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## **BENEFICIAL OWNERSHIP DATA COLLECTION AND DISCLOSURE— POLICY CONSIDERATIONS**

### **Advancing BOT in Asia and the Pacific Region**

22 February 2022



The global standard for the good governance  
of oil, gas and mineral resources.

# Policy considerations: an overview

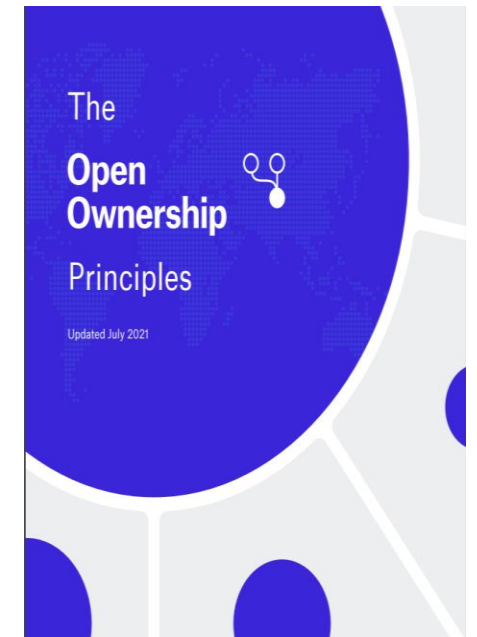
## ■ BO data collection

- *What data to collect – level of detail, threshold, scope of companies*
- *Who should collect– Sector-specific? Company regulator?*
- *When to collect and update data*
- *How to collect data?– Data structure, Declaration forms, Central register*



## ■ BO data disclosure

- *What to disclose– issues on confidentiality? Security*
- *How to disclose– open format, interoperability, free access*



# What data to collect?

The EITI Standard requires implementing countries to ensure that companies that apply for or hold a participating interest in an oil, gas or mining license or contract in their country disclose their beneficial owners.



EITI Requirement 2.5– follows global best practice

- *Information about the identity of the beneficial owner should include the name of the beneficial owner, the nationality, and the country of residence...* (# 2.5.d). → **Minimum disclosure.**
- *“It is also recommended that the national identity number, date of birth, residential or service address, and means of contact are disclosed”* (# 2.5.d). → **Recommended.**
- The EITI Standard (# 2.5.c) also states that the beneficial ownership disclosures should include *“the **level of ownership, and details about how ownership or control is exerted**”* → **Minimum disclosure.**

# What data to collect— consider also:

- Objectives for beneficial ownership transparency in your country: What data points are needed to achieve your objectives?
- Thresholds— Emerging trend of adopting lower thresholds (e.g. ownership of 5%) to minimise loopholes
- Type of interest (direct, indirect, shares, voting rights, means of control)
  - Ownership chains
  - State ownership
  - Reporting obligations for politically exposed persons
  - Unique identifiers (passport numbers, TIN)



# Who should collect?

- BO disclosures should be collated and held within a central register.
- Most EITI countries have designated the company register (e.g. Albania, Indonesia, Mongolia, Philippines) as data collecting agency but some have adopted sectoral data collection in addition (Ministry of Energy and Mineral Resources in Indonesia also requires BO data declaration for license applicants)
- Each approach has pros and cons depending on country objectives for BOT
- A sectoral approach could be more targeted when it comes to collecting data that detects corruption risks in issuance of licenses
- A company regulator approach enables wider scope, hence greater opportunities for interoperability



# Lessons learned from central BO registers

- Easier monitoring
  - *Same regularity of updates*
  - *Checking common/recurring gaps in disclosure*
  - *Uniform data quality assurances*
  - *Uniform rules for data retention , updates*
- Harmonised regulation
  - *One rule for data collection, sanctions, thresholds, fees, exemptions, risk management and assessment*
  - *Minimises potential conflict of interest and collusion – if fewer people have custody of data*



# Lessons learned from central BO registers

- Application of uniform data standards
  - *Level of detail*
  - *Quality assurance and data verification mechanisms*
  - *Thresholds*
  - *Manner of data collection*
- Enables efficient data use
  - *Minimises risk of non- inter-operable data*
  - *Comprehensive data – less risk of missing out on data sets*
  - *Central registries allow for proactive rather than reactive investigations, allowing investigators to identify patterns and trends across full datasets.*



# When to collect and update

From Open Ownership principles:

- Data should be kept up to date and historical records maintained
- Initial registration and subsequent changes to BO should be legally required to be submitted in a timely manner, with information updated within a short, defined time period after changes occur.
- Data should be confirmed as correct on at least an annual basis.
- All changes in BO should be reported.
- An auditable record of the BO of companies should be available by dating declarations and storing and publishing historical records, including for dormant and dissolved companies.





# How to collect data

- Designate one authority /ministry
- Clear guidance to companies with definitions
- Clarify what data would be publicly accessible
- Open data format
- Structure data in a way that would enable easier use and analysis, eliminates ambiguities



Guide to the model beneficial ownership declaration form  
for high quality data collection  
October 2020

*This guide was prepared by the EITI International Secretariat in cooperation with OpenOwnership. It accompanies the EITI model beneficial ownership declaration form for high quality data collection, available here: <https://eiti.org/document/beneficial-ownership-model-declaration-form>. For questions or comments, please contact [secretariat@eiti.org](mailto:secretariat@eiti.org)*

## Guide to the model beneficial ownership declaration form for high quality data collection

*Q&A on usage for form designers and administrators*

Contents



# Approaches in identifying risks: Cross referencing BO data with PEPs data



## Data disclosure– policy considerations:

- Data should be publicly accessible to enable re-use, analysis
- Need to consider public interest for BOT
- If there will be exemptions to public access, their basis should be established and a process is put in place to apply for exemptions– should not be left to discretion of declarant or one person collecting data
- Some data, if reasonably deemed sensitive (E.g clear and present danger related to a person’s security), could still be collected but not disclosed
- Clarify to the declarant at the outset what information would be made publicly available
- Long-term solutions to restrictions to access should be considered

**EBIT** If fees are inevitable, these should be reasonable and not restrictive



# Case study: Ukraine

- Measures to strengthen disclosure easier to implement, e.g. reflected in recent amendments to regulation
  - e.g. illustration of the ownership structure showing connections between individuals and legal entities, trusts, and similar establishments within the companies' group
  - names of all entities in the company's ownership chain
  - the nature of the influence of each UBO on the company's activities should be described in the documentation provided to the registrar.
- 75% of private oil and gas companies reported on their beneficial owners in 2018.
- Evidence of active public debate on beneficial ownership disclosures, including various investigations conducted by a broad range of stakeholders
- Company structure

## Ukraine | Form and content of ownership structure for legal entities approved

16/08/2021

On 11 July 2021, the Ministry of Finance Order No. 163 "On Approval of the Regulation on the Form and Content of the Ownership Structure" of 11 June, 2021, will enter into force.

In 2019, Ukraine comprehensively improved its national financial monitoring legislation which, among other things, introduced an obligation to submit an ownership structure for all companies on an annual basis. The implementation of this obligation has been delayed until the adoption of a regulation approving the form and content of the ownership structure. Now that it has been adopted, companies have until 11 October, 2021, to submit the ownership structure with the state registrar.

The ownership structure is a free-form diagram showing all persons who directly or indirectly own the legal entity, alone or in association with others. It should indicate the extent of ownership by each of the owners, as well as the persons who, regardless of formal ownership, are in a position to exercise significant influence over the management or operations of the legal entity. In addition, a description of the exercise and nature of the ultimate beneficial owner's decisive influence on the legal entity's activities should be provided.

As a reminder, all legal entities will have to keep their ownership structure up to date, update it and submit a new document in case of any changes to the structure. Also from 2022, they will have to submit it annually within 14 days from the date of registration with the registrar, regardless of whether the company has had a change in structure.

Failure to submit or late submission of the above information to the state registrar is punishable by a fine (from UAH 17,000 to UAH 51,000) on the legal entity's director or a person authorized to act on behalf of the legal entity (executive body).



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STRUCTURE FOR LEGAL ENTITIES  
APPROVED





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# Thank you

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