

Validation of Requirement 2.5 – Nigeria: Final assessment by the EITI International Secretariat

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1. Summary

The Secretariat’s assessment is that Nigeria has made meaningful progress in meeting the initial criteria for implementing Requirement 2.5 on beneficial ownership.

Nigeria has made pioneering efforts to establish a legal framework for collecting and disclosing beneficial ownership information from oil, gas and mining companies. Nigeria has recently reviewed and amended its Companies and Allied Matters Act to provide a legal basis for establishing and maintaining a public register of beneficial owners. These efforts are to ensure Nigeria meets the government commitment at the London anti-corruption summit to tackle corruption through beneficial ownership disclosure. As an interim measure NEITI launched a beneficial ownership portal in December 2019 for companies covered by its 2012–2018 reports. NEITI is also coordinating with the petroleum and mining regulating agencies on ownership data collection and with the financial intelligence unit on data verification, and is establishing an inter-agency committee to drive the process to implement ownership transparency. Some beneficial ownership information has been disclosed through NEITI’s beneficial ownership portal. However, while the progress is commendable and systems are being established to help ensure mainstreamed beneficial ownership reporting, NEITI should continue working with government agencies to ensure that companies bidding for oil and gas licenses as well as all mining companies are requested to disclose their beneficial owners.

As part of the stakeholder consultations for the Validation process, NEITI sought feedback from representatives from government, industry and civil society on the comprehensiveness and reliability of the disclosures. Areas of improvement were identified to improve the comprehensiveness, reliability and accessibility of disclosures to date. The International Secretariat’s assessment also provides recommendations to strengthen beneficial ownership disclosures and ensure continued progress to implement the full EITI Requirement on beneficial ownership.

2. Background

Following Nigeria’s second Validation, the EITI Board concluded on 27 February 2019 that Nigeria had made “satisfactory progress” in implementing the 2016 EITI Standard¹. In June 2019, the EITI Board agreed a framework for assessing Requirement 2.5 on beneficial ownership.² To ensure that progress on Requirement 2.5 would be assessed in all countries within a reasonable timeframe, the Board agreed that any country that had achieved overall “satisfactory progress” in Validation that commenced or was concluded in 2019 would undergo a beneficial ownership Validation on 1 January 2021. The Board upheld this decision when agreeing on the transition to a new Validation model.³

This assessment follows the Board-agreed framework for Phase 1 of assessing beneficial ownership disclosures. The Board agreed that between January 2020 and December 2021, the Validation would focus on whether the implementing country had met a set of initial criteria and provide recommendations for strengthening beneficial ownership disclosures. This assessment covers Requirement 2.5 only. Progress and possible backsliding on other EITI Requirements have not been considered.

The draft assessment was sent to the multi-stakeholder group for comment on 8 February 2021. The national secretariat requested an extension for the period to comment to allow for sufficient stakeholder consultations in adherence with COVID-19 restrictions. Comments were received from the national secretariat on 30 March 2021.

3. Assessment of Requirement 2.5 on beneficial ownership

Adherence to Requirement 2.5 on beneficial ownership is assessed in Validation as of 1 January 2020 as per the framework agreed by the Board in June 2019.⁴ The assessment consists of a technical assessment focusing on initial criteria and an assessment of effectiveness.

Technical assessment

The technical assessment is included in Annex A. The federal government of Nigeria made a public commitment in May 2016 at the London anti-corruption summit to tackle corruption through beneficial ownership disclosure. This has been documented in the Nigeria OGP Action plan⁵. Nigeria has since introduced a law providing the legal basis of establishing and maintaining a public register of beneficial owners⁶.

The NEITI beneficial ownership declaration form⁷ shared with the International Secretariat provided a definition for beneficial ownership and politically exposed persons. The form proved all the required data points were requested as per Requirement 2.5. The reporting threshold for beneficial owners was set at 5%.

¹ Board decision 2019-20/BM-42: <https://eiti.org/board-decision/2019-20>

² Board decision 2019-48/BM-43: <https://eiti.org/board-decision/2019-48>.

³ Board decision 2020-83/BM-48: <https://eiti.org/board-decision/2020-83>.

⁴ <https://eiti.org/document/assessing-implementation-of-eitis-beneficial-ownership-requirement>.

⁵ <https://www.opengovpartnership.org/documents/nigeria-action-plan-2019-2021/>

⁶ Companies and Allied Matters Act 2020: Accessed on 18 January 2021. Available at: <https://www.cac.gov.ng/wp-content/uploads/2020/12/CAMA-NOTE-BOOK-FULL-VERSION.pdf>

⁷ <https://neiti.gov.ng/index.php/resources/internal-resources/audit-template>

In terms of disclosure, NEITI has requested data from all oil and gas companies holding license and mining companies making material payments from the 2012 to 2018 reporting period⁸. The data was uploaded to the NEITI beneficial ownership portal⁹. The NEITI 2018 oil and gas report¹⁰ shows that the MSG has requested ownership information from 55 oil and gas companies but twenty eight companies provided data which was compiled as appendix 12¹¹. Also, the 2018 mining report indicated that fifty-four mining companies provided information which was compiled as Appendix 8¹². With the latest legislative and regulatory changes, companies registering in Nigeria are required to submit information on their beneficial owners to the Corporate Affairs Commission (CAC) for public disclosure as of 3 January 2021, while companies applying for a mining license have been required to disclose their beneficial owners to the Mining Cadastre Office (MCO) as of July 2019.

The beneficial ownership portal was established by NEITI to meet both OGP and EITI Requirements. It was established before the amendment to the CAMA Act, which establishes an economy-wide beneficial ownership register. The portal consolidates data submitted by companies to NEITI and ownership data held by the MCO and the Department of Petroleum Resources (DPR). According to NEITI, the portal discloses information on 181 beneficial owners of 49 oil and gas companies and 205 beneficial owners of 76 solid minerals companies.

According to NEITI and minutes shared of various NEITI meetings with MCO in 2018 and 2019, the MCO has made the submission of a completed beneficial ownership declaration form a precondition for applying for or renewing a mining license since July 2019. The MCO clearance form for new license applications confirms that companies applying for new licenses are requested to complete a beneficial ownership declaration form. Also, the DPR is working on a similar regulation for applicants/bidders in the oil and gas sector to provide beneficial ownership information as part of the licensing process. While all companies participating in the Marginal Field Licensing Round launched in 2020 are required to be registered with the CAC, it is unclear whether beneficial ownership information was requested from the license bidders.

With the passing of the CAMA Act, the CAC is working on an economy-wide beneficial ownership register encompassing all sectors. MSG meeting minutes shared with the International Secretariat confirmed extensive stakeholder engagement on beneficial ownership implementation between 2018 and 2019, and demonstrate discussion around agreement on a beneficial ownership definition and setting of materiality threshold. No MSG minutes of meetings were provided to show any recent MSG discussions on beneficial ownership as there is no MSG in place since March 2020 when the tenure of the MSG expired. A report from a stakeholder consultation event organised by NEITI with key government, industry and civil society stakeholders on 25 March 2021 summarises feedback from stakeholders on the comprehensiveness, reliability and accessibility of the disclosures to date, and provides next steps for addressing the gaps identified.

The data provided through the NEITI beneficial ownership portal includes name of companies/persons, nationality, and percentage holding. Also, links to the stock exchange where the companies are listed were provided. The disclosure has also provided a column for Politically Exposed Persons. However, many of those who are listed as beneficial owners are companies/legal owners. While the beneficial ownership data published as part of the NEITI 2018 Reports (Appendix 12 (oil and

⁸ <https://neiti.gov.ng/index.php/neiti-audits/oil-and-gas>

⁹ <https://bo.neiti.gov.ng/>

¹⁰ <https://neiti.gov.ng/index.php/neiti-audits/oil-and-gas/category/203-oga-2018-report?download=965:oga-2018-report>

¹¹ <https://neiti.gov.ng/index.php/neiti-audits/solid-minerals/category/202-sma-2018-appendices?download=945:sma-2018-apdx8-beneficial-ownership>

gas) Appendix 8 (mining)) provides additional data points such as date of birth and contact address, these are not provided on the beneficial ownership portal.

Assessment of effectiveness

Beneficial ownership disclosure has remained a priority for the Nigerian government and the MSG. Nigeria participated in the EITI beneficial ownership pilot and developed its roadmap¹³ in 2016. The government further amended the Companies and Allied Matters Act to provide legal backing to support beneficial ownership implementation. In March 2018, the MSG organised an engagement through the companies forum to get the company buy-in for beneficial ownership disclosure. This was followed by stakeholder engagement in October 2018 to support the implementation of the NEITI beneficial ownership roadmap. Further, the MSG in September 2018 engaged with government agencies on the establishment of the beneficial ownership register. NEITI launched a series of media campaigns between August and September 2019 to sensitise the public about beneficial ownership implementation. The activities included radio jingles, broadcast appearances, and social media engagement. NEITI also published a policy brief in May 2016 on beneficial ownership disclosure¹⁴. The brief identified how secret ownership of extractive industry assets can be used to facilitate corporate financial crimes. NEITI further facilitated capacity-building workshops for media and civil society organisation including women groups in February and June 2019 to facilitate better dialogue on beneficial ownership implementation in Nigeria. Finally, on 25 March 2021, NEITI organised a stakeholder consultation event to seek feedback from stakeholders on the disclosures to date and to undertake a gap analysis with recommended next steps.

The International Secretariat's assessment of the technical requirements suggests gaps in the actual data disclosed on the NEITI beneficial ownership register. The scope covers the most significant oil and gas companies operating in the sector, although coverage of license applicants participating in the 2020 Marginal Field Licensing Round is unclear. These companies applied for licenses before CAMA came into force. For the mining sector, the information has been requested from the companies making material payments to the government, while the remaining companies will be required to provide up to date beneficial ownership information as part of their annual filings to the CAC under CAMA. On disclosure, the data appears to have significant gaps with regards to comprehensiveness. Data points such as address and date of birth are not provided. In some instances, legal owners are stated instead of beneficial owners. These issues were raised in the gap analysis undertaken with stakeholders in March 2021, and ways to address the potential sensitivity of disclosures of address and date of birth were agreed. Stakeholders further agreed that the portal should distinguish between legal and beneficial owners and that further cross-checking of beneficial ownership data between different government agencies would be necessary to confirm the ultimate beneficial owners.

The lack of disclosure of beneficial ownership for companies that have garnered significant media attention in the past, such as Aiteo, could be seen as a red flag. The identity of the beneficial owner of Aiteo is common knowledge^{15,16}, but this information is not in Annex 12 of the 2018 NEITI oil and gas report nor on the NEITI beneficial ownership. The MSG threshold of 5% is much lower than that of the EU (25%), which can lead to more comprehensive BO disclosures. In terms of functionality, the NEITI

¹³ <https://neiti.gov.ng/index.php/resources/internal-resources/publications?download=580:neiti-roadmap-on-beneficial-ownership-disclosures>

¹⁴ <https://neiti.gov.ng/index.php/neiti-policy-brief?download=123:neiti-pb-issue01>

¹⁵ <https://www.bloomberg.com/profile/person/19090894>

¹⁶ <https://www.premiumtimesng.com/business/287562-aiteo-founder-benedict-peters-wins-forbes-oil-gas-leader-of-the-year-award-2018.html>

beneficial ownership portal allows the user to search for a beneficial owner by company, individuals, and by an asset (OML/OPL number). Significantly, the data is available to bulk download, allowing for systematic analysis of data provided by the 182 oil and gas and 206 solid minerals companies. The data provided through the portal include the name of companies/persons, nationality, percentage holding. The portal also displays corresponding charts according to the percentage shareholding by each beneficial owner.

In terms of data quality, NEITI highlighted in the self-assessment form that the MSG has approved a mechanism that provides assurance on the accuracy of BO information provided by the entities attesting to the reliability of the data supplied through the BO data collection template. The data collection template has a section on attestation and requires a commissioner for oaths to witness the document and it puts the liability of false data on the data provider. NEITI further highlighted that in collaboration with the Corporate Affairs Commission (CAC), Department of Petroleum Resources (DPR), Bureau for Public Procurement (BPP), Nigeria Financial Intelligence Unit (NFIU), and Ministry of Mines and Steel Development (MMSD) have agreed to the routing of BO data through the database of the NFIU. Also, the Mining Cadastre Office (MCO) has requested that from July 2019, all companies attest to the accuracy of the BO information for all license renewals and license applications. A similar regulation is being developed for the oil and gas sector.

The NEITI 2021 Workplan¹⁷ published on the NEITI website indicated that there will be stakeholder engagement on the BO register but the activities to be undertaken are not provided. The Corporate Affairs Commission also maintains an online corporate register¹⁸ of all the companies registered in Nigeria which provides basic information such as company name, address, and registration number. Information such as percentage shareholding and directors of the companies requires a token payment of USD2.60 to be displayed. At the stakeholder consultation meeting on 25 March 2021, the Corporate Affairs Commissioner signalled that the fee to access the new beneficial ownership register would be waived.

Secretariat's assessment

The Secretariat's preliminary assessment is that Nigeria has made meaningful progress in meeting the initial criteria for implementing Requirement 2.5.

Significant elements of the initial criteria for assessing beneficial ownership disclosure have been met. A clear government policy and legal basis have been given to beneficial ownership disclosure in Nigeria. NEITI has been a driver of government efforts to improve beneficial ownership disclosures at the point of company registration and license application. All oil and gas companies and mining companies making material payments have been requested to disclose information based on a comprehensive template with an agreed assurance mechanism. However, not all companies applying for oil and gas licenses or companies holding mining licenses have been requested to disclose their beneficial owners. Actual disclosures in the NEITI beneficial ownership portal demonstrate significant progress, although areas of improvement have been identified by stakeholders in their review of comprehensiveness and reliability of information.

¹⁷ <https://neiti.gov.ng/index.php/resources/internal-resources/annual-workplans?download=1015:2021-workplan-financial>

¹⁸ <https://pre.cac.gov.ng/home>

In accordance with Requirement 2.5 and the Board-agreed framework for assessing progress, Nigeria is required to disclose the beneficial owners of all companies holding or applying for extractive licenses by 31 December 2021. To achieve this target, the following measures are recommended:

- The MSG should continue to work with DPR, MCO and CAC, and other relevant stakeholders to ensure that extractive sector beneficial ownership information is comprehensively and publicly disclosed for all companies that apply for or hold a participating interest in an oil, and or mining license or contract.
- The MSG is encouraged to work with DPR on its commitment of ensuring all applicants of oil and gas licenses disclose their beneficial owners at the application stage. An assessment of the comprehensiveness and reliability of this information should be integrated into the licensing procedures followed by DPR.
- To strengthen implementation, Nigeria is encouraged to follow up on the steps identified by stakeholders in the gap analysis undertaken in March 2021, and to continue reviewing the comprehensiveness and reliability of beneficial ownership disclosures by government and companies.
- The MSG is encouraged to review the comprehensiveness of publicly available information on legal owners from the online register of the CAC.
- NEITI may also wish to expand its review of beneficial ownership disclosures to other segments of the upstream extractive value chain, for instance through collection and disclosure of beneficial ownership information from extractive-sector service providers or commodity traders, to enable monitoring of adherence to local content provisions and to manage corruption and tax evasion risks.

Annex A: Technical assessment

EITI Requirement: Beneficial ownership disclosure (#2.5)			
EITI sub-Requirement	Summary of main findings	Source(s) of information	Summary of stakeholder views (if applicable)
<p>The MSG has agreed an appropriate, publicly available definition of the term beneficial owner (#2.5.f)</p>	<p>The NEITI BO declaration form shared with the international secretariat provides a definition of Beneficial and it states that “a beneficial owner in respect of a company means the natural person(s) who directly or indirectly ultimately owns or controls the corporate entity”.</p> <p>And the definition of Politically Exposed Person is stated as “A natural person who is or who has been entrusted with prominent public functions.”</p> <p>The template refers to the definition in the EITI Standard being adopted by the NSWG.</p> <p>The NEITI BO declaration form proved all the required data points were requested as per the EITI Standard including information about Politically Exposed Persons</p>	<p>NEITI BO declaration form here</p>	
<p><i>There are laws, regulations or policies in place to back establishing and maintaining</i></p>	<p>Nigeria has introduced a law providing the legal basis of establishing and maintaining a public register of beneficial owners provided in sections 119(3), 791(1-4) and 868(2) (a-e)</p>	<p>2020 Companies and Allied Matters Act 2020 here</p>	<p>Statements made in the stakeholder consultation meeting organised on 25 March suggest that NEITI and implementing government agencies have engaged civil</p>

<p><i>a public register of beneficial owners (#2.5.a)</i></p>	<p>of the Companies and Allied Matters Act 2020.</p>	<p>Report of Stakeholders’ Meeting on Validation and Gap Analysis of the Beneficial Ownership Implementation in Nigeria organized by NEITI on 25 March 2021, accessible from the International Secretariat</p>	<p>society stakeholders in their beneficial ownership disclosure efforts, in particular the Civil Society Legislative Advocacy Center (CISLAC).</p>
<p>The government’s policy and multi-stakeholder group’s discussion on disclosure of beneficial ownership is documented (#2.5.b)</p>	<p>The federal government made a public commitment in May 2016 at the London anti-corruption summit to tackle corruption through Beneficial Ownership disclosure, this has been clearly documented in the Nigeria OGP Action plan.</p> <p>Also, Nigeria has introduced a law providing the legal basis of establishing and maintaining a public register of beneficial owners, which is stipulated in sections 119(3), 791(1-4) and 868(2) (a-e) of the Companies and Allied Matters Act (CAMA) 2020.</p> <p>These efforts demonstrate that there is a clear government policy to disclose beneficial ownership information in Nigeria.</p>	<p>Nigeria OGP 2019 – 2021 Action plan here.</p> <p>Companies and Allied Matters Act 2020 here</p>	

<p>The implementing country has requested beneficial ownership information to be publicly disclosed (#2.5.c)</p>	<p>The CAMA Act adopted in 2020 requires companies registering in Nigeria to submit information on their beneficial owners to the Corporate Affairs Commission (CAC) for public disclosure as of 3 January 2021. Companies that apply for oil, gas or mining licenses or contracts are required to register with the CAC.</p> <p>The 2018 NEITI oil and gas report highlighted that templates were sent to all oil and gas companies to provide BO information, and the 2018 mining report has shown that BO data was requested from sixty-nine mining companies making material payments.</p> <p>No new oil and gas licenses have been awarded since 2005, however, the Department of Petroleum Resources is working on a regulation for applicants/bidders in the oil and gas sector to provide BO information as part of future licensing process. While all companies participating in the Marginal Field Licensing Round launched in 2020 are required to be registered with the CAC, it is unclear whether BO information was requested from the license bidders.</p> <p>Templates were sent to all 69 mining companies making material payments to the government and within the scope of</p>	<p>2018 NEITI oil and gas report here</p> <p>2018 NEITI oil and gas appendix 12 here</p> <p>NEITI BO portal here</p> <p>MCO clearance form for new license applications (accessible from the International Secretariat)</p>	
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	<p>reconciliation of the 2018 mining report. Due to the comparatively lower economic significance of the mining sector vis a vis the oil and gas sector, BO information was not requested from the around 650 remaining mining companies.</p> <p>The Mining Cadastre Office (MCO) has put a regulation in place and asked that from July 2019, all companies provide BO information as part of license renewals and license applications process. The MCO clearance form for new license applications asks companies applying for new licenses are requested to complete a beneficial ownership declaration form.</p>		
<p>The requested information includes the identity(ies) of their beneficial owner(s), including nationality, country of residence, and identification of politically exposed persons, the level of ownership and details about how ownership or control is exerted (#2.5.c-d)</p>	<p>The BO template shared with the International Secretariat shows BO details required include name, nationality, country of residence, level of ownership, details about ownership, how control is exerted, politically exposed persons status, national identity number, date of birth, residential or service address, contact and so on.</p> <p>However, the NEITI beneficial ownership portal only provides information on company, name, nationality, percentage holding, PEP and stock exchange link where a company is listed. While appendix 12 of the NEITI 2018 oil and gas report and Appendix 8 of the 2018 mining report provide more detail</p>	<p>NEITI BO declaration here</p> <p>Report of Stakeholders’ Meeting on Validation and Gap Analysis of the Beneficial Ownership Implementation in Nigeria organized by NEITI on 25 March 2021, accessible from the International Secretariat</p>	<p>According to NEITI, stakeholders have agreed that date of birth and contact address was considered sensitive and would not be made public for security reasons. This information would be maintained by the relevant government agency for access by authorised persons. At the stakeholder consultation event organised on 25 March 2021, it was resolved that the year and month of birth would be published on the NEITI beneficial ownership portal, to help identify and distinguish between individual beneficial owners.</p>

	including contact address and date of birth of owners for some companies.		
Any corporate entity(ies) that apply for, or hold a participating interest in an exploration or production oil, gas or mining license or contract have disclosed the information	<p>Yes. The 2018 NEITI oil and gas report highlighted that templates were sent to all oil and gas companies to provide BO information, appendix 12 of the report shows disclosure by 28 oil and gas companies. The report further highlighted that BO information is disclosed through the NEITI BO portal, a review of the portal shows 189 oil and gas companies and 206 mining companies have disclosed information. There are seventy-one oil and gas companies holding oil and gas license and seven hundred and twenty mining companies.</p> <p>The NEITI 2018 oil and gas and mining reports confirms that BO data has been published as appendix 12 of the NEITI 2018 oil and gas and appendix 8 of the 2018 mining report and also BO information of all oil and gas companies and mining companies making material payments is published through the NEITI BO portal in December 2019.</p>	<p>NEITI 2018 oil and gas report here</p> <p>NEITI 2018 oil and gas appendix 12 here</p> <p>NEITI BO portal here</p>	
The MSG had assessed and documented gaps or weaknesses in disclosure of beneficial ownership information (#2.5.c)	Prior to the Validation, there was no evidence of discussion by the MSG on comprehensiveness and reliability of data by the MSG.	Report of Stakeholders' Meeting on Validation and Gap Analysis of the Beneficial Ownership Implementation in Nigeria organized by NEITI on 25 March	In preparation of and in the course of the stakeholder consultation meeting on 25 March 2021, NEITI gathered feedback on the disclosures to date from industry and civil society representatives engaged in the EITI process. Gaps identified by

		<p>2021, accessible from the International Secretariat</p>	<p>stakeholders included inconsistencies in the information held by different government agencies and missing information on identities of beneficial owners where legal owners were listed instead. Steps were agreed to address these gaps, including stronger measures to investigate the data provided, verify outdated information and to allow stakeholders to raise suspicious of false information. NEITI states that this approach was undertaken as an interim measure to involve stakeholders in the assessment of gaps and weaknesses in the disclosures of information, while the government is yet to reconstitute the MSG.</p>
<p>The relevant government entity or the MSG has established an approach for participating companies to assure the accuracy of the beneficial ownership information (#2.5.e)</p>	<p>NEITI highlighted in the BO self-assessment form that the MSG has approved a mechanism that provides assurance on the accuracy of BO information by the entities attesting to the reliability of the data supplied through the BO data collection template. The BO data collection template has a section on attestation and requires a commissioner for oaths to witness the document and it puts the liability of false data on the data provider. NEITI further highlighted that, in collaboration with the Corporate Affairs Commission (CAC), Depart of Petroleum Resources (DPR), Bureau for Public Procurement (BPP), Nigeria Financial Intelligence Unit (NFIU) and Ministry of Mines and Steel Development (MMSD)</p>	<p>NEITI BO self-assessment form shared with the International Secretariat here</p> <p>Minutes from meetings held by NEITI and government agencies including CAC, DPR, MCO and NFIU accessible from the International Secretariat.</p>	

	agree to the routing of BO data through the data base of the NFIU. Also, the Mining Cadastre Office (MCO) has requested that from July 2019 for all companies to attest to accuracy of the BO information for all licence renewals and new license applications. However, there is no corresponding MSG meeting minutes to support these claims.		
For publicly listed companies, including wholly-owned subsidiaries, the name of the stock exchange has been disclosed and a link included to the stock exchange filings where they are listed (#2.5.f)	Link to the information on the stock exchange where companies are listed is provided for extractive companies that are wholly-owned subsidiaries of publicly-listed companies, and links to relevant stock exchange filings.	NEITI beneficial ownership portal here	
Information about legal owners and share of ownership of applicable companies is publicly available (#2.5.g)	The Corporate Affairs Commission has a corporate register of all the companies registered in Nigeria which provides basic publicly available information such as company name, address and registration number. Information such as percentage shareholding and directors of the companies requires a token payment of USD2.6 to be displayed.	Corporate Affairs Commission register here	According to NEITI, legal ownership information is accessible from the CAC register although only upon payment of the fee. NEITI has not been able to access the information for public disclosure. At the stakeholder consultation organised by NEITI on 25 March 2021, the Corporate Affairs Commissioner committed to waiving the fees to access beneficial ownership information.