



Beneficial ownership transparency and listed companies

Technical note

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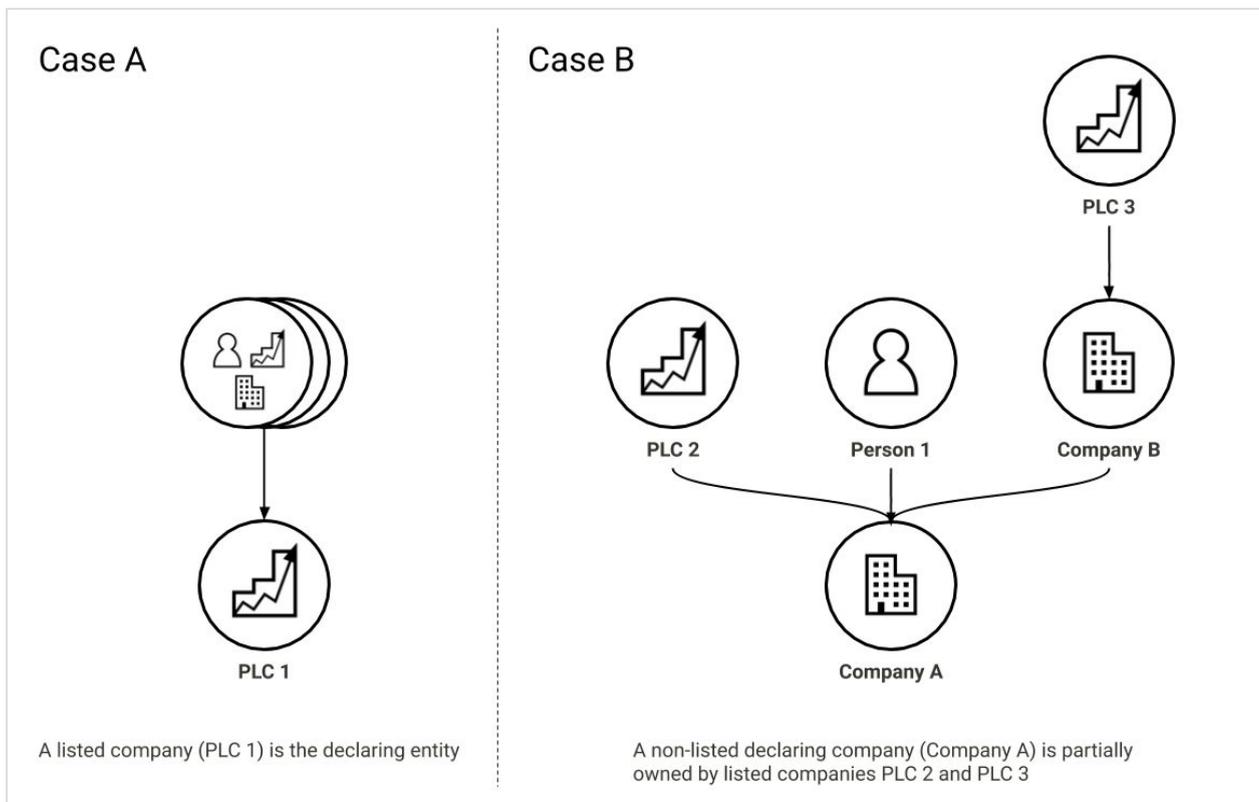
Introduction and recommendations

This technical note supports implementers of national beneficial ownership registers to reduce risks associated with exemptions from disclosure that exist for listed companies. It is not intended as an endorsement of the policy of exempting listed companies from beneficial ownership disclosure. Rather, the aim is to create actionable advice that can reduce the impact of policy loopholes and produce high quality data about listed companies in contexts where exemptions remain a reality.

This technical note covers:

- Case A: Potential exemptions from beneficial ownership (BO) disclosure where **a listed company *is* the declaring entity.**
- Case B: Where **a declaring company is owned or controlled by a listed company to any degree (directly or indirectly).**

In both cases, the implementation note covers recommendations and considerations for deciding when an exemption should be granted, and outlines the information that should be provided in any exemption declaration. BO disclosures by publicly listed companies are relatively recent, and good practice is still emerging. The information and recommendations in this note are based on Open Ownership (OO)'s work supporting almost 40 countries globally to implement beneficial ownership transparency (BOT), and relevant academic and practitioner research.



Beneficial ownership transparency requirements for listed companies are important due to the scale of assets traded on regulated exchanges. Transparency is fundamental for fair and well-functioning markets. Many stock exchanges have their own well developed transparency and disclosure requirements, but not all. This technical note aims to help governments decide what information to collect from listed companies in order to grant exemptions from full beneficial ownership disclosure and to reach market filings relevant to beneficial ownership.

OO recommends that:

1. blanket exemptions from BO disclosure requirements to companies listed on any stock exchange should not be granted. This is because transparency and disclosure requirements differ widely between stock exchanges;
2. listed companies should only be exempted from BO disclosure requirements if adequate and enforced BO disclosure requirements exist for the stock exchange(s) on which the declaring company is listed;
3. all companies that are exempt from BO disclosure requirements due to their listed status should have to declare, and periodically confirm, that they are exempt due to their listed status;
4. in published BO data, listed companies should be identifiable as such; sufficient data should be collected to connect them to relevant stock exchange listings.

In implementing these recommendations, the following actions may be considered:

5. creating a list of stock exchanges with adequate (or inadequate) levels of ownership transparency; granting exemption from BO disclosure to companies only when they are listed on stock exchanges that have an adequate level of ownership transparency;
6. requiring listed or non-listed companies to disclose all up-chain listed companies that hold significant* ownership or control interests in the declaring company, including sufficient data to be able to connect them to stock market filings.

These points are expanded upon in the following section.

Defining publicly listed companies

For the purposes of this technical note:

- A **listed company** means any company that has equity publicly traded on a regulated market.
- A **declaring entity** or **declaring company** is a company that is making a BO declaration.
- A **BO declaration** may be a statement of who the beneficial owners of the declaring company are, a statement about ownership and control relating to the declaring company, or a confirmation that the declaring company is not required to disclose its beneficial owners (for example, due to its listed status). A declaration may be made periodically or triggered by one or more conditions.
- An **up-chain company** is one that either directly or indirectly has any amount of control or ownership of a declaring company.

Case A: Declarations by listed companies

An exemption from BO disclosure based on listed status alone is **not** recommended because stock exchanges have variable levels of transparency over the ownership of the companies that are listed. Where transparency requirements are weak, stock exchange filings may not be a source of timely and accurate information on ownership and control.

Exemptions should be based **on the stock exchange(s) on which the company is listed**.

Exchanges should be judged based on whether they have **adequate ownership disclosure requirements for listed companies**. It may be useful to consider both a stock exchange and a *segment* of that stock exchange, if different disclosure requirements can apply (as on the [LSE](#)).

Although a company's articles or by-laws may specify stricter disclosure requirements than those of the exchanges on which it is listed, this is not recommended as the basis for exemptions. This is due to the monitoring burden that is placed on the agency responsible for maintaining the BO register.

Creating excluded or allowed lists of stock exchanges

Exemptions based solely on the jurisdiction in which a stock exchange is based are **not** recommended, as a single jurisdiction can have multiple stock exchanges with different regulatory and transparency requirements. In the UK, for example, the LSE Main Market and AIM exchanges are covered by different [sets of disclosure regimes](#). Related to this, exemptions should not be granted to companies because they are based in jurisdictions that are members of international organizations, such as the OECD.

The simplest approach to defining which listed companies are exempt may be to create a **list of excluded stock exchanges** that do not have adequate ownership disclosure policies. An excluded list can be built iteratively and based on the most obvious challenges (starting with an assessment of domestic stock exchanges). The list should be publicly available and reviewed regularly, and may benefit from collaboration in regional or international fora.

Defining adequate ownership disclosure requirements for a stock exchange

Disclosure requirements for publicly listed companies should be aligned with the spirit and purpose of existing requirements for private companies.

OO recommends that publicly-listed companies are granted an exemption from declaring their beneficial owners only if listed on a **stock exchange with disclosure requirements relating to the acquisition and disposal of significant shareholdings and voting rights**. For example, UK companies with shares traded on a regulated market in the UK or the European Economic Area are exempt from declarations to the UK beneficial ownership register.

These disclosure requirements should be based on a robust definition of ownership and control that results in comprehensive coverage of listed companies on the relevant exchange that is available to all interested parties.

In assessing the robustness of the definition of ownership and control in an exchange's disclosure requirements, consideration should be given to whether companies must provide:

- timely notification on the acquisition and disposal of significant voting rights;
- notifications on the basis of aggregated holdings and interests used jointly via an agreement;
- notifications of ownership and control arrangements via financial instruments that have a similar effect to owning shares or controlling votes;
- notifications that contain information on the means through which major shareholding or voting rights are exercised (e.g. the chain of ownership);
- notifications of interests held by company officers.

In assessing the coverage of an exchange's disclosure requirements, consideration should be given to understand:

- whether all listed companies are subject to the same disclosure requirements (for example, if an exchange is segmented).

In assessing the availability of ownership and control information, consideration should be given to understand:

- who has access to filings made to stock exchanges under disclosure requirements and policies for storing filings, and if there are any conditions placed on the use of filing information.

For all such assessments, it should be noted that the totality of disclosure requirements a listed company is subject to may not come from a single regulation or set of rules.

Examples of market disclosure regulations

For comparative purposes, consideration could be given to standards set out in the relevant sections of the EU's [Transparency Directive Amending Directive](#) (e.g. section 5.1 of the UK's [Disclosure Guidance and Transparency Rules](#) and section 9.8.6 of the [Listing Rules](#)).

Data collection and business process

It should always be possible to connect a listed company to relevant stock market filings using information available from the BO declaration or related entry in the company registry. To do so, accurate and sufficient information needs to be collected as part of any BO declaration.

Therefore, listed companies should be required to provide:

1. information about the stock exchanges on which the company has equity listed;
2. identifying information for the listed equity securities;
3. information about the listed company itself;
4. confirmation on whether or not (1) makes the company eligible for exemptions from BO disclosure requirements.

The agency responsible for maintaining the BO register should have the capacity to:

1. check and, if necessary, reject claims for exemptions based on the stock exchanges on which the company is listed;
2. record the fact that an exemption has been granted on the basis that the declaring entity is a listed company on an exchange with adequate ownership disclosure requirements.

Listed companies should be subject to the same periodic declaration update requirements as non-listed companies. In addition, consideration should be given to requiring an update of their exemption statement if stock is listed on a new stock exchange or delisted from an existing exchange, as this may result in a reassessment of the exemption.

Collecting information on companies and their stock exchange listings

A declaring company may be listed on more than one stock exchange. It can be delisted from one whilst remaining listed on another. Listed companies should therefore be required to **provide information for all stock exchanges on which they are listed and required to disclose information to.**

The information that should be collected is set out in **Appendix I.**

Publishing and updating information on exempt companies

It should be possible to distinguish an exemption from a missing disclosure and to understand the reason for any exemptions. Declaring listed companies should be required to explicitly declare that they are exempt from disclosure requirements because of their listed status. This information should be available on any central or public register, and such declarations should be renewed on a periodic basis in line with BO disclosure rules.

Case B: Collecting information about listed up-chain companies

If a declaring entity is required to disclose its beneficial owners and a listed company has a significant* direct (or indirect) interest in it, details of that “up-chain” listed company should be collected. The information about each up-chain listed company that should be submitted by the declaring company is set out in **Appendix I.**

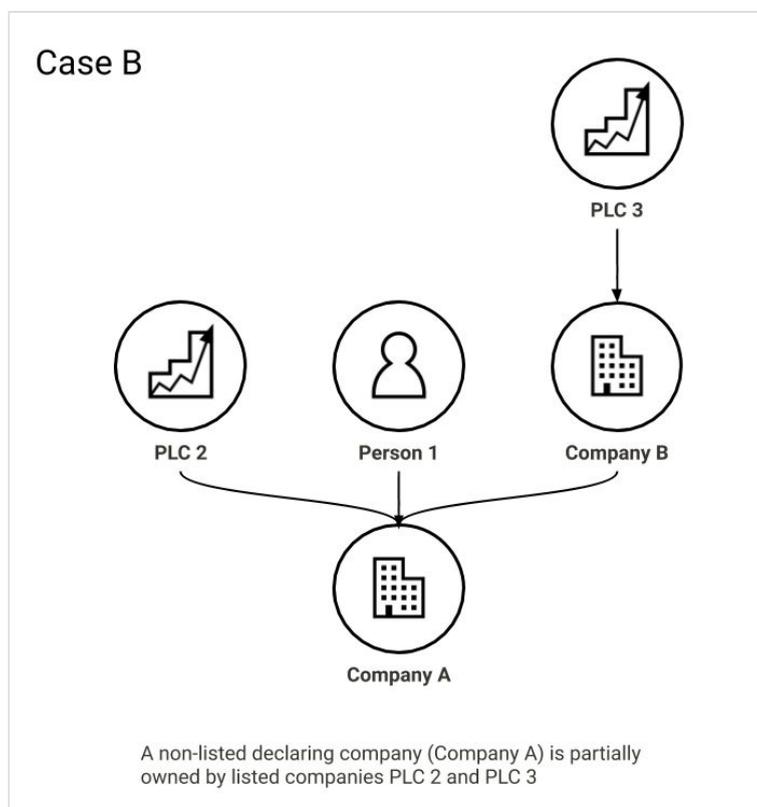
In addition to the core information collected about the up-chain listed company and its listings, the following should also be required:

- the **nature of ownership or control interests** in the declaring company and their extent, including whether the interest is held directly or indirectly;
- in the case of an indirect interest held by an up-chain company, details of the chain of ownership should be described in line with guidance for declarations by non-listed companies.

Taking the Case B diagram as an example:

- Company A would need to disclose Person 1 as a beneficial owner if they met the relevant criteria;
- Company A would need to provide information about PLC 2 and the significant direct interest held by PLC 2;
- Company A would need to provide information about PLC 3 and the significant indirect interest held by PLC 3;
- the chain of ownership between Company A and PLC 3 would be described as required by existing guidance (for example, requiring the identity of Company B as the legal owner of Company A via which PLC 3 exercises its interests);

- Company A would itself need to look at the exchange filings of PLC 2 and PLC 3 to satisfy itself that there are no further beneficial owners exercising their interests via these listed companies.



* As a minimum, “significant” should be interpreted to mean: a direct or indirect ownership or control interest whose size, were it held by an individual person, would make that person a beneficial owner.

Implementers may consider a risk-based approach to setting disclosure thresholds. Where the nature of a sector or economy makes it vulnerable to corruption or other undesirable behaviours, setting lower thresholds to trigger disclosure requirements would be appropriate.

Appendix I: Core information about a listed company

The following information should be collected *and* published.

Each **stock exchange** on which a company is registered should be identified using three fields from the [ISO 10383](#) Codes for exchanges and market identification (MIC) standard:

- stock exchange name: the name of the stock exchange, as specified in the NAME-INSTITUTION DESCRIPTION field in the MIC standard;
- stock exchange jurisdiction: the ISO 3166 country code for the jurisdiction in which the stock exchange is based;
- MIC: the market identification code, as specified in the MIC field in the [latest MIC list](#).

Plus, the following should be supplied:

- URLs where all **regulatory notifications of major holdings** can be found.

For each stock exchange, each **stock** type listed there should then be specified with:

- the stock ticker (e.g. AAPL for Apple);
- the international securities identification number, ISIN (e.g. 2046251 for Apple).

To identify the listed **company**, the following information should be collected:

- the same **basic company information** (name, registered office, etc.) required of non-listed declaring entities;
- any identifiers that can be used to locate both the legal entity and any related stock exchange filings. It should be possible to collect multiple identifiers for a single company.

These may include:

- company number for the legal entity that is listed on the stock exchange, using the [org-id.guide](#) format;
- a [Legal Entity Identifier](#), if available.