



# Conference of the States Parties to the United Nations Convention against Corruption

Distr.: Limited  
9 November 2022

Original: English

## Open-ended Intergovernmental Working Group on Asset Recovery

Vienna, 7–11 November 2022

### Draft report

#### Addendum

## V. Thematic discussions

### A. Good practices and challenges with respect to beneficial ownership and how it can foster and enhance the effective recovery and return of proceeds of crime, taking into consideration article 63 of the Convention

1. A representative of the secretariat introduced conference room paper CAC/COSP/WG.2/2022/CRP.1, entitled “Good practices and challenges with respect to beneficial ownership and how it can foster and enhance the effective recovery and return of proceeds of crime”. She noted that the paper contained an analysis of responses provided by 38 States parties to a request circulated by the secretariat in May 2022 and that it provided an overview of the legal, regulatory and institutional frameworks for ensuring beneficial ownership transparency in the States parties that had provided such information to UNODC. In addition, the paper covered mechanisms for collecting and recording beneficial ownership information, definitions of beneficial ownership and thresholds that States parties applied in identifying beneficial owners, access policies for beneficial ownership registries, the inclusion of trusts in beneficial ownership frameworks, verification mechanisms to improve the accuracy of reported information as well as common challenges and good practices that States parties had highlighted.

2. In the ensuing discussion, speakers underscored the importance of beneficial ownership transparency as a critical foundation for effective asset recovery and return in relation to proceeds of crime. Many speakers expressed their commitment to addressing the abuse of corporate structures in their own jurisdictions and through cooperation with other States parties. Speakers reported on their efforts in developing relevant legal frameworks to improve corporate and beneficial ownership transparency by establishing beneficial ownership registers and implementing adequate measures for identifying beneficial owners, including as part of routine customer due diligence processes. Many speakers noted that their legal frameworks included a definition of beneficial ownership with defined ownership and control thresholds that included individuals who exercised effective control through direct or indirect means. Many speakers also highlighted the benefits of updated risk assessments relating to legal entities in order to define appropriately targeted



risk-based measures for specific categories of legal entities and arrangements. A number of speakers reported that their countries were undertaking legislative reforms to establish a centralized beneficial ownership register. Several speakers noted the lack of a centralized beneficial ownership register in their respective jurisdictions as a key challenge for regulatory authorities.

3. Significant emphasis was also placed on transparency and timely access to beneficial ownership information. National measures mentioned in that regard included making the business and/or beneficial owner registers publicly available, with due regard for the protection of personal data, and providing a broad range of competent national authorities with direct access to beneficial ownership information. Speakers also highlighted the need to establish mechanisms for regular updates and verification of the accuracy of the information held in beneficial ownership registers, including through interconnection and automated cross-checking with data held in different public registers. Several speakers highlighted the importance of the timely sharing of beneficial ownership information internationally, including through informal cooperation channels, and reported on efforts made in that regard. One speaker emphasized the benefits of a new norm on beneficial ownership, which would act as a deterrent, improve the overall business environment and generate network effects to encourage other countries around the world to follow suit.

4. Following that discussion, panellists from Austria, Ghana, Uruguay and Nigeria made presentations. The panellist from Austria presented his country's register of beneficial owners, which had been introduced in 2018 and included both automated and manual reports. An important feature of the Austrian register was the high level of interconnection between the beneficial ownership register and other government registers, such as the business register and central register of residents. Companies were required to update their beneficial ownership information on a yearly basis, and any failure to report resulted in automatic coercive penalties and could be referred to the country's anti-fraud office. He explained that Austria had implemented a multi-pronged approach to ensuring that beneficial ownership information was adequate, accurate and up to date. That approach consisted of: (a) risk-based supervision of the authority serving as beneficial ownership registry; (b) regulatory cooperation at the domestic level (with the financial intelligence unit, tax authorities, intelligence service and other authorities) and at the international level, with effective sanctioning of violations; and (c) collection and verification of beneficial ownership information on customers by reporting entities which were also required to report discrepancies to the registry. Credit institutions could require companies to correct information in the beneficial ownership register through self-reporting and were notified of any changes in beneficial ownership information regarding their clients. In addition, the beneficial ownership transparency framework enabled the integration of information in beneficial ownership registers with the data in business registers held by obliged entities. The country's approach relied on a comprehensive risk assessment of legal persons and arrangements to inform risk-based reviews, audits and cross-checks. In addition, the panellist highlighted the coverage of foundations and trusts and strict transparency regulations applicable to nominee arrangements as key features of the beneficial ownership transparency framework in Austria.

5. The panellist from Ghana shared her country's experience in implementing mechanisms to collect, record and verify beneficial ownership information. Beneficial ownership provisions were first introduced in 2016, and in 2019 the Companies Act had been amended again to include a more expansive definition of beneficial ownership that covered all relevant forms of control, both direct and indirect, and expanded provisions on access to the register. All companies and other legal entities were required to report information to the country's electronic register, which was launched in 2020. The register was public and could be accessed directly by the financial intelligence unit and by the public for a small fee. To enforce compliance, the registry in Ghana blocked any companies that had not provided beneficial ownership information from doing any business in the country. Ghana had conducted a risk assessment of legal entities to classify companies into different risk categories

and had started out with a pilot project in the extractive sector. Data had been collected in phases, starting with high-risk entities, followed by other entities. On the basis of the risk assessment, high-risk entities were subject to a 5 per cent ownership threshold for beneficial ownership reporting, while other, lower-risk companies were subject to a 20 per cent threshold. Local politically exposed persons were required to declare their status as politically exposed persons. As key strategies for practical implementation, the panellist stressed collaboration with civil society and the need to sensitize the public and stakeholders. To that end, the Ghanaian authorities had produced frequently asked questions, manuals, workshops, webinars, radio programmes and a documentary, and they had held extensive stakeholder consultations to ensure that all relevant providers and users of beneficial ownership information were sensitized to the new policy area.

6. The panellist from Uruguay presented his country's journey towards ending the abuse of non-transparent companies and explained key milestones in its development of a beneficial ownership transparency framework. Initially, in 2012, Uruguay had outlawed the use of bearer shares. In 2017, the country had established a beneficial ownership registry, and in 2018 it had launched the automatic exchange of tax information. The beneficial ownership registry was established under the Central Bank of Uruguay, the data were managed by the financial intelligence unit, and the national internal audit unit of the Central Bank was responsible for compliance, supervision and enforcement. Uruguay applied an ownership threshold of 15 per cent for reporting beneficial ownership information, and the provisions included a vast scope of domestic legal entities and arrangements, as well as certain foreign entities that operated in the country or owned assets above a certain threshold. To enforce compliance, the Central Bank published a list of companies that were in breach of reporting obligations. While the register in Uruguay was confidential in nature, the Central Bank had established effective routes for many different agencies to gain access to the information quickly. The panellist stressed that the quality of information was absolutely essential in order for it to be useful for investigations, and that ensuring such quality required an updated risk assessment regarding the misuse of companies in order to properly target high-risk entities. The panellist highlighted the misuse of nominees as a particular challenge that required greater enforcement attention. The approach taken by Uruguay to controlling the use of nominees was to have a registry of nominees of regulated providers of such services.

7. The panellist from Nigeria underscored the importance of beneficial ownership transparency for asset recovery and presented key challenges and good practices concerning her country's framework. Nigeria had first introduced beneficial ownership disclosure obligations in the extractive sector in 2019. In 2020, the obligation to declare beneficial owners was extended to all companies registered in the country. The obligation to disclose beneficial ownership information applied at different points in time: upon registration, upon filing annual tax returns and upon any change in beneficial ownership. With regard to good practices, she mentioned the prohibition of the issuance of bearer shares, the complete automation of the filing process for beneficial ownership information, a high level of inter-agency cooperation between authorities that retrieved and used the information, and the implementation of risk-based supervision of the registry. The panellist also presented case studies to illustrate how up-to-date beneficial ownership information assisted national law enforcement authorities in identifying and recovering proceeds of crime. As for challenges, she highlighted in particular the verification of beneficial ownership information, timely access to such information on foreign entities during multijurisdictional investigations, and delays in receiving responses to international requests for beneficial ownership information.