

Anti-Corruption Initiatives

Beneficial Ownership

**Open Government
Partnership
Global Report**

DEMOCRACY BEYOND THE BALLOT BOX

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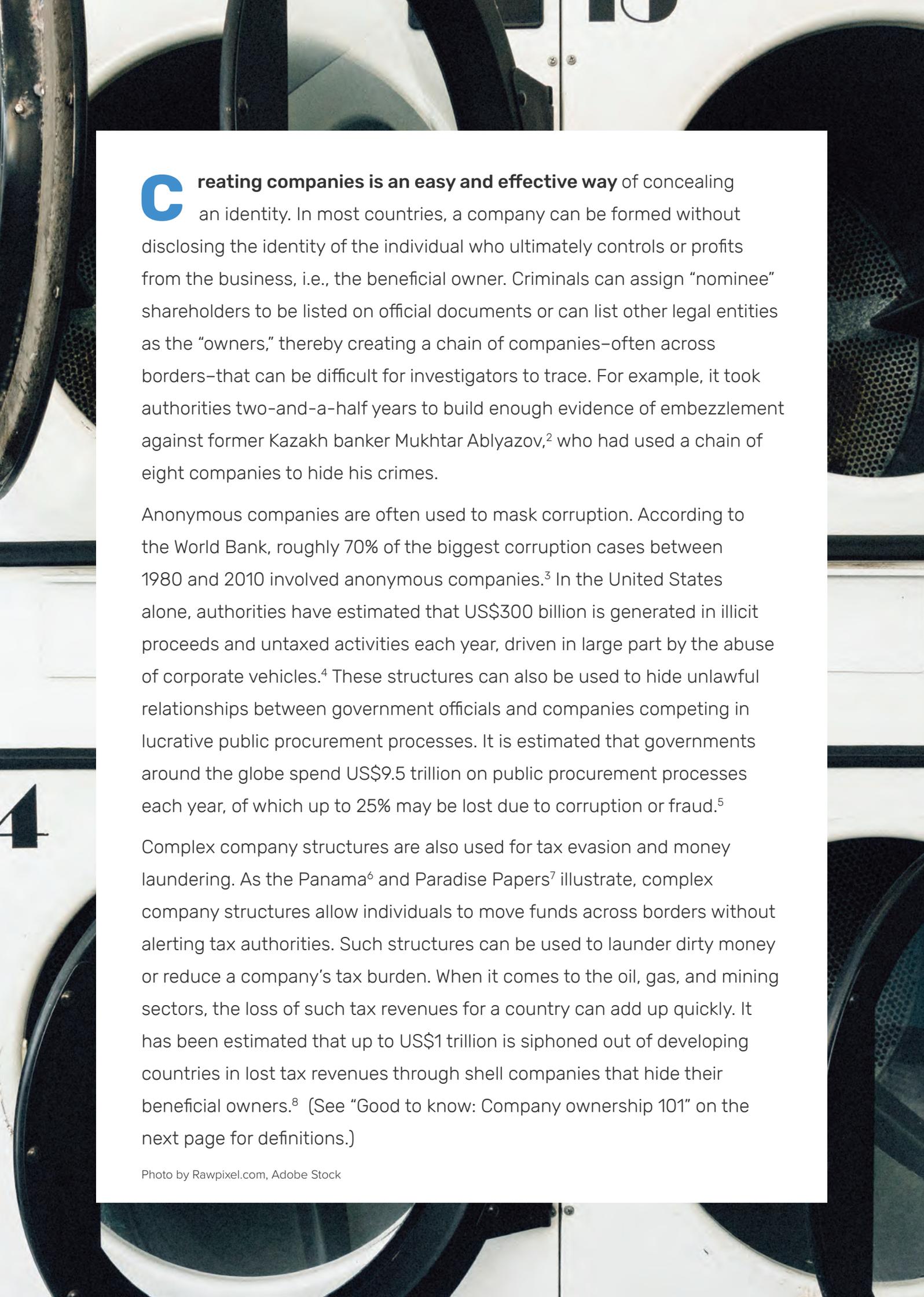


Key points

Beneficial ownership transparency has emerged as an essential means for combating corruption, stemming illicit financial flows, and fighting tax evasion. In response, governments as diverse as Denmark, Kenya, Nigeria, and the United Kingdom have committed to publish beneficial ownership information.¹ Compared to the larger OGP membership, however, still very few have made commitments to date. Moving forward, there are four key issues to be addressed by new beneficial ownership commitments:

- **Strengthening the disclosure requirements.** Reinforcing underlying legal and regulatory requirements for disclosure of different types of ownership across various legal vehicles is fundamental to more effective, transparent processes.
- **Improving the interoperability of information.** Applying common standards such as the Beneficial Ownership Data Standard and linking ownership information with other policy areas can help to track money and assets across sectors and jurisdictions.
- **Verifying registered informations.** Open beneficial ownership data, coupled with strong verification systems, ensures data is accurate and useable.
- **Engaging citizens in monitoring and accountability.** Informal and formal channels for accountability enable citizens to actively use ownership data to uncover networks of corruption.





Creating companies is an easy and effective way of concealing an identity. In most countries, a company can be formed without disclosing the identity of the individual who ultimately controls or profits from the business, i.e., the beneficial owner. Criminals can assign “nominee” shareholders to be listed on official documents or can list other legal entities as the “owners,” thereby creating a chain of companies—often across borders—that can be difficult for investigators to trace. For example, it took authorities two-and-a-half years to build enough evidence of embezzlement against former Kazakh banker Mukhtar Ablyazov,² who had used a chain of eight companies to hide his crimes.

Anonymous companies are often used to mask corruption. According to the World Bank, roughly 70% of the biggest corruption cases between 1980 and 2010 involved anonymous companies.³ In the United States alone, authorities have estimated that US\$300 billion is generated in illicit proceeds and untaxed activities each year, driven in large part by the abuse of corporate vehicles.⁴ These structures can also be used to hide unlawful relationships between government officials and companies competing in lucrative public procurement processes. It is estimated that governments around the globe spend US\$9.5 trillion on public procurement processes each year, of which up to 25% may be lost due to corruption or fraud.⁵

Complex company structures are also used for tax evasion and money laundering. As the Panama⁶ and Paradise Papers⁷ illustrate, complex company structures allow individuals to move funds across borders without alerting tax authorities. Such structures can be used to launder dirty money or reduce a company’s tax burden. When it comes to the oil, gas, and mining sectors, the loss of such tax revenues for a country can add up quickly. It has been estimated that up to US\$1 trillion is siphoned out of developing countries in lost tax revenues through shell companies that hide their beneficial owners.⁸ (See “Good to know: Company ownership 101” on the next page for definitions.)

Company ownership 101



“Between 2010 and 2014, Russian criminals used Deutsche Bank to move money into the Western financial system. The cash involved could total \$80bn, detectives believe.” Photo by Deutsche Bank

What is a “beneficial owner?”

A beneficial owner is the individual (or individuals) who ultimately owns, controls, or benefits from a company (or any other form of legal vehicle). Importantly, the beneficial owner can be different from a company’s legal owner, i.e., the person or entity with immediate and formal ownership. While the two can be the same, say for a small business with one clear owner, they can also differ. In fact, in the case of complex and opaque corporate structures, the legal owners are often companies or individuals with little actual control. In these cases, a whole chain of legal owners might obscure the beneficial owner, i.e., the individual at the end of the chain with ultimate control.

What is a “shell company?”

Shell companies are legal entities that are non-operational and lack assets or staff. While these corporate structures often have legitimate functions, they are also an attractive type of anonymous company for money launderers, who can use them in combination with other (often legal) techniques to keep their identity hidden from government authorities and to funnel funds across borders.

The case for beneficial ownership transparency

Publishing registers with beneficial ownership information helps shine a light on secret corporate structures that can be exploited to launder the proceeds of corruption, hide conflicts of interest, improperly win lucrative government contracts, and evade tax payments. Creating an open registry, built and run on open data, provides a key tool for governments to achieve a variety of objectives, such as those listed below.¹

Beneficial ownership transparency helps strengthen tax collection by clamping down on tax evasion. Based on some estimates, the Panama Papers—which revealed the true owners behind various shell companies—have helped authorities around the world to collect more than US\$500 million in unpaid taxes and penalties, and to prosecute the guilty.⁹ For example, the US Department of Justice charged four defendants linked to the law firm implicated in the Panama Papers for helping individuals to evade US taxes through shell companies.¹⁰ Governments can significantly benefit by identifying these hidden funds and levying taxes. In the case of African countries, both the UN and African Union have estimated that countries across the continent could gain US\$50 billion each year by stemming illicit financial outflows, which are facilitated by shell companies.¹¹

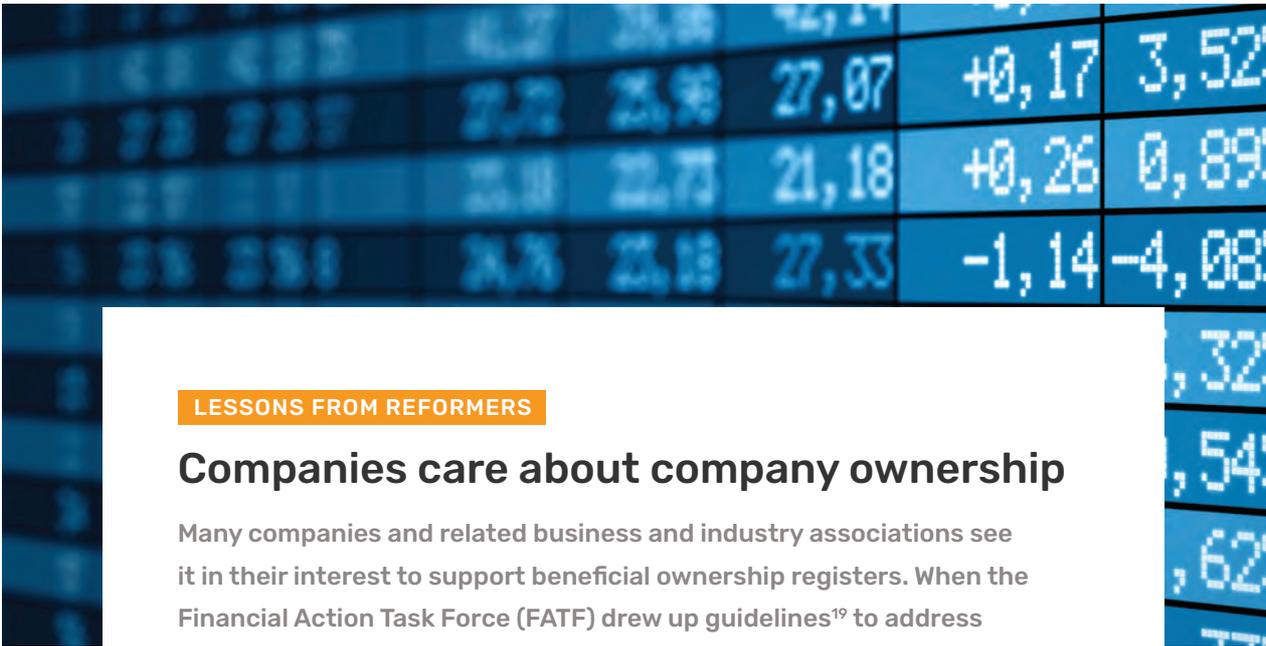
Public beneficial ownership data enables citizens to hold companies accountable. Journalists in Mexico,¹² South Africa,¹³ and elsewhere have used access to information laws and open data to flag suspected wrongdoing, but their work can only go so far without access to clear evidence on who really owns companies. For this reason, information on beneficial owners that is accessible to everyone, not just law enforcement authorities, is important. For example, in Slovakia, public company ownership information allowed the media and watchdog organizations to flag an incorrect submission by a company winning many lucrative government contracts, which prompted a fine from the Public Procurement Office.

In addition, public beneficial ownership information aids in the fight against corruption and money laundering, as required by global, regional, and national anti-money laundering directives, such as the Fifth EU Anti-Money Laundering (AML) Directive.¹⁴ In particular, this may be important in real estate, where it is essential to identify money-laundering activities in major capitals.¹⁵

Public beneficial ownership registries also make financial sense. A cost-benefit analysis commissioned by the UK Treasury Department in 2002 recommended implementing a public register because it estimated (conservatively) that it would result in at least £30 million of gains across other areas of the government, far outweighing any additional costs.¹⁶ By publishing information that can be used across borders, beneficial ownership information can also save costs for investigators.

Public beneficial ownership registries further help companies and governments fulfill their due diligence and risk management obligations. For companies, beneficial ownership information is useful to avoid violating existing regulations and risking sanctions. EY's 2016 Global Fraud Survey found that 91% of senior executives believe it is important to know the ultimate beneficial owners of the entities with which they do business.¹⁷ As for governments, registries can help enforce existing policies (in addition to international obligations). For instance, in 2017, US agencies conducted 13 corporate enforcement actions, which led to the collection of US\$1.14 billion in the US (and nearly another US\$2.3 billion that was paid out to other countries).¹⁸ Public beneficial ownership data also allows banks and financial institutions to conduct stronger customer due diligence. Banks are required to identify their clients and their ultimate beneficial owners, but they are often not allowed to rely on countries' commercial registries. (See the box "Companies care about company ownership" on the next page for examples of private sector support of beneficial ownership information.)





LESSONS FROM REFORMERS

Companies care about company ownership

Many companies and related business and industry associations see it in their interest to support beneficial ownership registers. When the Financial Action Task Force (FATF) drew up guidelines¹⁹ to address beneficial ownership, the European Banking Federation and others actively supported them during the public consultation in 2010.²⁰ The European Commission in 2012 also organized a consultation during which leading banking associations generally supported beneficial ownership registers to help them do better due diligence.²¹

In the UK, the Institute of Directors,²² which represents over 38,000 business leaders, welcomed²³ the initial push in 2013 by the UK government to have the G8 act on beneficial ownership transparency. The National Association of Estate Agents (now renamed PropertyMark) was also actively supporting the measure and backing broader civil society coalition actions. Further, companies and various industry associations²⁴ were vocal as part of government consultations ahead of the decision to implement the register.

In the US, the National Association of Realtors and Clearing House Association (a banking association owned by the world's largest commercial banks)²⁵ have voiced their support for ownership disclosure for Limited Liability Companies (LLCs) as part of efforts to address money laundering.

Photo by Thomas Pajot, Adobe Stock

Beneficial ownership around the globe

Worldwide, there is increasing momentum on beneficial ownership reform. The G8,²⁶ G20,²⁷ and EU²⁸ member states agreed to establish registries in 2013, 2014, and 2015, respectively. In 2016, various countries at the Anti-Corruption Summit in London came forward to pledge to establish public registries of beneficial ownership (e.g., Britain, Afghanistan, Kenya, France, the Netherlands, and Nigeria).²⁹ In addition to these commitments, other global initiatives have developed recommendations and issued guidance regarding beneficial ownership, such as the 154 members of the OECD's Global Forum³⁰ and the 37 members of the Financial Action Task Force (FATF),³¹ though neither the Global Forum's Standard nor the FATF Standard require publishing registers. It is worth noting that 22 FATF members and 13 of the G20 members are also part of OGP.

The fifth EU Anti-Money Laundering Directive is a major step forward for beneficial ownership transparency. While G8 and G20 countries have not committed to publish their registers en bloc, the Directive requires that EU members³² provide public access to their registers by 2020. All registers must list the ultimate beneficial owner (UBO) and include the same basic information: name, month of birth, nationality, country of residence, and nature/size of the interest held.³³ Overall, several countries have centralized registers, but only a handful—including the United Kingdom, Denmark, and Ukraine—have made their registers publicly available. (See the box on “Guidance and standards: Implementing beneficial ownership transparency in the extractives sector” for a sector-specific application, as well as the box, “Lessons from reformers: Nigeria’s push for beneficial ownership transparency in procurement and in the extractives sector,” later in the section.)



Implementing beneficial ownership transparency in the extractives sector



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At the sector level, efforts are underway to expand the number of countries committing to public beneficial ownership registers. In the mining, oil, and gas sectors, this is taking place through the Extractives Industries Transparency Initiative (EITI). The fifty countries that are EITI members have outlined “beneficial ownership roadmaps.” These are plans that detail the reforms needed between now and 2020 to be compliant with EITI’s beneficial ownership requirement that all companies applying for or holding a participating interest in an oil, gas, or mining license or contract in an EITI member country disclose their beneficial owners.³⁴ This information will then be made publicly available through EITI country reports and/or national registries. This requirement, first included as part of the EITI Standard in

2016, is a first but important step for moving toward a full public registry of beneficial ownership across all sectors. EITI requirements have already helped to trigger 20 countries to set up public registers. A number of countries have used commitments in their OGP action plan to advance this requirement ahead of the timeframe for EITI.

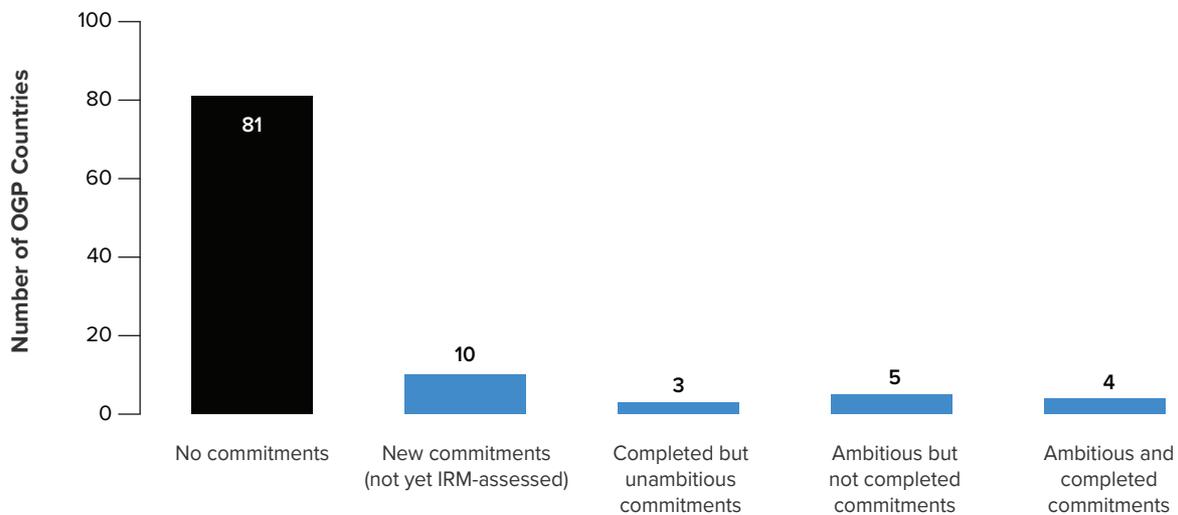
Beneficial ownership disclosure can also be linked to the licensing process to fight corruption and conflicts of interest. The Natural Resources Governance Institute reviewed 100 real-world extractives licensing corruption cases and found that over half involved a hidden beneficial owner who was a politically-exposed person—either a government official or their close affiliate.³⁵

Beneficial ownership in OGP

Despite the increasing global momentum around beneficial ownership, few OGP members have made relevant commitments. To date, 22 OGP members have made a total of 32 commitments on beneficial

ownership.³⁶ As Figure 1 illustrates, the vast majority of OGP members have not made any commitments. Progress is still at an early stage as only four commitments are ambitious proposals with concrete results.

FIGURE 1. Most OGP members lack beneficial ownership commitments



Source: OGP commitments data, December 2018. (n=99)

Most beneficial ownership commitments in OGP have dealt with registers. In particular, current commitments have tended to focus on two issues:

- Establishing robust registers of beneficial ownership;³⁷ and
- Publishing registers of company beneficial ownership as open, machine-readable data.³⁸

In many cases, these registries³⁹ have existed, but have not been public or have lacked information on beneficial owners. Overall, a diverse coalition of reformers has made beneficial ownership commitments through OGP. For example, countries with such commitments include: Australia, Chile, France, Ghana, Kenya, Ukraine, and the United Kingdom. Some commitments have focused on requiring the disclosure of beneficial ownership information for public contracts (as in Bulgaria)⁴⁰ or for license-holders in the extractives sector (as in Indonesia and Mongolia). In the case of Ghana, the government committed to both

- 1) publish information on the beneficial owners of any entity winning a government contract; and
- 2) expand an existing company register to develop a beneficial ownership database.

Despite the low numbers, the beneficial ownership commitments to date appear promising. Of the 12 beneficial ownership commitments that the Independent Reporting Mechanism (IRM) has assessed, five have had a “transformative potential impact” and four have received a “star” (for being verifiable, relevant to open government principles, ambitious, and mostly implemented—i.e., model commitments). Although this is a small sample size, the findings underscore the considerable potential of making beneficial ownership commitments through the OGP platform. Lastly, it is important to note that beneficial ownership reform is moving in the right direction, as the number of OGP members with relevant commitments has jumped from only one in 2013 (the UK) to 22 countries today.⁴¹



The frontiers of beneficial ownership transparency

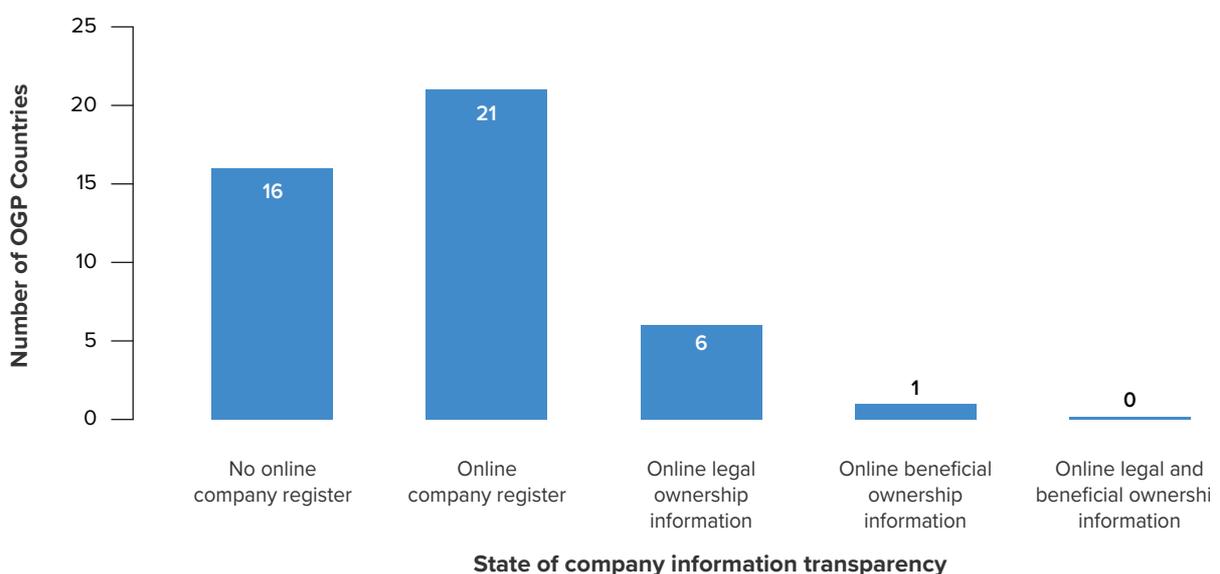
If the clear message from the preceding section is that more beneficial ownership commitments are needed, this section looks at where work needs to be done. What follows is an analysis of current barriers to greater beneficial ownership transparency and opportunities for impactful reforms. Based on the findings, this section is grouped into four broad suggested areas for change:

- Strengthening the collection of beneficial ownership information
- Improving the interoperability of the data
- Building strong verification systems
- Engaging citizens in the use of the data for monitoring and accountability

Strengthening the collection of beneficial ownership information

Many OGP countries do not publish their company registers, much less the legal or beneficial owners of those companies. This occurs for several reasons, such as privacy concerns (see the box “Good to know: The relationship between privacy and beneficial ownership transparency”). Figure 2 below depicts the levels of company information transparency in OGP countries. These numbers are taken directly from the “Selected Dimensions of Open Government” data featured in the OGP member pages.⁴² On the left-hand side, 16 (or just over one in three)⁴³ OGP countries do not publish any form of company information. The average OGP country, on the other hand, publishes its company register, which includes basic information such as company names, unique identifiers, addresses, and registered activities. Only seven OGP countries publish comprehensive legal or beneficial ownership information. The following sections assess why this is the case.

FIGURE 2. Few OGP countries publish company ownership information



Sources: Open Data Barometer, 4th and Leaders Editions, 2017-2018; Tax Justice Network, Financial Secrecy Index, 2018, ID474-5.⁴⁴ (n=44)

The relationship between privacy and beneficial ownership transparency



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Ensuring that beneficial ownership data is publicly accessible while protecting an individual's right to privacy is an important concern. There are increasing worries about how personal data protections are respected and fulfilled, particularly as a result of EU regulations⁴⁵ and high profile data breaches.⁴⁶ However, beneficial ownership information is generally considered a different class of data because it is collected as a result of a company's desire to engage in or complete a financial activity in a specific market under the name of a specific legal entity. (These benefits differentiate ownership from holding assets under a private name.) Furthermore, based on an analysis⁴⁷ of legal cases in various countries

(e.g., Chile, Romania, the United States, and Germany), there is a balance to strike as the courts found that financial disclosures did not violate the right to privacy, as guaranteed by their constitutions. Still, there is a need to take a responsible data⁴⁸ approach to best assess concerns about consent, privacy, and security.

As a practical example, in the UK, the government addressed concerns about a company owner's privacy and security on a case-by-case basis. However, of the nearly 2 million companies⁴⁹ in the register, only about 30 owners⁵⁰ have been granted the right to remain anonymous, suggesting that this has not been a major concern.

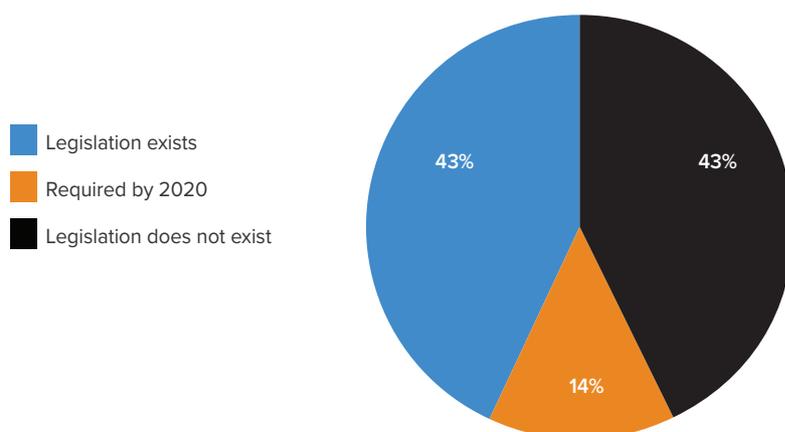


Barriers to beneficial ownership transparency

The first barrier to publishing beneficial ownership information is having legislation that requires companies to disclose this information. Nonetheless, this is still the binding constraint for most OGP countries. Figure 3 shows that more than half of OGP countries do not yet have legislation in place requiring the registration of beneficial ownership information, although seven

EU countries are required to have laws by 2020 in accordance with the 5th EU AML Directive. Nonetheless, while the graph below seems to indicate that by 2020, most OGP countries will be well on their way to tracking beneficial owners (at least internally), this is not the case. As the following sections reveal, there are significant loopholes and challenges that OGP countries face in the collection of useful beneficial ownership information.

FIGURE 3. Most OGP countries currently lack beneficial ownership registration laws

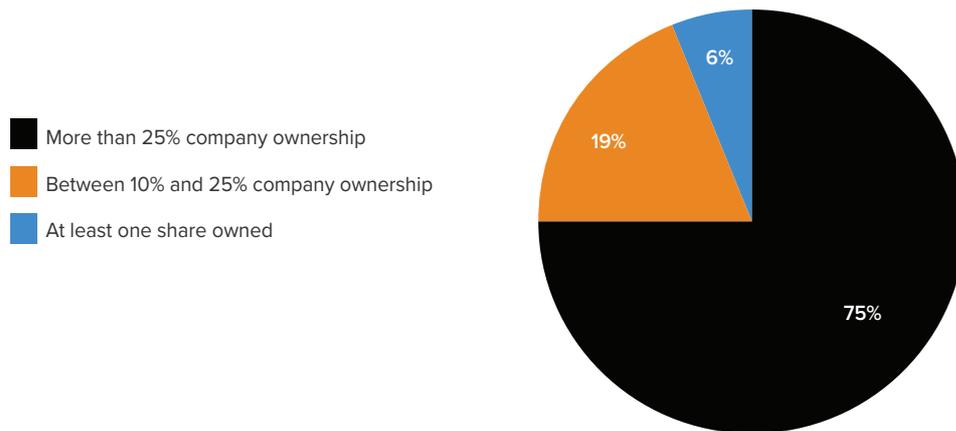


Source: Tax Justice Network, *Financial Secrecy Index, 2018*, ID 471.⁵¹ (n=49)

The definition of a beneficial owner can be a key loophole for companies to avoid disclosing accurate beneficial ownership information. Laws set thresholds for who is considered a beneficial owner. For example, the UK requires disclosure for anyone having at least a 25% share or stake in the company. As illustrated by Figure 4 on the next page, this threshold is the most common in OGP countries (with beneficial ownership registration laws).⁵² However, civil society groups

have pushed for lower thresholds,⁵³ down to a single share,⁵⁴ given how easy it can be for criminals to adapt to legislation. For instance, in the case of the Kazakh banker mentioned previously, Abyazov used several entities that held 9.5 to 9.96% interests to avoid passing the 10% disclosure threshold. In addition, according to an analysis by Global Witness, nearly 1 in 10 companies in the UK claim to have no beneficial owner, which is possible because of the 25% threshold.⁵⁵

FIGURE 4. Most OGP countries (with registration laws) have a 25% ownership threshold to be considered a beneficial owner



Source: Tax Justice Network, *Financial Secrecy Index, 2018*, ID 471.⁵⁶ (n=16)

GOOD TO KNOW

The risk posed by bearer shares



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Bearer shares⁵⁷ are physical documents that provide ownership rights to whoever holds them. They pose a unique challenge to tracking beneficial ownership because issuing firms do not track the owner or transfers in ownership. Whoever holds the physical document at any point in time is considered to be the owner. According to a study⁵⁸ in the Czech Republic, companies that issued bearer shares won

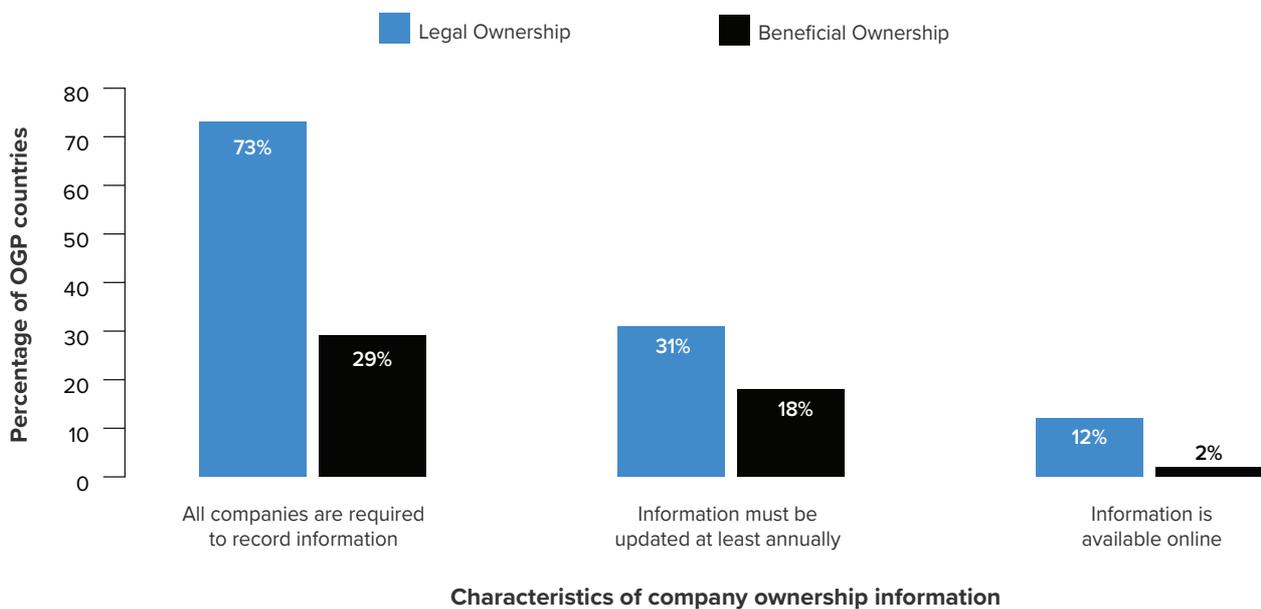
less competitive government contracts that resulted in lower savings for the government. Given the risk posed by these instruments, many countries have banned their use. However, bearer shares are still available, circulating, or are not registered by government authorities in about 2 in 5 OGP countries, highlighting that this is still an important area for improvement.



Updating and publishing registered beneficial ownership is another binding constraint. Figure 5 below shows the percentage of OGP countries that record, update, and publish beneficial ownership information, according to the Tax Justice Network’s Financial Secrecy Index (FSI). It is important to take into account that the FSI does not consider that governments are collecting comprehensive company ownership information if 1) bearer shares are available, circulating, or not registered by government authorities (see “The

risk posed by bearer shares”) or 2) mandatory beneficial ownership information disclosure does not cover all types of companies. As a result, the key message from the graph below is that even after closing several loopholes in the collection of beneficial ownership information, many OGP countries do not update this information. Fewer still release the information publicly. According to the 2018 edition of the FSI, only the UK published comprehensive and updated beneficial ownership information.

FIGURE 5. Updating and disclosing ownership information are key binding constraints in OGP countries



Source: Tax Justice Network, *Financial Secrecy Index, 2018*, ID 470-475. (n=49)

GOOD TO KNOW

The importance of disclosing legal ownership information



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While legal ownership information is less useful than beneficial ownership information because the former can be a legal entity and does not represent actual control, both types of data are essential for combating corruption. Given that legal owners are the immediate owners of an entity, they provide important information about corporate structures, particularly those that involve a chain of legal entities. In these cases, beneficial ownership information alone often cannot be verified, given that the owners

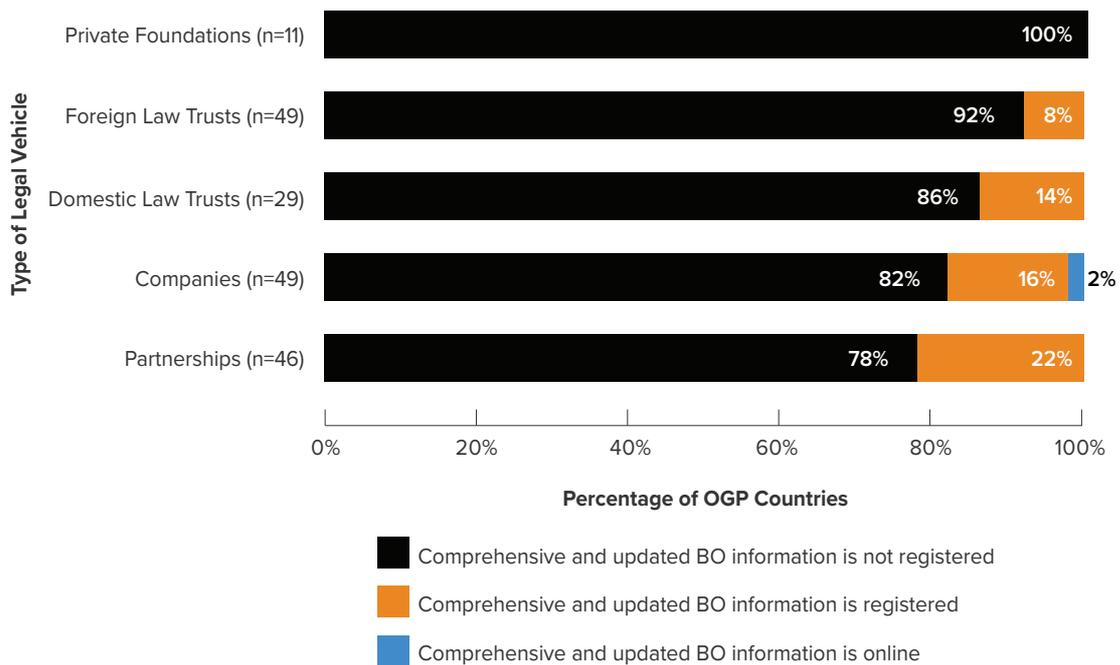
of the intermediate entities remain hidden.

Figure 5 on the previous page also illustrates how well OGP countries perform in the registration, updating, and disclosure of legal ownership information. As is evident from the graph, there is room for improvement in the collection and disclosure of this information. Although nearly 3 in 4 OGP countries collect comprehensive legal ownership information, far fewer update this information regularly and publish it.

Beneficial ownership transparency must not focus solely on companies. The data shown so far has looked at the transparency of company information. However, companies are just one of many types of legal vehicles that criminals can use to hide illicit funds and evade taxes. Figure 6 on the next page shows how well OGP countries perform in the collection and disclosure of comprehensive and updated beneficial

ownership information for five common types of legal vehicles. Unfortunately, although only about one in six OGP countries collect comprehensive and updated beneficial ownership information for companies, countries fare even worse on other types of legal vehicles. Certainly, future commitments aimed at improving beneficial ownership transparency must be wide-ranging in their approach.

FIGURE 6. Rates of beneficial ownership transparency across five types of legal entities in OGP countries are low



Source: Tax Justice Network, *The State of Play of Beneficial Ownership Registration: A Visual Overview*, June 2018.⁵⁹

Improving the interoperability of beneficial ownership information

Beneficial Ownership Data Standardization

There is a need for countries to set up registries using the same open data standard. The Beneficial Ownership Data Standard is a structured data format developed by a group of civil society organizations and hosted by OpenOwnership.⁶⁰ One of the key benefits of the Standard is that it helps to ensure interoperability across borders. Given the global nature of financial crimes, beneficial ownership information is only useful if it follows a common language that authorities from different jurisdictions can leverage. Implementing the Standard is also especially important in this nascent

phase of beneficial ownership transparency, as it can be costly to redevelop and rebuild data structures in the future to standardize data. At the moment, Ukraine (see box on the following page) and the Kyrgyz Republic are piloting the use of the Standard.

Open, standardized data enables the development of a global register of beneficial ownership information. As the world’s first global, open beneficial ownership register, the OpenOwnership Register⁶¹ compiles data from national registers. Both Ghana⁶² and Ukraine⁶³ are part of the Register and Standard. Moving forward, efforts to consolidate beneficial ownership data as a global, public good will further enhance the utility and accuracy of the information.

LESSONS FROM REFORMERS

Ukraine's national beneficial ownership register goes global

The government of Ukraine committed to an open registry as part of its 2016–2018 OGP action plan (which also reflects country commitments made as part of the OGP Paris Declaration and the Anti-Corruption Summit in 2016). This built on the provisions set out by the State Anti-Corruption Policy of Ukraine (2014–2017),⁶⁴ which emphasized the importance of tackling anonymous owners as part of combating corruption.

The policy was enacted into a series of five laws, which included the creation of a free, open, and centralized company register: the Unified State Register.⁶⁵ According to the government, about 330,000 companies—or approximately 20% of all registered companies—disclosed information about their ultimate beneficial owners by the end of 2018. The register is under the authority of the Ministry of Justice, which is responsible for its governance and policy. The government is working with a local NGO, TI-Ukraine, to carry out these efforts.

Ukraine was also the first country to commit to integrating its national register with the global OpenOwnership Register.⁶⁶ Such coordination across registers is critical for being able to triangulate, verify, and act on data. The arrest in October 2018 of a former “high profile” Ukrainian in France was facilitated by using such data from other sources to track him back as the beneficial owner of a Luxembourg company that was used to purchase a French castle worth €3 million.⁶⁷ Ukraine’s Prosecutor General’s Office is also attempting to use beneficial ownership registers to trace back an estimated US\$5.5 billion in assets looted from the country’s largest bank when it was nationalized in November 2016.⁶⁸

Today, the government continues to make progress on beneficial ownership transparency. Since September 2018, companies are required to report the percentage of each beneficial owner’s interest, the type of ownership, information about intermediate companies (i.e., the ownership structure), and a reasoned explanation if no beneficial ownership is identified. In addition, the information must be updated each time a company changes its information on the register (as opposed to only at the time of company creation).⁶⁹ Ukraine is also the first OGP country to make a commitment explicitly focused on improving the verification of beneficial ownership information, and is currently addressing this issue as part of its 2018–2020 action plan.⁷⁰



LESSONS FROM REFORMERS

Nigeria’s push for beneficial ownership transparency in procurement and in the extractives sector

The country has legal provisions⁷¹ dating back to 2004 that partly address beneficial ownership. There is also a closed register of companies. However, many of the names cited are not the real owners⁷² and there is no mechanism to verify them, or sanctions for falsifying information. As a resource-rich country that has been plagued by grand corruption, beneficial ownership transparency has emerged as an important tool. For example, Global Witness helped to uncover shell companies that have since been implicated in the alleged theft of US\$1.1 billion⁷³ in revenues from the awarding of an oil field to a Nigerian company, Malabu Oil & Gas, which was actually owned by a former oil minister. Currently, two global oil companies, ENI and Shell, are standing trial with others in Italy over allegations of corruption related to this deal, which is estimated to have cost Nigeria US\$6 billion in potential revenues. Overall, it has been estimated that US\$15.7 billion in illicit flows leave the country’s financial system every year.⁷⁴

At the UK-hosted Anti-Corruption Summit in 2016, Nigeria committed to joining OGP and setting up a national public registry⁷⁵ of beneficial ownership, which it included in its first OGP action plan.⁷⁶ The body responsible for the register, the Corporate Affairs Commission (CAC),⁷⁷ is reportedly attempting to change relevant national legislation to align with global good practice. At the same time, the country is pursuing a sectoral action plan on beneficial ownership through the EITI process by December 2019. It has produced a “road map”⁷⁸ to require the public disclosure of beneficial owners of oil, gas, and mining companies in the country, and has made progress on the implementation of the EITI Standard. The Nigerian government is also applying beneficial ownership requirements to any company holding a government contract as part of its implementation of the Open Contracting Data Standard⁷⁹ for its public procurement process.

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Photo by Igor Groshev, Adobe Stock

Linking beneficial ownership information across sectors

Beneficial ownership information, when structured as open data, can provide a critical input for linking up with other open data sets, such as on public contracting. The importance of open data and the interoperability of related data sets are clearly outlined in the OGP Declaration.⁸⁰ For example, having beneficial ownership data that is interoperable with public procurement data (through the Open Contracting Standard)⁸¹ can help to detect and investigate questionable public contracts, and to follow the money.

Similarly, in the area of extractive industries, collecting and screening beneficial ownership information during the extractive licensing process can help to reduce the risk of corruption. As OGP and natural resources-rich countries, both Nigeria⁸² and Mongolia⁸³ have included beneficial ownership transparency of extractive contracts as part of their national action plan commitments. Still, there is room for improvement, as only five of the 32 OGP commitments on beneficial ownership have focused on the extractive sector (eight have focused on open contracting). Future government reforms could therefore:

- Require companies to disclose beneficial ownership information during the process of applying for a license/agreement involving natural resources;
- Establish clear rules on what type of ownership structure is disqualifying, as well as the repercussions; and
- Scrutinize the ownership information provided during the selection of awardees.⁸⁴

The last recommendation requires proactive verification of beneficial ownership information, which remains a major gap in existing practice, and which is covered in more detail in the following section.

Verifying beneficial ownership information

Strong verification systems are essential for ensuring high-quality, accurate beneficial ownership information. An analysis⁸⁵ of the progress of G20 countries in advancing beneficial ownership reforms found that even in cases where there is a central register, no country requires that the provided information be automatically verified. Without strong verification systems, beneficial ownership information becomes significantly less useful. As developed in publications by the Tax Justice Network⁸⁶ and OpenOwnership,⁸⁷ the effective verification of beneficial ownership information consists of four important steps:

- **Authentication:** ensure that the person who registers beneficial ownership information is who they say they are. According to a study by the World Bank,⁸⁸ only 60% of company service providers conducted an authentication process to verify the identity of the person opening up a business. The remaining 40% only required the filling of an online form. To achieve authentication, the government could require digital or biometric signatures, signed declarations confirming the accuracy of the information submitted, or scanned identification documents, as is currently required by Denmark's beneficial ownership registry.
- **Authorization:** ensure that the person registering the company is authorized to do so. This would not only help to prevent cases of stolen or "bought" identities,⁸⁹ but would also pre-empt the common excuse that the beneficial owner was not aware that someone was registering a company for them.⁹⁰ To achieve authorization, governments could require that beneficial owners provide written or digital authorization, or be notified when their name is used to create a company.



- **Validation:** cross-check data to ensure that the information submitted is plausible. This could include making sure that names, addresses, nationalities, and other information are real and match other government databases. Costa Rica's beneficial ownership register, which comes into force in 2019, will incorporate a technology system that will run these types of checks to validate information using databases from the election high court, foreign ministry, and immigration office, among others.⁹¹
- **Red-flagging:** use advanced analytics to find patterns, identify anomalies, and create alerts. Open data, together with an engaged civil society, would facilitate this exercise. For example, Global Witness and DataKind UK analyzed the UK's beneficial ownership data and found several suspicious trends that would not have been possible without having access to the information in open format. These included companies disclosing an ineligible foreign company as the beneficial owner or using circular corporate structures.⁹²

Used together, these verification methods can make it easier for citizens to use the data effectively and harder for criminals to get away with lying. Ukraine is the first country to make an OGP commitment explicitly focused on the verification of beneficial ownership information (in both its 2016–2018⁹³ and 2018–2020⁹⁴ action plans). As the collection and disclosure of this data grows across the globe, ensuring the high quality of the information will be the next major step.



LESSONS FROM REFORMERS

Using Slovakia's beneficial ownership register for impact

Along with Denmark,⁹⁵ Slovakia was one of the first countries to publish beneficial ownership information. The Slovakian register⁹⁶ was established in 2015 for companies participating in public procurement processes. Companies can be banned for up to three years and face fines reaching one million euros if they participate in procurement without first registering.

Verifying the data provided by the 11,000 companies and 16,000 owners in the register, and enforcing non-compliance, has been a challenge. Two key obstacles were that 1) no official documentation was required when companies submitted their filings and 2) the register was not linked with the country's broader business registry. Still, one in four companies included a beneficial owner that was not previously listed in their filing with Slovakia's business register.

Civil society organizations⁹⁷ in Slovakia have used the register to analyze the available data, identifying networks of companies that have the same beneficial owner(s). This includes finding that 190 of the listed beneficial owners are actually public officials (who might have a conflict of interest when it comes to procurements). The register has also been used by local organizations⁹⁸ to verify whether companies were indeed providing information on their beneficial owners as part of winning public contracts. In March 2016, it was found that the public news agency TASR had signed a contract for a computer upgrade worth 110,000 euros with a company that had not provided its beneficial owner. The same was true for two contracts awarded by a local government. When the new register was launched in 2017, a state-run rail operator was forced to withdraw from a highly criticized⁹⁹ 50-year lease of the country's main train station when citizens discovered that the contractor did not provide information on its beneficial owner.

Civil society groups and the media have also used Slovakia's registry to reveal an allegedly serious conflict of interest involving the prime minister, who is listed as one of the beneficial owners of a company in the Czech Republic¹⁰⁰ that has received €75 million in EU subsidies¹⁰¹ for delivering various public works.



Engaging citizens in monitoring and accountability

Civil society plays a critical role in using beneficial ownership information for accountability. (See the box, “Lessons from reformers: Using Slovakia’s beneficial ownership register for impact,” on the previous page, for an example.) Beyond simply publishing a beneficial ownership register, the aim should be to enable channels that deepen accountability, both formally (such as through legal investigations) and informally (such as through citizen reporting):

- **Formal accountability:** low-threshold to be considered a beneficial owner, required government data validation, mandated regular updating of data by companies, right to investigate by institution, right to sanction and impose significant financial penalties by institution, refusal of registration or legal operation if all information is not shared, formalized and regular information-sharing across government agencies, required extension of beneficial ownership requirements to trusts and other legal arrangements, or creation of a register advisory group;¹⁰² and
- **Informal accountability:** citizen and media monitoring and reporting, regular verification and querying of data, reformatting and digitization of data, triangulation of data sets, cross-checking information (through physical and lifestyle checks), or reporting of errors and missing information to authorities

Companies House, the government body responsible for the UK beneficial ownership register, has been particularly successful at involving end users (including civil society) in the design of the register and even setting up a data users’ reference group. Moreover, given the easily accessible register based on open data, civil society groups in the UK are using the data to vet its quality, as well as to attempt to effectively triangulate information across different data sets (see the box, “Lessons from Reformers: Engaging activists for impact in the UK,” for more information).

Other anti-corruption initiatives reveal the power of open data in the hands of civil society. In particular, income and assets declarations offer lessons on how beneficial ownership data can be used effectively for accountability. More than 150 countries have requirements that public officials declare their assets and nearly all OECD countries require that asset declarations be published.¹⁰³ The World Bank concluded that public asset declarations have enabled civil society to verify the declarations and trigger the enforcement of infractions, making the system more credible and trusted.¹⁰⁴ For example, in the US, a civil society watchdog used publicly disclosed asset declarations to identify conflicts of interests for high-level judges that were hearing certain cases.¹⁰⁵ In Georgia, a civil society organization used asset declarations to calculate the amount of money that legislators were receiving in bonuses (since Parliament refused to provide such information).¹⁰⁶ The same group also tracked declarations for new public officials to find patterns of suspected illicit enrichment once they entered office. Overall, civil society in Georgia is cross-checking the information against other sources of publicly-available data, such as from licensing, land registers, and public procurements, highlighting the power of beneficial ownership data to further unveil criminal activity.¹⁰⁷

LESSONS FROM REFORMERS

Engaging activists for impact in the UK

The UK has been a pioneering country¹⁰⁸ on the issue of public registers of beneficial ownership. It first pushed this agenda in 2013 as the host of the G8 and then later through the G20 in 2014. The government promoted the issue of beneficial ownership as an effective way to combat corruption and stop tax evasion, both of which undermine global development. In addition, according to the UK National Crime Agency, there is a “realistic possibility” that the impact of money laundering on the UK reaches hundreds of billions of pounds each year.¹⁰⁹

In 2016, the UK became one of the first countries to establish a public register that captured the beneficial owners of companies. It was made free of charge for the public to access. An open data standard was used to set up the register, called the register of Persons with Significant Control (PSC). As part of its OGP action plan, the UK is currently in the process of extending the requirement to register a company’s beneficial owners to all overseas companies that hold land in the UK.¹¹⁰ Beneficial ownership transparency requirements have also been extended to companies operating in the country’s overseas territories. Failure to comply with providing accurate ownership information or responding to requests for company information are both criminal offenses.

The UK’s Companies House, the government body responsible for the registry, noted that within the first six-months of publishing the registry, the public had flagged data inconsistencies¹¹¹ for multiple contacts in the register. For the year 2016–2017, more than two billion data searches¹¹² were conducted of the free and open register. The high use-up from only six million requests in 2014–2015 when access to the register was available at a charge–has helped to improve the quality of the data through the flagging of inconsistencies. This has made the data more useful for triangulating it with other sources to seek out illegal activities. For example, the register has been used by journalists and civil society organizations like Transparency International to uncover corruption networks used by governments, such as the Azerbaijani Laundromat,¹¹³ which involved four firms that were registered with Companies House in London to allegedly pay US\$2.9 billion to lobbyists and parliamentarians between 2012 and 2014.¹¹⁴

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