



Session Report

Please know you may design the structure of this report to better suit the session. It's important to capture the key outcomes and solutions proposed for the future.

Session Title: Companies calling! Leveraging corporate leadership on beneficial ownership transparency to drive a global standard

Date & Time: Wednesday, 07.12.2022, 8:30 am – 10:00 am GMT -5

Report prepared by: Sierra Leder, Strategist, The B Team

Moderated by: Robin Hodess, Head of Strategy, The B Team

Panellists:

- Thom Townsend - Executive Director, Open Ownership
- Mark Robinson - Executive Director, EITI
- Tim Robinson - Chief Compliance Officer, BHP

Share the thematic focus of the session, it's purpose and corruption risks?

- The business case for Beneficial Ownership Transparency
- How companies and other private sector gatekeepers can help deliver on the Beneficial Ownership Transparency agenda

Summary of panellists' contributions & discussion points (please be as detailed as possible)

Robin Hodess - Head of Strategy, The B Team

- BOT is part of trifecta of tools – ownership transparency, contract transparency, tax transparency.
- Question of public interest vs privacy
- Know your customer due diligence has been a great ally for this work BUT many in business still have arguments of commercial confidentiality.
- The G in ESG is an underlying element that enables the E and S, through transparency.
- We need 'health labels' on companies. Relevance to ESG and other impact

reporting. This is the reason to support ISSB in pursuit of high global reporting standards.

Thom Townsend - Executive Director, Open Ownership

- Open Ownership works on technical implementation of reform
- Aggregates open data into one platform
- Has developed a data standard to make data useable for governments
- About 130 countries around the world have committed to policy reform and publicly accessible information on BOT
- There has been a huge rise in awareness since 2016 and in implementation efforts since 2021.
- Business leadership will drive compliance.
- Need to explain what BOT is and why it matters, and how to comply. Need to move from commitment to implementation.
- Financial action taskforce – has recommendations. Rec 24 updated in March 2022, requiring info to be verified. But only 9 percent of countries have been effective at meeting the old less ambitious FATF recommendation – 14 percent of OECD countries, 7 percent of non-OECD.
- OO exists to fill gap in implementation
- OO has a report detailing how BOT helps to prevent corruption – includes case studies. Call on audience – to read just one case study, so you can talk to people about why BOT matters.
- Example: use of data from Luxembourg register. Former president of Argentina was driving contracts for on-shore windfarms to his brother. Family netted about 70 million. Luxembourg discovered this through BOT data.
- European Court of Justice: ruled previous week that public access to BOT is invalid. Case was brought in Luxembourg. Someone requested exemption based on perceived risk of harm based on this data. Exemption not granted. Lux courts felt that it was matter of European law. Judgement says that – general public access to BOT data is not necessary for countering money laundering/terrorist financing. The measure is not proportionate (public doesn't need it to actually achieve goals). Clarification – press and civil society have a legitimate interest case to access information for the purpose of fighting money laundering and terrorist financing. So: can still make legitimate access request BUT those are rarely responded to.
- Should always revert to least invasive measure. BUT in EU it is hard to define press or civil society – so they went with general public interest. But now it is making it hard to hold the line on public access.
- Ask: government needs to sit down with all stakeholders. EU Commission needs to clarify directive. Some states have not shut down their public registers. Will see how it goes.
- EU is leading the way, as always – it will have impacts around the world. People refer to European choices and follow them.
- Exemption regimes do exist for legitimate concerns of safety risks
- Basic due diligence is very costly, and BOT would very much reduce that cost. Cannot expect companies to be effective and thorough when high barriers are set.

Mark Robinson - Executive Director, EITI

Mark explored the role of corporate supporters for the EITI standard/BOT, the evolution of the [company statement](#) on BOT since September 2021 and further sectoral opportunities for private sector engagement, eg with professional services.

- First issue is to try to figure out what BOT is.
- Issue is politically challenging for many.
- EITI has BOT as a requirement standard (all 57 countries in EITI have to move towards creation of accessible register in oil gas and mining)
- Requires names of owners, level of ownership above a certain material threshold, etc.
- Need to do more for SMEs, especially in mining.
 - BHP +5 others have put out strong public commitment.
 - Important for companies to champion
- Results of reporting in EITI will be published next spring – will see where there is corporate leadership and where there are gaps
- Companies use BOT data as part of due diligence in business partnerships
- Big companies can exercise leverage on others to share BOT data
- Potential contagion effect of European choices – reformers may rethink their positions if EU steps back.
- Companies don't have to rely on rules to publish! Companies can be brave and bold and show leadership without government requirements.
- Risk: moving back to paying for information on ownership – would shut out press and civil society
- Companies known to push back on BOT because of politics. Politically exposed people do not want light shed on own ownership. Want contracting processes kept tight and have full access, and make sure licensing regime favours their companies.
- Need to work through business associations and chambers of commerce to demonstrate benefits and level playing field.

Tim Robinson - Chief Compliance Officer, BHP

Tim addressed company leadership on BOT – why it's a YES for BHP, what has BHP done so far (over time and as a result of [the statement](#)) – policies and practices, and where BHP goes from here

- BHP looking to help world decarbonise and effect global transition – copper, nickel, iron ore, etc for renewables development. Committed to operating sustainably and ethically BUT many of those minerals are located in countries with governance and corruption issues. If development of resources is well-governed, has potential to lift millions out of poverty and fight climate change.
- Transparency and BOT are part of picture – also accountability, respect of land rights etc.
- Social value can be promoted by ethical development of resources
- Want to create level playing field – make sure corrupt companies don't get unfair advantage
- Key benefits of BOT:
 - Opportunity to reduce corruption. Often see concealed ownership data in

- corruption scandals.
- Commitments to BOT send an advance signal through whole supply chain – acts as disincentive to this form of corruption around the world (esp. if a coalition of major companies demonstrates it)
- BOT data makes due diligence more reliable and accessible for all supplier checks. Big companies may have resources, but for SMEs the public registers are hugely beneficial.
- Biggest challenge to BOT as an effective measure for a company: transparency itself is not enough to combat corruption. Also need accountability mechanism for what is revealed in the data. One of most powerful effects of BOT is preventative effect. If corrupt or potentially corrupt actors are AWARE of a requirement to disclose (and there is accountability) then there is a disincentive for them to engage in that form of corruption. Differs across countries. Don't always have free press or open elections.
- For private sector, there are other options for accountability like industry standards, including ESG standards. Want to see that industry standards are made clearer on ESG and on transparency. In context of climate transition – lots of interest from customers to know about sustainability in minerals, looking at industry standards to measure sustainability of products coming into their supply chain. BHP has agreement with Tesla around ability to produce sustainable nickel. Customers asking about sustainability is an economic incentive for companies to do it.
- Due diligence often most difficult in places where it is needed most.

Main outcomes of session (include quotes/highlights and interesting questions from the floor)

- Canada moving forward on BOT – with some resistance surprisingly from banks. Trying to get more on board
 - Concerned that verification system wouldn't work, and then they would be liable for data.
 - What experiences have others had with banks?
- World Wildlife Foundation: allies are crucial. Bringing corruption concerns into conservation community – illegal fishing, logging, wildlife trade. How is BOT community reaching out to the environmental community?
 - Big opportunity for education – and for allyship!
- CIPE: ESG standards – with EU legislation coming, what voluntary measures or standards does Robin see as possible to accompany?
- Engineers without Borders: how to increase transparency in local procurement when nepotists are well known and control imports?

Tim Robinson: national resources perspectives – conservation connections make complete sense! Lots of synergies. Don't know if outreach is happening.

Thom Townsend: Canadian context – yes, issue of liability. US had same issue of bank responsibility. Need to make sure that liability for use of data works for all BUT makes no sense for banks to suggest that their systems work better than what government could produce for all to use.

Thom Townsend: What to do with data? How to build political change? OO working with smaller journalists and civil society to figure that out. Context-specific.

Robin Hodess: strategic litigation where possible. But hard to get society engaged.

Voluntary disclosure – EITI standards! B Team responsible tax principles. Companies should realise that being ahead of the curve is beneficial.

What can be done to promote BOT to companies?

- All need to be involved, including SMEs
- Showing by doing. Adoption, integration into common tools that people are using. I.e. integrate into common accounting software for all SMEs to do automatically
- Find big company with strategic interest in reducing corruption – that will cascade down supply chain with their leverage

Has EITI ever expanded beyond extractives?

- Forest/fishing, land (i.e. in India)
- Extractives can be entry point for countries that don't have many other external industries (i.e. Armenia – requirements then expand to rest of economy)

What risks or benefits do you see with allowing corporate leadership in BOT?

OGP Mongolia: BOT entry points have been extractives and banking/finance in Mongolia.

UNODC: What are incentives for military owned enterprises? (I.e. Myanmar)

Uganda: Entry point for BOT has been public procurement in some countries (Africa) – but still very very new. There is a legal framework, but so much is not on record to be tracked.

Can pursue technical liability for false filing – can disincentivise but doesn't fix over night.

Key recommendations for the future and concrete follow-up actions

Thom Townsend: Ally ship – need greater coalition building across fields to continue promoting practicalities and understanding of benefits of BOT

Tim Robinson: gaining momentum of sustainability requires trust of communities. Need to provide transparency to earn trust.

Mark Robinson: trust is fundamental. Scepticism from citizens about ownership structures is natural, and applied civil society pressure/commitment can be used to

shed light on both private and state-owned and even military-owned companies.

Rapporteur's name and date submitted

Sierra Leder, 08.12.2022