

Company ownership:

which places are the most
and least transparent?





Introduction

Money launderers, corrupt politicians, arms traffickers and tax dodgers often rely on two things to move their dirty money: company structures that allow them to hide their identity, and banks and other professionals willing to do business with them.

The issue of hidden company ownership has received high-level political attention recently. At the G8 summit in June 2013 in Northern Ireland, the G8 leaders promised to take some first steps to deal with the problem. All of the G8 countries produced a ‘beneficial ownership action plan’ stating what they would do to improve company ownership transparency. In addition, all of the UK’s Crown Dependencies and the seven Overseas Territories that have significant financial centres also did the same.

Since the G8 summit, there have been a number of additional announcements, the most significant of which was that the UK government committed to putting information on the beneficial owners of British companies in the public domain, and France indicated that it intends to do the same. Three of the UK’s Overseas Territories

announced that they would consult on whether to create such a public registry at the time of the G8, and since then an additional two Overseas Territories have announced the same. In September 2013, the leaders of the G20 countries kept the issue of company ownership transparency on the table at the summit in St Petersburg.¹

What’s needed is clear: the names of the ultimate, ‘beneficial’ owners of companies, trusts and other corporate vehicles need to be made public. It is only by putting this information in the public domain that tax inspectors and others will be able to easily access this information; that businesses will be able to know who they are doing business with; and that citizens will be able to know who owns the companies that provide their services and extract their resources.

Global Witness’ investigations have demonstrated the problems that hidden company ownership poses for citizens around the world. For example, in the Democratic Republic of Congo, which is wealthy in natural resources but has some of the poorest people in the world, state mining assets were sold off by the government at way below commercial valuations to a series of British Virgin Islands companies whose full list of owners are secret, but which are associated with an Israeli diamond billionaire

who is a close friend of the Congolese president. The mines were then sold onto the world market at much higher prices, so who pocketed the difference? We do not know because company ownership is secret in the British Virgin Islands. It certainly was not the Congolese people, who have a right to know and who we calculate lost out on \$1.3 billion from these sales – that's twice the health and education budget combined.ⁱⁱ Similarly, the son of Equatorial Guinea's President used a California shell company to purchase a \$30 million mansion in Malibu and a British Virgin Islands (BVI) shell company to purchase a \$38.5 million Gulfstream jet, despite his modest official salary.ⁱⁱⁱ

Both of these countries, Congo and Equatorial Guinea, are rich in natural resources, but flounder at the bottom of the human development index.

The beneficial ownership action plans that have been produced do not promise an equal amount of progress; some are better than others. Those places that promise more transparency deserve recognition, and similarly, the places that have not yet embraced this move towards greater transparency deserve exposure.

As a result, we – Global Witness and Christian Aid – have graded a number of different jurisdictions as to what they are doing to improve company ownership transparency. We have concentrated on company ownership transparency, as opposed to that of trusts or foundations, as this is the area in which there have been recent developments. (Improvements in the transparency of ownership of other legal arrangements, such as trusts are just as necessary however.) Company ownership transparency is just one aspect of the financial transparency that is necessary for citizens to be able to hold companies and governments to account, albeit an important one. Good performance on beneficial ownership doesn't necessarily mean good performance on other issues; for a wider look at financial transparency across different jurisdictions, see the Tax Justice Network's Financial Secrecy Index.^{iv}

We have included the G8 countries, all of the UK's Crown Dependencies and Overseas Territories that have significant financial centres, and two other places that incorporate a lot of companies (Hong Kong and Singapore). These groups are sometimes characterised as being 'onshore', 'offshore' and 'midshore'. Our grades reveal that, at least as far as beneficial ownership transparency is concerned, such groupings have little meaning. 'Onshore' is in no way synonymous with transparency; and by contrast some 'offshore' places are considering opening up. We hasten to add that while none of the UK's Crown Dependencies or Overseas Territories have yet committed to full public disclosure, the intention of some to consult on this represents a promising development. We will follow this process closely in the coming months and hope that in a year's time, there will be many more jurisdictions receiving a green light. We will also be holding governments to account for the promises that they have made.

Given that a couple of countries – the UK and France – have said that they will create a public registry of beneficial ownership and a number of other places are holding consultations on whether to create a public registry, we have included some thoughts in the second half of this briefing document on how to implement such a register so that it actually does help prevent tax dodgers and criminals from moving dirty money around the world.



Which jurisdictions are the most and least transparent with respect to company ownership?

We have graded each jurisdiction as being either ‘green’, ‘yellow’, ‘orange’ or ‘red’, with green being the most transparent and red the least. Our criteria for awarding each of these grades are below:

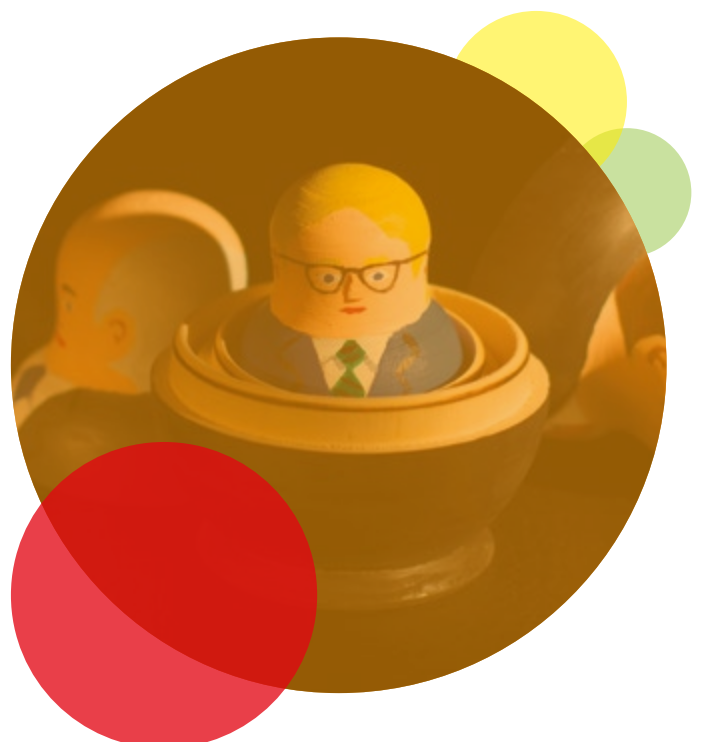
- Green:** the jurisdiction must have a public registry of beneficial ownership [none have this yet], or have promised to create such a public registry.
- Yellow:** the jurisdiction must have launched a consultation on having a public registry of beneficial ownership, or have promised to launch a consultation. We have defined ‘promised to launch a consultation’ as being a statement that they will carry out a consultation, a national assessment or that they will ‘consult’. Statements promising that they will ‘consider’ this action have not been included as it was necessary to draw the line somewhere.
- Orange:** the jurisdiction must have a private registry of beneficial ownership, or have promised to create such a private registry.
- Red:** the jurisdiction does not fall into any of the above categories.

Consensus on the need for a public register is shared widely, not just among transparency campaigning groups, but also from within the business community with, for example, European banks,^v the UK’s Confederation of British Industry^{vi} and the UK’s Institute of Directors^{vii} all backing the standard.

A transparency measure needs to be exactly that: transparent. A private registry, no matter how well implemented, is simply not that much help. It does not

allow citizens, journalists and others to hold companies to account. It does not ensure that law enforcement and tax authorities have quick and guaranteed access to beneficial ownership information. It does not provide businesses with important information on their partners, investors, suppliers and customers. It does not allow the people of Congo to know who has bought their natural resources at a fraction of their real value.

While we acknowledge that some jurisdictions already do a lot of work to establish information on beneficial ownership, we hold the position that there is a significant gap between holding that information in private, and making it open and accessible to the public. We therefore make the judgement that jurisdictions which have strongly indicated their intention to move to a public register or consult on this issue, receive a more positive rating than those where significant information may already be kept privately. To compile the rankings we have had to make judgement calls when interpreting the intentions of jurisdictions based on statements in the public domain. In some cases of ambiguity this has included direct correspondence with the relevant administration. We are happy to have a dialogue with any of the governments about their rating, and encourage them to share and publicise their progress on these issues.

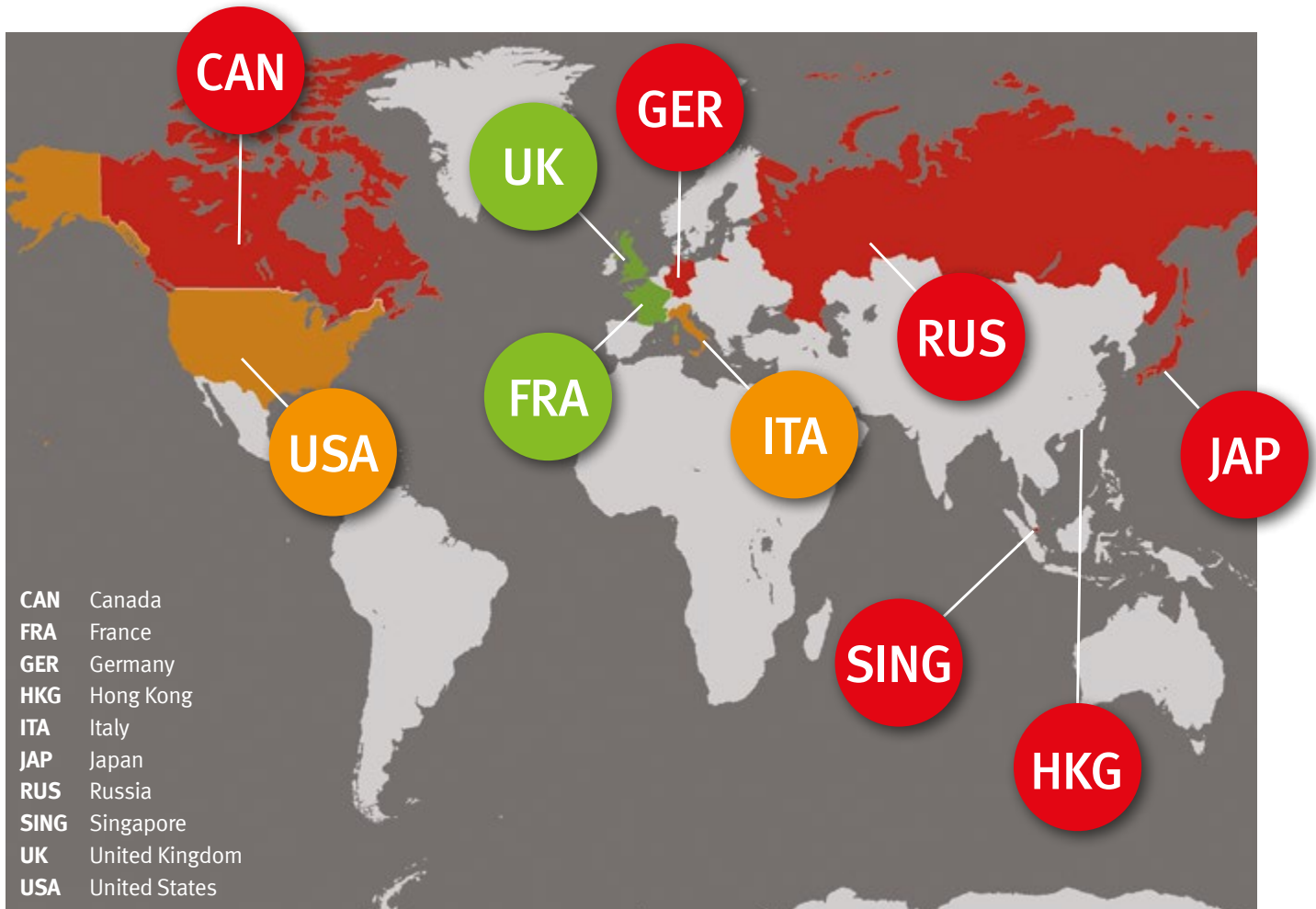


In doing this, we are aware that we have effectively placed the bar higher than the Financial Action Task Force does – the body that sets the global anti-money laundering recommendations. The Financial Action Task Force’s recommendation on beneficial ownership states that ‘competent authorities’ should be able to find out who owns and controls companies.^{viii} As discussed above, however, only giving access to competent authorities is not enough; everyone needs to be able to see this information. The global consensus on this issue is also shifting, reflected by the commitments made by the UK

and others. The UK should use its influence – and, where it exists, in some cases direct control – over the Overseas Territories and Crown Dependencies to get them to meet this emerging standard.

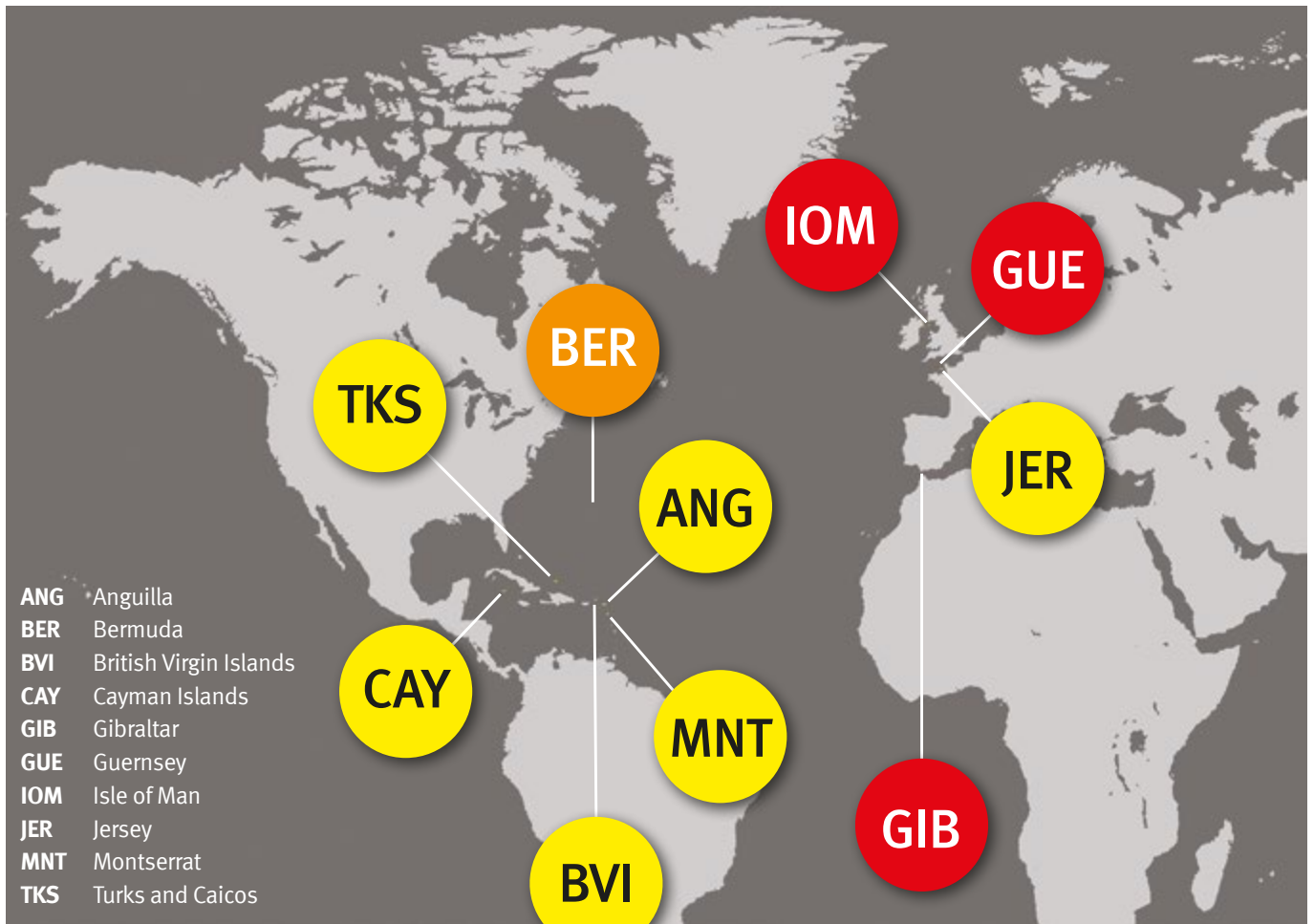
Our grading scheme awards the same rating for having done something as having promised to do it; we are taking promises at face value. We appreciate of course that not all political promises are fulfilled, and will be watching and commenting on their implementation.

The G8, Hong Kong and Singapore



Jurisdictions	Traffic light grading	Current situation / What they've promised on BO registries
UK United Kingdom	● Green	At the 2013 G8 summit, the UK government committed to create a central registry of who ultimately owns British companies, and to consult on whether this information should be made public. In October 2013 it was announced that the beneficial ownership information will be made public for all to see – the first time that any country will have done this. ^{ix}
FRA France	● Green	France intends to create a public register of the beneficial ownership of French companies. France's Minister of Economy and Finance, Pierre Moscovici, has said that his country supports public registries ^x and French officials have said the same thing in private meetings. Even though France has not made any official announcement that it will create a public registry of beneficial ownership, we have taken these two bits of evidence to imply that they will. We would encourage France to make a clear public statement that it supports public registries.
ITA Italy	● Orange	Italy supports the creation of private registries of beneficial ownership. In its G8 beneficial ownership ^{xi} action plan the government of Italy stated that it will 'assess' whether beneficial ownership information should be available on its public corporate register. We felt that 'assess' was too vague a word to be awarded a yellow rating as it is not clear what process it involves. We encourage Italy to hold a public consultation on this topic. ^{xii}
USA United States	● Orange	In its G8 beneficial ownership action plan the government of the United States stated that it will continue to advocate for comprehensive legislation to require identification and verification of beneficial ownership information at the time a company is formed. Passage of the current bills in Congress would mandate that beneficial ownership information be collected by a) regulated company service providers, b) state-level registries and/or c) the Treasury Department. The Administration did not commit to making this information public and the bills do not require that beneficial ownership information be placed in the public domain; they leave it up to the state to decide. It is expected that this information will remain private. ^{xiii} This US administration has also made this commitment in its Open Government Partnership action plans. Note that we have been generous in awarding the US government an orange rating given that they have only committed to create private registries of beneficial ownership that contain information about some, but not all American companies.
GER Germany	● Red	In its G8 beneficial ownership action plan, the German government proposes creating an 'account data retrieval system' – essentially a means by which law enforcement and other authorities can access the beneficial ownership information collected by banks. While this would be an improvement on the status quo, such a system would not provide beneficial ownership information on all German companies as there is an obvious loophole: companies incorporated in Germany but with bank accounts elsewhere. As such, as we have graded Germany as red. ^{xiv}
RUS Russia	● Red	The Russian government is not considering creating a registry of beneficial ownership. ^{xv}
CAN Canada	● Red	In its G8 beneficial ownership action plan, the Canadian government says that it will consult stakeholders on the 'possibility of establishing a central registry for entities incorporated under the Canada Business Corporations Act'. It is plausible that this consultation will include a question on whether Canada should collect beneficial ownership information in the registry, but given that the action plan does not state this, we have assumed that it will not and have graded Canada accordingly as red. ^{xvi}
JAP Japan	● Red	The Japanese government is not considering creating a registry of beneficial ownership. ^{xvii}
SING Singapore	● Red	Singapore does not have a register of beneficial ownership and as far as we are aware, is not considering creating one. ^{xviii}
HKG Hong Kong	● Red	Hong Kong does not have a register of beneficial ownership and as far as we are aware, has not made any recent statements on the issue. ^{xix}

The UK's Crown Dependencies and Overseas Territories



Jurisdictions	Traffic light grading	Current situation / What they've promised on BO registries
BVI British Virgin Islands	● Yellow	In October 2013, the government of the British Virgin Islands launched a public consultation on beneficial ownership, including the question of whether they should have a public registry. ^{xx}
CAY Cayman Islands	● Yellow	Media articles report that the government of the Cayman Islands intends to launch a consultation on public registries of beneficial ownership in November 2013. ^{xxi}
ANG Anguilla	● Yellow	In its G8 beneficial ownership action plan the government of Anguilla stated that it will carry out a public consultation on whether beneficial ownership information should be a) held centrally and b) made public. No time line was given as to when the consultation would be carried out. ^{xxii}
TKS Turks and Caicos	● Yellow	In its G8 beneficial ownership action plan the government of The Turks and Caicos Islands stated that it will carry out a consultation on whether beneficial ownership information should be a) held centrally and b) made public. It is not clear whether this will be a public consultation, but for the purposes of this document, we have given them the benefit of the doubt. We encourage Turks and Caicos to specify that this will be a public consultation. No time line was given as to when the consultation would be carried out. ^{xxiii}
MNT Montserrat	● Yellow	In its G8 beneficial ownership action plan the government of Montserrat stated that it will consult

Jurisdictions	Traffic light grading	Current situation / What they've promised on BO registries
		<p>relevant stakeholders on whether beneficial ownership information should be a) held centrally and b) made public, and that it will do this by December 2014. 'Consulting stakeholders' is not necessarily equivalent to holding a public consultation, but we have erred on the generous side and awarded Montserrat a yellow rating for this. We encourage Montserrat to specify that this will be a public consultation.^{xxiv}</p>
JER Jersey	● Yellow	<p>Jersey intends to carry out a consultation on whether to create a public registry of beneficial owners.^{xxv} Jersey already has a private registry of beneficial ownership that is partially kept up to date. The Jersey Financial Services Commission collects information on, and grants approval for, the beneficial owners of all new companies. In addition, the Commission collects information on, and grants approval for, changes in beneficial ownership if a) the new owner controls more than 25% of the company and b) the company is not receiving services from the Trust and Company Service Provider.^{xxvi} In other words, up-to-date information on beneficial ownership is partially stored in a centralised register, and partially held by company service providers.</p>
BER Bermuda	● Orange	<p>Bermuda has a private registry of beneficial ownership. The Bermuda Monetary Authority collects and verifies information on the beneficial owners of all new Bermuda companies. The Authority is required to keep this information up to date for all beneficial owners who are non-residents.^{xxvii} In its G8 beneficial ownership action plan, the government of Bermuda states that it will 'review and consider' having a central registry for beneficial ownership.^{xxviii}</p>
IOM Isle of Man	● Red	<p>In its G8 beneficial ownership action plan the government of the Isle of Man stated that it will carry out a national assessment by 2014 which looks at whether a centralised registry containing information on beneficial ownership would improve transparency. We encourage the Isle of Man to consult on whether to make beneficial ownership information public, rather than simply making it centralised.^{xxix}</p>
GIB Gibraltar	● Red	<p>In its G8 beneficial ownership action plan the government of Gibraltar stated that it will consider the benefits of setting up a centralised registry of beneficial ownership. However, Gibraltar also stated that even if it considered that having a centralised registry would improve transparency, it would only implement this if G8 countries, and the Crown Dependencies and other Overseas Territories did the same. As a result, we have graded Gibraltar as red, as in effect it has stated that it is not going to make beneficial ownership information transparent in the near future.^{xxx}</p>
GUE Guernsey	● Red	<p>In its G8 beneficial ownership action plan the government of Guernsey stated that it will carry out an assessment of the costs and benefits of a central register of beneficial ownership information. However, Guernsey also stated that even if it found that the benefits of a centralised register outweighed the costs, it would not implement such a register until G8 countries and other Crown Dependencies and Overseas Territories did the same. As a result, we have graded Guernsey as red, as in effect it has stated that it is not going to make beneficial ownership information transparent in the near future.^{xxxi}</p>

Implementing a public register of beneficial ownership: how to make it work

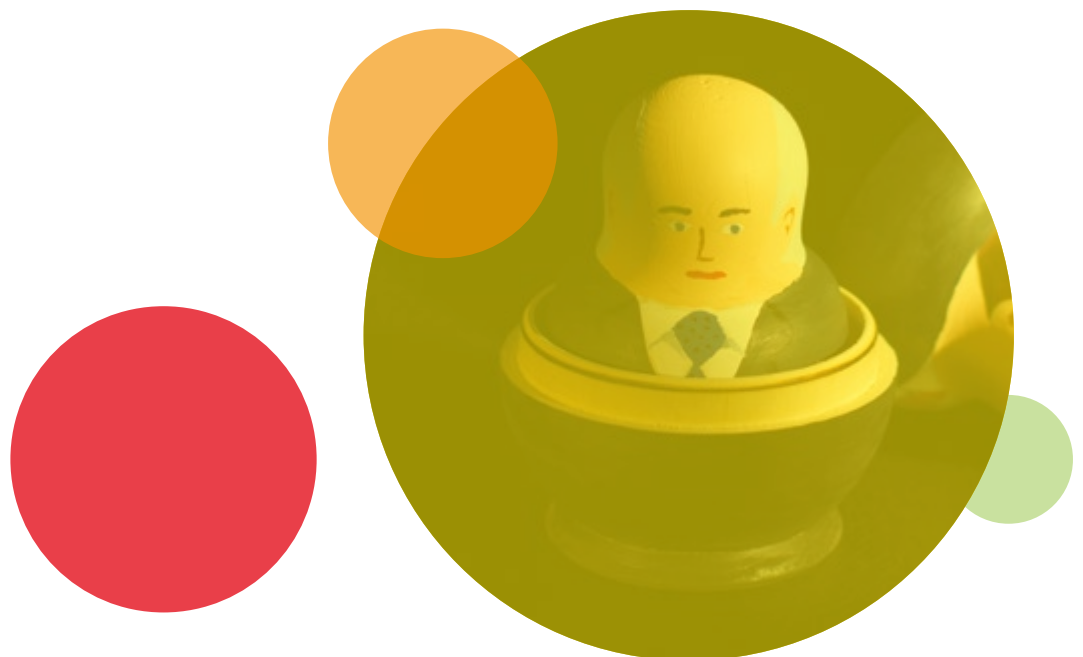
Requiring companies to submit beneficial ownership information necessarily imposes a small amount of red tape on them. To justify doing this, it is essential that any public register of beneficial ownership delivers benefits that are far bigger.

Two cost benefit analyses have been carried out (by the UK and the EU) into the effectiveness of creating a public registry of beneficial ownership. Both concluded that the potential benefits far outweigh the costs. But the benefits will only be reaped if the registry is implemented well. A poorly implemented registry, that imposes red tape on business yet does not deliver benefits to society would be a missed opportunity. Below are our thoughts on the requirements of a good quality public register.

- **Open data.** Beneficial ownership information should be available for free as machine readable open data. The UK's Companies House is already moving towards publishing more of its information in this format. For example, in November 2013, it published

company accounts, in a computer-readable format for free, allowing users the flexibility to manipulate the information and combine it with other sources.

- **Means of control.** The registry should contain a description of how the beneficial owner exercises control over the company, such as names of the chain of companies that demonstrate this person is the beneficial owner, or any other means by which this person exercises control over the company. This would allow third parties, such as banks, law enforcement or journalists to verify the information independently, by cross-checking it against existing shareholder registries. Without information on the means of control, the beneficial ownership information is totally unverifiable.
- **Verification.** The information in the register needs to have undergone some basic verification. In some cases, this could be possible via cross-checking other databases, such as those held by passport authorities, vehicle licensing authorities and electoral registers.
- **Frequency of update.** The information on the identity of the beneficial owner(s) should be required to be submitted annually, and should also be required to be submitted within a certain number of days of any change in beneficial ownership. Simply having an annual update requirement is not enough as it provides an obvious loophole for any money launderer: become the beneficial owner after the annual update has just been submitted.
- **Penalties.** Significant penalties need to be imposed on





people and companies who lie about their beneficial owners. This a) acts to dissuade people from fronting a criminal company, and b) allows law enforcement to impose a penalty on a company they very much suspect of being a criminal front, but can not quite prove.

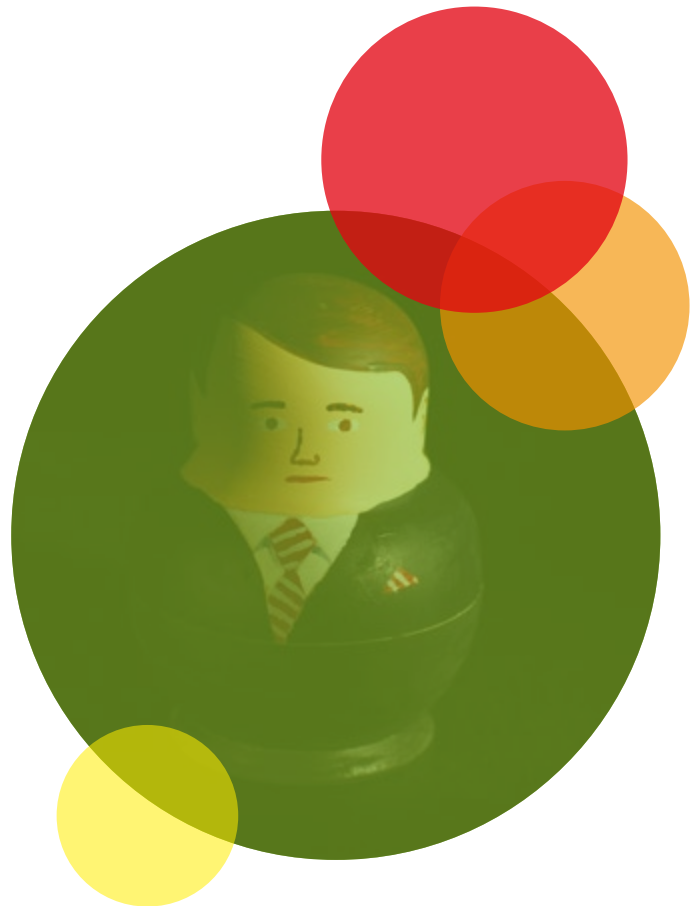
- **Trusts.** If a trust is part of a company structure, information on the trust needs to be collected and published. This should include details of the settlor, beneficiaries, trustees and anyone else who exercises effective control over the trust.
- **Date of birth.** The registry needs to contain sufficient information on beneficial owners for them to be

identified. It is no good simply listing the owner as being a John Smith. The information should include the beneficial owner’s date of birth and nationality, as is currently required in the UK for directors.

- **Contact information.** The registry needs to include a means of contacting the beneficial owner, such as a business address.
- **Responsibility to provide the information.** A company should be legally required to find out the identities of its beneficial owners; and a beneficial owner should be legally required to inform a company that they are the ultimate owner.

Conclusion

A few years ago, company ownership transparency was an obscure topic. But during 2013, the issue has received high level political attention, and significant advances as well as some big promises have been made. The pressure remains on the world’s major economies, and on the jurisdictions that incorporate large numbers of companies to open up. In these rankings we have taken the commitments at face value, and rewarded those who have agreed to consider and consult on public registries. We intend to update this measure of company ownership transparency in the future to assess whether the recent promises that have been made have been fulfilled, how genuine those consultations have been and to highlight those places that are making improvements, and those that have failed to address the problem of hidden company ownership.



Endnotes

- i G20 leaders' declaration, September 2013, <http://www.g20.org/load/782795034>
- ii Global Witness reports and press releases, see <http://www.globalwitness.org/campaigns/corruption/oil-gas-and-mining/secret-sales>
- iii Permanent Subcommittee on Investigations, United States Senate, Keeping Foreign Corruption out of the United States: Four Case Histories, 2010
- iv Tax Justice Network, Financial Secrecy Index 2013, <http://www.financialsecrecyindex.com/>
- v In a written response to the Financial Action Task Force, the European Banking Federation stated that it was in favour of public registries of beneficial ownership, <http://www.fatf-gafi.org/media/fatf/documents/publicconsultation/First%20public%20consultation%20document%20responses%20financial%20sector%20part%202.pdf>
- vi Katja Hall, CBI Chief Policy Director, said: "Businesses back the creation of a beneficial ownership register which will support efforts to promote transparency and stamp out illicit financial activity." "The real prize is the ability to track ownership information around the world. Now that the UK has chosen to make this a public register, ensuring that others follow our lead will be critical to its success and to maintaining a level playing field." <http://www.cbi.org.uk/media-centre/press-releases/2013/10/cbi-responds-to-pm-announcement-on-beneficial-ownership>
- vii Institute of Directors, Enhancing the transparency of UK company ownership and increasing trust in UK business, 16 September 2013, <http://www.iod.com/influencing/policy-papers/corporate-governance/enhancing-the-transparency-of-uk-company-ownership-and-increasing-trust-in-uk-business>
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- ix 'G8 Action Plan Principles to prevent the misuse of companies and legal arrangements', 18 June 2013. 'UK Action Plan to prevent misuse of companies and legal arrangements', 18 June 2013. David Cameron's speech at the Open Government Partnership summit, London, 31 October 2013, <https://www.gov.uk/government/speeches/pm-speech-at-open-government-partnership-2013>
- x Speech by Pierre Moscovici, 11 October 2013., <http://www.cfr.org/france/conversation-pierre-moscovici/p31546>
- xi Conversations with Italian officials, 2013
- xii http://www.tesoro.it/ufficio-stampa/comunicati/2013/documenti/Italyxs_Action_Plan_to_enhance_transparency_and_prevent_the_misuse_of_companies_and_trusts_-_Allegato_al_comunicato_nx_97.pdf
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- xviii Financial Action Task Force, mutual evaluation of Singapore, 2008, <http://www.fatf-gafi.org/topics/mutualevaluations/documents/mutualevaluationofsingapore.html>
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- xxv Conversations with Jersey officials, 2013
- xxvi IMF, Jersey: Financial Sector Assessment Program Update, 2009, <http://www.imf.org/external/pubs/ft/scr/2009/cr09280.pdf>
- xxvii Caribbean Financial Action Task Force, mutual evaluation of Bermuda, 2008, <http://www.fatf-gafi.org/countries/a-c/bermuda/documents/mutualevaluationofbermuda.html>
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- xxx https://www.gibraltar.gov.gi/images/stories/PDF/finance/GIB_ACTION_PLAN_LEGAL_PERSONS_ARR_3_SEPT_2013.pdf
- xxxi <http://www.gov.gg/article/108000/Guernsey-publishes-action-plan-on-beneficial-ownership>



global witness

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Global Witness is a UK-based nongovernmental organisation which investigates the role of natural resources in funding conflict and corruption around the world.

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References to 'Global Witness' in this report are to Global Witness, a company limited by guarantee and incorporated in England (company number 2871809).

ISBN: 978-0-9926910-0-4

