

17 November 2016

TTEITI- Beneficial Ownership Roadmap

The EITI Standard 2016 (https://eiti.org/node/4922) describes in Requirement 2 (clause 2.5) the obligation of EITI implementing countries with respect to the newly introduced Beneficial Ownership information reporting. Requirement 2.5, clause b) ii states, 'By 1 January 2017, the multi-stakeholder group publishes a roadmap for disclosing beneficial ownership information in accordance with clauses (c)-(f) below. The MSG will determine all milestones and deadlines in the roadmap, and the MSG will evaluate implementation of the roadmap as part of the MSG's annual activity report'.

Requirement 2.5 c) states, 'As of 1 January, 2020, it is required that implementing countries request and, companies disclose, beneficial ownership information for inclusion in the EITI report....'.

The Standard requires that all EITI implementing countries must ensure the following:

- All oil, gas and mining companies that bid for, operate or invest in extractive projects in their countries disclose their real owners.
- This should include the identity of the owner, i.e. the name, nationality and country of residence. Countries are also encouraged to ask companies to provide further details such as the date of birth, national identity number, residential address etc.
- Any **politically exposed persons** holding ownership rights in oil, gas and mining projects must be identified.
- The Standard recommends that beneficial ownership information is made available through publicly available registers. At a minimum, the information must be included in the country's EITI Report.

The following is a Roadmap developed by the TTEITI Secretariat, using the EITI Guidance Note (https://eiti.org/GN22), and adopted by the TTEITI Steering Committee at its Meeting No. 75 on November 17, 2016, on the way forward to ensure that Trinidad and Tobago meets the Standard's requirements by the given dates:

EITI Guidance Note Issues	Comment/Action	Deadline
for Consideration		
4.1 Consider how	The TTEITI Beneficial Ownership (BO) initiative will be	
beneficial ownership	linked to the Government's BO commitment made at	
disclosure can support	the Anti-Corruption Summit in London on 12 May 2016	
national reform priorities	by Prime Minister Keith Rowley.	

	Government also mentioned in the 2017 Budget Debate its plan for mandatory BO reporting through "introducing a requirement under the companies' law where beneficial ownership must be declared to the Companies Registry and your declaration of ownership must be prompt and up to date. And if you do not declare your ownership, it constitutes an offence under the Companies Act." Standard Requirement 2.5 b) states that "The EITI Report documents the government's policy and MSG's discussion on disclosure of beneficial ownership'. To achieve this goal, the TTEITI Secretariat will request the	TTEITI Secretariat will monitor the introduction of this plan. March 2017 (this information will
	Ministry of Energy and Energy Industries' (MEEI) Legal Department to officially state the Government's policy on Beneficial Ownership.	be included in the next report).
	The TTEITI Secretariat will submit a memo to the MEEI Permanent Secretary that will outline the TTEITI Steering Committee's (SC) approved definition of Beneficial Ownership and request that all companies that submit bids during the upcoming bidding round complete the EITI Beneficial Ownership template.	December 2016
4.2 Consider the institutional framework for beneficial ownership disclosure. (To determine if the Roadmap should include legal reviews with a view to identify opportunities for embedding requirements for beneficial ownership	The TTEITI Secretariat will get assistance from the Faculty of Law of the University of the West Indies to review all existing and known proposed laws and policies of Trinidad and Tobago. The findings will help guide the SC to decide if there is a need for a separate Beneficial Ownership law or if there are opportunities to address gaps in existing laws by making amendments. It should be noted that research rates were obtained from the Faculty. Recall that the SC and UWI signed an MOU on 6.11.2013 that facilitates such cooperation.	February 2017
disclosure in national legal instruments.)	The SC to decide if there is need to lobby for Government to create new legislation or amend existing legislation based on feedback obtained.	May 2017
	Letter to be sent to MEEI's Legal Affairs Dept. and the Office of the Attorney General outlining findings and recommendations from the proposed study.	May 2017
4.3 Consider how to	The SC determined and agreed the following definition	
develop a definition of	of beneficial ownership for the oil and gas sector	

beneficial ownership	companies:	
	Beneficial Ownership- the natural person who is directly or indirectly the owner of a company or controls at least ten percent of the shares or total votes, exclude persons acting as a nominee, intermediary, custodian or agent on behalf of another person. Politically exposed persons, who otherwise benefit economically from the company, are also considered to be beneficial owners. The SC included the need for disclosure from such persons in the existing template:	November 2016
	Note, however, that a different definition might have to be developed for the mining sector companies. In order to develop this definition, mining companies will have to be engaged. The TTEITI Secretariat will seek advice from MEEI's Director of Minerals as to whether the oil and gas sector definition could apply to the mining sector.	November 2016
	The TTEITI Secretariat will also seek the advice of the MEEI's Legal Department on the matter.	
4.4 Consider reporting obligations for politically exposed persons (PEP)	The SC determined and agreed on the following definition of a PEP and included the need for disclosure from such persons in the existing template:	No action required at this time.
	A Politically Exposed Person (PEP) is an individual who is or has been entrusted with a prominent political function. These include foreign and local political figures and extend to their immediate family members and close associates.	
	Note that the aforementioned definition was based on definition provided by the Financial Intelligence Unit of the Ministry of Finance and the Economy Guidance Note AML/CFT Procedures for Politically Exposed Persons. They defined a PEP as "an individual who is or has been entrusted with a prominent public function."	
4.5 Consider the level of detail to be disclosed	Standard Requirement 2.5 d) states, "It is also recommended that the national identity number, date of birth, residential or service address, and means of contact are disclosed."	
	The level of detail required from Beneficial Owners of mining sector companies will have to be carefully	

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	determined. The TTEITI Secretariat proposes to get preliminary data from the mining companies from an online survey to determine the issues that they may have with BO disclosure e.g. Security issues, especially by small family owned mining companies.	December 2016
	Once this information is gathered, the TTEITI Secretariat will conduct a session with mining sector companies to address these issues.	February 2017
	The TTEITI Secretariat, when engaging the Faculty of Law of the University of the West Indies will include in the Terms of Reference that the aforementioned recommendation does not violate any existing laws and policies of Trinidad and Tobago, including the Data Protection Act, 2011.	February 2017
4.6 Consider data collection procedures	The S C to agree if the Administrator's TOR should require the EITI Administrator to provide all reporting companies with the Beneficial Ownership Template and to verify that the information received from companies is correct. However, a line will be included in the template asking companies if the information provided in the template for the previous year remains the same. If so, the companies will not have to complete the form again.	November 2016
4.7 Consider how to develop a methodology for assuring the accuracy of the data	As mentioned under Item 4.6, the EITI Administrator will be asked to verify the information provided by companies regarding their beneficial owners. This activity will be included in the contract TOR of the next EITI Administrator.	November 2016
	A request will be made to the MEEI's Legal Department on the types of assurances that the Government gets with regards to BOs when contracts are signed with oil, gas and mining companies.	November 2016
4.8 Consider data timeliness	As mentioned under 4.6, the EITI Administrator will be asked to provide all reporting companies with the Beneficial Ownership Template.	
4.9 Consider data accessibility	The BO Registry is available on the TTEITI website (http://www.tteiti.org.tt/industry-overview/beneficial-ownership-registry/) and will so remain.	No action required at this time.
4.10 Consider capacity	The TTEITI Secretariat will conduct awareness sessions	Sessions will

building needs	as needed with the following stakeholders:	start from
		February 2017
	1) MEEI staff.	except for
	Office of the Attorney General staff.	Parliamentarians
	Legal Affairs Department staff.	whose session
	4) Joint Select Committee on Energy Affairs	will take place in
	5) Parliamentarians	December 2016
	Oil and Gas Sectors Companies.	
	7) Mining Sector Companies.	

The aforementioned Roadmap steps will be reviewed and amended from time to time and after the publication of the next EITI Report when new gaps may be discovered and adjustments made.