



BENEFICIAL OWNERSHIP TRANSPARENCY:

A ROADMAP FOR CIVIL SOCIETY & NON-GOVERNMENTAL ACTORS

Beneficial Ownership Transparency: A Roadmap for Civil Society & Non-Governmental Actors

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Attn: Department of External Affairs
International Republican Institute
1225 Eye Street NW, Suite 800
Washington, DC 20005
info@iri.org

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ABBREVIATIONS AND ACRONYMS

1MDB	1Malaysia Development Berhad
AML	Anti-Money Laundering
AMLD	Anti-Money Laundering Directive
BO	Beneficial Ownership
BOT	Beneficial Ownership Transparency
CCM	Companies Commission of Malaysia
CFT	Counter Financing of Terrorism
CSO	Civil Society Organization
CIPE	Center for International Private Enterprise
EITI	Extractive Industries Transparency Initiative
EU	The European Union
FATF	Financial Action Task Force
GDP	Gross Domestic Product
GIZ	Deutsche Gesellschaft für Internationale Zusammenarbeit
IMF	International Monetary Fund
MACC	Malaysian Anti-Corruption Commission
NBC	Albania's National Business Center
NPO	Not-for-Profit Organization
OGP	Open Government Partnership
PEP	Politically Exposed Persons
UK	United Kingdom
UN	United Nations

EXECUTIVE SUMMARY

Secretive entity ownership structures and transnational illicit finance fuel the kleptocratic assault on democracy. By enabling the pilfering of public assets and their weaponization against democratic actors, foreign and domestic, cross-border flows of dark money are the greatest corruption challenge of our time. The ability to hide assets and financial transactions through obscured ownership is also a critical component of transnational organized crime. At its heart, beneficial ownership transparency (BOT) is a simple concept; it aims to make known information on the real people who own and control companies.

The democratic world is beginning to recognize BOT as a tool to track illicit assets and hold kleptocrats accountable. Global anti-corruption experts agree on the importance of requiring beneficial ownership disclosures and the importance of making this data available to law enforcement, journalists, civilian watchdogs, and the wider public. As a result, there has been unprecedented global progress towards more transparent beneficial ownership in recent years.¹ While the current global momentum to fight kleptocracy and existing commitments towards greater BOT create a window of opportunity for anti-corruption champions, advocates face roadblocks, including limited familiarity with the needed reforms and measures to make effective BOT a reality. In addition, these actors may face a scenario where their country made commitments and passed laws on BOT, but flawed implementation fails to fulfill their promise as an effective tool against corruption and kleptocracy.

The present document outlines and describes all the key elements and steps on the road to advancing and achieving BOT. These measures include establishing a robust beneficial ownership register, benchmarking governments' approach to BOT, and decisions on the policy positions and interventions required for the design and implementation of a beneficial ownership register in a country. These steps also comprise designing and implementing campaigns to advocate for BOT development and deploying arguments for BOT to relevant audiences, including government, the private sector, civil society organizations (CSOs), and wider society. In contexts with advanced transparency, these measures include building capacity to use and interpret beneficial ownership information as part of the effort to combat corruption and improve integrity.

This roadmap is based on the BO6 framework, a six-stage process for the design, implementation, and use of beneficial ownership registers (see Appendix 1 for more details). The user should consider the issues and questions set out in the roadmap, which also includes practical examples. The roadmap offers recommended actions and approaches to advance BOT.

To develop the roadmap, IRI conducted desk research and stakeholder interviews in three case study countries: Albania, Malaysia, and Mexico. Each case study provides brief context, main findings, opportunities to advance BOT, and lessons that can be shared with other countries. IRI selected these three countries because they represent different levels of commitment to and implementation of BOT reforms, and they offer geographic and political diversity. The roadmap is applicable to any country, regardless of where it finds itself on the route to BOT.

¹ For example, over a third of Open Government Partnership (OGP) members have made beneficial ownership commitments.

The roadmap is intended for use by a wide range of actors working to promote greater transparency, counter corruption, and fight kleptocracy outside the executive branch, including civil society representatives, parliamentarians, political party officials, trade union representatives, businesspeople, journalists, and academics. Non-governmental actors play a crucial role in ensuring a broad and deep understanding of BOT and its benefits across government, business, and civil society. A solid understanding of BOT is vital, not only to support advocacy efforts for greater transparency, but also to ensure advocacy becomes action and reform. These actors have an important role to play in supporting the design, implementation, and use of beneficial ownership registers. They can advocate for BOT, raise awareness, and support its implementation. Successful reform hinges upon an ecosystem of anti-corruption actors outside of government finding a way to build strong coalitions of support and identifying mutual benefits.

Box 1: Definitions

Beneficial owners are the real people (natural persons) who ultimately own or control companies and other legal entities. A beneficial owner cannot be another company or other type of organization. This report references "companies" for ease of reading, however, note that "companies" is shorthand for many types of legal entities such as corporations, limited liability companies, and joint ventures that have beneficial owners.

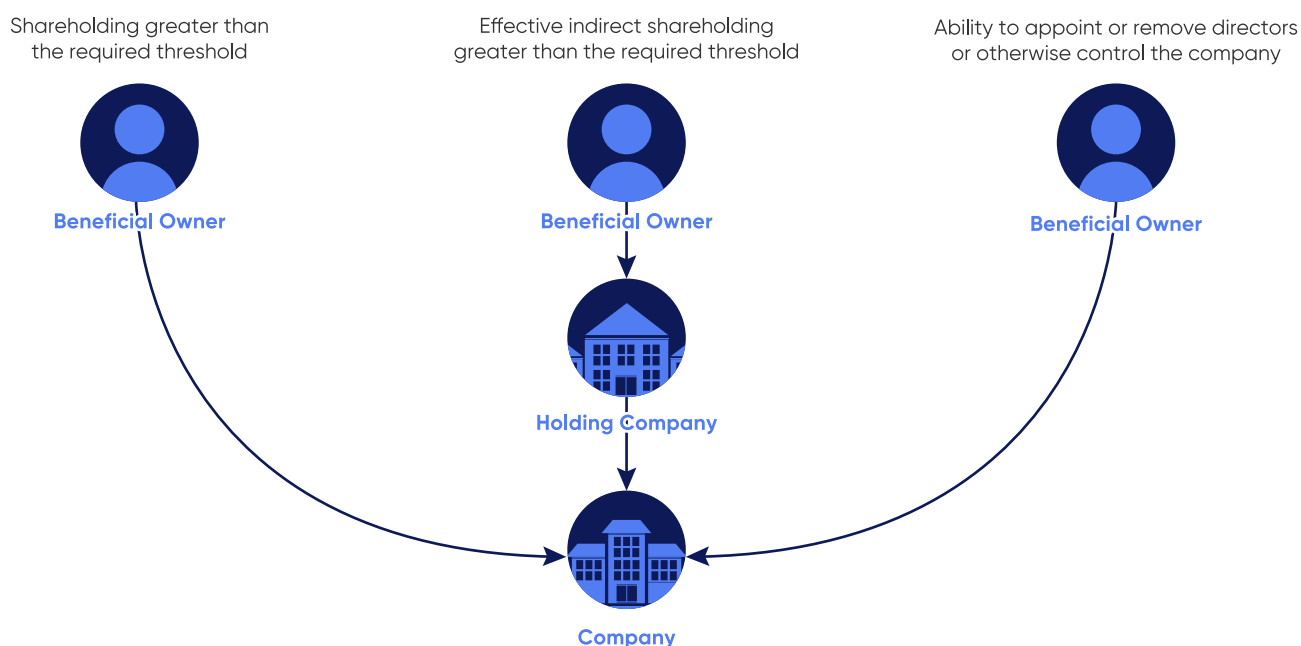
Beneficial ownership transparency is the process of making information on beneficial owners publicly available. This usually happens via government legislation requiring companies and other legal entities to identify their beneficial owners. This information must then be submitted to a government agency, which then in turn makes the information public. BOT plays an important role in combating corruption by publicly disclosing information about the real people who ultimately benefit from company transactions and financial flows. This transparency exposes conflicts of interest, corruption, tax evasion, and other illicit activity such as money laundering and financing terrorism.

As part of its global anti-corruption efforts, the International Republican Institute (IRI) sees BOT as a key protection against kleptocrats because it enables the monitoring, exposing, and seizing of ill-gotten gains in both source and destination countries. Ultimately, advancing BOT and other transparency reforms is essential to combat localized corruption and to stop the malign international influence of kleptocrats, authoritarians, and criminal syndicates who seek to erode democracy while evading accountability through shell companies and financial anonymity.

INTRODUCTION

Beneficial owners are the real people who own or control companies or other legal entities and legal arrangements (e.g. trusts). They sit at the top of ownership and control structures. A beneficial owner cannot be another company or other type of organization. For example, a holding company/parent company, which is used to control one or more subsidiary companies, is not a beneficial owner. Determining the ultimate beneficial owners of a company may require going through numerous layers of holding companies until the real person or people in control are identified. Typically, a person is defined as a beneficial owner if he or she owns or controls more than a certain percentage of the company either directly or indirectly (25 percent is a threshold used by many countries), or if the person meets other legal criteria (e.g. can appoint or dismiss the majority of directors, has certain voting rights, or exercises control in other ways).²

Figure 1: Examples of Beneficial Owners



BOT contributes to creating open and competitive economies by allowing governments and citizens to know who owns the companies driving the economy and winning public contracts. BOT allows citizens to know who runs the companies donating to political campaigns. Further, it allows other businesspeople to understand who they are doing business with and against. Overall, BOT can help build trust in the economy and the political system, thereby strengthening democratic governance.

² <https://www.openownership.org/en/publications/beneficial-ownership-in-law-definitions-and-thresholds/>

Governments must make a number of policy decisions in order to collect, verify, store, update, and disseminate beneficial ownership information for a full and complete register. Some decisions focus on compliance, including for entities eager to obscure their ownership that may attempt to circumvent any new regulations. For example, governments should consider:

- Ownership and control of companies can be complex, involve different structures, and cross international borders.
- Responsible businesses need a clear understanding of what is required of them and how to report, including where local management of companies and subsidiaries may not have previously had visibility of ultimate ownership. This ensures that businesses are able to submit the information that is required.
- Those wanting to disguise beneficial owners with questionable conduct will use all means, including criminal ones, to avoid disclosure, and mechanisms must be put in place to prevent this.

BOT is a relatively new topic on the international policy agenda. The United Nations (UN) agreed on the 2004 Convention Against Corruption, calling on participating governments to identify “natural persons involved in the establishment and management of corporate entities” (Article 12.2.c). A decade later, the G20 adopted the High-Level Principles on Beneficial Ownership Transparency, which declared financial transparency as a priority area.³ However, it was not until 2016 that the United Kingdom established the first public beneficial ownership register.⁴ Since then, a number of European Union (EU) member states have introduced public registers, along with other countries including Ukraine, Ghana, and Nigeria.⁵ Still more countries are in the process of improving transparency around ownership. In February 2022, the Financial Action Task Force (FATF)⁶ revised Recommendation 24 on beneficial ownership. In 2023 it issued new guidance which placed a strong recommendation on countries putting in place a central register⁷ of beneficial owners.⁸ In 2023, UNCAC also updated their beneficial ownership guidance with Resolution 10/6 that recognizes the importance of civil society participation and focuses on ensuring the usability of BO data for asset recovery efforts.⁹

3 https://knowledgehub.transparency.org/assets/uploads/kproducts/2015_ImplementationG20BOPPrinciples_EN.pdf

4 The register, known as the Register of Persons of Significant Control, can be found here: <https://find-and-update.company-information.service.gov.uk>

5 In November 2022, the EU Court of Justice struck down public access to beneficial ownership registries over privacy concerns, which triggered backsliding on BOT within and outside the EU. However, the decision did not affect many EU member countries, which continue to maintain their BO registers.

6 The Financial Action Task Force is an intergovernmental organization founded in 1989 on the initiative of the G7 to develop policies and lead coordinated global action to combat money laundering, terrorist financing, and the financing for weapons of mass destruction.

7 <https://www.openownership.org/en/principles/central-register/#:~:text=A%20central%20register%20should%20be,updated%20on%20a%20continuous%20basis>

8 <https://www.fatf-gafi.org/en/publications/Fatfrecommendations/Guidance-Beneficial-Ownership-Legal-Persons.html>

9 <https://uncaccoalition.org/wp-content/uploads/UNCAC-Coalition-analysis-of-CoSP10-resolutions.pdf>

Box 2: Financial Action Task Force

As indicated by all three case studies, government efforts to meet Financial Action Task Force (FATF) recommendations play a significant role in driving BO reforms.

FATF was established in 1989 to combat money laundering and the financing of terrorism (AML/CFT). FATF's mandate is built on the 40 FATF Recommendations, and although it does not have the legal authority or ability to enforce compliance with those recommendations, it has developed a position of influence. Most countries take their evaluation against the FATF recommendations seriously and appreciate the international reputational and financial implications of being poorly rated or grey listed.

FATF recommendations 24 and 25 (R24 and R25) relate to BO of legal entities, trusts, and other legal arrangements. These recommendations feed into Immediate Outcome 5 (IO5), one of 11 measures of the effectiveness of a country's implementation of the FATF Recommendations.

The current FATF recommendations were launched in 2012 but have been updated since. In March 2022, FATF updated R24 to strengthen its language on the benefits of a central register. It also further emphasized the use of a multi-pronged approach. There was a similar update to R25 in 2023.

FATF R24 and R25 do not require that BO information is made public. Indeed, they do not go as far as requiring there to be a central register of BO. However, the guidance on implementing R24 issued in 2023 makes clear that without a central register, it will be difficult for countries to be rated as compliant with R24.

Non-governmental pro-transparency actors, including civil society, media, academics, political parties, parliamentarians, and other civil and political actors have an important role to play in supporting the design, implementation, and use of beneficial ownership registers. As well as advocating for the creation of a beneficial ownership register, these actors can contribute by:

- ✓ Advocating for the adoption of best practices in the design and implementation of the register.
- ✓ Raising awareness in government, the private sector, and society of the benefits of beneficial ownership transparency.
- ✓ Supporting the process of legislating for, and implementation of the register to ensure the register is fit for purpose.
- ✓ Monitoring the passage and implementation of legislation and regulations to ensure that the register is robust.
- ✓ Using beneficial ownership information to prevent and combat corruption, transnational kleptocracy, and other illicit activities.
- ✓ Monitoring the effectiveness of BO registers through multi-year implementation processes to identify needed adjustments and potential further reforms.

This roadmap provides a guide for anti-corruption actors to engage during the design and implementation process and to gain the benefits from a beneficial ownership register.

Box 3: Public vs non-public registers

Deciding who gets access to BO info is a key issue, and CSOs are often well placed to make the case for broad access. Public access to BO registers widens its user base beyond government agencies. Citizens can use the register to find out who is investing in their community and with whom they work. Anti-corruption activists can use the information to identify and prevent corruption. Companies can use the registers to do due diligence on their business partners and competitors. Foreign government agencies can access information without going through lengthy request processes. There are also risks to public access. There are genuine concerns that the registers can be used by criminals to target wealthy individuals. Unscrupulous elected officials may use the information in them to target rivals. There are also some specific commercial risks, such as projects becoming public before they are ready, and inflating costs such as land acquisition.

The debate about whether to make a beneficial ownership register publicly available has intensified since a ruling in the EU's highest court in November 2022. The European Court of Justice found in favor of a group of business owners that argued that public access to BO information for anti-money laundering purposes under the EU's AMLD V directorate was an invasion of privacy. As a result, a number of EU member states closed their beneficial ownership registers to the public but maintained access for law enforcement and other government bodies. Some other countries, outside of the EU, used the ruling to delay decisions on whether to make registers public. However, some EU member states, such as France and Denmark—as well as other countries, including Albania and the UK—maintained public access, arguing that there were broad benefits to public access to BO information. However, the EU has reviewed its ruling and since recognized through the AMLD VI package that CSOs and journalists working on AML cases can access BO information.

Even when a country decides against public access to its BO register, information can still play an important role in combatting corruption and other financial crimes. A register gives law enforcement and regulatory bodies access to important information, which can be used in investigations and for preventative measures (e.g. identifying suspicious patterns of ownership). There are also a range of approaches countries can take to control or open access. Governments can grant access to non-governmental organizations such as banks.

Box 3 Sources: ¹⁰ ¹¹

¹⁰ For a detailed explanation of the benefits and risks of public registers, see chapter 7, *Beneficial Ownership Transparency in Mongolia: Tackling Complex Implementation Issues*, <https://r4d.org/resources/beneficial-ownership-transparency-in-mongolia-tackling-complex-implementation-issues/>

¹¹ <https://www.openownership.org/en/news/european-union-takes-important-steps-towards-standardised-and-interoperable-beneficial-ownership-information/>

OBJECTIVES

The roadmap allows non-governmental actors seeking to promote transparency and anti-corruption reform to:

1. Understand all the elements that are essential for a robust beneficial ownership register.
2. Benchmark governments' policies and decisions against international best practices on BOT.
3. Determine the policy positions and interventions that will allow them to contribute to the design and implementation of a beneficial ownership register in their country.
4. Run campaigns to advocate for BOT and for specific elements in the design and implementation process.
5. Develop arguments in support of BOT for relevant audiences including governments, the private sector, CSOs, and the public.
6. Build capacity to interpret and use beneficial ownership information to combat corruption and improve integrity.

How to use this Roadmap

The roadmap is intended for use by a wide range of political and non-governmental actors, including:

- Civil society representatives, especially those advocating for BOT or those active in anti-corruption initiatives
- Parliamentarians
- Political party officials
- Trade union representatives
- Business representatives
- Journalists, especially investigative journalists
- Academics

The roadmap aims to inform how stakeholders outside of government bureaus should think about the holistic trajectory of achieving reform. This includes periods when civil society representatives or political actors need to revisit the steps to BOT to inform the ongoing national strategy to further ensure and strengthen transparency in their context. As such, the roadmap does not contain technical information related to beneficial ownership databases, systems, and government administration, as several resources are already available for government actors looking for guidance during the implementation stage. Instead, it provides a framework for understanding, advocating, and monitoring BOT reforms.

METHODOLOGY

The production of this BOT roadmap followed a four-stage methodology:

1. **Inception.** The key activities in this phase were:
 - Production of a comprehensive bibliography of reports, websites, and other documents to be used in the research for this roadmap. IRI engaged international anti-corruption experts who used their knowledge and experience of BOT literature to identify reports and other works specific to the three focus countries, as well as those related to BOT more broadly. This literature included FATF mutual evaluation reports, Open Government Partnership (OGP) action plans (Albania and Mexico are members), government publications, reports produced by CSOs (e.g. Open Ownership and Transparency International), academic papers, and press reports. See Appendix 4 for the full bibliography.
 - Production of the interview protocol. The protocol included a set of questions tailored for each country, the interview format, and detailed rules of engagement for each interview. These rules noted that the purpose of the interview would be explained to each interviewee beforehand, and that interviews would be conducted on a non-attributable basis and recorded only for notetaking purposes. See Appendix 3 for the interview protocols used in each country.
2. **Desk research.** IRI engaged experts (referenced above) to review the literature identified in the inception phase.
3. **Stakeholder interviews.** In this phase, IRI engaged experts to conduct research interviews with stakeholders in the three case study countries. The experts conducted the interviews between December 4, 2023, and January 3, 2024. IRI-engaged experts conducted all the interviews online and recorded them with the interviewees' permission for reference during the research process. A written summary of each note was also produced. A total of 13 people were interviewed; a list of the organizations interviewed is set out in Appendix 2.
4. **Roadmap development.** The experts and IRI produced the roadmap based on the results of stakeholder interviews, desk research, and their own expertise and experience.

THE ROADMAP

This roadmap is based on the BO6 framework, a six-stage process for the design, implementation, and use of beneficial ownership registers (see Appendix 1 for more details).¹² This roadmap sets out issues and questions for non-governmental transparency actors to consider and provides recommended actions or approaches. The roadmap is based on the experience of BOT project implementation in more than 20 countries, a literature review (see Bibliography), and stakeholder interviews conducted in three case study countries: Albania, Malaysia, and Mexico.

The roadmap is applicable to any country, wherever it is enroute to BOT. For countries just starting the process of designing and implementing a BOT system, it covers the full route. If a country has already embarked on the journey (e.g. it is about to legislate for BOT), the roadmap provides a checklist to ensure that politicians and leaders fully understand the legislation's impact and have made the relevant design and policy decisions. It then provides guidance for the legislative stage and beyond.

Figure 3: The BO6 stages

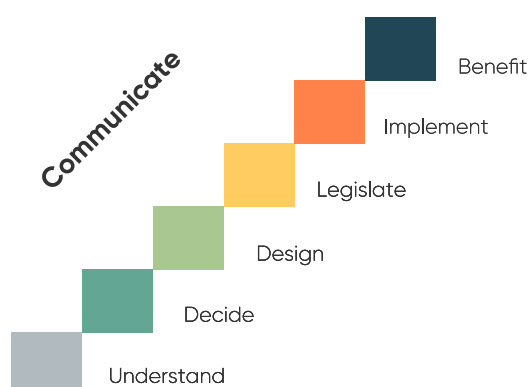


Figure 3 Source:¹³

1. Understand

Non-governmental anti-corruption actors must understand the landscape where the BO system is to be constructed. Each country starts from a different place and has different priorities for implementing BOT. This early stage ensures that all stakeholders understand BO's importance and its benefits. It is important to understand a country's starting position regarding legislation, regulations, and official guidance. Some countries may already have incorporated some beneficial ownership laws (e.g. anti-money laundering laws or banking sector regulations) without introducing a general obligation for legal entities to disclose BO information to a central register.¹⁴

¹² The BO6 framework was developed by Michael Barron and Tim Law, the authors of this report. More information on the development of the BO6 framework can be found on their website: <https://bo6.global/>.

¹³ <https://bo6.global/bo6-framework/>

¹⁴ In this report, a "central register" refers to a database maintained by a government agency to which companies disclose their beneficial ownership information. However, some countries alternatively require companies to maintain their own "register" of beneficial owners, which law enforcement authorities may request access to.

This is also the stage to identify drivers for BOT reform; for example, the need to meet FATF requirements or other international obligations, or the disclosure of significant potential corruption (e.g. via revelations such as the Pandora Papers). There may also be internal drivers, such as government commitments to combat corruption or the need to make the country more attractive to investment both domestic and foreign.

Relatedly, during this stage stakeholders should clearly define the benefits of BOT reforms. Although BOT's implications for countering corruption are clear, varying regional or country coalitions may develop different visions of the desirable outcomes from BOT reforms. For example, a country may experience significant political will to improve criminal justice systems, or rather face pressure to strengthen business standards and ensure fair competition. Different societal actors will hold different visions, and developing an inclusive plan will increase political buy-in via satisfying a range of societal needs.

This is the first stage, but it is an ongoing process. As the journey to BOT continues, anti-corruption actors must stay up to date on their local contexts. The BOT landscape can be captured in a scoping study or a roadmap tailored to a country's specific situation and needs. The Council of Europe's and Germany's international development agency GIZ's support to Albania is an example of activities at this stage (see the Albania case study). Stakeholders seeking to deepen their understanding should reach out to organizations within and outside of government already involved in BOT who can trace past and ongoing levels of effort.

Key questions for non-governmental transparency actors at this stage:

- ☒ What risks does the country face from corruption and other financial crimes? Has the government published a national risk assessment or an economic crime plan?
- ☒ What is the current status of BOT in the country? What legislation or regulations relevant to BOT are currently in place?
- ☒ Is there legislation that could impede BOT (e.g. privacy or secrecy laws)?
- ☒ What is the current FATF evaluation of the country? When is the next FATF mutual evaluation scheduled?
- ☒ What other relevant international obligations must the country meet?
- ☒ What commitments has the government made to combat corruption (e.g. under OGP)?
- ☒ What is the country's reputation as a destination for foreign investment?
- ☒ What role can non-governmental actors, including parliamentarians, play in advancing BOT? What are the opportunities to engage with relevant government agencies?
- ☒ What are the drivers for BOT reforms? Can the government implement reforms and is it willing to do so?
- ☒ Are registers or databases already in place (e.g. a company register or a public officials' asset register)?
- ☒ Which stakeholders are pro-BOT and currently advocating for BOT? Which other stakeholders are likely to support BOT?
- ☒ Which stakeholders are likely to oppose a BO register? What are their arguments against BOT?
- ☒ Is external assistance for BOT reform available from organizations such as the World Bank, regional development banks, bilateral donors, or private foundations?
- ☒ Which stakeholders can (legally or otherwise) block implementation?
- ☒ What are the specific benefits that stakeholders would like to see from BOT, and how does this inform the scope of potential reforms?

Box 4: Understanding the context in Mongolia

In 2021, the Leveraging Transparency to Reduce Corruption civil society initiative commissioned a study on *"Beneficial Ownership in Mongolia: A Way Forward"* (see Bibliography). This study assessed the context in Mongolia for BOT reforms by looking at the country's legal framework, mapping stakeholders, and conducting a gap analysis of the current situation against international standards and norms on BOT. This report found that a number of beneficial obligations exist in Mongolian law, some generally applicable and some only related to specific sectors, such as banking. These were not aligned and created confusion. While Mongolia had a central beneficial ownership register, it was not (at the time of the report's publication) publicly available. The reform to create the central register was part of the government's response to being grey listed by FATF for not meeting its recommendations relating to anti-money laundering. The study was presented at an event attended by civil society and government representatives and was subsequently used by civil society as part of their advocacy efforts. A follow-up study looked at the specific issues related to BOT in Mongolia. The country is no longer on the FATF grey list due to reforms made in Mongolia to address FATF concerns and comply with its recommendations.

Box 4 Sources: ¹⁵

Actions:

1. Identify drivers, both internal and external, for BOT (e.g. the government's obligation to meet international commitments, such as compliance with FATF recommendations, or its plans to tackle domestic corruption).
2. Identify the lead government agency on this issue. Assess whether it has sufficient capacity and resources.
3. Identify the external assistance, if any, the government is seeking. Also identify potential sources of external assistance.
4. Analyze the gaps between BOT's current status in country and international best practice.
5. Map stakeholders who are potential supporters and those who are likely to oppose BOT.
6. Design and implement an engagement strategy to build awareness among key stakeholders, including government agencies, parliamentarians, businesses, and civil society.

¹⁵ <https://www.fatf-gafi.org/en/publications/Mutualevaluations/fur-mongolia-2023.html>

Box 5: Open Government Partnership

The Open Government Partnership (OGP) was established in 2011 and brings together more than 70 national governments, 100 local governments, and numerous CSOs to improve transparency, accountability, and public participation in government. Albania and Mexico are members, as are the city of Tirana, in Albania, and six Mexican local governments. Each OGP country relies on collaboration between government and civil society to develop a national action plan which typically covers a two-year time frame.

BOT is a priority area for OGP, which states it is an “important policy tool” for combatting illicit finance, corruption, and tax evasion. As of 2021, one third of OGP’s member countries have used their action plans to make 52 commitments on beneficial ownership. In 2019, OGP worked with Open Ownership, comprised of experts on beneficial ownership registries worldwide, to co-convene the Beneficial Ownership Leadership Group with the UK Government.

Albania’s 2020–2022 OGP national action plan included commitments to introduce BOT and build a beneficial ownership register. However, Albania was criticized for excluding civil society and non-government stakeholders during planning. Civil society, in particular, was not invited to provide input on BOT priorities. Despite this setback, Albania compiled a public register which was introduced in 2021. The register’s existence can be traced back to a number of factors, including national OGP commitments, Albania’s wish to be removed from the FATF grey list, and its EU ambitions.

Box 5 Sources: ^{16 17 18 19 20 21 22}

2. Decide

This stage includes critical decisions on defining beneficial owners, companies, and other legal entities, as well as thresholds and other core parts of implementation. Anti-corruption actors can contribute to this process by making sure decisions align with international norms and good practices in other countries.

Including disparate organizations in BOT planning can quiet complaints. For example, stronger civil society engagement in Albania may have addressed concerns about the BOT legislation and reduced the scope for implementation challenges. In Mexico, incorporating input from civil society and parliamentarians could boost public awareness of current laws and underscore BOT’s anti-corruption benefits (see Mexico case study).²³

Key questions for non-governmental transparency actors at this stage:

- ☒ Does the government have an institutional structure which can make policy and tactical decisions on BOT? Are all relevant government agencies represented? Does it have a suitable mandate and resources? Does its chair have sufficient credibility? Does it have access to non-governmental input?

¹⁶ For example, Mexico’s national action plan can be found at: https://www.opengovpartnership.org/wp-content/uploads/2019/12/Mexico_Action-Plan_2019-2021_EN.pdf

¹⁷ <https://www.opengovpartnership.org/policy-area/beneficial-ownership/>

¹⁸ <https://www.opengovpartnership.org/wp-content/uploads/2021/11/Beneficial-Ownership-fact-sheet.pdf>

¹⁹ <https://www.opengovpartnership.org/beneficial-ownership-leadership-group/>

²⁰ [Ibid.](#)

²¹ <https://www.opengovpartnership.org/documents/albania-action-plan-review-2020-2022/>

²² <https://www.opengovpartnership.org/members/albania/commitments/AL0066/>

²³ There are several platforms through which Mexico can engage civil society on BOT, including the autonomous National and State Anticorruption System and the National and State Citizen Participation Commissions. However, activists may face challenges in 2024 due to contentious constitutional reforms and nation-wide elections in June.

- ✓ Has the government made policy decisions regarding BOT? Are these in line with international norms?
- ✓ Is there a clear BO definition, without loopholes?
- ✓ What is the threshold for reporting beneficial ownership? Is it 25 percent, or lower?
- ✓ Are all legal entities in scope of the proposed reforms, including corporations, limited liability companies, sole proprietorships, nonprofits, and/or trusts?
- ✓ Which groups or organizations are the government consulting on these decisions?
- ✓ Do anti-corruption actors have a chance to shape decisions?
- ✓ Who will have access to the register? Will prosecutors have access to BO information? Will the government allow public access?
- ✓ How will the government ensure funding and that the BO register will function in the long term?

Actions:

1. Work with relevant government agencies and organizations providing technical assistance so as to understand the decision-making process and shape decision making to ensure that the needs of user groups such as civil society are well represented.
2. Respond to requests for input and identify other opportunities to get involved in decision-making.
3. Provide evidence and insight on other, comparable, countries' decisions on BOT.
4. Benchmark government decisions against international norms.
5. Advocate for the beneficial ownership register to be accessible to the public.
6. Engage with stakeholders outside government to build awareness of BOT's role and importance.

Box 6: Gaining from civil society input in Azerbaijan

CSOs provided input during the planning stage of a beneficial ownership register for extractive industries in Azerbaijan. The project was funded by the Asian Development Bank and included a team to study international good practices and offer recommendations on the register's design. That team held a public consultation exercise that included CSOs, business, and government. This consisted of a written questionnaire sent to stakeholders and a plenary event in Baku. CSO representatives played a role in both submitting written responses and joining the discussion at the plenary. The team documented the results of the public consultation and posted their findings online. The results of the consultation informed the drafts of the register legislation. This project went ahead after Azerbaijan was no longer an EITI implementing country. Azerbaijan remained committed for a number of years to implementing the EITI principles but not under the EITI banner. However, since this inclusive process, civic freedom in Azerbaijan on transparency issues and beyond has decreased. Although Azerbaijan did not implement the legislation drafted as part of the project, it is considering economy-wide BO reforms as part of its efforts to meet the FATF recommendations.

Box 6 Sources: ²⁴

²⁴ <https://eiti.org/news/azerbaijan-withdraws-eiti>

3. Design

Anti-corruption actors should play a role in ensuring robust information collection, storage, verification, disclosure, and enforcement of the BO register. As all three case studies show, there are different routes to designing a BO register. Albania used a stand-alone law, Malaysia amended its Companies Act, and Mexico used the tax code (see the Albania, Malaysia, and Mexico case studies).

Based on the analysis and decisions in stages 1 and 2, this stage ensures the BO reporting system is fit for purpose and can deliver benefits for all stakeholders.

Key questions for non-governmental transparency actors at this stage:

- ☒ How robust is the design of the process for collecting, storing, verifying, updating, and disseminating BO information? Does the design include an online platform to collect and disseminate BO information?
- ☒ Does the proposed reporting system meet international norms?
- ☒ Is the register designed so that it will ask for the information it needs to identify beneficial owners and the extent and nature of their ownership and control?
- ☒ How does the register minimize exemptions?
- ☒ How will the register deal with state-owned companies? Those listed on a stock exchange?
- ☒ Will the register also collect information on beneficial owners who are also politically exposed persons (PEPs)?
- ☒ How easy will it be to submit and find information?
- ☒ How will data be verified?
- ☒ Will the BO link to, and operate with, other registers and databases?
- ☒ What are the penalties for non-compliance?
- ☒ Which sets of actors need to use the BO data, and for what purposes? For example, if a goal of BOT legislation is to counter public procurement corruption, what specific pieces of information do actors in procurement authorities, companies, and civil society need to identify risks and act as watchdogs?

Actions:

1. Assess the BO definition to ensure that it meets international norms.
2. Assess how the register will address the following: state-owned companies, companies listed on a stock exchange, and PEPs?
3. Assess whether the register will collect appropriate information on each beneficial owner, and which content will be publicly available.
4. Assess how user-friendly the process for submitting and accessing BO information will be.
5. Assess what BOT reforms intend to achieve and if the design will result in the desired outcomes.

Box 7: Responding to a public consultation in South Africa

In early 2022, Corruption Watch, the Transparency International affiliate in South Africa, commissioned a study on the role of beneficial ownership in the economically important mining sector. Corruption Watch also brought in expert help to draft its response to a government public consultation on draft legislation to establish a BO reporting system in the country. Corruption Watch's response highlighted a number of weaknesses in the proposed law and potential loopholes. Other CSOs also submitted responses to the public consultation.

Box 7 Sources: ²⁵

4. Legislate

Anti-corruption actors can help create a robust legal and regulatory basis for BO reporting and enforcement. Anti-corruption groups in Albania joined the public consultation during the legislative process (see Albania case study). Parliamentarians can participate in debates and scrutinize draft legislation. Ultimately, legislation on BO will depend on the circumstances in each country.

Key questions for non-governmental transparency actors at this stage:²⁶

- ☒ Does the legislation reflect policy decisions and proper design?
- ☒ Is the draft legislation in line with international norms and does it allow the country to meet its international obligations?
- ☒ Will the legislation be watered down during the legislative process? How can non-governmental actors mitigate those risks?
- ☒ Are robust regulations in place to implement the legislation?
- ☒ What public consultation will occur as part of the legislative process?
- ☒ Will there be multiple pieces of legislation related to BOT or will multiple branches of government issue legislation (for example the executive branch)?

Actions:

1. Review draft legislation and advocate for any necessary amendments.
2. Identify existing legislation that may obstruct BO legislation.
3. Identify supporters and opponents in the legislative process and work to build support.
4. Review draft regulations to ensure they are enforceable.
5. Respond to public consultations, as part of the legislative process.
6. Identify other opportunities to engage with the legislative process.

²⁵ https://www.corruptionwatch.org.za/wp-content/uploads/2023/06/20221111_Beneficial-Ownership-Transparency-in-South-Africas-Mining-Sector_V0.2_Final_14Nov2022.pdf

²⁶ For more detailed information related to the legal process of creating a BO register, see Open Ownership's related guide: <https://www.openownership.org/en/publications/guide-to-implementing-beneficial-ownership-transparency/legal-aspects-of-creating-a-register/>

Box 8: Ensuring robust regulations in Ghana

In 2019, Ghana amended its Companies Act to create a public BO register so as to comply with FATF requirements. The BO legislative process began in 2020, under a project financed by the British government. Concerned about corruption, civil society and other non-governmental actors pushed for the measure. The consultant team, which included civil society members, identified gaps in the legislation; these were addressed. The regulations included innovations, such as tailored reporting requirements for high-risk sectors such as finance and extractives. Ghana was the first country in Africa to launch a public beneficial ownership register.

5. Implement

This stage ensures that after legislation or regulations are passed by government, that a country deploys the resources to implement the legislation in an efficient manner and that there are high levels of understanding and compliance among relevant sectors. These sectors include those directly affected by the new legislation and requirements, including businesses and potentially CSOs, as well as those that can access or use the collected data to identify corruption, to potentially include law enforcement bodies and investigative journalists. The implementation stage includes several sub-steps, such as establishing a process for BO information submission, creating a database for storage, establishing administrative processes to make BO data available to those with authorization, raising awareness amongst the business community on new regulations, and working with those accessing the register to ensure they understand the information available.

In Albania, CSOs are within the scope of the BOT reforms being implemented and therefore had to provide beneficial ownership data. They also played a role in highlighting challenges with the penalties for non-compliance (see Albania case study). In Malaysia, civil society has an opportunity to create awareness of BOT and its benefits as the newly passed legislation is implemented (see Malaysia case study).

Key questions for non-governmental transparency actors at this stage:

- ☒ Does the BO information collection process capture all necessary data correctly?
- ☒ What's the government's guidance on compliance?
- ☒ How easy is it for companies to submit data?
- ☒ What is the timeframe for implementation?
- ☒ What support can non-governmental actors provide for implementation?
- ☒ Does the government's implementation plan have weaknesses or gaps?
- ☒ How is the government building awareness?

Actions:

1. Assess the BO reporting process to ensure that it is clear, captures all relevant data, and has comprehensive guidance notes.
2. Assess the government's support for compliance.
3. Undertake awareness campaigns to support compliance.
4. Identify non-compliance.

Box 9: Non-governmental actors supporting implementation in Trinidad and Tobago

In 2020, Trinidad and Tobago moved to create a BO reporting system, but was delayed by the Covid-19 pandemic, and began work in 2022. Trinidad & Tobago's Extractive Industries Transparency Initiative (TTEITI) commissioned a project, funded by the British government, to support a BO reporting system. TTEITI had already adopted EITI's beneficial ownership requirements, and the country was seen as a leader on BOT. The 2022 project compared Trinidad's legislation with international norms and included awareness-raising events targeting business, law enforcement, and the Attorney-General's staff, as they would administer the BO reporting system.

6. Benefit

Clear financial and ownership data benefit anti-corruption actors. The data can be used to identify who really owns companies. It can identify and prevent conflicts of interest in public procurement. Beneficial ownership data can identify whether companies are fronts for individuals subject to sanctions or other legal measures. These are just a few examples of the benefits of transparency; beneficial ownership data is an important tool to combat corruption and other financial crimes.

To maximize these benefits, a BO register needs to contain reliable, accessible information. Ideally, this information should be available for free, though in practice many registers charge modest fees to cover the costs of administering the register.

BO information can be widely used to expose and prevent corruption. Companies can use it for research and risk management and to avoid becoming entangled in suspicious or corrupt activities. In Albania, journalists are using the BO register to identify corruption (see Albania case study).

Key questions for non-governmental transparency actors at this stage:

- ☒ How easy is it to access the register? Does it cost money?
- ☒ Is the data of high quality?
- ☒ What percentage of domestic companies submit information to the register?
- ☒ How are reporting obligations enforced?
- ☒ Do key stakeholders understand the benefits of BOT?
- ☒ What actions encourage the use of BO data?
- ☒ How can BO data be used in anti-corruption activities?
- ☒ How can BO registry supporters highlight its benefits?
- ☒ How can the register be improved to make it more useful to end-users?
- ☒ Should the government increase its oversight of the BOT registry – for example via parliamentary bodies?

Actions:

1. Become familiar with how to access the register and search for information.
2. Assess how to integrate BO information into anti-corruption campaigns.
3. Report discrepancies or suspicious information.
4. Monitor compliance and enforcement.
5. Encourage businesses and civil society to use BO data via outreach.
6. Showcase the benefits of the BO register and progress in achieving policy goals.

Box 10: Non-governmental support for beneficial ownership data

In 2023, IRI's sister organization, the Center for International Private Enterprise (CIPE), commissioned a study of the benefits of BO data using three country cases. The study also examined BO's broader benefits to companies. It showed that companies can benefit from BO data to manage risk and better understand the ownership structures of other companies. Companies can also advocate for BOT reforms, support civil society-led campaigns, and play a role in the governance of reporting systems.

Box 10 Sources: ²⁷

²⁷ <https://www.cipe.org/resources/beneficial-ownership-transparency-exploring-the-private-sector-use-case/>

COUNTRY CASE STUDIES

Albania

Context

Albania has an operational public beneficial ownership register.²⁸ In 2020 the government enacted Law 112, For the Registry of Beneficiary Owners.²⁹ Article 1 sets out its scope: "This law regulates the definition of the beneficiary owner, the obligated entities, which must register the beneficiary owners, the creation, functioning and administration of the Register of Beneficiary Owners, the procedure and the manner of registration and keeping the registered data of the beneficiary owners, as well as punitive measures in case of non-registration of beneficial owners." Law 112 puts an obligation on all legal entities to identify their beneficial owners and on the government to establish and maintain a central BO register. The law also grants public access to the register. Legal entities must submit their information to the beneficial ownership register, which is administered by the existing corporate register, the National Business Center (NBC). The law was amended in 2022 to manage implementation issues, including making fines proportionate, auto populating some information from other databases, extending the deadline for reporting changes to 40 days, and giving NBC the power to suspend a company's registration for non-compliance.

Figure 2: Screenshot of search page of Albania's BO register

The screenshot shows the official website of the National Business Center (OKB) of Albania. At the top, there is a header with the OKB logo and the text 'Qendra Kombëtare e Biznesit / National Business Center'. To the right of the logo are navigation links: 'NBC', 'Legislation', 'Search', 'Information on Procedure', 'Announcement', and 'Publications'. Below these are 'e-Sherbime', 'NewsRoom', and 'Contact'. A language selector shows 'AL' and 'EN'. A search bar is present with a magnifying glass icon. The main content area is titled 'Search Reporting Subject'. It contains a form with four input fields: 'NUIS', 'Beneficiary', 'Subject Name', and 'Identification Number'. Below these fields are two buttons: an orange 'Search' button and a teal 'Clear' button. On the right side of the page, there are social media icons for Facebook, Twitter, and Instagram.

FATF put Albania on its grey list in February 2020 and removed it in October 2023, after the country addressed weaknesses in its anti-money laundering framework, including its BOT reforms. Law 112 is based on the EU's fifth Anti-Money Laundering and Terrorist Financing Directive (AMLD V) and was part of the government's effort to join the EU by syncing its laws with membership requirements.³⁰

²⁸ <https://qkb.gov.al/search/search-in-the-register-of-beneficial-owners-rbo/search-reporting-subject/>

²⁹ <https://qkb.gov.al/media/38115/fz-2020-149-f.pdf>

³⁰ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32018L0843>

Box 11: Other key organizations

Meeting FATF requirements and honoring OGP commitments are strong drivers for many governments to act on BO, but other organizations also play an important role in driving the BOT agenda. These include the EU and the EITI. Non-EU members, such as Albania, as seen in the case study above, and a number of other Western Balkan countries have used the EU's BO provisions as a model.

The EITI is a voluntary initiative uniting more than 50 countries in improving transparency and accountability in the oil, gas, and/or mining sectors. Albania and Mexico are implementing countries of the EITI Standard, which requires a country to commit and be assessed on their transparency commitments through EITI's Validation and scoring process. BOT has been part of the EITI Standard since 2013; the Standard was updated ten years later, including encouraging a threshold of 10% for beneficial ownership. Implementing countries are required to disclose the beneficial owners of the entities who hold or apply for licenses to explore or exploit oil, gas, and minerals. In some countries, EITI has played a leading role in putting BOT on the public policy agenda (see above Box 9 on Trinidad and Tobago).

Box 11 Sources: ³¹

Findings

External pressure is an important way to nudge governments to establish a central beneficial ownership register. Sometimes, as in Albania, countries need to meet FATF requirements and get off the grey list in order to prep for EU accession. All the Albanian stakeholders interviewed referred to the FATF grey listing as the prime driver for Law 112. Some stakeholders also referred to EU membership requirements. A footnote to Law 112 notes that the law partially aligns with EU directives.

The Council of Europe and the German development agency *Deutsche Gesellschaft für Internationale Zusammenarbeit* (GIZ) helped Albania design its beneficial ownership reporting system. In 2019, the Council of Europe provided an assessment and roadmap that Albania used to draft its legislation. GIZ provided guidance, technical input, and supported awareness campaigns.

Albanian CSOs are skeptical about Law 112, in large part because their organizations fall inside the scope of the law. All legal entities, including non-profit organizations, must report their beneficial owners. CSOs complained that this was inappropriate and also reported implementation issues, such as difficulty clearly identifying exactly who should be defined as a beneficial owner (e.g. should it be founders, trustees, or senior management). Under the BO definition in Law 112, one or more of these categories of people could be deemed a beneficial owner.

Some CSO representatives and journalists said that Law 112 has not significantly impacted availability of information. Several interviewees stated that company registers already provided a great deal of information. They also said the law does not effectively manage nominee shareholder arrangements (wherein the individual registered as a shareholder is in a legal agreement to act on behalf of the actual owner who remains unlisted) or companies owned by foreign nationals. These issues seem to be problems related to implementation, rather than the provisions of the law. The BO definition includes owners with ownership or control through indirect means (but does not explicitly refer to nominee arrangements). The law also includes foreign nationals who own or exercise control over a company registered in Albanian. However, if a foreign company or individual refuses to divulge information, authorities can hold the Albanian registered company liable but otherwise have few penalties.

³¹ <https://eiti.org/collections/eiti-standard>

Opportunities

Desk research and stakeholder interviews identified several opportunities to advance BOT in Albania. First, policymakers should pass laws with clear and specific obligations to identify nominee arrangements and foreign owners. In March 2023, FATF issued new guidance that included specific measures related to foreign ownership. Albania should ensure that its legal and regulatory framework is aligned with this guidance.

Relatedly, FATF guidance on BOT should be implemented more effectively and reflected throughout Albania's legal framework, including in the Law of Foreign Investments and the Law for Strategic Investments (Laws No. 7764 and 55/2015, respectively). In addition, NBC should implement verification measures to improve beneficial ownership data's quality and reliability. The first step is a gap analysis between the current rules and international good practice.

Lastly, civil society should highlight the role that BOT can play in preventing and investigating corruption. CSOs should run an awareness campaign targeted at companies which highlights beneficial ownership information in risk management. CSOs should design and produce this awareness campaign in conjunction with chambers of commerce and business associations.

Lessons learned and implications for other countries

1. ***In order to prevent implementation issues in the future, do not rush the legislative process.*** Make sure all stakeholders understand BO's potential impact. Calls to amend Albania's legislation just two years after it became law illustrates speed's downside. Poorly drafted legislation can negatively affect compliance. CSOs' pushback against the legislation and their challenges with compliance underscore the importance of effective stakeholder engagement during the entire BOT process.
2. ***External pressure can act as a catalyst for BOT reform.*** Pressure to meet FATF requirements (even if a country is not grey listed) acts as an impetus (see the Malaysia case study below). A poor rating from FATF or one of its affiliate organizations can have serious consequences for a country's credit rating and international reputation, so governments treat FATF evaluations seriously. International Monetary Fund research suggests that inclusion on FATF's grey list can cut financial flows equivalent to 7.6 percent of GDP.³²

32 <https://www.imf.org/en/Publications/WP/Issues/2021/05/27/The-Impact-of-Gray-Listing-on-Capital-Flows-An-Analysis-Using-Machine-Learning-50289>

Malaysia

Context

In December 2023, Malaysia passed legislation on beneficial ownership by amending its 2016 Companies Act (Act 777). The bill passed both chambers of parliament at the end of 2023.³³ Malaysia also passed the Companies (Amendment) Act 2024, which is enforced as of April 2024. Under this act, entities in scope for reporting their beneficial ownership had until June 30, 2024, to do so using the e-BOS online platform. The new law creates the following legal obligations:³⁴

- Companies are required to identify their beneficial owners, collect information on them, maintain a register, and submit this information to the Companies Commission of Malaysia (CCM),
- Individuals who know they are beneficial owners have to declare ownership,
- Nominee arrangements and other forms of control must be declared,
- The CCM will also create and maintain a central BO register.

The law sets a threshold of 20 percent for ownership or control for defining a beneficial owner.

Malaysia will begin its FATF mutual evaluation in 2025. The country was last evaluated in September 2015;³⁵ that evaluation identified weaknesses in the country's BO reporting system and listed legal reforms as one of a number of priority actions. A follow-up evaluation in October 2018 did not consider Recommendation 24³⁶ on beneficial ownership.³⁷ The country has faced several corruption scandals, including the 1Malaysia Development Berhad (1MDB)³⁸ scandal which attracted global attention. The Pandora Papers³⁹ and other similar disclosures have led to investigations of former ministers.⁴⁰

Findings

The Malaysian government first proposed beneficial ownership legislation in 2020 but focused instead on the Covid pandemic and the political fallout from the aforementioned political scandals. Malaysia did, however, put in place non-mandatory guidelines and companies became familiar with the concept and with contributing information. In 2023, the government moved quickly on legislation for beneficial ownership disclosure. This appears to be driven by its forthcoming 2024–2025 FATF mutual evaluation.

33 <https://www.malaymail.com/news/malaysia/2023/12/13/dewan-negara-passes-companies-amendment-bill-2023/107330>; <https://www.boardroomlimited.com/2024/02/22/malaysias-companies-amendment-bill-2024-and-accelerated-transfer-process-from-ace-to-main-market/>

34 [https://www.ssm.com.my/Pages/Training_Academy/Training_Calendar_and_Brochure/2024/COMPANIES%20\(AMENDMENT\)%20ACT%202024.pdf](https://www.ssm.com.my/Pages/Training_Academy/Training_Calendar_and_Brochure/2024/COMPANIES%20(AMENDMENT)%20ACT%202024.pdf)

35 <https://www.fatf-gafi.org/en/publications/Mutualevaluations/Mer-malaysia-2015.html>

36 The Role of Legal Persons in FATF Recommendation 24 require competent authorities in countries to maintain adequate and up-to-date information on a company's true owners.

37 <https://www.fatf-gafi.org/en/publications/Mutualevaluations/Fur-malaysia-2018.html>

38 In 2009, former Malaysian Prime Minister Najib Razak established the 1Malaysia Development Berhad (1MDB), a sovereign wealth fund intended to generate revenues to promote development and economic security in Malaysia through overseas investments. According to the U.S. Department of Justice, between 2009 and 2015, more than \$4.5 billion was siphoned from 1MDB and transferred to offshore bank accounts and shell companies. Hundreds of millions of dollars from the fund were spent on jewelry, artwork, movie rights, gambling, parties, and a yacht. Some of the diverted funds were also used to fabricate a return on investment from the original fund.

39 In October 2021, the International Consortium of Investigative Journalists (ICIJ) released the Pandora Papers, a cache of leaked financial records comprising almost 12 million documents and files from 14 offshore services firms based in known tax havens including Belize, the British Virgin Islands, Hong Kong, and Panama. The ICIJ combined information from this leak with their previous investigations in order to identify the networks used to conceal funds. Notably, the ICIJ confirmed the leak contains information regarding offshore accounts or financial and tax misbehavior by numerous global leaders and heads of state, including Daim Zainuddin, a former Finance Minister of Malaysia. <https://www.icij.org/investigations/pandora-papers/malaysian-politician-under-pandora-papers-probe-linked-to-52-million-offshore-trust-and-uk-us-property-investments/>

40 Because of corruption scandals implicating Malaysian leaders and officials at the highest levels, the country has been through a period of political instability. Between 2020 and 2022 Malaysia had three different governments.

CCM Guidelines specify that only competent authorities, law enforcement agencies, beneficial owners, and persons authorized by the beneficial owners may access the register. The CCM Guidelines also note that the Minister may prescribe other public bodies and reporting institutions under Malaysia's AML legislation to access beneficial ownership information. However, it remains unclear who will be able to access the central register in practice. Access to only a limited number of agencies rather than full public access could constrain the beneficial ownership system's efficacy.

If implemented effectively, Malaysia will benefit from a beneficial ownership register. All stakeholders interviewed cited cases where hidden ownership of companies or other organizations was a central issue. For example, a stakeholder cited a case in which an ex-prime minister's son-in law was involved, and might own, companies with government contracts for hiring foreign workers. Another stakeholder referred to a former finance minister who is under investigation by the Malaysian Anti-Corruption Commission (MACC) following revelations from the Pandora Papers. The MACC is trying to ascertain the minister's source of wealth and has seized assets, including property. Another stakeholder cited a lack of information on companies involved in projects under the private finance initiative⁴¹.

Opportunities

The beneficial ownership changes to the Companies Act provide an opportunity to ensure that Malaysia has a fit for purpose system. It is also an opportunity for anti-corruption actors to build awareness of the role that BO information can play in anti-corruption and accountability efforts.

The establishment of the beneficial ownership register also provides a platform to CSOs and anticorruption champions to advocate for further reforms, for example public access to the register.

The upcoming FATF mutual evaluation in Malaysia may also identify other opportunities to strengthen beneficial ownership reporting requirements.

Lessons learned and implications for other countries

1. ***Like Albania, Malaysia provides an example of the role that FATF plays in driving beneficial ownership reforms.*** Anti-corruption actors in other countries can use forthcoming mutual evaluations or the publication of report to raise awareness of BOT and its benefits.
2. ***Malaysia's non-mandatory guidelines on beneficial ownership, in place since 2020, served as a pilot project for full adoption.*** While that was not necessarily the intent, Malaysia's extended process highlights the benefits of a pilot project in sensitizing companies and other stakeholders on BOT issues.
3. ***In Malaysia, some civil society advocates cooperated with government agencies such as CCM and MACC to ensure the draft law aligned with FATF requirements.*** Such collaboration plays a crucial role in ensuring that legislation is fit for purpose and has a wide base of support.

⁴¹ A private finance initiative (PFI) is a way for the public sector to finance large projects through the private sector.

Mexico

Context

In 2022, Mexico amended its tax code and required all companies to submit their beneficial owner information to the federal tax authority. The information is not publicly available. Stakeholders do not know whether the tax authority shares BO information with other government agencies. The regulations oblige all public notaries to collect beneficial ownership information on their clients. Public notaries in Mexico play a central role in registering new companies and facilitating other business transactions.

The business sector pushed back against BO and has filed lawsuits against the provisions. As of January 2024, one case has been settled with a decision that the provisions were legal. The case was brought by 150 companies who claimed that the provisions amounted to overregulation and interfered with their normal business operations. The court rejected this argument.

The government is also proposing reforms to public procurement to demand those bidding for public contracts supply beneficial ownership information as part of the tender process. These regulations have not yet been enacted.

Findings

Beneficial ownership is a concept not well known in Mexico. Some of the anti-corruption actors interviewed were unaware of the amendments to the federal tax code or BOT's potential role in anti-corruption efforts. Some stakeholders remarked on a lack of awareness in key groups. One stakeholder reported that, at a recent meeting of attorneys, many did not understand the laws regarding beneficial ownership. This lack of awareness also extends to CSOs. Though more than 200 anti-corruption organizations work in Mexico, stakeholders were only aware of two, Transparency International Mexico and Human Rights and Mexican Strategic Litigation (DL Mex), that advocate for public access to BO information.

Mexico's federal structure has obstructed efforts to enhance BOT. Companies are typically registered in states, rather than the federal level. A new law on beneficial ownership obligations would have to gain the approval of most states. This makes legislation a long and complex process and may be the reason that the government chose to amend the tax code instead.

Opportunities

There is a significant opportunity to enhance awareness of the benefits of BOT in Mexico. An awareness-raising campaign should target all anti-corruption actors, including members of Congress, anti-corruption organizations, lawyers, public notaries, and business organizations. Such a campaign should highlight BO's anti-corruption role and support advocacy for public access to BO information.

There is also an opportunity to support the enactment of reforms to public procurement regulations to oblige the collection and publication of BO information on the bidders for public contracts.

Lessons learned and implications for other countries

1. **Mexico's case shows that there are various routes to establishing BOT.** Mexico used amendments to its tax code rather than legislation. It also shows that other regulatory routes can be used, for example, public procurement regulations.
2. **Mexico's experience also shows the importance of building broad awareness of BOT's role in anti-corruption efforts.** This outreach should include parliamentarians, activists, and the business community.

CONCLUSION

BOT is a simple concept, making information on the real people who own and control companies publicly available. For most companies in most countries, identifying their beneficial owners will be straightforward, since most companies are small or medium sized, with a limited number of shareholders, and managed by their owners. Analysis of the data on the UK's beneficial ownership register shows that the average number of beneficial owners per company is less than two.

However, complex ownership and control structures for companies, particularly large businesses and those with international reach, require additional scrutiny. In most cases, these management structures are not illegal or a sign of illicit activity, obscuring ownership for legitimate reasons (i.e. to protect privacy and to reduce security threats). However, opaque ownership and control can facilitate corruption, tax evasion, money laundering, and other financial crimes. Making beneficial ownership data publicly available helps identify these cases and prevent the transnational corruption kleptocrats use to enrich themselves and cling to power. Non-governmental anti-corruption actors can tailor this roadmap to their country and use it to ensure that its beneficial ownership system is robust and can deliver transparency benefits.

Civil society and other non-governmental actors play a crucial role in ensuring a broad and deep understanding of BOT and its benefits across government, business, and society. A solid understanding is vital to form broad coalitions to advocate for greater transparency and ensure changes if they are needed. BOT enforcement is one of the most effective ways to curtail kleptocrats' operating environment and for that reason alone, it is a powerful pro-democracy tool.

APPENDICES

Appendix 1: BO6

The BO6 framework allows stakeholders to make the right decisions at the right time to optimize the benefits of reliable information on business ownership. Michael Barron and Tim Law developed the BO6 framework based on their combined experience of research and practical implementation of BOT across four continents. They have advised governments on the requirements to meet the EITI Standard, FATF Recommendations, OGP commitments, and what constitutes international best practice. They have produced roadmaps, scoping studies, drafted robust definitions, designed collection, verification, disclosure, and enforcement mechanisms, drafted primary legislation and implementing regulations, advised on overcoming resistance, and made sure that users benefit from BO information.

The six stages ensure that stakeholders build a BOT system that meets international best practice. From the moment a president, prime minister, or minister commits to implementing BO reporting obligations, to a system that allows users to reap benefits from data on company ownership, the framework supports the decision making and policy implementation process. It asks the right questions at the right point in the process to allow officials to make the appropriate policy choices and decisions. It creates opportunities for engagement with the private sector, professional advisors, civil society, and other stakeholders to ensure a fit-for-purpose reporting system.

As with any system that needs to work for many years, BO reporting requires a well-developed blueprint, a solid foundation, well designed infrastructure, and reliable support mechanisms. A well-built BO system is likely to bring benefits to an economy by reducing the risks of doing business, creating higher levels of integrity and trust, and allowing governments and citizens to know who is really investing in their country.

The six stages are:

1. **Understand** the landscape where the BO system is being constructed.

Each country starts from a different place and has different priorities for implementing BOT. This stage ensures all stakeholders understand BO's importance and the benefits it will bring.

2. **Decide** on the scope of the BO reporting system.

This stage includes critical decisions on the definitions of beneficial owner, companies in scope, thresholds, and other core parts of implementation.

3. **Design** the mechanisms for collection, storage, verification, disclosure, and enforcement.

Based on the analysis and decisions in stages 1 and 2, this stage ensures the BO reporting system is designed to be fit for purpose and in a strong position to deliver benefits for stakeholders.

4. **Legislate** to create a robust statutory basis for the reporting system and its enforcement.

The form of legislation will depend on the particular circumstances in each country but should be thorough and complete, so as to ensure policy decisions are implemented in full.

5. **Implement** the legislation and all the mechanisms.

This stage makes sure the necessary resources are deployed to implement the legislation in an efficient manner and that there are high levels of understanding and compliance.

6. **Benefit** from the availability of clear data on the ultimate owners of companies.

To maximize the benefits, the BO register needs to contain reliable and accessible information.

Across all six stages, **communication is key**. All stakeholders must understand the implications of decisions, uses for reliable BO information, and strategies to maximize the benefits of this information. Communication activities can include capacity-building, awareness raising, training, workshops, written briefings, infographics, videos, and publicity campaigns.

Appendix 2: Organizations interviewed

Albania:

Organised Crime and Corruption Reporting Project (OCCRP)
Balkan Investigative Reporting Network (BIRN)
Center Science and Innovation for Development (SCiDEV)
Albanian Institute of Science (AIS)
Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ)

Malaysia:

Transparency International Malaysia
Center to Combat Cronyism & Corruption (C4)

Mexico:

House of Representatives
The Employers Confederation of the Mexican Republic (COPARMEX)
Open Ownership
Derechos Humanos y Litigio Estratégico Mexicano (DL Mex)
Tecnológico (TEC) de Monterrey

Appendix 3: Interview Protocols

Albania

1. What were the government priorities and drivers for legislating on BOT?
2. What were the reasons for enacting a stand-alone law on BO?
3. What government agency was responsible for getting law 112/2020 enacted?
4. What institutional structure was put in place, e.g. a taskforce?
5. What was the process leading to the enactment of law 112/2020?
6. What role did CSOs play in advocating for the legislation?
7. What role did CSOs play in shaping the content of the legislation and building awareness of BOT's importance?
8. What were the challenges and obstacles in enacting law 112/2020?
9. Is there currently any intention to make any amendments to law 112/2020, and if so for what purpose? Are CSOs advocating for any amendments?
10. What was the process of implementing the BO registry?
11. What were the challenges and obstacles during the implementation process?
12. What, if any, external assistance did Albania receive during the legislative and implementation processes?
13. What engagement was conducted with key stakeholders, including the private sector and civil society, during the legislative and implementation processes?
14. What is the level of compliance with the requirement to submit BO information to the registry? What evidence is there of attempts to circumvent legal obligations?
15. How easy is the registry to use for those submitting BO information?
16. How easy is the registry to access for those looking for BO information?
17. Now that the registry is in place, who are the key government stakeholders on BOT?
18. What evidence is there that the registry is being used and for what purposes?
19. What challenges do stakeholders in Albania now face in relation to BOT?
20. What are the opportunities to strengthen BOT in Albania?
21. What lessons do you think other countries can learn from Albania's experience?
22. What examples are there of beneficial ownership information being used to identify or prevent corruption?

Malaysia

1. What are the government's priorities and drivers for legislating on BOT? What is the government's view of the level of importance of this topic?
2. What institutional structure and processes have the Companies Commission of Malaysia (CCM) put in place to make policy and tactical decisions in designing the BO amendments to the Companies Act?
3. Who are the key government stakeholders within this institutional structure?

4. When are the amendments expected to become law?
5. What is the expected timetable for implementation of the law, including the introduction of implementing regulations and guidance?
6. What challenges and obstacles are anticipated during the legislative process?
7. What opposition is there, if any, to these amendments?
8. What organizations (both government and non-governmental) are advocating for BOT reforms? What specific advocacy campaigns are CSOs undertaking?
9. What engagement is CCM conducting with stakeholders, including the private sector and civil society, in relation to these amendments?
10. What public consultation, if any, is CCM or other government agencies planning in relation to these amendments? To what extent is public consultation likely to influence amendments?
11. Recent IRI programming in Malaysia supporting political financing awareness among the public has shown that few Malaysians understand the concept of beneficial ownership. How might a lack of public awareness affect the chances for new legislation or amendments?
12. What is the level of awareness among key stakeholders on the importance and benefits of BOT?
13. What external assistance, if any, is CCM receiving in relation to BOT?
14. To what extent is CCM basing these amendments on models/examples provided by other jurisdictions?
15. What level of public access is expected to be granted to the BO register?
16. What are the anticipated benefits of having BO information available in Malaysia?
17. What specific examples are there of recent corruption case/investigations where access to beneficial ownership information would have been helpful?

Mexico

1. What were the government's priorities and drivers for amending the Federal Tax Code (CFF) to introduce legal requirements on BO?
2. What institutional structures and processes did the government put in place to make policy and tactical decisions in designing the BO amendments to the CFF?
3. Who are the key government stakeholders within this institutional structure?
4. What were the challenges and obstacles to designing and enacting the CFF amendments and in implementing those amendments?
5. What opposition was there, if any, to these amendments?
6. What role did CSOs play in advocating for the legislation?
7. What role did CSOs play in shaping the content of the legislation and building awareness of the importance of BOT?
8. Which organizations (both government and non-governmental) advocated for BOT reforms?
9. What engagement did the Tax Authority conduct with stakeholders, including the private sector and civil society, in relation to these amendments?

10. What public consultation did the government undertake in relation to these amendments?
11. What is the level of awareness among key stakeholders on the importance and benefits of BOT?
12. What external assistance, if any, did Mexico receive in relation to BOT?
13. To what extent are these amendments based on models/examples provided by other jurisdictions?
14. What is the level of compliance with the requirement to submit BO information to the Tax Authority?
15. Who can access the register and how easy is it to use?
16. What evidence is there that the registry is being used and for what purposes?
17. What challenges do stakeholders in Mexico now face in relation to BOT?
18. What are the opportunities to strengthen BOT in Mexico?
19. What lessons do you think other countries can learn from Mexico's experience?
20. What examples are there of beneficial ownership information being used to identify or prevent corruption?

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International Republican Institute

IRI.org
@IRIglobal

P: (202) 408-9450
E: info@iri.org

