# **Checklist for Beneficial Owner Registration**

## **1. Basics for the registration of beneficial owners**

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| **#** | **THE REGISTER IS:** | **CHECKLIST (to be filled by user)** | **WARNING: LOOPHOLES THAT PREVENT COMPLIANCE** |
| 1 | Held/supervised by a public authority (e.g. company register, tax authority, central bank, customs office) |  | *Only the entity/service provider keeps the information but authorities may request the information.* |
| 2 | Central (one for the whole country) |  | *Each State/Province has its own register.* |
| 3 | Accessible online without any pre-registration requirement (e.g. making this equivalent to searching on Google) |  | *Access only in person. In addition, registration is required and the entity can find out who was searching for their information.* |
| 4 | Free |  | *Access has a cost of $...* |
| 5 | In open data format (machine-readable data freely available under an open licence) |  | *Information not stored in machine-readable format, only in paper or as scanned images.* |
| 6 | Public |  | *Access is restricted to authorities, and/or obliged entities (e.g. banks), and/or persons with a legitimate interest.* |
| 7 | Updated frequently: any transfer, loss or acquisition of ownership (e.g. transfer of shares, guarantee, appointment of beneficiary, etc.) has to be notified within a reasonable timeframe (e.g. 15 days) |  | *Update of information is voluntary and/or is required only once a year.* |
| 8 | Historical changes: it is possible to access information on all past BOs, with their corresponding start and end date as BOs. |  | *It is only possible to access current BOs, but not past ones.* |
| 9 | Searchable: free (online) search by all categories (entity name, date of incorporation, name of owner, director, residence of owners or directors, etc.) |  | *Search limited to company name, and/or user needs to know entity name, or entity incorporation number or any other pre-obtained information*. |
| 10 | Required for the entity/arrangement to be legally valid and/or allowed to operate in the country  |  | *Registration is only required if the entity/arrangement has taxable income or has a local owner or local assets (etc.)*. |
| 11 | All confidential BO information (See Section 2.3.3 e.g. BO’s personal address, day of birthdate or TIN) is accessible by all relevant authorities (e.g. law enforcement, tax authorities, financial intelligence unit, etc.) |  | *Only tax authorities have access to this information* |

## **2. Entities and Arrangements subject to registration**

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|  | **REGISTRATION IS REQUIRED BY ALL:** | **CHECKLIST (to be filled by user)** | **WARNING: LOOPHOLES THAT PREVENT COMPLIANCE** |
|  | *Domestically incorporated/created or governed by domestic laws:* |
| 12 | Companies (e.g. corporation, LLC, SA, SRL, SCA, Seca, AG, GmbH, etc.) |  | *Only companies with limited liability, or companies limited by shares, or only some types of companies.* |
| 13 | Partnerships (e.g. LP, LLP, Asociación, etc.) |  | *Only partnerships with limited liability, or some types of partnerships.* |
| 14 | Trusts (e.g. fideicomiso, Treuhand, fiducie, waqf, etc.), if domestic laws allow their creation |  | *Only trusts with taxable income or with a resident trustee, etc.* |
| 15 | Foundations (e.g. fundación, Anstalt, STAK, Stiftung, etc.) |  | *Only if foundation is private or if foundation is for charitable purposes, etc.* |
| 16 | Any other entity or arrangement (different from an individual) allowed to hold assets (e.g. bank account, real estate) or engage in commercial transactions (e.g. buy or sell goods or services) |  | *Domestic laws do not have a residual provision requiring any other entity or arrangement to register.* |
|  | *Incorporated outside the jurisdiction but with local operations (e.g. with local bank account, holding / owning local assets or engaging in commercial transactions in the country):* |
| 17 | Foreign companies (e.g. corporation, LLC, SA, SRL, SCA, Seca, AG, GmbH, etc.) |  | *Only foreign companies undertaking more than one single transaction, etc.* |
| 18 | Foreign partnerships (e.g. LP, LLP, Asociación, etc.) |  | *Only foreign partnerships undertaking more than one single transaction, etc.* |
| 19 | Foreign trusts (e.g. fideicomiso, Treuhand, fiducie, waqf, etc.) |  | *Only trusts with taxable income or with a resident trustee, or resident beneficiary or settlor, etc.* |
| 20 | Foreign foundations (e.g. fundación, Anstalt, STAK, Stiftung, etc.) |  | *Only if foundation is private or if foundation is for charitable purposes, etc.* |
| 21 | Any other foreign entity or arrangement (different from an individual) allowed to hold assets (e.g. bank account, real estate) or engage in commercial transactions (e.g. buy or sell goods or services) |  | *Domestic laws do not have a residual provision requiring any other entity or arrangement to register.* |
|  | *Special cases* |
| 22 | Entities listed in a stock exchange. However, a direct link to the listed entity’s public data may be provided instead, if such data complies with all the requirements of the BO registry (e.g. open-data format, free, open license, etc.). |  | *All listed entities are exempt and/or a mere reference to a potential source of information is provided (e.g. check the SEC website).*  |
| 23 | Regional Entities or arrangement (e.g. Societas Europaea). However, a direct link to the listed entity’s public data may be provided instead, if such data complies with all the requirements of the BO registry (e.g. open-data format, free, open licence, etc.). |  | *No, all listed entities are exempt and/or a mere reference to a potential source of information is provided (e.g. check the registry of X country).* |

## **3. Information to be registered**

### **3.1 Defining Ownership Information**

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|  | **THE COUNTRY’S LEGAL FRAMEWORK CONSIDERS/REQUIRES:** | **CHECKLIST (to be filled by user)** | **WARNING: LOOPHOLES THAT PREVENT COMPLIANCE** |
| 24 | Bearer shares to be registered with a public authority and unregistered bearer shares are considered invalid. (This means that the law must prohibit issuing bearer shares after the law’s cut-off date, and that pre-existing bearer shares must be registered with a public authority. Any outstanding unregistered bearer share becomes void and invalid after due date). |  | *Bearer shares may be registered/immobilized by a private custodian, and unregistered bearer shares are not void, but merely lose their voting rights or rights to dividends until they are registered.* |
| 25 | All BOs to be registered |  | *Only some BOs and/or all or some Legal owners (e.g. nominees) have to be registered* |
|  | *For companies, partnerships and similar entities* |
| 26 | The BO definitions include any individual passing any of the “BO tests or thresholds” (see below). (This means that a BO would be any individual passing any of the BO tests or thresholds (ownership, voting, board of directors and residual)). |  | *Only the ownership test is applied* |
| 27 | **Ownership test.**The BO is any individual, directly or indirectly, holding at least 1 share. Provisory higher thresholds until the “1- share” threshold is in place should not be higher than 10%: any individual holding at least 1%, or 5% or 10% of shareholdings or interest in the entity. For high-value industries (e.g. extractives), the threshold should be as low as possible. |  | *Any individual holding more than 10% of shareholdings or interest in an entity (such as FATF “more than 25%”). The automatic application of this threshold (without any risk assessment) cannot be challenged at court*  |
| 28 | **Voting test.** The BO is any individual, with a direct or indirect right to at least one vote. Provisory higher thresholds until the “1-vote” threshold is in place should not be higher than 10%: any individual holding directly or indirectly at least 1%, or 5% or 10% of voting rights. For high-value industries (e.g. extractives), the threshold should be as low as possible. |  | *Any individual holding more than 10% (or a larger voting right). The automatic application of this threshold (without any risk assessment) cannot be challenged at court* |
| 29 | **Influence test**. The BO is any individual with the direct or indirect right to appoint or remove at least one Director or Manager. |  | *Any individual, directly or indirectly, with the right to appoint or remove the majority of Directors or managers.* |
| 30 | **Control test.** The BO is any individual with other direct or indirect means of control over the entity |  | *There is no residual test* |
|  | *Situations (if applicable) where no individual passes any of the BO tests* |
| 31 | **Top 10 owners.** If no individual passes the BO test, then at least the top 10 owners[[1]](#footnote-1) (e.g. members, shareholders, etc.) have to be identified as BOs.  |  | *Only the senior manager is identified as a BO* |
| 32 | **Senior manager.** If no individual passes the BO test and there is no requirement to identify the top 10 owners (e.g. members, shareholders, etc.), then the senior manager is registered as such, but not as a BO. This creates a red flag (to alert the public that this legal structure has no identified BO). |  | *The senior manager is registered as a BO, or worse, the entity does not need to register anyone.* |
|  | *For trusts or foundations or similar arrangements* |
| 33 | The BO is any party to the trust (e.g. all settlors, founders, protectors, trustees, members of the foundation council, beneficiaries, and any person with direct or indirect control over the trust or foundation). |  | *Only the trustee and/or the Foundation council, etc.*  |
| 34 | Minors and/or vulnerable people who are BOs still have to be registered (in addition to their legal representatives), but access to their information may be limited after a judge confirms on a case by case basis the need for such exclusion from public access to their information. |  | *Minors and vulnerable people are automatically considered non registrable* |

### **3.2 Defining Management Information**

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|  | **THE COUNTRY’S LEGAL FRAMEWORK CONSIDERS/REQUIRES:** | **CHECKLIST (to be filled by user)** | **WARNING: LOOPHOLES THAT PREVENT COMPLIANCE** |
| 35 | All Directors/Senior Managers to be registered. If any of them are corporate entities, the BOs of those corporate directors must also be disclosed. |   | *Only some Directors/Senior Managers*  |
| 36 | Shadow[[2]](#footnote-2) directors, including anyone with a power of attorney or general administration powers over the entity or arrangement, to be registered. |  | *No registration of individuals with power of attorney or administration* |

### **3.3 Ownership and Management data to be registered?**

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|  | **FOR EVERY BO, LEGAL OWNER, DIRECTOR AND SENIOR MANAGER** | **CHECKLIST (to be filled by user)** | **WARNING: LOOPHOLES THAT PREVENT COMPLIANCE** |
| 37 | Name (public access) |  | *No or not made public* |
| 38 | Address (not necessarily public) |  | *No* |
| 39 | Date of Birth (month and year is public) |  | *No, or not made public* |
| 40 | Nationality (public access) |  | *No or not made public* |
| 41 | Country of Residence (public access) |  | *No or not made public* |
| 42 | All of the above is documented and verified by an official ID document (passport, personal ID, etc.), of which copies need to be registered (not public). |  | *No, copies do not need to be registered.* |
| 43 | Local Tax Identification Number (TIN) (not necessarily public) |  | *No* |
| 44 | Foreign TIN? (not necessarily public) |  | *No* |
| 45 | If applicable, status as Politically Exposed Person (PEP) or related to a PEP (public access), detailing at least: position, role and date in office. Submit also relationship to the PEP (if the BO is not a PEP him/herself, but a relative or associate of a PEP). |  | *No or not made public* |
|  | *For BOs* |
| 46 | Start-date and end-date since (and until) the individual was a BO |  |  |
| 47 | Type of beneficial ownership (e.g. ownership, voting rights, right to appoint Director, other means of control, settlor, trustee, etc.) (public access) |  | *No or not made public* |
| 48 | Percentage of beneficial ownership, if applicable (e.g. 20% of shareholdings, 10% of voting right) (public access) |   | *No or not made public* |
| 49 | Means through which BO is exercised (e.g. nominee, legal entity, etc.) (public access) |  | *No or not made public* |
|  | *For Legal Owners* |
| 50 | All legal structures or nominees in the chain of ownership including both: all those legal structures and nominees “owning” the target entity and all those “owned” by the target entity (public access to all this information) |  | *No or not made public* |
|  | *For Directors and Senior Managers* |
| 51 | Executive role? (e.g. Chairman) (public access) |  | *No or not made public* |
| 52 | Full-time / part-time employee (public access) |  | *No or not made public* |
| 53 | Non-Executive Director (public access) |  | *No or not made public* |
| 54 | Nominee acting on behalf of others, specifying for whom (public access) |  | *No or not made public* |
| 55 | List of all other legal entities and arrangements where each Director or Senior Manager has an equivalent position |  | *No or not made public* |

### **3.4 Other Documents**[[3]](#footnote-3)

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|  | **THE COUNTRY’S LEGAL FRAMEWORK CONSIDERS/REQUIRES FOR ALL ENTITIES OR ARRANGEMENTS REGISTRATION OF:** | **CHECKLIST (to be filled by user)** | **WARNING: LOOPHOLES THAT PREVENT COMPLIANCE** |
| 56 | Legal Entity Identifier (LEI) if one exists (public access) |  | *No* |
| 57 | Legal address (public access) |  | *No* |
| 58 | Operating/Trading address (public access) |  | *No* |
| 59 | All founding documents (as applicable, such as constitution, bylaws, deeds) that identify or name an individual who falls under the definition of a BO (e.g. a settlor or shareholder or protector), should be registered and made public, for them to be legally valid. Any additional instructive or suggestive documents (such as letters of wishes, letters of intent, protocols, appendices, etc.) need to be registered, but not made public, for them to be legally valid.  |  | *No, some documents such as bylaws or letters of wishes can be enforced and are valid without registration and/or disclosure.* |

## **4. Process, Effectiveness and Enforcement**

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|  | **THE COUNTRY’S LEGAL FRAMEWORK CONSIDERS/REQUIRES:** | **CHECKLIST (to be filled by user)** | **WARNING: LOOPHOLES THAT PREVENT COMPLIANCE** |
|  | *Process of Registration* |
| 60 | All domestic and foreign entities and arrangements must appoint a local publicly certified and supervised professional natural person who will be the responsible party (with personal liability) for the accuracy of the registered BO information and the provided ID documents (see 2.3.3 above). |  | *No local responsible party, or the local responsible party does not need to be a professional, or is not supervised.* |
| 61 | The registration of an entity’s/arrangement’s beneficial owners requires at least one face-to-face meeting of (i) a publicly certified and supervised professional, who has an explicit mandate to operate independently and impartially (notary, company secretary, etc.), or (ii) a public official of a government agency; with at least (a) one beneficial owner, or (b) the responsible party. During the face-to-face meeting the ID documents of all BOs and the responsible party need to be vetted (in original for those present, and in copies, for those absent). |  | *Registration is possible at distance with a face-to-face meeting required only between liable representatives of the legal entity/arrangement, and a local commercial service provider.* |
| 62 | Third party introducers of BOs are not allowed, or only if liability for potential errors is explicitly and in writing assumed by the (local) responsible party, and if copies of all ID documents of all BOs and the responsible party are stored and updated at the registry.  |  | *Even non-resident company service providers can act as third party introducers of BOs, waiving the requirement of vetting, or of verifying, BO identities and documents.*  |
| 63 | The registry contains “data validation” formulas, preventing missing and inaccurate information (e.g. a TIN or passport number of only one digit, etc.). |  | *No data validation, any information may be filed, e.g. writing the name of a country with errors.*  |
|  | *Effects of Registration* |
| 64 | An entity or arrangement is considered to legally exist only after comprehensive registration (see all points above). Registration has a constitutive effect. The entity or arrangement does not exist until properly registered. |  | *Registration is voluntary or merely “declarative”. The entity or arrangement will still be valid, although some restrictions may apply (e.g. no limited liability).* |
| 65 | No entity or arrangement may be binding on third parties unless it has been property registered and basic information is publicly accessible. |  | *Public access is not required to be binding on third parties.* |
|  | *Specific consequences in case an entity’s or arrangement’s registration is incomplete (no BO was identified), inaccurate (false information) or not updated (e.g. annual return not filed)* |
| 66 | The entity is struck off the BO registry, not being allowed to operate any more (but all of its existing data is stored and not erased). Domestic laws could determine what happens to any of the entity’s assets (e.g. all assets are frozen, all assets are considered belonging to any shareholder or identified senior manager, or all assets are confiscated by the State, etc.).  |  | *The company is struck off/liquidated and all the data is erased and removed from the registry* |
| 67 | Financial institutions banned from starting or engaging in business with them. |  | *No* |
| 68 | Other registries (e.g. real estate) banned from registering any new transaction related to assets held by such entity/arrangement. |  | *No* |
| 69 | Entity/arrangement and all of their owners and directors are blacklisted (in a public list, to prevent or at least alert authorities and the public whenever these entities or owners or directors are involved in any other entity or transaction, e.g. attempt to open a bank account). |  | *No* |
| 70 | Penalties against owners and/or Directors for lack of registration or update of existing entity or arrangement, or for providing inaccurate information. |  | *No* |
| 71 | Penalties and/or prison sentence against owners and/or Directors for deliberately providing false or inaccurate information. |  | *No* |
| 72 | Inactivate TIN of Entity and/or owners and/or directors. |  | *No* |
|  | *Cross-checking of information to identify inaccuracies* |
| 73 | The Registry allows online and anonymous reporting or denouncing of inaccurate or missing information about any information held in the Registry, and those reports are made public (for example, in case a user looking at the BO registry is aware that any entity’s registered data is inaccurate or wrong). The registry will have to assess the claim and then report its decision, with any evidence that justifies that decision (for example, in case the claim is dismissed for being false). |  | *No, or the reports are not made public after a week.* |
| 74 | Government level data: Information is automatically cross-checked (by computers and algorithms, not humans) with records and registries of tax authorities, central bank, financial intelligence unit, immigration, etc. This prevents the registration of a person with the wrong TIN or an address that does not match that registered by authorities. |   | *Automatic cross checking does not take place or only after registration has taken place.* |
| 75 | Private data: Information is cross-checked (by computers and algorithms, not humans) against credit card records, banking records, etc. to determine the profile of BOs. There is a risk profile of each BO and authorities are alerted, for example if an individual without tax returns or banking records appears as the BO of a company involved in procurement contracts, etc. |  | *Automatic cross-checking does not take place, or only manually.* |
| 76 | Registry is connected to other BO registries from abroad, and with PEP registries, real estate registries, etc. |  | *No connection* |
|  | *Statistics* |
| 77 | Number of: registered entities and arrangements, new ones, liquidated ones, “flagged” ones (e.g. inaccurate information, no annual return filed), sanctioned entities and persons, complaints received. |  | *No statistics* |

1. The “top 10 owners” provision requires that if no individual passes the applicable ownership test (e.g. no one has more than X% of shareholdings) then at least the top 10 owners have to be identified as BOs. The number 10 supposes an ownership threshold of 10% of shareholdings or interests, although a lower threshold and thus higher number of owners could be applicable. The objective of this provision is that even if no individual passes the applicable ownership test, at least some owners will still be identified as BOs, instead of identifying “no one” or the senior manager as the BO. [↑](#footnote-ref-1)
2. A shadow director is not an appointed director but a person in accordance with whose directions or instructions the directors of a company are accustomed to act. Ideally, a shadow director would be covered by a comprehensive BO definition that includes any individual with effective control over an entity. Enforcement of this may be difficult, but penalties for not disclosing shadow directors could help. Also, if one person appears as the director of thousands of companies, it is likely that those companies will have shadow directors, while the appointed one is a mere nominee following instructions. [↑](#footnote-ref-2)
3. This paper does not refer to financial information because that will be specified in another paper containing the whole standard. [↑](#footnote-ref-3)