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## A REVIEW OF EXISTING LEGISLATION IS KEY TO STRENGTHENING BENEFICIAL OWNERSHIP TRANSPARENCY THUS MITIGATE FINANCIAL CRIME IN UGANDA.

### 1. What is Beneficial Ownership

According to Report of the High Level Panel on Illicit Financial Flows from Africa, a Beneficial owner is a real person or group of people who control(s) and benefit(s) from a corporation, trust, or account.

Various legislations in Uganda require obtaining information on beneficial ownership however, these define who a beneficial owner is differently. For instance, the Anti money laundering act 2013 as amended defines a beneficial owner as the natural person who ultimately owns or controls a customer or the natural person on whose behalf a transaction is conducted, and includes a natural person who exercises ultimate effective control over a legal person or legal arrangement.

The Income Tax Amendment Act, 2021 defines a beneficial owner as the natural person who owns or has a controlling interest over a legal person other than an individual and who exercises control over the management and policies of a legal person or legal arrangement directly or indirectly whether through ownership or voting securities by voting or otherwise. Furthermore, Mining and Minerals Bill 2021, defines a beneficial owner as any person with control, possession, custody or enjoyment, of a reasonably significant economic interest in a given legal entity or receives significant economic benefit directly or indirectly.

### 2. Status of acquiring Beneficial Ownership information in Uganda

Uganda has taken strides towards acquiring information on beneficial ownership for instance, in August 2020, Uganda joined the Extractive Industries Transparency Initiative (EITI) which requires a publicly available register of beneficial owners of corporate entities in the extractive industry. Indeed, the Mining and Minerals Bill (2021) was passed into law and it obliges companies applying for a mineral right license to disclose their Beneficial Ownership information in a public available database.

Furthermore, the Uganda Registration Services Bureau (URSB) undertook Administrative reforms like formulation of beneficial ownership Guidelines on the role of URSB in the prevention of money laundering, terrorism financing and other suspicious transactions effective 26th August 2020 focusing on raising occurrences such as multiple registrations or high value transactions within a short period of time and other concealing related attitudes among others. The Bureau also under took Legal reform of the Companies Act No.1 of 2012 expected to accommodate the definition of beneficial ownership in the definition section of the law; provide a provision that requires all companies to keep a register of beneficial owners, which shall include all information prescribed in regulations relating to beneficial ownership among others (ursb.go.ug).

Even so, there is absence of a legal requirement for collection of Beneficial Ownership information for companies created or registered in Uganda thus exposing this process to failure since criminals could deliberately refuse to disclose such information.

### 3. Why Beneficial Ownership Transparency?

Beneficial ownership transparency requires making more information about the individuals who own or control registered legal entities and arrangements available to those who can use it effectively. (Open ownership: a guide to implementation of beneficial ownership Transparency).

Uganda lacks a central Beneficial Ownership registry that records such information in a single access source thus being exposed to financial crime. While appearing before the Finance committee of Parliament in January 2022, the Executive Director of Financial Intelligence Authority (FIA) Sydney Asubo noted that the Country is at a risk of being blacklisted by the Financial Action Taskforce (FAFT) if Government does not tackle money laundering by Politically Exposed Persons by 31st May, 2022.

***Uganda losses approximately UGX 2 Trillion every year in illicit Financial Flows through sources like corruption, tax evasion, money laundering, organized crime*** (Corporate Transparency: A guide for beneficial ownership laws in Uganda, April 2022). Often, legal entities like Companies have become medium through which Government officials, Politically Exposed Persons and their counter parts (with whom they conduct organized crime) hide their identities and unlawful gains domestically and across the world. Currently, Uganda lacks a central register on beneficial ownership thus country's inability to effectively track down such crimes and recover lost revenue.

For example, Uganda National Roads Authority lost UGX 18.6 billion to EUTAW (functioned as a shell Company) which had been awarded a contract in 2013 to construct 74 km Mukono-Katosi/Kisoga-Nyenga road. In 2019, Former Inspector General of Government Irene Mulyagonja noted that part of the embezzled funds were transfered to the USA (https://observer.ug/news/headlines/60660-stolen-katosi-road-money-transferred-to-usa-igg ).

With stimulating Beneficial Ownership Transparency across all Programs of the economy, Government will not only disrupt the opaqueness on which criminals rely for committing financial crime but also build confidence in the reliability of Financial Transactions and systems.

### 4. Recommendation & CONCLUSION

Government of Uganda should adopt the following;

1) Amend existing laws for example the Companies Act No.1 of 2012 to define Beneficial Ownership in the definition section of the law, include a provision that requires all companies to keep a register of beneficial owners, which shall include all information prescribed in regulations relating to beneficial ownership https://ursb.go.ug/index.php/forms/business-ownership-forms; provide for offences and sanctions for defaulting entities.

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