

**TA-9106 AZE: SUPPORTING THE IMPLEMENTATION OF THE
ROADMAP FOR BENEFICIAL OWNERSHIP DISCLOSURE FOR THE
EXTRACTIVE INDUSTRIES IN AZERBAIJAN (49451-001)**



SURVEY: DRAFT BENEFICIAL OWNER DEFINITION

Prepared for:

**THE STATE OIL FUND OF THE REPUBLIC OF AZERBAIJAN
(IMPLEMENTING AGENCY)**

and

**THE MINISTRY OF FINANCE OF THE REPUBLIC OF AZERBAIJAN
(EXECUTING AGENCY)**

Prepared by:



28 November 2018

PLEASE COMPLETE AND SUBMIT SURVEY TO:

**beneficial.ownership@bdo.az
copy: bbayramov@oilfund.az**

ON OR BEFORE 25 JANUARY 2019

DATE OF RECEIPT BY SOFAZ/EITC:

**References in this Survey relate to corresponding paras in the Consultation Document
dated 28 November 2018**

a. Details of respondent

1. Details of respondent (PLEASE COMPLETE AND TICK BOXES AS APPROPRIATE SEE PARAS 4.7 - 4.8)

Question 1	This survey is completed by:		
	<ul style="list-style-type: none"> • Name: • Designation: • Organization: • Contact details: <ul style="list-style-type: none"> ○ Phone: ○ Email: 		
	The responses to this survey represent my	PERSONAL VIEWS	
		ORGANISATION'S VIEWS	
	The responses to this Survey may be disclosed publicly on	AN ANONYMOUS BASIS	
		A NAMED BASIS	
Signature/Name			
Place/Date			

b. The issue of Ownership and Control - both direct and indirect

2. Ownership and Control - both direct and indirect (PLEASE COMPLETE AS APPROPRIATE – SEE PARAS 4.9 - 4.10)

Question 2	Does the definition of ownership and control set out in Subsection 3.1 above reflect the right scope?	
	YES, IT IS THE RIGHT SCOPE BECAUSE:	
	NO, IT IS TOO NARROW BECAUSE:	
NO, IT IS TOO BROAD BECAUSE:		

c. Exceptions to the general rule that a beneficial owner must be a “Natural Person”

3. Listed Company Exemption (PLEASE COMPLETE AS APPROPRIATE – SEE PARAS 4.11 - 4.13)

Question 3	The introduction of the Listed Company exemption should be considered.
	FROM THE OUTSET WHEN THE PBOR IS ESTABLISHED, BECAUSE:
	AS PROPOSED (I.E. 3-5 YEARS AFTER THE ESTABLISHMENT OF THE PBOR), BECAUSE:
	EARLIER THAN PROPOSED/LATER THAN PROPOSED/NOT AT ALL (UNDERLINE CHOICE), BECAUSE:

4. Government-Owned Company Exemption (PLEASE COMPLETE AS APPROPRIATE – SEE PARA 4.14)

Question 4	Should Azerbaijan’s PBOR include the government-owned exemption?
	YES, BECAUSE:
	NO, BECAUSE:

d. How to deal with politically exposed persons (PEPs)?

5.a. Dealing with PEPs (PLEASE TICK BOX AND PROVIDE EXPLANATION IN COMMENT BOX – SEE PARAS 4.15 - 4.17)

Question 5.a.	Should there be an enhanced regime applicable to PEPs?	YES	<input type="checkbox"/>
		NO	<input type="checkbox"/>
Comments:			

5.b. Definition of a PEP based on AMLD4 (PLEASE COMPLETE AS APPROPRIATE – SEE PARAS 4.15 - 4.17)

Question 5.b.	Is the scope of the proposed definition of a PEP based on the AMLD4 as specified above correct for Azerbaijan?
	YES, IT IS THE RIGHT SCOPE BECAUSE:
	NO, IT IS TOO NARROW BECAUSE:
	NO, IT IS TOO BROAD BECAUSE:

e. What level of ownership should trigger disclosure of beneficial Interest?

6.a. Level of ownership should trigger disclosure of beneficial Interest (PLEASE TICK BOX AND PROVIDE EXPLANATION IN COMMENT BOX AS APPROPRIATE - SEE PARAS 4.18 - 4.19)

Question 6.a.	What should be the threshold level of ownership to trigger beneficial ownership disclosure? The proposal is that this threshold should be 20%.	No minimum	
		5%	
		10%	
		15%	
		20%	
		25%	
		Other	
Comments:			

6.b. Level of ownership should trigger disclosure of beneficial Interest for PEPs (PLEASE TICK BOX AND PROVIDE EXPLANATION IN COMMENT BOX AS APPROPRIATE - SEE PARAS 4.18 - 4.19)

Question 6.b.	What should be the threshold level of ownership to trigger beneficial ownership disclosure for PEPs? The proposal is that this threshold should be 5%	No minimum	
		5%	
		10%	
		15%	
		20%	
		25%	
		Other	
Comments:			

f. Level of precision in reporting

6.c. Level of precision in reporting (PLEASE PROVIDE COMPLETE AS APPROPRIATE - SEE PARAS 4.20 - 4.21)

Question 6.c.	Should a beneficial owner be required to disclose their exact level of interest, or simply indicate the band within which the level of interest falls (e.g. <25%, 25-50%, 50-75%, 75-100%)?
	YES, INDICATING THE EXACT LEVEL OF INTEREST IS REQUIRED, BECAUSE:
	NO, INDICATING BENEFICIAL OWNERSHIP WITHIN BANDS SUFFICES BECAUSE:
	IF NO, THE PROPOSED BANDS SHOULD BE AS FOLLOWS:

g. To what legal entities should the beneficial ownership disclosure regime apply?

7.a. Types of legal entities that are subject to beneficial ownership disclosure regime (PLEASE TICK BOXES AND PROVIDE EXPLANATIONS IN COMMENT BOX AS APPROPRIATE - SEE PARAS 4.22 - 4.23)

Question 7.a.	Which entities should be subject to beneficial ownership disclosure?		
	An applicant for, and all existing holders, of any oil, gas or mineral extraction rights	YES	
		NO	
	An applicant for, and all existing holders, of any rights to provide bulk processing, storage, marketing or transportation of extractive commodities	YES	
		NO	
	Any existing or prospective contractor or sub-contractor providing services within the extractive sector in Azerbaijan to one or more persons captured by the above two criteria, where such services have or, in the case of contractor or sub-contractor to whom a contract is awarded, will have an aggregated contract value exceeding US\$ 10,000,000.	YES	
		NO	
Comments:			

7.b. Legal entities that are subject to mandatory beneficial ownership disclosure (PLEASE COMPLETE AS APPROPRIATE - SEE PARAS 4.22 - 4.23)

Question 7.b.	Should the beneficial ownership disclosure regime apply to all legal entities that operate within the defined sector in Azerbaijan, whether they are Azerbaijani or foreign registered?
	Yes, Azerbaijani and foreign registered legal entities operating in Azerbaijan should be required to report because:
	No, only Azerbaijani registered legal entities should be required to report because:

7.c. Legally binding arrangements that are subject to mandatory beneficial ownership disclosure (PLEASE COMPLETE AS APPROPRIATE- SEE PARA 4.24)

Question 7.c.	Should the beneficial ownership disclosure regime apply to legally binding arrangements?
	Yes, because:
	No, because:

h. Look Ahead – other matters that will need considering in later stages

8. Other matters (PLEASE PROVIDE COMMENTS AS APPROPRIATE - SEE PARAS 5.1 – 5.4)

Question 8	These forward-looking issues will be specifically addressed in the second consultation phase. However, we would welcome any initial thoughts on these topics below.
	a. Comments on implementation into Azerbaijani law:
	b. Comments on what data should be collected:
	c. Comments on open access to data:
	d. Comments on safety concerns:

9. Constituent elements of beneficial ownership disclosure (PLEASE RANK IN ORDER OF RELATIVE IMPORTANCE AND PROVIDE EXPLANATIONS IN COMMENT BOX AS APPROPRIATE - SEE PARA 5.6)

Question 9	From the list of constituent elements of beneficial ownership disclosure shown below, rank them in order of importance from 1 (most important) to 10 (least important). PLEASE USE EACH NUMBER ONLY ONCE.	
	1.	The inclusion of “control” as well as ownership. (Question 2)
	2.	An exemption for owners listed on a stock exchange. (Question 3)
	3.	An exemption for ownership by a government. (Question 4)
	4.	The scope and definition of a PEP. (Questions 5.a. and 5.b.)
	5.	Beneficial ownership disclosure thresholds, including for PEPs (Questions 6.a. and 6.b.)
	6.	The level of precision in reporting. (Question 6.c.)
	7.	The range of companies or legal arrangements required to report (Questions 7.a., 7.b. and 7.c.)
	8.	The need for legislation (Question 8.a.)
	9.	The scope of data collected about a beneficial owner (Question 8.b.)
	10.	Beneficial ownership information being publicly available and potential safety concerns (Questions 8.c. and 8.d.)
COMMENTS:		

10. Top three enabling and constraining factors (PLEASE COMPLETE AND PROVIDE EXPLANATIONS AS APPROPRIATE - SEE PARA 5.7)

Question 10	What are the top three enabling factors and constraining factors?
	Number 1 enabling factor is: Because:
	Number 2 enabling factor is: Because:
	Number 3 enabling factor is: Because:
	Number 1 constraining factor is: Because:
	Number 2 constraining factor is: Because:
	Number 3 constraining factor is: Because:

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