

**REPORT TO CONGRESS ON
BENEFICIAL OWNERSHIP PRACTICES AT THE
MULTILATERAL DEVELOPMENT BANKS**



A Report to Congress

in response to

SEC. 7029(f) of the Consolidated Appropriations Act, 2017

United States Department of the Treasury

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Report on Beneficial Ownership Practices at the Multilateral Development Banks August 2017

Around the globe, money gained through illegitimate means is all too often funneled through seemingly legitimate entities. Such practices can fuel corruption, undermine democratic norms, and distort economic growth. The United States recognizes the vulnerabilities posed by such shell companies, and has led the global community to address these vulnerabilities through its involvement at the Financial Action Task Force (FATF), G7, G20, and other bodies. The collection of beneficial ownership information—that is, information on the ultimate person(s) who owns or control the legal entity—is essential to combatting criminal activity and promoting transparency.

As major drivers of economic development, multilateral development banks (MDBs) play an important role in modeling good practices on the collection of beneficial ownership information. MDBs can do this through encouraging borrowing countries to institute open government and open contracting policies, as well as requiring the collection of beneficial ownership information as a condition of MDB financing. In addition, by reforming and strengthening their own beneficial ownership practices, such as by requiring the collection of more information or by ensuring third-party verification of such information, MDBs may help establish new best practices with regard to beneficial ownership.

This report summarizes current MDB policies and practices concerning beneficial ownership in the banks' own operations, as required in the Consolidated Appropriations Act, 2017.

SEC. 7029(f) BENEFICIAL OWNERSHIP INFORMATION.—The Secretary of the Treasury shall instruct the United States executive director of each international financial institution to seek to require that such institution collects, verifies, and publishes, to the maximum extent practicable, beneficial ownership information (excluding proprietary information) for any corporation or limited liability company, other than a publicly listed company, that receives funds from any such financial institution: Provided, That not later than 45 days after enactment of this Act, the Secretary shall submit a report to the Committees on Appropriations on steps taken by the United States executive directors and the international financial institutions consistent with this subsection.

Section I of this report outlines processes that the MDBs use to safeguard their funds and minimize the potential that these funds are diverted from their intended purpose. Section II of the report details the specific beneficial ownership information practices of the World Bank, International Finance Corporation (IFC), European Bank for Reconstruction and Development (EBRD), Asian Development Bank (AsDB), African Development Bank (AfDB), and Inter-American Development Bank (IDB), and describes recent reforms undertaken by the World Bank and AfDB in response, in part, to requests from the U.S. government, civil society organizations, and other shareholders.

I. Safeguarding Public Funds

The MDBs have long used a variety of tools to minimize the risks that their money will be diverted to fund illicit or corrupt activities. Strong procurement standards that prioritize transparent, competitive bidding procedures are a key tool. These procurement standards have been supplemented by dedicated anti-fraud units who investigate allegations of corruption in MDB projects, internal procedures to debar companies found to have engaged in fraud or corruption, and cross-debarment agreements that prevent companies that engage in fraud at one MDB from accessing funding at other MDBs. The MDBs have also increased their cooperation with client governments on tackling corruption by referring fraud and corruption cases uncovered by their anti-fraud units to client governments and by providing anti-corruption and anti-money laundering capacity building to these governments (either through MDB-funded projects or partnerships such as the Stolen Asset Recovery Initiative).

The MDBs are also increasingly focused on identifying the beneficial owners of firms that receive MDB money, as an additional means for minimizing the risk that MDB funds will be diverted to illicit activities. To do this, the MDBs have established processes to determine the ultimate beneficial owners of companies that receive MDB financing. These processes are most detailed in the cases where an MDB provides financing directly to a private company, such as through the International Finance Corporation (IFC), the World Bank Group's private sector lending arm.¹

Each of the major MDBs has developed due diligence policies and procedures to better understand the ownership structure of the entities to which they are directly providing financing. These policies, which are described in greater detail in the following section, are similar to those of a traditional commercial bank and focus on *collecting* and *vetting* beneficial ownership information of clients.

Historically, when MDBs lent money to a sovereign government (which, in turn, would procure services from private companies to provide goods or services needed to carry out a project), the MDBs did not have policies to systematically collect, verify, and publish beneficial ownership information on the private companies from which the goods and services were procured.² However, notable progress is being made to address this, as described below and in the following sections of the report.

For the past several years, as part of our overall objective of making the MDBs as transparent and accountable as possible, we have advocated for increased collection and publication of beneficial ownership information. In particular, we have used reviews of the procurement policies at the World Bank and AfDB to secure commitments from those two institutions on strengthening their beneficial ownership practices. We support the decisions by the World Bank and AfDB boards to require that these institutions collect and publish beneficial ownership

¹ Most of the MDBs have a private sector lending arm that provides various financial products (debt, equity, or guarantees) to private sector entities. For example, World Bank Group lending to private sector entities (through the IFC) in FY15 totaled \$11 billion or 18% of total World Bank Group FY15 financial commitments.

² World Bank lending to sovereign governments totaled \$43 billion in FY15 or 71% of total World Bank Group FY15 financial commitments.

information, and we are continuously looking for opportunities to press them and the remaining MDBs to collect and publish beneficial ownership information.

II. Beneficial Ownership Practices at the MDBs

World Bank Group

For its sovereign lending operations (through the International Bank for Reconstruction and Development or “IBRD”, and the International Development Association or “IDA”), the World Bank is preparing to launch a pilot system for fiscal years 2018 through 2020, whereby it will collect and publish beneficial ownership data for all procurements related to World Bank projects over certain thresholds (about 40 percent of Bank procurements by value).³

Under the pilot program, the World Bank’s standard bidding document will be amended, and winning bidders will be required to provide beneficial ownership information using a template set by the World Bank. The winning bidder will be required to identify beneficial owners using thresholds for determining ownership and definitions of control developed by FATF. The information will then be published on the World Bank’s website/systems as well as the winning bidder’s website. Online publication is important so that interested stakeholders, including local citizens and members of civil society, can engage with the bank and their respective government on the information in the report and verify its accuracy. The World Bank will review and report back to the Board on this pilot in fiscal year 2020, before then determining a future direction.

Although the World Bank is not actually a party to these contracts—the contracts are between the borrowing government and the company that wins the procurement bid—the winning companies are subject to the World Bank’s anti-fraud and corruption requirements; and, if a company misrepresents beneficial ownership information, this will be considered noncompliance and be reported to the Integrity Vice Presidency. The misrepresentation could be subjected to a fraud investigation and lead to the company’s debarment. Treasury, together with the U.S. Executive Director’s office, has met with World Bank officials several times to encourage a timely roll out of the pilot, and we plan further engagement with them as the pilot is finalized.

International Finance Corporation

The International Finance Corporation (IFC) invests in private sector entities conducting business in emerging markets and developing countries. Before it makes an investment, the IFC identifies all parties with a substantial interest in the entity being considered for an IFC engagement. Generally, the IFC identifies and conducts integrity due diligence (IDD) on those individuals who own or control 5 percent or more of an entity, including indirect and beneficial owners, as well as the top five direct owners as applicable. If the company is a fund, it must also conduct IDD on the general partner (GP) or fund manager, even if the GP/fund manager does not

³ These thresholds are longstanding triggers for prior reviews by the Bank procurement team to ensure that the borrower is complying with Bank procurement policies. The thresholds are country specific and basically an approximation by the Bank to determine when a public procurement is considered “significant”. While a prior review is being conducted, the borrower cannot proceed with the procurement process until it gets an all-clear from the Bank.

meet those thresholds, as well as the GP/fund manager's direct owners down to the five percent level and top five owners.

IFC staff conducts due diligence to identify whether there are any integrity risks in the project. The IFC defines "integrity risk" as the risk of engaging with entities or persons whose background or activities may have adverse reputational and, often, financial impact on IFC. The IFC posts project descriptions on its website, which may also include the names of sponsors and major shareholders in the company, including some beneficial ownership information, but generally the IFC does not publish beneficial ownership information.

European Bank for Reconstruction and Development

Similar to the IFC, the European Bank for Reconstruction and Development (EBRD) invests in private sector entities and conducts risk-based IDD on these companies. EBRD staff is responsible for collecting and vetting beneficial ownership information based on information gathered through site visits, discussions with the client, and general knowledge of the region/sector, as well as internet and Bank for International Settlements searches. In more complex cases the EBRD will commission a confidential external due diligence report. It will not proceed with a transaction without knowing who the beneficial owners are. Additionally, investments that involve politically exposed persons, clients with poor past business practices, or other high risk clients will trigger enhanced IDD. The EBRD publishes information on its project partners, but does not necessarily provide beneficial ownership information.

African Development Bank

The AfDB Board of Directors approved a revised procurement policy in 2015 that provides for an improved approach to the collection and publication of beneficial ownership information. For this purpose, the AfDB is developing a guidance note on beneficial ownership and politically exposed persons, which will be part of the Procurement Toolkit that the AfDB is developing for the implementation of its revised procurement policy. In addition, the AfDB Operations Procurement Manual is under development and the United States will continue to engage with AfDB management to encourage the manual be rolled out as soon as possible.

The anticipated guidelines will require that a successful bidder under an AfDB-financed contract above a specified monetary threshold to disclose publicly its beneficial owners. Beneficial owners are defined as any individual - or closely related individuals - who own or control 10 percent or more of the voting shares of the firm. Solicitation and request for proposal (RFP) documentation will require winning bidders or proposers to agree to identify beneficial owner(s), including politically exposed persons. The AfDB will consider the failure to provide this information or the provision of incorrect information as grounds for misrepresentation and may result in disqualification or other appropriate sanctions. The Bank also conducts due diligence for non-sovereign entities that it identifies as a potential partner, taking into consideration the provisions of its Integrity Due Diligence Policy on Non-Sovereign Operations and other applicable Bank policies and procedures. Specifically, the aim is to conduct enhanced due diligence to verify and ensure the identification of the source of funds being received or to be received by the Bank. The AfDB's new commitment to advance beneficial ownership

transparency is commendable, and we will continue to work with the institution as it implements the new guidelines.

Asian Development Bank

The AsDB's requirements related to beneficial ownership are focused on its private sector operations. Under AsDB rules, the project team is expected to identify 100 percent of the beneficial ownership of a company. AsDB staff then carries out a desk review of the potential client through searches of Lexis Nexis, World Check, Factiva, Dow Jones Risk and Compliance, and various internet research engines. Additionally, staff screen potential counterparties against the UN Security Council Committee consolidated sanctions list, the Office of Foreign Assets Control (OFAC) Specially Designated Nationals & Blocked Persons Lists, as well as other sanctions lists.

Where there are shareholdings of less than five percent that are not identified or remain unknown (where shareholdings of more than 10 percent aren't identified, the Board is notified), the Board will be informed. In sovereign operations projects where the executing agency or implementing agency is not a government ministry or agency, there is also a requirement to identify any beneficial owner that is not state owned.

Inter-American Development Bank

For the IDB's sovereign operations, funds are lent to borrowing governments (who then enter into procurement contracts with companies). The procurements are done in accordance with IDB procurement policies, but the IDB is not a party to those contracts. The IDB publishes all procurement data for contract award winners on its website including the name of the firm, its location and the value of the contract, but this information does not include beneficial ownership data.

Inter-American Investment Corporation

The IIC is the private sector arm of the IDB. It lends to and invests in private sector companies that conduct business in its borrowing member countries. The IIC identifies and conducts IDD on entities and individuals who own or control directly or indirectly five percent or more of an entity (ten percent in the case of a publicly traded company). If the company is a fund, IIC also conducts IDD on the GP/fund manager, even if the GP does not meet that threshold, as well as the GP/fund manager's direct and indirect owners down to the five percent level. IIC screens these beneficial owners through relevant databases for integrity risk indicators, such as being considered a politically exposed person, being subject to economic or administrative sanctions, or being under criminal investigation or involved in administrative or civil proceedings that allege serious ethical or financial misconduct. The IIC defines "integrity risk" as the possibility that a person or entity engages in serious ethical or financial misconduct in connection with an IIC operation. Failure to provide information on beneficial owners disqualifies a company from receiving funding from IIC (although there is an exception under the guidelines for clear mitigating circumstances, IIC in practice has never granted an exception).

In 2016, the IIC strengthened its Integrity Framework, in particular its due diligence procedures regarding tax information exchange risk related to companies or their “controlling shareholders” (defined as the power to direct the management or policies of the company through ownership, contract, or otherwise). The Office of the U.S. Executive Director (OUSED) arranged for a Deputy Assistant Secretary for Tax Policy from the U.S. Treasury to brief the Board of Directors and management on best practices with respect to due diligence, and the OUSED was heavily involved in discussions regarding updating the Integrity Framework. The IIC also posts project descriptions on its website, which may also include the names of sponsors and major shareholders in the company, including some beneficial ownership information.

Conclusion

Several of the MDBs have made significant strides in recent years to reduce risk and ensure the integrity of their institutions through the collection of beneficial ownership information. In particular, the World Bank and the African Development Bank have taken steps to collect and publish beneficial ownership information for procurement in sovereign projects. As noted above, the United States strongly supported these efforts. Collecting and publishing this information will significantly increase the ability of MDBs to track who is receiving MDB financing and may encourage greater transparency on the part of other international or country institutions as well. In the coming year, we will encourage the other MDBs to adopt a similar standard.