Improving Beneficial Ownership Accuracy -- First Exploratory Call

2 April 2020 | Discussion Summary

BACKGROUND

53 participants from 28 organisations joined a call on 2 April 2020 to discuss the proposal of developing a multi-stakeholder advisory group to share best practices and implement pilots for verifying beneficial ownership information[1]. The following notes summarise the key discussion points, which was held under the Chatham House Rule.

TECHNICAL DISCUSSION

Flagging the risks and limited utility of verifying the data once published, participants questioned why governments aren't doing more to verify the data at the point of submission. It was noted that not all jurisdictions disclose information on directors. Other flaws in the system include contradictory policy objectives and responses that may be unhelpful in our efforts to find consensus around approaches to verification.

The Group sought to build a common understanding of some ideas or tools for verification of beneficial ownership data that we could apply. One provider of verification tools confirmed that a key issue for them is missing data (e.g. on directors), before even considering the quality of that data. They expressed support for minimum data standards for fields collected, publication format and access -- and viewed it as the responsibility of governments.

An international NGO flagged the capacity gap in resources for verification. Furthermore, an opportunity for the banking industry and the government registrars to collaborate emerged: the potential for an automated connection between data collected when registering a company and more in-depth data collected and verified during KYC and due diligence processes. Could one be used to verify the other?

The group was encouraged to distinguish between different types of checks: administrative checks (is this information incorrect?) and checks on the veracity of the information (is this actually the person who controls the company?). The latter is harder to address with technical solutions, and this is where manual checks are required. There may be utility in collecting case studies of countries applying approaches such as shifting the burden of proof for providing true data from registry to the company, as is the set up in Slovakia. This approach may come with enforcement challenges, and it was suggested that developing a 'bad actor' list of those who have mis-reported could be an additionally powerful disincentive.

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[1] Verification is a system of different checks and processes that can be deployed along different stages of a BOD system, enforced with proportionate sanctions, with the aim of making data of high quality and reliable, to maximise the utility and impact of a BO register. We can verify information about: the person(s) involved; the nature of their ownership or control; the company or other legal entity they own or control. All verification measures should be enforced by comprehensive and proportionate sanctions. Verification can be done at the point of submission of beneficial ownership information, or after the information is published.

NEEDS & EXPECTATIONS IN RUNNING PILOTS

A truly collaborative response to a shared challenge calls for participants to be explicit about what they can bring to the table, as well as what they need and expect from others.

From governments, we heard that a key constraint is political buy in at the highest levels, and from the many different governmental stakeholders that are involved in beneficial ownership work. The European Commission explained that they will be looking at verification as a next step, with a new project announced in a few months to pilot best practice in verification tools. Country-focused INGOs encouraged this initiative, explaining that they hear a lot of demand for focused assistance on verification. They offered to share lessons from upcoming work on open solutions to cross-checking data in Colombia and Myanmar.

Businesses also recognised that political will, or the potential lack of it, as a key constraint. Companies told the group that in order to really trust the information in the system, they wish to better see and understand the verification process that has taken place; how it was done, how did you arrive at that result? Being able to predict and rely on the support of the regulators was also key to the banks, who noted that if the regulator was not comfortable with the quality of the data being used, the bank would still be liable.

ID verification companies pointed out how differing privacy norms between jurisdictions can hamper the process, and suggested a vendor registration process could help. General concerns around data privacy were also raised, which is viewed as contrary to transparency efforts. The prospect of targeting Delaware, as a small state with a revenue model based on company registration, was raised. It was also noted that there may be some bandwidth issues, related to the current COVID-19 crisis, for both government and business.

PUTTING IT INTO PRACTICE

Participants noted the advantage of running pilots in jurisdictions where laws were already in place, and where there was appetite and capacity from the government to improve an existing system.

The group agreed to approach the initiative with a subgroup model rather than one large advisory group; it was suggested that subgroups be designed based on expertise and interest, and with clear objectives and a shared understanding.