'BENEFICIAL OWNERSHIP TRANSPARENCY FOR PREVENTING AND FIGHTING CORRUPTION'

Presentation Date: March 13, 2024
Globally recognised vulnerabilities:

Concealment of Beneficial Ownership Information

- Shell companies with foreign ownership spread across jurisdictions
- Complex ownership & control structures. Many layers of shares in the name of other legal persons
- Trusts and other legal arrangements which enable a separation of legal ownership and beneficial ownership of assets
- Use of intermediaries in forming legal persons, including professional intermediaries
- Bearer shares and bearer share warrants (prohibited)

The Government of Guyana is cognizant that Beneficial Ownership information can be obscured through -
Guyana is a party to & has ratified several international conventions, treaties, and agreements related to Beneficial Ownership Transparency & Anti-corruption.

- The United Nations Convention against Corruption (UNCAC – Arts. 12(2)(c), 14(1)(a), 52(1);
- The Inter-American Convention against Corruption (IACAC);
- The Lima Commitment; and The United Nations General Assembly’s Political Declaration on Corruption;
FATF Recommendations / UNCAC Conventions / Treaties/etc.;

Incorporated into Domestic Laws, Regulations and Guidelines

Manifested in Policies, Procedures, Systems & Controls within Financial Institutions, Designated Non-financial Businesses & Professions, Competent Authorities,
GUYANA’S LEGAL FRAMEWORK ENSURES TRANSPARENCY OF BENEFICIAL OWNERSHIP INFORMATION

PREVENTS CORRUPTION

GUYANA HAS

Established a very robust legal & institutional framework grounded in several laws regulations as follows:

- **THE CRIMINAL LAW (OFFENCES) ACT Cap. 8:01**
  - Criminalises both corruption and Bribery
  - Term ‘public officer / servant’ includes - the President, Cabinet members, the Judiciary, Police & other Law Enforcement Officers;
  - Dissuasive Penalties (liability on indictment to fines and imprisonment ranging from 2 to 7 years).
In Guyana BO information is publicly available, accessible & transparent through various laws & mechanisms.

- **Companies Act (CA) Cap. 1991; & Deeds Registry Act**
  - Submission of Beneficial Ownership information
  - Maintenance of BO information by companies.
  - Sanctions for non-compliance by Companies (fines & imprisonment)
  - Deeds Registry Act – Registration of Trust Deeds.

- **Guyana Compliance Commission (GCC) Act 2023**
  - Identification/ verification of Management Committee is mandatory;
    Records kept & maintained
  - Guyana Compliance Commission Act mandates that (Accountants, Lawyers, etc., to provide Beneficial Ownership information
  - Guyana Compliance Commission Act provides Sanctions for non-compliance
In Guyana BO information is obtained, verified, kept, up to date & available to law enforcement agencies (timely)

**AML/CFT Act 2009 & Regulations**

**Mandates / Key provisions**

**Reporting Entities**

- Clear definitions BO & Politically Exposed Persons (PEPs);
- Corruption is a predicate offence to under the AMLCFT Act
- Financial Institutions & Designated Non-Financial Businesses or Professions are required to identify / verify customers/clients for (PEPs & Public officers)
- Enhanced Due Diligence for Politically Exposed Persons applying a risk-based approach
- Report Suspicious Transactions / Activities linked to bribery & corruption by Reporting Entities /Supervisory Authorities

**AMLCFT Act 2009 mandates Supervisory Authorities (SAs)**

- Supervise, Monitor & examine reporting entities to ensure compliance with customer due diligence requirement
- Provide guidelines & training on AMLCFT obligations
- Empowered to impose sanctions for non-compliance
- Sanctions are proportionate, effective & dissuasive; Range from: Warnings, financial fines $5M- $15M
“FIT & PROPER CRITERIA SYSTEMS” WHICH ENSURE CRIMINALS OR THEIR ASSOCIATES ARE PREVENTED FROM ENTERING THE BUSINESS SECTOR OR HAVING A CONTROLLING INTEREST IN SAME

Guyana Gold Board Act;
Guyana Geology & Mines Commission Act;
Securities Industry Act;
Gambling Prevention Act;
Cooperative Societies Act;
Financial Institutions Act & Insurance Act;
Guyana Compliance Commission Act; & Real Estate Agents & Brokers Act

Entry Control upon applicants / registrants (companies /businesses) prior to the issuance of licenses

Consist of inquiries in relation to the factors such as –
honesty, integrity, criminal background, financial soundness, etc., of the shareholders, directors, owners or controllers

LAWS REGULATING TO LICENSING / REGISTRATION
OTHER SUPPORTING LEGISLATION & MECHANISMS THAT ENSURE TRANSPARENCY & PREVENT CORRUPTION

Sectors with higher vulnerabilities

Guyana subscribes to the ‘Extractive Industries Transparency Initiative’s (EITI) - global standard on good governance of oil, gas & mineral resources

The Integrity Commission Act of & Code of Conduct promotes transparency
(Declaration of assets by persons in public life)

The Local Content Act ensure transparency
(Beneficial Ownership declaration certificate requirement for companies in oil & gas sector)
OTHER SUPPORTING LEGISLATION & MECHANISMS IN GUYANA

PROMOTES TRANSPARENCY & PREVENT CORRUPTION CONT’D

Procurement Act, Regulations & The National Procurement and Tender Administration /National Tender Board

(Maintains updated register of bidders, comprises information on Tender /contracts awardees, suppliers, etc., Information publicly available)

Public Procurement Commission (PPC)

(Independent constitutional body monitors public procurement procedures to ensure fairness and transparency, provides training, declaration of oaths by staff)
The National Coordinating Committee (NCC) coordinates the implementation of the United Nations Convention against Corruption (UNCAC), the Inter-American Convention against Corruption (IACAC), the Lima Commitment, the United Nations General Assembly’s Political Declaration on Corruption, and the MESICIC (the OAS follow-up mechanism for the implementation of the IACAC).

- The NCC focuses on inclusiveness and participation in the reporting process and ensures an institutional and systemic inter-agency collaboration in the anti-corruption framework of Guyana.

Agencies involved: Ministry of Parliamentary Affairs, Central Bank, Revenue Authority, Integrity Commission, Prosecution, National Procurement Board, Financial Intelligence Unit, Special Organized Crime Unit, other relevant Government Agencies & Ministries.
The AML/CFT/PF National Co-ordination Committee (NCC) is the designated authority to, assess ML/TF risks, coordinate actions & develop national policies & strategies for Guyana, among other things.

- The NCC established sub-committees and working groups to address law enforcement issues related to money laundering, terrorist financial sanctions and proliferation financing and other related matters. The NCC utilises memoranda of understand (MOUs) for inter-agency cooperation, exchange of information for AMLCFT purposes.

Agencies Involved: Attorney General, Prosecutions, Central Bank, Revenue, Supervisory Bodies, Financial Intelligence & Special Organised Crime Unit.

BOTH COORDINATING BODIES FORM PART OF GUYANA’s OVERALL MECHANISMS TO PROMOTE BO TRANSPARENCY AND PREVENT ALL CRIMINAL ACTIVITIES INCLUDING CORRUPTION IN GUYANA
GUYANA APPLIES A MULTI-PRONGED APPROACH TO ENSURE TRANSPARENCY & TIMELY ACCESS TO ACCURATE & UP-TO-DATE BO INFORMATION TO PREVENT CORRUPTION

**PUBLIC REGISTRIES**

Available BO information is sufficiently transparent

**COMPANIES / OTHER LEGAL PERSONS**

Required to obtain & hold shareholders’ list & by BO information themselves

**EXISTING INFORMATION (VARIOUS AGENCIES)**

BO information is required to be kept & maintained by Reporting Entities, Guyana Revenue Authorities Lands & Deeds Registries, Supervisory Authorities, Competent Authorities, etc.

**Financial Intelligence Unit/Special Organized Crime Unit /Guyana Revenue Authority OTHER COMPETENT AUTHORITIES**

possess adequate power to timely access to accurate & up-to-date BO information from all sources & to freeze & forfeit illegal assets

**REPORTING ENTITIES**

Customer due diligence, record keeping for on BO are sufficiently obtained, shared & effectively supervised

**LICENSING / REGISTRATION AGENCIES**

The application of ‘Fit & Proper tests’ prevent criminal & associates from entry or continuation in ownership or control of legal person or arrangements

**AMLCFT SUPERVISORY AUTHORITIES**

Possess adequate powers to impose sanctions & file Suspicious Transactions Reports with the FIU.
PREVENTATIVE MEASURES TO ENSURE TRANSPARENCY & ACCESS TO BO INFORMATION

- Ongoing risk assessment of Legal Persons & Legal Arrangements;
- Ongoing and periodic training in relation to beneficial ownership and how to detect corruption;
- Application of effective, proportionate and dissuasive sanctions;
- Domestic & international coordination & cooperation among competent authorities for the sharing BO intelligence & other information (through mutual legal assistance, MOUs or other agreements & arrangements) for investigative purposes.
6. SANCTIONS IMPOSED BY COMMERCIAL REGISTRY AGAINST LEGAL PERSONS UNDER THE COMPANIES ACT

The Table below shows the total number of companies struck/removed from the Register as at June, 2023 being an equivalent of **18%** of the total number of registered companies as at April, 2023.

<table>
<thead>
<tr>
<th>Types of Legal Person</th>
<th>Total Number Registered as at April, 2023</th>
<th>Total Struck/Removed from Register as at June, 2023</th>
</tr>
</thead>
<tbody>
<tr>
<td>Private Limited Liability Companies</td>
<td>10,980</td>
<td>2798</td>
</tr>
<tr>
<td>Public Limited Liability Companies</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Former Act Companies (prior to 1991)</td>
<td>2,755</td>
<td>9</td>
</tr>
<tr>
<td>Government or State Companies</td>
<td>102</td>
<td>6</td>
</tr>
<tr>
<td>Not-for-Profit Companies</td>
<td>524</td>
<td>3</td>
</tr>
<tr>
<td>External Companies</td>
<td>893</td>
<td>41</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>15,254</strong></td>
<td><strong>2,857</strong></td>
</tr>
</tbody>
</table>
GUYANA’S MECHANISMS TO ENSURE TRANSPARENCY OF BENEFICIAL OWNERSHIP INFORMATION PREVENT CORRUPTION CONT’D

GUYANA HAS Conducted several National Risk Assessments (NRAs) (including one on the ML/TF risks of Legal Persons & Legal Arrangements).
KEY POINTS

- Most businesses operate under a business name, where there is no chain or layers of ownership;
- There is no veil of incorporation thereby eliminating the complexity of the corporate structure;
- The person as owner of business is personally liable for any legal recourse / action to be taken against the business.

Developed and implemented a risk-based action plans & national strategies & policies, including for the enhancement of its BO transparency mechanisms.
Beneficial Ownership Transparency

- Intensified training for relevant staff at Competent Authorities to detect concealment of BO information for illegal purposes / corruption
- Amendments to / Enactment of Act / Companies / other legal persons to provide BO information to Commercial Registry / Compliance Commission
- Digitization of the Commercial Registry

ENSURE SYSTEMS ARE IN PLACE FOR -

Co-operation & coordination (both local & internationally) between government entities, relevant agencies & the private sector (businesses & professions) regarding the sharing of BO information;

Periodic ML/TF & corruption risk assessments of Legal Persons & Arrangements;

Apply a risk-based approach for the regulation, monitoring of reporting entities, and impose effective, proportionate and dissuasive sanctions for non-compliance.

Apply its multi-pronged approach to enable timely access to BO information by law enforcement, competent authorities & public.
THE GOVERNMENT OF GUYANA WILL CONTINUE TO

Ensure transparency & accountability of its public procurement processes; & asset declarations by public officers, etc.

Prohibit the use of bearer shares & bearer shares certificates

Provide training for relevant staff & relevant competent authorities