



**Asia-Pacific  
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## **Beneficial Ownership Challenges and Opportunities – A New Zealand Perspective**

Submitted by: New Zealand



**Capacity Building Workshop on Exposing the  
Unseen Hands: Tackling Concealment of  
Beneficial Ownership  
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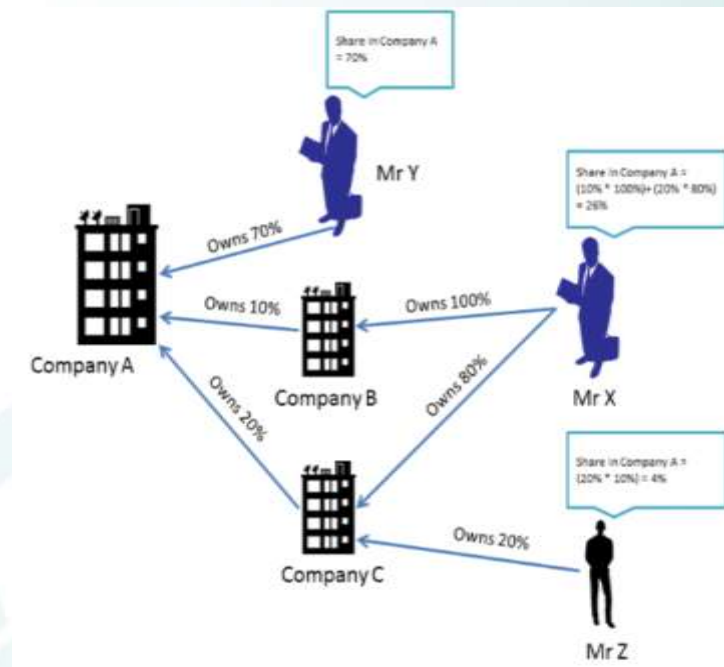
# APEC ACTWG Self-Funded Virtual Workshop on ACT 03 2020S Exposing the Unseen Hands: Tackling Concealment of Beneficial Ownership

Beneficial Ownership  
Challenges and opportunities – a New Zealand  
perspective

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# What do we mean by beneficial ownership?

- A 'beneficial owner' of an entity is any natural person who ultimately owns or exercises effective control over an entity.
- That entity could be a corporation, a partnership, or a trust.
- The beneficial owner is distinct from the legal owner, which may be a separate entity, intermediary, or individual.



# What is the connection between beneficial ownership and criminal activity?

- Corporate entities can be used to conceal beneficial ownership and hide criminal activities with a particular risk of corruption and money laundering.
- The United Nations Office on Drugs and Crime estimates that the amount of money laundered globally in one year is around 2 to 5 per cent of global GDP
- New Zealand is not typically considered to be a major international centre for financial crime, but we are not immune.



# How can concealment of beneficial ownership facilitate criminal activity?

- Corporate entities, companies and limited partnerships can be used by criminals to distance themselves from their activities.
- Complex ownership structures with multiple layers, including other corporate entities and trusts, make it difficult for law enforcement agencies to identify the individuals behind a corporate entity and hold them to account.
- Criminals can use corporate entities to launder money by moving the proceeds from crime into the economy to make it appear to be from legitimate sources.
- The misuse of corporate entities by criminals is an international problem.
- Collective action is needed both to detect and prosecute criminals and to put in place laws and practices that reduce the opportunities for criminals to use corporate entities.



# Beneficial ownership and law enforcement

- Beneficial ownership information can assist law enforcement agencies to identify the natural persons who may be responsible for the underlying criminal activity or who may have relevant information to progress an investigation.
- New Zealand's Serious Fraud Office is able to use its powers of compulsion to uncover beneficial ownership information of legal persons.
- The SFO can also request information from several institutions simultaneously to increase its chances to collect the most accurate information and cross check the beneficial ownership information using information from the legal entity and other competent agencies.



# Case study – Corruption and mortgage fraud

- The overall scheme involved 57 loan applications, 110 separate property transactions and loans of approximately NZD55 million.
- It required the efforts of overseas facilitators, corrupt bank insiders and property developers able to develop a large number of fake identities.
- The SFO served more than 50 section 9 notices on New Zealand trading banks to obtain banking records. Financial analysis of these records helped identify the beneficial owner of the fraudulent loan proceeds and the secret commission payments.



# Beneficial ownership - Good governance and efficient markets

- Transparency is important for effective corporate governance and the efficient operation of markets. Transparency promotes accountability and informed decision making by businesses, investors and customers.
- Knowing who owns and controls a company is important for other businesses. Beneficial ownership information can be used to assess the risks of doing businesses with a particular company.
- Unknowingly doing business with a company with a beneficial owner who has criminal links can open up a business to fraud or damage their reputation if they are inadvertently involved in a crime such as money laundering.





# Common tools to access beneficial ownership

- There are common tools to access beneficial ownership information:
  - Companies register.
  - Anti-Money Laundering (AML) obligations.
  - Powers of compulsion.
- The current tools to access beneficial ownership information have several shortcomings:
  - Beneficial ownership information is often difficult or impossible to access.
  - Where information is available, it cannot always be relied upon to be accurate.
  - Some existing tools can tip off criminals.



# What has been done to address the shortcomings?

- New Zealand has already taken action in recent years to help combat the misuse of companies and other entities by criminals by:
  - extending its AML regime to cover more businesses (including real estate agents and conveyancers, lawyers and accountants, some businesses that deal in expensive goods, and betting on sports and racing)
  - requiring the registration of foreign trusts with one or more New Zealand resident trustees
  - introducing a residency requirement for New Zealand company directors and the general partners of New Zealand limited partnerships.
  - providing the Registrar of Companies with new powers to investigate companies and limited partnerships.



# What more could be done?

- Corporate entities could be required to identify their beneficial owners and to keep accurate and up-to-date information about their beneficial owners.
- This information would be included on companies and limited partnership registers and would be publicly available.
- Would need to balance such moves against:
  - Privacy considerations
  - Compliance costs
  - Application to trusts



# Questions?