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Bureau du sous-ministre adjoint au droit fiscal,
à l'optimisation des revenus et aux politiques locales et autochtones
Ministère des Finances
12, rue Saint-Louis
Québec (Québec) G1R 5L3

Submission to the Corporate Transparency Public Consultation

Dear Sir/Madam,

ONE Canada is pleased to submit feedback as part of the Government of Quebec's Corporate Transparency consultation. ONE is a global movement campaigning to end extreme poverty and preventable disease by 2030 so that everyone, everywhere can lead a life of dignity and opportunity. We believe that corruption, money-laundering and tax evasion is one of the key roadblocks preventing developing countries from fighting poverty, and welcome Quebec's commitment to greater corporate transparency.

The link between corporate registration rules in Quebec and the fight against corruption at the global level is clear to us. Anonymous shell companies are one of the most important mechanisms by which corrupt government officials and others remove money from developing countries. They legally allow the people who own or control them (the "beneficial owners") to keep their identities hidden. This secrecy makes them ideal vehicles for stealing, laundering, and hiding money by corrupt individuals.

Anonymous shell companies are used by drug and sex traffickers, terrorist organizations, tax evaders, fraudsters, and others to launder and hide illicit money. In far too many cases, this tactic has been used to rob African countries of the resources they need to invest in health, agriculture, and poverty reduction. In addition, they exacerbate governance problems and undermine the prospects for investment and growth.

Because of that, there is a growing international consensus around the need for governments to require that the identities of the true owners of companies be disclosed. By implementing the proposed reforms and requiring the public disclosure of beneficial owners of companies registered in Quebec, your government would not only be at the forefront of an international movement against corruption, but become the leader on the issue in Canada.



We therefore **fully support the recommendations made by the Ministry of Finance**. For purposes of aligning with international best practice on beneficial ownership registration and ensuring that the information can be used not only by people in Quebec, but also by law enforcement, media and civil society in foreign countries, openness, ease of access and quality of information is of paramount importance.

Our responses to the consultation questions are outlined in detail below, but our main recommendations are:

1. To collect and publicly disclose information about beneficial owners in the Régistre de Entreprises du Québec (REQ);
2. To lower the threshold of ownership to 10% instead of the 25% threshold that is used in the current federal regime;
3. To include the following as necessary features to ensure the Quebec registry is effective: penalties and sanctions, a registrar with regulatory authority, validation and verification of data, and a tip-line for use by whistleblowers;
4. That the general public may search on the enterprise register using an individual's name;
5. That beneficial ownership also be required for real property assets, as in the British Columbia Land Ownership Transparency Act (LOTA);
6. That consideration be given to eventually implement a public, beneficial ownership registry for trusts.

4. OBLIGATION TO DISCLOSE INFORMATION ON ULTIMATE BENEFICIARIES TO THE REGISTRAIRE DES ENTREPRISES DU QUÉBEC

1. In your opinion, is the federal definition appropriate for Québec and, if not, what other model or definition should Québec take into consideration, and why?

Quebec should use the federal definition under the PCMLTFA, except it should lower the threshold of ownership to 10% instead of the 25% threshold of shares, since someone could still have significant control of a company with a lower proportion of shares. Several jurisdictions in Latin America and the Caribbean have lower ownership thresholds than 25%, and insider trading requirements in Canada requires disclosure of 10% of shares.

A threshold of 10% would introduce a strong standard that would act both as a strong deterrent against using the Quebec economy to hide the proceeds of crime and strengthen the ability of regulators to identify and thwart criminal activity.



2. In your opinion, what personal information about ultimate beneficiaries should be collected?

For beneficial owners and ultimate beneficiaries, we recommend collecting and publicly disclosing the following information.

- Full name of the beneficial owner(s)
- Other commonly known names of the beneficial owner(s)
- Full date(s) of birth of the beneficial owner(s)
- Address
- Country of usual residence
- The percentage of shares held by a given beneficial owner, and a disclosure of how that individual exercises significant control
- Date shareholder became or ceased to be a beneficial owner
- A unique identifier number that shows ties to other business entities over which the individual has significant control
- The individual's status as a politically exposed person, foreign or Canadian

3. Should certain legal forms of organization be exempted from the obligation to transmit information on their ultimate beneficiaries?

No. All legal forms of organization are susceptible to being abused for criminal or corrupt activities. Exempting any legal forms from the obligation to transmit information on their ultimate beneficiaries creates a loophole that would enable such entities to abuse Quebec's financial system, effectively bypassing and undermining the intent of the beneficial ownership register.

4. In your opinion, are there other potential approaches that Québec should consider?

A registry for trust arrangements could be considered in the future, in accordance with a recent House of Commons Finance Committee Report.¹ According to The Economist, "The misuse of trusts and other non-corporate entities is a big problem,"² since complex ownership structures and secrecy make trusts "a tempting tool for those trying to hide money or circumvent laws."³ According to the World Bank,

¹ <https://www.ourcommons.ca/DocumentViewer/en/42-1/FINA/report-24/page-18>

² The Economist, 9 November 2013, "Dirty Money: Mistrust the Trusts," <http://www.economist.com/news/leaders/21589433-crackdown-shell-companies-good-start-next-target-should-be-trusts-mistrust>

³ The Economist, 9 November 2013, "Trusts: The Weak Link," <http://www.economist.com/news/international/21589462-cleaning-up-trusts-and-similar-entities-will-hurt-money-launderers-but-it-will-need-lot>



criminal investigations are thwarted by the secrecy that trusts enable when the identities of their ultimate beneficiaries remain anonymous.⁴

It appears that some trusts are registered in Quebec's Registre des droits réels et mobiliers (RDPRM) while others are not. All trusts formed in Quebec or conducting activities in Quebec (buying real estate, opening bank accounts, etc.) should be registered either in the current RDPRM system or in a new to-be-created trusts registry. The names, home addresses and full dates of birth for all beneficiaries of a trust should be registered and publicly available.

4.4 OTHER CONSIDERATIONS

1. Among the other considerations discussed above, which ones do you think are most relevant? Why?

Ensuring information quality is the most important, which includes having penalties for non-compliance. The specific measures to ensure quality of information are described below.

2. Which measures should the Québec government put in place to facilitate the implementation of this requirement?

To ensure the information contained in the beneficial ownership registry is high quality, the following measures should be considered:

1. Attaching meaningful **sanctions for non-compliance and false declarations**, including large fines (maximum \$5 million or, in the case of real estate, the value of the home) and stiff prison sentences (e.g., maximum 5 years less a day). These would be consistent with penalties for false or misleading statements made in a filing under the Securities Act (Quebec, See sections 204.1 and 208.1). Fines for willful non-disclosure in EU jurisdictions run as high as €1,000,000 in Germany, and generally range from €50,000 to €200,000 for noncompliance, as well as terms of imprisonment in Gibraltar, Malta, the Netherlands, and Norway.⁵

Significant penalties are essential to deter false declarations, and to provide law enforcement agencies the leverage they need to follow the money to the true beneficial owner. Reporting entities who make mistakes in good faith should be given the opportunity to correct data entry errors and ensure that the information contained in the register is correct. However, failure to correct inaccurate or incomplete data that have already been identified by the registrar, regulator, or by law enforcement in a timely manner should also be subject to a monetary penalty.

⁴ World Bank, 2011, "Puppet Masters: How the Corrupt Use Legal Structures to Hide Stolen Assets and What to Do About It," <https://star.worldbank.org/sites/star/files/puppetmastersv1.pdf>

⁵ *Supra*, note 5.



2. Allowing for **independent verification of information**. The Registrar should be given the authority and resources to both verify the information submitted and require additional information and documentation at his or her discretion. We also recommend the implementation of ID verification measures such as colour copies of relevant identity documents, subject to federal or provincial limitations.

3. The Quebec Government should have in place a **Registrar with sufficient regulatory authority** to review suspicious disclosures.

4. A reporting portal or a **tip-line for whistleblowers** to help report potential money laundering, tax evasion, or terrorist financing to businesses controlled by involved corrupt individuals.

5. ALLOWING THE SEARCH BY NAME AND ADDRESS OF A NATURAL PERSON IN THE ENTERPRISE REGISTER

1. Given the potential impact on privacy, is it appropriate to extend the right to search by an individual's name in the enterprise register to the public?

Searching by full name and any common names has a value for whistleblowers and the register being used by foreign tax authorities, civil society groups and journalists, as well as to private sector entities. This feature is crucial if the registry is to be used by people abroad fighting corruption in their own countries and wanting to potentially track misused funds in Quebec.

2. Should certain conditions apply to searches using an individual's name? Should there be any exceptions?

There should be no restrictions in searching the registry using an individual's name. However, there can be exemptions for individuals in extraordinary circumstances. Some national registers in the European Union give consideration for individuals who can prove a demonstrable risk of victimization from fraud, kidnapping, blackmail, or extortion. Other national registries give consideration for individuals under the age of majority, or who are legally disabled.⁶

6. REQUIREMENT FOR ALL LANDOWNERS TO DISCLOSE INFORMATION ON ULTIMATE BENEFICIARIES

1. Which of these approaches should be chosen?

We believe that having all beneficial ownership information in one place would make it easier for users to cross-check information between corporate ownership and land ownership, so we would favor a 'one-stop-shop' approach. It would also be more efficient in terms of resource allocation to have all vetting conducted by a single office with the necessary expertise. Whether this means including

⁶ PriceWaterhouseCooper, "The UBO Register: An Update." December, 2018.
<https://www.pwc.nl/nl/assets/documents/ubo-register-update-december-2018.pdf>



beneficial ownership information on property assets to the Régistre des entreprises du Québec, creating a separate registry, or merging the REQ and the land registry in some way depends on what is most feasible from the point of view of the Quebec government.

2. What should be the definition of “ultimate beneficiary of real property assets”?

We recommend to follow the definition of a beneficial owner in the B.C. Land Owner Transparency Act.

4. What information on the ultimate beneficiaries of real property assets should be made available to the public?

Data on the ultimate/beneficial owners of real property should be available online, for free, in a machine-readable format. This should be specified in the Act to ensure its implementation. If there are concerns about offsetting costs associated with implementing the registry, it could charge for obtaining copies of records but make searches of the database free to the public.

For beneficial owners and ultimate beneficiaries, we recommend collecting and publicly disclosing the following information:

- The full name of ultimate beneficiary
- Commonly known names of the ultimate beneficiary
- Full date of birth
- Principal Residential Address
- Countries of usual residence
- A unique identifier number that shows ties to other business entities over which the individual has significant control
- The individual’s status as a politically exposed person, foreign or Canadian

Thank you for taking time to consider our feedback. We commend the Government of Quebec’s leadership on this important matter of fighting corruption and money-laundering in Canada and abroad, and hope you will move ahead with the suggested reforms. If you have any questions, please do not hesitate to get in touch.

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About ONE

ONE is a global movement campaigning to end extreme poverty and preventable disease by 2030, so that everyone, everywhere can lead a life of dignity and opportunity.

We believe the fight against poverty isn't about charity, but about justice and equality. Whether lobbying political leaders in world capitals or running cutting-edge grassroots campaigns, ONE pressures governments to do more to fight extreme poverty and preventable disease, particularly in Africa, and empowers citizens to hold their governments to account.

ONE's members are crucial to this work. They come from every walk of life and from across the political spectrum. They're artists and activists, faith and business leaders, students and scientists. They take action day in, day out — organising, mobilising, educating, and advocating so that people will have the chance not just to survive, but to thrive.

ONE teams in Abuja, Berlin, Brussels, Dakar, Johannesburg, London, New York, Ottawa, Paris and Washington DC, educate and lobby governments to shape policy solutions that save and improve millions of lives — and which every year are under threat from cuts and other priorities.

Co-founded by Bono and other activists, ONE is strictly nonpartisan. ONE is not a grant-making organisation and does not solicit funding from the public or receive government funds. ONE is funded almost entirely by foundations, individual philanthropists and corporate partners.

Find out more at www.one.org