Beneficial Ownership Registration and Verification: Challenges and Best Practices

Submitted by: Tax Justice Network
Beneficial Ownership Registration and Verification: Challenges & Best Practices

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AGENDA

- BO REGISTRATION

- CHALLENGES

- HOW TO VERIFY INFORMATION
## Tax Justice Network’s Indexes

### Financial Secrecy Index

<table>
<thead>
<tr>
<th>Rank</th>
<th>Jurisdiction</th>
<th>Secrecy Score</th>
<th>Global Scale Weight</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Cayman Islands</td>
<td>63</td>
<td>4.56%</td>
</tr>
<tr>
<td>2</td>
<td>United States</td>
<td>74</td>
<td>21.37%</td>
</tr>
<tr>
<td>3</td>
<td>Switzerland</td>
<td>66</td>
<td>4.44%</td>
</tr>
<tr>
<td>4</td>
<td>Hong Kong, China</td>
<td>65</td>
<td>5.17%</td>
</tr>
<tr>
<td>5</td>
<td>Singapore</td>
<td>55</td>
<td>12.36%</td>
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<tr>
<td>6</td>
<td>Luxembourg</td>
<td>63</td>
<td>2.20%</td>
</tr>
<tr>
<td>7</td>
<td>Japan</td>
<td>67</td>
<td>1.11%</td>
</tr>
<tr>
<td>9</td>
<td>British Virgin Islands</td>
<td>71</td>
<td>0.50%</td>
</tr>
<tr>
<td>10</td>
<td>United Arab Emirates</td>
<td>78</td>
<td>0.21%</td>
</tr>
<tr>
<td>11</td>
<td>Guernsey</td>
<td>71</td>
<td>0.41%</td>
</tr>
<tr>
<td>12</td>
<td>United Kingdom</td>
<td>46</td>
<td>15.94%</td>
</tr>
<tr>
<td>13</td>
<td>Taiwan</td>
<td>66</td>
<td>0.59%</td>
</tr>
<tr>
<td>14</td>
<td>Germany</td>
<td>52</td>
<td>4.71%</td>
</tr>
<tr>
<td>15</td>
<td>Panama</td>
<td>72</td>
<td>0.22%</td>
</tr>
</tbody>
</table>

### Corporate Tax Haven Index

<table>
<thead>
<tr>
<th>Rank</th>
<th>Jurisdiction</th>
<th>Haven Score</th>
<th>Global Scale Weight</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>British Virgin Islands</td>
<td>100</td>
<td>2.12%</td>
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<tr>
<td>2</td>
<td>Bermuda</td>
<td>100</td>
<td>1.86%</td>
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<tr>
<td>3</td>
<td>Cayman Islands</td>
<td>100</td>
<td>1.62%</td>
</tr>
<tr>
<td>4</td>
<td>Netherlands</td>
<td>78</td>
<td>12.76%</td>
</tr>
<tr>
<td>5</td>
<td>Switzerland</td>
<td>83</td>
<td>3.41%</td>
</tr>
<tr>
<td>6</td>
<td>Luxembourg</td>
<td>72</td>
<td>10.53%</td>
</tr>
<tr>
<td>7</td>
<td>Jersey</td>
<td>98</td>
<td>0.42%</td>
</tr>
<tr>
<td>8</td>
<td>Singapore</td>
<td>81</td>
<td>2.11%</td>
</tr>
<tr>
<td>9</td>
<td>Bahamas</td>
<td>100</td>
<td>0.26%</td>
</tr>
<tr>
<td>10</td>
<td>Hong Kong, China</td>
<td>73</td>
<td>4.37%</td>
</tr>
<tr>
<td>11</td>
<td>Ireland</td>
<td>76</td>
<td>3.11%</td>
</tr>
<tr>
<td>12</td>
<td>United Arab Emirates</td>
<td>98</td>
<td>0.22%</td>
</tr>
<tr>
<td>13</td>
<td>United Kingdom</td>
<td>63</td>
<td>7.30%</td>
</tr>
<tr>
<td>14</td>
<td>Mauritius</td>
<td>80</td>
<td>0.65%</td>
</tr>
<tr>
<td>15</td>
<td>Guernsey</td>
<td>98</td>
<td>0.08%</td>
</tr>
</tbody>
</table>
## Ownership Indicators

### Financial Secrecy Index

<table>
<thead>
<tr>
<th></th>
<th>Ownership Registration</th>
<th>Legal Entity Transparency</th>
<th>Integrity of tax and financial regulation</th>
<th>International Standards and Cooperation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Bank Secrecy</td>
<td>6 Public Company Ownership</td>
<td>11 Tax Administration Capacity</td>
<td>17 Anti-money Laundering</td>
<td></td>
</tr>
<tr>
<td>2 Trusts and Foundations Register</td>
<td>7 Public Company Accounts</td>
<td>12 Consistent Personal Income Tax</td>
<td>18 Automatic Information Exchange</td>
<td></td>
</tr>
<tr>
<td>3 Recorded Company Ownership</td>
<td>8 Country by Country Reporting</td>
<td>13 Avoids Promoting Tax Evasion</td>
<td>19 Bilateral Treaties</td>
<td></td>
</tr>
<tr>
<td>4 Other Wealth ownership</td>
<td>9 Corporate Tax Disclosure</td>
<td>14 Tax Court Secrecy</td>
<td>20 International Legal Cooperation</td>
<td></td>
</tr>
<tr>
<td>5 Limited Partnership Transparency</td>
<td>10 Legal Entity Identifier</td>
<td>15 Harmful Structures</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Lowest available transparency denominator!!
Ownership Indicators

1. Companies
2. Partnerships
3. Private Foundations
4. Domestic Law Trusts
5. Foreign Law Trusts with a local trustee

- Legal Ownership (Bearer shares availability)
- Beneficial Ownership

- Registration
- Update
- Online availability
Ownership Indicators

1 and 2. Companies and Partnerships

a) Shareholders / members / partners (legal ownership)

- All types must register all types of shareholders

- Update of info

- Sufficient Identity details (name, address, birthdate, TIN)

- No bearer-share risk*
Ownership Indicators

1 and 2. Companies and Partnerships

b) BOs

- All types must register all types of BOs
- Thresholds for BO definition
- Update of info
- Sufficient Identity details (name, address, birthdate, TIN)
- No bearer-share risk*
- Senior Manager not registered as BO*
Ownership Indicators

1 and 2. Companies and Partnerships

c) Online Public Access:

- LO: Fee, Free, in Open Data format?
- BO: Fee, Free, in Open Data format?
Ownership Indicators

3, 4 y 5. Private Foundations and Trusts

- Available? (May be created based on domestic laws)

- Registration?

- Register and update:
  - Settlor/founder
  - Trustees / Found. council
  - Protectors
  - Beneficiaries

- Public online access?
Economies w/ BO Registration

81 (As of May 2020)
Progress on BO Transparency
## Best Cases

### Companies

<table>
<thead>
<tr>
<th>LO</th>
<th>BO</th>
<th>LO</th>
<th>BO</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) New Zealand</td>
<td>(2) Denmark, United Kingdom</td>
<td>(4) Bulgaria</td>
<td>(1) Denmark</td>
</tr>
</tbody>
</table>

### Partnerships

- (2) Croatia, Czechia, Ecuador, Malta, Slovakia, Slovenia
- (3) Ecuador, Luxembo urg, Slovenia
- (6) Cyprus, Estonia, Ireland
- (9) Cyprus, Estonia, Finland, Germany, Hong Kong, China, Isle of Man, Israel, Italy, Singapore

### Private Foundations

- Private foundations or domestic law trusts cannot be created (they cannot create secrecy risk)

### Trusts*

<table>
<thead>
<tr>
<th>Domestic Law Trusts</th>
<th>Foreign Law Trusts with a local trustee</th>
</tr>
</thead>
<tbody>
<tr>
<td>(92)</td>
<td>(42)</td>
</tr>
</tbody>
</table>

### Online (Open Data)

- (4) Bulgaria, Ecuador, Malta, Norway

### Online (free)

- (2) Ecuador, Slovenia

### Online (cost)

- (2) Estonia, Ireland

### Only Updated

- (37) (44) (78) (43)

- Only mandatory registration

- (3): of all parties
- (26): of some parties

- (28) (25)
Legal Ownership Registration is also Important!

[Diagram showing countries such as Denmark, UK, Ecuador, and NZ with rankings and transparency levels.]
Update is also important!

- **BO Registration Law**: 81 jurisdictions
  - **Transparency/Best case**: 52
  - **Unknown/Partial**: 12
  - **Secrecy/Worst case**: 20

- **Effective Registration**: 68 jurisdictions
  - **Transparency/Best case**: 12
  - **Unknown/Partial**: 4

- **Updated**: 44 jurisdictions
  - **Transparency/Best case**: 20
  - **Unknown/Partial**: 6

- **Online**: 38 jurisdictions
  - **Transparency/Best case**: 38

- **Online access: Open Data/Free/Cost**: 2 jurisdictions
  - **Transparency/Best case**: 2
AGENDA

-BO REGISTRATION

-CHALLENGES

-HOW TO VERIFY INFORMATION
Availability of Bearer Shares

- No: 82 jurisdictions
- Unknown: 5 jurisdictions
- Yes: 46 jurisdictions
BO definition thresholds

- >1 share: 4 jurisdictions
- >1 share-10%: 7 jurisdictions
- 10-25%: 12 jurisdictions
- >25%: 45 jurisdictions
Risk: Transparency & No. of Entities

![Chart showing Transparency level vs. Number of registered companies (millions) for DK, UK, PRC, and USA.]
The longer the chain, the harder to detect:
The longer the chain, the harder to detect:
Combination of Trusts and Companies

All individuals must register as BOs

No individual needs to register as a BO (no one passes the 25% threshold)
BO Registration ≠ Accuracy
AGENDA

- BO REGISTRATION

- CHALLENGES

- HOW TO VERIFY INFORMATION
VISION: THE FUTURE OF VERIFICATION

1° “John is the new BO”

2° Annual Return: “John is the new BO”

3° “Are you aware that you appear as a BO?”

4° “Does John appear as the LO and BO of Company 1?”

5° “Any red flags on John?”

6°

7° Company 2 wants to open an account, is it ‘Active’?

Company 2
- Status: “Active” (no red-flags)
- LO: Company 1
- BO: Mary and John

Company 1
- DK
- 100%

Company 2
- UK

Notary

BO Register

UK

BO Register

UK

Tax

BO Register

FIU

DK

UK

UK

UK

DK
EXAMPLES

**Denmark**

INCORPORATION: AUTOMATED CROSS-CHECKS (eg still alive?), MACHINE LEARNING, CONTACT THE BO (“Are you aware that you appear as BO?”).
AFTER: MANUAL (AUDITS)

**Uruguay**

SPECIAL UNIT IN CHARGE OF (MANUAL) VERIFICATION. IF NON-COMPLIANT -> TAX ID. SUSPENSION (CANNOT OPERATE)

**Slovakia**

“AUTHORISED PERSON” (eg Lawyer, Bank) MUST VERIFY BO FOR PARTNERS OF THE STATE (Procurement / Subsidies / State assets). PUBLIC REGISTER -> OBJECTION -> Company w/ Burden of Proof
Thank you!

More Information:

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- andres@taxjustice.net