## BENEFICIAL OWNERSHIP IDENTITY — WHY IS IT IMPORTANT

• Company ownership or control can be exercised in many different ways. The definition will determine whether the natural person (s) who ultimately calls the shots on company decision making, or profits from the companies activities, is identified.

• The definition is critical for companies to be able to identify who their beneficial owners are. The definition is likely to affect company response rate and usefulness of the BO data collected.

**BENEFICIAL OWNERSHIP DEFINITIONS: UNTANGLING THE EITI DEFINITION**

1. natural person( s): a human being who owns or controls the company. Never a company, other legal entity, or a nominee/proxy. Often not a director or manager.

2. ownership or control: means of owning or controlling a company, e.g. shares, voting rights, other decision/veto rights, right to profit, contractual associations, joint ownership arrangements.

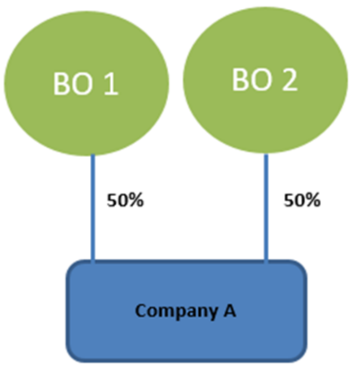
3. ownership thresholds: a percentage threshold that defines what can be considered control or ownership, e.g. a "BO is a natural person who owns/controls X % of the corporate entity."

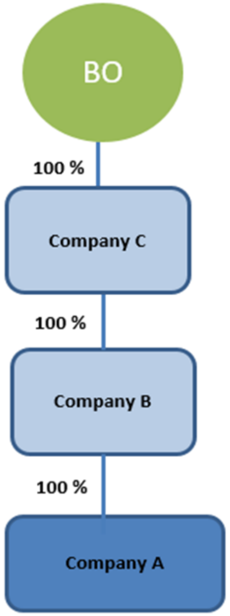
4. politically exposed person: an individual who is or has been entrusted with a prominent public function. Could include close family members and associates.

**BENEFICIAL OWNERSHIP DEFINITIONS—DIRECT VS INDIRECT OWNERSHIP**

Ownership can be direct or indirect:

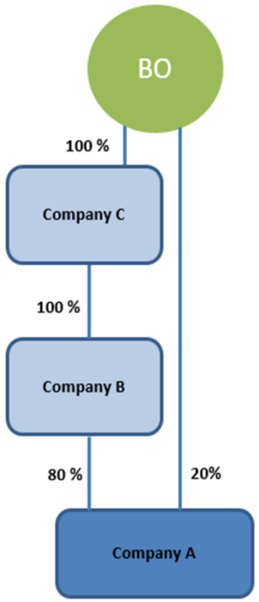
Example 1: Direct




Example 2: Indirect

Example 3: Direct and indirect

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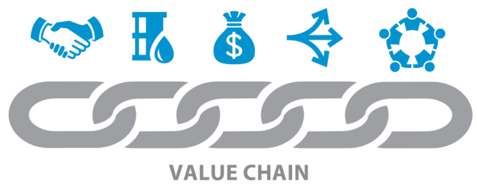
PNGEITI

Promoting Transparency and Accountability of Revenue from the PNG Mining and Petroleum Value Chain

# BENEFICIAL OWNERSHIP REPORTING

The EITI Value Chain ranging from Agreements & Contracts, Production Data, Revenue Collection, Revenue Allocation and Social and Community Benefits



## REQUIREMENT 2.5
## BENEFICIAL OWNERSHIP

### INTRODUCTION

•Transparency about government revenues from the extractive sector is important for accountability, but says little about who owns and ultimately profits from the activities of the oil, gas and mining companies.

•The identity of the real owners – the 'beneficial owners' – of the companies that have obtained rights to extract oil, gas and minerals is often unknown, hidden by a chain of unaccountable corporate entities.

•This problem affects other sectors and often helps to feed corruption and tax evasion. People who live in resource rich countries are at risk of losing out as extractive assets are too often misallocated for corrupt reasons.

### EITI REQUIREMENT ~ PROVISION 2.5

•The EITI board had agreed that by January 1, 2020, all implementing countries must ensure that corporate entities that bid for, operate or invest in extractive assets disclose the identity of their beneficial owners, and their level of ownership and details about how ownership or control is exerted.

•In addition, any politically exposed persons who are beneficial owners must be identified.

•Recommends that the beneficial ownership information is made available through a public register. Information to include name, nationality, country of residence, address, date of birth etc.

•At least some of this information must be included in the country's EITI Report, or the report should include a link to an online beneficial ownership information platform.

### WHAT IS BENEFICIAL OWNERSHIP?

•The EITI Standard defines a beneficial owner in respect of a company as "the natural person (s) who directly or indirectly owns or controls the corporate entity" (Requirement 2.5.f.i).

•This may thus include the person (s) who own or control the shares or voting rights in a company limited by shares, the person on whose behalf shares in a company are held by somebody else, or the person (s) that by other means control the way the company is run regardless of whether they have any interest in the shares of the company.

•The Multi-Stakeholder Group (MSG) should agree and give an appropriate definition to the term "beneficial owner". Definition should be aligned with the EITI Standard definition noted above and take note of international norms and relevant national laws, and should include ownership threshold (s).

•The threshold for PNG as agreed by the MSG is 5% of the total share value of the company.

•The definition should also specify reporting obligations for "politically exposed persons" (Requirement 2.5.f.i).

### BENEFICIAL OWNERSHIP & CONTROL

Common ways of owning or controlling a company

***Through ownership arrangements:***

•Ownership of shares. Example: 25% of shares.

•Ownership of voting rights. Example: 25% of voting rights.

•Other ownership arrangements ~ Examples:

•<u>Nominees</u>: a natural person that holds an interest in a company on behalf of someone else without controlling or owning that interest.

•<u>Joint ownership arrangements</u>: two or more people arrange to exercise their rights jointly.

Through other means:

•The right to appoint/remove the majority of directors in the company (or equivalent management body).

•Personal connections or contractual associations with individuals in management or Board positions.

Example: A company founder who no longer has a significant shareholding in the company he started, but makes recommendations to the other shareholders on how to vote and those recommendations are always or almost always followed.

**Beneficial ownership definitions: Untangling the EITI definition**

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•ownership or control: means of owning or controlling a company, e.g. shares, voting rights, other decision/veto rights, right to profit, contractual associations, joint ownership arrangements.

ownership thresholds: a percentage threshold that defines what can be considered control or ownership, e.g. a "BO is a natural person who owns/controls X % of the corporate entity."

politically exposed person: an individual who is or has been entrusted with a prominent public function. Could include close family members and associates.

## POLITICALLY EXPOSED PERSON (PEPS)

•Right to otherwise exert significant influence on the company's activities, e.g. decision rights, veto rights, right to profit, etc.

### Identifying and defining PEPs ~ Why it is important.

•Due to their position and influence, it is recognised that many PEPs are in positions that potentially can be abused for the purpose of offences relating to corruption and bribery.

•Lack of transparency with regards to politically exposed persons and their assets held in the extractive sector, poses corruption risks with regard to award of natural resource concessions.

•It does not mean that PEPs should be refused to conduct business within the extractive industry, but that such business relationships should be made transparent to prevent misuse.

### Who are PEPs?

A politically exposed person (PEP) is an individual who is or has ben entrusted with prominent public function. Could include close family members and associates.

•Heads of State or of government, senior politicians, senior government, judicial or military officials, senior executives of state-owned enterprises, or important political party officials.

•Also former officials, if they still have influential roles.

•Family members by blood, marriage or other civil partnership, can stretch beyond immediate family.

•Associates can be both personal social and professional.

### Identifying PEPs in BO disclosures

The MSG might consider using existing asset declaration practices to help identify cases where PEPs are beneficial owners of extractive assets.

*Example: Burkina Faso*

In Burkina Faso, the authority receiving declaration of assets held by politicians might be able provide the declaration of any form of property that politicians hold in the extractive companies.

*The PNG Extractive Industries Transparency Initiative (PNGEITI) is an independent body established by the PNG Government to promote transparency and accountability of revenue it receives from the mining, oil & gas sectors and how it spends these funds. PNGEITI is part of a global best practice standard known as the Extractive Industries Transparency Initiative (EITI) that promotes good governance in the extractive sector. In EITI implementing countries, companies involved in the extractive natural wealth (oil, gas and minerals) industries are required to report on what they pay to the governments and governments are required to publish what they receive from these companies in a given financial year. These financial data are then reconciled by an independent administrator and are published in the annual EITI Reports for public information.*