

Statement on Definition Beneficial Ownership By MSG EITI Suriname

Background

The EITI Standards and Requirements for Beneficial Ownership (BO) state that,

The MSG should agree an appropriate definition of the term beneficial ownership. The definition should be aligned with requirement 2.5(f)(i) and take international norms and relevant national laws into account, and should include ownership threshold(s). The definition should also specify reporting obligations for politically exposed persons. (Requirement 2.5 (f)(ii))

As it was apparent that the MSG would need guidance on the legal implications in the Suriname context, the Ministry of Natural Resources commissioned a study in September 2020 for the legal assessment of the institutional framework for BO in Suriname. The study also provided recommendations for the first steps of BO implementation. The results of the assessment were presented to the MSG and discussed. Subsequently, a MSG BO working group was created with one representative from each stakeholder group.

In February 2021, the MSG held a workgroup session on the definition of beneficial ownership for Suriname. Each stakeholder group agreed to provide feedback within a period of several weeks. As most companies had to receive feedback from their legal departments, the process took more time than originally foreseen. However, all stakeholders responded positively.

The definition in conformity with EITI requirement and as agreed by the Multi-Stakeholder Group EITI Suriname is hereby attached.

Publication

This definition will be made public by all MSG stakeholders, published on the EITI Suriname website and referenced in the EITI Suriname report.

MSG EITI Suriname members:

Government

A handwritten signature in blue ink, appearing to read 'P. Simons'.

Preciosa Simons
Ministry of Natural Resources

Civil Society

A handwritten signature in blue ink, appearing to read 'Rayah Bhattacharji'.

Rayah Bhattacharji
Projekta

Companies

A handwritten signature in blue ink, appearing to read 'Daniëla Herkul'.

Daniëla Herkul
National State Oil Company

Beneficial Ownership (BO)

1. A ‘beneficial owner ’means any natural person(s) who ultimately owns or controls a legal entity or a legally binding arrangement, and/or the natural person(s) on whose behalf a transaction is carried out or an activity is conducted.
2. A natural person shall be deemed to “own or control” a legal entity or a legally binding arrangement, if that person:
 - a. ultimately owns or controls a legal entity through direct or indirect ownership of a at least 20% of the shares or voting rights or ownership interest in that entity, including through bearer shareholdings, or through control via other means; or
 - b. is able to exercise at least 20% of the votes in the case of resolutions amending the articles of incorporation of the legal entities; or
 - c. has the right to appoint, veto the appointment or remove a majority of the board of directors or equivalent body of a legal entity or a legally binding arrangement; or
 - d. is able to exercise effective control over the legal entity or legally binding arrangement; or
 - e. derives significant economic benefit from a legal entity or a legally binding arrangement.
3. In case the legal entity is a “Stichting” or a similar legal entity, then all following persons shall be deemed beneficial owners of the legal entity:
 - a. the board member(s);
 - b. the beneficiaries, or where the individuals benefiting from the legal entity have yet to be determined, the class of persons in whose main interest the legal arrangement or entity is set up or operates;
 - c. any other natural person exercising ultimate control over the legal entity;
4. In case the legally binding arrangement is a “Trust” under foreign law or a similar legally binding arrangement, then all following persons shall be deemed beneficial owners of the legally binding arrangement:
 - a. the settlor(s);
 - b. the trustee(s);
 - c. the protector(s), if any;
 - d. the beneficiaries, or where the individuals benefiting from the legal arrangement or entity have yet to be determined, the class of persons in whose main interest the legal arrangement or entity is set up or operates; and
 - e. any other natural person exercising ultimate control over the trust by means of direct or indirect ownership or by other means;
5. In case the natural person is a Politically Exposed Person, any direct or indirect ownership or control of a legal entity or a legally binding arrangement by that person will constitute beneficial ownership, irrespective of the actual level of ownership or control.
6. For the avoidance of doubts, agents, nominees, trustees and other intermediaries shall not be deemed to be a beneficial owner.

7. In the case of a joint venture, each entity within the venture should disclose its beneficial owner(s).

Paramaribo, August 6th, 2021

Politically Exposed Person (PEP)

1. A ‘politically exposed person ’ means a natural person who is or who has been entrusted with prominent public functions and includes the following:

- a. heads of State, heads of government, ministers and deputy or assistant ministers;
- b. members of parliament or of similar legislative bodies;
- c. members of the governing bodies of political parties;
- d. members of supreme courts, of constitutional courts or of other high-level judicial bodies, the decisions of which are not subject to further appeal, except in exceptional circumstances;
- e. members of courts of auditors or of the boards of central banks;
- f. ambassadors, chargés d'affaires and high-ranking officers in the armed forces;
- g. members of the administrative, management or supervisory bodies of State-owned enterprises;
- h. directors, deputy directors and members of the board or equivalent function of an international organization and their family members and persons known to be their close associates.

No public function referred to in points (a) to (h) shall be understood as covering middle-ranking or more junior officials;

2. A ‘family member ’ of a politically exposed person includes, but is not limited to, the following:

- a. the spouse, or a person considered to be equivalent to a spouse, of a politically exposed person;
- b. the siblings, children, grandchildren, and their spouses, or persons considered to be equivalent to a spouse, of a politically exposed person;
- c. the parents and grandparents of a politically exposed person;

3. A ‘person(s) known to be close associates ’ of a politically exposed person(s) includes, but is not limited to, the following:

- a. natural persons who are known to have joint beneficial ownership of legal entities or legal arrangements, or any other close business relations, with a politically exposed person;
- b. natural persons who have sole beneficial ownership of a legal entity or legal arrangement which is known to have been set up for the de facto benefit of a politically exposed person.

Paramaribo, August 6th, 2021