

# The Beneficial Ownership Leadership Group: Draft Terms of Reference<sup>1</sup>

## Our aims

Businesses can and should be a force for good, and in the majority of cases across the globe they are. However, we know that companies and other legal entities can be abused to facilitate corruption, serious and organised crime and tax evasion. Often transnational by nature, these criminal activities generate real costs for markets and for people and especially hurt the poorest in society.

We will collectively drive greater beneficial ownership transparency, including through free to access and publicly accessible registers, across a diverse range of countries and asset classes wherever possible. In the near term, to demonstrate tangible progress, our priority focus will be on creating a new global norm of beneficial ownership transparency for companies, as laid out in the **Beneficial Ownership Transparency Disclosure Principles**.

In order to contribute towards ending the criminal abuse of companies, the world needs efficient ways to share and access high-quality information about who owns and controls them. As leading governments committed to transparency, integrity and open access to public sector information, we are working together to build a new global norm of accessible beneficial ownership information that is linked across borders by 2023.

## Membership and representation

The Leadership Group is driven by government implementers who are equal members of the Group. The **UK Government and the Open Government Partnership** will jointly convene and chair the meetings in the first year. There will be opportunities to rotate the chairing after the initial few meetings of the Group.

**OpenOwnership** coordinates the Leadership Group and serves as the Secretariat and integral technical assistance support. It also facilitates discussions on international best practice and produces related public guidance. **Open Government Partnership** co-convenes the Leadership Group and provides the action and accountability platform to advance the commitments of governments via OGP action plans; these are reviewed by the Independent Review Mechanism (IRM). These partners work closely together to leverage relationships and political access to add to membership.

Members are asked to front one political lead and one technical lead to participate in the Leadership Group.

## Implementation

Members of the Beneficial Ownership Leadership Group commit to implementing the **Beneficial Ownership Transparency Disclosure Principles**, which emphasise free and easy accessibility of beneficial ownership data to the public; collaboration with other members of the Leadership

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<sup>1</sup> These Terms of Reference can be amended through consensual agreement of the Leadership Group

Group on best practice; continuous improvement on and iteration of that best practice; and the preservation of civic space for users of beneficial ownership data.

They also commit to implementing a number of technical parameters, emphasising structured and linkable data in line with the Beneficial Ownership Data Standard, and utilising best practice in validation, verification and data protection.

We recognise that: a) every member of the Leadership Group can improve its implementation of the Principles and technical parameters; and that b) the starting points and contexts of the Leadership Group members will vary widely. Therefore **OpenOwnership, serving as technical experts, will conduct scoping studies of a number of Leadership Group member countries subject to demand and resources.** The scoping studies will result in a set of tailored advisory recommendations for steps each country could take in order to implement the Principles and technical parameters.<sup>2</sup>

With the agreement of the national government and participating civil society through the OGP's national co-creation processes, these recommendations will normally be included in each member's Open Government Partnership National Action Plan, in order to track and support progress toward the 2023 implementation deadline.

Implementation support will be provided to member governments by OpenOwnership or other technical assistance providers. The Leadership Group will work towards ensuring overseas development assistance eligible countries<sup>3</sup> receive technical and financial support to implement their own beneficial ownership transparency commitments.

### Meeting governance

Bi-annual meetings (including at least one in person) will serve as opportunities to check in on progress, reinforce member commitments, and welcome new members. Meetings will be aligned with major international gatherings, such as OGP Global Summits, OECD Integrity Forum and the International Anti-Corruption Conference. This will help to optimise high level attendance at the Leadership Group, whilst also keeping travel costs to a minimum. Costs for hosting Leadership Group meetings are expected to be low given they will be hosted in the margins of international fora or by multilateral organisations.

Members should be represented by one political lead and one technical lead at the in-person meetings of the Leadership Group. For any virtual meetings, priority agreement will be secured about the level of participation. Travel support may be available for overseas development assistance eligible countries. At each event, high level representatives will meet to discuss progress and accession, and OpenOwnership will facilitate a learning and horizontal exchange session for technical implementers.

### Accession

Members of the Leadership Group are asked to engage other partners, including governments and international institutions, to advance the objective of making beneficial ownership

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<sup>2</sup> OpenOwnership has used its scoping methodology to develop recommendations for three country contexts. View published scoping reports at [openownership.org/resources](http://openownership.org/resources).

<sup>3</sup> Countries eligible for overseas development assistance. For a complete list, see [http://www.oecd.org/dac/financing-sustainable-development/development-finance-standards/DAC\\_List\\_ODA\\_Recipients2018to2020\\_flows\\_En.pdf](http://www.oecd.org/dac/financing-sustainable-development/development-finance-standards/DAC_List_ODA_Recipients2018to2020_flows_En.pdf)

transparency a global norm, including by joining the Leadership Group. Accession will take place with the agreement of Group members and with demonstration of commitment to the Principles.

## **Declaration of national commitment to meet the Beneficial Ownership Transparency Disclosure Principles<sup>4</sup>**

### A new global norm of beneficial ownership transparency

There has been a growing global momentum to develop a comprehensive framework to enhance beneficial ownership transparency<sup>5</sup>. In November 2014, G20 Leaders adopted the High-Level Principles on Beneficial Ownership Transparency. The Leaders noted that “Improving the transparency of legal persons and arrangements is important to protect the integrity and transparency of the global financial system.” Subsequent commitments and actions, by individual countries, at the London Anti-Corruption Summit in 2016, via implementation of the European Union’s Fifth Anti-Money Laundering Directive, and through endeavours such as the global Extractives Industries Transparency Initiative (EITI) show a growing recognition of the importance of beneficial ownership transparency. As a group of countries, we will aim to build on this progress and create a new global norm of beneficial ownership transparency across asset classes. We believe that greater transparency of beneficial ownership will over time help to reduce the abuse of assets for criminal means.

Assets like corporate structures and trusts can and should be a force for good, and in the majority of cases across the globe they are. However, we know that companies and other legal entities can be abused to facilitate corruption, serious and organised crime, and tax evasion. Transnational by nature, these criminal activities generate real costs for markets and for people, and especially hurt the poorest in society.

Rebalancing markets and rebuilding trust between governments, companies, and everyday citizens will require an equal effort of transnational action on the part of governments. That is why we, as a group of countries, are united on the importance of the transparency of beneficial ownership information, promoted through ambitious implementation of existing international standards and initiatives and the build-up of emerging worldwide norms and best practice. Global illicit financial flows are channeled through a range of legal entities and assets including companies, trusts, properties and other high value commodities.

As a group of vanguard countries, we will collectively drive greater beneficial ownership transparency, including through free to access and publicly accessible registers, across a diverse range of countries and asset classes wherever possible. In the near term, to demonstrate tangible

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<sup>4</sup> These Beneficial Ownership Transparency Disclosure Principles can be amended through consensual agreement of the Leadership Group, although the underlying principle of members working towards open and free registers will not change.

<sup>5</sup> International organisations and initiatives e.g. FATF, Global Tax Forum, Egmont Group of FIUs, have been working for some time on topics related to beneficial ownership, by developing minimum standards and action guidelines, whose effective implementation is overseen mainly through the FATF mutual evaluation process. These Beneficial Ownership Transparency Disclosure Principles take into account this important work but also set out an ambitious new frontier of beneficial ownership transparency globally that is open and free public registers of company beneficial ownership as the new norm.

progress, our priority focus will be on creating a new global norm of beneficial ownership transparency for companies.

In order to end the criminal abuse of companies, the world needs efficient ways to share and access high-quality information about who owns and controls them. As leading governments committed to transparency, integrity, and open access to public sector information, we are working together to build a new global norm of accessible beneficial ownership information that is linked across borders. We expect the benefits of a new norm of beneficial ownership transparency will include:

- Enhancing our ability to fight corruption, money laundering and terrorist financing and other illicit financial flows as the risks of detection are significantly increased through better access to information by law enforcement and civil society, which acts as a deterrent.
- Improving the business environment through creating trust, levelling the playing field and promoting open competition including on public procurement and improving due diligence for traders and investors.
- Addressing tax evasion as tax authorities can better understand the interests of both corporate and individual taxpayers.
- Generating network effects, through sharing best practice and encouraging countries around the world to follow suit.

### Our aims

As a group of vanguard countries, we will look to shift the global norms of company beneficial ownership transparency by 2023, by committing ourselves to developing domestic public registers of company beneficial ownership, support efforts globally and regionally for other countries to do the same and participate as members of a Beneficial Ownership Leadership Group (the Leadership Group). The Leadership Group will work towards ensuring official development assistance eligible countries<sup>6</sup> receive technical and financial support to implement their own beneficial ownership transparency commitments.

The Leadership Group is a transnational coalition that will both drive a global policy shift towards free, open source publicly accessible beneficial ownership data for companies, and set ambitious international best practice on beneficial ownership transparency. Members are governments that are united by a common vision of simple access by business, civil society, and other government actors to public, open data of corporate beneficial ownership that is linked transnationally. The Leadership Group will be guided by a terms-of-reference and meet twice each year in the margins of international fora.

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<sup>6</sup> Countries eligible for overseas development assistance. For a complete list, see [http://www.oecd.org/dac/financing-sustainable-development/development-finance-standards/DAC\\_List\\_ODA\\_Recipients2018to2020\\_flows\\_En.pdf](http://www.oecd.org/dac/financing-sustainable-development/development-finance-standards/DAC_List_ODA_Recipients2018to2020_flows_En.pdf)

The Open Government Partnership (OGP) will serve as a platform for rooting this ambition at the national level (through OGP Action Plans that are co-created with civil society and reviewed by its Independent Reporting Mechanism) and encouraging the building of best practice. OpenOwnership will facilitate the building of best practice and provide tailored support to members of the Leadership Group in developing action plans and implementing the Disclosure Principles for beneficial ownership data. The Disclosure Principles are mutually reinforcing with commitments countries already have in place via OGP National Action Plans and the Extractive Industries Transparency Initiative standard.

### Disclosure Principles for Beneficial Ownership Data

Members of the Beneficial Ownership Leadership Group commit to the following **principles**<sup>7</sup>:

- Publishing company beneficial ownership data that is freely downloadable, searchable, and reusable by the public, without a fee, proprietary software, or the need for registration.
- Implementing progressively ambitious best practice in beneficial ownership transparency, across technical, legislative, regulatory, and administrative parameters.
- Committing resources to enable improvements and iterations to data quality and standardisation.
- Contributing to the building of best practice, including by recognising the evolving illicit finance threat and considering implementing beneficial ownership transparency beyond companies to a wider group of assets classes.
- Working in partnership with civil society and enabling their role as watchdogs and users of the data.
- Engaging other partners, including governments and international institutions, to advance the objective of making beneficial ownership transparency a global norm; and
- Contributing to evaluation and impact assessment of our shared approach.

And, they commit to publishing company beneficial ownership data in line with these **technical parameters**:

- Structured, machine-readable format compliant with the Beneficial Ownership Data Standard, which provides a technical model for beneficial ownership data that enables the data to be linked transnationally.
- Protocols for identifying and investigating red flags in the data, including collaboration and accountability between registrars and law enforcement.
- Granular, high-quality, and consistent enough to enable effective red flagging. Members should take reasonable steps on the following issues:
  - o Closing loopholes left open by high thresholds, banding, lack of historical data, and inconsistent use of identifiers for people and entities.

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<sup>7</sup> The principles and technical parameters will be carried out in accordance with the context and domestic legal framework, as well as the human and financial resources that each country can use for these purposes.

- Representing the full chain of beneficial ownership, from the ultimate beneficial owner to the target company, including all domestic entities in between.
  - Ensuring high compliance with requirements to report and update data.
  - Authentication of individuals reporting beneficial ownership data.
  - Good validation of reported beneficial ownership data.
- Exemptions regime that protects vulnerable individuals but does not allow abuse, as set by best practice.

To meet these goals, members commit to do the following:

1. Make a public statement to commit to implement the Beneficial Ownership Transparency Disclosure Principles by 2023.
2. Appoint a senior government official and agency to lead the establishment of the public national company beneficial ownership register.
3. Develop a national action plan laying out the steps for achieving the register.

We strongly welcome countries establishing wider global beneficial ownership transparency norms beyond companies, such as public registers for foreign company property ownership, public procurement and trusts.

### **Signatories to the Beneficial Ownership Transparency Disclosure Principles**

*[insert list and crests of countries]*

### **Supporters of the Beneficial Ownership Transparency Disclosure Principles**



## **Glossary**

**Authentication:** Ensuring that the person making a statement about beneficial ownership is who they say they are, through e.g. checking ID documents.

**Beneficial Ownership Data Standard (BODS):** BODS is a framework for representing information about beneficial ownership. BODS-compliant data is machine-readable by default. See more at [standard.openownership.org](http://standard.openownership.org)

**Machine-readable:** Can be read and processed by computers. To contrast, this sentence, as text without any predictable structure, cannot be read and understood by computers.

**Red flags/red flagging:** Red flags are a set of criteria that are consistent with suspicious companies or individuals and can be used to identify these in each Member's dataset. Red flagging is the process of raising red flags.

**Validation:** Ensuring that the data submitted is a legitimate possible value e.g. using drop-down menus drawing on widely-used code lists where possible.

### **Useful for reference:**

<https://www.open-contracting.org/wp-content/uploads/2016/12/C5declaration.pdf>

<http://www.publishwhatyoupay.org/pwyp-news/pwyp-calls-for-commitments-on-beneficial-ownership-disclosure-and-protection-of-civic-space/>

<http://standard.openownership.org/en/schema-beta-2/>

<https://opendatacharter.net/principles/>