

Global Momentum for BOT

Policy drivers, impact and technical considerations

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**Opening
Extractives**

Unlocking the benefits
of ownership data



Overview

- Global trends: where are we now, and how did we get here?
- Policy drivers and early impacts
- Technical considerations for effective BOT implementation
- Solving for common problems

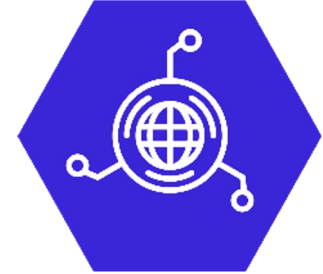
About Open Ownership



Technical assistance for effective BO implementation



Policy guidance and research to guide implementation and shape international debate

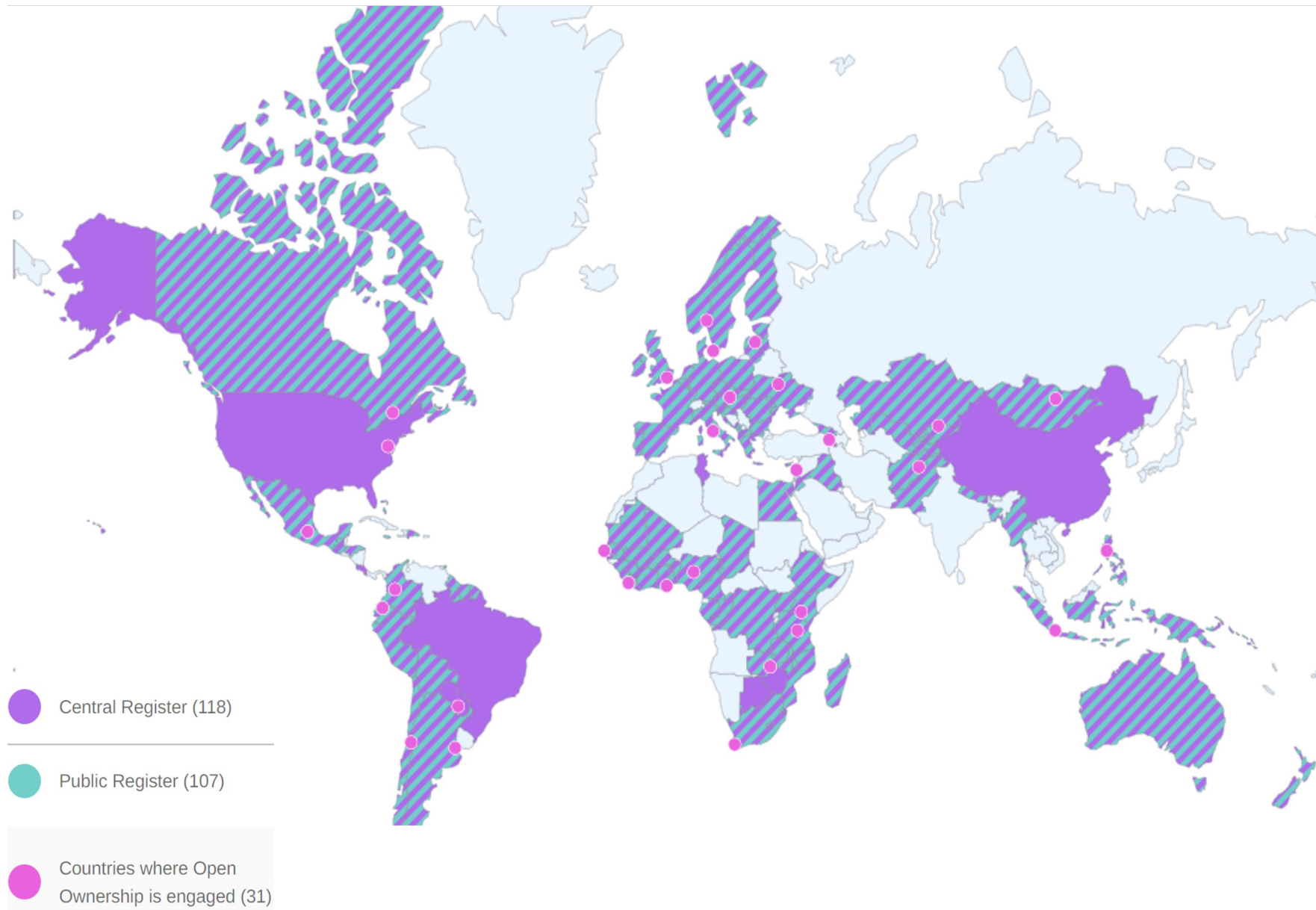


Digital products and capacity building so people can use BO data

An emerging global norm

- Beneficial ownership is widely regarded as a critical piece of information for **tackling corruption** and conducting **responsible business** in the 21st century
- **Financial Action Task Force** standards - which over 200 jurisdictions are committed to implementing - effectively mandate central beneficial ownership registers
- Public access to BO data for extractives co's is enshrined in the **EITI Standard**
- **IMF** - including BOT requirements in financing instruments
- **World Bank** identifying BOT as a tool to strengthen integrity in procurement
- Over **120 countries** committed to beneficial ownership transparency - the majority plan to make the information publicly accessible

Commitments to beneficial ownership transparency



Growing momentum for BOT

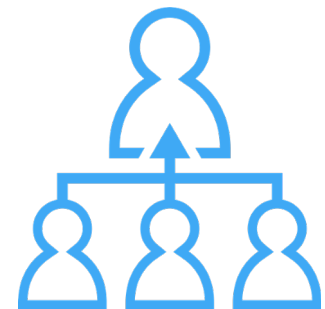
- EITI req. 2.5 - key role in promoting leadership across extractives
- Growing industry support:
 - Role of EITI supporting companies in supporting BO disclosure
 - 6 leading MNCs from the extractives sector made further public commitments to BOT at the Global BOT Forum (Sept 2021) - AngloAmerican, BHP, Glencore, Newmont, Repsol, Rio Tinto
- Companies cite increasing demand for critical minerals and the energy crisis following sanctions against Russia as important drivers in their support for advancing BOT to strengthen governance across the sector

A quick history of BOT

- 1980s: BO information identified as important for tackling money laundering and corruption
- 2003: Financial Action Task Force became first international body to set standards on BO
- 2012: FATF strengthens standards on BO (Recommendations 24 and 25)
- 2015: First public beneficial ownership registers launched in Ukraine and the UK
- 2016: The EITI introduces Req. 2.5 - disclosure of beneficial ownership
- 2016: 36 countries make commitments to BOT at the London Anti-corruption Summit
- 2018: EU AMLD5 requires EU Member States to make BO data publicly accessible
- 2021: UNCAC adopts first resolution on beneficial ownership
- 2022: G7 commitment to support BOT implementation in 15 African countries

Policy drivers for BOT

- **Anti-money laundering:** e.g. EU AMLD5; FATF compliance
- **Extractives transparency:** EITI Standard (~55 implementing countries)
- **Clean procurement:** e.g. IMF financing requirements
- **National security:** e.g. US Corporate Transparency Act
- **Effective domestic resource mobilisation:** e.g. Common Reporting Standard



What's in it for business?

- Open Ownership researched how private sector support and opposition to BOT evolved in the 10 years leading up to the Corporate Transparency Act (2020)
- CTA legislates for a central (non-public) BO register at federal level

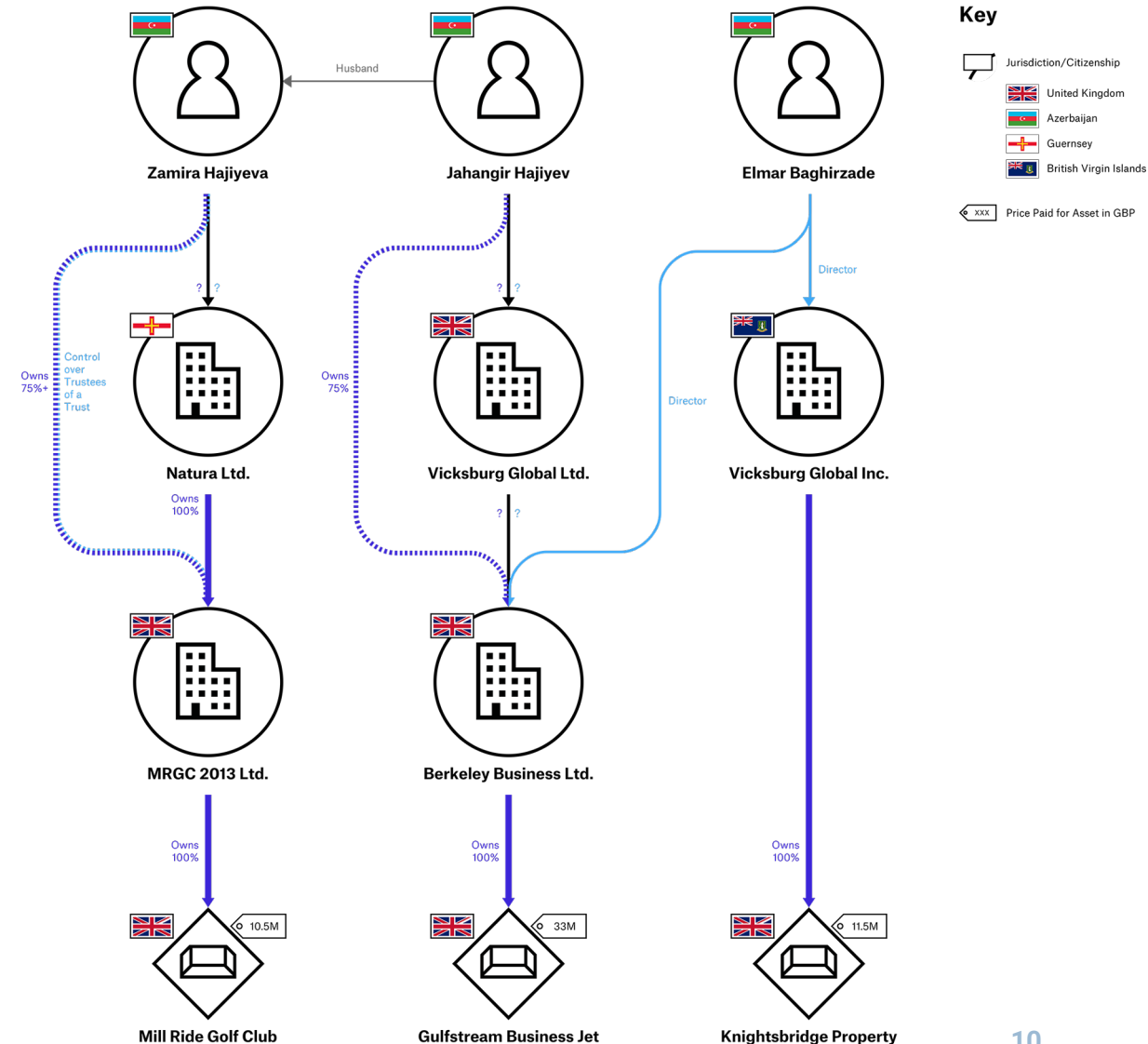
Influential actors such as the Bank Policy Institute (BPI) came out in support of BO reforms, as their understanding of the direct benefits to businesses increased.

2 key benefits of BOT were highlighted by business actors in the US:

- Access to high quality BO data helps to comply with anti-money laundering and Know Your Customer regulatory requirements
- As anonymously owned companies can be used for criminal activities (e.g., counterfeiting, trademark infringements, etc.), BOT is a tool to protect legitimate businesses.

Impact: Tracing laundered money to UK real estate

- Jahangir Hajiyeu, former chairman of Intl Bank of Azerbaijan, was jailed in 2016 for misappropriation of public funds.
- Court found he had taken USD 9 billion out of the country (=25% of Azerbaijan's GDP)
- UK authorities investigated real estate suspected purchased with laundered funds:
- Golf club allegedly purchased by his wife, Zamira Hajiyeu for GBP10.5m
- The golf club was owned by a UK company, which was owned by a Guernsey entity, allegedly used to hide her ownership.
- A CSO used the UK public BO register to show that Zamira Hajiyeu had been beneficial owner of the UK company for 1 day in 2016.
- This gave investigators the missing information to link the Hajiyeu's to the club.



Impact: increasing investigation efficiency in Zambia

- Zambia one of first African countries to launch a BO register in 2019
- Financial Intelligence Centre (FIC) has become a key user
- Analysts consult it when investigating suspicious transactions

“Once you identify a person to be a beneficial owner of an entity, and you float that name with the register, you see more companies linked to the same individual [...] You may be looking at one company not knowing that there are other companies, and your financial analysis broadens”

*“You have to target those entities, and review whatever contracts they have been awarded by the government [...] **It helps you understand what potentially as a country you could have lost.**”*

- Representative of Zambia FIC, interviewed for Opening Extractives (2022)

Impact: strengthening Nigeria's mining license awards

- Nigeria's Mining Cadastre Office made submission of BO information a precondition for new and renewal license applications in 2019
- BO information is used to identify previous license holders seeking to avoid outstanding debts by setting up new companies
- Senior staff report this led to a significant increase in MCO revenues, which doubled between 2018 and 2021



Technical considerations for BO implementation

- Introducing the Open Ownership Principles: openownership.org/en/principles
- A **framework** for considering the elements that influence whether implementation of BOT is likely to lead to the desired policy goals
- A **tool** to identify and separate issues affecting implementation to enable targeted problem solving
- Based on Open Ownership's work supporting ~40 jurisdictions to implement reforms, and academic and practitioner research & wide consultation

The Open Ownership Principles

1. Robust definition
2. Comprehensive coverage
3. Sufficient detail

} Disclosure + collection

1. A central register
2. Public access
3. Structured data

} Availability + accessibility

1. Verification
2. Up to date and auditable
3. Sanctions and enforcement

} Quality + reliability

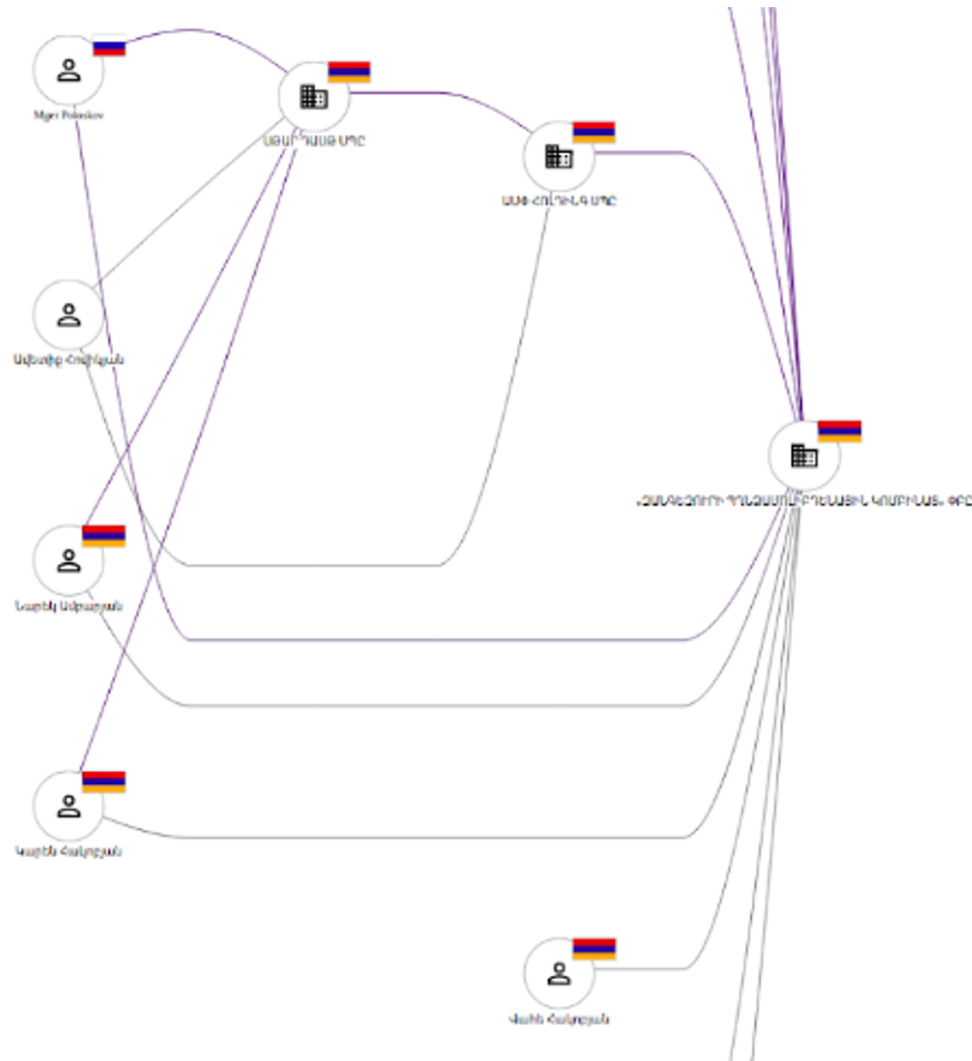
Emerging best practices: a robust definition of BO

Armenia: Lowering thresholds (20% -> 10%)

Ghana: risk based approach (0% for domestic extractives companies; 5% for foreign)

US: robust, clear definition focussed on substantive ownership/control (but high threshold)

Emerging best practices: structuring data



Why?

Beneficial Ownership Data Standard:
Armenia, Latvia, Nigeria now implemented;
others in progress/committed to doing so

Challenges: verification

Verification = a combination of checks and processes that aim to ensure that beneficial ownership information held in a register is accurate and complete at a given point in time.

1. **Verifying the identity of the beneficial owner**
2. **Verifying their 'status' as the BO** - does this person really own/control this company?

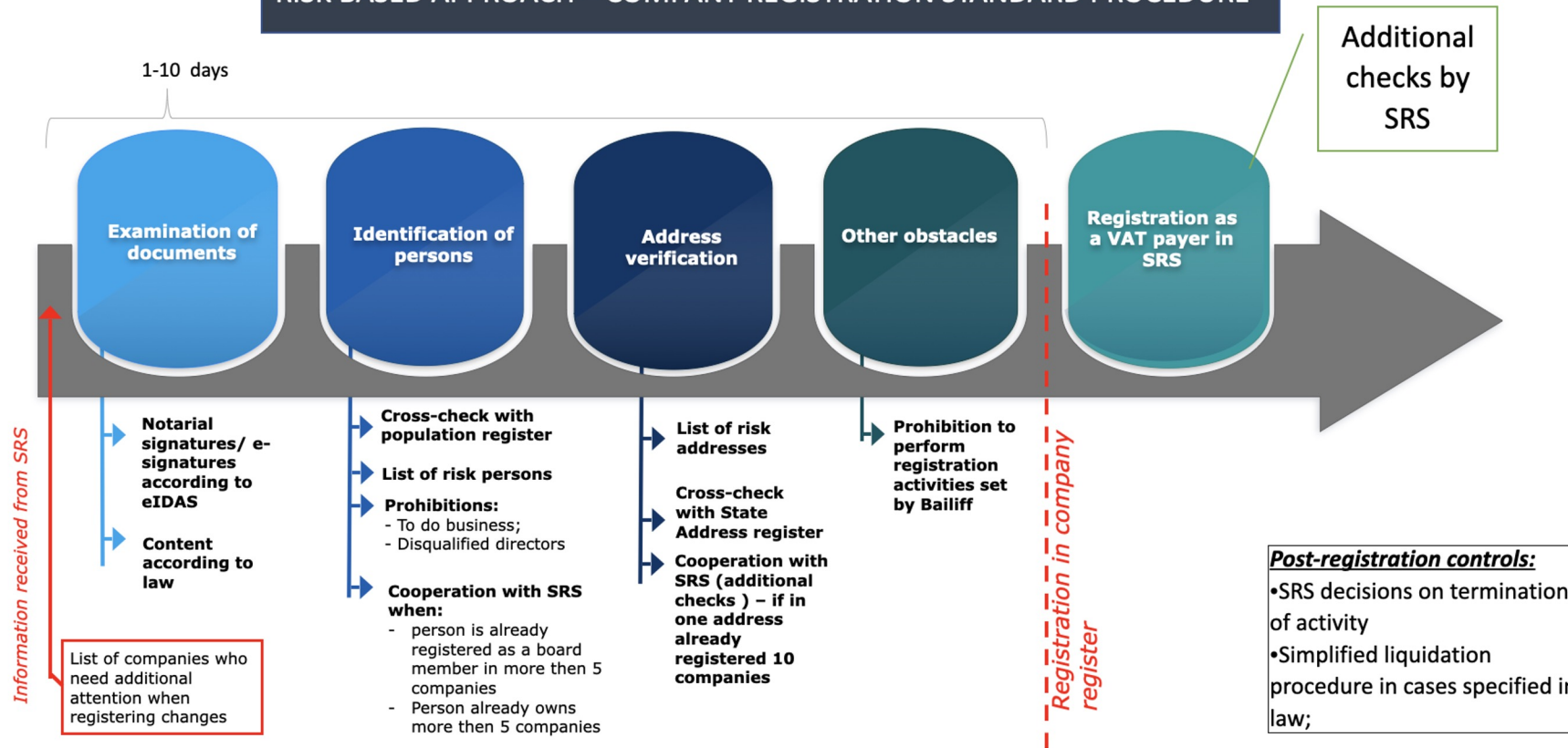
Latvia: identity verification



Register of Enterprises of the Republic of Latvia

INFORMATION CROSS-CHECKS

RISK BASED APPROACH – COMPANY REGISTRATION STANDARD PROCEDURE



Austria: risk based approach to verifying 'status'

- Austria's BO register contains information for almost 400,000 companies
- In addition to automated checks to verify the identity of BO's, Austria uses a risk based approach to conduct more in depth checks.
- All declarations are automatically assigned a risk score, calculated using criteria from Austria's National Risk Assessment for money laundering.
- The registry software generates a monthly sample of entries, weighted to proportionally select higher risk entries more than lower risk cases
- These entries are then verified manually by using publicly available data (e.g., Austrian Business Register) and private databases (such as Orbis).
- A full audit is initiated if the registry doubts the accuracy of the information.

Balancing privacy and public access

- Public access unlocks the widest range of benefits from BOT reforms
- Non-public registers can and still do deliver tangible benefits
- But certain goals - e.g. reducing corruption in extractives, enabling public oversight of procurement - are best served by public access
- Experience from countries implementing public registers so far demonstrates that public access can be balanced with the right to privacy
- Risks to vulnerable persons (e.g. minors) can be mitigated, for example through protection regimes to omit information from publication.

The benefits of public access to extractives BO data

Opening Extractives is working with local CSO and journalist partners who are using BO data to:

- Uncover illegal fishing in Ghana
- Protect rural communities from negative impacts of gold mining in Armenia
- Exert oversight over contracting by state owned enterprises in Mongolia

Public registers also benefit (foreign) law enforcement and business actors



Mitigating privacy concerns: layered access

The Netherlands:

- Required under EU AMLD5 to have public access to BO information
- Concern from businesses and citizens about information being misused
- Dutch business registry implements a layered approach:
 - Full information available to law enforcement
 - Subset of information available to other government users
 - Basic information available to the public
- This is achieved automatically through access permissions in the registry software

Challenges: reforms take time

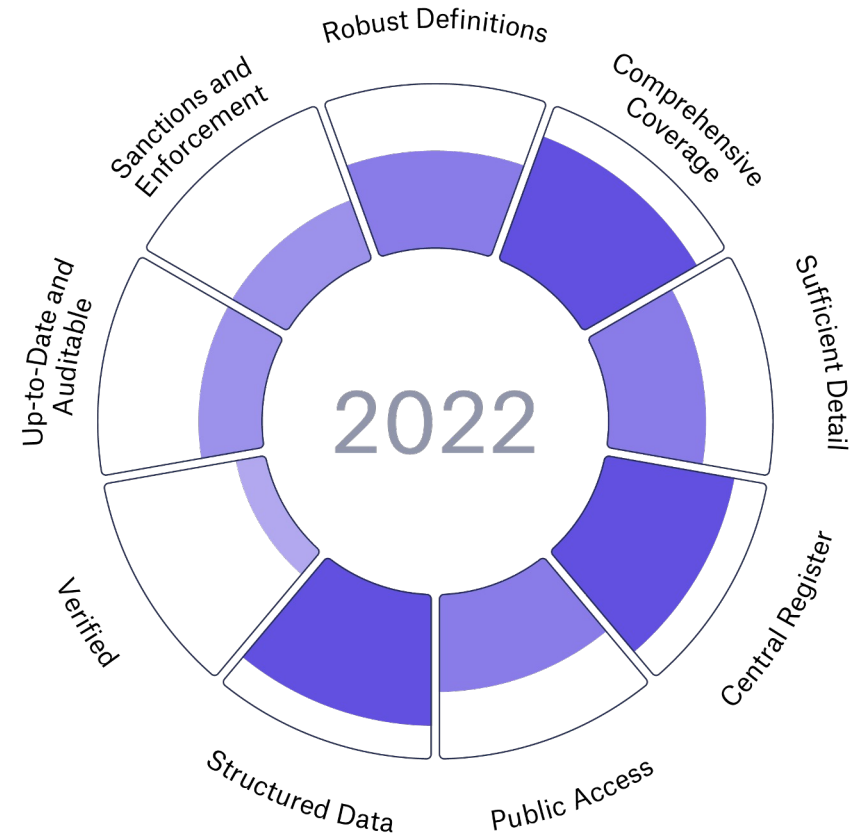
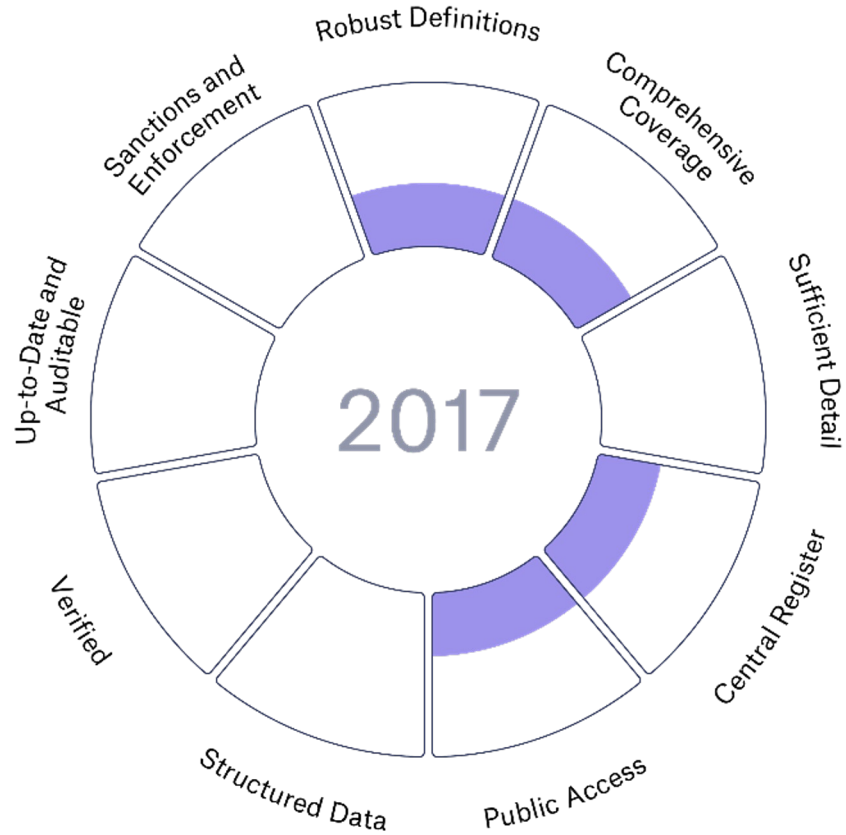
Nigeria: Commitment to BOT made 2016; primary legislation passed 2020; register due to become fully operational later in 2022

UK: BO register launched in 2016, with no verification of data; legislation drafted in 2018 to allow for verification; passed in 2022 & due to implement in 2023

Armenia (quick!): Legislation from 2018; register from 2020; fully implemented by early 2023.

Demonstrating progress: Nigeria

Using the Open Ownership Principles



Summary

- BOT is fast becoming a global norm and is enshrined in international standards
- However it's relatively new and a significant implementation gap exists - technical assistance and sharing good practice is often needed
- Trend is towards public access to at least some BO data
- Various pathways to implementing - extractives sector often leading the way
- Reforms take time - sustained commitment is needed

Thank you



**Opening
Extractives**

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of ownership data

For more information, please get in touch:

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Introducing the Opening Extractives Programme

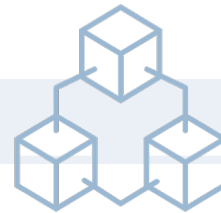
- Global partnership between the EITI and Open Ownership
- Goal: unlock the benefits of ownership data to improve governance of natural resources
- Initial 5 year programme, working in depth with over 10 countries & sharing knowledge across EITI implementing countries
- BHP Foundation is founding donor, committing USD 7.2m of total USD 14.2m

Opening Extractives

Programme objectives



1. Enable governments and industry to **disclose high quality open beneficial ownership**



2. Build the capacity of government and local stakeholders to **use and analyse data** to improve natural resource governance



3. Develop and communicate relevant insights on the **impact of beneficial ownership transparency in the extractive industries**

Opening Extractives

Countries currently participating in Phase 1 (2021-23)

Africa	Europe / Asia	Latin America
Ghana	Armenia	Argentina
Liberia	Indonesia	Mexico
Nigeria	Mongolia	
Senegal	Philippines	
Zambia		