

# Implementation of Beneficial Ownership Transparency in ASEAN Member States and Timor-Leste



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## **Disclaimer**

This report has not been formally edited.

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# Table of Contents

<b>Introduction, scope and structure .....</b>	<b>3</b>
Scope.....	5
<b>Recommendations from the UNCAC Implementation Review Mechanism relating to beneficial ownership transparency .....</b>	<b>6</b>
<b>Compliance with FATF standards on beneficial ownership transparency .....</b>	<b>8</b>
<b>Legal definitions on beneficial ownership in ASEAN and Timor-Leste .....</b>	<b>10</b>
Legal basis for the beneficial ownership transparency framework .....	10
Definition of a “beneficial owner” .....	10
<b>Key elements in the beneficial ownership disclosure frameworks of ASEAN and Timor-Leste ...</b>	<b>20</b>
The collection and maintenance of beneficial ownership data.....	20
Scope of legal persons covered and exempt entities .....	21
Mechanisms to verify beneficial ownership information.....	22
Maintaining up-to-date beneficial ownership information in the register.....	23
Sanctions for non-compliance with reporting requirements under beneficial ownership transparency frameworks .....	23
Access to beneficial ownership information .....	24
Legal frameworks regulating beneficial ownership disclosure in ASEAN and Timor-Leste .....	24
<b>Outlook and recommendations .....</b>	<b>35</b>
Recommendations.....	35
Concluding remarks .....	36

# Introduction, scope and structure

Beneficial ownership transparency can be a key tool in preventing the misuse of corporate vehicles to conceal the proceeds of corruption and other illicit gains.<sup>1</sup> Identifying beneficial owners of accounts and transactions is also a cornerstone for any robust anti-money-laundering preventive framework. In addition to addressing corruption, and helping to track and recover stolen assets, increased beneficial ownership transparency can promote business integrity, public accountability and improve public procurement transparency.

A number of international standards, such as the United Nations Convention against Corruption (UNCAC), the Financial Action Task Force (FATF) and the Extractive Industries Transparency Initiative (EITI) recognize the importance of beneficial ownership transparency in the fight against corruption.<sup>2</sup> These international standards provide a useful framework regarding the identification, use and regulation of beneficial ownership information. However, countries are encouraged to tailor their frameworks in line with their domestic contexts, enabling more effective implementation.

Adopted by the General Assembly in October 2003 and entering into force in December 2005, UNCAC is the world's only legally binding anti-corruption instrument. UNCAC does not define the term "beneficial owner," but the UNCAC Technical Guide notes that the term "beneficial owner" should be regarded as covering "any person with a direct or indirect interest in or control over assets or transactions."<sup>3</sup>

FATF, established in 1989 to examine and

develop measures to combat money-laundering, provides one of the most extensive and widely accepted definition of "beneficial owner."<sup>4</sup>

"Beneficial owner refers to the natural person(s) who ultimately owns or controls a customer and/or the natural person on whose behalf a transaction is being conducted. It also includes those natural persons who exercise ultimate effective control over a legal person or arrangement. Only a natural person can be an ultimate beneficial owner, and more than one natural person can be the ultimate beneficial owner of a given legal person or arrangement."

FATF further clarifies that the reference to "ultimately owns or control" and "ultimate effective control" refers to "situations in which ownership/control is exercised through a chain or ownership or by means of control other than direct control." In other words, the beneficial owner is the person or persons who benefits from or exercises control, either directly or indirectly, over a legal person or a legal arrangement. A form of indirect control, for example, can occur through the power to appoint the majority of senior management.<sup>5</sup>

EITI also provides a definition of a "beneficial owner". Established in 2003, EITI recognizes the importance of beneficial ownership transparency in the fight against corruption, money-laundering, terrorist financing, tax evasion and other financial crimes. EITI seeks to address key governance issues in the extractive sectors through global standards, with the EITI Standard containing the requirements for EITI implementing countries.<sup>6</sup>

<sup>1</sup> UN and OECD, "A resource guide on state measures for strengthening business integrity," 2024, p. 20. Available at: [https://businessintegrity.unodc.org/bip/uploads/documents/resources/Resources\\_guide\\_on\\_state\\_measures\\_for\\_strengthening\\_business\\_integrity.pdf](https://businessintegrity.unodc.org/bip/uploads/documents/resources/Resources_guide_on_state_measures_for_strengthening_business_integrity.pdf).

<sup>2</sup> Other international standards that cover beneficial ownership transparency not in this report include, for example, those under the G20 Anti-Corruption Working Group, the European Union Anti-Money Laundering Directives and the Open Government Partnership.

<sup>3</sup> UNODC and UNICRI, Technical Guide to the United Nations Convention against Corruption, 2009, p. 69. Available at: [https://www.unodc.org/documents/treaties/UNCAC/Publications/TechnicalGuide/09-84395\\_Ebook.pdf](https://www.unodc.org/documents/treaties/UNCAC/Publications/TechnicalGuide/09-84395_Ebook.pdf).

<sup>4</sup> FATF, "Glossary," accessed on 20 May 2024. Available at: <https://www.fatf-gafi.org/en/pages/fatf-glossary.html#accordion-a13085a728-item-776c6d21d8>.

<sup>5</sup> FATF, "Guidance on beneficial ownership of legal persons," 2023, p. 18. Available at: <https://www.fatf-gafi.org/en/publications/Fatfrecommendations/Guidance-Beneficial-Ownership-Legal-Persons.html>.

<sup>6</sup> UNCAC States parties that are EITI implementing countries include Indonesia, the Philippines and Timor-Leste. In February 2024, the EITI Board delisted Myanmar from EITI due to challenges in upholding key aspects of EITI, including multi-stakeholder governance and data disclosure. See EITI, "Myanmar delisted from EITI due to political instability," 29 February 2024. Available at: <https://eiti.org/news/myanmar-delisted-eiti-due-political-instability>.

The 2023 EITI Standard, Requirement 2.5 on beneficial ownership states:<sup>7</sup>

“The objective of this requirement is to enable the public to know who ultimately owns and controls the companies operating in the country’s extractive industries, particularly those identified by the multi-stakeholder group as high-risk, to help deter improper and corrupt practices in the management of extractive resources and to help monitor the ownership of politically exposed persons (PEPs)”.

Requirement 2(5)(f)(i) of the 2023 EITI Standard defines a “beneficial owner” in respect of a company as “the natural person(s) who directly or indirectly ultimately owns or controls the corporate entity.”

In practice, beneficial ownership transparency involves the reporting of beneficial ownership information to the appropriate authorities by a legal entity.<sup>8</sup> This information is collected in a central register or through alternative mechanisms, which may be accessible to the public. Law enforcement or competent authorities are often enabled by legislation to access the collected beneficial ownership information most commonly for law enforcement purposes. This allows for greater accountability and scrutiny in financial and business transactions. However, countries have the discretion to determine the form of registry or mechanism they seek to adopt, which would allow efficient access to beneficial ownership information. International organizations such as Open Ownership work to provide technical guidance to governments, civil society and legal entities on the implementation of beneficial ownership transparency frameworks, such as the collecting, sharing and using of high-quality data on beneficial ownership in line with its Beneficial Ownership Data Standard.<sup>9</sup>

The importance of beneficial ownership transparency was recognized in recent

resolutions of the Conference of States Parties to UNCAC, such as:

- Resolution 9/7 of 17 December 2021,<sup>10</sup> entitled “*Enhancing the use of beneficial ownership information to facilitate the identification, recovery and return of proceeds of crime*,” called for States parties to adopt a multi-pronged approach to beneficial ownership transparency through appropriate mechanisms that would provide access to adequate, accurate and up-to-date beneficial ownership information on legal persons and legal arrangements. The aim would be for increased beneficial ownership transparency to facilitate the investigation and prosecution of corruption cases and the identification, recovery and return of assets;
- Resolution 10/6 of 15 December 2023,<sup>11</sup> entitled “*Enhancing the use of beneficial ownership information to strengthen asset recovery*,” drew on resolution 9/7 and called for States parties to continue ensuring access to beneficial ownership, including by maintaining records that may be searchable by domestic competent authorities, and to cooperate closely with one another to facilitate the exchange of beneficial ownership information and use such information to prevent, investigate and prosecute corruption, and to recover and return assets.

Regional frameworks for Southeast Asia have also reiterated and prioritized the importance of beneficial ownership transparency. Over the past few years, UNODC has been supporting the establishment of regional platforms to fast-track UNCAC implementation. This is pursuant to resolution 9/4 of the Conference of States Parties to UNCAC,<sup>12</sup> which encouraged States parties

<sup>7</sup> EITI, “EITI Standard 2023,” 2023, pp. 19 – 21. Available at: <https://eiti.org/sites/default/files/2023-06/2023%20EITI%20Standard.pdf>.

<sup>8</sup> UNODC, “Enhancing beneficial ownership transparency: a study of beneficial ownership registration systems,” CAC/COSP/2023/CRP.5, 7 December 2023, p. iv. Available at: <https://www.unodc.org/documents/treaties/UNCAC/COSP/session10/CAC-COSP-2023-CRP.5.pdf>.

<sup>9</sup> Open Ownership, “Beneficial Ownership Data Standards,” accessed on 22 May 2024. Available at: <https://www.openownership.org/en/topics/beneficial-ownership-data-standard/>.

<sup>10</sup> UNODC, “Enhancing the use of beneficial ownership information to facilitate the identification, recovery and return of proceeds of crime,” 17 December 2021. Available at: <https://www.unodc.org/unodc/en/corruption/COSP/session9-resolutions.html#Res.9-7>.

<sup>11</sup> UNODC, “Enhancing the use of beneficial ownership information to strengthen asset recovery,” 15 December 2023, CAC/COSP/2023/L. 10/Rev. 1. Available at: [https://www.unodc.org/documents/treaties/UNCAC/COSP/session10/resolutions/L-documents/2325375E\\_L10\\_Rev.1.pdf](https://www.unodc.org/documents/treaties/UNCAC/COSP/session10/resolutions/L-documents/2325375E_L10_Rev.1.pdf).

<sup>12</sup> UNODC, “Resolutions and decisions adopted by the Conference of the States parties to the United Nations Convention against Corruption,” 2021. Available at: <https://www.unodc.org/unodc/en/corruption/COSP/session9-resolutions.html#Res.9-4>.

to continue building, in collaboration with other partners, regional platforms for countries to fast-track the effective implementation of UNCAC by benefiting from regional capacities and knowledge to identify achievable and practical reform priorities. In 2024, the Regional Platform for Southeast Asia identified the need for greater beneficial ownership transparency within its three-year Regional Roadmap to Reinvigorate the Platform to Fast-Track the Implementation of the UNCAC (Guiding Framework).<sup>13</sup> Action points in the Guiding Framework focus on developing and strengthening legal frameworks on beneficial ownership transparency, along with taking measures for effective implementation including through enhanced transparency, inter-agency collaboration, and the sharing and exchange of beneficial ownership information.

### Scope

This report covers the implementation of beneficial ownership transparency in Member States in the Association of Southeast Asian Nations (ASEAN) and Timor-Leste as of 1 May 2024. The ASEAN Member States are Brunei Darussalam, Cambodia, Indonesia, Lao People's Democratic Republic (PDR), Malaysia, Myanmar,<sup>14</sup> the Philippines, Singapore, Thailand and Viet Nam. At the time of drafting this report, Timor-Leste had observer status in ASEAN and was, in principle, to be admitted as an ASEAN Member State.<sup>15</sup> This report collectively refers to the ASEAN Member States and Timor-Leste as "focus States."

This report is prepared with information made available from UNODC publications and

internationally recognized standards, partners, bodies and initiatives. These include the Asia/Pacific Group on Money Laundering (APG), EITI, Open Ownership, and other government sources and expert commentaries<sup>16</sup> as of May 2024. Where relevant, reference is made to information on beneficial ownership implementation in the UNCAC country review reports and executive summaries of focus States under the Mechanism for the Review of Implementation of UNCAC (UNCAC Implementation Review Mechanism).

The UNCAC Implementation Review Mechanism requires each State party to be reviewed by two other States on its implementation of UNCAC across two review cycles: the first focused on chapters III (criminalization and law enforcement) and IV (international cooperation) of the Convention; and the second cycle on chapters II (preventive measures) and V (asset recovery). The Mechanism aims to assist States parties in effectively implementing the Convention by identifying and substantiating the challenges, good practices and specific needs of each State party.

The comparison and analysis of information in this report was challenging due to the lack of available and/or updated information in specific contexts. Official translations of some materials, such as legal frameworks on beneficial ownership transparency, were also not always available. Gaps in information or a reliance on unofficial translations are highlighted where relevant, and such limitations should be kept in mind while reading this report.

<sup>13</sup> UNODC, "Regional roadmap to reinvigorate the platform to fast-track the implementation of the United Nations Convention against Corruption in Southeast Asia (2024 – 2027)," 2024. Available at: [https://www.unodc.org/roseap/uploads/documents/Publications/2024/2024-2027\\_UNCAC\\_Implementation\\_Roadmap\\_in\\_Southeast\\_Asia.pdf](https://www.unodc.org/roseap/uploads/documents/Publications/2024/2024-2027_UNCAC_Implementation_Roadmap_in_Southeast_Asia.pdf).

<sup>14</sup> Information contained in this report reflects Myanmar's beneficial ownership framework prior to the military takeover on 1 February 2021 (see S/RES/2669 (2022)), which refers to "the ongoing state of emergency imposed by the military in Myanmar on 1 February 2021". The information provided at that time may not reflect the current context.

<sup>15</sup> ASEAN, "ASEAN Leaders' Statement on the Application of Timor-Leste for ASEAN membership," 2022. Available at: <https://asean.org/wp-content/uploads/2022/11/05-ASEAN-Leaders-Statement-on-the-Application-of-Timor-Leste-for-ASEAN-Membership.pdf>.

<sup>16</sup> See, for example, the Stolen Asset Recovery Initiative, "The puppet masters," 2011. Available at: <https://star.worldbank.org/publications/puppet-masters>.

# Recommendations from the UNCAC Implementation Review Mechanism relating to beneficial ownership transparency

Three UNCAC provisions refer to beneficial ownership transparency:

- Article 12 on the private sector promotes beneficial ownership transparency by requiring States parties to take measures, in accordance with the fundamental principles of their domestic law, to prevent corruption involving the private sector. It states that such measures may include, inter alia, promoting transparency among private entities, including, where appropriate, measures regarding the identity of legal and natural persons involved in the establishment and management of corporate entities;
- Article 14 on measures to prevent money-laundering requires States parties to establish comprehensive domestic and supervisory regimes for banks and non-bank financial institutions, which emphasizes the requirements for beneficial ownership identification, where appropriate, as part of customer due diligence checks; and
- Article 52 on the prevention and detection of transfers of proceeds of crime requires States parties to take the necessary measures, in accordance with their domestic law, to require financial institutions to take reasonable steps to determine the identity of beneficial owners of funds deposited into high-value accounts.

During the second review cycle,<sup>17</sup> seven focus States<sup>18</sup> received recommendations on strengthening their implementation of article 12 (private sector), including by continuing efforts to promote the transparency of legal persons and arrangements. In addition to enhancing

measures aimed at the management of beneficial owners of private entities, recommendations also touched on the need to improve access to information on company ownership and management.

Table 1 sets out the dates of the second review cycle under the UNCAC Implementation Review Mechanism of focus States. At the time of this report, Timor-Leste had not yet conducted the country visit as part of its second review cycle.

In relation to obligations to prevent money-laundering (article 14), Indonesia received a recommendation to improve its regulatory framework on beneficial ownership transparency and accelerate its implementation.

Although not exclusively centred around beneficial ownership transparency, three focus States received the following recommendations in relation to preventing and detecting proceeds of crime (article 52):

- Myanmar received recommendations to consider introducing a statutory requirement for the disclosure and recording of beneficial ownership information, and to take reasonable steps to determine the identity of beneficial owners of funds deposited into high-value accounts;
- Thailand received recommendations on ensuring that all financial institutions, and designated non-financial businesses and professions (DNFBPs) were subject to customer due diligence and beneficial owner identification requirements, and on ensuring that controls related to beneficial ownership were adequate and effectively understood and implemented by all sectors and supervisors; and

<sup>17</sup> At the time of this report, Timor-Leste had not completed its second review cycle. Executive summaries of Brunei Darussalam, Cambodia and Singapore were also not yet final. For more information, see UNODC, “Country profiles,” accessed on 22 May 2024. Available at: <https://www.unodc.org/unodc/en/corruption/country-profile/>.

<sup>18</sup> Cambodia, Indonesia, Lao PDR, Myanmar, the Philippines, Singapore, Thailand.



- Viet Nam received a recommendation to continue strengthening measures for beneficial ownership identification and verification by financial institutions and DNFBPs.

**Table 1: Second cycle under the UNCAC Implementation Review Mechanism**

States parties	Second review cycle	Reviewed by
Brunei Darussalam	Finalizing: Country visit was held on 6 – 8 May 2024	1. United Arab Emirates 2. Marshall Islands
Cambodia	Finalizing: Country visit was held on 30 October – 1 November 2019	1. Thailand 2. Eswatini
Indonesia	Completed: Country visit was held on 9 – 11 October 2017	1. Yemen 2. Ghana
Lao PDR	Completed: Country visit was held on 22-24 October 2018	1. Cyprus 2. Pakistan
Malaysia	Completed: Country visit was held on 4 – 6 July 2017	1. Timor-Leste 2. Eswatini
Myanmar	Completed: Country visit was held on 6 – 8 May 2019	1. Iraq 2. Uzbekistan
Philippines	Completed: Country visit was held on 29 April – 2 May 2019	1. Niue 2. South Africa
Singapore	Finalizing: Country visit was held on 9 – 11 May 2023	1. Jordan 2. Morocco
Thailand	Completed: Country visit was held on 24 – 28 September 2018	1. Iran (Islamic Republic of) 2. Bhutan
Timor-Leste	Not yet complete: Country visit not yet held	1. Marshall Islands 2. Bulgaria
Viet Nam	Completed: Country visit was held on 28 – 30 October 2019	1. Indonesia 2. Honduras

## Compliance with FATF standards on beneficial ownership transparency

The FATF recommendations address the transparency and beneficial ownership of legal persons and legal arrangements in:

- Recommendation 10 (customer due diligence);
- Recommendation 22 (DNFBPs: Customer due diligence);
- Recommendation 24 (transparency and beneficial ownership of legal persons);
- Recommendation 25 (transparency and beneficial ownership of legal arrangements);
- Recommendation 40 (other forms of international cooperation), which addresses the need to facilitate the exchange of information on beneficial ownership between competent authorities;
- Immediate Outcome (IO) 5 (Legal persons and arrangements are prevented from misuse for money-laundering or terrorist financing, and information on their beneficial ownership is available to competent authorities without impediments). Compliance with Recommendations 24 and 25 are linked to the effectiveness of measures assessed in IO 5.

In 2022, FATF revised<sup>19</sup> Recommendation 24 to strengthen beneficial ownership transparency measures. The revised Recommendation 24 requires countries to ensure adequate, accurate

and up-to-date information on the beneficial ownership and control of legal persons that can be obtained or accessed rapidly and efficiently by competent authorities through either a register of beneficial ownership or an alternative mechanism. FATF also revised Recommendation 25 in 2023 to strengthen the requirements for countries to obtain and maintain accurate and up-to-date information on the beneficial ownership of legal arrangements.

Table 2 sets out the most recent ratings received by focus States on Recommendations 24 and 25, and IO 5 through evaluations carried out by FATF and APG.<sup>20</sup> Timor-Leste is the only State party that has not received an evaluation for over 10 years, with its most recent evaluation occurring in July 2012.<sup>21</sup>

Overall, focus States may have received a “low level of effectiveness” rating for IO 5, while being deemed “partially compliant” or “largely compliant” with Recommendations 24 and/or 25. Otherwise, as of August 2023, Lao PDR was the only focus State that was rated to be “not compliant” with Recommendations 24 and 25, and had received a “low level of effectiveness” rating for IO 5.

Given the report dates, the ratings may not reflect more recent advancements by focus States on beneficial ownership transparency. Further follow-up assessments that are carried out after the publication of this report may produce an updated rating. For example, Malaysia’s most recent report was in October 2018; however, it has made certain advancements in its beneficial ownership transparency framework, which will be explored further in the report.

<sup>19</sup> FATF, “Guidance on beneficial ownership of legal persons,” 2023, *op.cit.*

<sup>20</sup> FATF, “Consolidated assessment ratings,” accessed on 1 April 2024. Available at: <https://www.fatf-gafi.org/en/publications/Mutualevaluations/Assessment-ratings.html>.

<sup>21</sup> FATF, “Timor Leste,” accessed on 10 May 2024. Available at: <https://www.fatf-gafi.org/en/countries/detail/Timor-Leste.html>.

**Table 2: Focus States' compliance with FATF standards on beneficial ownership transparency**

	Report date	R24	R25	IO5
<b>Brunei Darussalam</b>	August 2023	PC	NC	ME
<b>Cambodia</b>	October 2023	PC	PC	LE
<b>Indonesia</b>	April 2023	LC	PC	ME
<b>Lao PDR</b>	August 2023	NC	NC	LE
<b>Malaysia</b>	October 2018	PC	PC	ME
<b>Myanmar</b>	October 2023	PC	NC	LE
<b>Philippines</b>	August 2022	LC	PC	LE
<b>Timor-Leste</b>	July 2012	N/A	N/A	N/A
<b>Thailand</b>	October 2023	PC	PC	LE
<b>Singapore</b>	November 2019	LC	C	ME
<b>Viet Nam</b>	February 2022	PC	PC	LE

NC: Non-Compliant; PC: Partially Compliant; LC: Largely Compliant; C: Compliant

LE: Low level of effectiveness; ME: Moderate level of effectiveness; HE: High Level of effectiveness

# Legal definitions on beneficial ownership in ASEAN and Timor-Leste

This section introduces how focus States define and determine beneficial ownership and the legal basis used, including the applicable laws and regulations.

## **Legal basis for the beneficial ownership transparency framework**

All focus States have legal and regulatory frameworks in place that include a definition of the term “beneficial owner”.

In four focus States,<sup>22</sup> the definition of a “beneficial owner” and their corresponding beneficial ownership transparency frameworks are primarily set out in anti-money-laundering/ countering the financing of terrorism (AML/CFT) obligations. The reporting of beneficial ownership information would primarily only occur when financial institutions are relied on, such as during transactions and the opening of bank accounts. Beneficial ownership information is unlikely to be gathered as a legal requirement during the creation and maintenance of legal entities and arrangements, such as in setting up a company.

In seven focus States,<sup>23</sup> the definition of a “beneficial owner” and their corresponding beneficial ownership transparency frameworks are set out in relation to the formation and maintenance of legal persons and arrangements. Reliance is primarily placed on tax, company or corporate/commercial registration frameworks, although such legislation could also be enacted with the aim of improving AML/CFT outcomes. While these focus States may also impose separate beneficial ownership disclosure obligations for specific AML/CFT purposes, this report’s focus is on obligations at the point where legal persons and/or arrangements are incorporated and maintained.

## **Definition of a “beneficial owner”**

While the majority of focus States use the term “beneficial owner,” Brunei Darussalam and Singapore use the term “controller” in their legal

frameworks. All focus States define beneficial ownership with reference to natural persons, although Singapore specifically distinguishes between “corporate controllers” and “individual controllers” to differentiate between reporting obligations.

All focus States define beneficial ownership with reference to ultimate and/or effective ownership and control. Most cover the concept of direct and indirect ownership, although this is less clear for Lao PDR. All focus States, except Thailand, have defined a specific ownership threshold to determine beneficial ownership. These thresholds range from five to 25 per cent, and are collectively set out in Table 3.

The majority of focus States also define control through other means, including, for example:

- Through voting rights, with all focus States except Lao PDR and Viet Nam covering voting rights as a form of control. Thailand is also the only focus State that does not set out a specific voting threshold;
- The right, or ability in practice, to appoint or remove the management or board of directors, as set out in Brunei Darussalam, Indonesia, the Philippines and Singapore;
- The possibility of exercising significant influence, as stated in Indonesia, Malaysia, the Philippines and Singapore;
- Informal means of control, where Malaysia and the Philippines refer to members who may be “accustomed or under an obligation” to act in accordance with a person’s directions, instructions or wishes;
- The identification of a senior managing official if no other beneficial owner can be identified based on the forms of criteria set out in the domestic context, such as in Timor-Leste, where the beneficial owner is deemed to be the director(s) who actively performs management positions in the company, if ownership or control

<sup>22</sup> Cambodia, Lao PDR, Thailand, Viet Nam.

<sup>23</sup> Brunei Darussalam, Indonesia, Malaysia, Myanmar, the Philippines, Singapore, Timor-Leste.

through share capital or voting rights as set out in Timor-Leste’s beneficial ownership disclosure framework cannot be identified; and

- Through the use of “catch-all” provisions without further specifications. Cambodia and Timor-Leste use the phrase “other means” without specifically referring to what this could entail. The Philippines also uses the phrase of “control over the corporation through other means not falling under any of the foregoing categories”, which is further explored below in the report.

Definitions for beneficial ownership should be robust and comprehensive. Moreover, regional consistency would allow focus States to more effectively cooperate on matters dependent on beneficial ownership data, particularly in the context of mutual legal assistance and asset recovery. In regard to thresholds, it was observed<sup>24</sup> that many countries are adopting more stringent requirements when it comes to, for example, determining the level of controlling shareholders in a company.

### Brunei Darussalam

<b>Defining instrument</b>	Companies Act (Amendment) Orders 2020.
<b>Natural person</b>	Yes.
<b>Ultimate/effective ownership and control</b>	Yes.
<b>Direct/indirect ownership</b>	Yes.
<b>Ownership threshold</b>	25 per cent.
<b>Voting rights</b>	Yes.
<b>Voting rights threshold</b>	25 per cent.
<b>Right to appoint/remove management</b>	Yes.
<b>Other means</b>	Right to exercise, or actually exercises, significant influence; a right to more than 25 per cent of profits.

In Brunei Darussalam, the Companies Act (Amendment) Orders 2020<sup>25</sup> uses the term “controllers” to denote beneficial ownership. A “controller” is an individual who has a significant interest in, or significant control over, the company or the foreign company.

The 17th Schedule sets out what could constitute “significant control” and “significant interest”. In addition to holding 25 per cent of the rights to vote on matters or having an interest in more than 25 per cent of shares, there are other means of attributing significant control and/or interest, including:

- Having the right to exercise significant influence or control over the company;
- Having the right of appointing or removing directors who hold a majority of voting rights; and
- Having a right to receive more than 25 per cent of the company’s profits.

### Cambodia

<b>Defining instrument</b>	Law on Anti-Money-Laundering and Combating the Financing of Terrorism 2020; Directive on Due Diligence Measures.
<b>Natural person</b>	Yes.
<b>Ultimate or effective ownership and control</b>	Yes.
<b>Direct/indirect ownership</b>	Yes.
<b>Ownership threshold</b>	20 per cent.
<b>Voting rights</b>	Yes.
<b>Voting rights threshold</b>	20 per cent.
<b>Right to appoint/remove management</b>	No.
<b>Other means</b>	“Other means” specified, but not expanded on.

<sup>24</sup> Open Ownership, “Beneficial ownership in law: definitions and thresholds,” 2020. Available at: <https://www.openownership.org/en/publications/beneficial-ownership-in-law-definitions-and-thresholds/>.

<sup>25</sup> Ministry of Finance and Economy, “Companies Act (Amendment) Order 2020,” 2020. Available at: [https://www.mofe.gov.bn/Shared%20Documents/Registry%20of%20Companies%20and%20Business%20Names/Legislation/Amendments/COMPANIES%20ACT%20\(AMENDMENT\)%20ORDER%202020.pdf](https://www.mofe.gov.bn/Shared%20Documents/Registry%20of%20Companies%20and%20Business%20Names/Legislation/Amendments/COMPANIES%20ACT%20(AMENDMENT)%20ORDER%202020.pdf).

In Cambodia, beneficial ownership is primarily defined with reference to its AML/CFT obligations.<sup>26</sup> Article 10 of the Law on Anti-Money-Laundering and Combating the Financing of Terrorism 2020 defines a “beneficial owner” as the “natural person(s) who ultimately owns or controls a customer and/or the natural person on whose behalf a transaction is being conducted.”

While article 10 does not set out a specific percentage threshold, it notes that the relevant portion of shares or voting rights is to be prescribed by the Cambodian Financial Intelligence Unit (FIU) in a directive. The Cambodian FIU has recently specified<sup>27</sup> that the threshold is 20 per cent or more of shares or voting rights.

Where no controlling ownership interest is found or doubt exists as to whether the person with controlling ownership interest is the beneficial owner, article 10 makes a general reference to “the natural person(s) who exercises control over a legal entity through other means”. However, no further detail is provided.

## Indonesia

<b>Defining instrument</b>	Presidential Regulation No. 13/2018.
<b>Natural person</b>	Yes.
<b>Ultimate or effective ownership and control</b>	Yes.
<b>Direct/indirect ownership</b>	Yes.
<b>Ownership threshold</b>	25 per cent.
<b>Voting rights</b>	Yes.
<b>Voting rights threshold</b>	25 per cent.
<b>Right to appoint/remove management</b>	Yes.

<b>Other means</b>	Right to influence or control the company without obtaining authorization from other parties; right to receive profits; right to receive direct or indirect “benefits.”
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Articles 4 to 10 of Indonesia’s Presidential Regulation No. 13/2018<sup>28</sup> outline who qualifies as a beneficial owner of a limited liability company and other entities, such as foundations, limited partnerships, cooperatives and associations.

Thresholds are used to determine beneficial ownership, which include:

- Holders of more than 25 per cent of the issued shares;
- Persons entitled to exercise more than 25 per cent of the voting rights;
- Recipients of more than 25 per cent of the company’s annual profits; and
- Right to receive direct or indirect “benefits” (in the context of a foundation).

Different forms of control are also used to determine beneficial ownership, including control based on a person’s authority to appoint, replace or dismiss members of the board of directors and members of the board of commission. A specific criterion is set out for the right to influence or control a company without having to obtain authorization from any party.

Open Ownership<sup>29</sup> notes that additional forms of ownership or control could be covered to make Indonesia’s beneficial ownership definition more comprehensive, such as the right to surplus assets, profits on the dissolution of the company, and explicit reference to nominees, agents, custodians or other intermediaries.

<sup>26</sup> Cambodia FIU, “Kingdom of Cambodia – Law on Anti-Money-Laundering and Combating the Financing of Terrorism, 27 June 2020,” 2020. Available at: <https://cafiu.nbc.gov.kh/about-ml/1.2.AML%20CFT%20Law%20in%20English.pdf>.

<sup>27</sup> Cambodia FIU, “FAQs,” accessed on 10 May 2024. Available at: <https://cafiu.nbc.gov.kh/en/library/faq/>. See also National Bank of Cambodia, “Directive of Customer Due Diligence,” 2021. Available at: [https://cafiu.nbc.gov.kh/Directives/2-%20Directive\\_on\\_CDD\\_Measures\\_ENG.pdf](https://cafiu.nbc.gov.kh/Directives/2-%20Directive_on_CDD_Measures_ENG.pdf).

<sup>28</sup> EITI, “Beneficial ownership – Indonesia Presidential Regulation No. 13/2018,” accessed on 10 May 2024. Available at: <https://eiti.esdm.go.id/en/perpres-13-2018/>.

<sup>29</sup> Open Ownership, “Beneficial ownership transparency in Indonesia: scoping study,” 2022. Available at: <https://www.openownership.org/en/publications/beneficial-ownership-transparency-in-indonesia-scoping-study/open-ownership-principles-in-use-in-indonesia/>.

## Lao PDR

<b>Defining instrument</b>	The Promulgation of the Law on Anti-Money-Laundering and Counter-Financing of Terrorism 2015 and other instruments.
<b>Natural person</b>	Yes.
<b>Ultimate or effective ownership and control</b>	Yes.
<b>Direct/indirect ownership</b>	Unclear.
<b>Ownership threshold</b>	25 per cent.
<b>Voting rights</b>	No.
<b>Voting rights threshold</b>	No.
<b>Right to appoint/remove management</b>	No.
<b>Other means</b>	Power to control by other method; customers who have the highest position in that legal entity.

Lao PDR's legal framework on AML/CFT obligations appears to set out who a beneficial owner is, but unofficial translations do not always make certain distinctions clear. For example, article 8 of the Promulgation of the Law on Anti-Money-Laundering and Counter-Financing of Terrorism 2015<sup>30</sup> defines a "beneficiary" to mean a "natural person(s) who ultimately benefits from a business operation, activity or transaction, [which] includes those persons who exercise ultimate effective control over a legal person."

However, the Agreement on Know Your Customers and Customer Due Diligence in 2016<sup>31</sup> uses the term "beneficiary", "beneficiary owner" and "beneficial owner", which makes it unclear whether the terms hold separate meanings or confer significantly different reporting obligations. Article 25 of the Agreement notes that "beneficial owners" must be identified by evidence of an owner's "power in controlling that legal entity [,] such as [where] the

person holds more than 25 per cent in that legal entity." It is not clear whether indirect forms of ownership are covered. If evidence of ownership cannot be obtained, then an individual "[who has] a power to control [that] legal entity by other methods" or "[a] customer who has [a] high position in that legal entity" must be identified.

## Malaysia

<b>Defining instrument</b>	Companies Act 2016; Companies Commission of Malaysia Act 2001; Companies Amendment Act 2024; Guidelines for the Reporting Framework for Beneficial Ownership of Companies issued by the Companies Commission Malaysia (SSM Guidelines).
<b>Natural person</b>	Yes.
<b>Ultimate or effective ownership and control</b>	Yes.
<b>Direct/indirect ownership</b>	Yes.
<b>Ownership threshold</b>	20 per cent.
<b>Voting rights</b>	Yes.
<b>Voting rights threshold</b>	20 per cent.
<b>Right to appoint/remove management</b>	Yes.
<b>Other means</b>	Exercises significant influence or control via formal or informal means; a combination of any criteria.

Section 60A of the Companies Act 2016<sup>32</sup> defines a "beneficial owner" as a natural person "who ultimately owns or controls a company," and includes a person who "exercises ultimate effective controls over a company."

<sup>30</sup> Anti-Money Laundering Intelligence Office, "Decree of the President on the Promulgation of the Law on Anti-Money Laundering and Counter-Financing of Terrorism," 2015. Available at: <http://aml.io.gov.la/eng/files/regulation/Law%20on%20AML-CFT%2050.pdf>.

<sup>31</sup> Anti-Money Laundering Intelligence Office, "Agreement on Know Your Customers and Customer Due Diligence," 2016. Available at: <http://aml.io.gov.la/eng/files/regulation/KYC%20and%20CDD%2001.pdf>.

<sup>32</sup> Companies Commission of Malaysia, "Companies (Amendment) Act 2024," accessed 20 May 2024. Available at: [https://www.ssm.com.my/Pages/Legal\\_Framework/Document/A1701%20BI.pdf](https://www.ssm.com.my/Pages/Legal_Framework/Document/A1701%20BI.pdf).

The SSM Guidelines<sup>33</sup> note that ultimate ownership or control requires a 20 per cent threshold in shares or voting rights. However, ultimate *effective* control refers to situations where an individual holds less than 20 per cent shares or voting rights, but still exercises significant control or influence over the directors or the management of the company, whether through formal or informal means.

An individual with ultimate effective control therefore may not necessarily hold any shares or position in the company. For example:<sup>34</sup>

- The directors or management may be accustomed or under obligation to act under the directions, instructions or wishes of that individual;
- An individual's recommendation is always followed by the members holding a majority of the voting rights in the company; and
- The individual may be regularly consulted for the decision of the board of directors.

The SSM Guidelines clarify<sup>35</sup> that in most cases of direct ownership, the beneficial owner would be listed as one of the shareholders. If the shares are held through indirect ownership, the beneficial owner would be determined based on effective interest, including through joint interests, joint agreements and nominees. However, in determining a beneficial owner for a company without shares (e.g. a company limited by guarantee), any or a combination of criteria may be used.<sup>36</sup>

Recent amendments to Malaysia's Companies Act 2016 through the Companies (Amendment) Act 2024 also strengthened Malaysia's overarching beneficial ownership framework and are explored further below in the report.

## Myanmar

<b>Defining instrument</b>	Directive No. 17/2019.
<b>Natural person</b>	Yes.
<b>Ultimate or effective ownership and control</b>	Yes.
<b>Direct/indirect ownership</b>	Yes.
<b>Ownership threshold</b>	5 per cent.
<b>Voting rights</b>	Yes.
<b>Voting rights threshold</b>	5 per cent.
<b>Right to appoint/remove management</b>	Yes.
<b>Other means</b>	Right to exercise, or actually exercises, significant influence or control.

Myanmar's Directive No. 17/2019<sup>37</sup> defined a "beneficial owner" as a "natural person(s) who ultimately owns or controls a customer and/or the natural person on whose behalf a transaction is being conducted", which includes "those persons who exercise ultimate effective control over a legal person or arrangement."

A low threshold is used, where control would be attributed to individuals who "hold, directly or indirectly, more than five per cent of the shares and/or voting rights." Additionally, control would be implied to those who had the "right, directly or indirectly, to appoint and remove the majority of the board; or have the right to exercise, or actually exercises, significant influence or control over the public or private company or corporate entity."

<sup>33</sup> Companies Commission of Malaysia, "Guidelines for the reporting framework of beneficial ownership of companies," 2024. Available at: [https://www.ssm.com.my/Pages/Legal\\_Framework/Document/01\\_Guideline%20BO%20\(Post%20T%26P\)%20Final%20Uploaded%20Version.pdf](https://www.ssm.com.my/Pages/Legal_Framework/Document/01_Guideline%20BO%20(Post%20T%26P)%20Final%20Uploaded%20Version.pdf).

<sup>34</sup> *Ibid.*, pp. 16 – 17.

<sup>35</sup> *Ibid.*, pp. 15 – 16.

<sup>36</sup> *Ibid.*, p. 17.

<sup>37</sup> UNODC, "Questionnaire on beneficial ownership information," 2023. Available at: [https://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/workinggroup2/2022-November-7-11/contributions\\_to\\_CAC-COSP-WG.2-2022-CRP1/MYANMAR\\_EN.pdf](https://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/workinggroup2/2022-November-7-11/contributions_to_CAC-COSP-WG.2-2022-CRP1/MYANMAR_EN.pdf). See also Directorate of Investment and Company Administration, "Directive No. 17/2019 on disclosure of beneficial ownership information," 2019. Available at: [https://www.dica.gov.mm/sites/default/files/document-files/directive\\_engfinal\\_0.pdf](https://www.dica.gov.mm/sites/default/files/document-files/directive_engfinal_0.pdf).



## The Philippines

<b>Defining instrument</b>	Secondary legislation such as circulars, as set out by e.g. the Securities and Exchange Commission (SEC) and Anti-Money-Laundering Council (AMLC).
<b>Natural person</b>	Yes.
<b>Ultimate or effective ownership and control</b>	Yes.
<b>Direct/indirect ownership</b>	Yes.
<b>Ownership threshold</b>	Five – 25 per cent, depending on the legal basis of beneficial ownership.
<b>Voting rights</b>	Yes.
<b>Voting rights threshold</b>	Five – 25 per cent, depending on the legal basis of beneficial ownership.
<b>Right to appoint/remove management</b>	Yes.
<b>Other means</b>	Having the ability to exert dominant influence over the management or policies of the corporation; having their directions, instructions or wishes in conducting affairs be carried out by members who are accustomed or under an obligation to act accordingly; stewards of the properties where such properties are under their care or administration; through positions held (i.e. strategic decisions).

In the Philippines, the definition of “beneficial ownership” is not located in primary legislation. Rather, secondary legislation is issued by bodies, with slight variations in the definition of “beneficial ownership” depending on the purpose of such identification.

For example, the SEC<sup>38</sup> defines “beneficial owners” as “any natural person(s) who ultimately control(s) or exercise(s) ultimate effective control over the corporation.” Beneficial owners can exercise ownership and control directly or indirectly using a range of mechanisms. Such mechanisms include:

- The ownership of shares or equity interest;
- Voting rights;
- The ability to elect the majority of the board;
- The ability to exert dominant influence over company management or policies; and
- To act through intermediaries such as nominee shareholders or directors.

The AMLC<sup>39</sup> refers to “beneficial owners” as any natural person “who ultimately owns or controls the customer and/or on whose behalf a transaction or activity is being conducted,” or “who has ultimate effective control over a juridical person or legal arrangement.”

Meanwhile, the rules implementing the Securities Regulation Code,<sup>40</sup> which aim to develop the capital market and protect investors, define “beneficial owners” as “any person who directly or indirectly has or shares voting power and/or investment returns or power”.

The threshold for establishing beneficial ownership based on ownership and/or voting rights likewise varies:<sup>41</sup>

- 25 per cent of voting rights, shares or capital for all companies registered under the SEC;

<sup>38</sup> SEC, “Memorandum Circular No. 15, amendment of SEC Memorandum Circular No. 17, series of 2018 on the revision of GIS to include beneficial ownership information (“2019 revision of the GIS”),” 2019. Available at: <https://appointment.sec.gov.ph/mc-2019/mc-no-15-s-2019-amendment-of-sec-memorandum-circular-no-17-series-of-2018-on-the-revision-of-the-general-information-sheet-gis-to-include-beneficial-ownership-information-2019-revisio/>.

<sup>39</sup> Anti-Money-Laundering Council, “2018 Implementing Rules and Regulations of Republic Act No. 9160, otherwise known as the Anti-Money-Laundering Act of 2001, as amended,” 2018, p. 6. Available at: <http://www.amlc.gov.ph/images/PDFs/FINAL2018%20IRR.pdf>.

<sup>40</sup> SEC, “2015 Implementing Rules and Regulations of the Securities Regulation Code (Republic Act 8799),” 2015. Available at: <https://www.sec.gov.ph/wp-content/uploads/2019/11/2015-SRC-Rules-Published-in-Phil-Star-Manila-Bulletin-October-25-2015.pdf>.

<sup>41</sup> Open Ownership, “Beneficial ownership transparency in the Philippines,” 2024. Available at: <https://www.openownership.org/en/publications/beneficial-ownership-transparency-in-the-philippines/2-open-ownership-principles-for-effective-beneficial-ownership-disclosure-in-the-philippines/>.

- 20 per cent ownership or voting rights for AML covered persons; and
- Five per cent or 10 per cent for publicly listed companies, depending on the type of security and the individual’s relationship to the company.

While there is no overarching primary legislation which defines “beneficial ownership,” Open Ownership<sup>42</sup> has deemed the Philippines’ definition of “beneficial ownership” to be sufficiently robust when considered collectively. However, it noted the lack of harmonization may be a potential challenge in the consistent implementation of beneficial ownership disclosures.

### Singapore

<b>Defining instrument</b>	Companies Act 1967.
<b>Natural person</b>	Yes.
<b>Ultimate or effective ownership and control</b>	Yes.
<b>Direct/indirect ownership</b>	Yes.
<b>Ownership threshold</b>	25 per cent.
<b>Voting rights</b>	Yes.
<b>Voting rights threshold</b>	25 per cent.
<b>Right to appoint/remove management</b>	Yes.
<b>Other means</b>	Right to exercise, or actually exercises, significant influence or control over the company or foreign company.

Singapore differentiates between “corporate controllers” and “individual controllers”. An “individual controller” is defined in section 386AB of its Companies Act 1967<sup>43</sup> as “an individual who has a significant interest in, or significant control over [a] company or foreign company.” A “corporate controller”, in relation to a company or a foreign company, is defined as a “legal entity which has a significant interest in, or significant control over the company or the foreign company.”

What constitutes “significant control” and “significant interest” is defined in the 16th

Schedule. “Significant interest” is demonstrated if the individual has an interest in more than 25 per cent of the shares or has more than 25 per cent of total voting power in the company.

In addition to thresholds, an individual is deemed to have “significant control” if they have the right to appoint or remove directors who hold a majority of the voting rights at directors’ meetings. They may also hold “significant control” if they exercise, or have the right to exercise, significant influence or control over the company.

### Thailand

<b>Defining instrument</b>	Secondary instruments, such as the Ministerial Regulation Prescribing Rules and Procedures for Customer Due Diligence 2563 (2020).
<b>Natural person</b>	Yes.
<b>Ultimate or effective ownership and control</b>	Yes.
<b>Direct/indirect ownership</b>	Yes.
<b>Ownership threshold</b>	No.
<b>Voting rights</b>	Yes.
<b>Voting rights threshold</b>	No.
<b>Right to appoint/remove management</b>	No.
<b>Other means</b>	Yes, such as power in making certain decisions.

Thailand defines “beneficial ownership” under secondary regulations or notifications issued by different bodies for varying purposes. For example:

- In relation to customer due diligence, the Ministerial Regulation Prescribing Rules and Procedures for Customer Due Diligence 2563 (2020)<sup>44</sup> defines an “ultimate beneficial owner” as a “natural person who ultimately owns or controls the business relationships of a customer

<sup>42</sup> Open Ownership, “Beneficial ownership transparency in the Philippines,” 2024, *op.cit.*

<sup>43</sup> Singapore Statutes Online, “Companies Act 1967,” accessed on 22 May 2024. Available at: <https://sso.agc.gov.sg/Act/CoA1967>.

<sup>44</sup> AMLO, “Ministerial Regulation on Customer Due Diligence B.E. 2563 (2020),” 2020. Available at: [https://www.amlo.go.th/amlo-intranet/index.php?option=com\\_k2&view=item&task=download&id=9621\\_3651de53047795f557453a5c4c6b6d11](https://www.amlo.go.th/amlo-intranet/index.php?option=com_k2&view=item&task=download&id=9621_3651de53047795f557453a5c4c6b6d11).

of a financial institution”, or “the natural person on whose behalf a transaction is being conducted by the customer or the person(s) who ultimately have a controlling ownership interest in a legal person or a legal arrangement”; and

- In the context of compiling information for international investment statistics, the Bank of Thailand<sup>45</sup> defines “ultimate beneficial owner” as non-residents who “ultimately own debt securities issued in Thailand or ultimately receive benefits from such debt securities holdings”, or who have “direct or indirect power in making the decisions to own or invest in debt securities issued in Thailand.”

Thailand’s Office of the Securities and Exchange Commission<sup>46</sup> has also previously used the phrase “ultimate controlling persons” to convey the concept of beneficial ownership, where “ultimate controlling persons of the transactions” refers to the natural person who “ultimately exercises effective control in relation to the customer’s account or transactions.”

### Timor-Leste

<b>Defining instrument</b>	Law No. 10/2017.
<b>Natural person</b>	Yes.
<b>Ultimate or effective ownership and control</b>	Yes.
<b>Direct/indirect ownership</b>	Yes.
<b>Ownership threshold</b>	25 per cent.
<b>Voting rights</b>	Yes.
<b>Voting rights threshold</b>	25 per cent.
<b>Right to appoint/remove management</b>	No.
<b>Other means</b>	Director(s) who actively perform management positions; control by other means.

Timor-Leste’s Law No. 10/2017<sup>47</sup> sets out legislation on the operation of companies, which also establishes the definition of a “beneficial owner”. Unofficial translations show that a “beneficial owner” is defined in article 293 as “a natural person or persons who, ultimately, hold an effective interest in the company, which translates into direct or indirect ownership or control of a commercial company, or the exercise of control by other means”. Direct ownership or control is presumed when a natural person holds more than 25 per cent of the share capital or voting rights in the company. However, indirect ownership or control is not further elaborated.

If ownership or control through share capital or voting rights cannot be identified, the beneficial owner is deemed to be the director or directors who actively perform management positions in the company. While the catch all phrase of control “by other means” is also mentioned, no further explanation or definition is provided.

### Viet Nam

<b>Defining instrument</b>	Decree No. 87/2019/ND-CP; Law No. 14/2022/QH15, 15 November 2022; Decree No. 19/2023/ND-CP, 28 April 2023.
<b>Natural person</b>	Yes.
<b>Ultimate or effective ownership and control</b>	Yes, with varying terminology.
<b>Direct/indirect ownership</b>	Yes.
<b>Ownership threshold</b>	25 per cent.
<b>Voting rights</b>	No.
<b>Voting rights threshold</b>	No.
<b>Right to appoint/remove management</b>	No.
<b>Other means</b>	The final holder of the right to control the customer that is a legal person.

<sup>45</sup> Bank of Thailand, “Notification of the Bank of Thailand, No. Sor. Ro. Kho. 2/2565 (2022), Re: Information reporting about the ultimate beneficial owner of debt securities,” 2022. Available at: <https://www.bot.or.th/content/dam/bot/fipcs/documents/FPG/2565/EngPDF/25650042.pdf>.

<sup>46</sup> Office of the Securities and Exchange Commission, “Notification of the Office of the Securities and Exchange Commission No. Sor Thor/Nor/Yor Khor. 3/2550 (2007), Re: Rules, conditions and procedures for establishment of risk management system to prevent the use of securities business for money laundering and financing of terrorism,” 2007. Available at: <https://www.bot.or.th/content/dam/bot/fipcs/documents/FPG/2565/EngPDF/25650042.pdf>.

<sup>47</sup> Banco Central de Timor-Leste, “Law. 10/2017, New Commercial Companies Law,” 2017. Available at: [https://www.bancocentral.tl/uploads/documentos/documento\\_1524119585\\_2170.pdf](https://www.bancocentral.tl/uploads/documentos/documento_1524119585_2170.pdf).

Viet Nam defines a “beneficial owner” in relation to its AML/CFT framework. Article 5 of Decree No. 87/2019/ND-CP<sup>48</sup> defines an “ultimate beneficial owner” as someone who has “actual ownership of an account or a transaction”, an individual who has direct control or indirectly holds “at least 25 per cent of the charter capital”, “owner of a sole proprietorship”, or “another individual having actual control over such juridical person.”

Subsequently, article 3 of Law No. 14/2022/QH15<sup>49</sup> and unofficial translations note that a “beneficial owner” is “the natural person(s) who actually owns one or several assets or controls a customer on

whose behalf a transaction [relates] to asset(s),” and also “includes persons who exercise control over a legal person or arrangement.”

Article 7(2) of Decree No. 19/2023/ND-CP<sup>50</sup> further refers to the identification of natural persons who directly or indirectly hold “at least 25 per cent of charter capital,” but notes that natural persons may also qualify as beneficial owners if they are the final holder of the right to control a customer that is a legal person.

A summary of how focus States define “beneficial ownership” is set out in the table below.

**Table 3: The definition of “beneficial ownership” by focus States**

	Natural person	Ultimate/ effective ownership and control	Direct/ indirect ownership	Ownership threshold	Voting rights	Voting rights threshold	Right to appoint/ remove management	Other means
<b>Brunei Darussalam</b>	Yes.	Yes.	Yes.	25 per cent.	Yes.	25 per cent.	Yes.	Significant influence; a right to more than 25 per cent of profits.
<b>Cambodia</b>	Yes.	Yes.	Yes.	20 per cent.	Yes.	20 per cent.	No.	Through other means.
<b>Indonesia</b>	Yes.	Yes.	Yes.	25 per cent.	Yes.	25 per cent.	Yes.	Influence or control without obtaining authorization; receiving of profits.
<b>Lao PDR</b>	Yes.	Yes.	Unclear.	25 per cent.	No.	No.	No.	Control by other method; customers who have the highest position.
<b>Malaysia</b>	Yes.	Yes.	Yes.	20 per cent.	Yes.	20 per cent.	Yes.	Significant influence or control through formal or informal means; a combination of any criteria.
<b>Myanmar</b>	Yes.	Yes.	Yes.	5 per cent.	Yes.	5 per cent.	Yes.	Significant influence or control.
<b>Singapore</b>	Yes.	Yes.	Yes.	25 per cent.	Yes.	25 per cent.	Yes.	Significant influence or control.

<sup>48</sup> LawNet, “Decree No. 87/2019/ND-CP, 14 November 2019,” accessed on 10 May 2024. Available at: <https://lawnet.vn/en/vb/Decree-87-2019-ND-CP-amending-Decree-116-2013-ND-CP-detailing-of-Anti-Money-Laundering-Law-68C42.html>.

<sup>49</sup> LawNet, “Law No. 14/2022/QH15, 15 November 2022,” accessed on 10 May 2024. Available at: <https://lawnet.vn/en/vb/Law-14-2022-QH15-Anti-Money-Laundering-859C6.html>.

<sup>50</sup> LawNet, “Law No. 19/2023/ND-CP, 28 April 2023,” accessed on 10 May 2024. Available at: <https://lawnet.vn/en/vb/Decree-19-2023-ND-CP-elaborating-on-several-articles-of-anti-money-laundering-law-8A222.html>.

	Natural person	Ultimate/ effective ownership and control	Direct/ indirect ownership	Ownership threshold	Voting rights	Voting rights threshold	Right to appoint/ remove management	Other means
<b>Philippines</b>	Yes.	Yes.	Yes.	Five - 25 per cent, depending on the legal basis of beneficial ownership	Yes.	Five - 25 per cent, depending on the legal basis of beneficial ownership	Yes.	Various ways – exerting dominant influence over management or policies; has their directions, instructions or wishes carried out by members through custom or obligation; stewards; through positions held, etc.
<b>Thailand</b>	Yes.	Yes.	Yes.	No.	Yes.	No.	No.	Power in making certain decisions.
<b>Timor-Leste</b>	Yes.	Yes.	Yes.	25 per cent.	Yes.	25 per cent.	No.	Director(s) who actively perform management positions; control by other means.
<b>Viet Nam</b>	Yes.	Yes.	Yes.	25 per cent.	No.	No.	No.	The final holder of the right to control the customer who is a legal person.

# Key elements in the beneficial ownership disclosure frameworks of ASEAN and Timor-Leste

This section provides an overview of the key elements that are present in the beneficial ownership disclosure frameworks of focus States that have existing disclosure requirements in relation to the creation and/or maintenance of legal entities and arrangements. A detailed analysis of each focus State's legal framework in relation to beneficial ownership disclosure is subsequently provided in the next section.

## **The collection and maintenance of beneficial ownership data**

In relation to the collection and maintenance of beneficial ownership data, the revised FATF Recommendation 24 requires countries to adopt a multi-pronged approach.<sup>51</sup> Countries must either establish a register of beneficial ownership information or use an alternative mechanism. Such alternative mechanism must be as efficient as maintaining information in a register.

Resolution 9/7 of 17 December 2021,<sup>52</sup> entitled “*Enhancing the use of beneficial ownership information to facilitate the identification, recovery and return of proceeds of crime*,” also called for States parties to adopt a multi-pronged approach to beneficial ownership transparency through appropriate mechanisms that would provide access to adequate, accurate and up-to-date beneficial ownership information on legal persons and legal arrangements. Building on this framework, resolution 10/6 of 15 December 2023,<sup>53</sup> entitled “*Enhancing the use of beneficial ownership information to strengthen asset recovery*,” called for States parties to continue ensuring access to beneficial ownership, including by maintaining records that may be searchable by domestic competent authorities.

In a recent study of beneficial ownership registration systems of 13 States,<sup>54</sup> UNODC identified that creating a central registry to maintain beneficial ownership data was becoming more popular across jurisdictions, with broad recognition that such a register was a form of good practice for improving beneficial ownership transparency.

Six focus States<sup>55</sup> have established such registers, although large discrepancies exist in relation to their coverage, which is relevant to each State's disclosure requirements. For example:

- Brunei Darussalam and Singapore's central registries cover companies, including foreign companies, but do not cover certain exempted entities;
- Indonesia's central registry provides beneficial ownership information on all entities registered in Indonesia, including foundations, associations and cooperatives, but does not cover foreign entities;
- Malaysia's central registry covers a broad range of entities, including domestic and foreign companies, trust companies, limited liability partnerships and businesses (sole proprietors and partnerships); and
- In the Philippines, the SEC serves as the central registry for beneficial ownership disclosures. However, the Philippines currently has a provisional register for the extractive industry containing information on the beneficial owners of companies that have consented to public disclosure, which is based on information submitted to the SEC.

<sup>51</sup> FATF, “Guidance on beneficial ownership of legal persons,” 2023, *op. cit.*

<sup>52</sup> UNODC, “Enhancing the use of beneficial ownership information to facilitate the identification, recovery and return of proceeds of crime,” 17 December 2021. Available at: <https://www.unodc.org/unodc/en/corruption/COSP/session9-resolutions.html#Res.9-7>

<sup>53</sup> UNODC, “Enhancing the use of beneficial ownership information to strengthen asset recovery,” 15 December 2023, CAC/COSP/2023/L. 10/ Rev. 1. Available at: [https://www.unodc.org/documents/treaties/UNCAC/COSP/session10/resolutions/L-documents/2325375E\\_L10\\_Rev1.pdf](https://www.unodc.org/documents/treaties/UNCAC/COSP/session10/resolutions/L-documents/2325375E_L10_Rev1.pdf).

<sup>54</sup> UNODC, “Enhancing beneficial ownership transparency: a study of beneficial ownership registration systems,” 2023, *op. cit.*, p. ix.

<sup>55</sup> Brunei Darussalam, Indonesia, Malaysia, Myanmar, the Philippines, Singapore. Timor-Leste has not yet established a central register.

Registries across the focus States therefore differ in form and content. Some come with their respective areas for improvement, while others illustrate good practices. Detailed aspects of each focus State's disclosure requirements are set out in the next section.

All focus States collect some minimum information for beneficial owners, including the person's full name, nationality (or nationalities), residential address, date of birth and some form of identification like a passport, domestic identity card or tax identification number. In 2023, Opening Extractives<sup>56</sup> further recommended the collection of reliable identifiers of legal entities as a by-product of entity registration, such as a reference code or entity identifier, which does not change over time and can be used to check that the entity exists.

The Interpretive Note to FATF Recommendation 24 sets out examples of information that should be collected on beneficial owners. This includes the means and mechanisms through which the beneficial owner exercises ownership or control (i.e. the percentage of votes, shares or means of control, in the manner defined by each State party).<sup>57</sup> Indonesia and the Philippines request such information from beneficial owners. Other focus States may require information about when the beneficial ownership status was acquired or ceased to exist, such as in Singapore.

The EITI Standard<sup>58</sup> further sets out a requirement for countries to request the full disclosure of PEPs' beneficial ownership regardless of the level of their ownership. The Philippines, as an EITI-implementing country, requests this information via PEP declaration forms and publishes such information on the Philippines' EITI (PH-EITI) website.<sup>59</sup>

## **Scope of legal persons covered and exempt entities**

All focus States with beneficial ownership disclosure requirements during the formation/maintenance of legal entities cover domestic legal persons, with companies being the most frequent focus. Additionally, Indonesia specifically covers other entities like limited liability partnerships, sole proprietors and partnerships, foundations and associations.<sup>60</sup> The extension of beneficial ownership reporting requirements to foreign companies (or entities) with domestic connections or those that operate domestically is also observed in four focus States.<sup>61</sup>

Trusts and similar legal arrangements are not uniformly covered across the focus States, given that, in some jurisdictions, trusts are considered to be private arrangements, and therefore do not require registration to come into existence.<sup>62</sup> As such, the manner in which focus States regulate beneficial ownership disclosure requirements covering trusts and similar legal arrangements warrants additional study.<sup>63</sup>

Some focus States have made explicit reference to the coverage of trusts, such as Malaysia, where trust companies must first be incorporated as a public company under the Companies Act 2016, and therefore must disclose beneficial ownership. However, owing to the complexity of trust laws in each focus State, it remains challenging to know whether all forms of trusts are covered. For example, it has been observed that only business trusts are likely to be covered under the Philippine's beneficial ownership regime.<sup>64</sup>

In terms of exempted categories, meaning types of entities that may not be required to disclose their beneficial owners, Brunei Darussalam and Singapore have explicit exemptions from their

<sup>56</sup> Opening Extractives, "Technical Guidance: Using reliable identifiers for corporate vehicles in beneficial ownership data," 2023. Available at: <https://oo.cdn.ngo/media/documents/oe-technical-guidanceorganisational-identifiers-2023-10.pdf>.

<sup>57</sup> UNODC, "Enhancing beneficial ownership transparency: a study of beneficial ownership registration systems," 2023, *op.cit.*, p. 40.

<sup>58</sup> EITI, "EITI Standard 2023," 2023, *op.cit.*, p. 20.

<sup>59</sup> PH-EITI, "Beneficial ownership registry," accessed on 22 May 2024. Available at: <https://pheit.dof.gov.ph/boregistry/>.

<sup>60</sup> Indonesia Presidential Regulation No. 13/2018, article 2(2), accessed on 10 May 2024. *op.cit.*

<sup>61</sup> Brunei Darussalam, Malaysia, Philippines, Singapore.

<sup>62</sup> UNODC, "Good practices and challenges with respect to beneficial ownership transparency and how it can foster and enhance the effective recovery and return of proceeds of crime," CAC/COSP/2023/16, 2023, p. 6. Available at: <https://www.unodc.org/documents/treaties/UNCAC/COSP/session10/CAC-COSP-2023-16/2319911E.pdf>.

<sup>63</sup> FATF's Recommendation 25 covers the aspect of transparency and beneficial ownership of legal arrangements; however, a detailed analysis on this aspect has not been carried out for this report.

<sup>64</sup> Open Ownership, "Beneficial ownership transparency in the Philippines," 2024, *op.cit.*

beneficial ownership transparency frameworks. This includes for companies wholly owned by the government, financial institutions and other bodies, such as stock and security exchanges.

Limited and uneven coverage of legal entities can leave gaps in the system that are vulnerable to misuse. For example:

- The coverage of foreign entities may be critical, given that foreign entities and their beneficial owners can be associated with higher financial crime risks;<sup>65</sup> and
- UNODC<sup>66</sup> previously observed that exempting entities listed on the stock exchange presents challenges from the perspective of beneficial ownership transparency. This includes difficulties in identifying the ultimate beneficial owner where nominee shareholders<sup>67</sup> hold shares through nominee arrangements, inconsistencies in the regulatory framework across different stock exchanges and jurisdictions, and challenges in reporting and enforcement due to the many shareholders involved.

### **Mechanisms to verify beneficial ownership information**

The Interpretive Note to FATF Recommendation 24 mandates focus States to take measures to verify beneficial ownership information, although these may vary according to the specific level of risk. However, the previous approach of using existing information or merely relying on customer due diligence information alone is no longer sufficient to meet FATF standards.<sup>68</sup>

The FATF Guidance sets out phases of verifying beneficial ownership data throughout the life cycle of a legal entity, including:<sup>69</sup>

- Verification in advance, where, for example, notaries, lawyers or accountants validate and ensure the accuracy of

information which is to be recorded in the register. This would entail a separate customer due diligence process;

- Verification upon registration, where registrars/authorities verify the identity of beneficial owners by checking the information submitted by companies against other sources (such as national identity registers or tax registers). This would also involve identifying anomalies or inconsistencies and reporting these to the relevant authorities; and
- Ongoing verification, where registrars/authorities conduct regular verification checks, including through site inspections, to confirm whether companies are appropriately maintaining records on beneficial owners.

Examples of how countries verify information include the experience of the Slovak Republic,<sup>70</sup> where verification of beneficial ownership information occurs in advance. This is where beneficial ownership information must be filed by an authorized person, who may be a lawyer, notary, auditor or tax advisor. The authorized person must provide true and complete information, and may be subject to a fine in case of violations. Other States use different verification mechanisms, such as in Brazil, where an interoperable information technology system automatically exchanges and cross-checks reported information with trade registries, civil registries, federal and state tax authorities, and state and municipal bodies involved in government licensing.<sup>71</sup>

Across the focus States studied for this report, the reliance is primarily on legal entities to file and report accurate information, with legal provisions permitting competent authorities to access the information, such as for the purposes of an investigation. It is generally unclear whether the cross-checking of data sources, either manually or through automated technology, is

<sup>65</sup> Open Ownership, "Beneficial ownership transparency in Indonesia: scoping study," 2022, *op.cit.*

<sup>66</sup> UNODC, "Enhancing beneficial ownership transparency: a study of beneficial ownership registration systems," 2023, *op.cit.*, pp. 28 - 29.

<sup>67</sup> According to Open Ownership, nominees are people who act on behalf of others to carry out official roles or responsibilities relating to corporate vehicles such as companies, trusts and other types of legal entities and arrangements. For more information, see Open Ownership, "How to capture information on nominees in beneficial ownership data," 2023. Available at: <https://www.openownership.org/en/blog/how-to-capture-information-on-nominees-in-beneficial-ownership-data/>.

<sup>68</sup> UNODC, "Enhancing beneficial ownership transparency: a study of beneficial ownership registration systems," 2023, *op.cit.*, p. 5.

<sup>69</sup> *Ibid.*, p. 68.

<sup>70</sup> *Ibid.*, p. 70.

<sup>71</sup> UNODC, "Good practices and challenges with respect to beneficial ownership transparency and how it can foster and enhance the effective recovery and return of proceeds of crime," 2023, *op.cit.*, p. 14.



used to verify the accuracy of reported data. It is also unclear if competent authorities play a role in verifying beneficial ownership data upon the point of submission, and if so, how this role occurs in practice.

In some instances, specific guidance seems to imply or mandate the verification of beneficial ownership information by bodies managing the central registries. However, at the time of this report, no focus State has provided published examples, measures or detailed guidance on this point, including whether any verifications are consistently conducted. Preparation of draft guidelines may be underway; however, this is not captured in the report.

While some guidance on basic verification may exist (for example, in relation to supporting documents that are required or the use of notaries), more advanced methods of verification do not appear to be used. For some focus States, this could be explained by the relative recency of their beneficial ownership frameworks. For others, operational or capacity challenges may remain.

### ***Maintaining up-to-date beneficial ownership information in the register***

The Interpretive Note to FATF Recommendation 24<sup>72</sup> states that countries should have mechanisms to ensure that beneficial ownership information remains as current as possible and is updated within a reasonable period (e.g., within one month) following any change or the identification of outdated information. Ensuring that beneficial ownership information remains up-to-date is one of the most significant challenges in implementing a beneficial ownership regime. Compiling and retaining a full record of changes to beneficial owners is important for investigation and audit purposes, as rapid changes in ownership structure can point to the misuse of corporate structures for illicit ends.<sup>73</sup>

All focus States have, to a degree, requirements to update beneficial ownership information, but variations exist in relation to the frequency and responsible party. For example, Brunei Darussalam imposes a duty on companies to

give notice to their controllers to provide updates on amended information within two business days. On the other hand, the Philippines requires covered entities to file an annual beneficial ownership declaration form, while also requiring information to be filed whenever changes occur – with varying deadlines depending on the industry.

As already noted, across focus States, it is unclear what verification mechanisms exist to confirm reported beneficial ownership information, including updates to such information.

### ***Sanctions for non-compliance with reporting requirements under beneficial ownership transparency frameworks***

Focus States enforce varying types of sanctions for breaches of beneficial ownership disclosure requirements, including administrative and criminal sanctions. Administrative sanctions are the most common type of penalty imposed across focus States such as in Indonesia, the Philippines and Timor-Leste. These sanctions vary from the use of monetary penalties to non-monetary penalties, such as the suspension or revocation of certificates/licenses to carry out business activities. In the Philippines, fines differ depending on the type of entity and whether the violation occurred for the first time. Criminal fines or imprisonment are also available in focus States, although mostly for offending involving the provision of false information.

Focus States also commonly sanction failures to provide beneficial ownership information (whether to the register or when requested by the legal entity, registrar or other competent authorities), late submissions and the failure to update information or provide necessary notifications. For example, Brunei Darussalam, Malaysia and Singapore explicitly impose duties on both legal entities and the beneficial owner. The legal entity or company officer (such as directors or management) can be penalized for failing to provide the necessary notifications to beneficial owners, and beneficial owners can be penalized for failing to provide the necessary information within the prescribed timeframes.

<sup>72</sup> FATF, “Beneficial ownership of legal persons,” 2023, p. 27. Available at: <https://www.fatf-gafi.org/content/dam/fatf-gafi/guidance/Guidance-Beneficial-Ownership-Legal-Persons.pdf.coredownload.pdf>.

<sup>73</sup> Opening Extractives, “Beneficial ownership transparency in Indonesia: the current regime and next steps,” 2022, p. 13. Available at: <https://eiti.org/sites/default/files/2022-10/Beneficial%20ownership%20transparency%20Indonesia.pdf>.

Focus States may impose a continued fine for each day the offending continues, as is the case in Malaysia.

### **Access to beneficial ownership information**

Public access to beneficial ownership information enables the reporting of information that may appear to be incomplete or incorrect.<sup>74</sup> Moreover, open access can serve as a powerful deterrent for financial crime by enabling monitoring by more external stakeholders.

However, recent international developments may reflect challenges from the perspectives of data protection and privacy, among others. In 2022,<sup>75</sup> the Court of Justice of the European Union invalidated the requirement of the Fifth European Union Anti-Money-Laundering Directive, under which Member States were obliged to make information on the beneficial ownership of legal persons held in central registers accessible to any member of the public. Austria therefore converted open public access of its registry to access based on legitimate interest in 2023,<sup>76</sup> providing access to the registry to certain groups, such as journalists, civil society organizations, and persons with a justified and sufficient interest, among others. Regardless, some barriers may remain, as such interested persons are required to apply to Austria's registration authority and pay a fee.

At the time of this report, the public may access some beneficial ownership information in registers from three focus States.<sup>77</sup> However, the type of data that the public can access varies. Indonesia is the only focus State that grants the public access to beneficial ownership information submitted by all entities covered under its beneficial ownership disclosure regime. As previously noted, the public may access PH-

EITI's registry in the Philippines, which contains beneficial ownership information voluntarily submitted by legal entities in the extractive sector.

Every focus State explicitly grants their law enforcement and other competent authorities the ability to access beneficial ownership information. In the Philippines, the SEC can share beneficial ownership information with domestic and foreign competent authorities if they have an existing data-sharing agreement or Memorandum of Understanding (MoU) on information sharing with the SEC. In Indonesia, domestic and foreign competent authorities may request and receive beneficial ownership information from the Ministry of Law and Human Rights.

UNODC has published a catalogue<sup>78</sup> with online links to corporate and beneficial ownership registers, names and contact details of competent national authorities, where available, and an overview of cooperation channels, which covers three of the focus States included in the present report.<sup>79</sup>

### **Legal frameworks regulating beneficial ownership disclosure in ASEAN and Timor-Leste**

This section analyzes the legal frameworks regulating beneficial ownership disclosure in focus States, with an emphasis on those that have existing beneficial ownership disclosure requirements in relation to the creation and/or maintenance of legal entities and arrangements. In particular, the emphasis is on how these focus States record, maintain and update beneficial ownership data. The analysis also covers corresponding sanctions for non-compliance and the ability of the public, law enforcement and competent authorities to access beneficial ownership data.

<sup>74</sup> UNODC, "Enhancing beneficial ownership transparency: a study of beneficial ownership registration systems," 2023, *op. cit.*, p. 60.

<sup>75</sup> As cited in UNODC, "Good practices and challenges with respect to beneficial ownership transparency and how it can foster and enhance the effective recovery and return of proceeds of crime," CAC/COSP/2023/16, 2023, *op. cit.*, p. 12.

<sup>76</sup> Federal Ministry (Finance), Republic of Austria, "Access with legitimate interest," accessed on 22 May 2024. Available at: <https://www.bmf.gv.at/en/topics/financial-sector/beneficial-owners-register-act/legitimate-interest.html>.

<sup>77</sup> Indonesia, Myanmar, the Philippines (currently extractive industries only, based on voluntary submissions).

<sup>78</sup> UNODC, "A catalogue of online links to corporate and beneficial ownership registers, contact information for competent national authorities and channels for international cooperation," CAC/COSP/2023/CRP.3, 4 December 2023. Available at: <https://www.unodc.org/documents/treaties/UNCAC/COSP/session10/CAC-COSP-2023-CRP.3.pdf>.

<sup>79</sup> Malaysia, Myanmar, Thailand.

## Brunei Darussalam

<b>Key legal instruments</b>	Companies (Register of Controllers and Nominee Directors) Rules 2020; Companies Act (Amendment) Orders 2020.
<b>Central beneficial ownership registry</b>	Yes – One Common Portal. <sup>80</sup>
<b>Legal persons/arrangements covered</b>	Companies (including foreign companies).
<b>Exemptions</b>	Government exemptions, certain foreign company exemptions, stock/securities exchange exemptions.
<b>Verification mechanism</b>	Primarily verified by the company and the controller.
<b>Sanctions for non-compliance</b>	Yes, monetary.
<b>Requirement to update</b>	Yes, when changes occur or if information is incorrect.
<b>Public access</b>	No.
<b>Access by law enforcement or other authorities</b>	Yes.

Since October 2020, Brunei Darussalam has required companies and other legal persons, including registered foreign companies, to obtain and hold up-to-date beneficial ownership information. Section 310N of the Companies Act (Amendment) Orders 2020<sup>81</sup> codifies the requirement for Brunei Darussalam’s Registrar to maintain a central register of controllers.

Currently, the central register of controllers is located in the One Common Portal.<sup>82</sup> This is maintained by Brunei Darussalam’s Ministry of Finance and Economy. However, the register is not accessible to the public. It is explicitly codified in section 310N that the Registrar shall not disclose or make available the central register of controllers to any member of the public for inspection, except in prescribed circumstances. Section

310M provides Brunei Darussalam’s Registrar or any officer authorized by the Registrar with the authority to inspect, examine and make copies of documents, which would include the information on controllers kept in the central register. Section 310M further states that such powers conferred by Brunei Darussalam’s Registrars may be exercised by a public agency to enable the administration or enforcement of any written laws. However, it is not clear how these agencies are able to access beneficial ownership information in practice.

Section 310A notes that provisions on the register of controllers apply to companies and foreign companies. Registrable controllers are required to provide their full name, aliases, residential address, identity card number or passport number, nationalities, and the dates which they become or cease to become a registrable controller. These particulars, which are to be contained in the company’s register, are lodged with Brunei Darussalam’s Registrar.

Exemptions to registrable controllers are set out in the 15th and 16th Schedules. These Schedules note that the following entities are exempt from disclosure requirements:

- Companies, including foreign companies, that are Brunei Darussalam financial institutions;
- Companies that are wholly owned by the Government;
- Companies that are wholly owned by a statutory body established by or under any law for public purposes;
- A public company which shares are listed for quotation on a securities exchange in Brunei Darussalam;
- Foreign companies that are wholly owned subsidiaries of a foreign company that is a Brunei Darussalam financial institution;
- Foreign companies that have shares listed on a securities exchange outside Brunei Darussalam and which are subject to other forms of disclosure requirements.

The duty of verifying information is imposed on the company. Section 310H requires companies

<sup>80</sup> See Open Contracting Partnership, “User guide: update register of controllers,” accessed on 10 May 2024. Available at: [https://ocp.mofe.gov.bn/downloads/eServices%20User%20Guides%20-%20Companies%20PDF/12%20OCP\\_CM\\_ES\\_Update%20Register%20of%20Controllers\\_UG%20v1.0.pdf](https://ocp.mofe.gov.bn/downloads/eServices%20User%20Guides%20-%20Companies%20PDF/12%20OCP_CM_ES_Update%20Register%20of%20Controllers_UG%20v1.0.pdf)

<sup>81</sup> Ministry of Finance and Economy, “Companies Act (Amendment) Order 2020,” 2020, *op. cit.*

<sup>82</sup> OCP, “User guide: update register of controllers,” accessed on 10 May 2024, *op. cit.*

to keep information up-to-date, while section 310I sets out a requirement for the company to correct information. If the company knows or has reasonable grounds to believe that a relevant change has occurred in the particulars of a registrable controller, then the company shall give notice to the registrable controller to confirm whether the change has occurred. If a change has indeed occurred, then the company must provide the registrable controller with notice requesting details of this change. Section 310J reiterates that controllers must provide this information, while section 310F provides how the controller is to confirm the particulars. Failing to comply can result in the company, company officers and the addressee of a notice liable for an offence, leading to a fine not exceeding BN\$ 5,000 (US\$ 3,686).

In relation to a timeframe for compliance, the Companies (Register of Controllers and Nominee Directors) Rules 2020<sup>83</sup> sets out the relevant prescribed timeframes. For example, the prescribed timeframe to enter or update particulars of a controller in a register is two business days after the controller has confirmed their information.

In 2023,<sup>84</sup> APG assessed that while the mechanisms to ensure the availability of up-to-date beneficial ownership information have been significantly expanded in Brunei Darussalam, such obligations to maintain and file beneficial ownership information is not well implemented. The assessment also noted that sanctions for non-compliance are not sufficiently dissuasive.

## Indonesia

<b>Key legal instruments</b>	Presidential Regulation No. 13/2018; Regulation of the Minister of Law and Human Rights of the Republic of Indonesia No. 15/2019; Regulation of the Minister of Law and Human Rights of the Republic of Indonesia No. 21/2019.
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<b>Central beneficial ownership registry</b>	Yes – Legal Administrative Affairs Beneficial Ownership (AHU Pemilik Manfaat). <sup>85</sup>
<b>Legal persons/arrangements covered</b>	All companies and entities registered in Indonesia, but gaps remain on foreign entities.
<b>Exemptions</b>	No.
<b>Verification mechanism</b>	Primarily verified by the legal entity.
<b>Sanctions for non-compliance</b>	Yes, administrative sanctions.
<b>Requirement to update</b>	Yes, annually.
<b>Public access</b>	Yes.
<b>Access by law enforcement or other authorities</b>	Yes.

Indonesia’s Presidential Regulation No. 13/2018<sup>86</sup> is the primary legislation for beneficial ownership and provides for the implementation and maintenance of a central register. Maintained by the Ministry of Law and Human Rights, this central register (AHU Pemilik Manfaat)<sup>87</sup> now forms an integral part of new company formation procedures. The public may access the central register without a fee.

Chapter IV of Regulation No. 15/2019<sup>88</sup> regulates the exchange of information on beneficial owners of corporations. Article 11 notes that the Minister may exchange beneficial ownership information with requesting agencies in the form of requesting, giving and/or receiving information, either at the Minister’s initiative or at the request of the agency. Requesting agencies may be law enforcement agencies, government agencies or the competent authorities of another jurisdiction. In the event of a foreign requesting agency, the Minister may coordinate with the ministry in charge of foreign affairs of the foreign jurisdiction. Article 13 further notes that the exchange of

<sup>83</sup> Ministry of Finance and Economy, “Companies (Register of Controllers and Nominee Directors) Rules 2020,” 2020. Available at: [https://www.mofe.gov.bn/Shared%20Documents/Registry%20of%20Companies%20and%20Business%20Names/Legislation/Amendments/COMPANIES%20-%20\(REGISTER%20OF%20CONTROLLERS%20AND%20NOMINEE%20DIRECTORS%20RULES\)%202020.pdf](https://www.mofe.gov.bn/Shared%20Documents/Registry%20of%20Companies%20and%20Business%20Names/Legislation/Amendments/COMPANIES%20-%20(REGISTER%20OF%20CONTROLLERS%20AND%20NOMINEE%20DIRECTORS%20RULES)%202020.pdf).

<sup>84</sup> APG, “Anti-money laundering and counter-terrorist financing measures: Brunei Darussalam – Mutual Evaluation Report,” 2023, p. 189. Available at: <https://www.fatf-gafi.org/content/dam/fatf-gafi/fsrb-mer/Brunei-Darussalam-MER-2023.odf.pdf.coredownload.inline.pdf>.

<sup>85</sup> Administrasi Hukum Umum, “Pencarian profil pemilik manfaat,” accessed on 20 May 2024. Available at: <https://ahu.go.id/pencarian/profil-pemilik-manfaat>.

<sup>86</sup> EITI, “Beneficial ownership – Indonesia Presidential Regulation No. 13/2018,” accessed on 10 May 2024, *op. cit.*

<sup>87</sup> Administrasi Hukum Umum, “Pencarian profil pemilik manfaat,” accessed on 20 May 2024, *op. cit.*

<sup>88</sup> Database Peraturan, “Tata Cara Pelaksanaan Penerapan Prinsip Mengenali Pemilik Manfaat dari Korporasi,” accessed on 15 May 2024. Available at: <https://peraturan.bpk.go.id/Details/133129/permenkumham-no-15-tahun-2019>.

information is to occur electronically, by granting access rights to the requesting agency.

The registry covers a broad range of legal persons. All companies and entities registered in Indonesia, including limited liability companies, foundations, associations, cooperatives, limited partnerships, firm partnerships and other types of corporations, are legally required to make beneficial ownership declarations. However, it was observed<sup>89</sup> that there are no provisions to collect the beneficial ownership information of foreign-owned companies, foreign natural persons or non-residents.

Article 5 of Regulation No. 21/2019<sup>90</sup> notes that legal entities are required to submit beneficial ownership information when the entity is established, registered or ratified. The information required for each beneficial owner includes their full name, personal identity number, driver's licence or passport, place and date of birth, citizenship status, address, tax identification number, and the relationship between the legal entity and the beneficial owner. If the beneficial owners of the legal entity have not yet been determined, the legal entity is required to submit a statement of willingness to determine such owners and submit this information no later than seven business days after obtaining a business license or registration certificate.

Amendments to beneficial ownership information can be electronically carried out through the website of the Director General of Legal Administrative Affairs. While article 10 of Regulation No. 21/2019 mandates legal entities to update their beneficial ownership data at least once a year, there is no explicit requirement for them to report all changes to another entity and ownership information that have occurred throughout the year.

While legal entities are responsible for verifying beneficial ownership information based on supporting documents, it was observed<sup>91</sup> that

a comprehensive verification system involving automated and manual checks is not yet in place. The central register includes a disclaimer noting that search results are based on information provided by the reporting person, which has not been verified by the Directorate General of Legal Administrative Affairs. While a public notary is needed to incorporate a company, a public notary is not needed to update information, although the use of a public notary is an option.<sup>92</sup> Where entities choose to submit updated beneficial ownership information through notaries, Indonesian law would require these officials to request and retain documentation (such as records of official share registration) to confirm an individual's status as a beneficial owner.<sup>93</sup>

Indonesia provides for a range of administrative sanctions<sup>94</sup> in cases of non-compliance with disclosure requirements. For example, the Ministry of Law and Human Rights may submit a recommendation to another government agency or ministry to suspend, revoke or cancel an entity's license. Agencies have also focused on refusing to issue relevant licenses to entities that have not submitted beneficial ownership information.

As a next step, Indonesia has committed<sup>95</sup> to verifying and utilizing its beneficial ownership data as part of its 2022 – 2024 Open Government Partnership National Action Plan and its National Strategy to Prevent Corruption.<sup>96</sup> Further challenges may remain, including low levels of compliance. As of May 2024, the compliance rate is approximately 39 per cent.<sup>97</sup>

Open Ownership has provided further recommendations<sup>98</sup> on aspects of Indonesia's beneficial ownership regime regarding the collection of data, where it observed that while Indonesia's approach aligned with many of the recommended data points, data such as unique company identifiers, tax identification numbers and further information on ownership stakes could be captured.

<sup>89</sup> Open Ownership, "Beneficial ownership transparency in Indonesia: scoping study," 2022, *op.cit.*

<sup>90</sup> Database Peraturan, "Tata Cara Pelaksanaan Penerapan Prinsip Mengenali Pemilik Manfaat dari Korporasi," accessed on 15 May 2024, *op.cit.*

<sup>91</sup> Open Ownership, "Beneficial ownership transparency in Indonesia: scoping study," 2022, *op. cit.*

<sup>92</sup> UNODC, "Enhancing beneficial ownership transparency: a study of beneficial ownership registration systems," 2023, *op. cit.*, p. 70.

<sup>93</sup> Open Ownership, "Beneficial ownership transparency in Indonesia: scoping study," 2022, *op. cit.*

<sup>94</sup> *Ibid.*

<sup>95</sup> Open Ownership, "Indonesia," 2024. Available at: <https://www.openownership.org/en/map/country/indonesia/>.

<sup>96</sup> Stranas PK, "Strategi Nasional Pencegahan Korupsi," 2018. Available at: [Perpres-Nomor-54-Tahun-2018-ttg-Strategi-Nasional-Pencegahan-Korupsi.pdf](https://www.perpres.go.id/Perpres-Nomor-54-Tahun-2018-ttg-Strategi-Nasional-Pencegahan-Korupsi.pdf) ([strat-one.co.id](http://strat-one.co.id)). See also KPK, "KPK endorsement of beneficial ownership in Indonesia," 2019. Available at: <https://www.kpk.go.id/id/berita/berita-kpk/1036-kpk-dorong-penguatan-beneficial-ownership-di-indonesia>.

<sup>97</sup> As informed by Indonesia's Secretariat of National Strategy on Corruption Prevention in May 2024.

<sup>98</sup> Open Ownership, "Beneficial ownership transparency in Indonesia: scoping study," 2022, *op. cit.*

## Malaysia

<b>Key legal instruments</b>	Companies Commission of Malaysia Act 2001; Companies Act 2016; Companies (Amendment) Act 2024; Guidelines for the Reporting Framework for Beneficial Ownership of Companies issued by the Companies Commission Malaysia (SSM Guidelines), Case Studies and Illustrations of the Guidelines for the Reporting Framework for Beneficial Ownership of Companies (SSM Guidelines)
<b>Central beneficial ownership registry</b>	Yes – Electronic Beneficial Ownership System (e-BOS System). <sup>99</sup>
<b>Legal persons/ arrangements covered</b>	All legal entities such as companies (including foreign companies and trust companies), limited liability partnerships (including foreign limited liability partnerships) and businesses (sole proprietors and partnerships).
<b>Exemptions</b>	No, but the Minister retains discretionary powers to exempt certain classes of companies.
<b>Verification mechanism</b>	Primarily verified by the legal entity.
<b>Sanctions for non-compliance</b>	Yes, monetary sanctions.
<b>Requirement to update</b>	Yes, annually and when changes occur.
<b>Public access</b>	No.
<b>Access by law enforcement or other authorities</b>	Yes.

The Companies Act 2016 provides the overarching framework for legal entities to report their beneficial ownership information. In 2024:

- Amendments were made to strengthen the beneficial ownership framework through the Companies (Amendment) Act 2024, which included the following:<sup>100</sup>
  - o Codified requirements for legal entities to keep and maintain registers of beneficial owners;
  - o Mandated legal entities to obtain beneficial ownership information;
  - o Codified self-disclosure obligations by a beneficial owner to legal entities, including notifying the entity of any changes to their status and particulars; and
  - o Imposed penalties for non-compliance, including being liable for a fine not exceeding RM 20,000 (US\$ 4,217) and a further fine not exceeding RM 500 (US\$ 105) for each day the offence continues;
- In 2024, the SSM commenced operation of the e-BOS System,<sup>101</sup> which allows for beneficial ownership information to be updated and rectified;
- The SSM updated the SSM Guidelines,<sup>102</sup> plus issued Case Studies and Illustrations of the Guidelines for the Reporting Framework for Beneficial Ownership of Companies.<sup>103</sup>

Currently, there is no public access to the e-BOS System. The SSM Guidelines<sup>104</sup> specify that only competent authorities, law enforcement agencies, beneficial owners and persons authorized by the beneficial owners may access the register. The SSM Guidelines also note that the Minister may prescribe other public bodies and reporting institutions under Malaysia's anti-money-laundering legislation to access the beneficial ownership information in the central registry. However, it is not yet clear how such access will be granted in practice.

<sup>99</sup> Companies Commission of Malaysia, "Electronic Beneficial Ownership System (e-BOS)," accessed on 10 May 2024. Available at: <https://www.ssm.com.my/Pages/ebos.aspx>.

<sup>100</sup> Companies Commission of Malaysia, "Companies (Amendment) Act 2024," *op. cit.*

<sup>101</sup> Companies Commission of Malaysia, "Electronic Beneficial Ownership System (e-BOS)," accessed on 10 May 2024, *op. cit.*

<sup>102</sup> Companies Commission of Malaysia, "Guidelines for the reporting framework of beneficial ownership of companies," 2024, *op. cit.*

<sup>103</sup> Companies Commission of Malaysia, "Case studies and illustrations of the Guidelines for the Reporting Framework for Beneficial Ownership of Companies," 2024. Available at: [https://www.ssm.com.my/Pages/Legal\\_Framework/Document/O2\\_Case%20Studies%20%26%20Illustrations%20\(Post%20T%26P\)%20Final%20Uploaded%20Version.pdf](https://www.ssm.com.my/Pages/Legal_Framework/Document/O2_Case%20Studies%20%26%20Illustrations%20(Post%20T%26P)%20Final%20Uploaded%20Version.pdf).

<sup>104</sup> Companies Commission of Malaysia, "Guidelines for the reporting framework of beneficial ownership of companies," 2024, *op. cit.*, pp. 28 – 29.

Malaysia's beneficial ownership disclosure framework is broad, with the SSM Guidelines clarifying that all government-owned or state-owned companies are required to comply. Previously, certain entities such as licensed financial institutions, stock exchanges and companies with shares quoted on a stock exchange were exempt from Malaysia's beneficial ownership reporting framework. While these exemptions have now been removed, the Minister retains discretionary powers under the Companies Act 2016 to exempt certain classes of entities from beneficial ownership reporting requirements by a Gazette order. At the time of this report, there were no gazetted exemptions.

It is unclear how trust companies or arrangements would be covered under Malaysia's beneficial ownership framework. In Malaysia, before companies can be registered as trust companies, they must first be incorporated as a public company. In April 2024, the SSM clarified through an issued Frequently Asked Question (FAQ)<sup>105</sup> that trustee companies are subject to the beneficial ownership reporting framework, but such guidelines have not yet been issued.

Beneficial ownership information is primarily verified by the legal entity. The SSM Guidelines<sup>106</sup> specify that legal entities should rely on reliable and sufficient information as a basis to identify and verify beneficial owners. Information or supporting documents may include, but are not limited to, certified copies of a national identification card, passport, founding documents of the entity and agreements regulating the power to bind the entity.

To ensure the accuracy of the beneficial ownership information, legal entities are obliged to notify Malaysia's Registrar of any discrepancies, and submit beneficial ownership information at least annually. Section 60D of the Companies (Amendment) Act 2024 imposes a duty on beneficial owners to notify the legal entity of any changes in their particulars. Section 60C provides legal entities with the power to give notice to beneficial owners to take certain actions, including providing information and

confirming whether any changes have occurred.

Given the recency of Malaysia's amendments to its beneficial ownership framework and launching of its central register, it is not yet clear what further specific challenges may be faced. Moreover, FATF's last evaluation of Malaysia occurred in 2018, which was prior to Malaysia's revised Companies Act. The next mutual evaluation is ongoing, with the tabling of Malaysia's mutual evaluation report anticipated to occur in 2025.<sup>107</sup>

## Myanmar

Prior to being delisted, Myanmar had launched a beneficial ownership register through EITI with the aim of improving governance within its extractive industry. This register remains accessible to the public,<sup>108</sup> but EITI notes that no independently verified information had been published on the extractive sector in the last three years.<sup>109</sup> While this report has set out how Myanmar defines a beneficial owner in the previous section, it does not carry out a detailed analysis of Myanmar's legal framework regulating beneficial ownership disclosure, given Myanmar's delisting from EITI and challenges in verifying its current beneficial ownership disclosure practices.

## The Philippines

<b>Key legal instruments</b>	SEC Memorandum Circular (MC) No. 15, Series of 2019 on the Revision of the General Information Sheet (GIS) to Include Beneficial Ownership Information (MC 15); SEC Memorandum Circular No. 30, Series of 2020 (MC 30); SEC Memorandum Circular No. 1, Series of 2021 (MC 1).
<b>Central beneficial ownership registry</b>	Yes, a provisional beneficial ownership extractive register, but no central registry for other industries.

<sup>105</sup> Companies Commission of Malaysia, "Frequently Asked Questions: beneficial ownership reporting framework of companies," April 2024. Available at: [https://www.ssm.com.my/Pages/Legal\\_Framework/FAQs%20on%20BO%20\(English\).pdf](https://www.ssm.com.my/Pages/Legal_Framework/FAQs%20on%20BO%20(English).pdf).

<sup>106</sup> Companies Commission of Malaysia, "Guidelines for the reporting framework of beneficial ownership of companies," 2024, *op.cit.*, p. 27.

<sup>107</sup> FATF, "Malaysia," accessed on 22 May 2024. Available at: <https://www.fatf-gafi.org/en/countries/detail/Malaysia.html>.

<sup>108</sup> Myanmar-EITI, "Beneficial ownership disclosures," accessed on 10 May 2024. Available at: <https://bo.dica.gov.mm/pages/bo-disclosure?search=fish>.

<sup>109</sup> EITI, "Myanmar delisted from EITI due to political instability," 29 February 2024, *op.cit.*

<b>Legal persons/ arrangements covered</b>	Broadly, SEC-registered corporations (including foreign corporations), stock and non-stock. Disclosure regime may not cover all state-owned enterprises.
<b>Exemptions</b>	No.
<b>Verification mechanism</b>	Primarily verified by the legal entity.
<b>Sanctions for non-compliance</b>	Yes, monetary and non-monetary sanctions.
<b>Requirement to update</b>	Yes.
<b>Public access</b>	Yes, for the provisional extractive register.
<b>Access by law enforcement or other authorities</b>	Yes.

MCs 15<sup>110</sup> and 30<sup>111</sup> require all corporations registered under the SEC to disclose their beneficial owners in a declaration form with information such as their tax identification number or passport number, nationality, residential address, and the basis of their beneficial ownership such as the percentage of ownership or voting rights. Declarants under MC1<sup>112</sup> for trusts and similar arrangements are also required to disclose details about their nominees and/or principals, which requires the provision of information from settlors, trustees and beneficiaries.

The SEC serves as the central registry for beneficial ownership disclosures in the Philippines. Section 3 of MC 15 expressly provides that beneficial ownership information shall only be made accessible to competent authorities for law enforcement and other lawful purposes. Competent authorities in the Philippines and other countries with existing data-sharing agreements<sup>113</sup> or MoUs on information sharing with the SEC may receive copies of beneficial ownership

declarations in the GIS upon request.<sup>114</sup> A formal request letter addressed to the Director of the SEC may be signed by the head of the agency or their authorized representative to receive access. Beneficial ownership information held by the SEC is not available to the public.

A provisional voluntary beneficial ownership register for extractive companies<sup>115</sup> that have consented to public disclosure is hosted by PH-EITI on its website. This website is accessible to the public and contains the names of beneficial owners, their nationalities, countries of residence, relevant category of beneficial ownership, percentages of ownership, and whether the beneficial ownership is a PEP. Information is published based on forms received by the SEC, and other PEP declaration forms submitted to PH-EITI.

Under MC 15, the beneficial ownership declaration form is filed annually, together with other forms. In case of changes in the submitted beneficial ownership information, a FAQ<sup>116</sup> issued by the SEC notes that an updated form must be submitted to the SEC within seven working days from when the change occurs or becomes effective. For corporations with multiple layers of corporate stockholders who fail to submit within the seven working day period, they must provide an updated form within 30 calendar days along with an explanation for the failure to submit within the prescribed period.

Section 8 of MC 15 imposes an obligation on the directors, trustees and officers of reporting corporations to exercise due diligence in ensuring compliance with beneficial ownership disclosure requirements. The responsibility of verifying beneficial ownership information, to a large extent, lies on the corporation. Beneficial ownership declaration forms contained in MC 15 are notarized, with an accompanying statement noting that matters set forth in the form are “duly verified” by the signatory, and are to their best

<sup>110</sup> SEC, “Amendment of SEC Memorandum Circular No. 17,” 2019, *op. cit.*

<sup>111</sup> SEC, “SEC Memorandum Circular No. 30, Series of 2020, Revision of the General Information Sheet (GIS) of foreign corporations to include beneficial ownership information,” 2020. Available at: [https://www.sec.gov.ph/wp-content/uploads/2020/11/2020MCNo30\\_.pdf](https://www.sec.gov.ph/wp-content/uploads/2020/11/2020MCNo30_.pdf).

<sup>112</sup> SEC, “FAQs on SEC Memorandum Circular No. 1,” 2021. Available at: [https://www.sec.gov.ph/wp-content/uploads/2021/03/2021Notice\\_FAQsBOD\\_MC1\\_07March2021.pdf](https://www.sec.gov.ph/wp-content/uploads/2021/03/2021Notice_FAQsBOD_MC1_07March2021.pdf).

<sup>113</sup> At the time of this report, 19 data-sharing agreements with the SEC had been executed. For more information, see UNODC, “UNODC facilitates landmark data-sharing agreement to strengthen Philippines’ fight against criminal financing,” 2023. Available at: <https://www.unodc.org/roseap/en/what-we-do/anti-corruption/topics/2023/12-dsa-signing.html>.

<sup>114</sup> SEC, “In the matter of requests for copy of the beneficial ownership declaration page in the General Information Sheet,” accessed on 21 May 2024. Available at: [https://www.sec.gov.ph/wp-content/uploads/2021/04/2021FAQ\\_BO-Information\\_Accesss.pdf](https://www.sec.gov.ph/wp-content/uploads/2021/04/2021FAQ_BO-Information_Accesss.pdf).

<sup>115</sup> PH-EITI, “Beneficial ownership registry,” accessed on 10 May 2024, *op. cit.*

<sup>116</sup> SEC, “Frequently Asked Questions (FAQs) on beneficial ownership,” accessed on 21 May 2024. Available at: [https://www.sec.gov.ph/wp-content/uploads/2021/09/2021FAQs\\_Beneficial-Ownership.pdf](https://www.sec.gov.ph/wp-content/uploads/2021/09/2021FAQs_Beneficial-Ownership.pdf).



of knowledge and belief, “true and correct.”<sup>117</sup> However, supporting documents do not appear to be required.

The SEC imposes administrative sanctions on corporations that fail to, or falsely, disclose their beneficial ownership information without lawful cause, with fines on different scales based on the company’s type (stock or non-stock), earnings or fund balance, and whether the offence is occurring for the first time. Fines<sup>118</sup> range from PHP 25,000 (US\$ 500) for a first-time violation of a non-stock corporation with a less than PHP 500,000 (US\$ 8,713) fund balance, while the highest possible penalty is PHP 2 million (US\$ 37,000) for a fourth or subsequent violation of a stock corporation with PHP 10 million (US\$ 174,273) or more in retained earnings. Fines are complemented by non-monetary sanctions, such as revocation of the corporation’s certificate of registration and/or license.

For failing to exercise due diligence in ensuring the timely submission of beneficial ownership data, directors, trustees and/or corporation officers may be fined between PHP 10,000 (US\$ 185)<sup>119</sup> and PHP 100,000 (US\$ 1,850). False declarations incur a steeper fine of up to PHP 200,000 (US\$ 3,700) and disqualification from their role for a period of five years.

## Singapore

<b>Key legal instruments</b>	Companies Act 1967; Companies (Register of Controllers and Nominee Directors) Regulations 2017; Companies (Direction under section 386AN(1)) Notification 2020; Practice Direction No. 3/2020; and other legal instruments covering Limited Liability Partnerships.
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<b>Central beneficial ownership registry</b>	Yes – ACRA Central Register of Controllers. <sup>120</sup>
<b>Legal persons/arrangements covered</b>	All companies (including foreign companies) and limited liability partnerships.
<b>Exemptions</b>	Government exemptions, certain foreign company exemptions, stock/securities exchange exemption.
<b>Verification mechanism</b>	Primarily verified by the legal entity.
<b>Sanctions for non-compliance</b>	Yes, monetary.
<b>Requirement to update</b>	Yes, when changes occur.
<b>Public access</b>	No.
<b>Access by law enforcement or other authorities</b>	Yes.

From 2017, section 386AF of the Companies Act 1967<sup>121</sup> imposed an obligation on companies to maintain a register of registrable controllers no later than 30 days after the date of the company’s incorporation. In 2020, the Minister for Finance issued a notification<sup>122</sup> that directed Singapore’s Registrar to maintain a central register of controllers of companies and foreign companies. Subsequently, Practice Direction No. 3/2020<sup>123</sup> required companies to lodge registrable controllers’ information in the Central Register of Controllers maintained by Singapore’s Accounting and Corporate Regulatory Authority (ACRA).

The ACRA Central Register of Controllers is not available to the public. Section 386AM of the Companies Act 1967 provides the Registrar or an officer of ACRA to inspect, examine and make copies of information concerning registrable

<sup>117</sup> SEC, “Amendment of SEC Memorandum Circular No. 17,” 2019, *op. cit.*

<sup>118</sup> Open Ownership, “Beneficial ownership transparency in the Philippines,” 2024, *op. cit.*

<sup>119</sup> *Ibid.*

<sup>120</sup> ACRA, “Register of registrable controllers (RORC),” accessed on 10 May 2024. Available at: <https://www.acra.gov.sg/compliance/register-of-registrable-controllers>.

<sup>121</sup> Singapore Statutes Online, “Companies Act 1967,” *op. cit.*

<sup>122</sup> Singapore Statutes Online, “Companies (Direction under Section 386AN(1)) Notification 2020,” 2020. Available at: <https://sso.agc.gov.sg/SL/CoA1967-S626-2020?DocDate=20200728&ValidDate=20221031>.

<sup>123</sup> ACRA, “Practice Direction No. 3 of 2020: Requirement for companies, foreign companies and limited liability partnerships to lodge registrable controllers’ information in the central register of controllers,” 2020. Available at: <https://www.acra.gov.sg/docs/default-source/default-document-library/training-and-resources/publications/practice-directions/2020/pd3-of-2020.pdf>.

controllers, and administer or enforce any written laws. A “public agency” is defined broadly to include public authorities established by or under any public act for a public purpose or a member, an officer or an employee, or any department. Correspondingly, ACRA’s website<sup>124</sup> notes that legal entities must give the Registrar and ACRA officers, as well as public agencies administering or enforcing any written law (such as the Commercial Affairs Department, Corrupt Practices Investigation Bureau and the Inland Revenue Authority of Singapore) access to their registers of controllers upon request. ACRA’s website further notes that the information is therefore only made available to law enforcement agencies for the purposes of administering or enforcing laws, such as money-laundering offences.

While all companies and limited liability partnerships are covered by Singapore’s beneficial ownership disclosure regime, certain categories are exempt from reporting requirements. These exemptions are outlined in the 14th and 15th Schedules of the Companies Act 1967, and include the following:

- Companies that are wholly owned by the Singaporean Government;
- Public companies which shares are listed for quotation on an approved exchange in Singapore;
- Companies, including foreign companies, that are Singapore financial institutions;
- Foreign companies that are wholly owned subsidiaries of a foreign company that is a Singapore financial institution; and
- Companies, including foreign companies which have listed shares and are subject to disclosure requirements imposed through stock exchange rules.

The Companies (Register of Controllers and Nominee Directors) Regulations 2017<sup>125</sup> set out the information required from registrable controllers. This includes identity card/passport numbers, addresses, aliases, and the dates in which a controller became, and/or ceased to become, an individual controller of the company.

Beneficial ownership information appears to be primarily verified by the company:

- Section 386AH imposes a duty on the company to keep information up-to-date – if the company knows or has reasonable grounds to believe that a change has occurred in the registrable controller’s particulars, it must provide the registrable controller with notice to confirm and provide particulars of the change;
- Section 386AL imposes a duty on the company to correct information, where it knows or has reasonable grounds to know that particulars may be incorrect; and
- Controllers have a corresponding duty to provide information and any changes in information under sections 386AJ and 386AK.

Controllers’ information can be lodged through Singapore’s BizFile<sup>126</sup> website, which is ACRA’s online filing portal. In a FAQ,<sup>127</sup> ACRA noted that lodgers of information were strongly encouraged to attach supporting documents, such as notices or confirmation from controllers when updating particulars, as this would enable ACRA to verify such information. However, no further information has been provided on how verifications occur, particularly if no supporting documents are provided.

In its FAQ, ACRA notes that changes to controllers’ information must be lodged online within two business days. Non-compliance is an offence and may result in a fine not exceeding SG\$ 5,000 (US\$ 3,685), as set out in the Companies Act 1967. This fine can be imposed on the company and every officer of the company who is in default. The same fine is imposed for other corresponding offences, such the failure of a legal entity to provide notice to their controllers. However, a FAQ notes that there is no need to update the information of registrable controllers lodged with ACRA annually, if there is no change to existing information.

<sup>124</sup> ACRA, “Register of registrable controllers (RORC),” accessed on 10 May 2024, *op. cit.*

<sup>125</sup> Singapore Statutes Online, “Companies (Register of Controllers and Nominee Directors) Regulations 2017,” 2017. Available at: <https://sso.agc.gov.sg/SL-Supp/S116-2017/Published/20170330?DocDate=20170330&ProvlDs=P12-#pr3->

<sup>126</sup> BizFile, “eServices,” accessed on 10 May 2024. Available at: <https://www.bizfile.gov.sg/ngbbizfileinternet/faces/oracle/webcenter/portalapp/pages/BizfileHomepage.jspx>.

<sup>127</sup> ACRA, “Frequently asked questions,” accessed on 10 May 2024. Available at: <https://www.acra.gov.sg/compliance/register-of-registrable-controllers/frequently-asked-questions>.

## Timor-Leste

<b>Key legal instruments</b>	Law No. 10/2017.
<b>Central beneficial ownership registry</b>	No.
<b>Legal persons/arrangements covered</b>	Companies, including private limited companies and Timorese joint stock companies.
<b>Exemptions</b>	No.
<b>Verification mechanism</b>	Unclear.
<b>Sanctions for non-compliance</b>	Yes, administrative offences under AML/CFT laws.
<b>Requirement to update</b>	Yes, annually and when changes occur.
<b>Public access</b>	N/A.
<b>Access by law enforcement or other authorities</b>	Yes.

In Timor-Leste's Law No. 10/2017,<sup>128</sup> articles 293 to 299 (chapter V) cover the collection of beneficial ownership information. Article 298 requires companies to provide information on beneficial ownership to a business registry. As an EITI member, Timor-Leste also works with EITI to improve beneficial ownership transparency in the extractive sector.

At the time of this report, a public beneficial ownership register was not yet in place. Should a central register be established, it is also unclear whether the public would be able to access information from the register. Article 297 provides Timor-Leste's FIU or other competent authority with the ability to access beneficial ownership information by noting that companies are required to provide information on beneficial ownership within 10 business days, if requested by such authorities

Article 294 of Law No. 10/2017 notes that companies must collect certain information from beneficial owners, including identity documents, the owner's taxpayer identification number,

nationality, country of permanent residence, and the nature and extent of the beneficial interest held. Article 295 sets out a duty on equity holders to collaborate with the company to obtain information on its beneficial ownership.

The provisions cover requirements to update beneficial ownership information. Article 295 obliges equity holders to provide information to the company on any changes to beneficial ownership within 10 business days of the change. At a minimum, article 294 notes that it is incumbent upon the company secretary or manager to obtain information on the company's beneficial owners and update such information annually.

In terms of sanctions, article 299 sets out how non-compliance with chapter V of Law No. 10/2017 is a punishable administrative offence under the Legal Regime to Prevent and Combat Money-Laundering and the Financing of Terrorism (Law No. 17/2011). Examples of potential sanctions under Law No. 17/2011<sup>129</sup> include fines of between US\$ 5,000 and US\$ 500,000, barring individuals from working in a sector or profession for six months to three years, and the suspension of licenses for a similar period. However, it is not clearly specified how sanctions would specifically apply to each instance of non-compliance in relation to beneficial ownership disclosure obligations.

In 2023, EITI issued its assessment<sup>130</sup> of Timor-Leste's progress in implementing the 2019 EITI Standard, and deemed Requirement 2.5, which calls for measures to collect and disclose beneficial ownership information of legal entities in the extractive industry, to be partly met. EITI acknowledged Timor-Leste's progress in establishing a legal framework for collecting beneficial ownership data, but observed the following:

- A framework for the disclosure of beneficial ownership information is not yet in place;
- Beneficial ownership information had not been requested from all companies within the scope of Requirement 2.5;

<sup>128</sup> Banco Central de Timor-Leste, "Law. 10/2017, New Commercial Companies Law," 2017, *op. cit.*

<sup>129</sup> Justice Ministry, "Law No. 17/2011, Legal Regime Covering the Prevention of Money-Laundering and Financing of Terrorism," 2011. Available at: <https://mj.gov.tl/jornal/lawsTL/RDTL-Law/RDTL-Laws/Law%2017-2011%20.pdf>.

<sup>130</sup> EITI, "Timor-Leste has achieved a fairly low overall score in implementing the 2019 EITI Standard: Outcome of the validation of Timor-Leste," 25 April 2023. Available at: <https://eiti.org/board-decision/2023-19>.

**Table 4: Focus States' beneficial ownership transparency frameworks**

	Central registry	Coverage	Exemptions	Verification mechanism	Sanctions	Requirement to update	Public access	Access by law enforcement or other authorities
<b>Brunei Darussalam</b>	Yes.	Companies (including foreign companies).	Yes.	Primarily verified by the company and the controller.	Yes, monetary.	Yes, when changes occur.	No.	Yes.
<b>Indonesia</b>	Yes.	Companies and entities (excluding foreign entities).	No.	Primarily verified by the legal entity.	Yes, administrative.	Yes, annually.	Yes.	Yes.
<b>Malaysia</b>	Yes.	Legal persons (including foreign legal persons).	No.	Primarily verified by the legal entity.	Yes, monetary.	Yes, annually and when changes occur.	No.	Yes,
<b>Philippines</b>	Yes (extractives)	SEC registered entities (including foreign entities).	No.	Primarily verified by the legal entity.	Yes, monetary and non-monetary.	Yes, annually and when changes occur.	Yes (extractives).	Yes.
<b>Singapore</b>	Yes.	Companies and LLPs (including foreign ones).	Yes.	Primarily verified by the legal entity.	Yes, monetary.	Yes, when changes occur.	No.	Yes.
<b>Timor-Leste</b>	No.	Companies.	No.	Unclear.	Yes, administrative.	Yes, annually and when changes occur.	N/A.	Yes.

- That there was a need to undertake an assessment of the comprehensiveness and reliability of beneficial ownership disclosures by all extractive companies to date; and
- Links provided to access beneficial ownership information for publicly listed company were not always working, which meant readers could not confirm the availability of such information.

Among other matters, EITI recommended<sup>131</sup> that Timor-Leste undertake an assessment of the comprehensiveness and reliability of beneficial ownership disclosures by all extractive companies to date, and expand the scope of beneficial ownership information collection to cover holders and applicants for oil, gas and mining licenses.

A summary of the focus States' beneficial ownership transparency frameworks is set out in table 4.

<sup>131</sup> Ibid.

## Outlook and recommendations

This report covered the implementation of beneficial ownership transparency frameworks in ASEAN Member States and Timor-Leste. Overall, focus States that previously received UNCAC recommendations and underwent FATF assessments on this aspect have made progressive improvements on their respective frameworks.

### Recommendations

Given that this report sets out some of the key similarities, differences and challenges in the beneficial ownership transparency frameworks across the focus States, focus States may wish to leverage each other's experiences to develop a better collective understanding of beneficial ownership and how increased transparency can lead to complementary benefits across the region. In particular, focus States may wish to prioritize the actions outlined in the Guiding Framework.<sup>132</sup>

Some areas for focus States to consider include:

- Developing and strengthening legal frameworks on beneficial ownership transparency. In terms of legal definitions, all focus States have sought to define who a beneficial owner is in their legislation, be it with reference to AML/CTF or commercial obligations. However, discrepancies on the scope of this breadth exist, with some focus States covering more informal forms of control. Notably, some focus States may also have discrepancies in beneficial ownership terminology within their domestic frameworks;
- Ensuring that beneficial ownership frameworks cover legal entities more uniformly at a regional level to help facilitate the exchange of beneficial ownership information and for investigations. Currently, there are discrepancies in coverage, from the types of legal entities covered domestically to the coverage of foreign entities;

- Improving the implementation of beneficial ownership disclosure frameworks. For example, challenges are likely to remain on the verification of beneficial ownership data, including during the point of submission and the maintenance of such data. Currently, all focus States appear to primarily rely on legal entities (and/or their respective beneficial owners) to provide adequate, accurate and up-to-date information, without specifying mechanisms for cross-checking information or relying on the use of independent bodies;
- Encouraging and measuring compliance with beneficial ownership transparency frameworks, including the submission of updated beneficial ownership information according to each focus State's domestic requirements;
- Promoting the sharing and exchange of beneficial ownership information with competent authorities and law enforcement agencies, whether domestically or with foreign counterparts. Focus States may wish to determine, or continue refining, their practices and procedures on how such exchanges are conducted, whether by way of data-sharing agreements, MoUs or other mutual legal assistance procedures.

Focus States may also wish to consider:

- Whether the public should be granted access to beneficial ownership registers. This is likely to generate extensive discussion. At the time of this report, Indonesia was the only focus State that provides public access to its central register, with the Philippines also providing public access to its extractives register which comprises voluntary submissions;
- Whether current sanctions are sufficiently dissuasive, effective and proportionate,

<sup>132</sup> UNODC, "Regional roadmap to reinvigorate the platform to fast-track the implementation of the United Nations Convention against Corruption in Southeast Asia (2024 – 2027)," 2024, *op. cit.*

given that financial and/or administrative penalties are most frequently used, and how they may wish to enforce such sanctions.

### ***Concluding remarks***

Beneficial ownership transparency remains a critical tool to address corruption and the misuse of legal structures that conceal the proceeds of corruption and other crimes. As many reforms by focus States on their beneficial ownership transparency frameworks are relatively recent, broader questions remain on the efficacy of those

frameworks. The full extent of the challenges that focus States could face in implementing their beneficial ownership regimes may present themselves in the future.


Nevertheless, ASEAN Member States and Timor-Leste share a common commitment in improving beneficial ownership transparency. This would contribute to their complementary obligations under various international frameworks. Efforts to improve beneficial ownership transparency should therefore continue, with domestic improvements in one State likely to generate positive flow-on impacts across the region.



**United Nations**  
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**Regional Office for Southeast Asia and the Pacific**

United Nations Building, 4<sup>th</sup> floor A Block, Secretariat Building, Raj Damnern Nok Avenue, Bangkok 10200, Thailand  
Tel. (66-2) 288-2100 Fax. (66-2) 281-2129 E-mail: [unodc-thailandfieldoffice@un.org](mailto:unodc-thailandfieldoffice@un.org)  
Website: <http://www.unodc.org/roseap>

 Twitter: @UNODC\_SEAP