



## PUTTING BENEFICIAL OWNERSHIP TRANSPARENCY INTO PRACTICE

---

### Introduction

In November 2014 the leaders of G20 countries committed to enhancing beneficial ownership transparency in their jurisdictions – making it harder for opaque company structures to be used for corrupt and criminal purposes. The G20 High Level Principles on Beneficial Ownership include a requirement that firms in G20 jurisdictions ensure that their own ultimate beneficial ownership (UBO) information is ‘timely and adequate, accurate and current’ for access by authorities.

The B20 advocated for the G20 to adopt the *High Level Principles on Beneficial Ownership Transparency*. Now, the B20 Anti-Corruption Task Force, through its workstream on ultimate beneficial ownership is working to a) provide company guidance on improving practices around beneficial ownership and b) support the business community in G20 countries to engage positively and productively as governments implement the principles.

To that end, the B20 has started to engage companies in a dialogue about the business use case for beneficial ownership transparency, and how to implement such transparency in practical ways. A first workshop of representatives from 30 businesses and organisations in Paris in June 2015 has generated an initial list of **15 business use cases** for enhanced beneficial ownership transparency. The businesses involved included representatives of banking, construction, pharmaceutical, publishing, legal and professional services organisations. The use cases demonstrate that the business impetus for beneficial ownership transparency goes far beyond compliance, contributing to risk management, and even in some cases, competitive advantage.

Until the end of 2016, the Anti-Corruption Task Force will be developing an online portal that provides company guidance on implementing beneficial ownership transparency, and working with business communities to engage with their governments as they develop National Action Plans for the implementation of the G20 *High Level Principles on Beneficial Ownership Transparency*.

We invite broad business feedback and participation in this process. We will be organizing further workshops, and also welcome written feedback on this document. We are actively seeking any examples of businesses implementing enhanced practices to ensure transparency of beneficial ownership in their own operations, joint ventures, partnerships, and supply chains.

Christine O’Connell Chair of the B20 Anti-Corruption Task Force Ultimate Beneficial Ownership Workstream

## Setting the Scene:

In recent years, there has been a growing global momentum to develop a comprehensive framework to enhance beneficial ownership transparency. In fact, some of the most notable developments have come from within the G20. In November 2014, G20 Leaders, in line with the B20 recommendation, adopted the *High Level Principles on Beneficial Ownership Transparency*. The Leaders noted that “Improving the transparency of legal persons and arrangements is important to protect the integrity and transparency of the global financial system”.

As its first principle, the G20 stressed the importance of developing a uniform definition of a “beneficial owner”, defining them as “the natural person(s) who ultimately owns or controls the legal person or legal arrangement”. In the remaining principles the Group outlines a set of key actions that will help enhance the transparency of beneficial ownership.

Moreover, these principles build on existing international instruments and standards, such as the Financial Action Task Force (FATF) recommendations surrounding beneficial ownership<sup>1</sup>. FATF is currently comprised of 34 member jurisdictions and 2 regional organisations, representing most major financial centres in all parts of the globe. Only two (2) G20 members are not direct members of FATF<sup>2</sup> but are Associate Members through regional bodies that are premised on FATF principles. Members undergo Mutual Evaluations and therefore have already worked towards complying with the FATF 40 Recommendations that informed the G20 Principles. Much like the FATF recommendations, the principles call on countries to ensure they have the appropriate infrastructure in place to provide competent authorities with accurate and timely information on beneficial owners. By aligning its principles with existing instruments and standards, the G20 is helping build an international framework that all countries can adhere to.

Within the High Level Principles, G20 governments also committed to leading by example and developing their own National Action Plans by 2016. As this deadline quickly approaches many governments around the world have started taking action, although there remains a long way to go as demonstrated in the recent Transparency International Report *Just for Show? Reviewing G20 Promises on Beneficial Ownership*.<sup>3</sup>

The European Union, in its *Fourth Money Laundering Directive* (4MLD), now requires all member states to record all beneficial ownership information in a central register such as a commercial register, companies register or public register. In addition, the Directive requires member states, to make beneficial ownership information available to: (a) competent authorities; (b) obliged entities within the framework of Customer Due Diligence; and (c) any person or organization that can demonstrate legitimate interest.

Significant efforts have also been made at the national level. In March 2015 the United Kingdom passed legislation to introduce a public register of beneficial ownership. This obliges all UK registered companies to provide beneficial ownership information via the public register. This register is currently planned to go live in June 2016, and will mark the UK as the first major country to establish a public central beneficial ownership register

---

<sup>1</sup> <http://www.fatf-gafi.org/media/fatf/documents/reports/Guidance-transparency-beneficial-ownership.pdf>

<sup>2</sup> Indonesia and Saudi Arabia

<sup>3</sup> [http://www.transparency.org/whatwedo/publication/just\\_for\\_show\\_g20\\_promises](http://www.transparency.org/whatwedo/publication/just_for_show_g20_promises)

As countries continue to develop their National Actions Plans, it is critical that the B20 plays a key role in this process to ensure that the business community has the necessary capabilities to adapt to the new developments in this area.

## **Use Cases: Background**

As the regulatory landscape for beneficial ownership continues to evolve, it is critical that companies understand and adapt to this new landscape in order to remain compliant. However, regulatory compliance is just one (albeit a very significant one) of a number of reasons why UBO transparency is important.

For companies, there is a growing business need to develop a risk-based approach to prevent money laundering and other financial crimes. This means developing an approach that does not simply look to tick boxes but instead, properly identifies, understands and assesses a company's risk exposure to financial crime. This is imperative because not knowing who truly sits behind the corporate entity you're doing business with can pose significant risk – be it financial<sup>45</sup>, reputational, or to society as a whole.

Furthermore, effective UBO identification is starting to be viewed as a possible competitive advantage – one of our workshop participants argued that it would actually help facilitate the client on-boarding process, and therefore enable companies to start doing business more quickly.

However, as our discussion during the Paris workshop uncovered, UBO identification is not only applicable to the financial services, but to a wide range of industries and in a variety of contexts – from Government procurement to shipping. As such, during our workshop we began to develop a series of business 'use cases' where UBO transparency benefits business in a variety of ways. By mapping out these use cases we started to construct a landscape that demonstrates the various avenues by which wrongdoers can (ab)use obscure, complex or anonymous ownership structures for illicit purposes and the mechanisms through which businesses can protect themselves from risk and liability. These 'use cases' clearly demonstrate the many stakeholders that stand to benefit from the transparency of UBO.

The 15 business use cases identified at the Paris workshop are summarized below, and elaborated in table format in the section to follow:

1. Know your customer (KYC): A current requirement under Anti-Money Laundering and anti-corruption regimes for banks and financial institutions, luxury goods sellers and real estate;
2. Know your 3<sup>rd</sup> parties: Allows companies to identify and manage a wide range of network and supply chain risks.
3. Large scale projects and government procurement: Corruption is possible at various stages of large scale projects, and beneficial ownership transparency can reduce it and increase competition.
4. Know yourself: Now a requirement under G20 Principles, this can help prevent internal fraud and corruption, mitigate legal liability and fight abusive related parties' transactions.

---

<sup>4</sup> Research from the London School of Economics' Roger McCormick suggests that over the five years ending in 2013, the world's 10 leading banks paid £157bn in fines and damages for non-compliance and misconduct.

<sup>5</sup> Recently in November 2015, the FCA announced it was fining Barclays £72 million for anti-money laundering failings <https://www.fca.org.uk/news/fca-fines-barclays-72-million-for-poor-handling-of-financial-crime-risks>

5. Specially Designated Nationals list: early identification of risks can avoid liability and the investment of time and capital in a business relationship that turns out to involve a compromised party.
6. Localisation: UBO is a key tool in overcoming the significant challenge of navigating new markets without a trusted local partner to avoid potential liability.
7. Tax and automatic exchange of information: With incoming reform on Base Erosion and Profit Shifting (BEPS), investors and analysts are seeing aggressive tax structuring as a potential risk for companies they assess, and wanting UBO information to connect entities and understand their tax structures.
8. Ethical investment: Investors and analysts seek greater transparency to assess the risk and credentials of entities for ethical investment.
9. Investor relations: On behalf of shareholders, analysts assess risks faced by corporations, including a need to understand the credibility of a company's relationships. This requires transparency about the ownership of a company's partners etc.
10. Employment: There are increasing demands from employees for information about the responsibility of a potential employer, including understanding who ultimately benefits from their work.
11. Law Enforcement: Beneficial ownership transparency enables law enforcement to identify and pursue criminal activity, including fraud and other practices harmful to business.
12. Real Estate: Real estate agents and those in the property market can avoid involvement in or facilitation of corruption or crime by understanding who they are selling to or buying from.
13. Global private-hybrid bodies (such as FIFA): The recent FIFA scandal highlights the use of ownership structures to obscure illicit activity from external parties and the organisation's members.
14. Health and Safety: Anonymous company ownership structures can be used to obscure the accountability chain for compliance with health and safety regulations.
15. Shipping: Vessels can operate as offshore anonymous companies that can have implications for involvement in potential corruption from fishing and logging as well as being able to potentially avoid liability in business relationships via complex structures.

The list of use cases identified above and elaborated below is not exhaustive, and we will continue to use future dialogue to build on the dynamics and implications for each individual use case and the themes that run along them – for example, the challenge of identifying control vs. mere ownership, or how to verify UBO info even once it is acquired.

We urge anyone from business who would like to provide any feedback, add a use case, provide an example of practical implementation or challenges in implementation as well as anyone interested in participating in future workshops to contact us.

**Use Cases for Ultimate Beneficial Ownership: Outputs from the B20 ACTF UBO Work Stream Workshop, 2 June 2015, Paris, France**

Use case	Who needs to identify UBO?	For what?	What is the UBO identification process?	Significance & Implications
<p><b>1. Know Your Customer (KYC)</b></p>	<ul style="list-style-type: none"> <li>• Banks and financial institutions</li> <li>• Luxury goods sellers</li> <li>• Real estate</li> </ul>	<ul style="list-style-type: none"> <li>• To comply with ever-stricter Anti-Money Laundering (AML) and Terrorist Financing regulations when on-boarding new customers</li> <li>• Risk management</li> <li>• Legal liability</li> </ul>	<p>1. Customer provides evidence through government ID and company documents → 2. Bank/company uses international databases to verify e.g. Politically Exposed Persons → 3. Searches returning potential risks may require Enhanced Due Diligence (EDD) → 4. Ongoing monitoring against databases and refreshed EDD.</p>	<ul style="list-style-type: none"> <li>• Legal persons seeking financial services will continue to see increasing corporate disclosure requirements.</li> <li>• Legal and financial (fines etc.) repercussions mean banks have strong incentives to identify true control (not just ownership)...and to look beyond arbitrary percentage ownership thresholds</li> <li>• Claims that this infringes privacy are increasingly seen as unfounded – e.g. bank-client confidentiality still applies.</li> </ul>
<p><b>2. Know your 3<sup>rd</sup> parties</b></p>	<ul style="list-style-type: none"> <li>• Companies</li> </ul>	<ul style="list-style-type: none"> <li>• To identify and manage network and supply chain risks for                             <ul style="list-style-type: none"> <li>○ AML regulations</li> <li>○ Fraud prevention</li> <li>○ Legal risks from bribery</li> <li>○ Fighting Abusive related parties transactions</li> <li>○ Adhering to labor laws in all relevant jurisdictions</li> <li>○ Dealing with State Owned Enterprises</li> <li>○ Dealing with localisation</li> <li>○ Battling incoming corruption</li> </ul> </li> </ul>	<p>1. Requesting ID and company documents from <u>all</u> partners → 2. Carrying out EDD → 3. Acquiring verificatory references from banks → 4. monitoring of supply chain agents (e.g. on-the-ground surveys).</p>	<ul style="list-style-type: none"> <li>• Expanded regulatory scope covering all <i>types</i> of relationships (e.g. partners and service providers not just customers) and all <i>levels</i> of relationships (e.g. sub-contractors and local ‘fixers’ or other informal partners).</li> <li>• Focus is no longer just on Financial Institutions (FIs) – companies in any sector must truly know their supply chains, as can be seen by the long list of use cases here.</li> <li>• A systemic view of UBO can also reveal additional risks – for example, concentrations of ownership in the supply chain. This can only be achieved with</li> </ul>

				consistent UBO information across a supply or value chain.
<b>3. Large scale projects and government procurement</b>	<ul style="list-style-type: none"> <li>• Governments</li> <li>• Civil society, media and citizens</li> <li>• Contracted companies</li> </ul>	<ul style="list-style-type: none"> <li>• Preventing corruption at each stage from project identification to close</li> <li>• Identify multiple single-ownership bidders for one tender</li> <li>• Allowing greater access to SMEs/ competition</li> <li>• Cost savings</li> <li>• Accountability for public monies and delivery of infrastructure and services</li> <li>• Fraud prevention</li> <li>• Avoiding legal liability for bribery</li> <li>• Dealing with State Owned Enterprises</li> <li>• Dealing with localisation</li> <li>• Getting best price for sub-contracts &amp; technical services</li> </ul>	<p><b>1.</b> Public records and requests for further information from contractors →</p> <p><b>2.</b> a) Public records requests (FOI) b) Investigative journalism c) Open data → <b>3.</b> Liability for sub-contractors increasingly<sup>6</sup> rests with contractors, creating an impetus for companies to engage in robust Know Your Customer and/or Know Your 3<sup>rd</sup> Parties practices.</p>	<ul style="list-style-type: none"> <li>• Added significance as it concerns the use of public funds.</li> <li>• On top of its role in typical routes for corruption in major projects, identification of UBO is crucial in the tendering process to ensure the same owner isn't behind multiple bids, which undermines competition and price integrity.</li> </ul>
<b>4. Know yourself / your group</b>	<ul style="list-style-type: none"> <li>• Corporate groups</li> </ul>	<ul style="list-style-type: none"> <li>• Presenting own UBO information to regulators</li> <li>• Preventing internal fraud or corruption</li> <li>• Mitigating legal liability for</li> </ul>	<p><b>1.</b> Request from group members → <b>2.</b> Hold info in easily communicable/transferable formats.</p>	<ul style="list-style-type: none"> <li>• Whatever obligations firms have for understanding who they're doing business with, they first have to ensure their own UBO information is 'timely and adequate, accurate and current' for</li> </ul>

<sup>6</sup> Federal Acquisition Regulations: Ending Trafficking in Persons; FAR Case 2013-001 <http://www.regulations.gov/#!documentDetail;D=FAR-2013-0001-0022>.

		<p>actions of members of the group</p> <ul style="list-style-type: none"> <li>Fighting Abusive related parties' transactions</li> </ul>		<p>access by authorities as stipulated in the G20 High Level Principles<sup>7</sup>.</p>
<b>5. Specially Designated Nationals lists</b>	<ul style="list-style-type: none"> <li>Banks &amp; FIs</li> <li>Companies</li> </ul>	<ul style="list-style-type: none"> <li>Complying with sanctions/Specially Designated Nationals (SDN) lists</li> <li>Early identification of risks to avoid investing (time or capital) in a business relationship that turns out to involve a compromised party</li> </ul>	<ol style="list-style-type: none"> <li>For own clients: requesting parties identity data →</li> <li>Screening against international red flag lists for <u>all</u> transactions: payment screening using SWIFT verification.</li> </ol>	<ul style="list-style-type: none"> <li>Corrupt proceedings are distinct from doing business with SDN countries.</li> <li>People may have legitimate philosophical differences regarding SDN countries and the value of doing business there.</li> </ul>
<b>6. Localisation</b>	<ul style="list-style-type: none"> <li>Companies</li> </ul>	<ul style="list-style-type: none"> <li>Avoiding high-risk relationships in particular local markets/jurisdictions</li> </ul>	<ol style="list-style-type: none"> <li>Enhanced Due Diligence → Location Visits.</li> </ol>	<ul style="list-style-type: none"> <li>UBO is a key tool in overcoming the significant challenge of navigating new markets/jurisdictions without a trusted local partner – e.g. exposing front companies with, say, 51% local sponsorship but no control masking involvement of criminal or SDN parties.</li> </ul>
<b>7. Tax, BEPS &amp; Automatic Exchange of Information</b>	<ul style="list-style-type: none"> <li>Tax Authorities</li> </ul>	<ul style="list-style-type: none"> <li>UBO information can be used to connect entities and therefore understand their tax structures</li> </ul>	<ol style="list-style-type: none"> <li>Mandatory tax returns OR through Corporate Services Providers, which carry out administrative management on behalf of multiple companies</li> </ol>	<ul style="list-style-type: none"> <li>With incoming reforms on Base Erosion &amp; Profit Shifting (BEPS) and automatic exchange, investors and analysts are seeing aggressive tax structuring as a potential risk for companies they assess.</li> </ul>

<sup>7</sup> G20 High Level Principles [https://g20.org/wp-content/uploads/2014/12/g20\\_high-level\\_principles\\_beneficial\\_ownership\\_transparency.pdf](https://g20.org/wp-content/uploads/2014/12/g20_high-level_principles_beneficial_ownership_transparency.pdf).

<p><b>8. Ethical investment</b></p>	<ul style="list-style-type: none"> <li>• Private investors</li> <li>• Institutional investors committed to parameters or principles</li> <li>• Media/the Public</li> </ul>	<ul style="list-style-type: none"> <li>• Making investment decisions</li> <li>• Assuring assessments of ethical investments</li> <li>• Reporting on portfolios of common asset pools (e.g. pension funds)</li> </ul>	<ol style="list-style-type: none"> <li>1. Accessing public records →</li> <li>2. Direct requests to prospective investments public records.</li> </ol>	<ul style="list-style-type: none"> <li>• A fast growing movement for divestment from certain industries (coal, arms, tobacco etc.) is increasing the demand for transparency and to prove credentials.</li> <li>• Where environmentally motivated, this includes understanding who owns land and liability for environmental damage.</li> </ul>
<p><b>9. Investor relations</b></p>	<ul style="list-style-type: none"> <li>• Analysts</li> </ul>	<ul style="list-style-type: none"> <li>• On behalf of shareholders, assessing risks faced by corporations (to judge growth trajectories)</li> </ul>	<ol style="list-style-type: none"> <li>1. Quarterly reports →</li> <li>2. Earnings calls.</li> </ol>	<ul style="list-style-type: none"> <li>• Risk assessment includes a need to understand the credibility of a company's relationships, which in turn requires transparency about the ownership of its partners etc.</li> </ul>
<p><b>10. Employment</b></p>	<ul style="list-style-type: none"> <li>• Prospective and current employees</li> </ul>	<ul style="list-style-type: none"> <li>• Understanding who benefits from their work</li> </ul>	<ol style="list-style-type: none"> <li>1. Information on ownership requested in the recruitment process in order to identify values/philosophy etc.</li> </ol>	<ul style="list-style-type: none"> <li>• Public awareness about transparency issues together with the trend of increasing employee demand for corporate responsibility makes this ever more likely.</li> </ul>
<p><b>11. Law Enforcement</b></p>	<ul style="list-style-type: none"> <li>• Authorities</li> </ul>	<ul style="list-style-type: none"> <li>• Identifying criminal activity</li> <li>• Prosecution</li> </ul>	<ol style="list-style-type: none"> <li>1. Accessing all corporate documents</li> </ol>	<ul style="list-style-type: none"> <li>• Though in theory restricted to own jurisdiction, countries are increasingly partnering to run joint enforcement operations.</li> </ul>

<p><b>12. Real Estate</b></p>	<ul style="list-style-type: none"> <li>Estate Agents</li> <li>Participants in the property market</li> </ul>	<ul style="list-style-type: none"> <li>Avoid involvement/facilitation of corruption</li> <li>Understanding who they are selling to/buying from to assess the risk of deal cancellation</li> </ul>	<p>1. Request/require info from purchaser → 2. Access public records or request info from Estate Agents</p>	<ul style="list-style-type: none"> <li>Property is a common destination for the proceeds of crime – the London police force suggest that most of the grand corruption cases they investigate involve the purchase of UK property.</li> <li>There is a move<sup>8</sup> by some regulators to target property owned by foreign companies.</li> </ul>
<p><b>13. Global private-hybrid bodies eg FIFA</b></p>	<ul style="list-style-type: none"> <li>Member associations/national bodies</li> </ul>	<ul style="list-style-type: none"> <li>To hold umbrella group accountable financially</li> <li>To ensure fair representation of views</li> </ul>	<p>1. Request info through terms of agreement.</p>	<ul style="list-style-type: none"> <li>As the recent FIFA corruption scandal demonstrates, complex and secret ownership structures can be used to obscure illicit activity from external parties (e.g. fans hoping to host World Cups) and from members of the organization: the US DOJ's indictment<sup>9</sup> identifies how an anonymous company was used for bribes.</li> </ul>
<p><b>14. Health and safety</b></p>	<ul style="list-style-type: none"> <li>Employees/Unions and site users</li> </ul>	<ul style="list-style-type: none"> <li>To ensure that they are working at and/or entering a site covered by appropriate H&amp;S safety standards</li> </ul>	<p>1. Individual requests info (via a union) from company → 2. Check against public records.</p>	<ul style="list-style-type: none"> <li>H&amp;S incurs costs, so there is an incentive to avoid more stringent standards – anonymous company ownership can obscure the accountability chain companies should be adhering to.</li> </ul>
<p><b>15. Shipping</b></p>	<ul style="list-style-type: none"> <li>Any of the above parties.</li> </ul>	<ul style="list-style-type: none"> <li>To understand the UBO of vessels which can be used as (literally) offshore companies</li> </ul>	<p>1. First step is recognising that vessels can have company status → 2. Tracing jurisdiction of origin → 3. Accessing public records.</p>	<ul style="list-style-type: none"> <li>Added complexity as a vessel may be more loosely tied with a jurisdiction than other legal entities or may be registered in multiple jurisdictions.</li> </ul>

<sup>8</sup> Financial Times, 2015. <http://www.ft.com/cms/s/0/4d83097a-34ef-11e5-bdbb-35e55cbae175.html#axzz3k6or5Qqs>.

<sup>9</sup> US Department of Justice, 2015. <http://www.justice.gov/opa/file/450211/download>.

## **Conclusion**

The regulatory context for company ownership transparency is changing rapidly. At the same time, the benefits of knowing who you are doing business with in a range of contexts is becoming more apparent to businesses in diverse sectors. As companies start to implement enhanced practices around beneficial ownership transparency, the B20 ACTF will share guidance and best practice examples to support innovation in this area.

The discussion in Paris in June 2015 highlighted a significant number of business use cases for beneficial ownership transparency, going far beyond compliance with existing or planned regulation. The use cases discussed above demonstrate the beginning of a dialogue.

We invite you to join the discussion.

## **Contacts**

We urge anyone from business who would like to provide any feedback, add a use case, provide a case study or participate in future workshops to contact us.

May Miller-Dawkins, The B Team: [mmd@bteam.org](mailto:mmd@bteam.org)

Amy Mathias, Thomson Reuters: [amy.mathias@thomsonreuters.com](mailto:amy.mathias@thomsonreuters.com)

Lida Preyma, BMO Capital Markets: [lida.preyma@bmo.com](mailto:lida.preyma@bmo.com)

Written by Daniel Hart, May Miller-Dawkins and Lida Preyma, 2015.