

April 9th 2020

Civil Society Coalition Welcomes Release of Federal Government Beneficial Ownership Consultation Report And Challenges Excessive Risk-Averse Approach

Insights from summary report are welcome, yet concerns regarding publicly accessible registries are too cautious and jeopardize chances for Canada to deter dirty money.

OTTAWA and TORONTO -- Publish What You Pay Canada, Transparency International Canada, and Canadians for Tax Fairness welcome the release of a [summary report](#) which presents views from federal government stakeholder consultations to evaluate the merits of a publicly accessible beneficial ownership registry. These consultations were carried out by Innovation Science and Economic Development Canada (ISED) between February and May 2020.

We are encouraged that all stakeholders who met in person with government officials, recognize the need for Canada to implement a beneficial ownership registry of corporations to address money laundering in Canada, or as it's also known, 'snow washing'.¹ The report acknowledges that many of Canada's international peers have committed to centralized and publicly accessible beneficial ownership registries in order to effectively combat money laundering. Canada can benefit from a publicly accessible registry and should continue to engage with jurisdictions that have adopted these registries to learn best practices.

We support the following insights in the summary report:

- The need for a harmonized registry system for all jurisdictions across Canada to prevent duplication among provinces and territories and to facilitate ease of search.
- The value of a registrar equipped with powers to administer a range of penalties and promote compliance.
- The need to verify beneficial ownership information and to consider technology solutions as tools to improve data verification such as digital ID and unique identifiers.
- The importance of an exemption mechanism for natural beneficial owners who are at risk of facing targeting and harassment.
- Acknowledgment to consult with other jurisdictions which are implementing publicly accessible beneficial ownership registries and to explore registry options with provinces and territories.

We note the following omissions that were not included in the summary report:

- No mention of evidence of public registries fulfilling anti-money laundering and public safety policy objectives by deterring the proceeds of crime from entering an economy.

¹ <https://projects.thestar.com/panama-papers/canada-is-the-worlds-newest-tax-haven/>

Evidence from the UK demonstrates an 80% reduction of incorporation of Scottish Limited Partnerships - a corporate structure that is regularly abused by transnational criminal networks - after the UK public registry was implemented.²

- No mention of commitment by the province of Quebec in Budget 2020 to make all corporate beneficial ownership information, including commercial trusts, publicly accessible and searchable at no cost to consumers.³
- No mention of the British Columbia Land Owner Transparency Registry, which is operational and already provides public access to some beneficial ownership information for land-owning companies, partnerships, and trusts.⁴
- No mention of evidence published by the UK Government demonstrating the low cost of business compliance among small, medium, and large corporations who publicly disclosed beneficial ownership information.⁵
- No mention of the harm to Canadian companies and citizens caused by the abuse of anonymous companies.

We believe the following concerns in the report are based on excessive risk-aversion:

- That current advantages such as competitive positioning will be compromised in Canada with a publicly accessible registry. It is our recommendation that those who desire to remain anonymous for speculative purposes can seek an exemption from disclosing beneficial ownership information to a registrar for a limited time period in order to obtain a competitive advantage. We note that criminals regularly abuse anonymous companies which distorts capital markets and defrauds investors through pump and dump schemes. A publicly accessible registry will be more helpful than a private registry as a tool to prevent these actors from abusing corporate structures, including by helping securities regulators to identify wrongdoing.
- That a publicly accessible registry can exacerbate existing risks of identity theft, fraud, kidnapping and extortion on behalf of beneficial owners. It is our recommendation that personal identifying information (e.g., full dates of birth, postal codes, citizenships) **should not be made publicly available** and that an exemption mechanism is available for beneficial owners who are at risk of targeting or harassment. Such a mechanism is part of the UK regime and we believe that Canada should emulate it.
 - We recognize that small business and large enterprises in Canada are currently at risk from fraudulent suppliers who abuse corporate structures to proliferate low-quality, counterfeit goods to Canadian businesses. Fraudulent suppliers negatively impact legitimate businesses and Canadian consumers. A publicly

² See: <https://www.bbc.com/news/uk-scotland-scotland-business-43935839>

³ See: http://www.budget.finances.gouv.qc.ca/budget/2020-2021/en/documents/Budget2021_AdditionalInfo.pdf

⁴ See: <https://landtransparency.ca/>

⁵ See:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/822823/review-implementation-psc-register.pdf

accessible registry can help small business owners assess risk from prospective suppliers, which in our opinion, ensures marketplace integrity.

- Unauthorized usage and data mining. We recognize these risks would exist with any registry system (public and private) and Canada can apply existing criminal offences pertaining to unauthorized use of computer systems.⁶ This should not deter Canada from implementing a registry as FATF requirements for corporate beneficial ownership for member states will be under review starting in June 2021. As of writing, 48 countries, which include large G7/G20 economies and Canada's trading partners have made commitments to publicly accessible registries and 61 countries are committed to central or partial registry systems.⁷

Publicly accessible information of natural beneficial owners should strike a balance, and be considerate of privacy with exemption mechanisms in place to mitigate harm and anti-competition. It is worth mentioning the Office of the Information and Privacy Commissioner of Ontario supports a publicly accessible beneficial ownership registry and does not view basic information in the public realm to compromise privacy of individuals.⁸ There is currently no evidence of jurisdictions citing a decrease in inward foreign direct investment due to public beneficial ownership reporting requirements.

In our view, this type of excessive risk aversion stymies the significant benefits provided by a publicly accessible beneficial ownership registry. An element that we believe is missing from the summary report is recognition of public safety benefits offered by public beneficial ownership registries in comparison to private registries beyond criminal law detection. Public accessible registries offer maximum deterrence of the proceeds of crime and improvements in tax enforcement; transparency related to government procurement; improved consumer protection; transparency in political financing; and improved AML and anti-fraud due diligence by financial entities, designated non-financial businesses and professions (i.e., accountants, real estate brokers and developers, casinos, etc.) and law professionals and for small businesses.

At the time of writing, Canada is the only G7 country⁹ without a commitment to implement a central or publicly accessible beneficial ownership registry* and is the sole member among the Five Eyes' (Australia, New Zealand, United States, UK, and Canada)¹⁰ without any commitment to a central or publicly accessible beneficial ownership registry. If the federal government does not implement more significant reforms, it will also be left behind by domestic leaders for public

⁶ See *Criminal Code*, R.S.C., 1985, c. C-46, s. 342(1):

<https://laws-lois.justice.gc.ca/eng/acts/C-46/page-76.html#docCont>

⁷ See map of countries who have made commitments: <https://www.openownership.org/map/>

⁸ See: <https://www.ipc.on.ca/wp-content/uploads/2020/03/2020-03-federal-beneficial-ownership.pdf>

⁹ Germany, France, UK, Italy are committed to publicly accessible registries under AMLD5. The United States and Japan are committed to central registries.

¹⁰ New Zealand and the UK are committed to publicly accessible registries. Australia and the United States are committed to central registries.

#endsnowwashing



beneficial ownership registries such as Quebec and British Columbia. Canada's federal government can no longer afford to be last place in the fight against money laundering and must make reforms to ensure we no longer have an international reputation for snow-washing.

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About us: *Publish What You Pay Canada, Transparency International Canada, and Canadians For Tax Fairness are three civil society organizations that joined forces to advocate for a publicly accessible, pan-Canadian, company registry of beneficial owners. To learn more about this campaign, visit www.endsnowwashing.ca*

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**Correction made on April 9, 2021 from original press release. At the time of publishing this press release, Japan also has not established, nor has a commitment to a public beneficial ownership registry. Since 2018, beneficial ownership information is required for notarization of articles of incorporation.*