OPEN OWNERSHIP

Verification of Beneficial Ownership Data

Policy Briefing

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Overview

To maximise the impact of beneficial ownership registers, it is important that users and authorities can trust that the data contained in a register broadly reflects the true and up to date reality of who owns or controls a particular company.

Verification is **the combination of checks and processes** that a particular disclosure regime opts for to ensure that the beneficial ownership data is of high quality, meaning it is accurate and complete at a given point in time.

Verification involves creating systems to check that the information submitted to the register is at the very minimum plausible; appears in the correct format; is free from omissions; has been provided by a relevant, authorised person; and is ideally free from all error and falsehoods.

For the majority of companies with relatively simple ownership structures, determining and verifying their beneficial ownership (BO) will be a relatively straightforward exercise. Determining BO is more challenging for the minority of companies that have complex and often transnational ownership structures involving many different legal entities. In such cases, it may not be possible to reach 100% certainty that the disclosed BO data represents an accurate and complete picture.

A BO disclosure is a statement that is made about BO at a certain point in time, rather than an absolute truth. This is the case for many other types of information that are routinely filed by companies, such as statements of financial activity. Therefore, a good verification system is required so that users can rely on the data. Verification systems increase reliability by:

- providing clarity about the **provenance** of the data and what checks have been done
- **reducing the risks** associated with the data being false
- **triggering the appropriate** alarms when BO data is false or suspicious

There is no one-size-fits-all solution to verification, and the right verification system for a particular disclosure regime will depend on the specific local context. This document aims to set out overarching principles that underpin all effective verification systems. In addition, those who work on beneficial ownership transparency at times use 'verification' to refer to a number of different things. This briefing offers a common vocabulary to those working on the verification of beneficial ownership data.

Types of incorrect data that verification systems can address

A good verification system will address:

- **Accidental error**: data that is entered wrongly by accident (e.g. spelling a country of residence incorrectly)
- **Deliberate falsehood**: false data entered with the intent to deceive

There are different methods and mechanisms for verification, and they have different levels of effectiveness when it comes to accidental error and deliberate falsehoods. Generally, accidental errors are easier to address than deliberate falsehoods.

Types of verification checks

Verification breaks down into a number of checks that can be done:

- at the point of submission of BO information
- after the submission of BO information

Figure 1: Beneficial ownership data verification steps

Step 1

Data Submission

A beneficial ownership disclosure is submitted as information about a person, an entity and the control relationship between them (page 4).

Step 2

Verification at Point of Submission

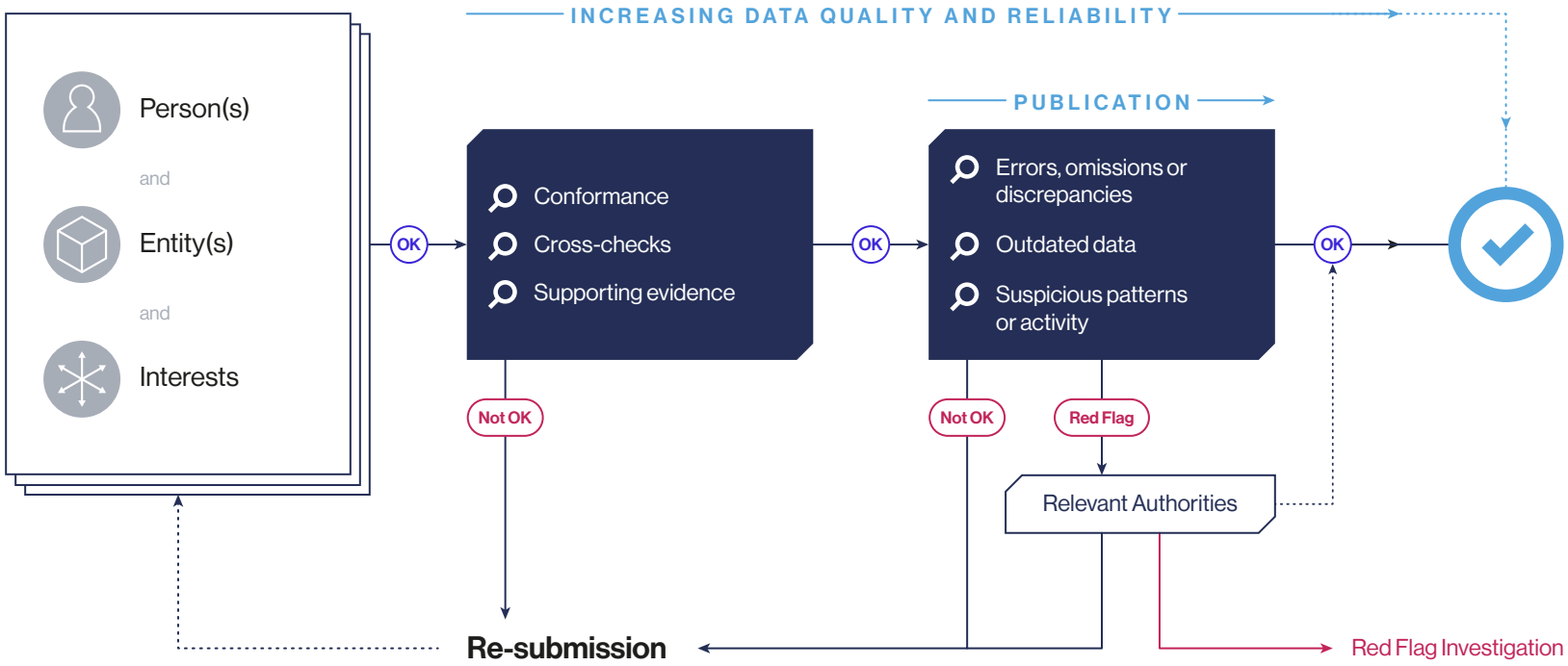
A number of verification checks (conformance, cross-checks and supporting evidence checks) are conducted at the point of submission (page 4). Data that fails these checks requires resubmission. Data that passes these checks undergoes a number of checks following submission (page 7).

Step 3

Verification After Submission

Errors, omissions and discrepancies are reported to the registrar and require correction or resubmission (page 7); outdated data requires resubmission, or a confirmation that it is still correct (page 8); suspicious activity or patterns in the data are passed onto an FIU, and triaged as being a false positive, requiring resubmission, or escalated for further investigation (page 8).

Verification is a constant process: with each verification check, data quality and reliability increases. All verification measures should be enforced by a comprehensive, proportionate and dissuasive sanctions regime (page 10).



Verification at the point of submission

Verification at the point of submission should:

- Ensure the information **conforms to expected patterns** and is clear and free from ambiguity (e.g. a postcode follows the expected postcode format in a particular country; total shares do not exceed 100%)
- Ensure the information reflects **values that actually exist and are real** by **cross-checking** against authoritative systems and other government registers where possible (e.g. a postcode actually exists)
- **Check supporting evidence** by checking submitted information against original documents (either hard copy or via digital identification, e.g. proof of address; passports for owners or submitters' identities; share certificates for ownership).

BO disclosure comprises three types of information:

1. Information about the person(s) involved in an ownership or control relationship
2. Information about the nature of their ownership or control
3. Information about the company or other legal entity they own or control

Different verification checks can be conducted on each of these information statements. It is critical for disclosure regimes to be able to disambiguate between different individuals and entities, points 1 and 3, both in the type of data they collect and the verification mechanisms they employ. Point 2, information about the nature of their ownership or control, is the hardest to verify, and where most deliberate falsehoods occur. Verifying each of these types of information is substantially easier to do when the data is structured (i.e. consistently organised into separate fields, and ideally machine readable) rather than unstructured. Information about the submitter is crucial metadata to the three information statements.

Approaches to verifying these three types of information can be divided into three main categories outlined below. It is important to bear in mind that one approach does not preclude the other, and that multiple approaches complement each other and can mutually reinforce reliability and data quality.

Ensuring conformance

Conformance checks

Does the data follow an expected pattern? For example, is a birth date formatted as you would expect a birth date to be and does the system reject inadmissible dates such as 31 February?

Conformance checks are an effective tool to remove accidental errors. The checks are relatively easy and cheap to implement in digital forms. They are, however, less effective at tackling deliberate falsehoods.

> **Example: Belgium**
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> In the Belgian UBO-Register (Ultimate BO), the system prevents the registration of more than 100% of the shares/voting rights for an individual as this would not technically be possible, thereby ensuring data conforms to expected patterns.[1]

1 FATF, "Best Practices on Beneficial Ownership for Legal Persons". October 2019. Available at: https://www.fatf-gafi.org/media/fatf/documents/Best-Practices-Beneficial-Ownership-Legal-Persons.pdf [Accessed 20 April 2020].

Ensuring values are real and existent

Cross-checking of data

Can you look up the details in an authoritative system, such as other government registries, to check they are accurate? For example, can a birth date be cross-checked with the civil registry, or can a government Digital ID system verify identity?

Cross-checking data can to a large extent be automated, and is more effective than conformance, both in general as well as specifically tackling deliberate falsehoods. Effective cross-checking requires a basic technical infrastructure and capacity, including in other parts of government, that provide data for cross-checking. Potentially new legal mandates for using this data will need to be created if none exist. These checks are dependent on authoritative registers being in place and accurate (has the data in those registers been verified?). The checks may only cover domestic citizens, depending on what information is available.

Example: China

In China, beneficial ownership information is cross-checked with a number of other government registers, including the Administration of Industrial and Commercial Registration Information System, National Enterprise Credit Information Publicity System, Unified Social Credit Code Inquiry of National Organization System, Commercial Entity Registration Information Platform, Commercial Entity Credit Information Publicity Platform, and the Tax Registration Inquiry System.[2]

Example: Denmark

The Danish Central Business Register (CVR) automatically cross-checks submitted information with various governmental registers, including the civil register and the Danish address register. The system prevents, for example, the registration of a deceased person.[3]

Checking supporting evidence

Certification or notarisation

Has someone authoritative (e.g. a lawyer or a notary) independently checked the documentary evidence that lies behind the data, and confirmed it is true? For example, can a notary certify a person's birth date by guaranteeing the veracity of a passport scan?

Certification checks can be used for all three types of information. They involve third party natural persons that are impartial (often under oath) that stake their professional reputation on veracity claims and bear liability for false filings. Certification checks do require strict requirements and guidelines in order to not get diverging practices in the submission of information (see example below). For less technically advanced governments, notarisation as a means of verification is often a viable option, as can be seen in some lower income countries.[4] The use of notaries and lawyers may provide a cost-barrier to making changes, and would be relatively costlier for smaller companies, and may also require verification checks on that person (e.g. is this lawyer licensed to practice?).

Example: Slovakia

In Slovakia's Register of the Partners of the Public Sector, third parties – lawyers, notaries, banks and auditors – are responsible for checking all information and can be held liable if found to be providing false information. OpenOwnership's review of submissions has shown that there can be a divergence in the quality of evidence supporting the means of ownership and control, as some notarised documents only provide a narrative description that does not provide sufficient clarity, while others include clear diagrams of company structures.

Example: Japan

In Japan, notaries are required to check the identity of the beneficial owner by examining the submitted articles of association and other documents. They also check identities against their own database on organised crime groups and international terrorists.[5]

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2 Ibid

3 Ibid

4 For example, in Mali. See GIABA, "Anti-money laundering and counter-terrorist financing measures. Mali Mutual Evaluation Report". November 2019. Available at: http://www.fatf-gafi.org/media/fatf/documents/reports/mer-fsrb/GIABA-Mutual-Evaluation-Mali-2019.pdf [Accessed 20 April 2020].

5 FATF, "Best Practices on Beneficial Ownership for Legal Persons". October 2019. Available at: https://www.fatf-gafi.org/media/fatf/documents/Best-Practices-Beneficial-Ownership-Legal-Persons.pdf [Accessed 20 April 2020].

Registrar checks

Has the registrar checked the documentary evidence and confirmed it is true?

Registrar checks can be used for all three types of information, and further increase confidence of supplied information. This shifts the cost burden away from companies compared with requiring certification by third party professionals, but registrar staff may need additional training on checking the veracity of documentary evidence. This also requires careful consideration of where liability lies.

Verifying the submitter

Verifying information about the person that submits a BO disclosure can provide an additional safeguard against submission of false information. Depending on the disclosure regime, this could be the beneficial owner, a representative of the disclosing company or a third party. Information about the submitter is essentially metadata, crucial for increasing reliability. The verification checks described above can be deployed to verify the identity of the submitter of information. In addition, it may be necessary to establish that the person is authorised to submit the information on behalf of the BO or company.

The systems above will reduce errors and deliberate falsehoods, and will help improve data quality. However, it will still be possible for somebody to disguise an actual beneficial owner. For instance, a real, authorised and verified person may submit information on behalf of a legitimate business and submit the information of a real and verified person that is not the beneficial owner, with the aim of disguising the real BO. There are additional verification mechanisms that can be deployed after submission to further improve data quality.

Verification after submission

Verification after submission should:

- Ensure data is **frequently checked**
- Ensure data is **kept up to date**
- Ensure **information suspected of being incorrect is investigated**

There are a number of general approaches to verification after submission, including checks after the publication of BO information. As with verification checks at the point of submission, multiple approaches can be deployed to complement each other and can mutually reinforce reliability and accuracy.

Ensuring data is frequently checked

Making BO registers open and public

Making registers public allows for checking by the private sector, civil society, and the general public, both for accidental error and deliberate falsehoods. Research suggests that publishing data publicly can drive up data quality, as increased data use drives up the likelihood of inconsistencies or potential wrongdoing being identified.[6] In order for this to work effectively as a verification measure, mechanisms should be put in place to allow for reporting of errors, discrepancies and contradictory information. There are also a range of other benefits for the private sector, which are all expected to outweigh costs.[7]

Although there are no documented examples of harm as a result of public registers,[8] opponents of public registers frequently quote privacy issues as an argument against them. Governments should not disclose more data than necessary to provide meaningful oversight and transparency, and could include exemptions in the case of legitimate concerns.

> **Example: United Kingdom**
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> In November 2016, Global Witness and a consortium of NGOs analysed 1.3 million companies in the UK's Persons of Significant Control BO register. They were able to inform Companies House – the body overseeing the register – of over 4,000 companies with ineligible information.[9]

Sample testing/checking

Agencies responsible for BO registers can conduct in-depth investigations of samples of the data or require external parties to do so. These tests provide a deterrent to companies against submitting wrong information. Sample testing may not be a very effective verification mechanism and can be quite resource intensive. This can be mitigated by using a risk-based approach to sample testing.

> **Example: Denmark**
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> To ensure that BO information in the Central Business Register (CVR) is accurate and current, the Danish Business Authority (DBA) started manually checking 500 companies and their registration of beneficial owners in 2019.[10]

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6 OpenOwnership, "Briefing: The case for beneficial ownership as open data". July 2017. Available at: https://www.openownership.org/uploads/briefing-on-beneficial-ownership-as-open-data.pdf [Accessed 20 April 2020].

7 OpenOwnership, "Briefing: The case for public beneficial ownership registers". July 2017. Available at: https://www.openownership.org/uploads/the-case-for-public-beneficial-ownership.pdf [Accessed 20 April 2020].

8 OpenOwnership, The B Team and The Engine Room, "Data Protection and Privacy in Beneficial Ownership Disclosure". May 2019. Available at: https://www.openownership.org/uploads/oo-data-protection-and-privacy-188205.pdf [Accessed 20 April 2020].

9 Global Witness, "The Companies We Keep". 2016. Available at: https://www.globalwitness.org/documents/19400/Briefing_The_Companies_We_Keep.pdf [Accessed 20 April 2020].

10 FATF, "Best Practices on Beneficial Ownership for Legal Persons". October 2019. Available at: https://www.fatf-gafi.org/media/fatf/documents/Best-Practices-Beneficial-Ownership-Legal-Persons.pdf [Accessed 20 April 2020].

Ensuring data is kept up to date

Require updates to the information in case of changes

BO changes should be required to be updated swiftly following changes. Specifying a short and defined time within which to submit any changes to a register ensures BO information stays up-to-date. Public registers can also publicly display when information is out of date to alert data users. Being required to submit frequent updates to the register has the potential to raise compliance costs, which should be factored into verification system design.

Require confirmation of existing information

Disclosing entities should check and confirm on a regular basis (at least annually) that their BO info is accurate and up-to-date. This can be integrated with existing business processes (e.g. submitting annual returns). Without other verification checks, however, this measure is ineffective.

Example: Ukraine

In order to ensure constant updating of information on beneficial owners, the Ministry of Justice of Ukraine issued Order No. 2824/5 "On Making Amendments to Certain Forms of Applications in the Field of State Registration of Legal Entities, Individual Entrepreneurs and Public Organization" in 2018, which obliged the companies to update information on their ultimate beneficial owners when changing any information with the Unified State Register, or to confirm the information held is still correct.[11]

Ensuring information suspected of being incorrect is investigated

Require reporting of suspicious entries and activities

Bodies dealing with BO data should be required to report suspicious submissions and activities to the appropriate bodies, and they should be mandated to investigate these (e.g. private sector conducting due diligence could report to the Financial Intelligence Unit [FIU] for reports related to money laundering). It is important that the FIU's are appropriately resourced to be able to investigate reports (see example).

Example: United Kingdom

From January 2020, sectors that fall under anti-money laundering and counter terrorism-financing (AML/CTF) regulations are required to report discrepancies between beneficial ownership information available at Companies House, and information that they obtain through their own compliance checks.[12]

Example: The Netherlands

An estimated €16 billion is laundered through the Netherlands each year. While obligated entities reported 60,000 suspicious transactions in 2018, the FIU only deemed 15,000 of those as actually suspicious, but is suspected of only being able to investigate far fewer, due to a lack of (human) resources.[13]

Red-flagging

Systems can be set up to detect patterns associated with legal vehicles being used for illicit purposes. This is likely to be highly context-specific. These systems will be easier to set up in digitised systems with BO information as structured data, and could adopt AI and machine learning technologies. There is a risk that when additional red-flagging checks are added and BO information is cross-checked with additional registers, the number of entries falsely flagged as suspicious will also grow, decreasing its utility. It is therefore important to also consider mechanisms to reduce these errors, and to introduce a lightweight and rules-based business process that responds to these discrepancies.

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11 Based on "Concept of a mechanism for verifying the reliability of information on UBO" shared with OpenOwnership by the "Up to 100%" verification working group, as well as discussions with the working group members in February 2020.

12 HM Treasury, "The Money Laundering and Terrorist Financing (Amendment) Regulations". 2019. Available at: http://www.legislation.gov.uk/uksi/2019/1511/made/data.pdf [Accessed 20 April 2020].

13 Trouw, "Belastingadviseurs: 'Overheid is te slap tegen witwassen'". 9 February 2020. Available at: https://www.trouw.nl/economie/belastingadviseurs-overheid-is-te-slap-tegen-witwassen-b0f40eff/ [Accessed 20 April 2020].

Example: Ukraine

In Ukraine, the working group on verification "Up to 100%" has proposed a number of verification systems that raise automatic red flags based on known structures used for illicit purposes. For instance, in Ukraine it is common to list a factory worker as a BO. The proposed system would automatically raise a red flag for investigators when someone is listed as a BO of a profitable company while tax data shows that person earning a wage significantly lower than what could be expected from a profitable company owner.[14]

Most beneficial ownership disclosure regimes will deploy a number of these verification mechanisms, which is by no means an exhaustive list, but all fall broadly within these three approaches. No single approach is better and ultimately their success will be highly dependent on the context in which it is deployed and what other checks are in place. Countries should therefore take a holistic and comprehensive approach to verification, taking a risk-based approach and bearing in mind the overarching aims of the verification system as means to an end to facilitate data use and, in turn, policy impact.

14 Based on "Concept of a mechanism for verifying the reliability of information on UBO" shared with OpenOwnership by the "Up to 100%" verification working group, as well as discussions with the working group members, in February 2020.

Sanctions

All verification measures should be enforced by a comprehensive, proportionate and dissuasive sanctions regime, including monetary fines and other penalties, in order to improve compliance and improve data quality, which may cover:

- The person submitting the BO declaration (e.g. notary)
- Registered officers of the company
- The beneficial owner(s)
- The company making the disclosure

Sanctions should cover failure to submit information, submitting incorrect information (deliberate or otherwise), or not submitting information on time. Sanctions can be extended to include penalties for the failure to report suspicious information under AML reporting obligations. Non-monetary fines can include stripping certain national and business related rights, such as not being able to incorporate a company or not being paid out dividends from shares.

Example: France

In France, late or incorrect submissions can lead to a person being prevented from engaging in certain business activities or stripping certain national and civil rights, such as being placed under judicial supervision. In addition, the person responsible is subject to six months of imprisonment and a fine of €7,500. The sanction for the company is equal to five times the sanction applicable for a person.[15]

Example: Ghana

In Ghana the fines for not updating information are USD350,[16] which, according to local sources, are deemed so low by some companies they opt to pay these rather than update the information.

15 FATF, "Best Practices on Beneficial Ownership for Legal Persons". October 2019. Available at: https://www.fatf-gafi.org/media/fatf/documents/Best-Practices-Beneficial-Ownership-Legal-Persons.pdf [Accessed 20 April 2020].

16 EITI, "Legal approaches to beneficial ownership transparency in EITI countries". June 2019. Available at: https://eiti.org/files/documents/legal_approaches_to_beneficial_ownership_transparency_in_eiti_countries.pdf [Accessed 20 April 2020].

Conclusion

Verification is a system of different checks and processes that can be deployed along different stages of a BO disclosure system, enforced with proportionate sanctions, with the aim of making high quality and reliable data, to maximise the utility and impact of a BO register.

In practice, this means having in place an appropriate legal framework (for example, which permits government institutions to share information) and effective software and hardware systems as well as administrative processes that implement the requirements of the legal framework in a manner that maximises use of BO data to deliver policy impact. While it is important to thoroughly assess the merits of the different combination of verification approaches in advance, governments should treat beneficial ownership disclosure as an ongoing project. It should be carried out step-by-step, while continuing to identify ways to improve, close loopholes and strengthen the use of information and data.

Verification of beneficial ownership data is a fast evolving but comparatively young field, and there remain areas where good practice is still emerging. For example, it is much easier to conduct verification checks on domestic nationals than foreign nationals. As more countries establish public BO registers with verification systems and as these systems are linked, the potential of what can be achieved through solid verification of BO data will increase. There is also a considerable amount that can be learned from the private sector as well as closed registers, with respect to verification.[17] However, little information about this is available in the public domain, as the limited geographic scope of the examples in this briefing shows. As one of its research streams, OpenOwnership is looking into private sector use of BO data and the verification mechanisms they employ, as well as conducting case studies of verification mechanisms in closed registers. As additional countries implement beneficial ownership transparency, OpenOwnership will continue to learn and update its thinking on best practices in verification.

17 See, for example: Andres Knobel, "Beneficial ownership verification: ensuring the truthfulness and accuracy of registered ownership information", Tax Justice Network. 2019. Available at: https://www.taxjustice.net/wp-content/uploads/2019/01/Beneficial-ownership-verification_Tax-Justice-Network_Jan-2019.pdf

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