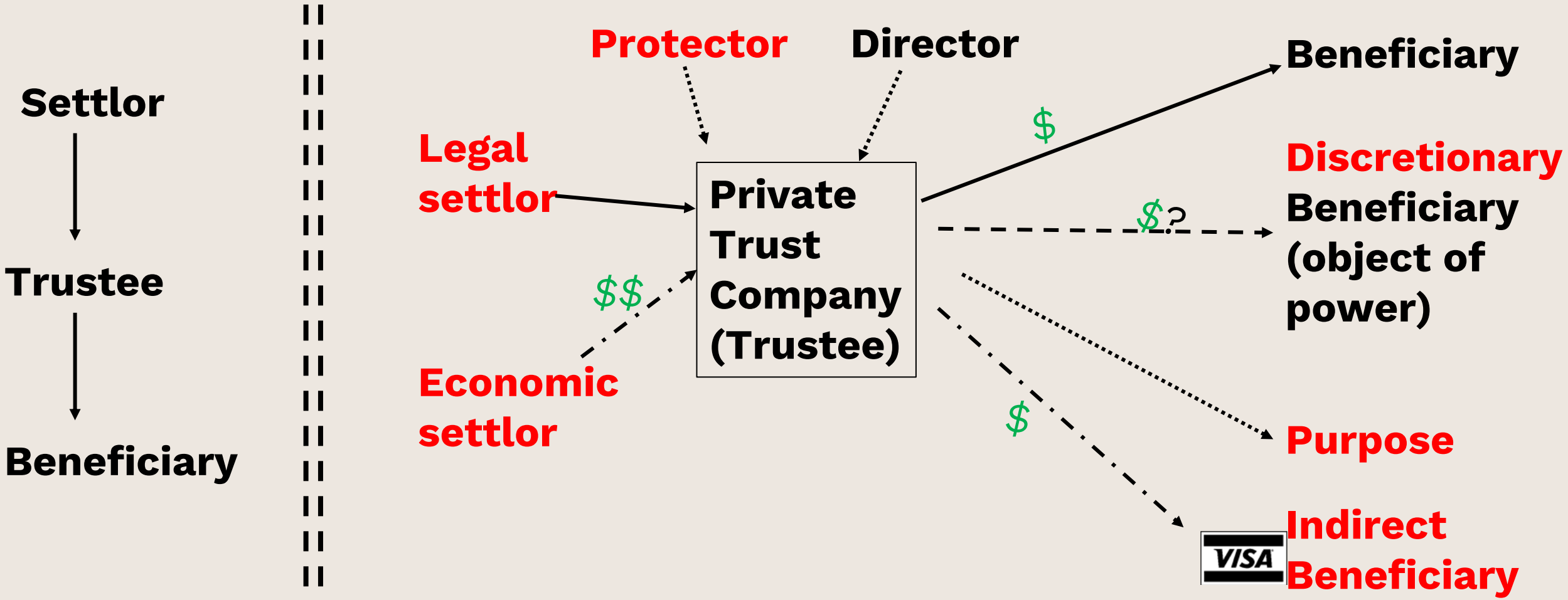
-Investment funds

-State-owned enterprises

-Trusts

-Foreign companies w/ local assets & operations

ESPECIALLY FOR TRUSTS



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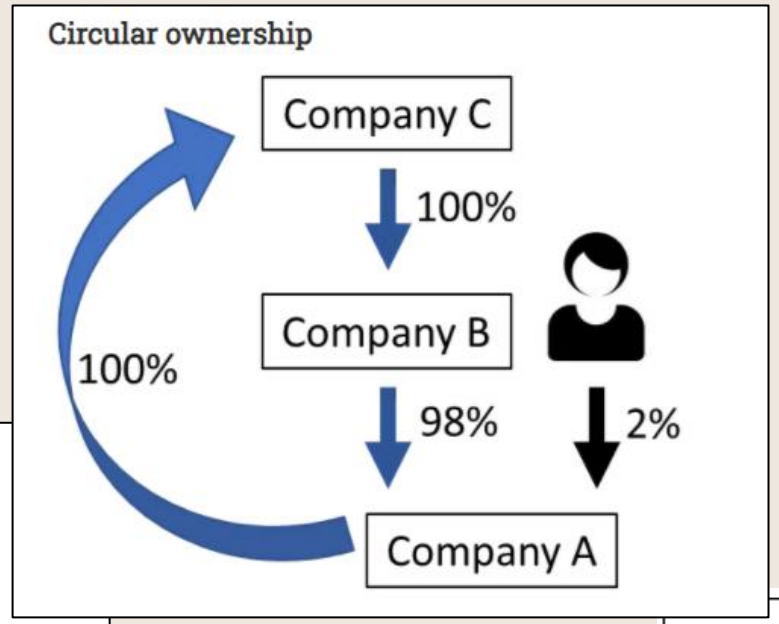
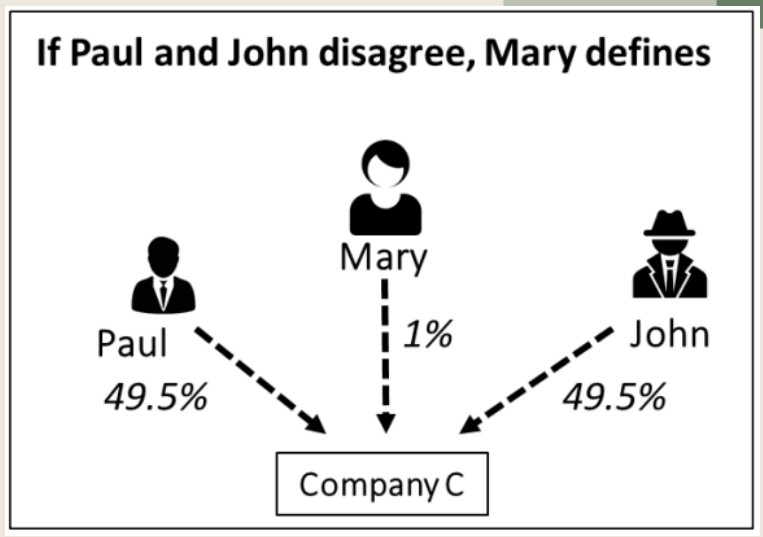
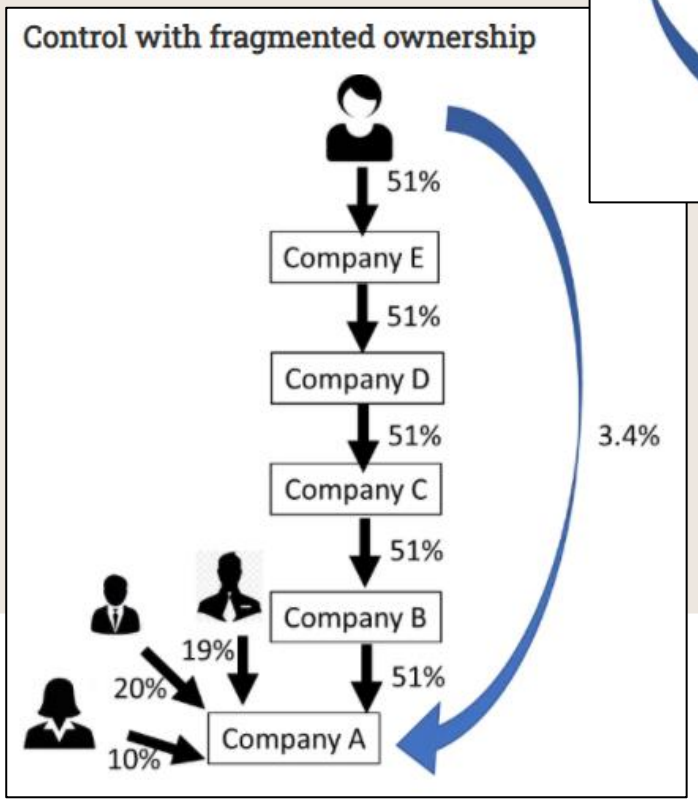
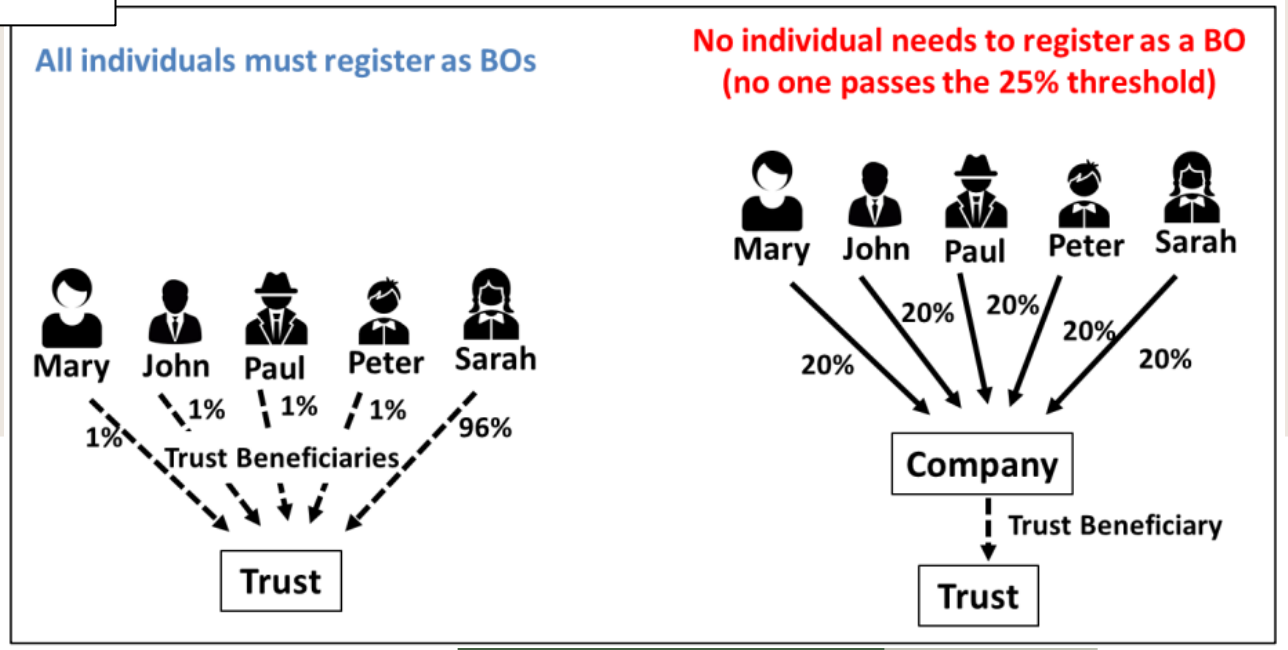
COMPLEXITY IS NOT PREVENTED

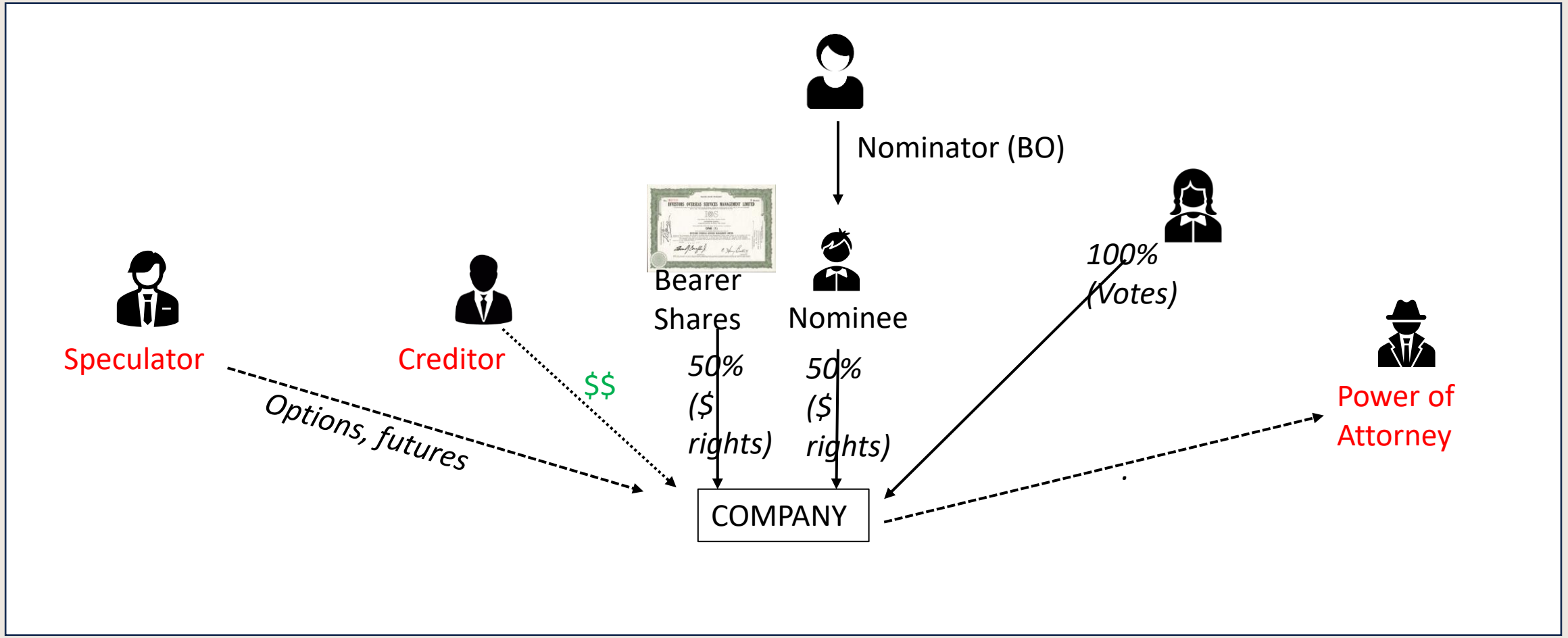








NOT ALL BOs ARE CAUGHT



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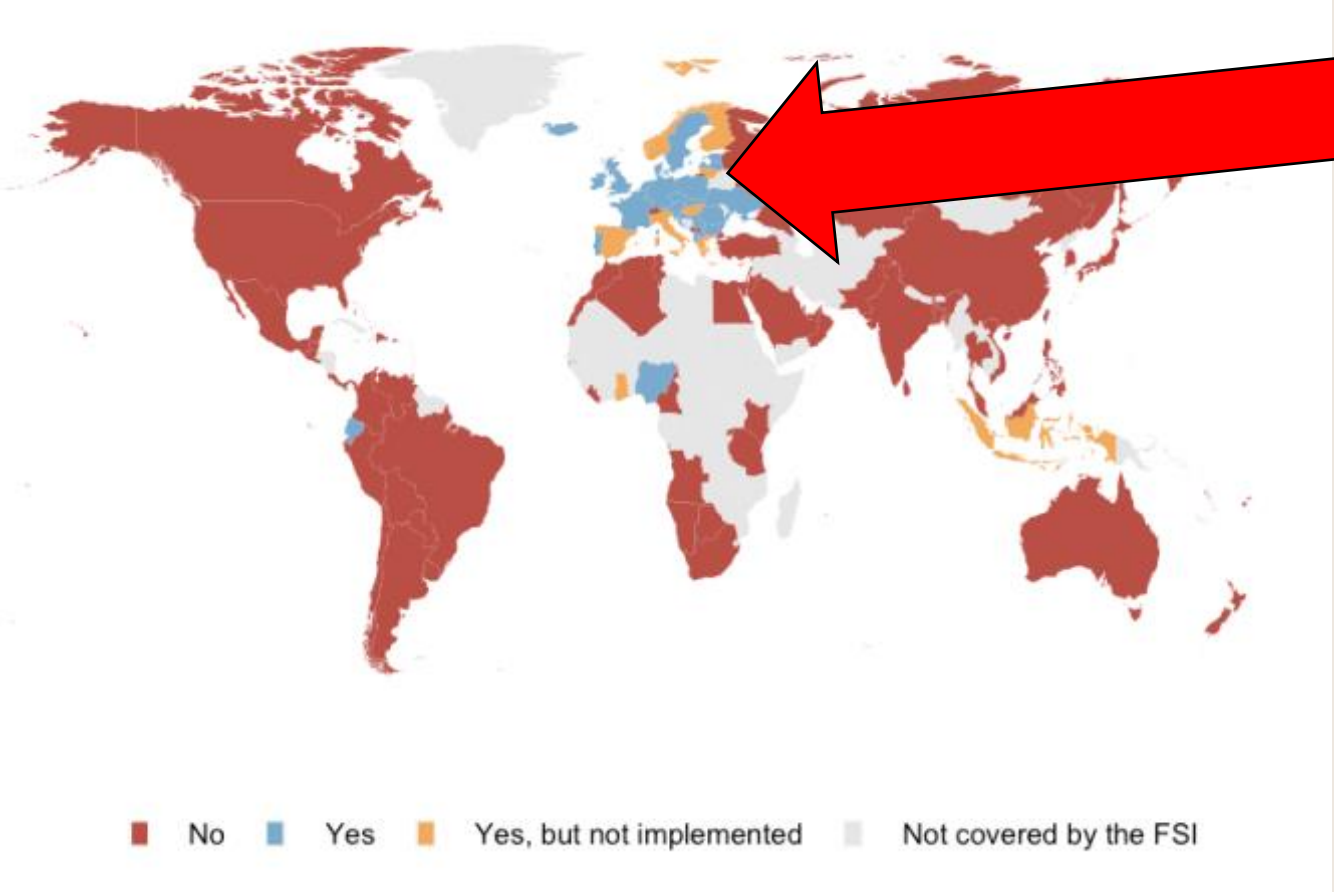
PUBLIC ACCESS



ECJ RULING 2022:

Public access (for AML) is invalid,

But investigative journalists, CSOs & firms have a legitimate interest

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CAMPAIGN TO WEAPONISE PRIVACY

-Automatic Exchange Of Banking Information (Belgium-USA)

-BO Transparency for legal persons

-BO Transparency for trusts (legitimate interest)

-MDRs for lawyers to report tax avoidance/BO secrecy schemes (BEPS 12 & OECD MDR for avoiding CRS / DAC 6)

-SLAPP Lawsuits

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Webster v HMRC (8/3/2024)

rights; (c) the Claimants' solicitors had stated in correspondence that the claim was brought as part of '*an international strategic data protection litigation campaign focusing on the implementation of various 'transparency' measures for individuals' fundamental rights*' and was intended to force a renegotiation of FACTA and the development of a new system; and was further intended to force reconsideration of other bulk transfers of tax information to other countries; (d) the Claimant had '*obtained funding for this litigation from an unspecified 'third party' which the Claimant has refused to identify to the Defendant, even on confidential terms. Accordingly, prior to disclosure, the Defendant cannot plead as to the identity and motivation of the funder, but reserves the right to do so following disclosure of the same.*'; and (e):

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ROADMAP TO EFFECTIVE BO TRANSPARENCY

-Public BO Registration for all legal vehicles, as pre-condition for legal validity,

for: -local & foreign w/ assets, operations, participants

-listed companies & invest. funds

-BO definition without thresholds & PoA, financial instruments

-Prevent/discourage complexity (eg prohibit discretionary trust)

-Interconnect BO registries w/ asset registries (eg real estate)

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Thank You

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