

Beneficial Ownership & Politically Exposed Persons

Definition in the PNG Context

With approvals from MSG & GoPNG entities & Regulators

Being in line with the Anti-Money Laundering and Counter Terrorist Financing Act 2015.

"politically exposed person" means -

(a) a person who is or has been entrusted in a foreign country with prominent public functions, including but not limited to, a Head of State or the head of a government, a senior politician, a senior government official, a senior judicial official or a senior military official; or

(b) a person who is or has been a senior executive in a foreign country of a state-owned company of that foreign country; or

(c) a person who is or has been a senior political party official in a foreign country; or

(d) a person who is or has been entrusted with a prominent function by an international organisation, including but not limited to directors, deputy directors and members of the board or equivalent positions;

or

(e) a person who is or has been entrusted in Papua New Guinea with prominent public functions, including but not limited to a Head of State, a politician, a senior political party official, a senior

government official, a senior judicial official, a senior military official or any person who is or has been a senior executive of a State-owned company; or

(f) any person who is a family member or close associate of a person mentioned in Paragraphs (a) to (e); "beneficial owner" means a

natural person who -

(a) has ultimate control, directly or indirectly, of a customer; or

(b) ultimately owns, directly or indirectly, the customer;

BO thresholds

Lessons learnt from the beneficial ownership pilot - thresholds

- ✓ About half of the pilot countries included a threshold in their definitions whereby a natural person who directly or indirectly holds a minimum percentage of ownership or control of the company was considered a beneficial owner.
- ✓ This approach was also applied to cases of indirect control, i.e. where ownership was held through a chain of companies or legal entities.
- ✓ Thresholds would begin from 5%
- ✓ The pilot showed that it is important that such thresholds are established taking into account the corporate structure of the companies operating in the country, an individual's full aggregated interest as well as different means of exercising ownership and control.
- ✓ A seemingly good practice related to thresholds was Liberia's attempt to agree a definition that would capture cases where no single individual holds enough ownership to be captured by the threshold.
- ✓ The MSG set at threshold at 5% but also agreed that in cases where a single individual does not own at least 5% beneficial ownership information will be requested from the top five shareholders with the greatest percentage of ownership rights.
- ✓ However, shareholder equity is not the only mechanism for exerting control over a company, and thresholds should apply regardless of how ownership or control is exercised.
- ✓ For example, if the threshold is 5%, then this threshold should apply whether a person maintains ownership via 5% of shares (directly or indirectly) or if they maintain 5% control over the company (via powers of attorney, contractual arrangements, etc.).