



Ethiopia Beneficial Ownership Scoping Study

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Executive summary

This scoping study should be read in conjunction with our review of the Beneficial Ownership Disclosure Roadmap.

We conducted a stakeholder consultation exercise involving 9 telephone interviews and 14 face-to-face meetings, covering stakeholders from government, industry and CSOs. We also spoke to 2 other countries implementing EITI beneficial ownership disclosure.

We also presented at a workshop in Addis Ababa attended by approximately 30 stakeholders.

EITI stakeholders in the Ethiopian MSG are generally very supportive of disclosure of beneficial ownership, and understand the benefits this can bring. They are proud of the progress made so far. However, significant further progress is required if Ethiopia is to meet the 2020 reporting deadline set by the 2016 EITI Standard.

There is still work to be done in explaining the purpose, benefits and requirements to all but the most engaged of stakeholders.

Beyond that, the challenge will be to combine a significant awareness and training programme with work to build new systems and processes to collect and share the information.

Within the existing Ethiopian legislative framework there are a number of Proclamations that include many Articles relevant to beneficial ownership. As such, there may be several options for bringing forward mandatory beneficial ownership reporting. There is an existing draft EITI Proclamation, but this has significant limitation with respect to beneficial ownership.

These challenges are considered further in our review of the Beneficial Ownership Disclosure Roadmap.

Introduction

The 2016 EITI Standard requirement 2.5 makes it mandatory after 1 January 2020 for all implementing countries to request beneficial ownership information and for companies to disclose this information. EITI implementing countries were required to produce a roadmap on beneficial ownership disclosure by 1 January 2017.

Ethiopia became an EITI Candidate country in 2014 and published its first EITI Report in 2016, covering the period 2013-14. The report included some information on beneficial ownership. The Ethiopian MSG published a Beneficial Ownership Disclosure Roadmap in December 2016.

We have been appointed to perform a scoping study on EITI beneficial ownership requirements for Ethiopia. This report, in conjunction with a report specifically focusing on the Beneficial Ownership Disclosure Roadmap, forms the key deliverables from the project.

A. Stakeholder consultations

We conducted stakeholder consultations in two phases:

1. By phone in the period 13-24 March
2. In person in Addis Ababa, 27-29 March

In addition, we held a workshop on beneficial ownership that was attended by members of the MSG, Secretariat team members, company representatives, Ministry of Mines officials and CSO representatives (see below for more details on the workshop).

a. Telephone consultations

We spoke by phone with the following EITI stakeholders in Ethiopia, including government, industry and CSO members of the MSG:

- Merga Kenea, EITI Country Representative
- Dessu Antawi, MSG company representative, National Mining Corporation
- Ketema Fufa, MSG CSO representative, ADBD
- Melaku Tadese, MSG CSO representative, CRDA
- Abebe Senbete, MSG Government representative, National Bank of Ethiopia
- Lydia Asseres, World Bank, Addis Ababa
- Tim Woodward, Partner, Moore Stephens (Independent Administrator for the Ethiopia 2016 EITI Report)
- Rached Maalej, Team leader, Moore Stephens

In addition we consulted with the following to gain lessons learned from other EITI implementing countries:

- Ian Mwiinga, Communications Officer, Zambia EITI
- Oleksiy Orlovsky, EITI Board Member, Ukraine

b. Face-to-face meetings

During the field trip to Addis Ababa, we had meetings with the following stakeholders, focusing primarily of industry representative on whom the beneficial ownership disclosure requirements fall:

EITI Secretariat:

- Merga Kenea, EITI Country Representative
- Mohammed Said Hagos, EITI Communications senior expert

Industry:

- Dessu Antawi, MSG company representative, National Mining Corporation
- Abraham Tadesse, MSG company representative, Afar Salt Production Company
- Habtu Hagos, General Manager, Afar Salt Production Company
- Berhane Amedie, General Manager, Abijata-Shalla Soda Ash
- Henok Mulat, MD Finance, Midroc Gold Mine
- Deep Kamra, Country Manager, Dangote Cement
- Yeshita Temesgen, Deputy General Manager, Modern Building Industries PLC

Government bodies:

- Abebe Senbete, MSG Government representative, National Bank of Ethiopia
- Girma Mariam, Head of Regional Offices, Ethiopian Revenue and Customs Authority

Legal experts:

- Solomon Negussie, Dean of the College, Law School, Addis Ababa University
- Yonas Birmeta, Head of Law School, Addis Ababa University
- Yenehun Birle, Lecturer, Law School, Addis Ababa University – Mining Law
- Fadaku Petros, Lecturer, Law School, Addis Ababa University – Company Law

Other stakeholders:

- Lydia Asseres, World Bank
- Dessalegn Yigzaw, Head of DTI, British Embassy
- Marianne Johansen, Counsellor, Norwegian Embassy
- Tsehay Hailemichael, Senior Programme Officer, Norwegian Embassy

c. Key themes from consultations

From these consultations, the following themes emerged:

- A high level of enthusiasm for beneficial ownership, including amongst companies that are both familiar with EITI and those who have had no previous engagement. Most of the companies made reference to the need to build relations with local communities and the need to act responsibly.
- A strong desire to have a robust system for collecting and publishing the information as part of implementing EITI in Ethiopia. There were differing views on the most appropriate agency to undertake the collection, storage and publication of this information. Suggestions included the licensing department of the Ministry of Mines, the Ministry of Trade, the Financial Intelligence Centre as well as the EITI Secretariat.
- Beneficial ownership disclosure is good for the country as it contributes to transparency (including helping fulfil a constitutional provision that all government transactions should be transparent), allows a full understanding of who is benefitting from exploitation of Ethiopia's resources, enhances governance and ultimately should contribute to increased foreign investment in the sector.
- The advantages of beneficial ownership disclosure for companies were also clearly articulated. As noted above, most companies appreciated the need to build relations and trust with local communities and other stakeholders. They understood the role that beneficial ownership disclosure could play in building that trust. One company active in the mining sector commented that the company itself is a "victim of the lack of information" as it made its local community suspicious of mining activities and the benefits they would receive.
- The main challenge to implementing the EITI beneficial ownership requirements stems from a lack of detailed understanding amongst companies of the key concepts of beneficial as opposed to legal ownership. This challenge is far greater for companies not directly represented on the MSG. Here there is also a lack of awareness of the requirements and the implications for companies, particularly where the companies have had little or no engagement with the EITI process so far.
- There is a sense of achievement in producing the draft Beneficial Ownership Disclosure Roadmap and including beneficial ownership reporting in the first EITI Report. While these two achievements were viewed as a basis on which to build, there is also recognition that the roadmap remains a draft and has some gaps. The

beneficial ownership information reported in 2016 is also acknowledged to be incomplete.

- The obligation for companies in the extractive sector to disclose beneficial ownership information should be enshrined in law. There was a strong view that a legal obligation is required in order to drive compliance.
- There was widespread awareness that companies had a legal obligation to register in order to conduct business in the country. Also, there is an obligation for extractive companies to provide details of legal ownership to the Ministry of Mines to obtain and renew a licence to explore and to produce minerals. It is clear that this information is not publicly accessible. We were advised that the central register of companies held by the Ministry of Trade is, in theory, open to the public but in practice is not.
- There was widespread recognition of the role that artisanal mining plays in the sector. It is responsible for around two-thirds of gold production. There was also agreement that this type of mining should not be in scope for beneficial ownership disclosure requirements.
- Beneficial ownership disclosure requirements should only apply to extractive industry activities regulated at the Federal level and not those regulated by state (regional) governments. State governments are responsible for artisanal and small scale mining only.

d. The workshop

The EEITI Secretariat organised a workshop on the morning of 29 March at the Ministry of Mines. The invitees included:

- MSG members;
- Representatives from companies that have engaged with EITI (eg through reporting data for the first EEITI report) and those that have had no prior engagement but may fall within scope in the future;
- Civil society representatives;
- Ministry of Mine officials.

Approximately 30 people attended the workshop, with the majority being company representatives.

The purpose of this workshop was:

- To report back on our stakeholder consultations;
- To present our findings and recommendations on the draft roadmap;

- To raise awareness of the beneficial ownership requirements in the EITI Standard.

The workshop lasted approximately two and a half hours and the format was:

1. Introductions;
2. Brief introduction to EITI;
3. Overview of beneficial ownership;
4. Explanation of EITI beneficial ownership requirements including scope, need for public register, threshold, required information and recommended elements;
5. Explanation of reporting requirements for politically exposed persons;
6. Exercise for attendees based on extract from Mongolia EITI beneficial ownership information. Attendees were asked to consider the information, discuss in small groups and to identify areas of compliance and gaps as well as make any other observations;
7. Review of draft roadmap including lessons learned from other countries and suggested areas for improvement. During this section, attendees were invited to suggest elements that should be included in the roadmap;
8. Feedback on stakeholder consultation highlighting, enthusiasm for beneficial ownership, need for robust systems, benefits to country and companies, lack of understanding and awareness and need for legal basis;
9. Exercise for attendees to commit to one action in their sphere of responsibility that would contribute to advancing the implementation of beneficial ownership requirements;
10. Final Q&A and wrap up.

e. Key workshop messages

The key messages we delivered were:

- The need to understand fully the beneficial ownership reporting requirements and especially the need to trace ownership back to real people, or a government or a company listed on a stock exchange;

- The draft roadmap is a start but gaps need to be addressed including interim deliverables (with deadlines and responsibilities) and a budget;
- Achieving compliance will require the contribution of a wide range of stakeholders beyond the MSG and the Secretariat, including all those present at the workshop and others in the extractive sector, civil society and the government.

f. Key themes from workshop

There was a high level of engagement from the attendees, including numerous questions during the workshop and in the final Q&A session. Attendees engaged in the exercises, and in particular with the review of the Mongolia disclosures, which identified some further questions and misunderstandings about the meaning of beneficial ownership.

Informal discussions continued after the close of the workshop and during the lunch that followed, which we attended.

The main points to emerge from the workshop and subsequent discussions were:

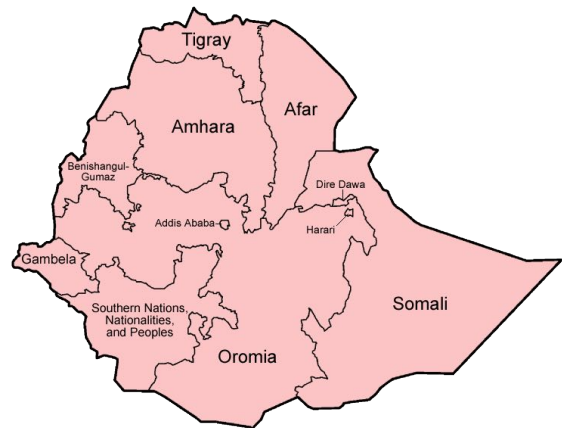
- A low level of understanding of the concept of beneficial ownership and its role in extractive industry governance. We had to go into some detail on the background to inclusion of beneficial ownership in the EITI standard and why it is important in improving governance. There was some concern that beneficial ownership disclosure was only being introduced because it is part of EITI, rather than is having any intrinsic benefit for Ethiopia. We cited examples from other countries that had highlighted the importance of knowing the beneficial owners of companies to address unethical conduct and ensure countries derived an equitable share of the benefits from the extractive sector;
- Scepticism from two company representatives on the need to disclose beneficial ownership information. One company has reported information in the first EEITI report; the second is likely to have to report in the future. This scepticism was expressed both in the content of the questions and the tone in which they were asked;
- Acknowledgement of the complexity of collecting, reporting and using beneficial ownership information. The exercise using the Mongolia information demonstrated this, as well as the need to provide extensive clarification on the EITI requirements;
- Recognition that gaps in the draft roadmap need addressing, including setting interim deliverables and a budget;

- Recognition that a wider group of stakeholders, especially in the government, can make a contribution to developing and implementing the roadmap as they are potential users of the information.

B. Overview of legal framework for extractive industries (where relevant to beneficial ownership)

a. The Ethiopian Legal System

The Constitution establishes a federal form of government, with power divided between the federal government, nine autonomous regional member states (“States”) and two administrative cities. The Constitution lists the powers and functions of both the federal and state governments.



The key law applicable to the licensing, operation and taxation of extractive activities is federal law.

The working language of the federal government is Amharic, although Proclamations we have reviewed are published jointly in Amharic and English. Each State has determined its own working language.

Therefore, it is recommended that any legal requirement regarding beneficial ownership, however embedded in existing law, should be jointly published in Amharic and English. However, consideration should be given to whether it should also be made available in the working language of the States where that is different.

b. Key Law-Making Institutions

The highest legislative authority (in effect the first or lower chamber of Legislature) is the House of Peoples’ Representatives (“HPR”). The HPR enacts federal laws, ratifies national policy standards and international agreements and investigates the conduct of members of the executive.

The highest executive powers of the government are those of the Prime Minister and the Council of Ministers; accountable to the HPR.

Each State has a legislative body called the State Council, which has the power of legislation on all State jurisdictional matters.

The Council of Ministers consists of 26 Ministries, including: The

Ministry of Finance and Economic Cooperation, The Ministry of Agriculture and Natural Resources, The Ministry of Industry, The Ministry of Trade, The Ministry of Mines, Petroleum and Natural Gas (“MOMPNG”)

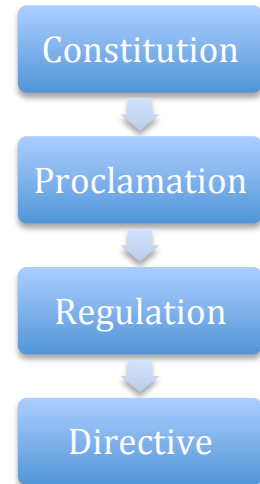
Each ministry has the power to enact Regulations, Directives and Orders under powers granted to it in Proclamations by the HPR.

c. Legal precedent

There are two aspects of legal precedent that are relevant here.

Firstly, to the extent that a Proclamation takes a position that varies, amends or limits a clause in an earlier Proclamation, the later proclamation takes precedence.

Secondly, to the extent that two Proclamations or other forms of law take positions that conflict, the law enacted by the higher authority takes precedence. So a Proclamation from the Council of Ministers will overrule a Regulation or Directive.



d. Other Law-Making Bodies

- The National Bank of Ethiopia is an autonomous institution, directly accountable to the Prime Minister. It issues Directives and Circulars relating to the financial services sector.
- The Ethiopian Revenues and Customs Authority (“ERCA”) is accountable to the Ministry of Finance and Economic Cooperation. It issues Directives related to all the major areas of tax and customs duties.

e. Review of Existing Law

There is no current legal definition of beneficial ownership in Ethiopia.

A review has been carried of key laws applicable to the mining, oil and gas sectors, to identify clauses relevant to beneficial ownership. These include areas where pre-existing legislation already includes a requirement

This analysis has been discussed with the relevant stakeholders as listed above, and in particular with the University of Addis Ababa. However, no formal legal opinion should be inferred from this.

This detailed analysis can be found in the Appendix 1 to this report.

In some areas this analysis has resulted in recommendation, which may be found later in this report. In others it raises further questions that the MSG might want to explore as part of the Beneficial Ownership Roadmap.

f. Review of draft EITI Proclamation

The Ethiopia EITI MSG has already started work on a draft EITI Proclamation, encompassing the requirements of the EITI Standard including on beneficial ownership. Our review is limited to the extent to which this draft law defines and governs the collection and disclosure of beneficial ownership information.

Clearly the Ethiopia EITI MSG is still at the early stages of beneficial ownership disclosure, and will continue to refine over coming years. However, it is hoped that the EITI Proclamation will become law during 2017.

The key question the MSG may want to address here is when they want beneficial ownership disclosure to become a legal requirement.

1. As part of the 2017 EITI Proclamation – before all the details of the scope and disclosure have been finalise; or
2. At a later date, as an amendment to the 2017 EITI Proclamation – in advance of the 2020 deadline.

C. Assessment of institutional capacity of government

We have had some access to government institutions in advance of and during our field trip to Addis Ababa. There is a range of government institutions that are currently, or may need to become stakeholders.

However, few appear to be in the right position to act as a key facilitator or beneficial ownership disclosure without either a significant investment in capacity, or a change in emphasis, or both:

- Government Ministries (in particular MOMPNG and MoFEC)
 - MOMPNG is the most well placed government agency to collect beneficial ownership information for the extractives sector;
 - The Ministry already has information as part of the licencing process, employees who understand and know the sector, and relationships with the right stakeholders.
- The National Bank of Ethiopia
 - The National Bank is more likely a user of beneficial ownership information than a collecting agent, as it would be required to have different systems for extractives companies than those for other sectors.
- The Ethiopian Revenue and Customs Authority (ERCA)

- ERCA has the nationwide presence to support collection of information for companies throughout Ethiopia. In addition to the Head Office in Addis Ababa, it has regional officer throughout the country;
 - However, the focus of ERCA is on tax revenue assessment and collection, and therefore focuses only on companies and individuals with a tax liability, and how to better collect that tax;
 - Information on beneficial ownership does not directly impact on domestic tax liabilities in most cases;
 - Adding a requirement to collect and maintain a database of beneficial ownership might require systems investment, but also extensive training of ERCA staff at a national and local level.
- The Commercial Register at the Ministry of Trade
 - Although there is a requirement for all companies to be registered, and for that information to be publicly available, in practice the information is not always complete and current, and is not readily available to the public;
 - Unless it was part of a significant programme to improve the collection and publication of information by this Ministry as a whole, adding beneficial ownership to the register could face significant systems challenges.

D. Review of existing company registers

Two registers of companies operating in the extractive sector exist in Ethiopia. Neither register requires the reporting of beneficial ownership information, only legal ownership details. The first is a general register of all companies that conduct business in the country. This is maintained by the Ministry of Trade and has been in existence since at least the 1960s. There is a legal requirement for all persons and companies to register with the commercial register before conducting commercial and business activities in Ethiopia. We understand that the information required for submission to the register includes legal ownership information and personal identification information. There is also a legal obligation for companies to file an update at least annually. The register is, in theory, open to public inspection for a fee but in practice is not publicly accessible. While we received varying reports on the reliability of the information held in this register, those who seemed to have the most knowledge reported that it is not kept up to date and cannot be relied upon.

The Licencing Department of the Ministry of Mines maintains the second register. This holds details of all companies who apply for licences to undertake exploration and those who apply for a mining licence on the confirmation of economically viable mineral deposits. This information is not publicly available. Stakeholders agreed that the information was kept up to date and was reliable. This register was suggested as a possible basis for a beneficial ownership register.

E. Review of existing definition of beneficial ownership and proposals

The definition of beneficial ownership adopted by EEITI is set out in the draft roadmap. It is based on the guidance given by the EITI Secretariat. It recognises both direct and indirect ownership, control over equity and voting rights as well as deriving economic benefit. The definition also includes an ownership threshold of 18%, which is within the guidance range. However, our consultations with MSG members were unable to produce an explanation on how the figure of 18% was reached.

The MSG has also proposed a list of politically exposed persons and a threshold of 5% for declaration of beneficial ownership. This proposal is subject to final agreement by the MSG.

The current definition lacks some elements that would make the definition more robust and comprehensive. In particular the definition lacks reference to publicly listed companies, government-owned entities or trusts.

The beneficial ownership definition contained in the draft roadmap differs, therefore, from the definition used on the reporting template for the first EITI report. This earlier definition more closely follows the EITI guidance and is a more comprehensive definition. However, it also lacked reference to government-owned companies.

F. Suggested methodology for data collection

For the first EEITI report, companies self-reported beneficial ownership information on a template form. The Independent Administrator, Moore Stephens, designed the form and submitted it to the MSG for approval. The MSG made some amendments. The form was then sent to all companies in scope for completion. A senior officer in the reporting company was required to sign the form and certify the accuracy of the information supplied. We understand that Moore Stephens and the MSG held a workshop to explain the beneficial ownership reporting requirements.

In our view, the reporting template contains a number of weaknesses that may have contributed to the difficulty in obtaining complete information. No guidance notes were issued along with the template to assist those completing the form. While a workshop was held, it is unlikely that it was attended by all those expected to complete the form for an “in scope” company, and all those officers signing those forms. Given this was the first attempt at collecting beneficial ownership information in Ethiopia, we believe more effort was required to explain the requirement and guide companies through the process.

Other weaknesses include:

- The form does not clearly state that a senior officer should sign the form to confirm that the information is complete and accurate;

- The definition included on the form did not refer to government owned companies; and
- The form also does not give sufficient scope to report politically exposed persons, especially if there is more than one is a beneficial owner.

From our consultation with Moore Stephens, we understand that no verification of the beneficial ownership information supplied was undertaken. Also, Moore Stephens did not undertake spot checks of the information supplied. However, Moore Stephens did follow up with companies who supplied incomplete information or who failed to provide any information.

A common theme that emerged from stakeholder consultations was the lack of understanding amongst companies of the concept of beneficial ownership. The difficulties in obtaining complete information for the first EEITI report appear to bear out this analysis. Stakeholders cited the need for awareness raising and information campaigns.

As noted above, stakeholders also made reference to the information collected separately by the Licencing Department at the Ministry of Mines. This is seen as a potential basis for a beneficial ownership register. We note that in the draft roadmap, there is a commitment to undertake consultations with the Ministry.

The Ministry collects certain data from every company that applies for an extractive licence. Although this doesn't currently include beneficial ownership information (it only looks at direct legal ownership) this could provide a means of building a register of beneficial ownership. There is scope for this to address the EITI requirement to include companies that apply for (but do not necessarily succeed in obtaining) extractive sector licences.

G. Review of beneficial ownership information collected in first EEITI report

For the first EEITI report, 35 companies were deemed to be in scope and were asked to provide information on their beneficial owners. Of these companies, 15 provided sufficient information to understand their beneficial owners as being either publicly listed companies, the Ethiopian government or named individuals. For the remaining 20 companies, the ultimate beneficial owners are not clear. The key deficiencies in the data are:

Deficiency	Example
Lack of information on ultimate beneficial owners ie ownership is not reported back to natural persons	SouthWest Energy (HK) Ltd and New Age Ethiopia Ltd reported ownership by other companies rather than named individuals
Failure to provide any information	Lucy Salt Producing Plc and ETNO Mining Plc did not provide any information

Lack of clarity on whether listed owner is an individual or a company	POLY-GCL Petroleum Investments 1 Ltd Ethiopian Branch
Lack of clarity on some terms used e.g. the use of the term “plc” (which in some jurisdictions can mean public listed company) and the reference numbers given in the stock exchange column	A Zeyneba Mining plc has listed a number of owners, some seemingly companies and some individuals. However all show a reference number in the “Stock Exchange” column.
Where individuals were identified, there is a lack of detail enabling confirmation of individuals eg ID numbers, dates of birth and addresses. However, the reporting template did request such personal information. Some individuals seem to appear multiple times but with slight differences in name spelling (possibly due to transliteration into English).	Saudi national Sheikh Mohammed Hussen Ali Al-Amoudi

The MSG should give careful consideration to how to overcome the difficulties of transliterating names into English and Amharic. It can draw on the experience of other EITI countries in the regard. This is a particular issue in Ukraine with transliteration into and out of the Cyrillic alphabet.

The beneficial ownership information collected in the first EEITI report does though give some insights into those who benefit from extractive sector operations in the country. The information provides details on some private owners and highlights some prominent individuals e.g. the Saudi national mentioned above.

The information also highlights the range of companies operating in the extractive sector i.e foreign publicly listed, privately held (both Ethiopian and foreign), foreign owned and owned through offshore trusts.

The effort of collecting this information for the first EEITI report provides valuable lessons learned and a basis on which to build a comprehensive and robust beneficial ownership register.

H. Recommendations to the MSG

a. Scope and definitions

- Agree a more comprehensive definition of beneficial ownership that includes publicly listed companies, government-owned companies and joint ventures;
- Agree a definition of politically exposed persons;

- Acknowledge that stakeholders will want to understand the rationale behind these decisions, including for example the 18% threshold.

b. Awareness and training

- Engaged with those in the Ministry of Mines Licencing Department and other relevant stakeholders to ensure beneficial ownership information is collected from licence applicants and is made publicly available;
- Design and implement a sustained campaign to explain the concept of beneficial ownership to companies, encompassing an explanation of the drivers behind including it in the EITI Standard, the extent and nature of the information to be reported and the advantages to be gained from full compliance;
- Amend reporting template for beneficial ownership to include detailed guidance notes completion of the form, clear statement of who is responsible for signing the form to certify accuracy and completeness, sufficient space to include all relevant information, especially on politically exposed persons.

c. Legal structures

- Seek to reflect key aspects of beneficial ownership disclosure in the 2017 EITI Proclamation, but retain flexibility to include specific requirements as the Roadmap progresses;
- As key aspects of beneficial ownership disclosure are already known, while others are still under discussion, ensure that the EITI Proclamations include:
 - The definition of a “beneficial owner” referred to above;
 - Either a defined ownership threshold for disclosure, or establish the concept of a threshold, to be determined by a directive or other legal route in the future;
 - The definition of Politically Exposed Persons, and the reporting requirements here
 - Flexibility to incorporate further detail as decisions are made.

APPENDIX 1

Mining Law

<p>Mining Proclamation (No 52/1993) as amended by Proclamations (No. 22/1996 and 118/1998)</p>	<p>52/1995 No specific beneficial ownership provisions but: Article 4.2 Any Ethiopian may prospect without the need to register for a prospecting licence, provided he does not interfere with the rights of a licence or any other person. <i>It may be necessary to consider whether this impacts on the effectiveness of the licencing process as a potential route to beneficial ownership disclosure.</i></p> <p>Article 8.1 No prospecting licence may be transferred, assigned, encumbered or inherited. <i>This only appears to restrict the transfer of the licence from one registered owner to another, not a change in the beneficial ownership of the owner of that licence.</i></p> <p>Article 18.2 Large-scale mining licences may be transferred, assigned or encumbered with the prior approval of the Licencing Authority. <i>This only appears to restrict the transfer of the licence from one registered owner to another, not a change in the beneficial ownership of the owner of that licence. Therefore, using licencing as a means to track beneficial ownership may not be effective</i></p> <p>Article 29 Licensees required to submit documents specified by directive issued by the Minister. <i>This appears to empower the Minister to require businesses to provide information, if specified in a directive.</i></p> <p>Article 49.1 Licences and instruments transferring, assigning etc licences are registered with Licencing Authority and open to public inspection.</p>
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	<p>As these licencing documents to not record beneficial ownership, neither will they record changes in beneficial ownership.</p>
<p>Mining Income Tax Proclamation (No. 53/1993), with its amendment proclamation (No. 23/1996) as amended to 802/1998</p>	<p>Purely relates to direct taxation of the mining sector. No mention of factors relevant to beneficial ownership</p>
<p>Mining Operations Council of Ministers Regulations (N° 182/1994)</p>	<p>Articles 3.2.c, 4.1 and 5.1.a define documents to be supplied on application for a Licence, including the following documents duly certified by the appropriate officer of such entity;</p> <ol style="list-style-type: none"> 1. Copies of its memorandum and articles of association; 2. Copy of the latest annual report of the board of directors, if any; 3. Copies of the balance sheets, profit and loss statements and auditor’s reports for the previous three years, if any; 4. A list of the names of the board of directors, showing the address and nationality of each, if any; and any other person authorized to sign on behalf of the applicant; 5. The type of mineral and the plan of the proposed area of prospecting as specified by directives; 6. Any licence, or other mining right the applicant has previously held in Ethiopia; 7. Description showing the applicant’s financial situation, technical competence and experience; 8. The work program and expenditure the applicant proposes to carry out and incur during the term of the licence; and 9. Such other information the Licensing Authority may reasonably request. <p>Although this information may, in some cases include details of beneficial ownership, this is only likely when that also equates to legal ownership.</p>

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	<p>Articles 14.1, 15.1 and 16.1 require that any application for the renewal of a Licence must include any change in the information submitted in applying for the original licence or a prior renewal thereof.</p> <p>Articles 30.2, 30.3 and 30.4 require Licence holders to submit certain information to the Licensing Authority on an annual or quarterly basis Currently these requirements don't include beneficial ownership.</p>
Proclamation to promote and regulate transactions of precious minerals (Proclamation No. 651 /2009)	Only applicable to those trading in precious metals, and not holding a mining licence.
Proclamation for sustainable development of mineral resources (Mining Operations Proclamation No.678/2010)	<p>This proclamation covers the conduct of mining operations nationally, but has a specific remit to promote socio-economic growth of the country and promote employment and advance the social and economic welfare of all Ethiopians. Article 7.1 No person may undertake mining operations without having obtained the relevant licence under this Proclamation.</p> <p>Article 12.1 Licence applications must be submitted to the Licensing Authority accompanied by the documentation required by this Proclamation, regulations and directives and in the case where the applicant is a business organization, be accompanied with a documentary proof that it is registered as a business organization in accordance with the relevant law and with other relevant legal documents.</p> <p>Article 15.1 The Licensing Authority shall establish and maintain a Registry of Licences and Leases.</p> <p>Article 15.2 The Registry shall contain details of all registered applications for licences and all details of their granting or refusal, and any other particulars as may be</p>

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	<p>required by the relevant provisions of this Proclamation, regulations and directives.</p> <p>Article 15.4 The Registry shall be open to the public for inspection</p> <p>Article 34.1 In addition to the obligations under other relevant provisions of this Proclamation, a licensee shall have the obligations to:...</p> <p>There may be scope to expand this clause to include beneficial ownership, but again, linking it to licences may not be the best route.</p> <p>Article 38.1 Any licence, other than a reconnaissance or retention licences, may be transferred with the prior consent of the Licensing Authority.</p> <p>Article 38.2 Any transfer of licence shall have no effect unless registered by the Licensing Authority.</p> <p>Article 40 This is the “Disclosure of Information” clause, requiring that</p> <ol style="list-style-type: none">1. No information, reports, documents or data submitted to the Licensing Authority or any other government agency under this Proclamation by the licensee shall, for as long as the licence remains in effect, be disclosed, except with the consent of the licensee.2. Nothing in sub-article (1) of this Article shall operate to prevent the disclosure of information where the disclosure is made:<ol style="list-style-type: none">a. for the purpose of legal proceedings, an inquiry or investigation conducted by an organ of justice administration;b. to any person being a consultant to the government or officer who is authorized by the Licensing Authority to receive such information;c. for the preparation by or on behalf of the government of statistics in respect of mining operations, provided such disclosure is no more specific in detail than is necessary for the purpose of the statistics concerned. <p>This clause could cause a conflict with any EITI law, including on beneficial</p>
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	ownership. Care needs to be taken here.
Mining operations amendment Proclamation (N° 816/2013)	<p>This is an amendment to 678/2010 introducing new clauses and amending existing ones.</p> <p>Article 2 sub-article 42 (new) Introduces definition of EITI</p> <p>Article 36 (previously Article 34) Para n (new) Requires small scale and large scale mining licence holders to be EITI members and disclose payments to government.</p> <p>This clause could potentially be expanded to include beneficial ownership, but more likely should be referenced in, and should reference any EITI law.</p>

Oil & gas

Petroleum Operations Proclamation (N°295/1986),	<p>This proclamation has no specifically relevant clauses, but does provide that:</p> <p>Article 8.3 Grants power to the Minister to determine by directive qualifications and experience of all persons (includes natural and legal) applying for Licences.</p> <p>Article 8.4 Grants power to determine any other similar matters.</p> <p>Article 9.15 Allows petroleum agreements to include any matters relevant to proper execution of petroleum operations.</p>
Petroleum Income Tax Proclamation (N°226/1986)	TBA
Petroleum Income Tax Amendment Proclamation (N°226/2000)	Nothing significant

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Other relevant legislation (eg relating to PEPs)

Federal Tax Administration Proclamation 983/2016	<p>This Proclamation sets out the practical application of the tax regime by ERCA.</p> <p>Article 8 sets out broad confidentiality requirements around taxpayer information supplied to ERCA.</p>
Proposed EITI Proclamation	<p>The Ethiopia EITI MSG has developed a draft EITI Proclamation. It is hoped that this will pass into law in 2017.</p> <p>The EITI Proclamation covers all aspects of EITI, but this analysis is restricted only to the Articles relating to beneficial ownership.</p> <p>Article 2.1 defines “beneficial owner” as the “person or persons who directly or indirectly benefit from or own the Company or entity...”. In some legal systems the word “person” is defined so as to include natural persons and companies. Article 2.14 here defines “person” as meaning “any natural or juridical person”. This would suggest that “person” can include a company. Therefore, Article 2.1 appears to allow for a company to be a beneficial owner.</p> <p>Article 15.16 sets out the beneficial ownership information to be included in the Report. However, this doesn’t clearly make the distinction between ownership vested in natural persons, a government and a company listed on a stock exchange.</p> <p>Article 24 sets out the way in which beneficial ownership information will be made public. As well as being available via the EITI website, it also requires the information to published in a national newspaper. This would appear to be a good way to access</p>

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	<p>stakeholders who might have limited access to technology. However, it does not define the language or languages in which it should be published, and whether these newspapers will be readily available other than on the day of publication.</p>
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	<p>Article 36.1 specifically disapplies the confidentiality of tax information requirements set out in Article 8 of the Federal Tax Administration Proclamation 983/2016.</p>
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