

Ministry of Finance
BRIEFING DOCUMENT

To: Honourable Carol James
Minister of Finance
and Deputy Premier

Date Requested: May 26, 2020
Date Required: May 26, 2020

Initiated by: Joseph Primeau
A/Executive Director
Finance Real Estate and
Data Analytics

Date Prepared: May 26, 2020

Ministry Contact: Andrew Avis
Director, Business Organizations
Finance Real Estate and
Data Analytics

Phone Number: [REDACTED]

Email: [REDACTED]

Cliff #: 392159

TITLE: Company Beneficial Ownership Consultation – Summary

PURPOSE:

(X) FOR INFORMATION

COMMENTS: A summary of the submissions received from the public and stakeholders during the *Business Corporations Act's* beneficial ownership consultation from January 17, 2020 through April 30, 2020.

DATE PREPARED: May 26, 2020

TITLE: Company Beneficial Ownership Consultation – Summary

ISSUE: Summary of the submissions received during the *Business Corporations Act's* beneficial ownership consultation

BACKGROUND:

From January 17, 2020 through April 30, 2020, the Ministry of Finance held a public consultation on establishing a government-maintained registry of company beneficial owners. The consultation was originally scheduled to end on March 27, 2020 but was extended to April 30, 2020 as a result of the COVID-19 pandemic.

The consultation was in response to 2 specific events in 2019:

- 1) Recommendation 5 from the Expert Panel on Money Laundering in BC Real Estate to “develop a discussion paper ... about the implementation of a full corporate beneficial ownership registry covering all legal persons...,” and
- 2) The BC government’s commitment on June 14, 2019, with federal, provincial and territorial governments, to move forward on consultations to make beneficial ownership information available through public registries.

The consultation builds on past work BC has engaged on to improve beneficial ownership transparency for companies through the *Business Corporations Amendment Act, 2019* that requires BC private companies to keep a list of the company’s beneficial owners in its records office as of October 1, 2020.

At the same time, the federal government held its own consultation on a company beneficial ownership registry at the federal level. The two consultations were conducted in collaboration with BC participating in stakeholder meetings arranged by the federal department of Innovation, Science and Economic Development.

While the consultation was ongoing, staff with the Ministry of Finance, Corporate Registry, and the Land Title and Survey Authority of BC have engaged in preliminary policy analysis of many of the issues raised during consultation.

DISCUSSION:

BC received 40 submissions directly: 12 from members of the public and 28 from stakeholder organizations. BC participated in 17 stakeholder meetings organized by the federal government.

The submissions focused on five broad topics: support for central registry, public access to the registry, impact on businesses, efficient collection of data, and the role of government in ensuring accuracy.

A description of the feedback for those five topics is discussed below.

Support for a Central Government Registry of Company Beneficial Ownership:

Most of the submissions received expressed overall support for a government registry of company beneficial ownership. Two benefits of a centralized government registry highlighted in the submissions were:

- 1) Increase efficiency for law enforcement investigations, and
- 2) Assist with the research of public policy initiatives.

There were only a few submissions arguing that the current decentralized transparency register kept in companies' records office is enough.

Public Access and Privacy:

While support for a government registry of beneficial ownership was high, the support for giving the public access to such a registry was low. The main advocates for public access were the general public and civil society organizations (Publish What you Pay, Transparency International Canada, and Canadians for Tax Fairness). They cite the UK's experience with its similar Persons of Significant Control registry in which over 90 per cent of businesses found the information useful for their due diligence purposes.

Most submissions from stakeholder groups did not support giving the public access to the transparency register. They argue that once all the information is in the hands of a government, the government is in the best position to analyze the data. The general public will not be able to add much to this analysis which requires complex computer software and expertise. In addition to the ineffectiveness of public access, these submissions stress the following harms with public access:

- Public mischief – celebrity searching, targeting for promotional calls, identity theft and fraud,
- Discourage incorporation in BC (although, this will be mitigated as other jurisdictions create their own registries).

While most submissions did not favour public access, many stakeholder groups representing industries with know your client and beneficial ownership requirements under Canada's *Proceeds of Crime (Money Laundering) and Terrorist Finance Act*,

(PCMLTFA) known as reporting entities, argued they should have access to the registry. These stakeholders see the company beneficial ownership registry as a means to streamline the regulatory requirements imposed on them through the PCMLTFA. Smaller reporting entities, such as realtors, argue this is needed as due to their small size, they will not be able to meet the PCMLTFA requirements on their own.

Business Impacts:

In terms of business impacts, submissions pointed out that a beneficial ownership registry is likely to impose compliance costs on businesses in submitting the information. However, the most expensive compliance cost, identifying the beneficial owners of the company, is currently being undertaken as part of the *Business Corporations Act's* transparency register requirements. Because of that though, most submissions did not favour imposing a filing fee for the beneficial ownership information as it would further increase the cost of compliance.

Efficient Collection of Information:

Submissions focused on efficiency of the registry suggested 4 main ways to do so:

- 1) Integrate the beneficial ownership filings with the current filings at the corporate registry, such as the annual report.
- 2) Integrate the company beneficial ownership registry with the Land Ownership Transparency Registry so information is only filed once.
- 3) Harmonize the company beneficial ownership registries across Canada: both rules of beneficial ownership and link the registries for a one-stop shop.
- 4) Provide comprehensive guidance to assist companies in gathering the required information.

Government's Role in Verifying the Accuracy of the Information:

The government's role in verifying the accuracy in the information contained in the registry received a lot of discussion in the submissions and was perhaps the most important issue to come out of the consultation. The consensus of submissions was that government has a responsibility to ensure the beneficial ownership information on the registry is accurate and of all the groups involved in anti-money laundering initiatives is in the best position to do so. The overall impression from the stakeholders was that unverified and inaccurate beneficial ownership would not be useful to any of the stakeholders. The submissions focused on two main arguments to support this position:

- 1) Unverified or inaccurate information would be given an air of legitimacy it otherwise doesn't deserve making money laundering through BC companies easier.

- 2) Reporting entities want to be able to rely on the information to streamline PCMLTFA requirements and self-reported unverified information would not allow this.

Verifying the information in the company beneficial ownership registry would represent a significant change to registry operations as B.C.'s registries have historically been designed as simply repositories of information.