

Background information to include in invitation to a roundtable on Beneficial Ownership Transparency – the role of the private sector

Access to information about those who own and control companies (Beneficial Ownership) information allows companies, banks, investors, professional advisors and other business users to understand who they are doing business with, their partners and their competitors. This can assist with due diligence for new business opportunities and markets, regulatory compliance, internal risk management and to demonstrate responsible business behaviour.

A group of governments, including the Government of Kenya, have made commitments to publish information about the beneficial ownership of companies. The Government of Kenya included this commitment in the Open Government Partnership National Action Plan 2018-20 for example¹. However, there is a significant opportunity to complement this leadership with a better understanding of the benefits and risks of beneficial ownership transparency (BOT) as perceived by the private sector and to develop a stronger partnership with the private sector to promote BOT.

The UK's Department for International Development (DFID) commissioned a scoping study in 2018, "Towards a Global Norm of Beneficial Ownership Transparency"². This study focused predominantly on the role of national, international and inter-governmental systems and civil society campaigning to date in achieving a global norm of beneficial ownership transparency. However, the study highlighted that the private sector had largely not, to date, taken a proactive role on beneficial ownership transparency. It recommended that a more comprehensive and sustained partnership with the private sector should be explored to identify how their needs for BO information, the "use case", could be effectively and efficiently met through accurate, publicly accessible BO data and the private sector's role in contributing to achieving a global norm.

DFID has therefore now commissioned a further scoping study to consider in greater depth the role of the private sector in achieving a global norm of BOT. This will aim to consult a range of private sector users, suppliers and facilitators of BO data in order to assess current and potential engagement by the private sector, taking into account different geographies, sectors and incentives for supporting BOT or concerns about it.

A team from Adam Smith International will be conducting this study from January to March 2020, represented by Justine Davila, Michael Barron and Tim Law. The team will be visiting Nairobi and would welcome the opportunity to consult Kenyan businesses and multinational businesses investing in Kenya across a range of sectors on their views on the benefits and risks of BOT, both as investors in Kenya and in other countries in the region.

¹ https://www.opengovpartnership.org/wp-content/uploads/2018/12/KENYA_Action-Plan_2018-2020_0.pdf

² https://issuu.com/adamsmithinternational/docs/towards_a_global_norm_of_beneficial_9f6920e1fce9a4?e=0

Some of the questions that that team would like to explore include:

- What experience have private sector companies had to date in using beneficial ownership information to reduce business risks?
- What benefits can companies gain from using beneficial ownership information in a strategic and systematic way in their decision-making processes?
- To what extent, do companies consider beneficial ownership information contributes to improving the business environment?
- To what extent, do companies consider beneficial ownership information contributes to reducing corruption and combatting fraud, conflicts of interest and other financial crimes?
- What obstacles block access to reliable beneficial ownership information?
- What concerns do companies have in making their own beneficial ownership information publicly available?