

# Companies House

## Tŷ'r Cwmnïau

## PUBLIC REGISTRIES OF BENEFICIAL OWNERSHIP: STATE OF PLAY 2017

Global consensus is growing that public, openly accessible information on beneficial ownership of companies is a key component in the fight against corruption. Public beneficial ownership information enables:

- easy access by tax officials and law enforcement inspectors domestically and abroad to key information
- businesses to know who they are doing business with
- citizens to know who is ultimately providing their services.<sup>i</sup>

As of early 2017, at least four countries had released beneficial company ownership information in open or public data formats. This is just the start of the story though, with many other countries set to follow suit in the coming months and years.

### OPEN DATA BENEFICIAL OWNERSHIP IN INTERNATIONAL GOOD GOVERNANCE MECHANISMS

The United Nations Convention Against Corruption Articles 12 and 14 call on States Parties to enact measures to identify the legal and natural persons behind companies, particularly as a tool for the prevention of money laundering. Elaborating on this, UNCAC Conference of State Parties Resolution 4/4 calls on members to require relevant entities to collect and provide beneficial ownership information<sup>ii</sup>, Resolution 5/3 encourages member states to take measures to enable them to obtain reliable information on beneficial ownership of

companies, legal structures or other complex legal mechanisms, including trusts and holdings, and Resolution 5/4 encourages member states to promote the transparency of legal persons and exchange of best practice on the identification of beneficial owners.<sup>iii</sup>

Members of the Extractive Industries Transparency Initiative under Standard 2.5. are recommended to:

*maintain a publicly available register of the beneficial owners of the corporate entity(ies) that bid for, operate or invest in extractive assets, including the identity(ies) of their beneficial owner(s), the level of ownership and details about how ownership or control is exerted.*

The Financial Action Task Force (FATF) guidance on transparency and beneficial ownership highlights that transparency may be improved in implementing Recommendation 24

### BENEFICIAL OWNERSHIP

Beneficial ownership refers to persons or companies holding a stake or voting rights over a company or trust, without being named as the legal owners of the company, enabling the true owner to hide their identity.

### OPEN DATA

Open data means that data and content can be freely used, modified, and shared by anyone for any purpose.

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by providing public access to beneficial ownership information in company registries.<sup>iv</sup>

### OPEN DATA BENEFICIAL OWNERSHIP REGISTRIES IN NATIONAL PRACTICE

To date, Bulgaria, Denmark, the UK and Ukraine are the first countries to institute public, beneficial ownership registries.

**Bulgaria** includes beneficial ownership information for all Bulgarian registered companies in its company register,<sup>v</sup> which is accessible free of charge and in Bulgarian and English. An exception allows companies to register other companies as the beneficial owner, however if those companies are registered in countries and territories designated as 'secrecy jurisdictions', they are restricted from operating in certain sectors and participating in certain contracts.<sup>vi</sup> At the 2016 Anti-Corruption Summit, Bulgaria indicated it supports measures to ensure beneficial ownership of non-Bulgaria registered companies is made available to those that need it.

**Denmark** has a public company registry, including beneficial ownership information, searchable by company or by person and free of charge.<sup>vii</sup> According to the rules laid out for this register, a legal owner holding 5% or more of the company's shares or with 5% or more of company votes, must be publicly listed<sup>viii</sup> and beneficial owners are due to be included later this year. The Danish government is attempting to make using open data for this registry more accessible.<sup>ix</sup>

The **UK** included beneficial ownership in a public company register from July 2016, allowing anyone to see the beneficial owner of companies registered in the UK.<sup>x</sup> The rules put in place require the beneficial owner to hold 25% or more of the shares in a company or 25% or

more of the voting rights.<sup>xi</sup> It also an open data register, allowing the bulk download of information.<sup>xii</sup>

The UK is now considering extending this to non-UK companies that invest in land or property, or participate in public contracting.<sup>xiii</sup>

**Ukraine** passed a law in October 2014 requiring companies to divulge information on their beneficial owners, to be included in a public company registry,<sup>xiv</sup> with companies having until May 2015 to do so<sup>xv</sup> - which was extended until September 2015 to address legal and technical issues. The criteria for disclosure are: direct or indirect ownership of 25% of shares, significant influence" over the decisions of the legal entity or composition of its management bodies or the performance of a management role over the business activities of an entity.<sup>xvi</sup> While the legislation requires the data be downloadable in an open data format in Ukraine, it is not yet possible.<sup>xvii</sup>

### LESSONS LEARNT FROM NATIONAL PRACTICE

#### **Open data is necessary**

Making beneficial ownership information available in open data format allows law enforcement, journalists and civil society easy access to the information and can support efforts to address corruption.

#### **Identifying beneficial owners is easy for companies**

In the UK's case, only 2% of companies reported difficulties in identifying beneficial owners, despite initial fears.<sup>xviii</sup>

#### **25% ownership is a high threshold**

One in ten UK companies didn't list a beneficial owner, as none of their beneficial owners met the threshold.<sup>xix</sup>

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### Free text entry makes things difficult

Different identification of nationality and location can make it difficult to make sense of information. In the UK's case, data analysts found that the word British had been entered in 500 different ways,<sup>xx</sup> while in Ukraine there have been difficulties to search the register if the exact terms aren't used.<sup>xxi</sup>

### Common names are a problem

Many people have the same or similar names, which can cause difficulties in identifying individuals owning multiple companies. A suggestion from the UK is that it may be useful to have unique identifier codes for beneficial owners. It is also important that search is possible by beneficial owner name, something not possible in Ukraine.<sup>xxii</sup>

### Access should include historical changes

The Ukrainian register requires payment to access data on past changes to company founders, directors and beneficial owners, making it difficult for to track changes without paying and downloading several documents.<sup>xxiii</sup>

### Inclusion of domestically operating international firms

International firms operating in the jurisdiction should be included. This is not yet possible in Ukraine, leaving key gaps in information,<sup>xxiv</sup> nor is it possible in some situations in Bulgaria.<sup>xxv</sup>

## PRIVATE SECTOR INITIATIVES

Seeking to make progress in this field in advance of legislation, private initiatives have begun to allow companies to publicly reveal their beneficial owners, such as TRACEPublic.<sup>xxvi</sup>

The business case for this has been stated by TRACE International as:

*increasing corporate transparency and underscoring commitment to conducting business ethically. Knowing and reporting the true owners eliminates the risk of abuse of anonymous company ownership. It also provides a competitive advantage as multinational companies often require third parties to disclose beneficial owners as part of their due diligence process.*<sup>xxvii</sup>

## COMMITMENTS TO INTRODUCE PUBLIC BENEFICIAL OWNERSHIP REGISTRIES

Public, beneficial ownership registries are on the way in many countries. Firm commitments made at the 2016 Anti-Corruption Summit include:

- Afghanistan (public, central register)
- France (public, for trusts as well as companies)
- Georgia (public, central register)
- Ghana (public, central register)
- Kenya (public, central register)
- India (available register and fully accessible to fight corruption)
- Netherlands (public, central register)
- Nigeria (public, central register)
- Spain (highest level of transparency in beneficial ownership register)
- Tanzania (public, central register)

Commitments to explore public beneficial ownership registries made at the Anti-Corruption Summit include:

- Indonesia (explore establishing public, central register)
- Ireland (explore establishing public, central register)
- Jordan (explore establishing public, central register)
- New Zealand (explore establishing public, central register)

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- Norway (explore establishing public, central register)

In addition, South Africa committed to establish a public, beneficial ownership register at the Open Government Partnership meeting in May 2016 in Cape Town.<sup>xxviii</sup>

## CONCLUSIONS

Public registers are increasingly common and, in the coming months and years, are set to be brought in more and more jurisdictions, alongside non-governmental initiatives to gather this information globally.

These registers are a key tool in the fight against corruption and organised crime. They enable journalists, civil society and others to support the work of government in identifying potential cases where companies are being used to support the theft of public funds.

Lessons should be taken from the existing registers to make improvements in both existing and new registers. These should include ensuring that registers are:

- Open data compliant: ensuring it can be freely used, modified, and shared by anyone for any purpose.
- Easily searchable, including addressing issues of spelling and transliteration, as well as common names
- Set with low limits for inclusion in the register
- Able to provide information on historical changes.
- Inclusive of both nationally registered companies and companies operating in the jurisdiction.

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<sup>i</sup> Summarised from:

[http://www.christianaid.org.uk/Images/Campaigns-local-lobbyist-Parliamentary-Briefing-April2014\\_tcm15-77200.pdf](http://www.christianaid.org.uk/Images/Campaigns-local-lobbyist-Parliamentary-Briefing-April2014_tcm15-77200.pdf)

<sup>ii</sup> <https://www.unodc.org/unodc/en/treaties/CAC/CAC-COSP-session4-resolutions.html>

<sup>iii</sup> <https://www.unodc.org/unodc/en/treaties/CAC/CAC-COSP-session5-resolutions.html>

<sup>iv</sup> <http://www.fatf-gafi.org/media/fatf/documents/reports/Guidance-transparency-beneficial-ownership.pdf>

<sup>v</sup> <http://www.brra.bg/Default.ra>

<sup>vi</sup> Information provided by a Bulgarian NGO partner

<sup>vii</sup> <https://datacvr.virk.dk/data/>

<sup>viii</sup>

[https://indberet.virk.dk/myndigheder/stat/ERST/Det\\_Offentlige\\_Eje\\_register?\\_np\\_c=et%2Cforside%2Cbanner](https://indberet.virk.dk/myndigheder/stat/ERST/Det_Offentlige_Eje_register?_np_c=et%2Cforside%2Cbanner)

<sup>ix</sup> <https://data.virk.dk/open-data-school>

<sup>x</sup> <https://beta.companieshouse.gov.uk/>

<sup>xi</sup>

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/512333/bis-16-161-beneficial-ownership-transparency.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/512333/bis-16-161-beneficial-ownership-transparency.pdf)

<sup>xii</sup> [http://download.companieshouse.gov.uk/en\\_pscdata.html](http://download.companieshouse.gov.uk/en_pscdata.html)

<sup>xiii</sup> See above

<sup>xiv</sup> <https://usr.minjust.gov.ua/ua/freesearch>

<sup>xv</sup> <http://www.ey.com/gl/en/services/tax/international-tax/alert--ukraine-enacts-law-requiring-mandatory-disclosure-of-beneficial-owners-of-companies>

<sup>xvi</sup> Information received from a Ukrainian NGO partner

<sup>xvii</sup> ANTAC, Problematic Issues of Publishing Data in State Registries

<sup>xviii</sup> <https://www.globalwitness.org/en/blog/what-does-uk-beneficial-ownership-data-show-us/>

<sup>xix</sup> See above.

<sup>xx</sup> See above.

<sup>xxi</sup> ANTAC, Problematic Issues of Publishing Data in State Registries

<sup>xxii</sup> ANTAC, Problematic Issues of Publishing Data in State Registries

<sup>xxiii</sup> ANTAC, Problematic Issues of Publishing Data in State Registries

<sup>xxiv</sup> ANTAC, Problematic Issues of Publishing Data in State Registries

<sup>xxv</sup> Information from a Bulgarian NGO partner

<sup>xxvi</sup> <https://tpms.traceinternational.org/TRACEpublic>

<sup>xxvii</sup> <https://tpms.traceinternational.org/home/faqs>

<sup>xxviii</sup> <https://www.ghanabusinessnews.com/2016/05/06/south-africa-commits-to-beneficial-ownership-registers/>