

Multinational tax integrity: Public Beneficial Ownership Register Consultation paper

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General issues

It is pleasing to see the Australian Government's commitment to public register of beneficial ownership information to record who ultimately owns, controls, and receives benefits from a company or legal vehicle operating in Australia. This welcomed reform and associated information could enable better informed consumers, investors and regulators. The impact arising from the introduction of a beneficial interests register in Australia could be profound.

While the public consultation rightly identifies many of the challenges regarding the public register of beneficial ownership information, and appropriately outlines a staged implementation approach to minimise risks and costs, it provides far less coverage of what the desirable arrangements should be to maximise use of this information and associated public benefit. While it is important to keep focus on the former regarding the best approach to implementation, more work could be done to establish what success looks like. This could be achieved in a practical way through developing a series of use cases which describe scenarios involving different users such as consumers, investors, regulators, researchers, etc.

A strategy to maximise public access and analysis of beneficial ownership information should be considered as an important aspect of implementing the beneficial ownership scheme. The use of this information has the potential to dramatically increase our understanding of how economic wealth is created, controlled, shared and even hidden. It could help guide public policy and regulations to create a more efficient, productive and fair economy, as well as address less desirable illegal and collusive activities. It has the potential to help guide both consumers and investors in their everyday transactions if the information is made available in useful and convenient ways.

Public use and scrutiny can also be an important way to improve the quality of data submitted by reporting entities, helping identify incorrect, incomplete and misleading information. The experience of the UK Government provides a valuable insight into both the challenges of introducing a beneficial interest register, as well as the potential benefits and insights that can be obtained. Early analysis of the information that was made public, revealed a detailed picture of how many UK firms have complex multi-level ownership structures, how many are foreign owned and which ones of these were registered in tax havens, and which ones have directors that are disqualified or on sanctions lists.¹

¹ What does the UK beneficial ownership data show us?, Global Witness blog, 22 November 2016.
<https://www.globalwitness.org/en/blog/what-does-uk-beneficial-ownership-data-show-us/>

At a more mundane level, having beneficial ownership information publicly available can also create savings in terms of duplicated information searches by public sector agencies and requests to private sector businesses. A UK study of their beneficial ownership scheme identified economy wide net savings above and beyond the cost of implementing and operating the system.² A similar economic study should be conducted in Australia to examine both the potential economic benefits from providing better information to investors, consumers and regulators, while also assessing the implementation costs.

Provision of Structured open data by Listed Public Companies

The proposed omission of listed public companies from the public beneficial ownership register, at least for the implementation stage and potentially ongoing is of concern. The current beneficial ownership information provided by listed public companies, such as 'substantial holding notices', is mostly provided as documents in pdf format and not as accessible and structured open data. This means that easy access at scale to beneficial ownership information about public listed companies is not feasible.

At a minimum, the Australian Government should require listed public companies to provide this information as structured open data, based on the same data standards that will be used for the overall public beneficial ownership register system. If this is done successfully, it would be relatively simple for listed public companies to then provide this information as structured data to the proposed centralised public beneficial ownership register at minimal cost and effort (the issue is relevant to Questions 3 and 4).

Provision of Structured open data by selected entities during initial implementation

A similar approach should also be adopted with the initial first phase of proposed implementation approach, where selected regulated entities would be required to maintain their own beneficial ownership registers. While this approach would defer the use of a centralised public register, it would have similar challenges in enabling easy and scalable access to beneficial ownership information across a range of entities. The early development and adoption of a data standard to collect and store this information would help make later moves to access and share this as structured data easier. While an Australian Government developed and operated centralised public registry is being developed, there may be other useful interim solutions where such a secure data catalogue and optional repository could be used to collect either the metadata or full beneficial ownership data from selected entities.

Alignment with similar registers in other countries

For the successful implementation of the Australian public of beneficial ownership information, it will be important to align with and share information with similar schemes already implemented or being implemented in other countries. This is likely to improve the accuracy and consistency of information collected about international companies operating in Australia, as well as reduce regulatory burden on them. Such sharing of information would also make it possible to include on the register non-resident businesses that sell into the Australian market.

The need for data standards

² John Howell & Co. Ltd, 'Costs of Beneficial Ownership Declarations', April 2013. (Commissioned by Global Witness). <http://cdn-globalwitness-production.s3-website-eu-west-1.amazonaws.com/archive/files/library/cost%20of%20beneficial%20ownership%20declaration%20report.pdf>

A related key issue for the Australian Government to address is the need for consistent data standards for how beneficial ownership information is collected and shared. As the United Kingdom Government discovered through the implementation of their public register, there was considerable problems with the inconsistency of information, ranging from simple inadvertent variations in the names of countries and entities through to more deliberate attempts to provide misleading or inaccurate information. Many of these issues can be addressed through adopting relevant identifiers and standard taxonomies such as Director IDs, ISO codes for countries, etc.

In addition, there is a need for an overall data standard for how beneficial ownership information can be captured in consistent data fields, formats, etc. The UK Government in collaboration with civil society groups has recently established a beneficial ownership data standard to ensure consistency in the collection, exchange, use, and distribution of beneficial ownership data. The Australian Government, in association with relevant civil society groups in Australia, should collaborate with such initiatives to help develop a suitable international standard for widespread adoption by countries implementing beneficial ownership registers.

The need for entities to provide identifiers on their key public documents and websites

A key issue that is missing from the public consultation paper, is the associated need for the companies and other registered entities covered by the public beneficial ownership register to be able to easily and accurately identify these entities. If the public is given greater access to information about the ownership of entities, we also need to ensure that this information can be easily matched against the real-world interactions with these entities. Currently, many Australian business entities do not provide accurate identification of their registered entities such as ABNs, ACNs or similar identifies. Outside of the use of ABNs with official receipts, many businesses do not include their ABNs on either the websites and official company documents such as annual reports and investor presentations. This applies to both listed public companies and other types of business entities.

There is a need for the Australian Government to consider appropriate ways to either require or encourage entities covered by the beneficial ownership register to ensure that relevant business identifiers are provided on their documents, websites or other forms of digital presence or interaction. At a minimum, all companies and other registered entities, should provide this information as part of either key public accountability documents such as annual reports and investor presentations, or with sales and ecommerce systems interacting with Australian customers.

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