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# TACKLING BENEFICIAL OWNERSHIP IN AML PROGRAMMES

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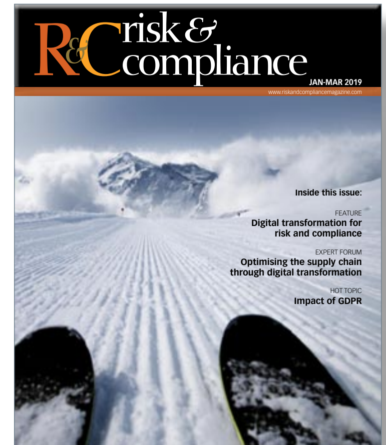


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Acuris Risk Intelligence

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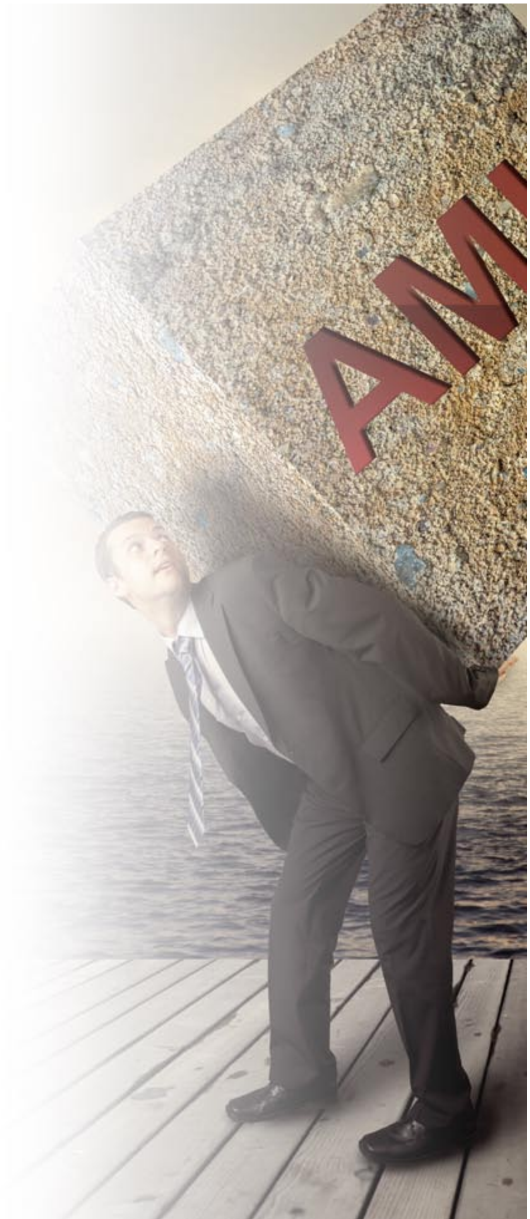
ONE-ON-ONE INTERVIEW

# TACKLING BENEFICIAL OWNERSHIP IN AML PROGRAMMES



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**Nick Parfitt** is responsible for determining Acuris Risk Intelligence's approach to the market and building subject-matter expertise. He has 18 years' experience in project and programme management, business process change and in implementing technology and business solutions at financial services, telecoms and public sector organisations. His experience in the financial crime sector spans seven years helping tier 1 financial institutions assess and improve AML, KYC and sanctions operations. Mr Parfitt has worked for several tier 1 banks in the UK and holds an MBA (Distinction) from Cardiff University, and a BA (Hons) in Biochemistry from Imperial College.

**R&C: Could you outline why an understanding of 'beneficial ownership' is an essential part of a financial institution's (FIs) anti-money laundering (AML) programme? What role does the concept play in money laundering?**

**Parfitt:** Knowing the identity of the real, flesh-and-blood individual who benefits from a transaction is key to AML programmes. This is because the beneficial owner is usually concealed if the transaction is illicit. The Financial Action Task Force (FATF) standards define 'beneficial owner' as "the natural person(s) who ultimately owns or controls a customer and/or the natural person on whose behalf a transaction is being conducted". It also includes "those persons who exercise ultimate effective control over a legal person or arrangement", and differs from the definitions of 'beneficiary' and 'beneficiaries', which can include both natural and legal persons and arrangements. An example would be recipients of charity, humanitarian aid, trust benefit or insurance policies. Hiding beneficial owners depends on opaque relationships, which can be achieved in different ways, for example by generating complex ownership structures, falsifying activities, using bearer shares, nominee directors, professional intermediaries, and so on. It is essential that FIs understand this, as it is where actual AML risks reside. Cases involving these techniques are the ones that most often get missed and lead to FIs being investigated and fined by the regulator.

"A major shift among global regulatory bodies is occurring, requiring far better beneficial ownership identification and documentation."

*Nick Parfitt,*
*Acuris Risk Intelligence*

**R&C: To what extent are legal and regulatory developments strengthening requirements on FIs to identify the beneficial owners of entities conducting financial transactions?**

**Parfitt:** A major shift among global regulatory bodies is occurring, requiring far better beneficial ownership identification and documentation. Much of this has been driven by revelations in the Panama and Paradise Papers of the many creative methods used to hide ill-gotten gains through offshore

companies in secretive jurisdictions that have traditionally not required the disclosure of beneficial owners. Notable regulatory changes include: the Financial Crimes Enforcement Network's (FinCEN) Final Rule on Customer Due Diligence, which increases ownership transparency requirements; the EU's 5th Money Laundering Directive (5AMLD), which builds on 4AMLD's registration compilation to make ownership registries publicly available; and the UK's 1 May 2018 amendment to the Sanctions and Anti-Money Laundering Bill that requires British Territories to compile registries.

**R&C: How useful are beneficial ownership registers when it comes to tracing criminals? What kinds of problems and drawbacks arise in terms of accuracy, privacy concerns and regulatory enforcement efforts, for example?**

**Parfitt:** A major criticism of the efforts to create centralised beneficial ownership registers concerns the lack of standards and consistency. These range from what data can be collected on individuals – dates of birth, addresses, and so on – who validates the information is correct and who has access to the records. Furthermore, in certain instances where individuals fear their security could be compromised, the information can be redacted. You only have to look at the UK's Companies House system of records to see how 'leaky' registries can be. Companies House not only lacks supervision over data accuracy and completeness, but it is also not subject to UK AML regulations. This means that one of the cheapest company registration bodies in the world has possibly the lowest standards for reliance purposes.

**R&C: How would you gauge the role that technology has to play in helping FIs to better understand beneficial ownership?**

**Parfitt:** Technology has a significant role in providing faster and better-quality information. But because determining beneficial ownership is not an exact science, it still requires human interpretation and pragmatism. Where we see technology really helping compliance professionals is in its ability to aggregate data from multiple sources, and apply rules and logic to present a 'triaged' view from which analysts can then make informed decisions. However, this is still of relatively limited use for higher-risk customers, where reliance on technology and underlying data is not a regulatory position one can take lightly. As technology solutions mature and retrospective decisions made through AI-type choices can be documented and relied upon, technology will improve the quality and speed with which beneficial ownership can be determined.

**R&C: How effective is technology in being able to identify suspicious activities**

**and transactions, as well as deliver the appropriate level of due diligence required under certain regulatory regimes?**

**Parfitt:** Traditionally, transaction reporting has been carried out on an 'observe and report' basis, but there has been an increase in demand for products that prevent transactions from happening based on suspicion. This is what regulators and agencies advise. Rather than reporting the activity before it happens, funds need to be stopped from getting to their destination in the first place. It means software stopping a transaction it if detects suspicious activity. However, this raises a number of concerns for FIs, including the potential loss of loyal customers if they are falsely identified as being involved in suspicious activity. The biggest problem is not whether technology can identify suspicious activity, but to what extent financial institutions can use it before it puts them at risk of losing business.

**R&C: How do offshore operations and sophisticated legal structures complicate the process of identifying beneficial owners?**

**Parfitt:** Offshore jurisdictions pose one major problem: the difficulty of accessing information. Most do not have a requirement to maintain a public registry. Procedures for opening accounts and companies in these jurisdictions are fast, simple and loosely monitored for money-laundering. Sophisticated legal structures, on the other hand, create complexity that aims to confuse the investigator when following the trail of illicit funds. There are several ways to achieve this. From multiple accounts for no apparent reason to transactions between parties that do not seem to have any business connection or trade rationale. Examples include selling shares with no profit to offshore companies, family members registered as owners and informal nominee directors, such as relatives that are not involved in running the company. However, most offshore financial centres are committed to improving the situation and reducing the risk that is associated with operations in their territory. They are agreeing on the exchange of information for tax purposes and some have already started implementing changes. Examples include Exchange of Information on Request (EOIR) and Automatic Exchange of Information for Tax Purposes (AEOI).

**R&C: What advice would you offer to FIs on implementing Know Your Customer (KYC) processes that can unravel complex ownership structures and meet global AML standards?**

**Parfitt:** The problem for most FIs is that there is not a 'one size fits all' approach, so companies really need to assess their risk statements and processes to determine which suppliers of services provide the best solutions. To reduce workload, it is important to ensure that services can be flexible, and their definitions complement each other and fit with the working style of the financial institution. Finally, we would advise spending significant time and resources on documenting detailed requirements and applying a forward-looking view of where the business is likely to progress. This ensures that you are building a degree of future-proofing into the solution which also helps any vendors deliver a better and more collaborative product. And this may seem obvious, but we observe it time and time again: test the system as it is being delivered as early and as frequently as possible. R&C